



## **ORDINANCE No. 2017-2817**

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**AN ORDINANCE ANNEXING 24.33 ACRES OF PROPERTY LOCATED AT 4020 N COLLEGE STREET, TAX LOTS 3208-2700, 2701, 2702, 2703, 2800, 2801, AND 2802, 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 AND PAI TO NEWBERG R-1 AND I WITH A STREAM CORRIDOR OVERLAY**

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### **RECITALS:**

1. North Valley Friends Church and Veritas School submitted an application to annex approximately 24.33 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 and PAI to Newberg R-1 and I. The property is located at 4020 N College Street, at the southeast corner of N College Street and Bell Road, Tax Lots 3208-2700, 2701, 2702, 2703, 2800, 2801, and 2802.
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) and I (Institutional). Adequate public services and utilities are or can be made available to serve the property.
3. The Newberg Planning Commission held a hearing on August 10, 2017, to consider the application. The Commission considered testimony, deliberated, and voted to approve Planning Commission Resolution No. 2017-331 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 September 5, 2017 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 and PAI to Newberg R-1 and I with a Stream Corridor Overlay, as shown in Exhibit "C". Exhibits "A", "B", and "C" are hereby adopted and by

this reference incorporated.

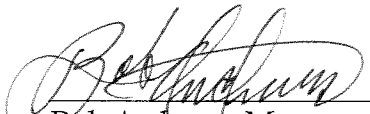
2. This decision is based on the findings shown in Exhibit "D" and the findings that the property meets ORS 222.111 criteria as set forth in Recital #4 above. Exhibit "D" is hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: October 5, 2017.

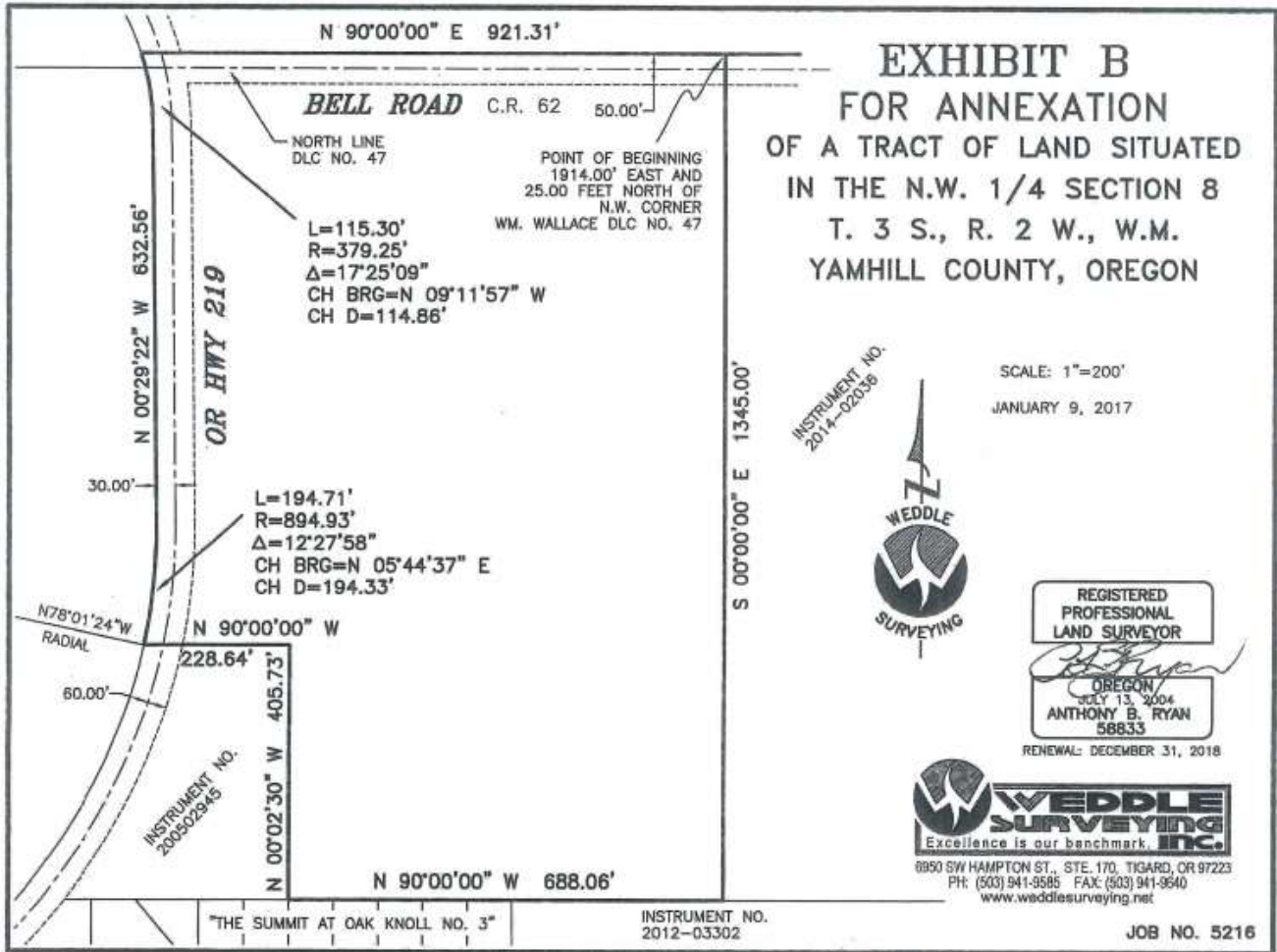
**ADOPTED** by the City Council of the City of Newberg, Oregon, this 5<sup>th</sup> day of September, 2017, by the following votes: **AYE: 7 NAY: 0 ABSENT: 0 ABSTAIN: 0**

