

Final Documents

For

Annexation to the
City of Portland

MU0104
Order 178597
DOR 26-651-2004
Sec. State: AN-2004-0187

Final to DOR: _____

Signature:

 _____

Date of

Mailing: 8/9/04

Final to Secretary of State: _____

Signature:

 _____

Date of

Mailing: 8/16/04

MU0104

Sent

Received

DOR:

8/9/04

8/13/04

Sec. State:

8/16/04

8/19/04

Assessor:

8/16/04

Elections:

8/16/04

Mapped:

Yes

Properties:

1S1E07AD -03900

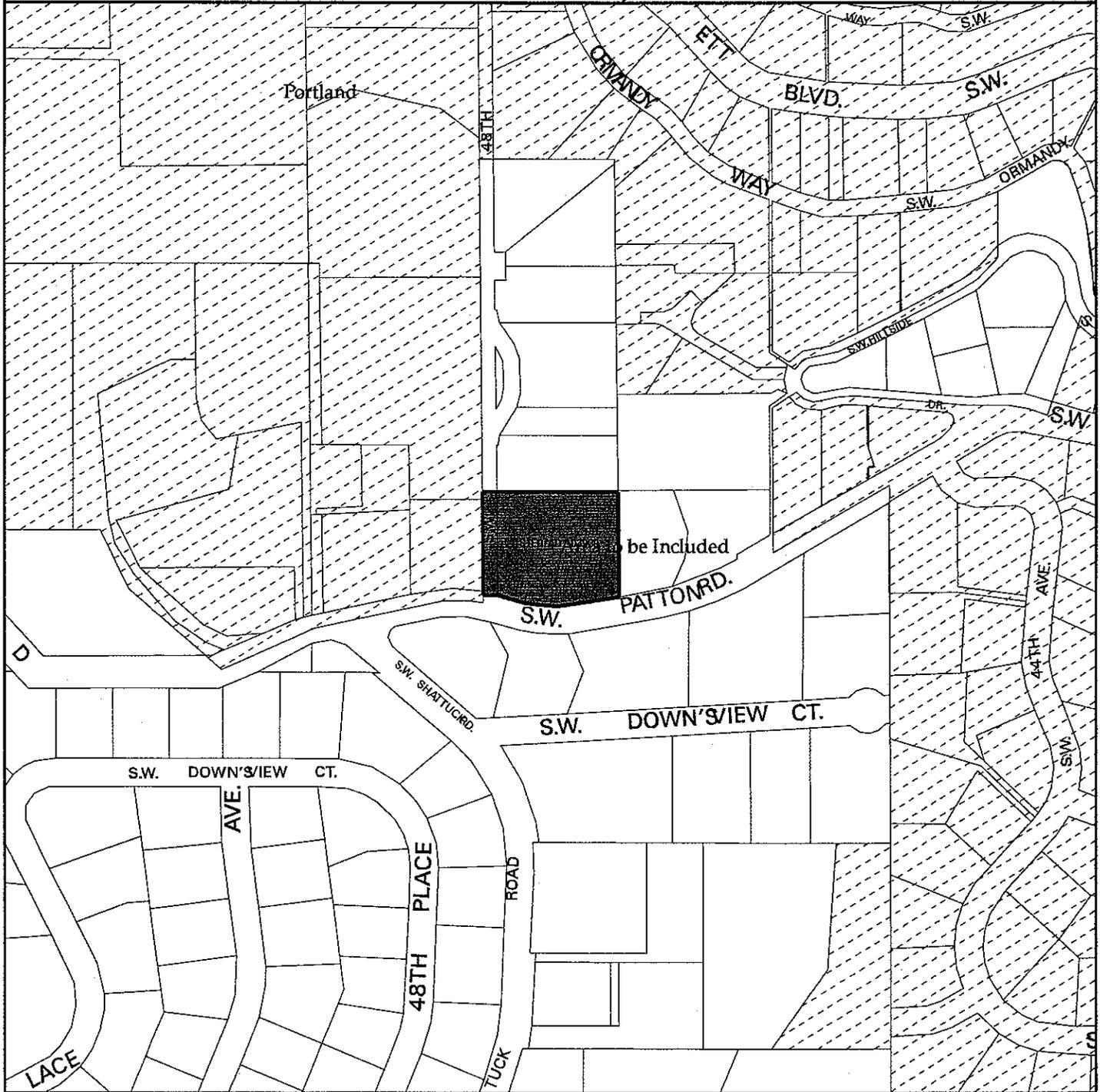
4703 SW Patton Rd

Proposal No. A-1-04

1S1E07AD

Annexation to the City of Portland

Multnomah Co.



