

Final Documents

For

Annexation to the
City of Tigard

WA5606
Ordinance #2006-15
DOR 34-1823-2006
Sec. State AN 2006-0319

Property Information:

2S105DB 00400	13425 SW 154 th Avenue
2S105DB 006100	13230 SW 154 th Avenue
2S105DB 006200	No Site Address
2S105DC 00201	No Site Address
2S105DC 00300	No Site Address
2S105DC 00400	15160 SW Sunrise Lane
2S105DD 00200	No Site Address
2S105DD 00300	No Site Address



November 21, 2006

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

Dear Mr. Knight:

Please be advised that we have received and filed, as of November 21, 2006, the following records annexing territory to the following:

Ordinance/Resolution Number(s)	Our File Number
06-21 (City of West Linn)	AN 2006-0318
2006-15 (City of Tigard)	AN 2006-0319

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

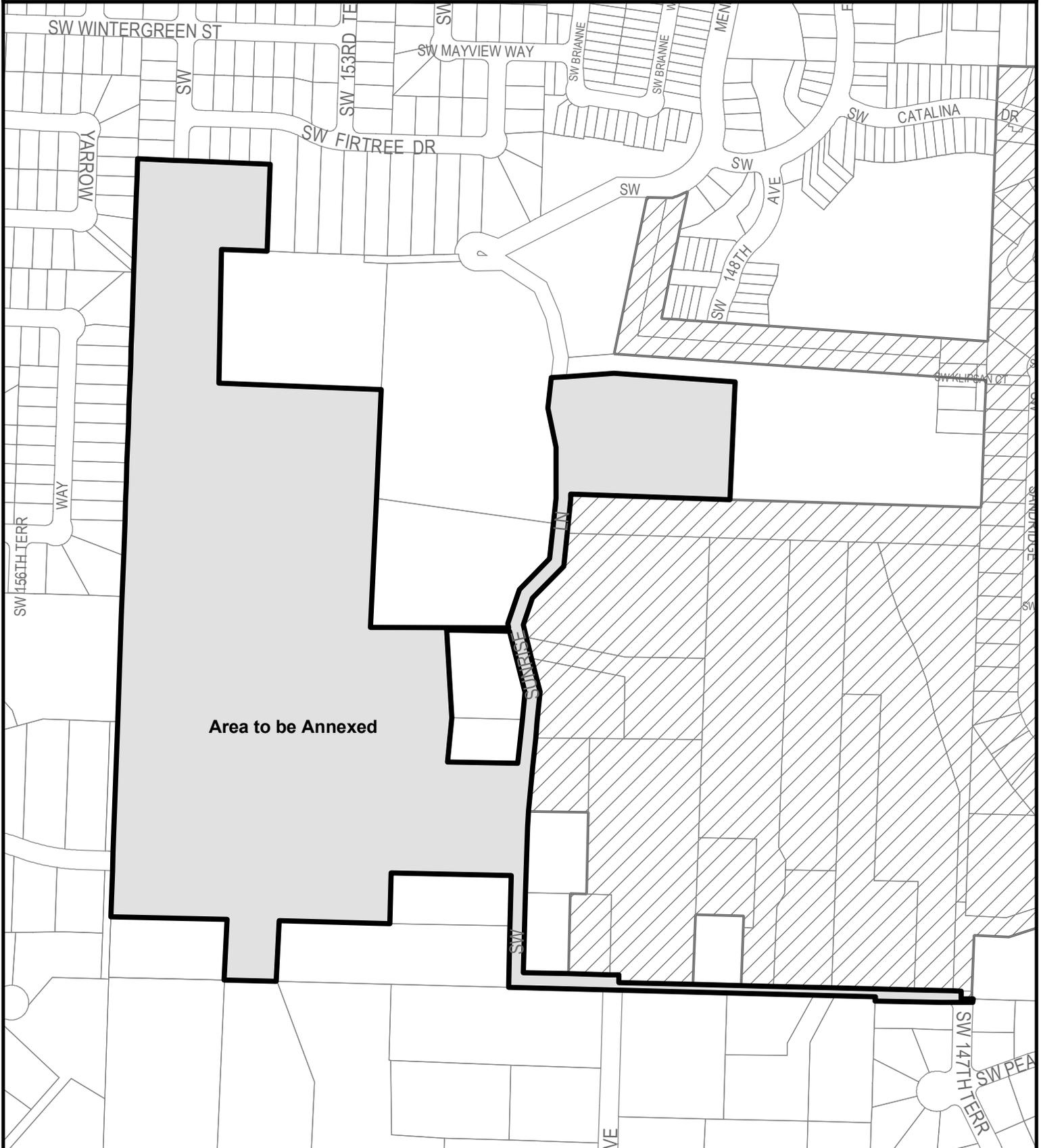
cc: County Clerk(s)
Department of Revenue
ODOT
Population Research Center

Proposal No. WA5606

2S1W05

Annexation to the City of Tigard

Washington Co



Data Resource Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
<http://www.metro-region.org/drc>

1:4,000

Figure 1
City of Tigard
Proposal No. WA5606

DOR 34-1823-2006

Notice to Taxing Districts

ORS 308.225



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

City of Tigard
Finance Director
13125 SW Hall Blvd
Tigard, OR 97223

Description and Map Approved

October 23, 2006

As Per ORS 308.225

Description Map received from: CITY
On: 10/17/2006

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

ANNEX TO CITY OF TIGARD; WITHDRAW FROM SEVERAL DISTRICTS

ORD#2006-15/ZCA2006-00002

has been: Approved 10/23/2006
 Disapproved

Notes:

Department of Revenue File Number: 34-1823-2006

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

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 2006- 15

AN ORDINANCE ANNEXING 35.78 ACRES, APPROVING CACH CREEK AREA ANNEXATION (ZCA2006-00002), AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT, WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) and (2) to annex contiguous territory upon receiving written consent from owners of land in the territory proposed to be annexed; and

WHEREAS, the City of Tigard is authorized by ORS 222.120(5) and 222.520 to withdraw properties which currently lie within the boundary of the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on September 26, 2006, to consider the annexation of eight (8) parcels (WCTM 2S105DB, Tax Lots 6100, 6200 & 400; WCTM 2S105DC, Tax Lots 201, 300 & 400; and WCTM 2S105DD, Tax Lots 200 & 300) of land located adjacent to and west of SW Sunrise Lane, and adjacent to and north of SW Bull Mountain Road, including right-of-way on SW Sunrise Lane and withdrawal of said property from the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District; and

WHEREAS, pursuant to ORS 222.520(2) the City is liable to the Water District for certain debt obligations, however, in this instance the Water District has no debt for the City to assume, therefore, no option regarding the assumption of debt needs to be made; and

WHEREAS, pursuant to Metro 3:09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and withdrawal of the annexed property from the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District on September 26, 2006; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of annexed properties from the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District by Ordinance; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning most closely conforming to the County zoning; and

WHEREAS, the annexation has been processed in accordance with the requirements of Metro 3.09 and has been reviewed for compliance with the Tigard Community Development Code and the Comprehensive Plan and the annexation substantially addresses the standards in Metro 3.09 regulating annexations; and

WHEREAS, the City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed properties from the applicable service districts is in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby annexes the parcels described in the attached Exhibit "A" and shown in Exhibit "B" and withdraws said parcels from the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council," as amended by the memorandum from Emily Eng, dated October 5, 2006, as findings in support of this decision; a copy of the staff report including the amending memorandum is attached hereto as Exhibit "D" and incorporated herein by this reference.

SECTION 3: The Tigard City Council adopts "Supplemental Findings in Support of Cach Creek Area Annexation" as findings in support of this decision. A copy of the Supplemental Findings in Support of the Annexation is attached as Exhibit A to Addendum 1 to the Staff Report and incorporated by this reference.

SECTION 4: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor and posting by the City Recorder.

SECTION 5: City staff is directed to take all necessary measures to implement the annexation, including certified copies of the Ordinance with Metro for administrative processing, filing with state and county agencies as required by law, and providing notice to utilities.

SECTION 6: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District shall be the effective date of this annexation.

SECTION 7: Pursuant to ORS 222.465, the effective date of the withdrawal of this property from the Tigard Water District shall be July 1, 2007.

SECTION 8: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 10th day of October, 2006.

Catherine Wheatley
Cathy Wheatley, City Recorder

APPROVED: By Tigard City Council this 10th day of October, 2006.

