

Final Documents

For

Annexation to the
City of Hillsboro

WA0504
Ord. #5325
DOR 34-1653-2004
Sec. State: AN-2004-0034

Final to DOR: _____

Signature:

Date of
Mailing: 2/11/04

Final to Secretary of State: _____

Signature:

Date of
Mailing: 2/23/04

WA0504

Sent

Received

DOR: 2/11/04 2/19/04

Sec. State: 2/23/04 2/27/04

Assessor: 2/23/04

Elections: 2/23/04

Mapped: Yes

Posted: 3/2/04

Addresses:	1N2210003102	5775 NW Birch Ave
	1N2210003100	5455 NW Birch Ave
	1N2210002600	No Site Address
	1N2210002601	No Site Address
	1N2210003000	5205 NW Shute Rd
	1N2210002700	No Site Address
	1N2210002800	No Site Address
	1N2210002900	No Site Address
	1N2210002802	No Site Address
	1N2210002901	24245 NW Evergreen

Proposal No. WA0504

1N2W21

Annexation to the City of Hillsboro

Washington Co.



R
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S

REGIONAL LAND INFORMATION SYSTEM



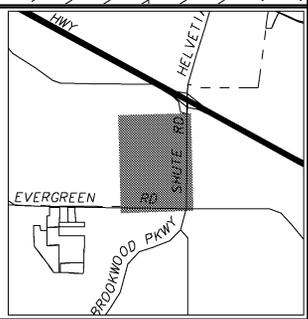
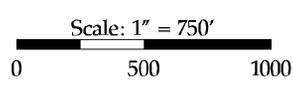
600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1909
Email drc@metro-region.org

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 warranty of merchantability 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. WA0504
CITY OF HILLSBORO
Figure 1



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

February 25, 2004

Metro
Robert Knight
600 NE Grand Ave
Portland, OR 97232-2736

Dear Mr. Knight:

Please be advised that we have received and filed on February 25, 2004 the following Annexation(s).

Ordinance(s):	Jurisdiction:	Our File Number(s):
ORD #2003-238	Sunrise Water Authority	AN 2004-0031
ORD #2003-239	Sunrise Water Authority	AN 2004-0032
ORD #178128	City of Portland	AN 2004-0033
ORD #5325	City of Hillsboro	AN 2004-0034
ORD #5343	City of Hillsboro	AN 2004-0035
ORD #4287	City of Beaverton	AN 2004-0036

Determination of the effective date for all the above Final Order(s) is subject to ORS199.461 and/or ORS 222.180 and/or ORS 222.750.

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

Sincerely,

Linda Bjornstad
Official Public Documents

cc: County Clerk
ODOT/Highway Dept
PSU/Population Research Ctr.
Revenue Cartography Section

Notice to Taxing Districts

ORS 308.225



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

City of Hillsboro
City Manager
123 W. Main St.
Hillsboro, OR 97123

Description and Map Approved
February 18, 2004
As Per ORS 308.225

Description Map received from: METRO
On: 2/13/2004

This is to notify you that your boundary change in Washington County for
ANNEX TO THE CITY OF HILLSBORO & WITHDRAWAL FROM SEVERAL DIST.

ORD. #5325

has been: Approved 2/18/2004
 Disapproved

Notes:

Department of Revenue File Number: 34-1653-2004

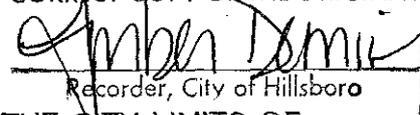
Prepared by: Jennifer Dudley, 503-945-8666

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

ORDINANCE NO. 5325
AN 14-03: SHUTE ROAD SITE

CERTIFIED TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL


Recorder, City of Hillsboro

AN ORDINANCE ANNEXING CERTAIN TRACTS OF LAND INTO THE CITY LIMITS OF HILLSBORO AND WITHDRAWING THE TRACTS FROM THE TERRITORIES OF WASHINGTON COUNTY RURAL FIRE PROTECTION DISTRICT NO. 2, WASHINGTON COUNTY SERVICE DISTRICT FOR URBAN ROAD MAINTENANCE, AND WASHINGTON COUNTY SERVICE DISTRICT NO. 1 FOR STREET LIGHTS.