  
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Sue Ryan, City Recorder

**ATTEST** by the Mayor this 8<sup>th</sup> day of September, 2017.

  
\_\_\_\_\_  
Bob Andrews, Mayor

**Exhibit "A" to Ordinance No. 2017-2817  
Property Map – North Valley Friends Church/Veritas School Annexation**



**Exhibit "B" to Ordinance No. 2017-2817**  
**Legal Description – North Valley Friends Church/Veritas School Annexation**



6950 SW Hampton St., Ste. 170  
Tigard, OR 97223-8330  
Ph.: (503) 941-9585  
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January 9, 2017

Job No. 5216

LEGAL DESCRIPTION for CITY ANNEXATION



**EXHIBIT "A"**

A tract of land located in the NW 1/4 of Section 8, Township 3 South, Range 2 West, W.M., Yamhill County, more particularly described as follows:

Beginning at a point on the Northerly right-of-way line of County Road No. 62, lying East 1914.00 feet and North 25.00 of the Northwest corner of the William Wallace DLC No. 47, thence South, 25.00 feet along the Northerly extension of the Westerly line of that tract of land described in that Quitclaim Deed to Robin R. Winter recorded as Instrument No. 2014-02036, Yamhill County Deed Records;

Thence along said Westerly line, South 1320 feet, to the Northerly line of that tract of land described in that Statutory Warranty Deed to Somerset Ventures IV LLC recorded as Instrument No. 2012-03302, said Deed Records;

Thence along the Northerly line of said Somerset Ventures IV LLC tract and the Northerly line of the plat of "The Summit at Oak Knoll No. 3", recorded in Yamhill County Plat Records, West 688.06 feet to the Southeasterly corner of that tract of land described in Deed to J. William Rourke, Jr. and Myrlene J. Rourke and recorded as Instrument No. 200502945, said Deed Records;

Thence North 00°02'30" West, 405.73 feet along the East line of said Rourke tract to the Northeast corner thereof;