Craig Dirksen
Craig Dirksen, Mayor

Approved as to form:

James W. Keenan
City Attorney

10/10/06
Date

Certified to be a true copy of the Original on file at City of Tigard City Hall.
By Catherine Wheatley 10-13-06
City Recorder, City of Tigard Date



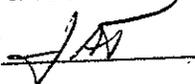
ANNEXATION DESCRIPTION

A tract of land situated in the Section 5, Township 2 South Range 1 West Willamette Meridian described as follows:

Beginning at the Northeast Corner of Stanhurst; thence N 00° 47' 29" E a distance of 1227.67 feet; thence N 00° 47' 29" E a distance of 225.00 feet; thence S 88° 52' 17" E a distance of 341.09 feet; thence S 00° 47' 29" W a distance of 225.00 feet; thence N 88° 52' 17" W a distance of 117.09 feet; thence S 00° 11' 04" E a distance of 348.04 feet; thence S 89° 12' 37" E a distance of 420.08 feet; thence S 01° 12' 28" W a distance of 615.64 feet; thence N 88° 41' 47" E a distance of 356.41 feet to the westerly right-of-way of SW Sunrise Lane; thence along the said westerly right-of-way the following 7 courses; thence N 14° 18' 07" W a distance of 11.36 feet; thence N 16° 59' 53" E a distance of 92.68 feet; thence N 43° 18' 47" E a distance of 111.75 feet; thence N 04° 36' 28" E a distance of 155.66 feet; thence N 01° 25' 58" E a distance of 131.41 feet; thence N 18° 08' 48" W, along said westerly right-of-way, a distance of 101.59 feet; thence N 05° 04' 06" E, along said westerly right-of-way, a distance of 89.57 feet; thence S 84° 55' 54" E leaving said westerly right-of-way, a distance of 40.00 feet to the easterly right-of-way of SW Sunrise Lane; thence N 84° 18' 39" E a distance of 123.69 feet; thence S 87° 13' 42" E a distance of 312.82 feet; thence S 01° 01' 50" W a distance of 304.42 feet; thence N 89° 28' 08" W a distance of 409.21 feet to the easterly right-of-way of SW Sunrise Lane; thence, along said easterly right-of-way the following 8 courses, S 01° 25' 58" W a distance of 11.28 feet; thence S 04° 36' 28" W a distance of 171.82 feet; thence S 43° 18' 47" W a distance of 116.45 feet; thence S 16° 59' 53" W a distance of 72.12 feet; thence S 14° 18' 07" E a distance of 184.66 feet; thence S 04° 12' 11" W a distance of 330.61 feet; thence S 00° 35' 17" W a distance of 322.91 feet; thence S 00° 15' 17" W a distance of 68.92 feet to the northerly right-of-way of SW Sunrise Lane; thence S 89° 49' 00" E, along said northerly right-of-way, a distance of 237.80 feet; thence S 00° 43' 00" W, along said northerly right-of-way, a distance of 20.00 feet; thence S 89° 49' 00" E, along said northerly right-of-way, a distance of 920.60 feet; thence S 00° 56' 05" W a distance of 20.00 feet; thence N 89° 49' 00" W a distance of 4.92 feet to the northwest corner of lot 19 Bull Mountain Estates; thence S 00° 11' 00" W, along the west line of said lot 19, a distance of 15.00 feet to the extension of the southerly right-of-way of SW Sunrise Lane; thence N 89° 49' 00" W, along said southerly right-of-way, a distance of 251.37 feet to the northwest corner of lot 18 Bull Mountain Estates; thence N 00° 25' 58" E, a distance of 15.00 feet to the northwest corner of Bull Mountain Estates; thence N 89° 49' 00" W, along southerly right-of-way of SW Sunrise Lane, a distance of 941.78 feet to the westerly right of way of SW Sunrise Lane; thence N 00° 15' 17" E, along said westerly right-of-way, a distance of 109.57 feet; thence N 00° 35' 17" E, along said westerly right-of-way, a distance of 175.45 feet; thence N 89° 47' 37" W a distance of 310.04 feet; thence S 00° 31' 09" W a distance of 130.19 feet; thence N 89° 49' 00" W a distance of 284.88 feet; thence S 00° 47' 38" W a distance of 155.00 feet; thence N 89° 49' 00" W a distance of 135.00 feet; thence N 00° 47' 38" E a distance of 155.00 feet; thence N 89° 49' 00" W a distance of 300.00 feet to the easterly line of Stanhurst; thence N 00° 47' 29" E, along said easterly line, a distance of 510.55 feet to the point of beginning.

Containing 35.78 acres.

ANNEXATION CERTIFIED

BY 

OCT 02 2006

WASHINGTON COUNTY A & T
CARTOGRAPHY

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
July 18, 1980
JOHN R. HADLEY
1594

EXCEPTING

A tract of land situated in the Section 5, Township 2 South Range 1 West Willamette Meridian described as follows:

Commencing at the Northeast Corner of Stanhurst; thence N 00° 47' 29" E a distance of 262.71 feet; thence S 89° 10' 59" E a distance of 624.11 feet; thence S 01° 05' 50" W 10.03 feet; thence N 88° 41' 59" E a distance of 217.00 feet to **The True Point of Beginning**; thence S 05° 00' 48" E a distance of 227.46 feet; thence S 05° 07' 52" W a distance of 115.66 feet; thence S 89° 49' 00" E a distance of 181.95 feet; to the westerly right of way of SW Sunrise Lane; thence N 04° 12' 11" E, along the westerly right-of-way of SW Sunrise Lane, a distance of 183.76 feet; thence N 14° 18' 07" W, along the westerly right-of-way of SW Sunrise Lane, a distance of 168.15 feet; thence S 88° 41' 59" W a distance of 163.44 feet to the true point of beginning

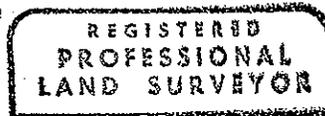
Containing 1.42 acres

ANNEXATION CERTIFIED

BY JAT

OCT 02 2006

WASHINGTON COUNTY A & T
CARTOGRAPHY



John R. Hadley

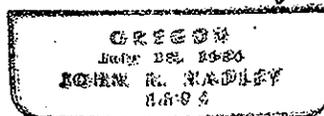
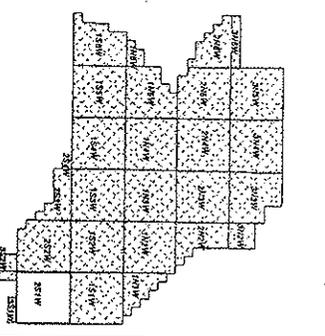
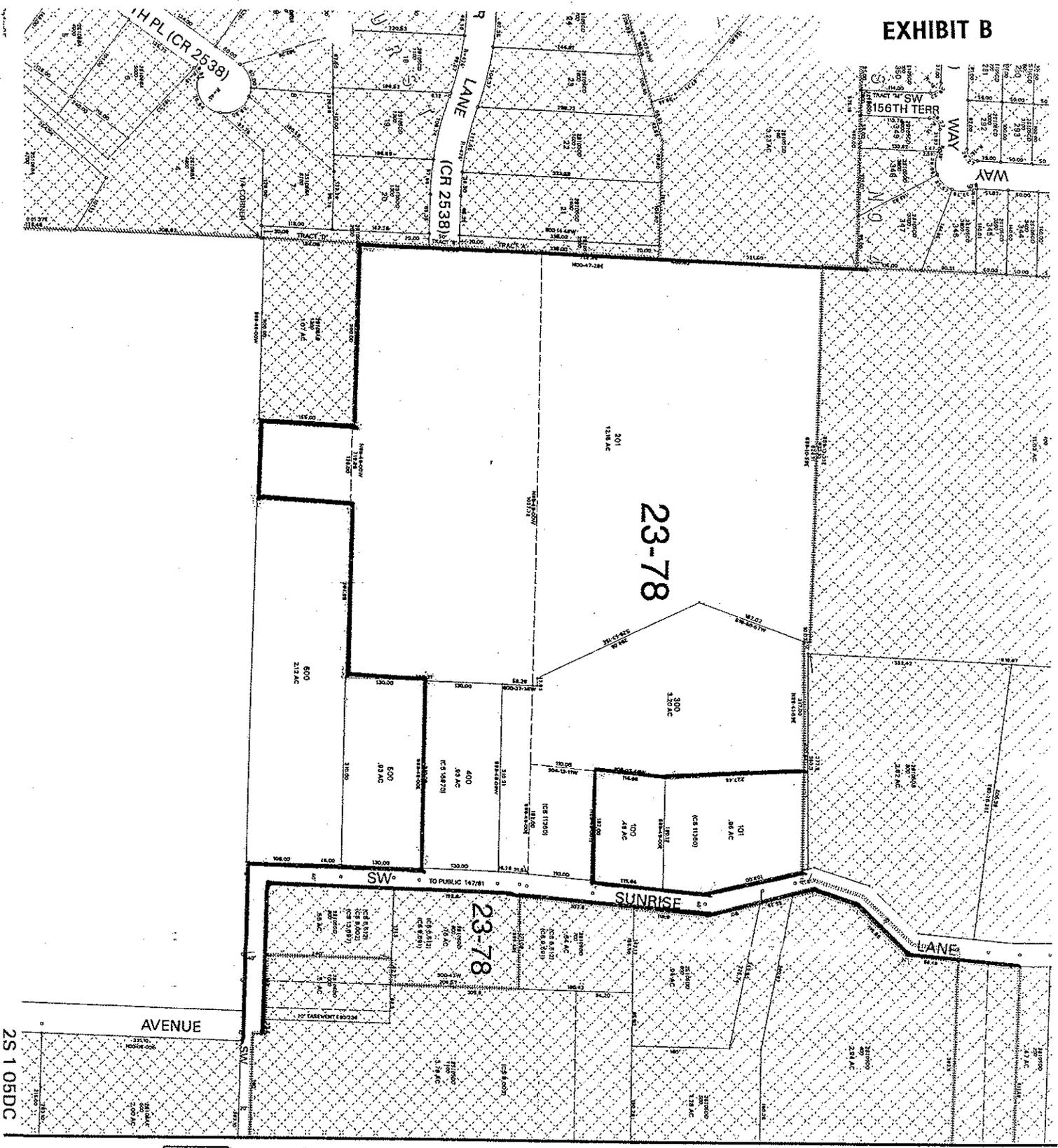


