



## Legislation Text

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File #: 18-076, Version: 1

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**TO:** Mayor and Members of City Council

**THRU:** Jay Reinstein, Assistant City Manager

**FROM:** David Nash, AICP, Senior Planner

**DATE:** February 26, 2018

**RE:**  
Consideration of Annexation Waiver Request-Restoration Baptist Church-2107 Clinton Road

**COUNCIL DISTRICT(S):**

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**Relationship To Strategic Plan:**

Goal II: Diverse and Viable Local Economy

**Executive Summary:**

Restoration Baptist Church is located at 2107 Clinton Road, east of the City. This property is in the Fayetteville Municipal Influence Area (MIA) and non-urban. The church plans to build a new sanctuary building, which will need a new PWC sewer connection. This is an expansion of PWC sewer service. Policy 150.2 requires annexation before PWC sewer can be provided or expanded. Policy 150.2 also requires that property to be served by PWC sewer must be developed consistent with the City's development regulations. The church has submitted an annexation waiver request, which is allowed for in Policy 150.2. At the City Council Work Session on February 5, staff presented background on this situation. Staff recommended that the waiver request be placed on the City Council's February 26 agenda, and that the waiver request be approved. At your meeting on February 26, you will be in a position to act on the request. Staff recommends approval of the waiver request, by adoption of the attached resolution.

**Background:**

**Location.** Restoration Baptist Church is located at 2107 Clinton Road, east of the City. (See *Attachment A-Vicinity Map*. Also, see Photos 1-4.) The church's property is in the Fayetteville Municipal Influence Area (MIA).

**Issue.** The current sanctuary building is already served by PWC electric, water, and sewer. The church is planning to build a new sanctuary building behind the current building on the western side of an unnamed road. The church wants to use PWC utilities for the new building. It is due to Policy 150.2 that the church is unable to simply receive a new connection of the sewer service needed for

the proposed sanctuary.

A new sewer connection will be needed for the new building; this would be an expansion of PWC sewer service. Policy 150.2 (see *Attachment B*) requires annexation before PWC sewer can be provided or expanded. Policy 150.2 also requires that property to be served by PWC sewer must be developed consistent with the City's development regulations. Stormwater and a few items of the Unified Development Ordinance are seen as issues by the church's engineer.

City staff first learned about this project on November 30, 2017, when Mr. George Rose, the engineer hired by the church, called to ask about the annexation requirement. Mr. Rose said he had already designed the site according to County development regulations, rather than City development regulations. He said the church would not be able to afford the additional costs associated with developing according to City regulations. He said that if the church is required to annex because of needing to connect to PWC sewer, the church would consider using a septic tank instead of PWC sewer. It is not known if a septic tank would work on this property.

Staff provided Mr. Rose with a copy of Policy 150.2, and staff explained that the policy would require annexation. It appears that three parcels owned by the church would need to be annexed. These are located on the western side of the unnamed road. Although the church's property does not touch the City, railroad and road right-of-way could be added to make the property contiguous, pursuant to state law. This would allow the property to be processed as a voluntary contiguous area.

Staff also told Mr. Rose that Policy 150.2 is worded to allow one to submit an annexation waiver request.

In a letter dated December 15, 2017, the church submitted an annexation waiver request. (See *Attachment C*.) The church cited the additional costs associated with complying with City requirements for stormwater management, landscaping, sidewalks, and roadway improvements. Several of the items referenced are not additional costs but there are a few that do represent additional costs. Namely, these are the provision of some pedestrian paths and stormwater management.

A preliminary examination by City staff outlines what would be required if the property were developed inside the City. (See *Attachment D*.)

On December 29, 2017, the project was approved through the County Planning Department's R6A Site Plan Review process (Case 17-137). (See *Attachment E-Site, Utility and Grading Plan*.)

On January 10, 2018, the Planning staff told Mr. Rose that the staff will recommend to City Council that the annexation waiver request be approved, when it was first presented to City Council at the February 5 Work Session. This is because of the rural nature of the area as further discussed below. From there, the City Council should be in a position to act on the request at the meeting to be held on February 26.

### **Issues/Analysis:**

**Negative View of City Requirements-** Some property owners and developers view and state that the

City's development requirements are too stringent and too costly with little regard of the accuracy. In this situation, staff recognizes that additional costs to the church's stormwater management and sidewalks would occur beyond the plan approved by the county. Given the location in the city, sidewalks on this roadway would lead to nowhere and seem inappropriate, even in a longer view of the area. Stormwater management, in this peculiar drainage basin, is rather limited.

Benefits of Stormwater Regulations Are Sometimes Not Recognized-Even though stormwater regulations may be viewed as costly, they exist in the city for a collective benefit not solely for one parcel's sole use. Stated differently, pushing one's stormwater onto those around and downstream from where the use occurred is not an effective way to deal with stormwater. In this case, the church's property sits in an isolated, small 19 acre watershed basin. (See Attachment F-Drainage Basin Map.) Essentially, stormwater impact is isolated. The church property is in a flat area, and the soils provide severe limitations to many types of development. As long as the church responsibly designs their sheet flow from the parking areas and the downspouts of the new facility, they can control the impact to their neighbors. With that as a caution, this site's flatness and limited impact position it to have minimal stormwater design improvements, in or out of the city.

Normal Processes Were Not Followed in This Situation-Normally, owners who embark on development projects in the Fayetteville MIA know that using PWC sewer will require annexation, and that the project will need to be designed to City standards. In this situation, the owner and/or engineer did not apparently know about these requirements until very late in the process. This does not excuse the design, but clarifies why the issue of an annexation waiver exists.

### **Budget Impact:**

The budget impact of approving the annexation waiver request (i.e. not requiring annexation) would be neutral, from the standpoint of the City. There are no costs and no revenues.

The budget impact of requiring annexation would be negative, from the standpoint of the City. There would be some costs for providing police and fire protection services that do not currently exist at the site. There would be no revenues to offset these costs. For example, there would be no ad valorem property tax revenues because the new sanctuary building would be exempt from property taxes. Also, there would be no population-based revenues, because it is not expected that the area would have any population.

### **Options:**

1. Approve the annexation waiver request by adopting the attached resolution.
2. Deny the annexation waiver request.
3. Table action on the annexation waiver request.

### **Recommended Action:**

City staff recommends Option 1-that the City Council approve the annexation waiver request by adopting the attached resolution, which is Attachment G.

### **Attachments:**

A-Vicinity Map

B-Policy 150.2

C-Letter from Church Requesting Annexation Waiver (dated December 15, 2017)

D-City Staff Assessment of What Would Be Required if Developed Inside City

E-Site, Utility and Grading Plan Approved by County on December 29, 2017

F-Drainage Basin Map

G-Resolution

Photo 1

Photo 2

Photo 3

Photo 4