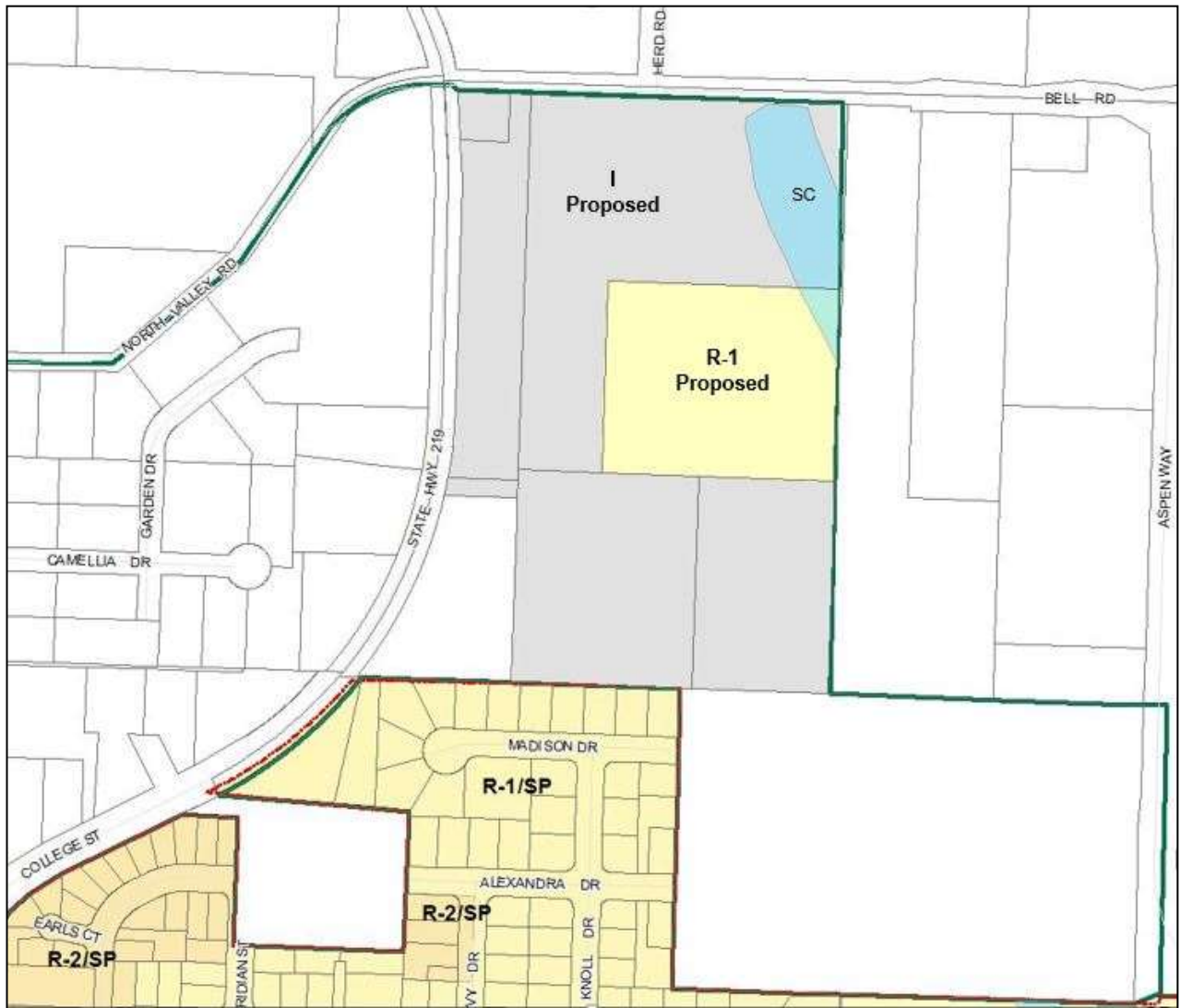
Thence West, 228.64 feet along the Northerly line of said Rourke tract and its Westerly extension to a point on the Westerly right of way line of Oregon State Highway 219, lying 30.00 feet from centerline, said point also being the beginning of a non-tangent curve to the left (radial bearing North 78°01'24" West) having a radius of 894.93 feet and a chord bearing North 05°44'37" East, 194.33 feet;

Thence 194.71 feet along said curve through a central angle of 12°27'58";

Thence leaving the Westerly right-of-way line of said Highway 219 along the Northerly right-of-way line of County Road No. 62 and its westerly projection, East, 921.31 feet to the Point of Beginning.

The bearings contained in this description are based on Survey Number CS-4521, Yamhill County Survey Records.