REGIONAL LAND INFORMATION SYSTEM



800 NE Grand Ave.
 Portland, OR 97232-2736
 Voice 503 787-1742
 FAX 503 787-1909
 Email dro@metro-region.org

METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the accuracy of availability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

County lines

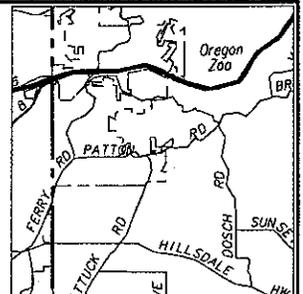
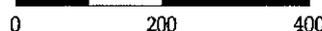
City

Annexation boundary

Urban Growth Boundary

Proposal No. A-1-04
 CITY OF PORTLAND
 Figure 1

Scale: 1" = 250'



Office of the Secretary of State

Bill Bradbury
Secretary of State



Archives Division
ROY TURNBAUGH
Director

800 Summer Street NE
Salem, Oregon 97310
(503) 373-0701

Facsimile (503) 373-0953

August 17, 2004

Metro
Robert Knight
600 NE Grand
Portland, Oregon 97232-2736



Dear Mr. Knight:

Please be advised that we have received and filed, as of August 17, 2004, the following records annexing territory to the following:

Ordinance/Resolution Number(s)	Our File Number
ORD NO 1933	AN 2004-0186 (Milwaukie)
ORD NO 178597	AN 2004-0187 (Portland)
ORD NO 5404	AN 2004-0188 (Hillsboro)
ORD NO 5395	AN 2004-0189 (Hillsboro)

For your records please verify the effective date through the application of ORS 199.519.

Our assigned file number(s) are included in the above information.

Sincerely,

Linda Bjornstad
Official Public Documents

cc: County Clerk(s)
ODOT
Department of Revenue
Population Research Center

Notice to Taxing Districts

ORS 308.225



Cartographic Unit
PO Box 14380
Salem, OR 97309-5075
(503) 945-8297, fax 945-8737

City of Portland
Budget Officer
1120 SW Fifth, Room 1250
Portland, OR 97204

Description and Map Approved
August 13, 2004
As Per ORS 308.225

Description Map received from: METRO
On: 8/12/2004

This is to notify you that your boundary change in Multnomah County for

ANNEXATION TO CITY OF PORTLAND; WITHDRAWAL FROM SEVERAL DISTRICTS
(MU0104)

ORDER #178597 (#A-1-04)

has been: Approved 8/13/2004
 Disapproved

Notes:

Department of Revenue File Number: 26-651-2004

Prepared by: Carolyn Sunderman, 503-945-8882

Boundary: Change Proposed Change
The change is for:

- Formation of a new district
- Annexation of a territory to a district
- Withdrawal of a territory from a district
- Dissolution of a district
- Transfer
- Merge

I hereby certify this document to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on this 26th day of July, 2004

GARY BLACKMER
Auditor of the City of Portland

By Susan Parsons
Deputy

ORDINANCE No. 178597

* Approve annexation of property to the City of Portland in Case Number A-1-04, 4703-4719 SW Patton Road (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The property owner and registered voters have initiated a proposal by a consent petition to annex to the City of Portland the property described in Exhibit "A."
2. The property owner wants to annex to Portland to obtain City services, particularly sewer service.
3. Based on the findings and reasons for decision detailed in Exhibit "B," this proposal for annexation sufficiently meets applicable criteria for approval.

NOW, THEREFORE, the Council directs:

- a. The proposed annexation described in Exhibit "A" is approved.
- b. The subject territory, shown on the map in Exhibit "B," is withdrawn from the Valley View Water District and Multnomah County Service District No. 14 (street lights) and Tualatin Valley Fire & Rescue.
- c. The City Auditor is authorized and directed to file a certified copy of this Ordinance with the Boundary Change Office of Metro.