WHEREAS, the City of Hillsboro received a complete, joint petition from the owners of tracts of land described in Exhibit A to this ordinance agreeing to the annexation of the properties shown in Exhibit A into the city limits of Hillsboro under Metro Code Section 3.09.045 expedited decision provisions; and

WHEREAS, the petition contains the written consent to annexation of 100 percent of the property owners of the territory requested to be annexed to the city limits of Hillsboro as required by ORS 222.125 and Metro Code Section 3.09.045(a); and

WHEREAS, the City accepted the owner's petitions and initiated the annexation process of the tracts of land described in Exhibit A;

WHEREAS, as permitted by ORS 222.120(2) and Metro Code Section 3.09.045(a) the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection; and

WHEREAS, the tracts of land requested to be annexed by the Petition are adjacent to the City of Hillsboro city limits and can be served by the necessary public facilities and City services; and

WHEREAS, the tracts of land are located within the Hillsboro Urban Service Area identified in the Hillsboro Urban Service Agreement (April, 2003) between and among the City of Hillsboro, Washington County, the City of Beaverton, Metro and several special service districts and is contemplated by the Agreement ultimately to become a part of the City of Hillsboro by eventual annexation of the tracts of land to the City of Hillsboro; and

WHEREAS, the tracts of land lie within the following districts: Washington County Rural Fire Protection District No. 2, Washington County Service District for Urban Road Maintenance, Washington County Service District #1 for Street Lights and the parties to the Hillsboro Urban Service Agreement have agreed that these services would ultimately be provided by the City of Hillsboro to the tracts of land; and

WHEREAS, notice of the proposed annexation and withdrawals has been published, mailed and posted in the manner provided by law and applicable provisions of the Metro Code relating to expedited decision annexations; and

WHEREAS, the City Council conducted a public hearing on this matter on November 18, 2003, and does hereby favor the annexation of the subject tract of land and withdrawals from the districts based on the findings attached hereto as Exhibit B;

WHEREAS, the annexation and withdrawals are not contested by any necessary party;

NOW, THEREFORE, THE CITY OF HILLSBORO DOES ORDAIN AS FOLLOWS:

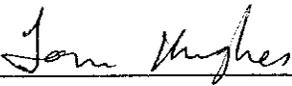
Section 1. The tracts of land, described in Exhibit A, are hereby declared to be annexed to the City of Hillsboro, Washington County, Oregon.

Section 2. The tracts of land annexed by this ordinance and described in Section 1 are withdrawn from the following districts upon the effective date of the annexation: Washington County Rural Fire Protection District No. 2; Washington County Service District for Urban Road Maintenance; and Washington County Service District #1 for Street Lights.

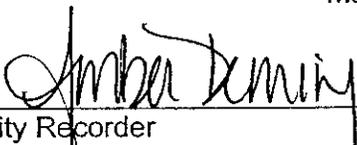
Section 3. The findings attached to this Resolution as Exhibit B are adopted. The City Recorder shall file a certified copy of this Ordinance with Metro and the other agencies required by Metro Code Section 3.09.050(f) and ORS 222.005. The annexation and withdrawals shall become effective upon filing of the annexation records with the Oregon Secretary of State as provided by ORS 222.180.

Passed by the Council this 18th day of November, 2003.

Approved by the Mayor this 18th day of November, 2003.



Mayor

ATTEST: 

City Recorder

City of Hillsboro
Annex Evergreen/Shute
Proposed legal description
NS, October 17, 2003 revised 11/03/03

Exhibit 'A'

A tract of land in Section 21 and Section 22, Township 1 North, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Commencing at the southeast corner of the Constable Donation Land Claim No. 71;

thence North 89° 31' West, along the south boundary of said claim, a distance of 290.0 feet;

thence North 0°29' East, a distance of 45.0 feet to a point on the north right-of-way line of NW Evergreen Road and the TRUE POINT OF BEGINNING;

thence North 89° 31' West, along said right-of-way line, a distance of 1030.09 feet to an angle point in said right-of-way being on the east boundary of Lot 17, Five Oaks, a duly recorded subdivision in said county

thence South 0°29'00" West, along said east boundary and right-of-way line, a distance of 25.0 feet to an angle point therein;

thence North 89°31'00" West, along said right-of-way line, a distance of 401.33 feet to a point on the east boundary of that tract of land conveyed to Robert A. Nicholas and Dona L. Garriott by deed recorded June 8, 1995 as Document No. 95039176 in Deed Records of said county;

thence North 0°19'43" East, along said east boundary, a distance of 426.77 feet to the northeast corner of said Nicholas Tract;

thence North 89°31'00" West, along the north boundary of said tract, a distance of 195.00 feet to the northwest corner thereof;

thence South 0°19'43" West, along the west boundary of said tract, a distance of 426.77 feet to the north right-of-way line of Evergreen Road;

thence North 89°31'00" West, along said north right of way line, a distance of 778.74 feet;

thence North 0°29' East, a distance of 25.0 feet;

thence South 89°31'00" East, parallel with the centerline of Evergreen Road, a distance of 30.07 feet;

thence along a 25 foot radius curve, to the left, with a central angle 90° 09' 17" , an arc distance of 39.34 to a point on the west right-of- way line of Northwest 253rd Avenue;

thence North 0°19'43" East, along said west right of way line, a distance of 1249.93 feet to an angle point in said right-of-way line, also being a point on the north boundary of Lot 15, Five Oaks;

thence South 89°40'17" East, along said boundary, a distance of 5.0 feet to a point on the west right of way line of said Northwest 253rd Avenue (C.R. 1054);