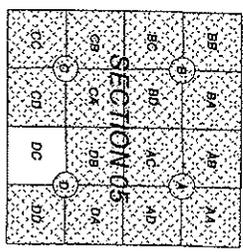
EXHIBIT B



WASHINGTON COUNTY OREGON
SW 1/4 SECTION 05 T2S R1W W.M.
SCALE 1" = 100'

FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT WWW.CO.WASHINGTON.OREGON.US

1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30
31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50
51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70
71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90
91	92	93	94	95	96	97	98	99	100

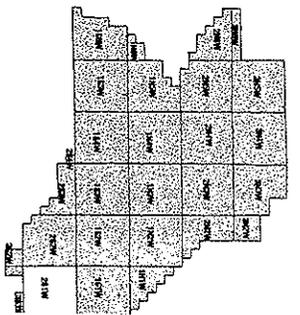
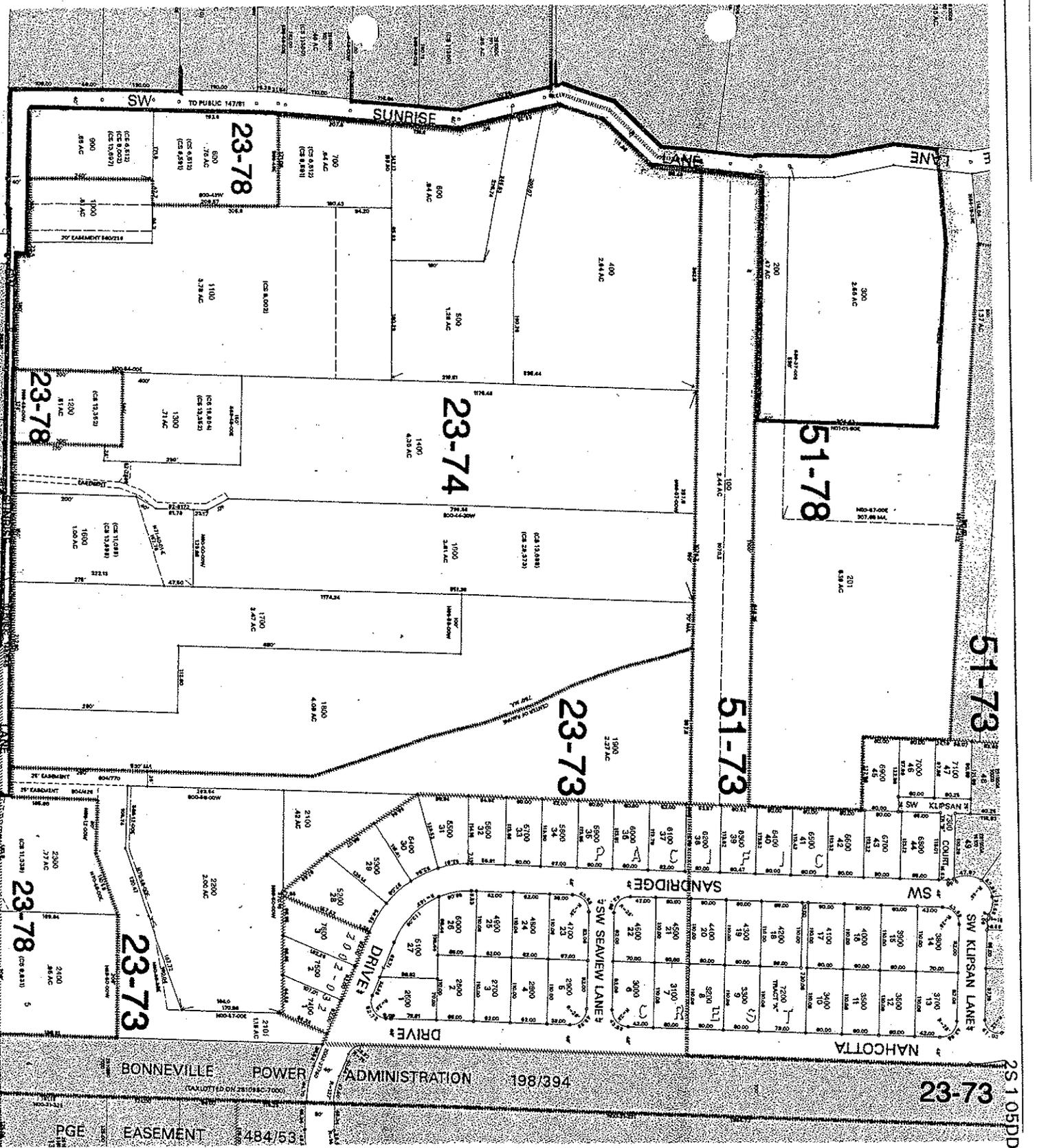


Cancelled Taxlots For: 2S105DC
ANNEXATION CERTIFIED
BY: *[Signature]*
OCT 02 2006
WASHINGTON COUNTY A & T
CARTOGRAPHY

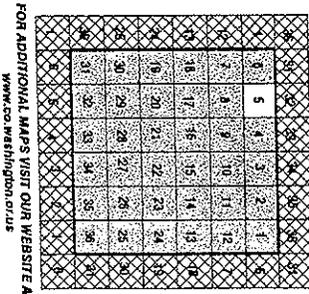
ASSOCIATED
CARTOGRAPHY
INCORPORATED
T O X I D I O M

PLOT DATE: September 05, 2006
FOR ASSESSMENT PURPOSES
ONLY - DO NOT RELY ON
FOR OTHER USE
Map areas delineated by color gray shading or a cross-hatched pattern are for reference only and may not reflect the most current property boundaries. Please consult the appropriate map for the most current information.

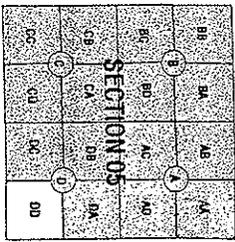
2S 1 05DC



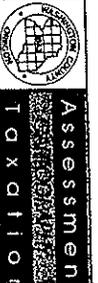
WASHINGTON COUNTY OREGON
 SE 1/4 SECTION 05 T2S R1W M. 100'
 SCALE 1" = 100'



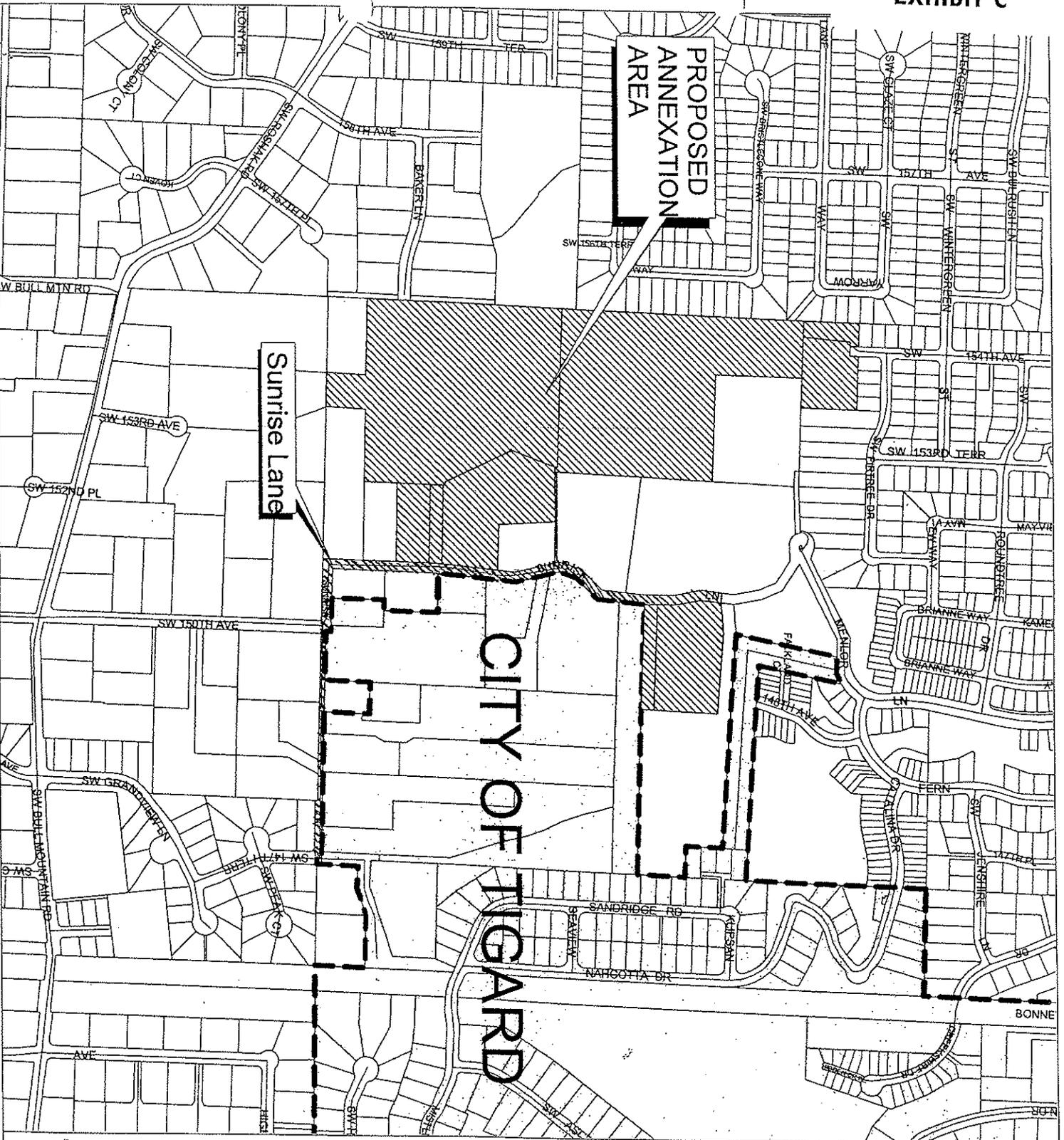
FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT
WWW.CO.WASHINGTON.ORG