Section 2. The Council declares that an emergency exists in order that there be no delay in extending services; therefore, this Ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council, JUL 21 2004

GARY BLACKMER
Auditor of the City of Portland

By Susan Parsons
Deputy

Mayor Vera Katz
Bureau of Planning
July 21, 2004

I hereby certify this document to be a complete and exact copy of the original as the same appears in the records in my office and in my care and custody on this day of _____ 1984

178597

GARY BLACKMER
Auditor of the City of Portland
By _____
Deputy

EXHIBIT A
Proposal No. A-1-04

LEGAL DESCRIPTION

Lot 5, Treetop Park, a duly recorded subdivision in Multnomah County, Oregon
Including the adjacent Right-of-way of SW 48th Avenue.

EXHIBIT B
Proposal No. A-1-04

Based on the staff study (attached as B-1) and the public hearing, the City Council found:

1. The territory to be annexed contains .969 acres, 2 single family dwellings, a population of 1-2 and has an assessed value of \$237,020.
2. The property owner wants to annex to Portland to obtain City services, particularly sewer service.
3. The only criterion for deciding city boundary changes within the statutes is the territory must be contiguous to the City. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

Each of these factors is addressed below. The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

4. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the

regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

5. The territory is designated Low Density Residential by Multnomah County and is zoned R-20 which permits residential development with a minimum lot size of 20,000 square feet. In 2001 the Multnomah County Board adopted the City's comprehensive plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January, 2002 the City took over implementation and administration of planning and zoning for this area.
6. The property to be annexed falls within the City's Urban Services Boundary
7. The Portland Comprehensive Plan contains the following Urban Development Policies & Objectives:

2.3 Annexation

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

* * *

The Comprehensive Plan contains the following public facilities Goal and policies and objectives:

GOAL 11A Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

POLICIES & OBJECTIVES

11.1 Service Responsibility

Outside its boundaries of incorporation, the City of Portland shall:

- (3) Consider requests for delivery of services within the Urban Services Boundary wherever the following conditions exist:
 - Residents or property owners within an area to be served desire delivery of services by the City of Portland.

- The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.
 - The City can supply the needed services most effectively and efficiently.
 - The City can expect to recapture its service investment.
- (4) Deliver services within the Urban Services Boundary by means of annexation to Portland . . .

* * *

11.2 Orderly Land Development

Urban development should occur only when urban public facilities and services exist or can be reasonably made available.

11.3 Orderly Service Extension

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's ability to provide all other necessary urban public facilities and services at uniform levels.

As discussed below in Findings 9-14, urban services are readily available to the site from the City. There is no evidence that serving the area would diminish the City's ability to serve existing residents and businesses.

The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

Per the above-mentioned agreements, the City has processed a zone change and subdivision review (LU 03-174016 ZC LDS AD (HO 404005)) for this property to be effective upon annexation. The zone change is from R-20 to R-10 and the subdivision divides the property into four lots. This will allow for construction of two new single family dwellings in addition to the two existing units

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.
9. Sanitary sewer service is available from City lines in SW Patton Road and SW 48th Avenue.
10. Water service will be provided from a Valley View Water District 16 inch line in SW Patton Road. The City's agreement with the District provides for the District to provide water for the City in cases where the District has a line which can serve the site. In such cases the City is the technical provider of the service and the property owner is a customer of the City not the District. The City is authorized by ORS 222.120 (5) to withdraw the territory from Valley View Water District at the time of annexation. The effective date of the withdrawal would be July 1, 2005 according to ORS 222.465.

According to City staff, similarly situated properties have been withdrawn from the District. In order to be consistent this property should also be withdrawn from the District

11. Police service will be provided by the City at the same level as currently provided to other City residents.

12. The territory currently receives fire protection from the Tualatin Valley Fire & Rescue. ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation. Because Portland provides fire protection to City properties from City general funds the City should withdraw the territory from the District to prevent the property from being subject to duplicate property taxation by the Fire District.
13. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.

ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a county service district. The effective date of a withdrawal from a county service district is the effective date of the annexation.
14. Access to the site is provided by SW Patton Road and SW 48th Avenue which are both under the jurisdiction of Multnomah County Transportation Department.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the City Council determined:

1. The Metro Code at 3.09.050(d)(1) calls for consistency between the City's decision and an agreement adopted pursuant to ORS 195.065. There are no such agreements in this area.
2. The Metro Code at 3.09.050(d)(2) calls for consistency between the City's decision and urban planning area agreements, or other agreements. The territory to be annexed is within both the urban planning area boundary and urban services boundary of the City of Portland recognized in the City / County urban planning area agreement (UPAA). The agreement recognizes that Portland will eventually annex and service the area. The annexation is consistent with the UPAA. Portland has agreements with other service providers but none contains criteria that are directly applicable to annexation decisions.
3. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans." The Council has reviewed the City Comprehensive Plan which currently applies to this site because the County has adopted the City Plan and zoning for the area. The County plan contains no criteria that are directly applicable to annexation decisions.

