

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 2011- 07

AN ORDINANCE ANNEXING 230.06 ACRES OF LAND, INCLUDING FORTY-TWO (42) PARCELS, ADJACENT RIGHTS OF WAY, AND A UTILITY SERVICES CORRIDOR WITHIN SW BARROWS ROAD RIGHT OF WAY; APPROVING THE RIVER TERRACE ANNEXATION (ZCA2011-00001); AND WITHDRAWING SIX (6) PARCELS FROM THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT. IN ADDITION, WITHDRAWAL OF THREE (3) PARCELS FROM WASHINGTON COUNTY SERVICE DISTRICT FOR LIGHTING.

WHEREAS, the City of Tigard is authorized by ORS 222.120(4)(b), ORS 222.125, and ORS 222.170(1) 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 property which currently lies within the boundary of the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District, and Washington County Service District for Lighting upon completion of the annexation; and

WHEREAS, the Tigard City Council held a public hearing on August 23, 2011, to consider the annexation of forty-two (42) parcels [Washington County Tax Assessors Map (WCTM) 2S10600, Tax Lots 100, 202, 203, 204, 1000, 1100, 1101, 1200, 1400, 1401, 1500, 1600, 1700, 1800, 1801, 2900, 3000, 3100, 3200, 3300, 3301, 3400, 3500 and 3800; WCTM 2S10700, Tax Lots 100, 101, 102, 103, 104, 105, 106, 1300, 1302, 1303, 1305, 1900 and 2000; WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000; and WCTM 2S105BD, Tax Lots 2100, 2200 and 4000] of land located south of the intersection of SW Scholls Ferry Road and Roy Rogers Road, along SW Barrows Road and adjoining right-of-way;

WHEREAS, the Tigard City Council considered, as part of the annexation, the withdrawal of six (6) parcels [WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000; WCTM 2S105BD, Tax Lots 2100, 2200 and 4000; and WCTM 2S106000, Tax Lot 1200] and right of way from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and withdrawal of three (3) parcels [WCTM 2S105AC, Tax Lot 7400; WCTM 2S105BC, Tax Lot 4000 and WCTM 2S105BD, Tax Lot 4000] and right of way from Washington County Service District for Lighting; 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 six (6) of the annexed parcels from the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District and three of the parcels from the Washington County Service District for Lighting on August 23, 2011; and

WHEREAS, pursuant to ORS 222.524, the city must declare the withdrawal of the annexed properties from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting; 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 Tigard City Council passed Resolution 11-08 to extend the phasing in of increased property taxes over a three-year period at the rate of 33 percent, 67 percent, and 100 percent, for properties that voluntarily annex until February 2011 per Oregon Administrative Rule (OAR 150-222.111); and

WHEREAS, the Tigard City Council has carefully considered the testimony at the public hearing and determined that withdrawal of the annexed property 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 subject parcels and rights of way as described and shown in the attached **Exhibits "A" and "B"**, and withdraws noted parcels from the Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" (ZCA2011-00001) and Supplemental Findings of Fact and Conclusions of Law as findings in support of this decision; a copy of the staff report and supplemental findings are attached hereto as **Exhibit "C"** and **"Exhibit D"**, and incorporated herein by this reference.

SECTION 3: City staff is directed to take all necessary measures to implement the annexation, including filing 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 4: The Tigard City Council hereby authorizes the phasing in of increased property taxes over a three-year period at the rate of 33 percent, 67 percent and 100 percent per Oregon Administrative Rule (OAR 150-222.111) for the subject annexation.

SECTION 5: Pursuant to ORS 222.120(5), the effective date of the withdrawal of properties from Washington County Enhanced Sheriff's Patrol District, Washington County Urban Roads Maintenance District and Washington County Service District for Lighting shall be the effective date of this annexation.

SECTION 6: In accordance with ORS 222.180, the annexation shall be effective upon September 30, 2011.

PASSED: By UNANIMOUS vote of all Council members present after being read by number and title only, this 23rd day of August, 2011.

Cathy Wheatley
Cathy Wheatley, City Recorder

APPROVED: By Tigard City Council this 23rd day of August, 2011.

C. Dirksen
Craig Dirksen, Mayor

Approved as to form:

Timothy V. Dennis
City Attorney

August 23, 2011
Date

8/18/2011

ANNEXATION DESCRIPTION

A tract of land situated in the Section 5 and Section 6 Township 2 South, Range 1 West, of the Willamette Meridian, described as follows:

Commencing at the corner to Sections 32 and 33 Township 1 South, Range 1 West and Sections 4 and 5 township 2 South, Range 1 West Willamette Meridian; Thence S 00° 26' 16" W, along east line of Section 5, a distance of 929.91 feet to the centerline of SW Barrows Road (CR 812) and the **True Point of Beginning** of the Annexation description; Thence N 32° 32' 55" E, along said centerline, a distance of 188.13 feet to the east line of BPA 100 foot wide power line; Thence S 00° 26' 16" W, along said power line, a distance of 62.08 feet to the southerly right-of-way of SW Barrows Road (CR 812); Thence along said southerly right- of way the following 8 courses; Thence S 32° 32' 55" W a distance of 726.55 feet; Thence S 32° 34' 49" W a distance of 36.84 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet; a central angle of 14° 22' 36" (a chord which bears S 39° 46' 07" W, 151.65 feet) and a length of 152.05 feet to a point of non-tangency; Thence S 47° 46' 49" W a distance of 167.15 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 605.96 feet, a central angle of 19° 48' 49" (a chord which bears S 57° 41' 13" W, 208.51 feet) and a length of 209.55 feet; Thence S 67° 35' 38" W a distance of 1464.05 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of 07° 41' 27" (a chord which bears S 71° 26' 21" W, 158.68 feet) and a length of 158.79 feet; Thence S 75° 17' 05" W a distance of 25.94 feet to the northeast corner of Tract "A" Morningside; Thence S 15° 56' 07" E, along the east line of said Tract "A", a distance of 63.50 feet to the Southeast corner of tract "A"; Thence N 89° 45' 11" W, along the south line of said tract "A", a distance of 90.00 feet to the Southwest corner of Tract "A" and the west line of Morningside; Thence N 00° 14' 49" W, along said west line, a distance of 41.71 to the southerly right of way of SW Barrows Road (CR 812) being a point on a non-tangent curve to the right; Thence along said curve to the right with a radius of 1183.00 feet, a central angle of 14° 36' 05" (a chord which bears S 84° 49' 04" W, 300.66 feet) and a length of 301.48 feet to a point of curve to the left; Thence along said curve to the left with a radius of 100.00 feet, a central angle of 8° 06' 29" (a chord which bears S 86° 12' 21" W, 14.14 feet) and a length of 14.15 feet to a point of curve to right; Thence along said curve to the right with a radius of 100.00 feet, a central angle of 17° 07' 38" (a chord which bears S 89° 17' 01" E, 29.80 feet) and a length of 29.91 feet to the northeasterly line of Tract "B" Bull Mountain Meadows; Thence along the southerly line of Tract "B" the following 6 courses; Thence leaving said right of way S 00° 14' 49" W, along the east line of said Tract "B", a distance of 73.06 feet; Thence N 83° 40' 02" W a distance of 164.93 feet; Thence N 89° 45' 11" W a distance of 48.00 feet; Thence S 84° 18' 00" W a distance of 96.52 feet; Thence N 89° 45' 11" W a distance of 142.00 feet; Thence S 00° 14' 49" W a distance of 146.00 feet to the southerly right-of-way of SW Bulrush Lane; Thence N 89° 45' 11" W, along said southerly right-of-way, a distance of 50.00 feet; Thence N 00° 14' 49" E a distance of

146.00 feet to the northeast corner of lot 1 Bull Mountain Meadows; Thence N 89° 45' 11" W a distance of 55.00 feet to the northwest corner of said Lot 1; Thence N 84° 59' 50" W a distance of 60.19 feet to the southeast corner of Tract "A" Bull Mountain Meadows; Thence N 89° 45' 11" W, along the south line of said Tract "A", a distance of 105.02 feet; Thence N 83° 59' 18" W, along the south line of said Tract "A" and the extension thereof, a distance of 163.42 feet to an angle point on the south line of Tract "H" Bull Mountain Meadows NO. 3; Thence S 67° 35' 55" W a distance of 47.74 feet; Thence S 00° 14' 49" W a distance of 73.63 feet to a non-tangent curve to the right; Thence along said curve to the right with a Radius of 523.00 feet, a central angle of 0° 06' 41" (a chord which bears S 80° 31' 51" E, 1.02 feet) and a length of 1.02 feet; Thence S 09° 31' 30" W a distance of 46.00 feet to the southerly right-of-way of SW Bulrush Lane and a point on a non-tangent curve to the left; Thence along said curve to the left with a Radius of 477.00 feet, a central angle of 09° 31' 30" (a chord which bears N 85° 13' 57" W 79.12 feet) and a length of 79.22 feet; Thence N 89° 59' 24" W a distance of 242.86 feet; Thence N 00° 00' 36" E a distance of 46.00 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 18.00 feet a central angle of 90° 00' 00" (a chord which bears N 45° 00' 36" E, 25.46) and a length of 28.27 feet; Thence N 00° 00' 36" E a distance of 82.00 feet to the southeast corner of Tract I Bull Mountain Meadows NO. 3; Thence N 89° 59' 24" W a distance of 55.00 feet; Thence N 85° 37' 24" W a distance of 150.55 feet; Thence N 89° 59' 24" W a distance of 351.00 feet; Thence N 00° 00' 36" E a distance of 123.00 feet to the southerly right of way of SW Barrows Road (CR 812); Thence S 89° 31' 18" W a distance of 847.29 feet to the west line of Section 5 Township 2 South, Range 1 West Willamette Meridian; Thence S 00° 17' 13" W, along said Section line, a distance of 356.76 feet to the west one-quarter corner of Section 5; Thence S 00° 00' 23" W, along said Section line, a distance of 2644.58 feet to the Section Corner between Sections 5,6,7 & 8 Township 2 South, Range 1 West; Thence S 00° 06' 09" W, along the Section line between Sections 7 and 8, a distance of 2218.91 feet; Thence S 89° 19' 26" W, leaving said Section line, a distance of 1337.59 feet to the westerly right-of-way of SW Roy Rodgers Road; Thence N 00° 01' 15" E, along said westerly right-of-way, a distance of 2219.23 feet to the southerly line of Section 6 Township 2 South, Range 1 West, Willamette Meridian; Thence S 89° 22' 25" W, along said Section Line, a distance of 1313.31 feet to the one quarter corner between Sections 6 and 7 Township 2 South, Range 1 West, Willamette Meridian; Thence N 00° 20' 56" E, along the line between the east and west one halves of said Section 6, a distance of 2719.11 feet to the center line of SW Scholls Ferry Road being a point on a non-tangent curve to the left; Thence along said curve to the left with a radius of 1432.39 feet, a central angel of 14° 12' 09", (a chord which bears N 81° 56' 36" E, 354.15) and a length of 355.06 feet to a point of tangency; Thence N 74° 50' 36" E a distance of 876.66 feet to a point of curve of a curve to the right; Thence along said curve to the right with a radius of 1432.39 feet, a central angel of 14° 45' 02", (a chord which bears N 82° 13' 07" E, 367.74) and a length of 368.76 feet to the extension of the center line of SW Barrows Road (CR 812); Thence N 89° 35' 38" E, a distance of 458.31 feet along the extended center line of SW Barrows Road (CR 812); Thence along the center line of SW Barrows Road (CR 812) and the extension there of the following 12 courses; Thence N 89° 31' 18" E a distance of 2217.52 feet; Thence S 85° 05' 41" E a distance of 866.23 feet; Thence S 79° 57' 44" E a distance of 183.27 feet to a non-tangent curve to

the left; Thence along said curve to the left with a radius of 1150.00 feet a central angle of $17^{\circ} 13' 58''$ (a chord which bears $N 83^{\circ} 54' 04'' E$, 344.58 feet) and a length of 345.88 feet; Thence $N 75^{\circ} 17' 05'' E$ a distance of 90.62 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 1150.00 feet, a central angle of $7^{\circ} 41' 27''$ (a chord which bears $N 71^{\circ} 26' 54'' E$, 154.25) and a length of 154.36 feet; Thence $N 67^{\circ} 35' 38'' E$ a distance of 1464.05 feet to a point of curve of a curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of $19^{\circ} 48' 49''$ (a chord which bears $N 57^{\circ} 41' 13'' E$, 197.15 feet) and a length of 198.14 feet; Thence $N 47^{\circ} 46' 49'' E$ a distance of 166.68 feet to a point of curve of a non-tangent curve to the left; Thence along said curve to the left with a radius of 572.96 feet, a central angle of $14^{\circ} 22' 36''$ (a chord which bears $N 39^{\circ} 46' 07'' E$, 143.39 feet) and a length of 143.77 feet; Thence $N 32^{\circ} 34' 49'' E$ a distance of 36.84 feet; Thence $N 32^{\circ} 32' 55'' E$ a distance of 591.02 feet to the point of beginning.