thence North 0°19'43" East, along said west right of way line, a distance of 1413.26 feet to a point on the north right-of-way line of an unnamed road, abutting Lots 3 and 4 as shown on the plat of Five Oaks;

thence South 89°29'20" East, along said right of way line, a distance of 319.10 feet to an angle point therein and a point on the west boundary of Lot 2, Five Oaks;

thence South 0° 30' 40" West, along said right-of-way line, a distance of 20.0 feet to the southwest corner of Lot 2, Five Oaks;

thence South 89° 29' 20" East, along the south boundary of said lot, a distance of 716.76 feet to the southeast corner thereof;

thence North 0°43' East, along the east boundary of said lot, a distance of 1218.5 feet to the northwest corner of that tract of land described in deed to Keith A. and Rebecca Lee Berger, recorded 12/30/1992 as document number 92093488;

thence South 89°32'00" East, along the north boundary of said tract, a distance of 1563.20 feet to a point on the west right-of-way line of Shute Road, being 45.0 feet from the centerline thereof;

thence South 0°35'50" West, along said right-of-way line, a distance of 2568.16 feet to an angle point therein;

thence North 89° 24' 10" West, along said right-of-way line, a distance of 25.0 feet to an angle point therein.

thence South 0°35'50" West, along said right-of-way line, a distance of 1148.57 feet to a point of curvature therein;

thence along the arc of a 220.0 foot radius curve to the right, through a central angle of 90° 06' 50" , an arc distance of 346.01 feet more or less to the TRUE POINT OF BEGINNING.

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92093488
Washington County

BARGAIN AND SALE DEED

KENNETH A. BERGER and RUTH I. BERGER, husband and wife, Grantors, convey to KEITH A. BERGER and REBECCA LEE BERGER, husband and wife, Grantees, the real property located in Washington County, Oregon and described on the attached Exhibit A.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

The true consideration for this conveyance in terms of dollars is NONE, but consists instead of the love and affection of the Grantors for the Grantees, their son and daughter-in-law.

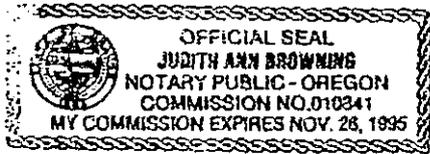
Dated: December 29, 1992.

Kenneth A. Berger
Kenneth A. Berger

Ruth I. Berger
Ruth I. Berger

STATE OF OREGON, County of Washington) ss.

Personally appeared before me on December 29, 1992, the above named Kenneth A. Berger and Ruth I. Berger and acknowledged the foregoing instrument to be their voluntary act and deed.



Judith Ann Browning
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11-26-95

AFTER RECORDING, RETURN TO:

Frost & Kohl
P.O. Box 586
Hillsboro, OR 97123

SEND TAX STATEMENTS TO:

Mr. and Mrs. Keith A. Berger
5455 N.W. Birch Avenue
Hillsboro, OR 97124

EXHIBIT A

LEGAL DESCRIPTION:

Tract of land in the Edward Constable D.L.C. No. 71, Township 1 North, Range 2 West of the Willamette Meridian, and more particularly described as follows: Beginning at the southeast corner of Lot 2, Five Oaks, and running thence north 0° 43' east along the east line of Five Oaks for a distance of 1218.5 feet to an iron rod; running thence south 89° 32' east 8.7 feet to an iron rod at the southwest corner of that certain tract of land conveyed to Ronald K. and Nellie I. Hoffman by deed recorded in deed book 392, page 672; running thence south 89° 32' east along the south line of the Hoffman tract and along the south line of the Palmer G. and Thelma I. Lee tract as the same is described in deed book 304, page 603, for a distance of 726.9 feet to the southeast corner of the said Lee tract on the east line of the Edward C. Constable D.L.C. #71, T. 1 North, Range 2 West of the Willamette Meridian; running thence south 0° 32 1/2' west along the east line of the Constable D.L.C. for a distance of 1225.2 feet to the southeast corner of that certain tract of land belonging to Carl and Luella Voges, the same being described on page 198 of deed book 256; running thence north 89° 1' west 1627.6 feet to the place of beginning.

EXCEPTING THEREFROM that property described in deed recorded in Book 885 at Page 397 of the records of Washington County, Oregon.

TOGETHER WITH the non-exclusive easement described in Book 885 at Page 396 of the records of Washington County, Oregon.

STATE OF OREGON }
County of Washington } SS

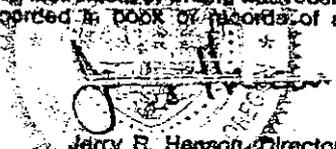
I, Jerry R. Hanson, Director of Assessment and Taxation and Ex-Officio Recorder of Conveyances for said county, do hereby certify that the within instrument of writing was received and recorded in book of records of said county.