Policy 4 of the Portland Urban Services Policies contains criteria related to annexation. It says that the city shall "consider" requests for the delivery of services within the urban services boundary when certain conditions exist. This policy is not a mandatory approval criterion, but rather contains a set of factors to consider.

The first factor is "residents and property owners within an area to be served desire delivery of services by the City of Portland." The area to be served is limited to the parcel that is proposed to be annexed. The owners have petitioned for annexation.

The second factor is "the City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses." As discussed above in Findings numbered 9 through 14, urban services can be provided to the site.

The third factor is that "the City can supply the needed services most effectively and efficiently." The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

4. The fourth factor is "the City can expect to recapture its service investment." The existing and any future additional development will produce very little demand on sewer, police, fire or other City services.

The Council concludes that the annexation is consistent with policy 11.1 B. (4).

Policy 5 says that Portland will deliver services by annexing areas. This proposed annexation is consistent with policy 11.1 B (5).

5. Metro Code 3.09.050(d)(4) requires the City's decision to be consistent with directly applicable standards or criteria in the Regional Framework Plan or any functional plan. The Council has reviewed these plans and found no directly applicable criteria.
6. Metro Code 3.09.050(d)(5) states that another criterion to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provision of public facilities and services." The Council concludes that the City's adequate services can be provided to serve this area, based on Findings 9 through 14. Therefore the proposed change promotes the timely, orderly and economic provision of services.
7. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from the Valley View Water District, Multnomah County Service District # 14 for street lights and Tualatin Valley Fire & Rescue. The City's property tax levy includes revenue for City fire protection. The Service District for street lights levies an annual assessment against benefited properties. To prevent the property from being taxed and/or assessed by both the Districts and the City for the same services, the territory should be simultaneously withdrawn from the Tualatin Valley Fire & Rescue and Multnomah County Service District # 14.

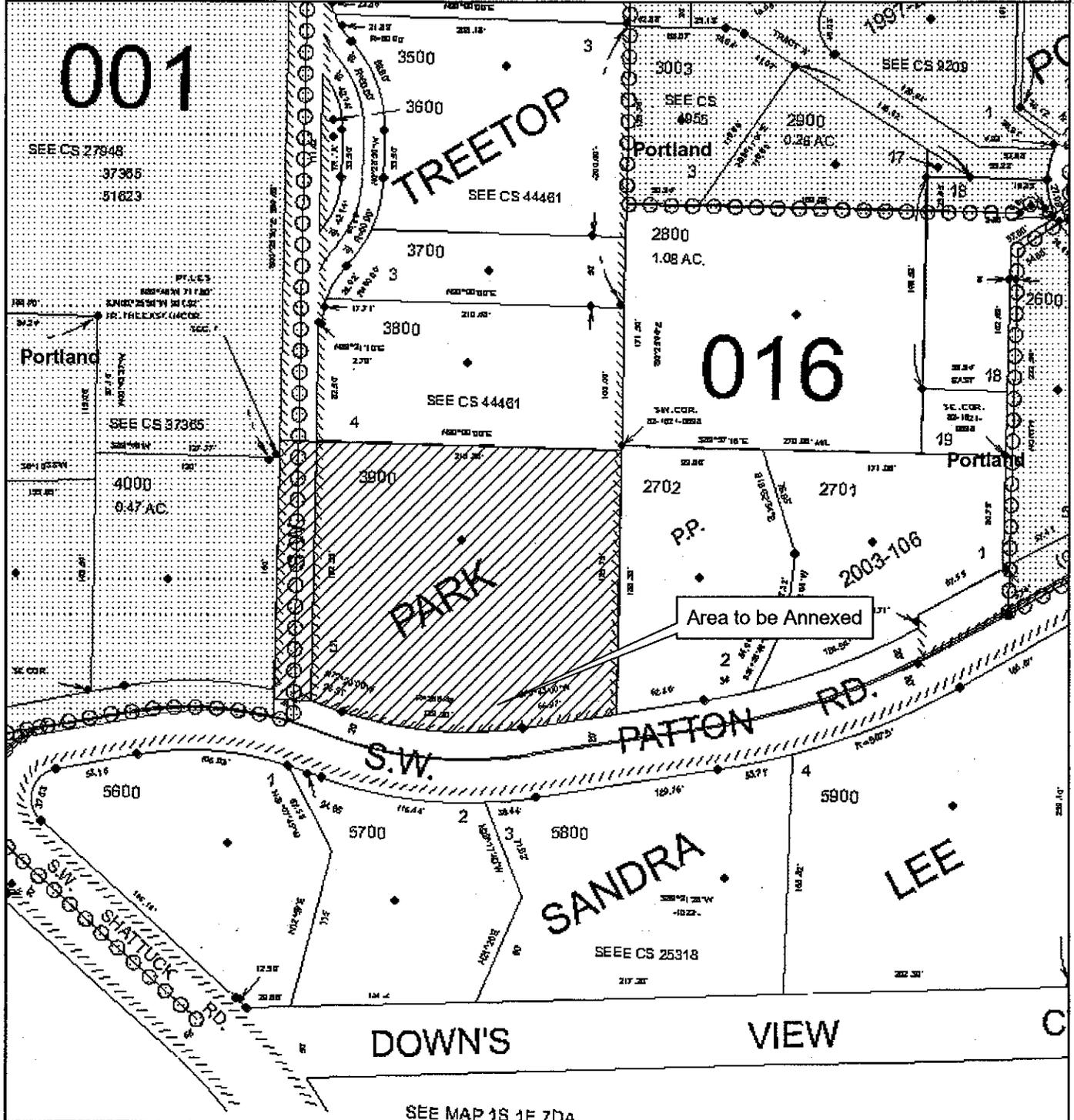
The City also has the ability to withdraw the territory to be annexed from Valley View Water District. In order to be consistent with the policy of withdrawing properties from the District and billing them at Portland rates, the City should withdraw this territory from the District.