Containing 11162513 square feet or 256.25 Acres

EXHIBIT B
8/18/2011



RIVER TERRACE
ANNEXATION

SCALE 1" = 100'

TOWNSHIP 2 SOUTH RANGE 1 WEST 4TH MERIDIAN
SECTION 5

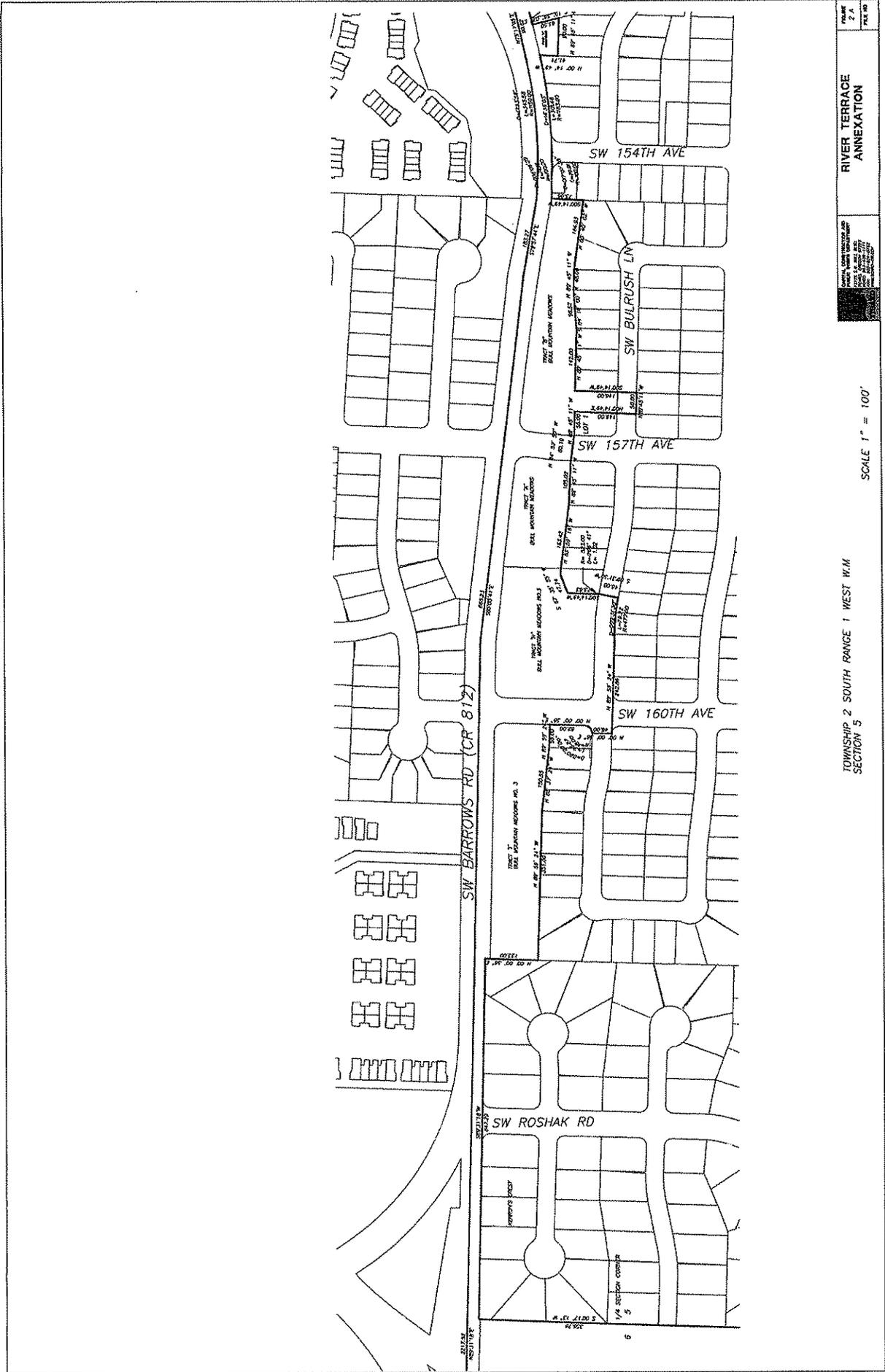
PREPARED BY
DATE
DRAWN BY
DATE



RIVER TERRACE
 ANNEXATION
 SHEET NO. 2
 TOTAL SHEETS 10

SCALE 1" = 100'

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
 SECTION 5

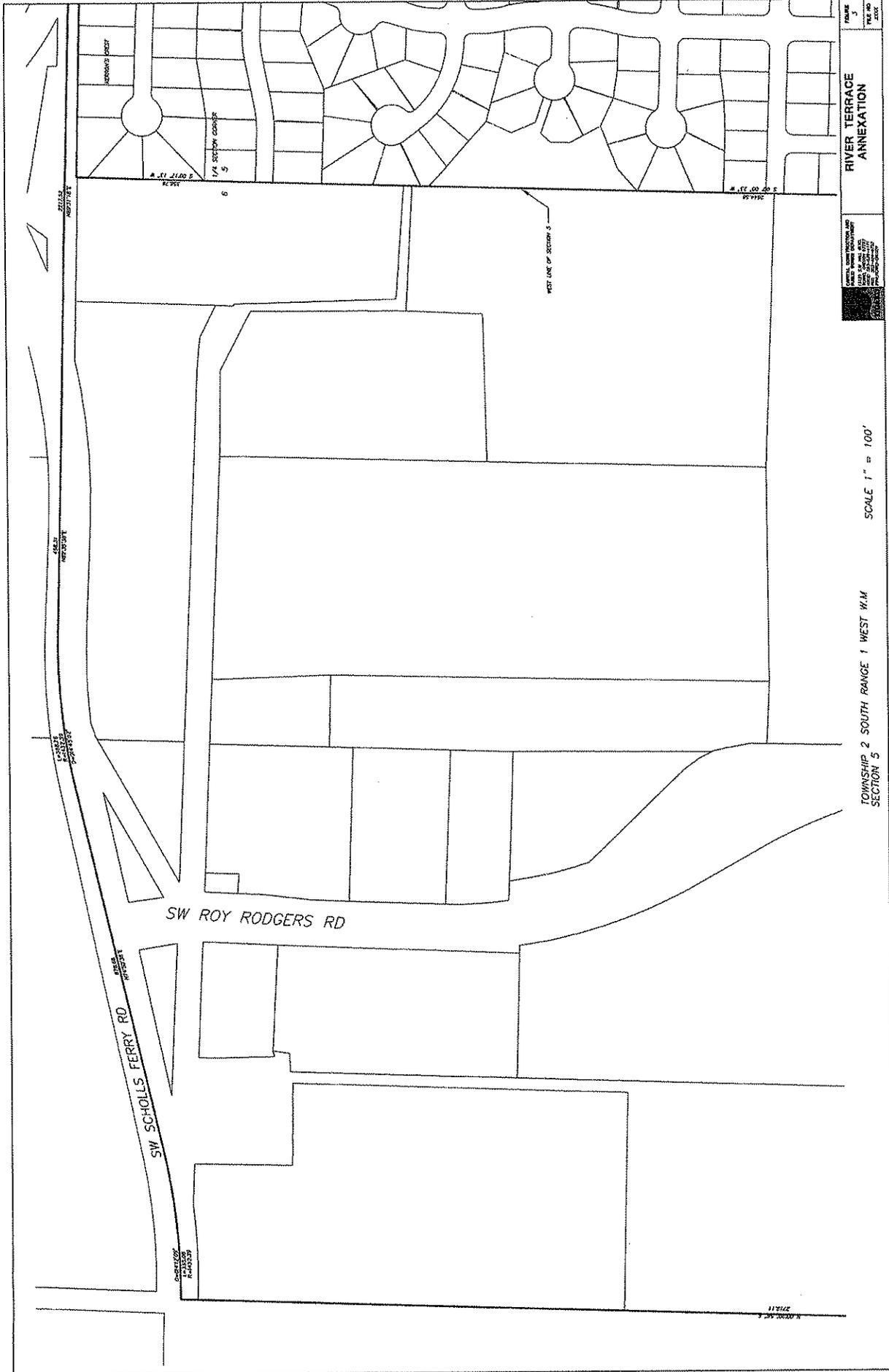


PLAT NO.
 2 A
 FILE NO.

RIVER TERRACE
 ANNEXATION

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
 SECTION 5

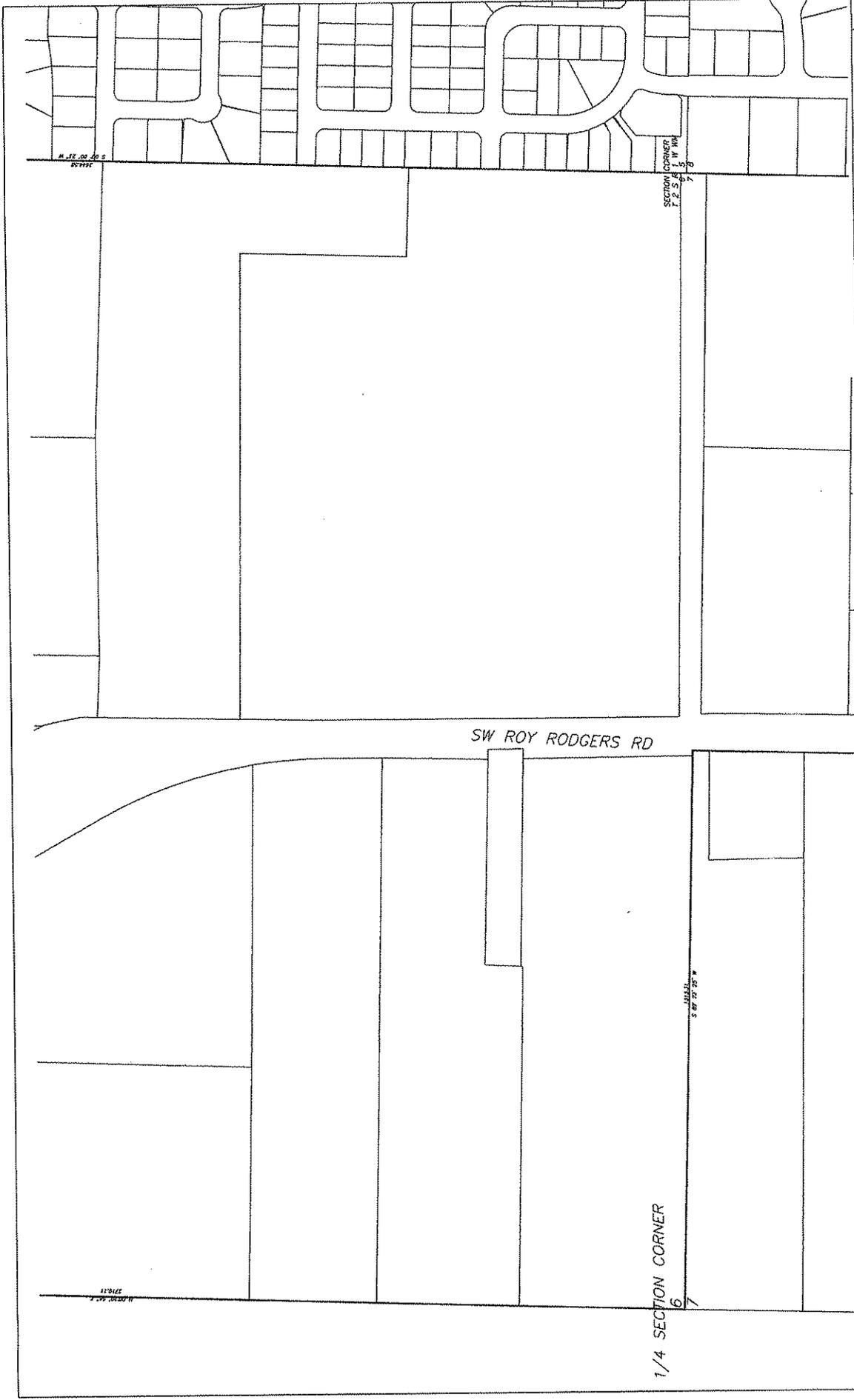
SCALE 1" = 100'