Jerry R. Hanson, Director of
Assessment and Taxation, Ex-
Officio County Clerk

Doc : 92093488
Rect: 91452 38.00
12/10/1992 10:08:50AM

OREGON } SS
County of Washington

I, Jerry R. Hanson, Director of Assessment and Taxation and Ex-Officio County Clerk for said county, do hereby certify that the within instrument was received and recorded in BOOK of records of said county.



Jerry R. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk

Doc : 95039176
Rect: 145025 270.00
06/08/1995 11:12:56AM

1-3

Fidelity National Title Company of Oregon

STATUTORY WARRANTY DEED
(Individual or Corporate)

MARC A. BROWN AND KATHRYN A. BROWN

grantor, conveys and warrants to
---ROBERT A. NICHOLAS AND DONA L. GARRIOTT,

grantee, the following described real property, free and clear of encumbrances except as specifically set forth herein, situated in the county of Washington State of Oregon, to wit:

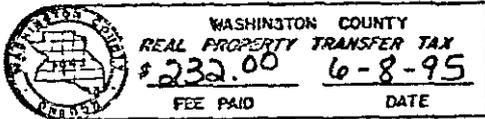
---SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF---

Subject to and excepting: Covenants, conditions, restrictions and easements of record.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$ 232,000.00

(See ORS 93.030)



Dated this 5th day of June 19 95

(X) Marc A. Brown
Kathryn A. Brown

STATE OF OREGON, County of Washington) s

This instrument was acknowledged before me on June 5th 1995
by ---Marc A. Brown and Kathryn A. Brown---

This instrument was acknowledged before me on _____, 199
by _____
as _____
of _____



Notary Public in and for Oregon
My commission expires: 05/15/99

GRANTOR'S NAME

Marc A. Brown & Kathryn A. Brown

GRANTEE'S NAME

Robert A. Nicholas & Dona L. Garriott

Until further notice send future tax statements to:

Robert A. Nicholas & Dona L. Garriott
23945 NW Evergreen
Hillsboro, OR 97124

AFTER RECORDING RETURN TO:

Same as above

Space reserved for recorder's use

2

JUN 0 6 1995

FIDELITY NATIONAL TITLE 618460-000

EXHIBIT A

The following described portion of Lot 17, FIVE OAKS, in Washington County, Oregon.

BEGINNING at a point on the South line of said Lot 17, South $89^{\circ}21'$ East 723.67 feet from the Southwest corner of Lot 16, said subdivision; and running thence North $00^{\circ}29'30''$ East, parallel with the West line of said Lot 16, 446.77 feet; thence South $89^{\circ}21'$ East, parallel with the South line of said Lot 17, 195.0 feet; thence South $00^{\circ}29'30''$ West, 446.77 feet to the South line of said Lot 17; thence North $89^{\circ}21'$ West, along said South line, 195.0 feet to the point of beginning.

EXHIBIT B

FINDINGS IN SUPPORT SHUTE ROAD INDUSTRIAL SITE ANNEXATION FILE NO. AN 14-03

I. BACKGROUND INFORMATION AND SITE DESCRIPTION

Site Description

Six (6) groups of owners, holding properties totaling approximately 200.02 acres of land in various types of ownerships including real estate trusts, co-tenancies and single ownerships have provided written consent for City-annexation of their 200.02 acres into the City Limits of Hillsboro.

The proposed annexation site (commonly referred to as the "Shute Road Site") under consideration is located at the northwest corner of the intersection of Shute Road and Evergreen Road and approximately 300 feet south of the Shute Road-US Highway 26 ("Sunset Highway") Interchange. The Site contains ten (10) tax lots held by eight separate ownerships on Washington County Tax Assessor's Map 1N2-21 as follows. The Site contains three (3) separate single family dwellings on Parcels 1, 2 and 5 that have various rural accessory structures also on the parcels. The total assessed value of the site is approximately \$774,890.00.

Parcels No.	Tax Lot	Lot Acreage	Owner Name
1	1N2210003102	2.02	Boyles, Fred M. Living Trust
2	1N2210003100	41.88	Berger, Keith A. and Rebecca Lee
3	1N2210002600	42.11	Moore, Herbert L. Trust and Moore, Hazel I Trust Et Al (Herbert Moore)
4	1N2210002601	0.54	Moore, Herbert L. Trust and Moore, Hazel I Trust Et Al (Herbert Moore)
5	1N2210003000	0.78	Moore, Herbert L. Trust and Moore, Hazel I Trust Et Al (Herbert Moore)
6	1N2210002700	39.50	Berger Properties, LLC ((By Barbara Berger, Barbara A.) and Hurting, Tracey Anne, Co-Trustees)
7	1N2210002800	29.97	Baumer, Irene; Clark, Dorothy; Dunn, Sharon; Williams, Patricia
8	1N2210002802	6.90	Cardinaux, Frank J.
9	1N2210002900	36.06	Moore, Herbert L. Trust and Moore, Hazel I Trust Et Al (Herbert Moore) 15180 N. McDougell, Dayton
10	1N2210002901	0.26	Moore, Herbert L. Trust and Moore, Hazel I Trust Et Al (Herbert Moore)2
	TOTAL	200.02	

Most of the Site (over 95%) has been under dry field crop cultivation for decades. A forested area of approximately 13.5 acres is located in the northwest portion of the Site. A tributary of Waible Creek is located in the northern portion of the Site. The Site is adjacent to existing high tech companies across Shute Road (east) and Evergreen Road (south). Both Roads are modern, 4-lane County arterials. A BPA power line crosses the Site east-west below the Waible Creek tributary. The Site is rectangular and north-south oriented.