Cancelled Taxlots For: 2S105DD
 101.2001.2002.2003.
 ANNEXATION CERTIFIED
 BY: *[Signature]*
 OCT 0 2 2006
 WASHINGTON COUNTY A & T
 CARTOGRAPHY



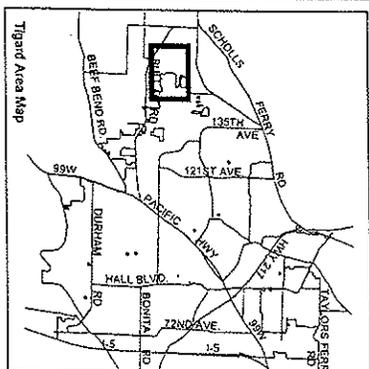
PLAT DATE: February 23, 2006
 FOR ASSESSMENT PURPOSES
 ONLY. DO NOT RELY ON
 FOR OTHER USE
 Any errors, omissions, or other information appearing on this plat are the responsibility of the Assessor. The Assessor is not responsible for errors or omissions on this plat. The Assessor is not responsible for errors or omissions on this plat. The Assessor is not responsible for errors or omissions on this plat.



CITY OF TIGARD

GEOGRAPHIC INFORMATION SYSTEM

ZCA2006-00002
 Each Creek Area
 Annexation



Proposed
 Annexation Area

City of Tigard City Limits



Information on this map is for general location only and should be verified with the Development Services Division.

13125 SW Hill Blvd
 Tigard OR 97223
 (503) 638-4171

<http://www.ci.tigard.or.us>

EXHIBIT E
"Exhibit D"
*Serrino's error
P.L.L.

Agenda Item: _____
Hearing Date: September 26, 2006 Time: 7:30 PM

**STAFF REPORT TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

SECTION I. APPLICATION SUMMARY

FILE NAME: _____ **CACH CREEK AREA ANNEXATION**
CASE NOS: **Zone Change Annexation (ZCA)** **ZCA2006-00002**

APPLICANT/COORDINATOR (Multiple applicants): City of Tigard
Contact: Beth St. Amand
13125 SW Hall Blvd.
Tigard, OR 97223
OWNER: City of Tigard
Contact: Dennis Koellermeier
13125 SW Hall Blvd.
Tigard, OR 97223

OWNER: Tigard Water District
PO Box 23000
Tigard, OR 97223
OWNER: Jon Dyer
PO Box 848
Lake Oswego, OR 97304

OWNER: Sun Ridge Builders, Inc./
Brentwood Homes
Contact: John Noffz
15170 SW Finis Lane
Tigard, OR 97224

PROPOSAL: The applicant is requesting annexation of ~~twelve (12)~~ eleven (11) parcels and the Sunrise Lane right-of-way containing 41.44 a total of 40.93 acres into the City of Tigard.

LOCATION: Abutting and west of Sunrise Lane, and abutting and north of SW Bull Mountain Road, including right-of-way on SW Sunrise Lane; Washington County Tax Assessor's Map No. (WCTM) 2S105DB, Tax Lots 6100, 6200 & 400; WCTM 2S108AB, Tax Lots 1200 & 1201; WCTM 2S105DC, Tax Lots 100, 201, 300 & 400; and WCTM 2S105DD, Tax Lots 200 & 300.

CURRENT ZONING DESIGNATION: R-6 District (Residential 6 Units Per Acre). The purpose of the Washington County R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2 or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

**EQUIVALENT
CITY ZONING**

DESIGNATION: R-7: Medium-Density Residential District. The City of Tigard R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE
REVIEW**

CRITERIA: ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

SECTION II. STAFF RECOMMENDATION

Staff recommends that the Council find that the proposed annexation (ZCA 2006-00002) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390. Therefore, staff recommends APPROVAL of ZCA2006-00002 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

Site Information:

The subject site is located along the western boundary of the City of Tigard; the majority of Sunrise Lane is contiguous to the City limits. The site is part of unincorporated Bull Mountain and the City of Tigard's Urban Service Area.

The subject site is predominantly in public ownership and is either currently used for public purposes or will be in the future. The City intends to use the publicly owned land for the purposes of a reservoir and parkland. The Menlor Reservoir provides public water storage facilities for the Tigard Water District. The subject site also includes land banked for the Cache Creek Natural Area and future public water facilities: *The City of Tigard Water Distribution System Hydraulic Study* (May 2000) shows a future 550'-elevation-zone Reservoir #1 located on City-owned land adjacent to Sunrise Lane.

The subject site also includes residential land (vacant and in current use). There are four primary structures located on the subject site: the Menlor Reservoir and three homes. The City approved a lot line adjustment (MIS2006-00012) for 2S105DC, Tax Lot 100 on July 7, 2006. The two southernmost residential parcels (2S108AB, Tax Lots 1200 and 1201) are currently under development review; the owner has submitted separately a land-use application for a 17-lot subdivision with a total of 30 dwelling units (SUB2006-00003). The application was submitted to the City on January 31, 2006 when the City still provided development services to the Urban Service Area as agreed in the *Washington County – Tigard Urban Services Intergovernmental Agreement (terminated July 20, 2006)*. This application is a separate land-use decision with its own set of review criteria and will not be addressed in this report.

The majority of the subject site contains steep slopes, defined as 25% slope or greater. The City of Tigard Community Development Code requires Sensitive Lands permits for development on parcels with steep

slopes. There are two wetlands designated as Title 3 wetlands in the subject area. Goal 5 and Bull Mountain Community Plan natural resources exist on a majority or portions of the subject tax lots, protection for which will be considered if or when any of the proposed territory develops.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

State: ORS Chapter 222

Regional: Metro Code Chapter 3.09

City: Comprehensive Plan Policies 2 and 10, Community Development Code Chapters 18.320 and 18.390.

A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

1. Chapter 18.320.020: Approval Process and Standards.

B. Approval Criteria. The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area; and

The City of Tigard Comprehensive Plan's Urbanization Chapter (Policy 10.1.1) defines services as water, sewer, drainage, streets, police, and fire protection. Each service is addressed below.

Policy 10.1.1 further defines capacity as "adequate capacity, or such services to be made available," to serve the parcel "if developed to the most intense use allowed," and "will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard." The proposed annexation territory is currently zoned R-6, a Washington County residential zone designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre. With annexation, the subject site's zoning would change to R-7 per Table 320.1 (Title 18). This equivalent city zoning provides for medium-density, single-family residential with a minimum residential lot size of 5,000 square feet.

As noted earlier, the subject site's current and planned uses are mostly public: water provision and a natural area. The property deeds for certain parcels limit the City to these two uses. If the remaining 9.14 residential acres were developed to their designated capacity of 7 units per gross acre, without allowance for the sensitive lands present, the sites could accommodate approximately 63 units total. This gross calculation breaks down as follows: two northeast parcels (Dyer), 21 units; two southwest parcels (Brentwood), 42 units.

These figures were used for City department evaluations of Policy 10.1.1 of the available services. When these sites develop, the applicant will be required to connect to public service facilities. The land-use review process will identify specific service provisions and require additional facilities or upgrades as appropriate, as well as consider the sensitive lands present.