RIVER TERRACE ANNEXATION
 PLAT NO. 1
 FILE NO. 1
 DATE 11/11/11

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
 SECTION 5
 SCALE 1" = 100'

11/11/11



RIVER TERRACE ANNEXATION
 SCALE 1" = 100'
 TOWNSHIP 2 SOUTH RANGE 1 WEST W.M. SECTION 6 AND 7
 COUNTY OF ... STATE OF ...
 FILE NO.



SECTION 6
 T 2 S R 1 W M.

SECTION 7
 T 2 S R 1 W M.

SECTION 8
 T 2 S R 1 W M.

N. 89.61 AN S
10.0151

SW ROY RODGERS RD

20.0151
 N. 89.61 AN S

RIVER TERRACE
ANNEXATION



SCALE 1" = 100'

TOWNSHIP 2 SOUTH RANGE 1 WEST W.M.
SECTION 6 AND 7

PLATE 5
PAGE 10

Hearing Date: August 23, 2011 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: RIVER TERRACE ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2011-00001

APPLICANT: Multiple applicants **OWNER:** Multiple property owners
Attachment 1 lists applicants Attachment 2 lists owners

PROPOSAL: A request to annex to the City of Tigard approximately 230 acres of property, referred to herein as River Terrace, that includes Metro Urban Growth Boundary expansion area 64, portions of SW Barrows Road and SW Scholls Ferry Road rights of way, and five Clean Water Services parcels (including adjacent right of way) south of SW Barrows Road.

LOCATION: Multiple parcels generally located south of Scholls Ferry Road on the east and west sides of SW Roy Rogers Road plus five Clean Water Services parcels south of SW Barrows Road between SW 152nd Avenue and Scholls Ferry Road.

COUNTY ZONE: FD20 Future Development, 20-acre minimum lot size. The FD20 District applies to the unincorporated urban lands added to the urban growth boundary by Metro through a Major or Legislative Amendment process after 1998. The FD20 District recognizes the desirability of encouraging and retaining limited interim uses until the urban comprehensive planning for future urban development of these areas is complete. The provisions of this district are also intended to implement the requirements of Metro's Urban Growth Management Functional Plan.

R15: Residential, 12 units/acre minimum density, 15 units/acre maximum density. The intent and purpose of the R15 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than fifteen (15) units per acre and no less than twelve (12) units per acre, except as otherwise specified by Section 3002 or Section 3005 of the Washington County Community Development Code.

**EQUIVALENT
CITY ZONE:**

Annexation areas will retain current Washington County zoning until Tigard zoning is applied with the future adoption of a community plan for the area.

**APPLICABLE
REVIEW
CRITERIA:**

The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390, Comprehensive Plan Goal 1, Goal 11, Goal 12, and Goal 14; ORS Chapter 222; Metro Code Chapter 3.09.

SECTION II. STAFF RECOMMENDATION

Staff recommends that City Council find that the proposed annexation (ZCA2011-00001) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goals 11.1, 11.2 and 11.3; Goal 12.1, and Goals 14.1 and 14.2. Therefore, staff recommends APPROVAL of ZCA2011-00001 by adoption of the attached ordinance.

SECTION III. BACKGROUND INFORMATION

History

The River Terrace area was brought into the Urban Growth Boundary (UGB) by Metro in 2002 and was known as UGB Expansion Area 64. At the time another expansion area, Area 63, also became part of the UGB; however that area is not included in this annexation application. In November 2010, the County Board of Commissioners unanimously approved Resolution & Order 10-105, approving a concept plan (West Bull Mountain Concept Plan) as the basis to develop a more detailed community plan. The community plan will provide land use designations, development code regulations, and public facility plans which are all necessary for River Terrace, Area 63, and the Rural Element to the south to be urbanized. If City Council approves the annexation, then the city will take the necessary steps to develop the required community plan for River Terrace, Area 63, and the Rural Element.

Proposal Information

A majority of the property owners (81%), which represent 92% of the land area and 81% of the total assessed value, of an area south of Scholls Ferry Road and west of Bull Mountain have submitted petitions to annex into the City of Tigard. A slightly higher percentage of property owners was previously calculated, but after reviewing the ownership of each parcel, it was determined that the above percentages are correct. These percentages meet what is known as the "triple majority" method of annexation, which does not require a public election. However, a public hearing before the Tigard City Council is required. The purpose of the request is to obtain urban services from the City needed to urbanize the area and provide housing and employment opportunities as envisioned by Metro when the subject area was added to the UGB in 2002.

The area to be annexed is made up of 43 parcels totaling approximately 230 acres; five of these are the Clean Water Services (CWS) parcels totaling 5.34 acres south of SW Barrows Road. The area is contiguous to the Tigard boundary, connected by a utility corridor along the south side of old Barrows Road and Scholls Ferry right of way that is also proposed for annexation. A portion of this right of way is within the City of Beaverton boundaries. The Beaverton City Council held a hearing on June 21, 2011 and voted unanimously to de-annex the right of way proposed for annexation into Tigard. The City of Beaverton scheduled subsequent hearings for July 12 and August 9 to adopt an ordinance to finalize withdrawal of the right of way. The proposed ordinance to annex River Terrace states an effective date of September 30, 2011 to coincide with the effective date of the Beaverton withdrawal.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390
Comprehensive Plan Goal 1; Goal 11, Goal 12 and Goal 14.
State: ORS Chapter 222
Regional: Metro Code Chapter 3.09

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:

“Chapter 18.320.020.B: Approval Process and Standards.

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;”

FINDINGS: The City of Tigard Comprehensive Plan’s Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to storm water management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition the comprehensive Plan Glossary includes public safety, parks, and transportation.

The proposed annexation area is designated as rural with FD20 zoning and urban services are not currently available. The annexation will result in the availability of urban services and provide urban land to meet the Portland Metropolitan Region’s employment and housing needs.

A conceptual plan was prepared for each service as part of the West Bull Mountain Concept Plan. Background documentation included technical memorandums regarding alternative water supplies, transportation, stormwater, and sewer infrastructure needs, was adopted as part of the Concept Plan findings and illustrate that these services can be provided to River Terrace.

Water – City of Tigard. In September 2010 the city adopted the Tigard Water System Master Plan, which looks at current and projected supply and demands for areas currently served and to be served by the City of Tigard. This plan included the proposed annexation area. Recommended upgrades to ensure future capacity requirements are being or have been completed by the city. A 16-inch water main in SW Barrows Road and a 16-in main in SW Leeding Lane are stubbed to the largest portion of the annexation area. City of Tigard water is currently available to the five CWS detention pond sites south of SW Barrow Road.

The West Bull Mountain Concept Plan reviewed potential suppliers of water for the River Terrace vicinity and acknowledged that “water provision is most efficient from the east,” and that the City of Tigard and the Tigard Water District are potential providers.

Sewer – City of Tigard/Clean Water Services. The city through agreements with Clean Water Services (CWS) is and will be the service provider of sewer to the proposed annexation area. The five CWS detention pond sites are not developed with uses that necessitate sanitary sewer service. The majority of River Terrace is not currently served, but can be as shown in a 2009 CWS Sanitary Sewer Service Master Plan, which included the annexation area within study areas of anticipated growth. The plan calls out pump stations and trunk lines necessary to reach the Durham treatment plant, which will serve the future growth in River Terrace and surrounding areas.

Drainage – Clean Water Services. Clean Water Services will be the ultimate provider of stormwater services in River Terrace. There are a few Washington County pipes draining road water into nearby creeks along SW Roy Rogers Road. CWS has storm lines within the unincorporated urban areas to the west of River Terrace. A comprehensive stormwater plan to ensure water quality with the Tualatin River Basin and protect Goal 5 resources within the area will be developed as part of the community plan for the River Terrace vicinity.

Streets – City of Tigard Engineering Division. The proposed annexation area is accessed by SW Barrows Road, SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Existing access will not be affected by the proposed annexation. Rights of way adjacent to parcels within River Terrace are proposed for annexation to the city. Maintenance of these roads will be provided by a combination of the City of Tigard, City of Beaverton, and Washington County through intergovernmental agreements. Necessary improvements to the transportation system within River Terrace and surrounding area will be identified as part of the community plan.

Police – City of Tigard Police Department. The City of Tigard Police Department was notified of the proposed annexation and has no objections to the proposal. Tigard Police have capacity to provide adequate services to the most intense allowed use and providing services will not significantly reduce the level of services available to other land within the City of Tigard. The area is currently served by the Washington County Sheriff. Upon annexation, the area will be served by City of Tigard Police.

Fire – Tualatin Valley Fire and Rescue (TVF&R). The subject property is in Tualatin Valley Fire and Rescue’s (TVF&R’s) service area. The TVF&R District currently provides services to the entire area, both inside and outside of the City of Tigard. TVF&R has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations to developed and undeveloped land within the City of Tigard.

Parks–City of Tigard. The West Bull Mountain Concept Plan notes that the River Terrace vicinity is not located within the boundaries of a parks and recreation provider; therefore the subsequent community plan will need to identify a provider and adopt standards for development and maintenance of a parks system. The City of Tigard, named as one of the possible providers within the concept plan, will utilize its adopted standards to provide parks in conjunction with development following annexation of River Terrace.

CONCLUSION: Based upon the findings above it is concluded that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and will have sufficient capacity to serve annexation territory if developed generally to the most intense uses allowed as proposed by the concept plan. The comprehensive community plan and its associate implementation methods will ensure that annexation and development of the area will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard.

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

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1, Goal 11, Goal 12, and Goal 14. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

“GOAL 1 – CITIZEN INVOLVEMENT

Goal 1.1: The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate 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 2, 2011: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Scholls Ferry and SW Roy Rogers Roads. The City published notice of the hearing in *The Tigard Times* for two successive weeks (August 4, 2011 & August 11, 2011) prior to the August 23, 2011, public hearing. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties on August 2, 2010.

“GOAL 11 – PUBLIC FACILITIES AND SERVICES

Goal 11.1: Develop and maintain a stormwater system that protects development, water resources, and wildlife habitat.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive stormwater management system.

Policy 3. The City shall require the stormwater management system to comply with all applicable federal, state, and regional regulations and programs.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.”

Clean Water Services in partnership with the City of Tigard will be the ultimate provider of stormwater management within the River Terrace area and will be closely involved in the development of the community plan to ensure stormwater needs and applicable regulations will be met with future development. Throughout this review process, the city has been coordinating with CWS. The agency has requested its water quality facilities on the south side of Barrows Road be included in the proposed annexation area. CWS has budgeted to complete a basin-wide stormwater study that will include the River Terrace vicinity but has not begun the project at the time of this staff report.