Background Information

The Site is currently zoned Exclusive Farm Use (EFU) by Washington County but was brought into the Metro Urban Growth Boundary (UGB) in December, 2002, pursuant to Metro Ordinance 02-983B, to accommodate a special land need for large lot high technology industrial and related uses within the Portland Metropolitan Region.

A large lot, high technology industrial "concept plan" for the Site has been prepared jointly by the City and the owners of the Site for incorporation into the City's Comprehensive Plan. City preparation and adoption of the Concept plan are required by Title 11 of the Metro Urban Growth Management Functional Plan and special UGB conditions of approval attached to Metro Ordinance 02-983B.

Proposed City Comprehensive Plan amendments to incorporate the "Shute Road Site Concept Plan" and amendments to the City Zoning Ordinance to implement the Concept Plan were presented to the Hillsboro Planning Commission, Hillsboro Case File Nos. HCP 4-03 and ZOA 5-03, for consideration, public hearing and recommendation on October 22, 2003. City Council adoption of these City ordinances will be scheduled to occur after the effective date of Shute Road Site annexation to the City if such annexation is approved by the City Council.

II. PROCEDURAL REQUIREMENTS

This application for Site annexation to the City is processed under the "Expedited Decisions" provisions of Metro Code Chapter 3.09 (Local Government Boundary Changes), Section 3.09.045 and the applicable provisions of ORS, Chap. 222, as amended. Therefore, the following Metro Code procedural provisions apply:

- Written consent to the annexation of 100% of the Site owners and 50% of the electors (if any) within the Site is required. Sec. 3.09.045(a).
- The expedited annexation decision by the City does not have to fulfill the requirements in Metro Code Sections 3.09.030(b) (approving authority public notice of annexation consideration) and 3.09.050(a) (approving authority minimum public hearing requirements), 3.09.050(b) (approving authority report), 3.09.050(c) (necessary party standing to appeal a boundary change), 3.09.050(e) (approving authority required findings and conclusions in contested boundary changes) and 3.09.050(f) (effective date of a boundary change). Sec. 3.09.045(a).

[Note: Nothing in the Metro Code prevents the City from choosing nevertheless to apply one or more of these requirements in an expedited boundary change decision.]

- The expedited decision by the City shall fulfill the requirements in Metro Code Sections 3.09.050(d) (approving authority findings and conclusions addressing annexation criteria)¹ and 3.09.050(g) (UGB inclusion of proposed annexation sites required)
- Notice to all interest parties of the expedited annexation decision process must be provided at least 20 days prior to the decision. Sec. 3.09.045(b).
- An approving authority report addressing factors in Sec. 3.09.050(b)(1-5) is required. Sec. 3.09.045(c).²
- The expedited process decision record shall demonstrate compliance with criteria in Sections 3.09.050(d) and (g) cited above.

Owners Consent to Annexation - Finding

In fulfillment of MC Section 3.09.045(a) and ORS 222.125, 100% of the property owners of the proposed properties for annexation within the Shute Road Site expressed their written consent to annexation of their properties to the City of Hillsboro. In addition, more than 50% of the electors residing on properties within the Site that are proposed for annexation to the City have consented to such annexation.

Notice of Annexation – Finding

Notice of the proposed expedited annexation process for this annexation petition was given by mail on October 30, 2003 to the owners of all the properties within the Site to be annexed under this annexation petition; the owners of properties within the Site that are not included in this

¹ MC Section 3.09.050(d) requires annexation findings and conclusions that address the following criteria;

- (1) Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065.
- (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 Plan 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.

² MC Section 3.09.050 (b) (1-5) requires that, at least 15 days before annexation decision making, a report addressing the following criteria shall be made available to the public:

- (1) The criteria set forth in MC Section 3.09.050(d) (cited in note above).
- (2) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service.
- (3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties.
- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party.
- (5) The proposed effective date of the decision.

annexation petition; the owners of properties situated within 200 feet of the boundaries of the Site; Metro and Washington County. Thus, the notice satisfies the minimum 20-days notice requirement in MC Section 3.09.045(a) because it was sent 20 days before final City decision on this annexation petition.