Water – City of Tigard Public Works. The City of Tigard's water system has the capacity to provide the minimum State of Oregon water service requirements for the proposed annexation,

according to Public Works Dept. Project Engineer Rob Murchison. Murchison's review concluded that the parcels developed to the most intense use allowed will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard. Attachment A includes Murchison's Aug. 16, 2006, memo and a map of water serviceability to the annexation area that identifies area water lines. Murchison's memo also notes that the proposed development (Brentwood) may require upsizing and a 8" connection to the existing system; again, that application is a separate land-use decision with its own set of review criteria and will not be addressed in this report. The land-use review process will identify specific service provisions and require additional facilities or upgrades as appropriate based on the specific development proposal. Tigard City Engineer Gus Duenas further confirms that the City has adequate capacity ("Memorandum," Attachment B) and states that "the City has the ability and capacity to determine what specific improvements may be needed and the ability and capacity to provide service through its existing system and any additional infrastructure that will be required when development occurs."

Sewer – Clean Water Services/City of Tigard. Tigard City Engineer Gus Duenas ("Memorandum," Attachment B) reviewed the proposal and provided the following comments:

"Sanitary sewer service is provided at the retail level by the City and at the wholesale level by Clean Water Services (CWS). As to the capacity of the City's system, the City is capable of providing retail level sewer service without significant reduction in the level of services provided to developed and undeveloped properties in the City. As with the water system, some local lines will be required to be provided by the developer at the time of the development. The City is prepared to accept, operate and maintain public sewers constructed within the annexed area. Sewer service can be extended from CWS facilities in Menlor Lane and 154th Avenue located north of the site. The City is capable of determining what additional facilities will be required and of administering all portions of the retail sanitary sewer system, both existing and future additions in the area to be annexed, without significant reduction in the level of services provided to properties in the City."

Drainage – Clean Water Services/City of Tigard. Tigard City Engineer Gus Duenas ("Memorandum," Attachment B) reviewed the proposal and provided the following comments:

"Storm drainage service, like sanitary sewer service, is provided jointly by the City and CWS. Site specific drainage facilities will be required at the time of development and will be developed and constructed in accordance with City standards. The retail system as the capacity to provide adequate storm drainage without significant reduction in the level of services provided to developed and undeveloped properties in the City."

Streets – City of Tigard Capital Construction & Transportation Division. The City's Transportation System Plan (TSP) standards apply. The proposed annexation territory is located adjacent to Sunrise Lane, which is designated a neighborhood route in the City's Transportation System Plan (TSP). In addition, the southernmost portion of the proposed annexation territory (WCTM 2S108AB01201) fronts directly on SW Bull Mountain Road, which the City's TSP designates as a collector. Additional roads to serve the proposed annexation territory include 150th Avenue, Rosbak Road, 154th Avenue, and other surrounding streets. Tigard City Engineer Gus Duenas ("Memorandum," Attachment B) reviewed the annexation proposal and concluded that some improvements to these streets may be required as part of the development of the annexed area, including extension of existing streets into the area. However, Duenas determined that the

City can provide services to this site, and "doing so will not significantly reduce the level of services to developed and undeveloped land within the City of Tigard."

Police – City of Tigard Police Department. The City of Tigard's Police Department has reviewed the annexation proposal and stated that the proposed annexation would not impede current levels of service to existing developed and undeveloped areas in the City of Tigard. If the area is annexed, Tigard Police can provide adequate services to the proposed area. (Attachment C).

Fire – Tualatin Valley Fire and Rescue (TVF&R). Tualatin Valley Fire and Rescue (TVF&R) already serves the proposed annexation territory. Additionally, TVF&R reviews all subdivision development proposals and annexation proposals for the City of Tigard and would provide additional comments at that time.

Based upon this review, staff finds that all public services (as defined by the Comprehensive Plan) are available to the proposed annexation territory and all public services have sufficient capacity to provide service to the proposed annexation territory.

2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.

Three Comprehensive Plan policies apply to proposed annexation: 2.1.1, 10.1.1., and 10.1.2. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

Policy 2.1.1: Citizen Involvement. The City shall maintain an ongoing citizen involvement program and shall assure that citizens will be provided an opportunity to be involved in all phases of the planning process.

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on August 11, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the general vicinity of the proposed territory on SW Sunrise Lane and on SW Bull Mountain Road near SW Roshak Road. The City published notice of the hearing in *The Tigard Tualatin Sherwood Times* for two successive weeks (September 7, 2006 and September 14, 2006) prior to the September 26, 2006, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on August 7, 2006. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties in the West area on August 7, 2006, which includes former Citizen Involvement Team contacts and CPO 4B, the citizen participation organization for the area. Staff finds that this policy is met.

Policy 10.1.1: Urbanization. Prior to the annexation of land to the City of Tigard,
a) the City shall review each of the following services as to adequate capacity, or such services to be made available, to serve the parcel if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard: 1. Water; 2. Sewer; 3. Drainage; 4. Streets; 5. Police; and 6. Fire Protection.

As addressed under 18.320.020 above, adequate service is available to the proposed annexation

territory. Upon annexation, the proposed territory will be zoned R-7, a medium-density single-family residential zone with a minimum residential lot size of 5,000 square feet. The privately owned properties have an estimated maximum density of 63 units (not taking into account sensitive lands).¹ If they develop, the developer(s) will be required to connect the properties to public service facilities, such as sewer, storm drainage and water, and provide the necessary street improvements. Based on comments from City of Tigard staff, there is adequate capacity to serve the annexation area (water, sewer, drainage, streets, police, fire protection) if developed to the most intense use allowed, and it will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

The City of Tigard department of Public Works has reviewed the annexation proposal and states that the City's water system can provide the minimum State of Oregon water service requirements for the proposed territory based on the maximum density permitted. Public Works states that water is available in quantity and quality and has not indicated that there would be a reduction in its capacity to provide water to the proposed annexation territory or reduce the level of service to the entire City. The Police Department reviewed the proposal and has no objections. The Engineering Department reviewed the proposal and has no objections. The Engineering Department confirmed that sewer service, storm drainage and street access are available to the site. Tualatin Valley Fire and Rescue (TVF&R), the current provider to the proposed territory, did not raise any objections. Staff concludes that there is adequate capacity to serve the proposed territory (water, sewer, drainage, streets, police, fire protection) if developed to the most intense use allowed, and will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard.

b) If required by an adopted capital improvements program ordinance, the applicant shall sign and record with Washington County a nonremonstrance agreement regarding the following: 1. The formation of a local improvement district (L.I.D.) for any of the following services that could be provided through such a district. The extension or improvement of the following: a) Water, b) Sewer, c) Drainage, and d) Streets. 2. The formation of a special district for any of the above services or the inclusion of the property into a special service district for any of the above services.

This criterion does not apply: No capital improvements program requires a nonremonstrance agreement for this area. Some urban services are already available for the proposed annexation territory; others are available nearby and would require connections from the proposed annexation area. However, these public facility requirements will be assigned as part of any subdivision review when an application is submitted.

c) The City shall provide urban services to areas within the Tigard Urban Planning Area or within the Urban Growth Boundary upon annexation.

The Tigard Urban Planning Area (as defined in the *Washington County – Tigard Urban Planning Area Agreement (UPAA (July 2006))*; see Attachment D of application submittal) includes the proposed annexation territory. The City is the designated urban services provider for the services defined in the *Tigard Urban Service Agreement (TUSA) (2002)* and subsequent operating agreements: police; parks, recreation and open space; roads and streets; sanitary sewer and storm water (through an operating agreement with Clean Water Services); and water service. Upon annexation, those services will be provided according to the City's current policies. Staff finds that this policy is met.

¹ Maximum density was calculated using formula provided in Code Chapter 18.715.

Policy 10.1.2: Urbanization. Approval of proposed annexations of land by the City shall be based on findings with respect to the following: a) The annexation eliminates an existing "pocket" or "island" of unincorporated territory; or, b) The annexation will not create an irregular boundary that makes it difficult for the police in an emergency situation to determine whether the parcel is within or outside the City; c) The Police Department has commented upon the annexation; d) the land is located within the Tigard Area of Interest and is contiguous to the City boundary; e) The annexation can be accommodated by the services listed in 10.1.1(a).

- a) The proposed annexation does not eliminate an existing pocket or island of unincorporated territory. It does remove portions of an existing pocket ("Dyer" property) and would incorporate City-owned land and publicly owned land that provides Tigard residents with public services.
- b) As stated earlier, only 9.14 acres of the proposed annexation area are in private ownership and zoned for residential development. The remaining acreage consists of land in public ownership for public services, including land for the public water system and a natural area, which require limited services. The City of Tigard Police Department has reviewed the proposed annexation and has no objections. The department stated (Attachment C) that "the proposed boundary for the annexation does not appear to present any obstacles for emergency response by the Police Department." It should also be noted here that the owners of three adjacent properties on Sunrise Lane have expressed the desire to join this proposed annexation (15180, 14625, and 15110 SW Sunrise Lane); the annexation of those additional properties would eliminate additional pockets and create a more regular boundary. However, the current proposal does not include those properties.
- c) As shown in B. above, the City of Tigard Police Department has commented on the annexation.
- d) The *UPAA (July 2006)* includes the proposed annexation territory within Tigard's Area of Interest. The proposed annexation territory is contiguous to the City along the site's east boundary and Sunrise Lane.
- e) Lastly, as section 10.1.1.(a) demonstrated, the annexation can be accommodated by the following services: water, sewer, drainage; streets; police; and fire protection.