Because CWS participated in the concept planning process, the city is aware of CWS concerns and regulatory needs pertaining to stormwater within the River Terrace vicinity. If the River Terrace annexation is approved, the city will request annexation of River Terrace into the CWS service boundary. No services will be provided prior to properties being located within the Tigard city limits.

“11.2 Secure a reliable, high quality, water supply to meet the existing and future needs of the community.

Policy 1. The City shall prioritize securing an interest in a high quality, long-term water supply, which is financially feasible and reliable, to serve the Tigard Water Service Area.

Policy 2. The City shall develop and maintain a water system master plan to coordinate the improvement and expansion of Tigard Water Service Area infrastructure to serve current and projected demand.”

The Tigard Water System Master Plan was approved in September 2010, which included the River Terrace vicinity. This plan studied current and future supply and demand considering population growth within areas currently served and those to be served, analyzed the existing system, and recommended capital improvements. The city is completing these improvements and upgrades. For example the city has ensured a long term water supply from the Clackamas River through a partnership with the City of Lake Oswego.

“Goal 11.3: Develop and maintain a wastewater collection system that meets the existing and future needs of the community.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive wastewater management system for current and projected Tigard residents.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.”

None of the parcels within the annexation area currently receive city wastewater services. There is currently no wastewater service within the majority of the River Terrace area. The city in agreements with CWS will be the ultimate provider of this service. The CWS Sanitary Sewer Master Plan was updated in 2009. The plan included servicing the River Terrace vicinity and included necessary improvements to ensure adequate capacity for development of these areas. These included upgrades to the Durham Treatment Facility, new pump stations, and replacement of pipes throughout the system.

“GOAL 12 - TRANSPORTATION

Goal 12.1 Develop mutually supportive land use and transportation plans to enhance the livability of the community.

Policy 1. The City shall plan for a transportation system that meets current community needs and anticipated growth and development.”

An updated Transportation System Plan (TSP) for the City of Tigard was adopted in 2010 as part of periodic review. The plan considered both problem and growth areas within the city and the urban services area, and was consistent with state and regional rules and policies. A multi-modal and balanced

approach was a key in the plan's development.

As part of the West Bull Mountain Concept Plan, the area was extensively modeled by Washington County. The focus was on impacts to the transportation system surrounding the area upon full urban build out. The area is currently accessible by SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Through the community planning process the city will address impacts to these major streets and ensure adequate and safe access to these streets from future local streets. The city will coordinate planning efforts with other affected agencies and jurisdictions. Any necessary traffic improvements and related findings will be adopted into the Tigard TSP.

“GOAL 14 - URBANIZATION

14.1. Provide and/or coordinate the full range of urban level services to lands and citizens within the Tigard City limits.

- 1. The City shall only approve the extension of City services:**
 - A. where applications for annexation for those properties have been approved; or**
 - B. in circumstances where applicable state and county health agencies have declared a potential or imminent health hazard pursuant to ORS 431.705 to 431.760 (Health Hazard Annexation or Service District Formation); or**
 - C. as outlined in the intergovernmental agreement regarding water provision within the Tigard Water Service Area.”**

The city will not approve extension of services prior to the proposed annexation of the area. Upon annexation, only police and long range planning services will be provided by the city. Extension of utilities and other services will not occur until after the adoption and amendment of the Community Plan, and associated updates of the applicable utility/infrastructure and financing plans. The one exception is city water which is already available to the five CWS sites south of Barrows Road and will continue after annexation.

“2. The City shall maintain, and amend when necessary, agreements with Washington County that recognizes the City as the ultimate provider of governance and identified services to the Tigard Urban Services Area.”

Only the five CWS properties are within the Tigard Urban Services Area (TUSA) boundary. Because of this the remainder of the annexation area is not subject to the TUSA. The city will be the ultimate provider of urban services and governance to the entirety of the annexation territory. This fact is recognized and reflected in an Intergovernmental Agreement (IGA) with Washington County. This agreement includes a provision for Washington County to temporarily provide planning services to the annexation area until the community plan is completed and adopted.

“3. The City shall, as needed, coordinate and/or participate in planning activities or development decisions within the Tigard Urban Services Area.”

While this is not a policy directly related to annexation, the city is clearly a participant in planning activities and development decisions within the Tigard Urban Services Area. Only the CWS properties are located within the current TUSA boundary. However, the city has coordinated with all jurisdictions and agencies within the annexation territory, including Washington County. A proposed IGA with Washington County requests that the County convene government representatives to amend the TUSA to include the River Terrace annexation area.

“4. The City shall protect the existing and future delivery of City services and only support the formation of a new service district, or expansion of existing districts, that will not create a conflict within the Tigard Urban Services Area.”

This is not an applicable policy to the proposed annexation. No new district or expansion of an existing district is proposed with this application.

- “5. The City shall enter into and maintain intergovernmental agreement with service districts operating within the Tigard Urban Service Area to:**
 - A. define short and long term service provision roles;**

- B. specify the terms and conditions of withdrawal of territory from service districts and the transition of capital facility ownership and administration to the City;**
- C. provide for the coordination of plans and programs to eliminate duplicity and minimize conflict; and**
- D. ensure that services are provided consistent with the City's adopted Public Facility Plan."**

With the exception of the five CWS properties, the proposed annexation area is not within the TUSA boundaries. The proposed annexation does not require an amendment to the TUSA. The city has coordinated with all jurisdictions and agencies within the annexation territory, and extension of services to the proposed annexation area will be accomplished pursuant to community plan for the area to be prepared by the city. This plan will be consistent with the city's Public Facility Plan and the Regional Transportation Plan (RTP).

"Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property."

The current Washington County zoning designations will be retained for the entire annexation area until adoption of the community plan. Appropriate Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C. (found on pages 7 & 8 of this report).

"Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation."

Capacity has been addressed above, consistent with this policy. The city will prepare a comprehensive community plan for River Terrace and vicinity in accordance with statewide goals and Metro policies. All systems and capacity issues will be fully addressed prior to urban level development within the area. Technical memoranda associated with the concept plan and current facility plans show that the area can be provided the appropriate level of services.

"Policy 3. The City shall approve proposed annexations based on findings that the request:

A. can be accommodated by the City's public facilities and services; and"

The future availability of public facilities and services has been addressed above, consistent with this policy.

"B. is consistent with applicable state statute."

As reviewed below, staff finds that the provisions of ORS 222 have been met, consistent with this policy.

"Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council."

No unincorporated islands will be created by the proposed annexation. A majority of the property owners within the proposed annexation area have submitted annexation petitions. In order to avoid creating islands within the area, the application proposal is to annex River Terrace in its entirety. To annex the entire area allows greater efficiency in planning and provision of future public services. Inviting additional parcels outside River Terrace to join the proposal was determined to be unnecessary at this time.

"Policy 6. The City shall periodically update and/or amend its Public Facility Plan to ensure the predictable and logical provision of urban services for areas anticipated to be within the Tigard city limits."

While this is not a policy directly related to annexation, it is noted that the city is currently updating its Public Facility Plan as part of periodic review. These updates are considering future growth of the city and all will, like the Tigard Waster System Master Plan, include River Terrace within the study areas.

CONCLUSION: There has been extensive communication and invitations for public participation in the application review process. The city has coordinated with all jurisdictions and agencies within the annexation territory. It is determined that the City of Tigard has the capacity and is the most efficient provider of urban services for River Terrace. If annexation is approved, conceptual plans adopted as part of the county's West Bull Mountain Concept Plan will be refined through the city's community planning process. These plans include utilities and infrastructure, parks, and transportation. Based upon the above findings, the proposed annexation is consistent with the city's applicable Comprehensive Plan goals and policies.

“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. A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.”

FINDINGS: The majority of the annexation area has the Washington County zoning designation FD20, with the exception of the five CWS parcels along the south side of Barrows Road. These are zoned R15 (Washington County). The county's FD20 zoning is applied to areas that are currently rural but are designated for future urban development. The city, as is consistent with Statewide Planning Goal 14, does not have any rural zoning districts or any that closely conform to the county's FD20 district.

The city has received written requests from the majority of the property owners in the annexation area to retain the existing Washington County zoning. These requests are consistent with the intentions of the city, which is to provide for a planned and orderly transition of River Terrace from rural to urban uses and service levels through the implementation of the community plan for the area. The requested retention of the County zoning will maintain existing rural level development while the city completes the development and adoption of the community plan; thereby ensuring that compliance with Statewide Planning Goals is not compromised by urban level development that is inconsistent with the city's future community plan for the annexation area.

Because the community plan will also include the utility corridor along SW Barrows and SW Scholls Ferry rights of way, the CWS storm detention sites south of Barrows Road, and the Tualatin Hills Parks and Recreation District pathway within the old Barrows right of way, all current county zoning will be retained within the entire annexation area until completion and adoption of the plan. Therefore, the CWS parcels will continue to be zoned R15 following annexation. The portion of the utility services corridor that is being withdrawn from the boundaries of the City of Beaverton is located in public right of way. The city does not zone right of way, and as such, the utility services corridor will remain public right of way.

CONCLUSION: The applicants have requested the Washington County FD20 zoning remain in place after annexation. Urban level zoning designations will be applied to River Terrace at the adoption of a comprehensive community plan. The code allows zone changes after the annexation has been approved. Maintaining Washington County zoning designations until after annexation is consistent with this code regulation.

“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 notice at least 10 business days prior to the hearing; the city mailed notice on August 2, 2010, and published public notice in *The Tigard Times* for two successive weeks (August 4, 2010 & August 11, 2010) prior to the August 23, 2011 public hearing.

“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;”

FINDINGS: The city’s Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals and as reviewed above, the annexation proposal is consistent with Tigard Comprehensive Plan goals and policies.

CONCLUSION: The proposal is consistent with the city’s acknowledged Comprehensive Plan. Therefore, the proposal complies with statewide planning goals, including citizen involvement, public facilities, transportation, and urbanization.

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

Oregon Revised Statutes Chapter 222 – City Boundary Changes; Consolidations; Withdrawals is applicable to annexations. The applicable subsections are addressed below:

FINDINGS:

“ORS 222.111. Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.”

The utility services corridor is comprised solely of public right of way and provides a continuous extension of the city boundary to the CWS properties and River Terrace. Therefore, the proposed annexation meets the state standard for contiguity under ORS 222.111.

The Oregon courts have interpreted ORS 222 to require that an annexation be reasonable and not arbitrary, based on the totality of the circumstances. This requirement comes from *PGE v. Estacada*, 195 Or 145 (1952). The Oregon Supreme Court identified factors to demonstrate reasonableness:

1. The contiguous territory represents the actual growth of the city beyond its city limits;
2. The property is valuable by reason of its adaptability for prospective town uses;
3. The land is needed for extension of streets and to supply utilities;
4. The property and the city will mutually benefit from the annexation.

In this instance, River Terrace, is connected to the current boundaries of the city by the utility services corridor, a public right of way. The proposed annexation satisfies the reasonableness requirement because it represents growth beyond the city limits that will accommodate Tigard’s 20-year need for residential lands. This action also makes it possible to provide needed urban lands to accommodate Metro’s housing and employment needs as identified in various Growth Management Reports. As identified in the West Bull Mountain Concept Plan, the area can be comprehensively planned for prospective urban uses including a mix of residential types, commercial centers, civic and institutional uses, and parks and open spaces. Annexation will also ensure that transportation needs will be accommodated, including managing traffic impacts within the area and on the surrounding system. Benefits for River Terrace include the community planning and services (provided by the city and its partners) necessary for urban level development. The applicant provides a more detailed discussion of this reasonableness within the narrative submitted with the application materials. Those findings are included by reference into this staff report.

“(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.”

This annexation is being initiated by the owners in the annexation area. Signed petitions are found within the application materials. The proposal satisfies this procedural requirement.