Applicable ORS 195.065 Urban Service Provider Agreement – Finding

A Hillsboro Urban Service Agreement (“Agreement”) adopted in April, 2003 pursuant to ORS 195.065, automatically covered the Shute Road Site once it was brought into the Metro Urban Growth Boundary (UGB).³ The Agreement establishes a “common boundary between the Hillsboro and Beaverton Urban Service Areas” called the Beaverton/Hillsboro Urban Service Boundary (“Boundary”) as the “common school district boundary of the Beaverton and Hillsboro School Districts except where this boundary follows existing city limits that are east of the school district boundary and the following (four) properties”.⁴ Section IV of the Agreement clearly demarcates this Boundary as the ultimate divide between the Cities of Hillsboro and Beaverton wherein land west of the Boundary is generally acknowledged under the Agreement as coming into Hillsboro while lands east of the Boundary would come under Beaverton.

Key Agreement provisions that are pertinent to this Shute Road Site Annexation Petition include the following:

Section I.B: The City is “designated as the appropriate provider of services to the citizens residing within (its) boundaries as specified in this Agreement”. (emphasis added).

Section I.D: Washington County recognizes the cities and special service districts as the ultimate municipal service providers as specified in this Agreement, and recognizes cities as the “ultimate local governance provider to the urban areas. The County also recognizes cities as the ultimate governance provider to the urban area”.

Section I.E: The County “will *not* oppose annexations to the City (of Hillsboro) over time consistent with the provisions of *this Agreement*”. (Emphasis added)

Section I.G.1: Consistent with Sections I.C, D and E, the County, City and Special Districts agree to develop a program for “the *eventual annexation* of all urban unincorporated properties into the cities”. (Emphasis added)

Section I.I: Pursuant to ORS 195.205, the City of Hillsboro “*reserve the right and may*, subsequent to the enactment of this Agreement, develop an annexation or plans in reliance upon this Agreement in accordance with ORS 195.205 to 220”.⁵ (Emphasis added)

³ See. Sections III.C and IX.E of the *Hillsboro Urban Service Agreement*. Section III.C expressly states that “This Agreement shall apply to the properties identified in Maps C-1 (Map of the Shute Road Site) and C-2 when they are added to the UGB pursuant to Section IX.E”.

⁴ See. Section IV.A and B of the Agreement.

⁵ ORS 195.205 et seq. ***allows but does not require*** cities and districts, that provide urban services to areas, to annex such areas that may be contained within an annexation plan adopted by them pursuant to an urban service agreement established in accordance with other provisions in ORS Chap. 195.

Section V.A and B & Agreement Exhibits A through G: Designates the following long-term providers of urban services for areas generally west of the *Beaverton/Hillsboro Urban Service Boundary* as follows:

Fire protection and emergency services	City of Hillsboro
Law enforcement	City of Hillsboro
Parks, recreation and open space	City of Hillsboro
Public transit	Tri-Met
Roads and streets	City of Hillsboro, Washington County (only roads in the county-wide road system), and the Oregon Department of Transportation (only roads in the state highway system)
Sewer services	City of Hillsboro and Washington County Clean Water Services District
Storm water services	City of Hillsboro and Washington County Clean Water Services District
Water	City of Hillsboro and Tualatin Valley Water District

III. APPLICABLE APPROVAL CRITERIA.

MC Section 3.09.050(d) identifies six review criteria applicable to this Shute Road Site Annexation Petition. How the Petition satisfies each criterion is described in the following findings:

1. *Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065.*

Finding: Approval of this City-initiated Petition to annex properties within the Shute Road Site to the City of Hillsboro would be consistent with, and carry out the intent and stated purposes and objectives of the entire. Specifically, it fulfills Sections IV.A and IV.B of the Agreement which Hillsboro Urban Service Agreement generally declare that areas west of the Beaverton/Hillsboro Urban Service Boundary and shown on Map Exhibit C-1 to the Agreement (Map of the Shute Road Site) would become part of the City of Hillsboro Urban Service Area upon its addition to the UGB.

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.*

Finding: Approval of this annexation Petition would enable the City and Washington County, both necessary parties to this annexation, to finish the concept planning work prescribed in a City-County Memorandum of Understanding (MOU) which delegated that work to the City of Hillsboro. Annexation approval would bring the Site into Hillsboro's planning and land use regulatory jurisdiction and, thereby, allow the City to adopt pending Hillsboro Comprehensive Plan Amendment (HCP 4-03) and Zoning Ordinance Amendment (ZOA 5-03) for the Site that

implement a UGB Shute Road Site Concept Plan. This Plan was jointly prepared by the City and the owners of the Site pursuant to the MOU.

3. *Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.*

Finding: Approval of this annexation Petition would be consistent with the following Hillsboro Comprehensive Plan (HCP) policies and implementation measures:

Section 2. Urbanization Policy (IV)(J): Annexation of the Site will enable the City to adopt industrial land use plan and zoning designations with the knowledge that the Site can be adequately served by the public facilities needed to support its high tech industrial use. Therefore, Site annexation would be consistent with the intent and objective of this HCP policy that requires the City to assure that urban development of undeveloped or newly annexed areas will be adequately serviced the necessary public facilities.