Therefore, staff finds that the proposed annexation meets Policy 10.1.2.

Policy 10.1.3: Urbanization. Upon annexation of land into the City which carries a Washington County zoning designation, the City of Tigard shall assign the City of Tigard zoning district designation which most closely conforms to the county zoning designation.

Chapter 18.320.020 C of the Community Development Code provides specifics on this conversion.

The proposed annexation territory's Washington County designation is R-6. Table 320.1 summarizes the conversion of the County's plan and zoning designations; R-6 County zoning converts to the City's R-7 zoning. As this is a Zone Change Annexation (ZCA) application, upon approval and execution of the proposed annexation, the territory will assume R-7 zoning to conform with the table below. Additionally, the City's Comprehensive Plan designation for medium-density residential will be applied to this area.

**TABLE 320.1
CONVERSION TABLE FOR COUNTY AND CITY PLAN AND ZONING DESIGNATIONS**

Washington County Land Use Districts/Plan Designation	City of Tigard Zoning	City of Tigard Plan Designation
R-5 Res. 5 units/acre	R-4.5 SFR 7,500 sq. ft.	Low density 1-5 units/acre
R-6 Res. 6 units/acre	R-7 SFR 5,000 sq. ft.	Med. density 6-12 units/acre
R-9 Res. 9 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-12 Res. 12 units/acre	R-12 Multi-family 12 units/acre	Med. density 6-12 units/acre
R-15 Res. 15 units/acre	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
R-24 Res. 24 units/acres	R-25 Multi-family 25 units/acre	Medium-High density 13-25 units/acre
Office Commercial	C-P Commercial Professional	CP Commercial Professional
NC Neighborhood Commercial	CN Neighborhood Commercial	CN Neighborhood Commercial
CBD Commercial Business District	CBD Commercial Business District	CBD Commercial Business District
GC General Commercial	CG General Commercial	CG General Commercial
IND Industrial	I-L Light Industrial	Light Industrial*

Chapter 18.320.020

C. Assignment of comprehensive plan and zoning designations.

The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar. A zone change is required if the applicant requests a comprehensive plan map and/or zoning map designation other than the existing designations. (See Chapter 18.380). A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.

As the previous section demonstrated, the City of Tigard R-7 zoning district is the most similar to Washington County's R-6 zoning district. The proposed territory is currently R-6 and will automatically become R-7 upon annexation. This zone conversion will occur concurrently with the annexation process. There have been no requests for zoning other than R-7.

City of Tigard Community Development Code

2. Chapter 18.390.060: Type IV Procedure

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020(B), which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 10 days prior to the hearing by mail and to publish newspaper notice; the City mailed notice on August 7, 2006, and published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (September 7, 2006, and September 14, 2006,) prior to the September 26, 2006, public hearing.

Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:
1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;

The City's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal meets the existing Comprehensive Plan policies and therefore is in compliance with state planning goals.

2. Any federal or state statutes or regulations found applicable;

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125, ORS 222.170(1) and (2)) allows for a city to annex contiguous territory when owners of land in the proposed territory to be annexed submit a petition to the legislative body of the city. ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.

The property owners (or their representatives) of all 11 parcels have submitted signed petitions for annexation to the City. The proposed annexation territory is contiguous to the City along the site's east boundary and Sunrise Lane.

The City published public notice in *The Tigard Tualatin Sherwood Times* for two successive weeks (September 7, 2006, and September 14, 2006,) prior to the September 26, 2006, public hearing and posted the hearing notice at four public places on August 11, 2006: Tigard Library, Tigard City Hall, Tigard Permit Center, and in the general vicinity of the proposed territory. Staff finds that the provisions of ORS 222 have been met.

3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Note that the report is available 15 days before the hearing (September 11, 2006, for an September 26, 2006, hearing). Staff has determined that the applicable METRO regulations (Metro Code 3.09.040(b) &(d)) have been met based on the following findings:

Metro 3.09.040 (b)

(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

As addressed previously in this report, urban services are available to the affected territory.

(2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

As addressed previously in this report, the annexation proposal complies with all applicable provisions of urban service provider agreements, *UPAA (2006); and TUSA (2002)*.

(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;

As addressed previously in this report, the annexation proposal complies with all applicable policies of the City of Tigard Comprehensive Plan and urban service provider agreements (*UPAA (2006)* and *TUSA (2002)*). The proposed annexation territory is within the Urban Growth Boundary and subject to the Regional Framework Plan and Urban Growth Management Functional Plan provisions. There are no specific applicable standards or criteria for boundary changes in the Regional Framework Plan or the Urban Growth Management Functional Plan. However, the City's Comprehensive Plan and Development Code have been amended to comply with Metro functional plan requirements. By complying with the Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

The proposed territory will remain within Washington County but will be required to be withdrawn from the boundary of the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, Washington County Street Lighting District #1, and the Washington County Vector Control District upon completion of the annexation.

(5) The proposed effective date of the decision.

The public hearing will take place September 26, 2006. If the Council adopts findings to approve ZCA2006-00002, the effective date of the annexation will be October 26, 2006.

Metro Code 3.09.040 (d)

(d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

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

As addressed previously in this application, the annexation proposal complies with all applicable provisions of urban service provider agreements (*UPAA (2006)* and the *TUSA (2002)*). The *TUSA* includes the proposed annexation territory. The agreement states that the County and City will be supportive of annexations to the City, and the City shall endeavor to annex the Bull Mountain area in the near to mid-term (by 2005-2007, as projected in the *TUSA*). The proposed annexation is in the Bull Mountain Area and is contiguous to city limits. Therefore, the proposed annexation is consistent with these agreements.

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;

The *UPAA (2006)* includes the proposed annexation territory. The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that "so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to

the City.” The City also provided notice to the affected CPO (CPO 4B) per the agreement. The annexation proposal is consistent with this agreement.

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

As previously stated in this report, this proposal meets all applicable City of Tigard Comprehensive Plan provisions. This criterion is satisfied.

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

This criterion was addressed under Metro Code 3.09.040(b). By complying with the City of Tigard Community Development Code and Comprehensive Plan, the annexation is consistent with the Functional Plan and the Regional Framework Plan.

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

The proposed annexation will not interfere with the provision of public facilities or services because it is consistent with the terms of the *TUSA (2002)*, which ensures the timely, orderly, and efficient extension of public facilities and urban services; it is contiguous to existing city limits and services; and lastly, urban services are available to the proposed annexation territory and have not been found to significantly reduce existing service levels.

6. The territory lies within the Urban Growth Boundary; and

The proposed territory is within Metro’s Urban Growth Boundary.

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

In previous sections, this report reviewed the proposal’s consistency with other applicable criteria and found it to be consistent.

(Tigard CDC 19.390.060)

4. Any applicable comprehensive plan policies; and

As demonstrated in previous sections of this report, the proposed annexation is consistent with, and meets, all applicable comprehensive plan policies.

5. Any applicable provisions of the City’s implementing ordinances.

There are no specific implementing ordinances that apply to this proposed annexation. Chapter 18 of the City Code will apply to development of the property.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Public Works, Engineering and Police Departments have reviewed the proposal and have no objections to it and have not indicated that the proposed annexation would reduce their capacity

to provide services to the proposed annexation territory or reduce the level of City services. Full comments are provided in the attachments listed below.

Attachment A: "Memorandum," from Rob Murchison, Public Works Dept. Project Engineer

Attachment B: "Memorandum," from Gus Duenas, Engineering Division

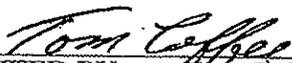
Attachment C: E-mail from Jim Wolf, Tigard Police Department

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue has reviewed the annexation proposal and has no objections, comments or conditions.