Proposal No. AN-1-04

K M C

Ken Martin Consulting
P.O. Box 29079
Portland, OR 97296-9079
(503) 222-0955

Annexation to The City of Portland
Multnomah County
1S1E07AD



1 inch equals 100 feet

PROPOSAL No. AN-1-04
City of Portland
Figure 2

EXHIBIT B-1

July 21, 2004 Meeting

PROPOSAL NO. A-1-04 - CITY OF PORTLAND - Annexation

Petitioner: Trayle, LLC

Proposal No. A-1-04 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 222.170(2) (double majority annexation law) and Metro Code 3.09.040(a) (Metro's minimum requirements for a petition).

The territory to be annexed is located generally on the west edge of the City on the north edge of SW Patton Road and on the west edge of SW 48th Avenue. The territory contains .969 acres, 2 single family dwellings, a population of 1-2 and has an assessed value of \$237,020.

REASON FOR ANNEXATION

The property owner wants to annex to Portland to obtain City services, particularly sewer service.

CRITERIA FOR DECISION-MAKING

The only criterion for deciding city boundary changes within the statutes is the territory must be contiguous to the City. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

The Metro Code states that a final decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065. [urban service provider agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required urban service provider agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]

2. Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.
3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional framework or any functional plan.
5. Whether the proposed change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. The territory lies within the Urban Growth Boundary.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

Each of these factors is addressed below. The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

LAND USE PLANNING

Regional Planning. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

Regional Framework Plan. The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include ". . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

Multnomah County Planning. The territory is designated Low Density Residential by Multnomah County and is zoned R-20 which permits residential development with a minimum lot size of 20,000 square feet. In 2001 the Multnomah County Board adopted the City's comprehensive plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January, 2002 the City took over implementation and administration of planning and zoning for this area.

Portland/Multnomah County Urban Services Agreement.

The property to be annexed falls within the City's Urban Services Boundary.

Portland Planning. The Portland Comprehensive Plan contains the following Urban Development Policies & Objectives:

2.3 Annexation

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

The Comprehensive Plan contains the following public facilities Goal and policies and objectives:

GOAL 11A Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

POLICIES & OBJECTIVES

11.1 Service Responsibility

A. Outside its boundaries of incorporation, the City of Portland shall:

- (3) Consider requests for delivery of services within the Urban Services Boundary wherever the following conditions exist:
 - Residents or property owners within an area to be served desire delivery of services by the City of Portland.