Section 2. Urban Implementation Measure (IV)(F): All land in the Hillsboro Planning Area is assumed to be available for annexation and/or development, consistent with the Comprehensive Plan, zoning, subdivision regulations and the Urban Planning Area Agreement. Annexation of the Site will assure the its industrial development will occur subject to these City land use policies and regulations.

Section 10. Economy (III)(B): Annexation of the Site will enable the City to fulfill this HCP policy which directs the City to designate "sufficient industrial land" to provide for "different types of industrial development" and "develop a diverse industrial base".

Section 12. Public Services Implementation Measures (V)(C)(2): The City shall require properties to annex to the City prior to the provision of sanitary sewer service.

Section 12. Public Services Implementation Measures (V)(I)(2): The City shall require properties in the urban area to annex to the City prior to the provision of water service.

4. *Consistency with specific directly applicable standards and criteria for boundary changes contained in the Regional Framework Plan or any functional plan.*

Finding: According to Policy 7.3, Chapter 7 of the Metro Regional Framework Plan (RFP), the Plan's policies "shall not apply directly to site-specific land use actions, including amendments of the UGB". The RFP policies do not apply to local government comprehensive plans, except as they may be incorporated or implemented by provisions in the Metro Urban Growth Management Functional Plan.(Functional Plan). Chapters 1-6 of the RFP apply only to Metro functional plans and the management and periodic review of the Metro UGB. There are no "specific, directly applicable standards and criteria for (annexation) boundary changes" in the RFP.

Only Title 11 of the Functional Plan expressly concerns "new urban areas". Its stated purpose is "to require and guide planning for conversion from rural to urban use of areas brought into the UGB". Its stated intent is that "development of areas brought into the UGB implement the Regional Framework Plan and 2040 Growth Concept". It is expressly directed toward planning and guiding the development of newly added land to the UGB rather than the orderly transition

of such land from rural jurisdictions and public services to urban/municipal jurisdictions and services.

The Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A, Interim Protection of Areas Brought into the Urban Growth Boundary, concerns "annexations" of land added to the UGB. It requires local comprehensive plan amendments for land added to the UGB to include "provisions for annexation to the (Metro) district and to a city or any necessary service district prior to urbanization of the territory . . . to provide all required urban services". By its terms, this Title 11 provision requires local comprehensive plans to assure the provision of adequate public facilities and services to land added to the UGB through annexation of such lands to the Metro District, the affected city and/or any special service district responsible for providing such facilities and services to the land prior to its urban development.

Approval of this annexation Petition will assure, under the provisions of the Hillsboro Urban Services Agreement, that the Shute Road Site will be serviced by all the public facilities and services required for its industrial development. The Agreement identifies the public agencies that would be responsible for providing such facilities and services to the Site once it has been included in the UGB.

5. *Whether the proposed (boundary) change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services.*

Finding: Currently, the Site is protected by Washington County Rural Fire Protection District No. 2 (Dist. No. 2) which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from Dist. No. 2 to the City shall be consistent with an existing Intergovernmental Agreement (Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory) between the parties.

All other necessary public facilities and services needed to support high technology industrial development of the Site are readily available and accessible to the Site. This fact is documented before the Metro Council in a Report entitled *Alternative Sites Analysis for the "Shute Road Site" Urban Growth Boundary Amendments* (Johnson Gardner & City of Hillsboro, October, 2002) which is incorporated by reference as a part of the Findings in support of this annexation Petition. The Report describes the Site's access to such facilities and services as follows:

- 6200 feet roadway frontage; 300 feet from Shute Road-Hwy 26 Interchange.
- Adjacent to 2 water supply lines including 66-inch water main within the Site.
- 660 feet from nearest sewer line stub outs; 3 in Shute Road and 2 at nearby Komatsu property line.
- Access to power: 2000 feet travel distance from PGE Sunset Substation.
- Access to special fire protection: 2400 feet from Hillsboro Fire Station No.
- Metro Water serviceability rating: easy to serve.
- Metro Sewer serviceability rating: easy to serve.
- Metro Storm water serviceability rating: moderately difficult to serve.

The necessary public services and facilities can be provided to the Site without interrupting or interfering with existing the provision of such services to other nearby industrial sites as confirmed by a *Shute Road Site Conceptual Public Facilities Plan* (Group MacKenzie, Inc, 2003) which is also incorporated by reference as a part of the Findings in support of this annexation Petition.

6. *Consistency with other applicable criteria for the boundary change in question under state law and local law.*

Finding: ORS 195.205 to 195.235 allows the City, as an urban services provider, to annex properties to its boundary if the properties are within the UGB and contained within an adopted annexation plan.