**Exhibit "C" to Ordinance No. 2017-2817**  
**Proposed Zoning Map – North Valley Friends Church/Veritas School Annexation**



**Exhibit “D” to Ordinance No. 2017-2817**  
**Findings – North Valley Friends Church/Veritas School Annexation**  
**File ANX-17-002**

**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 seven properties, located at 4020 N. College Street, are located within the Newberg urban growth boundary, and are contiguous to the Newberg City limits along the southern border of Tax Lot 2701. 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 properties have a comprehensive plan map designation of PQ (Public/Quasi-Public) which corresponds with any zoning classification. The applicant has requested R-1 zoning (Low Density Residential) for the Veritas School property (Tax Lot 2702), and I zoning (Institutional) for the remaining six lots upon annexation into the city. The applicant is not requesting a redesignation of the comprehensive plan map.

These findings will examine whether the proposed use for the site complies with both the Newberg comprehensive plan text and with the designation on the comprehensive plan map. The map designation will be addressed first.

**Newberg comprehensive plan map designation of PQ:** Section **15.250.080** of the Newberg Development Code (below) says that the comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed annexation request complies with the Newberg comprehensive plan.

*NMC (Newberg Municipal Code) 15.250.080 Comprehensive plan and zoning designations.*

*A. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to*

*determine compliance with the Newberg comprehensive plan.*

*B. Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of NMC 15.302.030 shall not be required.*

<i>Comprehensive Plan Classification</i>	<i>Appropriate Zoning Classification</i>
<i>OS</i>	<i>Any zoning classification</i>
<i>LDR</i>	<i>R-1</i>
<i>MDR</i>	<i>R-2, R-4</i>
<i>HDR</i>	<i>R-3, R-4</i>
<i>COM</i>	<i>C-1, C-2, or C-3 as determined by the director</i>
<i>MIX</i>	<i>C-2, M-1, or M-2 as determined by the director</i>
<i>IND</i>	<i>M-1, M-2, M-3, M-4, or AI</i>
<i>PQ</i>	<i>Any zoning classification</i>
<i>P</i>	<i>CF</i>

This Municipal Code section states that any zoning classification may be applied to land with a PQ comprehensive plan designation, therefore a request of R-1 and I complies with this code requirement.

**Newberg comprehensive plan text:**

**III. PLAN CLASSIFICATIONS**

*For the purpose of evaluating and eventually implementing the proposed Comprehensive Plan, descriptions of land use classifications are essential. Explanations of the map designations are as follows:*

**8. Public/Quasi-Public (PQ)**

*The public/quasi-public designation is used to indicate the location of existing and future schools, public and private; airports; hospitals; continuing care retirement communities; cemeteries; government centers and other non-park facilities serving major community functions.*

*Except in cases where specific new sites are known, only existing public/quasipublic uses shall be shown on the Land Use Plan map. In general, these areas will expand into adjacent areas when the need arises.*

When the site was included into the Newberg urban growth boundary, it was given a designation of PQ because it was a known location of a planned school. The urban growth boundary amendment was an element of the development agreement between the City of Newberg and North Valley

Friends Church.

Conclusion: The annexation request complies with the PQ comprehensive plan map designation for the property and with the comprehensive plan policies. 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:** The applicant has begun development of the site in accordance with the development agreement entered into by North Valley Friends Church and the City of Newberg. Municipal wastewater and water service are provided. Roads also will be developed in accordance with the development agreement.

Transportation Planning Rule: 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 and I are 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 growth boundary as planned future urbanizable land; this property was brought into the urban growth boundary 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.*

Criterion B is therefore met because an adequate level of urban services are available or will be made available within three years of annexation.

***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 Department, TVF&R, Chehalem Parks and Recreation District (CPRD), and the Newberg School District, among other agencies, for comments prior to the staff report. The School District, the Police Dept., and TVF&R all commented "Reviewed, no conflict". CPRD did not provide any comments.

There are no comments to suggest that city services could not support the addition of the 24.33 acres of property 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.

*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. Conclusion:** Based on the above-mentioned findings, the application meets the criteria of the Newberg Development Code and complies with the Comprehensive Plan.