- The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.
 - The City can supply the needed services most effectively and efficiently.
 - The City can expect to recapture its service investment.
- (4) Deliver services within the Urban Services Boundary by means of annexation to Portland . . .

* * *

11.2 Orderly Land Development

Urban development should occur only when urban public facilities and services exist or can be reasonably made available.

11.3 Orderly Service Extension

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's ability to provide all other necessary urban public facilities and services at uniform levels.

As discussed below in the Facilities and Services section of the staff report, urban services are readily available to the site from the City. There is no evidence that serving the area would diminish the City's ability to serve existing residents and businesses.

The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

Zone Change.

Per the above-mentioned agreements, the City has processed a zone change and subdivision review (LU 03-174016 ZC LDS AD (HO 404005)) for this property to be effective upon annexation. The zone change is from R-20 to R-10 and the subdivision divides the property into four lots. This will allow for construction of two new single family dwellings in addition to the two existing units.

FACILITIES AND SERVICES

ORS 195 Agreements. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are

responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.

Sanitary Sewer Service. Sanitary sewer service is available from City lines in SW Patton Road and SW 48th Avenue.

Water Service. Water service will be provided from a Valley View Water District 16 inch line in SW Patton Road. The City's agreement with the District provides for the District to provide water for the City in cases where the District has a line which can serve the site. In such cases the City is the technical provider of the service and the property owner is a customer of the City not the District. The City is authorized by ORS 222.120 (5) to withdraw the territory from Valley View Water District at the time of annexation. The effective date of the withdrawal would be July 1, 2005 according to ORS 222.465.

According to City staff, similarly situated properties have been withdrawn from the District. In order to be consistent this property should also be withdrawn from the District.

Police Service. Police Service will be provided by the City at the same level as currently provided to other City residents.

Fire. The territory currently receives fire protection from the Tualatin Valley Fire & Rescue. ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation.

Street Lights. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.

ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a county service district. The effective date of a withdrawal from a county service district is the effective date of the annexation.

Transportation. Access to the site is provided by SW Patton Road and SW 48th Avenue which are both under the jurisdiction of Multnomah County Transportation Department.

RECOMMENDATION

Based on the Study and the proposed Findings and Reasons for Decision, attached as Exhibit A, the staff recommends that Proposal No. A-1-04 be **approved**. It is also recommended that the territory be withdrawn from the Valley View Water District, Tualatin Valley Fire & Rescue and Multnomah County Service District #14 (street lights).

PROPOSED FINDINGS AND REASONS FOR DECISION

Based on the staff study and the public hearing the City Council found:

1. The territory to be annexed contains .969 acres, 2 single family dwellings, a population of 1-2 and has an assessed value of \$237,020.
2. The property owner wants to annex to Portland to obtain City services, particularly sewer service.
3. The only criterion for deciding city boundary changes within the statutes is the territory must be contiguous to the City. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.

6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

Each of these factors is addressed below. The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

4. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include ". . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

5. The territory is designated Low Density Residential by Multnomah County and is zoned R-20 which permits residential development with a minimum lot size of 20,000 square feet. In 2001 the Multnomah County Board adopted the City's comprehensive plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January, 2002 the City took over implementation

and administration of planning and zoning for this area.

6. The property to be annexed falls within the City's Urban Services Boundary
7. The Portland Comprehensive Plan contains the following Urban Development Policies & Objectives:

2.3 Annexation

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

* * *

The Comprehensive Plan contains the following public facilities Goal and policies and objectives:

GOAL 11A Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

POLICIES & OBJECTIVES

11.1 Service Responsibility

- A. Outside its boundaries of incorporation, the City of Portland shall:
 - (3) Consider requests for delivery of services within the Urban Services Boundary wherever the following conditions exist:
 - Residents or property owners within an area to be served desire delivery of services by the City of Portland.
 - The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.

- The City can supply the needed services most effectively and efficiently.
 - The City can expect to recapture its service investment.
- (4) Deliver services within the Urban Services Boundary by means of annexation to Portland . . .

* * *

11.2 Orderly Land Development

Urban development should occur only when urban public facilities and services exist or can be reasonably made available.

11.3 Orderly Service Extension

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's ability to provide all other necessary urban public facilities and services at uniform levels.

As discussed below in Findings 9-14, urban services are readily available to the site from the City. There is no evidence that serving the area would diminish the City's ability to serve existing residents and businesses.