City-initiated annexations petitions to local governments are permitted by ORS 222.111(2) and governed generally by ORS 222.111 et seq. While ORS 222.111(5) generally requires City-initiated annexations to be submitted to the electors of the City, ORS 222.125 permits the City:

“ . . . not to call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing (on the annexation) otherwise required by ORS.222.120 when all of the owners of landing that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation”.

Approval of this annexation Petition, whether or not it is submitted to election by the city electors or a public hearing, would be consistent with the applicable provisions in ORS 222.111 et seq. Written consent of 100% of the property owners and electors residing on the properties to be annexed to the City have given their consent.

Currently, the Site is protected by Washington County Rural Fire Protection District No. 2 (Dist. No. 2) which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro agreed that the City will ultimately be the sole provider of fire protection services to the Site. Under the Agreement, the transition of services from Dist. No. 2 to the City shall be consistent with an existing Intergovernmental Agreement (Intergovernmental Urban Services Agreement Relating to Fire and Emergency Services within Subject Territory) between the parties.

Approval of this annexation Petition would be consistent with Exhibit A of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the Site from Dist. No. 2 to the City as contemplated by Exhibit A. Pursuant to ORS 222.524 the City of Hillsboro determines that upon its annexation to the City withdrawal of the Site from Dist. No. 2 service area and subsequent City provision of fire protection services to the Site would be in the best interest of the City.

Currently, the Site is unincorporated rural property within the jurisdiction of, and served by Washington County. Under the Hillsboro Urban Services Agreement, the County and City agreed that, before a City annexation plan has been formed, “any single or multiple annexations

totaling twenty or more acres” of properties inside the Hillsboro Urban Service Area and west of Cornelius Pass Road do *not* need to identify and explain how County services⁶ for such properties would be transferred to the City pursuant to Exhibit H of the Agreement. The terms of Exhibit H expressly excludes the annexation of the Shute Road Site from its requirements.

Approval of this annexation Petition nevertheless would be consistent with Exhibit H of the Hillsboro Urban Service Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services as contemplated by Exhibit H. Pursuant to ORS 222.524 the City of Hillsboro determines that upon its annexation to the City assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the Site would be in the best interest of the City.

MC Section 3.09.050(b) also identifies criteria applicable to this Shute Road Annexation Petition (listed in footnote 2 below). How the petition addresses these criteria is described in the following findings:

7. Criteria set forth in MC Section 3.09.050(d).

Finding: The preceding discussions in this Report address the criteria in MC Section 3.09.050(d) and are incorporated by reference as the response to this criterion.

8. The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service.

Finding: The preceding discussion to Criteria No. 5, above, address this criterion and are incorporated by reference as the response to this criterion.

9. A description of how the proposed boundary change is consistent with comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties.

Finding: The preceding discussions in this Report address the criteria in MC Section 3.09.050(d) address this criterion with regard to consistency of the annexation Petition to regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreement of the affected entity and of all necessary parties. With respect to these matters such preceding discussions in this Report are incorporated by reference as the response to those matters in this criterion.

Approval of this annexation Petition would be consistent with concurrent proposed amendments to the Hillsboro Comprehensive Plan (HCP 4-03) and Hillsboro Zoning Ordinance (ZOA 5-03). The amendments would establish a City “Industrial” Plan designation and City “M-P SSID Industrial Park Shute Special Industrial District” Zoning on the Site. Approval of the annexation Petition would enable the City to establish these designations on the Site by bringing the Site

⁶ Exhibit “H” lists law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services as the County duties subject to its provisions.

into the City's land use planning and regulatory jurisdiction. City adoption of these amendments must follow City approval of this annexation Petition in order to be valid.

10. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party.

Finding: As described above in this Report, withdrawal of the Shute Road Site from the jurisdiction of the County in the areas of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services will occur upon annexation of the Site to the City by approval of the annexation Petition. County withdrawal from providing these urban services to the Site is expressly contemplated and agreed to by the County by its consent to the Hillsboro Urban Service Agreement as a party to the Agreement.

Similarly, withdrawal of the Site from the Dist. No. 2 service area is also contemplated and agreed to by the special district who is party to the Agreement.

11. The proposed effective date of the decision.

Finding: The effective date of annexation of the Shute Road Site to the City is expected to be shortly after January 1, 2004.

IV. TESTIMONY FROM NECESSARY PARTIES

The "necessary parties" to this annexation Petition are the owners, the City of Hillsboro, Metro, Washington County, and Washington County Rural Fire Protection District No. 2. No written testimony was received prior to or at the public hearing from a necessary party as defined in MC Section 3.09.020(j), nor was oral testimony received by the City Council from a necessary party at the public hearing.

V. ADDITIONAL MATERIAL CITED BY REFERENCE AND INCLUDED IN FINDINGS.

- Staff Report dated November 4, 2003.
- Hillsboro Urban Service Agreement (April 2, 2003)