PREPARED BY: Emily Eng
Assistant Planner

9/13/2006
DATE


REVIEWED BY: Tom Coffee
Community Development Director

9-13-2006
DATE

MEMORANDUM



TO: Mayor Dirksen, City Council

CC: Craig Prosser, Tom Coffee, Dick Bewersdorff

FROM: Emily Eng

RE: ZCA2006-00002 Cach Creek Area Annexation

DATE: October 5, 2006

This memo identifies changes to the Cach Creek Area Annexation Proposal. On September 25, 2006, applicant John Noffz of Sun Ridge Builders, withdrew the Brentwood Estates property (Washington County Tax Map 2S108AB, Tax Lots 1200 and 1201), changing the original proposal. In addition, one tax lot number (2S105DC, Tax Lot 100) has been removed because it doesn't exist and was incorrectly shown on the tax map. City Council held a public hearing for the annexation on September 26, 2006 and decided to continue the hearing on October 10, 2006 and leave the record open for additional information and public comment. The supplemental exhibits below have been attached to this memo:

Supplemental Exhibit A: Supplemental Findings in Support of the Cach Creek Area Annexation

Supplemental Exhibit B: Additional Information and Public Comments Submitted to the Record

Supplemental Exhibit C: Assessed Value of Properties to be Annexed

The following changes apply to the Staff Report:

Page 1

- Sun Ridge Builders should be removed as an applicant and owner.
- Under proposal, "Eleven (11) parcels" should be changed to "Eight (8) parcels." Total acreage should be changed from 40.93 acres to 35.78 acres. (At the hearing, I estimated that the total revised acreage was 34.82, but after re-surveying the site, it is 35.78.)
- Under location, the withdrawn parcels (Washington County Tax Map 2S108AB, Tax Lots 1200 and 1201) should be deleted. In addition, Washington County Tax Map 2S1105DC, Tax Lot 100 should be deleted. These were included as a result of a tax map error.
- Under current zoning designation, the County designation R-15 should be added because two of the City-owned properties are zoned R-15..
- Under equivalent zoning designation, the City designation R-25 should be added because that is the zone that most closely reflects the County R-15 designation.

Page 2

- Second paragraph from the bottom, the three sentences regarding the two Brentwood parcels should be deleted.

Page 3

- Third paragraph from the bottom, maximum density of the privately-owned property should be calculated based on a total of 3.03 acres instead of 9.14 acres. Therefore, the estimated maximum residential units is approximately 21 and not 63, not taking into account sensitive lands.

Page 4

- First paragraph, concerning Public Works' comments on water, the sentence regarding the Brentwood parcels should be deleted.
- Last paragraph, third sentence from top should be deleted because it relates to the Brentwood parcels. Concerning roads that serve the proposed annexation territory in the next sentence, "Roshak Road" should be deleted because it relates to the Brentwood parcels.

Page 6

- First paragraph, second full sentence, the estimated density should be residential 21 units for the privately-owned property and not 63 units.
- First paragraph, last sentence states, "Based on comments from City of Tigard staff, there is adequate capacity to serve the annexation area (water, sewer, drainage, streets, police, fire protection) if developed to the most intense use allowed, and it will not significantly reduce the level of services available to developed and undeveloped land within the City of Tigard." City staff reviewed the proposal when the estimated maximum density was 63 acres; therefore, because the maximum density is now 21 residential units, the City's assessment of adequate capacity overestimates the burden of the annexation on City services. In either case, whether 63 or 21 units, the City has adequate capacity to serve the proposed annexation territory.
- Second paragraph from top states, "The City of Tigard department of Public Works has reviewed the annexation proposal and states that the City's water system can provide the minimum State of Oregon water service requirements for the proposed territory based on the maximum density permitted." The maximum density referred to was 63 units; however, it is now 21.

Page 7

- In response "b," the privately owned acreage should be changed from 9.14 acres to 3.03.
- Bottom paragraph should be deleted and replaced with "Upon approval and execution of the proposed annexation, the territory will assume zoning to conform to the table below. In addition, the City's Comprehensive Plan designation will be applied to this area."

Page 8

- Response to "C" should be deleted and replaced with "Six parcels in the proposed territory are currently zoned Washington County R-6 and two parcels are zoned Washington County R-15. Upon annexation, the six parcels will automatically become City of Tigard R-7 and the two parcels will become City of Tigard R-25."

Page 9

- Under the response to #2, "property owners of all 11 parcels" should be changed to "property owners of all 8 parcels."

Page 10

- The response to #5 states, "The public hearing will take place September 26, 2006. If the Council adopts findings to approve ZCA2006-00002, the effective date of the annexation will be October 26, 2006." However, the public hearing is being continued on October 10, 2006. If the Council adopts the ordinance approving ZCA2006-00002, the effective date of the annexation would be November 10, 2006.

SUPPLEMENTAL FINDINGS IN SUPPORT OF THE CACH CREEK AREA ANNEXATION

1. The City Council held a duly noticed public hearing on September 26, 2006, consistent with ORS 222.120, to consider this annexation proposal. The City allowed written comments concerning the proposed annexation to be submitted before, during and for a period of seven days after the hearing. The Council also received oral comments at the hearing.
2. The notice of the hearing proposed annexation of property owned by the City of Tigard, the Tigard Water District, the Trust for Public Land, Brentwood Homes, and Jon Dyer. The Trust for Public Lands and Brentwood Homes have indicated that they no longer wish their property to be included in the proposed annexation. City staff has proposed that the annexation include only those properties owned by the City of Tigard, the Tigard Water District, and Jon Dyer. The Council agrees that the annexation should be and is limited to the properties owned by the City of Tigard, the Tigard Water District, and Jon Dyer. The legal description and a map of the properties being annexed are included in the ordinance as Exhibits A and B.
3. The City has written consents to annexation signed by a duly authorized official of the City of Tigard and by Jon Dyer. It also has a petition for and consent to annexation signed by a duly authorized official of the Intergovernmental Water Board (IWB) that covers the property owned by the Tigard Water District. The IWB consent reflects a vote by the IWB to petition for and consent to the annexation. The Council finds that the Intergovernmental Water Board has authority to act for the Tigard Water District and other members of the IWB as to the property proposed for annexation and properly exercised that authority in signing the petition for and consent to annexation. The record includes a letter from King City, a member of the IWB, expressly agreeing with the consent to annexation, and written minutes of the IWB meeting showing the City of Durham's vote in favor of the consent and statements in support of consent by Durham's representative. The minutes show that the Tigard Water District representative abstained from voting and did not oppose the action of the IWB in consenting to the annexation. No one has claimed that the IWB lacked authority to act on behalf of the Tigard Water District.
4. Under ORS 222.170(4), property that is publicly owned is not considered when determining the number of owners, the area of land, or assessed valuation unless the owner of the property files a statement consenting to or opposing annexation. Washington County has not submitted to the City a statement consenting to or opposing the annexation, so County roads and rights-of-way that are within the area proposed for annexation are not considered in determining whether the City has sufficient consents.
5. The City has the written consent of all of the owners of property proposed to be included in the annexation. There are no registered voters in the area proposed for annexation. The City therefore may proceed with annexation without a vote in the territory to be annexed under ORS 222.125 (consent of all the owners and at least 50 percent of voters,

if any), ORS 222.170(1) (consent of half the owners of half the land with half the assessed value, and ORS 222.170(2) (consent of a majority of the electors and owners of half the property).

6. Even if the consent for the property owned by the Tigard Water District is not counted, the City has sufficient consents to proceed with the annexation without an election in the territory to be annexed under both ORS 222.170(1) and 222.170(2). The property owned by the City of Tigard and Jon Dyer totals 21.04 acres, more than half of the total net area of 32.07 acres. The City and Mr. Dyer are two of three owners – more than half of the owners. The total assessed value of the property owned by the City and Mr. Dyer is \$970, more than half of \$970, which is the total assessed value of all the total net property value in the area proposed for annexation. Because there are no resident voters in the area, the number of voters does not need to be considered under ORS 222.170(2). The City takes official notice of the assessed values for the properties as listed by Washington County. The City notes that the market value for the Tigard Water District property, as established by Washington County, is \$1,316,700, which is less than half the total market value of 3,582,850 of all the properties in the area to be annexed.

Findings Addressing Comments Received

7. The City received written comments from Karen and John Molloy, Lisa Hamilton-Treick, Richard A. Franzke, Michael Orth, and Lawrence R. Derr in opposition to the opposed annexation. The City also received inquiries from other property owners as to the possibility of including their properties in the annexation. At the September 26, 2006, hearing, Ms. Hamilton-Treick and Kinton Fowler testified in opposition to the proposed annexation, and Linda Walsh offered testimony that could be considered critical of the annexation.
8. On August 8, 2006, the Washington County Board of Commissioners called an election on the proposed incorporation of the City of Bull Mountain. The area proposed for annexation is within the area proposed to be included within the proposed City of Bull Mountain. The City has concluded, on advice of its City Attorney, that it cannot process petitions for annexation received after the time the proposed incorporation was referred to the voters. Therefore, it is including in the proposed annexation only properties for which it received a petition for and consent to annexation prior to August 8, 2006 and is not adding any properties to the proposed annexation territory. The City received petitions for annexation for all properties included in the proposed annexation prior to August 8, 2006.

Findings Relating To Comments Submitted by Lawrence R. Derr

9. Lawrence R. Derr submitted written comments on October 3, 2006, on behalf of Lisa Hamilton-Treick. Mr. Derr argues that the City cannot proceed with the annexation because the area proposed for annexation is within the area of the proposed City of Bull Mountain. Mr. Derr argues that the “City has taken no actions to initiate this annexation

that are prior in time to the annexation procedures.” The City concludes that the relevant date for an incorporation proceeding is the date that the County acts to place the matter on the ballot. *Landis v. City of Roseburg*, 243 Or 44, 411 P2d 282 (1966). The City further concludes that the relevant date for annexations is the date that the petitions are filed with the City. ORS 222.111(2). This annexation was initiated no later than August 4, 2006, when the last of the petitions, that of Mr. Dyer, was received by the City. August 4, 2006, was before August 8, 2006, when the County Board acted, so the City may proceed with the annexation, notwithstanding the actions to incorporate the City of Bull Mountain.