The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

Per the above-mentioned agreements, the City has processed a zone change and subdivision review (LU 03-174016 ZC LDS AD (HO 404005)) for this property to be effective upon annexation. The zone change is from R-20 to R-10 and the subdivision divides the property into four lots. This will allow for construction of two new single family dwellings in addition to the two existing units

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.

9. Sanitary sewer service is available from City lines in SW Patton Road and SW 48th Avenue.
10. Water service will be provided from a Valley View Water District 16 inch line in SW Patton Road. The City's agreement with the District provides for the District to provide water for the City in cases where the District has a line which can serve the site. In such cases the City is the technical provider of the service and the property owner is a customer of the City not the District. The City is authorized by ORS 222.120 (5) to withdraw the territory from Valley View Water District at the time of annexation. The effective date of the withdrawal would be July 1, 2005 according to ORS 222.465.

According to City staff, similarly situated properties have been withdrawn from the District. In order to be consistent this property should also be withdrawn from the District
11. Police service will be provided by the City at the same level as currently provided to other City residents.
12. The territory currently receives fire protection from the Tualatin Valley Fire & Rescue. ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation. Because Portland provides fire protection to City properties from City general funds the City should withdraw the territory from the District to prevent the property from being subject to duplicate property taxation by the Fire District.
13. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.

ORS 222.120(4) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a county service district. The effective date of a withdrawal from a county service district is the effective date of the annexation.
14. Access to the site is provided by SW Patton Road and SW 48th Avenue which are both under the jurisdiction of Multnomah County Transportation Department.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the City Council determined:

1. The Metro Code at 3.09.050(d)(1) calls for consistency between the City's decision and an agreement adopted pursuant to ORS 195.065. There are no such agreements in this area.
2. The Metro Code at 3.09.050(d)(2) calls for consistency between the City's decision and urban planning area agreements, or other agreements. The territory to be annexed is within both the urban planning area boundary and urban services boundary of the City of Portland recognized in the City / County urban planning area agreement (UPAA). The agreement recognizes that Portland will eventually annex and service the area. The annexation is consistent with the UPAA. Portland has agreements with other service providers but none contains criteria that are directly applicable to annexation decisions.
3. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans." The Council has reviewed the City Comprehensive Plan which currently applies to this site because the County has adopted the City Plan and zoning for the area. The County plan contains no criteria that are directly applicable to annexation decisions.

Policy 4 of the Portland Urban Services Policies contains criteria related to annexation. It says that the city shall "consider" requests for the delivery of services within the urban services boundary when certain conditions exist. This policy is not a mandatory approval criterion, but rather contains a set of factors to consider.

The first factor is "residents and property owners within an area to be served desire delivery of services by the City of Portland." The area to be served is limited to the parcel that is proposed to be annexed. The owners have petitioned for annexation.

The second factor is "the City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses." As discussed above in Findings numbered 9 through 14, urban services can be provided to the site.

The third factor is that "the City can supply the needed services most effectively and efficiently." The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

The fourth factor is "the City can expect to recapture its service investment." The

existing and any future additional development will produce very little demand on sewer, police, fire or other City services.

The Council concludes that the annexation is consistent with policy 11.1 B. (4).

Policy 5 says that Portland will deliver services by annexing areas. This proposed annexation is consistent with policy 11.1 B (5).

5. Metro Code 3.09.050(d)(4) requires the City's decision to be consistent with directly applicable standards or criteria in the Regional Framework Plan or any functional plan. The Council has reviewed these plans and found no directly applicable criteria.
6. Metro Code 3.09.050(d)(5) states that another criterion to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provision of public facilities and services." The Council concludes that the City's adequate services can be provided to serve this area, based on Findings 9 through 14. Therefore the proposed change promotes the timely, orderly and economic provision of services.
7. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from the Valley View Water District, Multnomah County Service District # 14 for street lights and Tualatin Valley Fire & Rescue. The City's property tax levy includes revenue for City fire protection. The Service District for street lights levies an annual assessment against benefited properties. To prevent the property from being taxed and/or assessed by both the Districts and the City for the same services, the territory should be simultaneously withdrawn from the Tualatin Valley Fire & Rescue and Multnomah County Service District # 14.

The City also has the ability to withdraw the territory to be annexed from Valley View Water District. In order to be consistent with the policy of withdrawing properties from the District and billing them at Portland rates, the City should withdraw this territory from the District.