“(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.”

This section does not include any applicable substantive approval criteria. The Application does not include a proposal regarding the rate of taxation for the Property. The applicant recognizes that the city cannot assess taxes on the Property in an amount that exceeds the highest city tax rate for the year. The proposal is consistent with this section.

“(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.”

The applicant states that the annexation area does not include land currently located in a district named in ORS 222.465 or ORS 222.510. However, there are five properties owned by Clean Water Services located on the south side of the SW Barrows Road. These five properties are located within the Washington County Enhanced Sherriff's Patrol District and the Urban Road Maintenance District. Three of the five parcels are also within a Washington County Service District for Lighting. The proposed ordinance includes withdrawal of these five properties from the affected service districts. The application is consistent with this procedural requirement.

“(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.”

This section is not applicable because the application satisfies the requirements of ORS 222.170, as described below.

“(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.”

Because the annexation will not be submitted to a vote of the electors, this section is not applicable to the application.

“(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.”

Because the annexation will not be submitted to a vote of the electors, this section is not applicable to the Application.

“222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of 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.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

(7) For the purpose of this section, ORS 222.125 and 222.170, “owner” or “landowner” means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel’s land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.”

The city charter does not require that the city submit the question of the proposed annexation to the electors of the city for their approval or rejection. A public hearing in accordance with this section is being held on August 23, 2011 to hear an owner initiated request to annex the River Terrace area and utility corridor into the City of Tigard. Notice was published in the *Tigard Times* for two consecutive weeks prior to the hearing and notices were posted in four public places (Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Roy Rogers Road and Scholls Ferry Road) on August 2, 2011. This application has processed in accordance with applicable law.

“222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in 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.”

This statute is not applicable since the proposed annexation satisfies the requirements under 222.170.

“222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.”

More than half (81%) of the property owners, who also own more than half the land (92%) therein representing more than half of the assessed value of all real property (81%) have filed a petition to annex into the City of Tigard. These petitions represent a percentage of owners that exceeds the applicable thresholds for annexation without public election. Six (6) of the 43 properties within River Terrace are publicly owned (Clean Water Services and Portland General Electric). Since petitions to annex these areas were submitted, then they can be considered in this determination. The annexation request is being processed in accordance ORS 222.170(1) without an election.

“222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505.”

The application includes 28 petitions, all of which were filed within a year of each other. These petitions meet the thresholds required by ORS 222.170(1). These petitions are found within the land use file (ZCA2011-00001), which is public record. Therefore, the application satisfies this criterion.

“222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city’s ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited.”

The statements of consent are being offered voluntarily and at the initiation of the owners of the annexation area. Therefore, this section is not applicable.

“222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4).”

This section does not include any applicable substantive approval criteria, but it does include procedural provisions that govern the city's actions. If the annexation is approved, the city will send necessary information to Metro for final action. Metro will map the annexation and make the appropriate notifications to the Secretary of State's Archives Division, the county elections supervisor, and the county assessor.

“222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177.”

The Applicant requested in the narrative that the city specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State. Because the proposal also involved withdrawal from the City of Beaverton, a coordinated date for both withdrawal and annexation was determined, September 30, 2011. This is a later date than the date of filing with the Secretary of State, which is allowed by and meets the requirements of subsection (2) of ORS 222.180. The city has confirmed with the applicant's representative that the September 30, 2011 date is satisfactory.

CONCLUSION: The proposed annexation has been requested by a majority of the property owners within River Terrace and a public election is not required. The annexation area is contiguous to the city. This utility corridor in Barrows Road/Scholls Ferry Road will allow extension of existing utilities and services to the proposed annexation area. Properties within Washington County service districts will be removed from those districts as part of an annexation approval. Per the above findings, the proposed annexation is consistent with ORS 222.

“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. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) &(e) and 3.09.050) below:

FINDINGS:

“Metro 3.09.045 (d) and (e)”

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

“(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;”

There are two applicable urban service agreements: Urban Planning Area Agreement and Tigard Urban Service Agreement. Only the five CWS parcels are within the agreement area boundaries.

The Urban Planning Area Agreement (UPAA – 2006) between the city and the county provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the city is the ultimate service provider of urban services within the Tigard Urban Service Area.

The city has followed all processing and notice requirements in the *UPAA*. 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.” A request for comments was sent to the Washington County Long Range Planning Division. Although there were written comments submitted, a phone conversation took place on August 5, 2011 between both planners at both the city and county to address minor questions raised by the county about the applicable review criteria.

The Tigard Urban Service Agreement (TUSA – 2004) is between the city, county, Metro, and the service districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. The city has coordinated with affected jurisdictions and service agencies throughout the review process and will continue this coordination as the community plan is developed. The provision of services is addressed above at the beginning of this report.

“(B) Any applicable annexation plan adopted pursuant to ORS 195.205;”

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This statute is not applicable since this annexation was initiated by the property owners. The applicants have submitted petitions to annex signed by the property owners.

“(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;”

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. Many of these districts will be the same following annexation, including fire and school districts. The majority of the area is not currently served with water or sewer, which will be provided by CWS. If annexation is approved, the city will work to annex the area into CWS service boundaries to include it in service agreements already set up with the city. Although the properties south of Scholls Ferry Road were brought into the UGB in 2002, they still remain outside of the Metro boundary. The city will also initiate a Metro boundary change, if the proposed annexation is approved. The city will work with Metro during the boundary change to identify and amend any applicable planning agreements adopted pursuant to ORS195.020(2).

“(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and”

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. The development of the community plan and its public facility elements will be coordinated consistent with the new facility plan being prepared through periodic review and with CWS and TVF& R facility plans as required by Statewide Planning Goal 14, Urbanization. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

“(E) Any applicable comprehensive plan; and”

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

“(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.”

River Terrace was brought into the Portland Metro UGB in 2002 to ensure future regional housing and employment needs would be met. Since that time, the area has not significantly changed from its rural level development. One reason for this is the inadequate level of services currently available to the area within Washington County. The city is the most efficient provider of urban level services and has the capacity to serve the area effectively. The proposed annexation will not affect the provision of public facilities and services. Conceptual and master plans exist for the River Terrace Area, but provision of services, including financing, will be greater defined through the community planning process, which is another service the City of Tigard is able to provide the area. However, none of these city services are available without annexation into the city limits.

“(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.”

The property to be annexed is not outside the UGB. This criterion is not applicable.

“Metro 3.09.050 (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 subsection (d) below, and that includes at a minimum the following:”

Note that this report is available 15 days before the hearing (August 8, 2011 for an August 23, 2010 hearing).

“(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 can be available to the affected territory prior to urban level development. The city will prepare a comprehensive community plan to provide for all urban level services.

“(2) 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 the five CWS parcels along SW Barrows Road will be withdrawn from the Washington County Enhanced Sheriff's Patrol District & Urban Road Maintenance District. Three of these five parcels will also be withdrawn from Washington County Service Districts for Lighting.

“(3) The proposed effective date of the boundary change.”

The public hearing will take place August 23, 2011. If the Council adopts findings to approve ZCA2011-00001, the effective date of the annexation will be September 30, 2011.

“(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.”

The applicant has provided findings within a narrative that addresses the applicable criteria.

“(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.”

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

CONCLUSION: As shown in the above findings the proposed annexation of River Terrace satisfies the Metro Code regulations related to Local Government Boundary Changes.

**“(Tigard CDC 18.390.060)
4. Any applicable comprehensive plan policies; and”**

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

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

FINDINGS: Resolution 11-08 extended previously approved incentives for property owners that voluntary annex into the city limits through February 2012. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. To ensure property tax increases are properly phased, the phasing language is included in the proposed ordinance. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

CONCLUSION: Based upon previous and above findings, all applicable provisions of the city's implementing ordinances are satisfied.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department Public Information Officer, Jim Wolf, commented that there were no issues with the project.

The city's Public Works Department, Community Development Building Division and Development Services Division were sent a request for comments. No comments were received.

SECTION VIII. AGENCY COMMENTS

Tualatin Valley Fire and Rescue has reviewed the proposal and has no objections to it.

The following agencies and jurisdictions were sent a request for comments but provided no formal written comments: City of Beaverton, City of King City, Metro – Land Use & Planning, Washington County – Long Range Planning, Washington County Assessment & Taxation and Cartography, Portland General Electric, Tigard-Tualatin School District, Beaverton School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Verizon, and Qwest Communications.

PREPARED BY: Cheryl Caines
Associate Planner

August 8, 2011
DATE

REVIEWED BY: Ron Bunch
Community Development Director

August 8, 2011
DATE

Supplemental Findings of Fact and Conclusions of Law

The City of Tigard adopts the following findings to be applicable along with all findings contained in the staff report.

“Chapter 18.320.020.B: Approval Process and Standards.

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;”

FINDINGS: The City of Tigard Comprehensive Plan’s Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to stormwater management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition, the comprehensive Plan Glossary includes public safety, parks, and transportation.

A conceptual plan was prepared for each service as part of the West Bull Mountain Concept Plan. Background documentation including technical memorandums regarding alternative water supplies, transportation, stormwater, and sewer infrastructure needs, was adopted as part of the Concept Plan findings, illustrate that these services can be provided to River Terrace. Subsequent to annexation, the City will prepare a Community Plan for the annexation territory which will involve the planning for specific land uses and provision of services within the annexation territory. Urban development of the annexation territory will occur pursuant to the community plan. Services are available to the annexation territory and will be extended pursuant to the community plan as development occurs, with the exception of police and fire which will be provided immediately upon annexation.

The proposed annexation area is designated as rural with FD20 zoning and urban services are not currently available. Subsequent to the annexation it is feasible for urban services to be extended to the annexation territory as development occurs. The annexation will also provide urban land to meet the Portland Metropolitan Region’s employment and housing needs.

Water – City of Tigard. In September 2010 the city adopted the Tigard Water System Master Plan, which looks at current and projected supply and demands for areas currently served and to be served by the City of Tigard. This plan included the proposed annexation area. Recommended upgrades to ensure future capacity requirements are being or have been completed by the city. A 16-inch water main in SW Barrows Road and a 16-in main in SW Leeding Lane are stubbed to the largest portion of the annexation area. City of Tigard water is currently available to the five CWS detention pond sites south of SW Barrow Road.

The West Bull Mountain Concept Plan reviewed potential suppliers of water for the River Terrace vicinity and acknowledged that “water provision is most efficient from the east,” and that the City of Tigard and the Tigard Water District are potential providers. Because the Tigard Water System Master Plan anticipates the City providing service to the annexation territory and because the City has capacity to provide services to the annexation territory, the City Council finds that water services can be readily extended into the annexation territory, as development occurs.

Sewer – City of Tigard/Clean Water Services. The city through agreements with Clean Water Services (“CWS”) is and will be the service provider of sewer to the proposed annexation area. The five CWS detention pond sites are not developed with uses that necessitate sanitary sewer service. The majority of River Terrace is not currently served, but can be as shown in a 2009 CWS Sanitary Sewer Service Master Plan, which included the annexation area within study areas of anticipated growth. The plan calls out pump stations and trunk lines necessary to reach the Durham treatment plant, which will serve the future growth in River Terrace and surrounding areas. Because CWS is the existing service provider to the annexation territory and because the 2009 CWS Sanitary Sewer Service Master Plan anticipates provision of urban services to the annexation territory, the City Council finds that sewer services can be readily extended into the annexation territory, as development occurs.

Drainage – Clean Water Services. Clean Water Services in partnership with the City of Tigard will be the ultimate provider of stormwater services in River Terrace. There are Washington County pipes draining road water into nearby creeks along SW Roy Rogers Road. CWS has storm lines within the unincorporated urban areas to the west of River Terrace. The city will work with CWS a comprehensive stormwater plan to ensure water quality with the Tualatin River Basin and protect Goal 5 resources within the area will be developed as part of the community plan for the River Terrace vicinity. Because the city has coordinated with CWS who has posed no objections to the proposed annexation, the City Council finds that stormwater services can be readily extended to the annexation territory, as development occurs.