10. Mr. Derr argues that the annexation is in violation of Metro Code Section 3.09.040(a)(1) because the City lacks jurisdiction. The City has jurisdiction, based on the filing of the petitions for annexation. Mr. Derr further argues that the City is in violation of Metro Code Section 3.09.050(3)(5) because the annexation is not consistent with the orderly provision of public facilities and services because it is in competition with the proposed Bull Mountain incorporation. The annexation will provide for the orderly provision of public facilities and services by allowing Tigard services to be provided in the area to be annexed and would also provide for the orderly provision of parks and water services, given that the properties owned by the City of Tigard and the Tigard Water District are planned to be used for parks and water system purposes. Mr. Derr alleges that the annexation would be contrary to Metro Code 3.09.050(d)(7) because the annexation would be illegal. The annexation would not be illegal. The proposed annexation is consistent with Metro Code 3.09.040(a)(1), 3.09.050(d)(5) and 3.09.050(d)(7).
11. Mr. Derr argues that the City failed to provide for “a public hearing necessary to avoid an election under ORS 222.120(2).” The City Council held a public hearing on September 26, 2006, in compliance with the hearing requirement.
12. Mr. Derr argues that some or all of the petitions did not comply with the requirements of Metro Code 3.09.040. Mr. Derr has not identified any way in which the petitions failed to comply with Metro Code Section 3.09.040. Furthermore, Metro Code Section 3.09.040 is a section relating to submission requirements, and does not establish approval criteria. The City, by processing the petitions, has accepted that they are sufficient to allow the City to make a decision based on the applicable criteria.
13. Mr. Derr argues that Sunrise Lane is a county road and that the county has neither petitioned for nor consented to the annexation. Under ORS 222.170(4), publicly owned property may be annexed but does not count in the consideration of the sufficiency of the consents unless the public owner consents or objects. The County has not consented or objected, so the area is not counted in determining the sufficiency of the consents, even though it is included in the annexation.
14. Mr. Derr further argues that the annexation is a cherry stem annexation and therefore not justified. Even if this annexation could be considered a cherry stem annexation, cherry stem annexations are not illegal. *See Morsman v. City of Madras*, 191 Or App 149, 81

P3d 711 (2003) and cases cited therein. Mr. Derr has not argued that the proposed annexation is unreasonable or provided any factual basis such an argument. The annexation is reasonable because it provides for an extension of the City boundaries so that City parks and water facilities will be within the City.

15. Mr. Derr states that the City must clarify the status of zoning and applicability of the Bull Mountain Community Plan to the property proposed for annexation. The City's decision does not change the zoning or make the Bull Mountain Community Plan inapplicable to the areas being annexed.

Findings Related to Written Comments By Karen and John Molloy

16. Karen and John Molloy submitted a written comment on September 30, 2006, apparently in opposition to the annexation because the property is within the area of the proposed City of Bull Mountain. As discussed in the findings related to comments by Lawrence R. Derr, the proposed incorporation of the City of Bull Mountain does not prevent the City from proceeding with this annexation.

Findings Related to Written Comments by Michael Orth

17. Michael Orth submitted a comment on August 13, 2006, opposing the annexation prior to the vote on the incorporation of the City of Bull Mountain. As stated in the previous findings, the City finds no legal impediment to proceeding with the annexation at this time.

Findings Related to Written Comments Richard A. Franzke

18. Richard A. Franzke submitted written comments dated September 26, 2006. Mr. Franzke argued that the incorporation proceedings were initiated before the City's annexation proceedings. As discussed in Finding No. 9 above, the City has concluded that the City's proceedings have priority.
19. Mr. Franzke argued that the City should respect the will of the citizens who will be affected by its actions. The people who affected by an annexation are the property owners and voters (if any) in the territory to be annexed. The City has the consent of all property owners within the territory to be annexed and there are no voters in the territory to be annexed. The City has been forced to turn aside property owners who want to annex to the City because they are within the proposed City of Bull Mountain and did not submit petitions prior to the date the County Board referred the incorporation to the voters. Mr. Franzke suggests that the City's wish to annex these properties is based on the desire to increase tax revenues. The vast majority of the property being annexed (31.79 out of 34.82 gross acres) is publicly owned and not subject to property taxation.

Findings Related To Written Comments and Oral Testimony of Lisa Hamilton-Treick

20. Ms. Hamilton-Treick submitted written comments on September 26, 2006. Ms. Hamilton first argued that Washington County has not consented to the inclusion of the county road. Publicly owned property may be included in an annexation and is not counted in the calculation of consents unless the public owner specifically consents or objects. ORS 222.170(4). The County's lack of consent is relevant to whether the City counts the road in the total property area, but does not otherwise affect the annexation.
21. Ms. Hamilton-Treick argued that the proposed boundary creates islands and an irregular boundary. The Council finds that the boundaries of the City are sufficiently regular to be consistent with Comprehensive Plan 10.1.2. The regularity standard in the Comprehensive Plan standard is expressly related to whether police will be able to respond in an emergency situation without difficulty. The City Council finds that the fact that the vast majority of the property being annexed will be City owned and administered means that there will be no difficulties for the police in emergency situations. The only "islands" created are three properties that will be outside Tigard City limits but will be cut off from county, and possibly future City of Bull Mountain, areas only by Sunrise Lane.
22. Ms. Hamilton-Treick argued that the proposed boundaries will prevent four property owners from being included in the proposed City of Bull Mountain. Any property that is not included in the annexation but is included in the boundaries of the proposed City of Bull Mountain will be included within the City of Bull Mountain if the voters improve incorporation. As to the creation of islands, the City does not intend to use the island annexation process to annex territory if the island is created only by a road or a narrow strip of property.
23. Ms. Hamilton-Treick questioned the existing zoning designation of the property and the continued application of the Bull Mountain Community Plan. The property is currently zoned R-7 under the County's adoption of Tigard zoning. The annexation will not change the zoning. The ordinance does not provide that the Bull Mountain Community Plan will cease to be applicable to the property, so it will remain in effect as to the property.
24. Ms. Hamilton-Treick asked when the City will provide notice to LCDC of any change in zoning or plan provisions that affect the property. The City will provide notice if and when the zoning or plan provisions are changed. The questions asked by Ms. Hamilton-Treick do not provide any basis for denying the annexation petitions.
25. Ms. Hamilton-Treick argued that the City's record on Goal 5 resource protection is poor. The City Council disagrees with her statement. However, nothing in her argument relates to any applicable standard or criterion.
26. Ms. Hamilton-Treick argued that the City Council did not set a date for the hearing and that an election is therefore required. The statutory requirement is to hold a hearing, and the City did hold a hearing. Ms. Hamilton-Treick appeared at the hearing. While ORS

222.120(2) does refer to the legislative body fixing the date for a hearing, the City Council has delegated authority to set all agenda items, including hearings, to the City Manager. City Council Groundrules, adopted by Resolution 04-83. The matter was set for hearing by the City Manager, using the authority delegated by the Council.

27. Ms. Hamilton-Treick stated that a county commissioner stated that the property should be in the proposed City of Bull Mountain. That statement does not relate to any applicable approval standard or criterion. Ms. Hamilton-Treick further argues that the proposed City of Bull Mountain and the City of Tigard must work together, presumably on developing a portion of the City of Tigard property as a regional park. If the City of Bull Mountain is formed, the Tigard City Council anticipates that Tigard and Bull Mountain will work together and cooperate on a wide range of issues.
28. Ms. Hamilton-Treick asked that the record be kept open for seven days. The City Council granted that request.
29. Ms. Hamilton-Treick argued that the City should put the annexation on hold pending the vote on incorporation. The City can proceed with this annexation because the petitions were received before the incorporation was referred to the voters.
30. Ms. Hamilton-Treick submitted a letter from a deputy legislative counsel to Representative Jerry Krummel. That letter expressly states that the sole purpose of the letter is to assist members of the legislature and that it is not to be considered or used as legal advice by any other person. The City will not consider the letter or use it as legal advice.
31. Much of Ms. Hamilton-Treick's oral testimony was the same as her written comments. None of the additional statements in her oral testimony addressed any applicable standard or criterion.

Findings Related to Oral Testimony of Kinton Fowler

32. Kinton Fowler testified at the September 26, 2006, hearing. He suggested that the City hold off on the annexation until after the November 7 election to avoid a legal dispute and to get the relationship between the City of Tigard and the proposed City of Bull Mountain off to a good start. Mr. Fowler did not argue that the City was legally precluded from going ahead with the annexation.

Findings Related to Oral Testimony of Linda Rogers

33. Ms. Rogers questioned the suitability of the property for a park. The proposed park would be a nature park rather than a park with developed athletic fields. Her testimony did not raise any issue relevant to any applicable standard or criterion.