Streets – City of Tigard Engineering Division. The proposed annexation area is accessed by SW Barrows Road, SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Existing access will not be affected by the proposed annexation. Rights of way adjacent to parcels within River Terrace are proposed for annexation to the city. Maintenance of these roads will be provided by a combination of the City of Tigard, City of Beaverton, and Washington County through intergovernmental agreements. Necessary improvements to the transportation system within River Terrace and surrounding area will be identified as part of the community plan. Because there exist adequate streets to access the annexation territory and because the community plan will identify methods for financing and provision of street improvements to serve future urban development, the City Council finds that streets and transportation services can be readily extended throughout the annexation area from existing streets, as development occurs.

Police – City of Tigard Police Department. The City of Tigard Police Department was notified of the proposed annexation and has no objections to the proposal. Tigard Police have capacity to provide adequate services to the most intense allowed use and providing services will not significantly reduce the level of services available to other land within the City of Tigard. The area is currently served by the Washington County Sherriff. Upon annexation, the area will be served by City of Tigard Police. Because of the proximity of the annexation territory to the city, and because the Tigard Police Department has the capacity to serve the annexation area, the City Council finds that police services can be readily provided to the annexation area, upon annexation.

Fire – Tualatin Valley Fire and Rescue (“TVF&R”). The subject property is in TVF&R’s service area. The TVF&R District currently provides services to the entire area, both inside and outside of the City of Tigard. TVF&R has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations to developed and undeveloped land within the City of Tigard. Because TVF&R is the current service provider and because the City coordinated with TVF&R which has raised no objection to the proposed annexation, the City Council finds that the fire services can readily be provided to the annexation area, upon annexation.

Parks–City of Tigard. The West Bull Mountain Concept Plan notes that the River Terrace vicinity is not located within the boundaries of a parks and recreation provider. The community plan will identify a provider and adopt standards for development and maintenance of a parks system in the annexation area. The City of Tigard, named as one of the possible providers within the concept plan, will utilize its adopted standards to provide parks in conjunction with development following annexation of River Terrace. Because of the proximity of the annexation territory to the boundaries of potential park service providers, and because the City can provide park services, the City Council finds that park services can be readily extended to the annexation territory, as development occurs.

CONCLUSION: Based upon the findings above it is concluded that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory, can readily be extended into the annexation territory as development occurs, and will have sufficient capacity to serve annexation territory if developed generally to the most intense uses allowed as proposed by the concept plan. The comprehensive community plan and its associate implementation methods will ensure that annexation and development of the area will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard. Therefore, the proposed annexation meets this standard.

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

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1, Goal 11, Goal 12, and Goal 14. As demonstrated below, City Council finds that the proposed annexation satisfies all of the applicable Comprehensive Plan policies.

“GOAL 1 – CITIZEN INVOLVEMENT

Goal 1.1: The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate 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 2, 2011: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Scholls Ferry and SW Roy Rogers Roads. The City published notice of the hearing in *The Tigard Times* for two successive weeks (August 4, 2011 & August 11, 2011) prior to the August 23, 2011, public hearing. In addition, the City maintains a list of interested parties organized by geography. Notice was mailed to interested parties on August 2, 2010.

The city also provided notice and sought comment regarding the proposed annexation from the following affected units of government: Washington County, CWS, Beaverton, Metro, Tualatin Valley Fire & Rescue, Tualatin Hills Parks & Recreation District, Tigard Water District, Intergovernmental Water Board, King City, Portland General Electric, Tigard-Tualatin School District, Beaverton School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Verizon, Qwest Communications and Washington County CPO 4B. None of these agencies have expressed objections to the proposed annexation, and all have had the opportunity to participate in the process.

Clean Water Services ("CWS") owns five (5) parcels within the Annexation Area and is one of the petitioners requesting approval of the Annexation. As such, CWS' actions indicate it is in support of the Annexation. The City of Beaverton approved the withdrawal of portions of the rights-of-way of SW Barrows Road and SW Scholls Ferry Road to allow these rights-of-way to be included within the Annexation. Therefore, the City of Beaverton's actions have facilitated the Annexation. Because the City has adhered to the procedures of its citizen involvement program and has provided an opportunity for all affected agencies and jurisdictions to be involved in the City annexation process, the City Council finds this standard to be satisfied.

“GOAL 11 – PUBLIC FACILITIES AND SERVICES

Goal 11.1: Develop and maintain a stormwater system that protects development, water resources, and wildlife habitat.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive stormwater management system.

Policy 3. The City shall require the stormwater management system to comply with all applicable federal, state, and regional regulations and programs.

Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.”

Clean Water Services in partnership with the City of Tigard will be the ultimate provider of stormwater management within the River Terrace area and will be closely involved in the development of the community plan to ensure stormwater needs and applicable regulations will be met with future development. Throughout the annexation review process, the city has coordinated with CWS. The agency has requested its water quality facilities on the south side of Barrows Road be included in the proposed annexation area. CWS has budgeted to complete a basin-wide stormwater study that will include the River Terrace vicinity but has not begun the project at the time of this staff report.

Because CWS participated in the concept planning process, the city is aware of CWS' regulatory needs pertaining to stormwater within the River Terrace vicinity. Upon annexation into the city, the city will request annexation of River Terrace into the CWS service boundary. No services will be provided prior to

properties being located within the Tigard city limits.

Based on the city's ongoing coordination and collaboration with CWS, the forthcoming CWS stormwater study that includes the annexation territory, the inclusion of the CWS stormwater facilities within the annexation territory, and the lack of city involvement in provision of stormwater services beyond the city limits, the City Council finds that this standard is satisfied.

“Goal 11.2 Secure a reliable, high quality, water supply to meet the existing and future needs of the community.

Policy 1. The City shall prioritize securing an interest in a high quality, long-term water supply, which is financially feasible and reliable, to serve the Tigard Water Service Area.

Policy 2. The City shall develop and maintain a water system master plan to coordinate the improvement and expansion of Tigard Water Service Area infrastructure to serve current and projected demand.”

The Tigard Water System Master Plan was approved in September 2010, which included the River Terrace area. This plan studied current and future supply and demand considering population growth within areas currently served and those to be served, analyzed the existing system, and recommended capital improvements. The city is completing these improvements and upgrades. For example the city has ensured a long term water supply from the Clackamas River through a partnership with the City of Lake Oswego.

Because the city's Water Master Plan anticipates provision of water service to the annexation territory and because the proposed annexation will not adversely impact the city's ability to provide high quality water to the existing city users or the users within the proposed annexation area, and because the city will extend water related infrastructure to the annexation area pursuant to the terms of the Water Master Plan, the City Council finds that this standard is satisfied.

“Goal 11.3: Develop and maintain a wastewater collection system that meets the existing and future needs of the community.

Policy 2. The City shall continue to collaborate with Clean Water Services in the planning, operation, and maintenance of a comprehensive wastewater management system for current and projected Tigard residents.

Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.”

None of the parcels within the annexation area currently receive city wastewater services. There is currently no wastewater service within the majority of the River Terrace area. The city in agreements with CWS will be the ultimate provider of this service. The CWS Sanitary Sewer Master Plan was updated in 2009. The plan included servicing the River Terrace vicinity and included necessary improvements to ensure adequate capacity for development of these areas. These included upgrades to the Durham Treatment Facility, new pump stations, and replacement of pipes throughout the system.

Because of the city's ongoing coordination and collaboration with CWS throughout the annexation process, and because of the city's forthcoming community plan that will be developed in coordination with CWS and its Sanitary Sewer Master Plan, and because the extension of sewer services to the annexation territory will be provided in accord with the community plan, and because such services will not be provided to properties outside of the city boundaries, the City Council finds that this standard is satisfied.

“GOAL 12 - TRANSPORTATION

Goal 12.1 Develop mutually supportive land use and transportation plans to enhance the livability of the community.

Policy 1. The City shall plan for a transportation system that meets current community needs and

anticipated growth and development.”

An updated Transportation System Plan (TSP) for the City of Tigard was adopted in 2010 as part of periodic review. The plan considered both problem and growth areas within the city and the urban services area, and was consistent with state and regional rules and policies. A multi-modal and balanced approach was a key in the plan’s development.

As part of the West Bull Mountain Concept Plan, the area was extensively modeled by Washington County. The focus was on impacts to the transportation system surrounding the area upon full urban build out. The area is currently accessible by SW Scholls Ferry Road, SW Roy Rogers Road, and SW Bull Mountain Road. Through the community planning process the city will address impacts to these major streets and ensure adequate and safe access to these streets from future local streets. The city will coordinate planning efforts with other affected agencies and jurisdictions. Any necessary traffic improvements and related findings will be adopted into the Tigard TSP.

Because the city will develop a community plan for the annexation territory which will include mutually supportive land use and transportation policies, including any needed amendment to the TSP, and because the community plan and any associated TSP amendments will provide the planning and regulatory basis for the city to ensure that its transportation system will meet the current needs of the community as well as the needs associated with growth due to development of the annexation territory and other factors, the City Council finds that this standard is satisfied.

“GOAL 14 - URBANIZATION

“Goal 14.1. Provide and/or coordinate the full range of urban level services to lands and citizens within the Tigard City limits.

- “1. The City shall only approve the extension of City services:**
- A. where applications for annexation for those properties have been approved; or**
 - B. in circumstances where applicable state and county health agencies have declared a potential or imminent health hazard pursuant to ORS 431.705 to 431.760 (Health Hazard Annexation or Service District Formation); or**
 - C. as outlined in the intergovernmental agreement regarding water provision within the Tigard Water Service Area.”**

The city will not approve extension of services prior to the proposed annexation of the area. Upon annexation, only police and long range planning services will be provided by the city. Extension of utilities and other services will not occur until after the adoption of the Community Plan, and associated updates of the applicable utility/infrastructure and financing plans. The one exception is city water which is already available to the five CWS sites south of Barrows Road and will continue after annexation.

Because the city will not provide extension of urban services subsequent to the approval of this annexation application, the City Council finds that this standard is satisfied.

“2. The City shall maintain, and amend when necessary, agreements with Washington County that recognizes the City as the ultimate provider of governance and identified services to the Tigard Urban Services Area.”

Of the annexation territory, only the five CWS properties are within the Tigard Urban Services Area (TUSA) boundary. Because of this the remainder of the annexation territory is not subject to the TUSA. Pursuant to the terms of the TUSA, the proposed annexation does not require amendment of the city’s status as a service provider under the TUSA.

Furthermore, the city will be the ultimate provider of the identified urban services and governance to the entirety of the annexation territory. This fact is recognized and reflected in an Intergovernmental Agreement (IGA) that is currently being negotiated with Washington County. This agreement includes a provision for Washington County to temporarily provide planning services to the annexation area until the community plan is completed and adopted.

Because the TUSA identifies the city as an ultimate provider of governance and identified services within

the TUSA, and because the proposed annexation does not require an amendment of the TUSA, and any future amendment of the TUSA by the city must comply with this standards, and because the city will be the ultimate provider of the services specified in the above findings, the City Council finds that this standard is satisfied.

“3. The City shall, as needed, coordinate and/or participate in planning activities or development decisions within the Tigard Urban Services Area.”

While this is not a policy directly related to annexation, the city is clearly a participant in planning activities and development decisions within the Tigard Urban Services Area. Only the CWS properties are located within the current TUSA boundary. However, the city has coordinated with all of the following jurisdictions and agencies within the annexation territory by providing each with notice and seeking comment. The City also provided notice and sought comment regarding the proposed annexation from the following affected units of government; Washington County, CWS, Beaverton, Metro, Tualatin Valley Fire & Rescue, Tualatin Hills Parks & Recreation District, Tigard Water District, Intergovernmental Water Board, King City, Portland General Electric, Tigard-Tualatin School District, Beaverton School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Verizon, Qwest Communications, and Washington County CPO 4B.

None of these agencies have expressed objections to the proposed annexation, and all have had the opportunity to participate in the process. The city’s coordination efforts have resulted in the aforementioned collaboration with CWS and inclusion of CWS property within the annexation area, per the request of CWS. Also, a proposed IGA with Washington County requests that the County convene government representatives to amend the TUSA to include the River Terrace annexation area. Also, on August 16, 2011, the City of Beaverton approved the withdrawal of portions of the rights-of-way of SW Barrows Road and SW Scholls Ferry Road to allow these rights-of-way to be included within the Annexation. Therefore, the City of Beaverton’s actions have facilitated the Annexation.

Because the city has provided notice to and sought comment from all of the affected agencies and jurisdictions, and because the city has coordinated with, considered and balanced the needs of all affected agencies, the City Council finds that this standard has been satisfied.

“4. The City shall protect the existing and future delivery of City services and only support the formation of a new service district, or expansion of existing districts, that will not create a conflict within the Tigard Urban Services Area.”

This is not an applicable policy to the proposed annexation. No new district or expansion of an existing district is proposed with this application.

“5. The City shall enter into and maintain intergovernmental agreement with service districts operating within the Tigard Urban Service Area to:

- A. define short and long term service provision roles;**
- B. specify the terms and conditions of withdrawal of territory from service districts and the transition of capital facility ownership and administration to the City;**
- C. provide for the coordination of plans and programs to eliminate duplicity and minimize conflict; and**
- D. ensure that services are provided consistent with the City’s adopted Public Facility Plan.”**

With the exception of the five CWS properties, the proposed annexation area is not within the TUSA boundaries. The proposed annexation does not require an amendment to the TUSA. The city has coordinated with all jurisdictions and agencies within the annexation territory, and extension of services to the proposed annexation area will be accomplished pursuant to community plan for the area to be prepared by the city. This plan will be consistent with the city’s Public Facility Plan and the Regional Transportation Plan (RTP).

Because the annexation does not require amendment of the TUSA which is the IGA that defines the short and long term service provision roles within the Tigard Urban Services Area, sets terms for withdrawal and capital facilities ownership, provides for the coordination of plans, and ensures that services are provided pursuant to the city’s Public Facilities Plan, and because this annexation consistent with the TUSA, and because services to the annexation territory will be provided pursuant to the community plan and the

Public Facilities Plan, the City Council finds that this standard is satisfied.

“Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.

Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.”

The current Washington County zoning designations will be retained for the entire annexation area until adoption of the community plan. Appropriate Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C.

Because the annexation is consistent with the TUSA and because the continued application of the Washington County zoning designations is consistent with this policy’s purposes of limiting the impacts of new development and maintaining the same zoning designations prior to comprehensive planning for the annexation territory and because the city is negotiating an IGA with Washington County for the County to continue provision of short term planning services until the city adoption of a community plan which assigns city zoning, the City Council finds that this standard is satisfied.

“Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.”

Capacity has been addressed above, consistent with this policy. The city will prepare a comprehensive community plan for River Terrace and vicinity in accordance with statewide goals and Metro policies. All systems and capacity issues will be fully addressed prior to urban level development within the area. Technical memoranda associated with the concept plan and current facility plans show that the area can be provided the appropriate level of services.

Because all applicable urban service providers have the capacity to serve the annexation territory or such capacity can be developed pursuant to the community plan, the City Council finds that this standard is satisfied.

“Policy 3. The City shall approve proposed annexations based on findings that the request:

A. can be accommodated by the City’s public facilities and services; and”

The future availability of public facilities and services has been addressed above, consistent with this policy. Because services will be provided consistent with the community plan an Public Facilities Plan, the City Council finds that this standard is satisfied.

“B. is consistent with applicable state statute.”

As reviewed below, staff finds that the provisions of ORS 222 have been met, consistent with this policy. Because the annexation is consistent with the ORS 222.170 provisions for non-voter approved annexations, the City Council finds that this standard is satisfied.

“Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.”

No unincorporated islands will be created by the proposed annexation. A majority of the property owners within the proposed annexation area have submitted annexation petitions. In order to avoid creating islands within the area, the application proposal is to annex River Terrace in its entirety. To annex the entire area allows greater efficiency in planning and provision of future public services. Inviting additional parcels outside River Terrace to join the proposal was determined to be unnecessary at this time.

Because the city has included certain properties that did not request annexation within the boundaries of the proposed annexation in order to annex a regular shaped territory with clear borders of the existing

River Terrace or Area 64 properties that were brought into the UGB as an established geographic area in order to avoid creating any unincorporated islands as well as to enable the effective and efficient extension of urban services along the utility corridor, and because this standard is hortatory, the City Council finds that this standard is satisfied.

“Policy 6. The City shall periodically update and/or amend its Public Facility Plan to ensure the predictable and logical provision of urban services for areas anticipated to be within the Tigard city limits.”

While this is not a policy directly related to annexation, it is noted that the city is currently updating its Public Facility Plan as part of periodic review. These updates are considering future growth of the city and all will, like the Tigard Waster System Master Plan, include River Terrace within the study areas.

Because the city is currently undertaking an amendment of the Public Facilities Plan that will reflect the interests of the city to ensure the predictable and logic provision of urban services to the annexation territory and all other areas anticipated for future annexation, the City Council finds that this standard is satisfied.

CONCLUSION: There has been extensive communication and invitations for public participation in the application review process. The city has coordinated with all jurisdictions and agencies within the annexation territory. It is determined that the City of Tigard, TVF&R, and CWA have the capacity and are the most efficient provider of urban services for River Terrace. Upon annexation, conceptual plans adopted as part of the county’s West Bull Mountain Concept Plan will be refined through the city’s community planning process. These plans include utilities and infrastructure, parks, and transportation. Based upon the above findings, the City Council finds that the proposed annexation is consistent with the city’s applicable Comprehensive Plan goals and policies.

“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. A request for a zone change can be processed concurrently with an annexation application or after the annexation has been approved.”

FINDINGS: The majority of the annexation area has the Washington County zoning designation FD20, with the exception of the five CWS parcels along the south side of Barrows Road. These are zoned R15 (Washington County). The county’s FD20 zoning is applied to areas that are currently rural but are designated for future urban development. The city, as is consistent with Statewide Planning Goal 14, does not have any rural zoning districts or any that closely conform to or implements the county’s FD20 district.

The city has received written requests from the majority of the property owners in the annexation area to retain the existing Washington County zoning. These requests are consistent with the intentions of the city, which is to provide for a planned and orderly transition of River Terrace from rural to urban uses and service levels through the implementation of the community plan for the area. The requested retention of the County zoning will maintain existing rural level development while the city completes the development and adoption of the community plan; thereby ensuring that compliance with Statewide Planning Goals is not compromised by urban level development that is inconsistent with an acknowledged comprehensive plan and the city’s future community plan for the annexation area.

Because the community plan will also include the utility corridor along SW Barrows and SW Scholls Ferry rights-of-way, the CWS storm detention sites south of Barrows Road, and the Tualatin Hills Parks and Recreation District pathway within the old Barrows right-of-way, all current county zoning will be retained within the entire annexation area until completion and adoption of the plan. Therefore, the CWS parcels

will continue to be zoned R15 following annexation. The portion of the utility services corridor that is being withdrawn from the boundaries of the City of Beaverton is located in public right of way. The city does not zone right of way, and as such, the utility services corridor will remain public right of way. The city is in the process of finalizing an IGA with Washington County for the county to apply its zoning code within the annexation area until the community plan adopts city zoning for the area.

CONCLUSION: Consistent with the provisions of TDC 18.320.0220.C, the annexation applicants have requested zoning other than the city's zoning district which most closely implements the county zoning, namely requesting that the Washington County FD20 zoning remain in place after annexation. This request is consistent with the provisions allowing applicants to request and different zoning. The request is also consistent with the purpose and intent of the provisions, as there is not a city zoning district which closely implements the existing county designations and retention of county zoning ensures the maintenance of the rural character of the annexation territory prior to the adoption of the community plan. The City Council finds that the purposes and terms of this provision are met without the city being required to apply a city designation, as retention of county zoning has been requested by the applicants and ensures the effective community planning and appropriate, orderly, efficient, and timely development of annexation territory. Urban level zoning designations will be applied to River Terrace at the adoption of a comprehensive community plan. The code allows zone changes after the annexation has been approved. Maintaining Washington County zoning designations until after annexation is consistent with this code regulation.

“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 notice at least 10 business days prior to the hearing; the city mailed notice on August 2, 2010, and published public notice in *The Tigard Times* for two successive weeks (August 4, 2010 & August 11, 2010) prior to the August 23, 2011 public hearing.

“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;”

FINDINGS: The city's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. The city comprehensive plan contains adequate policy guidance to control the annexation and therefore the city is not required to directly apply the Statewide Planning Goals to the annexation pursuant to OAR 660-014-0060 (addressed in detail below). Consistent with the above findings of fact and conclusions of law, the annexation proposal is consistent with Tigard Comprehensive Plan goals and policies, and therefore consistent with the Statewide Planning Goals..

CONCLUSION: Because the proposal is consistent with the city's acknowledged Comprehensive Plan, and therefore complies with all of the Statewide Planning Goals, the City Council finds that this standard is satisfied.

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

Oregon Revised Statutes Chapter 222 – City Boundary Changes; Consolidations; Withdrawals is applicable to annexations. The sections of ORS 222 that are applicable to this annexation are addressed below. Additionally, various Oregon Administrative Rules can apply to an annexation. Such OARs are addressed below.

FINDINGS:

“ORS 222.111. Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the

annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.”

The utility services corridor is comprised solely of public right of way and provides a continuous extension of the city boundary to the CWS properties and River Terrace. Therefore, by annexing the utility services corridor along with the River Terrace area, the city provides the geographic means for extension of services to the River Terrace area as well as extending the boundaries of the city only to lands contiguous to the city. Therefore, the City Council finds that the proposed annexation meets the state standard for contiguity under ORS 222.111.

However, the Oregon courts have interpreted ORS 222 to also require that an annexation be reasonable and not arbitrary, based on the totality of the circumstances. This requirement comes from *PGE v. Estacada*, 195 Or 145 (1952). The Oregon Supreme Court identified the following four factors to be considered in demonstrating reasonableness. None of these factors are determinative and all are to be considered in the totality of the circumstances. As set out in the following findings, the City Council finds that the proposed annexation meets the reasonableness standard.

1. The contiguous territory represents the actual growth of the city beyond its city limits;

The annexation territory is contiguous to the city boundaries. The annexation territory is the actual growth of the city beyond its current limits. No additional growth is associated with this annexation and no unincorporated islands are created by this annexation. Because the contiguous annexation territory represents the actual growth of the city, the City Council finds that this standard has been satisfied.

2. The property is valuable by reason of its adaptability for prospective town uses;

The annexation territory is adaptable to many prospective uses. As identified in the West Bull Mountain Concept Plan, the area can be comprehensively planned for prospective urban uses including a mix of residential types, commercial centers, civic and institutional uses, and parks and open spaces. Upon annexation, the city will undertake a community planning process which includes the annexation territory and will determine the applicable land uses in the area. The uses of the annexation territory are the main value to the city, as prospective property tax revenue from the annexation territory is minimal because the area is developed and assessed at rural levels.

Because the annexation territory is adaptable to multiple town uses, and because the value of the annexation territory is derived from those town uses, and because the salient purpose of the annexation is to achieve the town usage of the annexation territory, not simply to raise city revenues, the City Council finds that this standard is satisfied.

3. The land is needed for extension of streets and to supply utilities;

The annexation territory is needed for extension of streets and services to the west of the current city boundaries in order to meet the city's 20 year need for residential lands. The utility corridor and CWS properties are needed to extend city services to the River Terrace area. The River Terrace areas is needed to extend the existing street system and other urban services to serve development of River Terrace, which is currently rural in nature. This action also makes it possible to provide needed urban lands to accommodate Metro's housing and employment needs as identified in various Growth Management Reports.

Because the annexation territory is needed to meet the city needs and to extend urban services including streets and utilities, the City Council finds that this standard is satisfied.

4. The property and the city will mutually benefit from the annexation.

Annexation will also ensure that transportation needs associated with the development of River Terrace will be accommodated, including managing traffic impacts within the area and on the surrounding system. This will provide for the efficient access and availability of transportation to River Terrace as well as limiting off-site transportation impacts to streets within the city, thereby providing benefit to both the city

and the properties in the annexation territory.

Other benefits for properties in River Terrace include the community planning and services (provided by the city and its partners) necessary for the property to be put to its highest and best use, urban level development. Additionally, the properties will receive urban level services resulting from the annexation and community planning effort of the city.

Other benefits to the city of annexation are that the development of the annexation territory will help the city meet its 20-year need for residential lands, as well as the city's open space, parks and public facilities needs.

Because the annexation will benefit both the properties in the annexation territory and the city, the City Council finds that this standard is satisfied.

“(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.”

This annexation is being initiated by the owners in the annexation area. Signed petitions are found within the application materials. The legislative body of the city has initiated annexation of some lots in the annexation territory in order to create a reasonably shaped annexation territory that is conducive to the orderly and efficient provision of urban services and does not create unincorporated islands. Because the property owners and legislative body of the city are both authorized to initiate annexation and are the parties that are initiating this annexation, the City Council finds that this standard is satisfied.

“(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.”

This section does not include any applicable substantive approval criteria. The annexation does not include a proposal regarding the rate of taxation for the Property. The applicants recognize that the city cannot assess taxes on the Property in an amount that exceeds the highest city tax rate for the year. Because the annexation is not associated with any special property tax structure specific to the annexation territory, the City Council finds that this standard is satisfied.

“(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.”

The applicant states that the annexation area does not include land currently located in a district named in ORS 222.465 or ORS 222.510. However, since the initial application, the five properties owned by Clean Water Services located on the south side of the SW Barrows Road were included in the annexation per the request of CWS. These five properties are located within the Washington County Enhanced Sheriff's Patrol District and the Urban Road Maintenance District. Three of the five parcels are also within a Washington County Service District for Lighting. None of the affected districts are a water control, water

supply, or sanitary district, as would implicate ORS 22.465. Accordingly, the proposed annexation ordinance includes immediate withdrawal of these five properties from the affected service districts pursuant to ORS 222.510. Because the annexation will be accompanied by withdrawal of the CWS properties from all county districts in accord with ORS 222.510, the City Council finds that this standard is satisfied.

“(5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.”

This section is not applicable because the application satisfies the requirements of ORS 222.170, as described below.

“(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.”

Because the annexation satisfies ORS 222.170, it will not be submitted to a vote of the electors. Therefore, this section is not applicable to the application.

“(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.”

Because the annexation satisfies ORS 222.170, it will not be submitted to a vote of the electors. Therefore, this section is not applicable to the application.

“222.120 Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.

The city charter does not require that the city submit the question of the proposed annexation to the electors of the city for their approval or rejection. Therefore, the City Council finds that this standard is satisfied.

(2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

A public hearing in accordance with this section is being held on August 23, 2011 to hear an owner initiated request to annex the River Terrace area and utility corridor into the City of Tigard. Therefore, the City Council finds that this standard is satisfied.

(3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of 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.

Notice was published in the *Tigard Times* for two consecutive weeks prior to the hearing and notices were

posted in four public places (Tigard Library, Tigard City Hall, Tigard Permit Center, and at the intersection of SW Roy Rogers Road and Scholls Ferry Road) on August 2, 2011. Therefore, the City Council finds that this standard is satisfied.

(4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:

(a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;

(b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; or

(c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 to 222.915.

This city is processing this annexation upon request of a majority of the land owners in the annexation territory, and will not be representing the matter to the electorate, pursuant to the authority in ORS 222.170. Accordingly, the city decision to approve the annexation is made consistent with subsection (b) of this provision. Therefore, the City Council finds that this standard is satisfied.

(5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465.

The applicant states that the annexation area does not include land currently located in a district named in ORS 222.465 or ORS 222.510. However, since the initial application, the five properties owned by Clean Water Services located on the south side of the SW Barrows Road were included in the annexation per the request of CWS. These five properties are located within the Washington County Enhanced Sherriff's Patrol District and the Urban Road Maintenance District. Three of the five parcels are also within a Washington County Service District for Lighting. None of the affected districts are a water control, water supply, or sanitary district, as would implicate ORS 22.465. Accordingly, the proposed annexation ordinance includes immediate withdrawal of these five properties from the affected service districts pursuant to ORS 222.510. Because the annexation will be accompanied by withdrawal of the CWS properties from all county districts in accord with ORS 222.510, the City Council finds that this standard is satisfied.

(6) The ordinance referred to in subsection (4) of this section is subject to referendum.

This is not a substantive standard.

(7) For the purpose of this section, ORS 222.125 and 222.170, "owner" or "landowner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land."

This provision has been complied with in calculating the percentage of owners of land in the annexation territory that have requested annexation. These calculations are discussed below in the findings for ORS

222.170. Therefore, the City Council finds that this standard is satisfied.

This application has processed in accordance with applicable law.

“222.125 Annexation by consent of all owners of land and majority of electors; proclamation of annexation. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in 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.”

This statute is not applicable since the proposed annexation satisfies the requirements under 222.170.

“222.170 Effect of consent to annexation by territory; proclamation with and without city election. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day:

(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or

(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.

(3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

(4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.”

More than half (81%) of the property owners, who also own more than half the land (92%) therein representing more than half of the assessed value of all real property (81%) have filed a petition to annex into the City of Tigard. These petitions represent a percentage of owners that exceeds the applicable thresholds for annexation without public election. Six (6) of the 43 properties within River Terrace are publicly owned (Clean Water Services and Portland General Electric). Since petitions to annex these areas were submitted, then they can be considered in this determination. The annexation request is being processed in accordance with ORS 222.170(1) without an election. Therefore, the City Council finds that

this standard is satisfied.

“222.173 Time limit for filing statements of consent; public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490 (2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city.

(2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505.”

The application includes 28 petitions, all of which were filed within a year of each other. These petitions meet the thresholds required by ORS 222.170(1). These petitions are found within the land use file (ZCA2011-00001), which is public record. Therefore, the City Council finds that this standard is satisfied.

“222.175 City to provide information when soliciting statements of consent. If a city solicits statements of consent under ORS 222.170 from electors and owners of land in order to facilitate annexation of unincorporated territory to the city, the city shall, upon request, provide to those electors and owners information on that city’s ad valorem tax levied for its current fiscal year expressed as the rate per thousand dollars of assessed valuation, a description of services the city generally provides its residents and owners of property within the city and such other information as the city considers relevant to the impact of annexation on land within the unincorporated territory within which statements of consent are being solicited.”

The statements of consent are being offered voluntarily and at the initiation of the owners of the annexation area. Therefore, this section is not applicable.

“222.177 Filing of annexation records with Secretary of State. When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

- (1) A copy of the resolution or ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4).”

This section does not include any applicable substantive approval criteria, but it does include procedural provisions that govern the city's actions. Upon approval of the annexation, the city will send necessary information to Metro for final action. Metro will map the annexation and make the appropriate notifications to the Secretary of State's Archives Division, the county elections supervisor, and the county assessor. Therefore, the City Council finds that this standard is satisfied.

“222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this

subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177.”

The Applicant requested in the narrative that the city specify that the annexation be effective no later than the date of filing of the applicable records with the Secretary of State. Because the proposal also involved withdrawal from the City of Beaverton, a coordinated date for both withdrawal and annexation was determined, September 30, 2011. This is a later date than the date of filing with the Secretary of State, which is allowed by and meets the requirements of subsection (2) of ORS 222.180. The city has confirmed with the applicant’s representative that the September 30, 2011 date is satisfactory. Therefore, the City Council finds that this standard is satisfied.

OAR 660- 009-0010(4) For a post-acknowledgement plan amendment under OAR chapter 660, division 18, that changes the plan designation of land in excess of two acres within an existing urban growth boundary from an industrial use designation to a non-industrial use designation, or an other employment use designation to any other use designation, a city or county must address all applicable planning requirements, and:

(a) Demonstrate that the proposed amendment is consistent with its most recent economic opportunities analysis and the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to incorporate the proposed amendment, consistent with the requirements of this division; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

The city is not making a Post Acknowledgement Plan Amendment, or rezoning any land in the annexation territory. As addressed previously, the applicants have requested that the County zoning designations be retained until such time that the city has adopted the community plan. Accordingly, the city will not be implementing any new zoning designations as would constitute a PAPA under OAR 600 Division 18, or could trigger the economic opportunities analysis requirements of this standard. Therefore, this standard is not applicable to the annexation.

OAR 660-012-0060 Plan and Land Use Regulation Amendments

This provision is commonly referred to as the Transportation Planning Rule or TPR, and requires that local governments determine whether "an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility." OAR 660-012-0060(1). The Land Use Board of Appeals has held that annexations that do not include an associated zone change or otherwise affect the uses allowed in the area annexed are not subject to OAR 660-012-0060.

The Annexation does not approve an associated zone change or other post-acknowledgment plan amendment or otherwise affect the uses allowed in the Annexation Area. Rather, the city is specifically retaining Washington County's existing FD-20 zoning on the Annexation Property until the city adopts a community plan for the area and then adopts appropriate implementing zoning. Therefore, the TPR is not applicable to the annexation.

OAR 660-014-0060 Annexations of Lands Subject to an Acknowledged Comprehensive Plan. A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in

accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation.

OAR 660-014-0060 provides that a city is not required to directly apply the Goals to an annexation decision unless the city's acknowledged comprehensive plan and implementing ordinances do not "control the annexation." Whether the plan and ordinances control the annexation depends upon whether the plan and ordinances include substantive standards guiding the city's determination of whether or not to annex land. Such standards need not be mandatory approval criteria, provided that they provide relevant guidance to the annexation decision. When the plan and ordinances "control the annexation," the city is required to apply such provisions to the decision.

The City's Plan is acknowledged and includes relevant standards providing guidance for annexation decisions. The city has also adopted substantive approval criteria relating to annexations in Tigard Community Development Code ("CDC") 18.320.010 *et seq.* Together, these provisions include substantive standards guiding the City's determination of whether to annex the property. The standards are addressed previously in this document and find that the annexation complies with the applicable city standards. Therefore, the City Council finds that the city is not required to directly apply the Goals to the annexation request, that the applicable standards of the city plan and development code are satisfied, and that this standard is thereby satisfied.

OAR 660-023-0250(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, Division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section "initiated" means that the local government has deemed the PAPA application to be complete.

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

The city is not making a Post Acknowledgement Plan Amendment, or rezoning any land in the annexation territory. As addressed previously, the applicants have requested that the County zoning designations be retained until such time that the city has adopted the community plan. Accordingly, the city will not be implementing any new zoning designations as would constitute a PAPA under OAR 600 Division 18 as could trigger the Goal 5 Economic, Social, Environmental, and Energy analysis requirements of this standard. Therefore, this standard is not applicable to the annexation.

CONCLUSION: The proposed annexation has been requested by a sufficient number of property owners within River Terrace to comply with ORS 222.170, and a public election is not required. The annexation area is contiguous to the city. This utility corridor in Barrows Road/Scholls Ferry Road will allow extension of existing utilities and services to the proposed annexation area. Properties within Washington County service districts will be removed from those districts as part of an annexation

approval. Because the county zoning will remain in place, the city is not making a PAPA, thereby not implicating the OARs addressed above. The city plan and development code contain substantive criteria that control the annexation. Per the above findings, the proposed annexation is consistent with all state law, including ORS 222 and all applicable provisions of the Oregon Administrative Rules

“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. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) &(e) and 3.09.050) below:

FINDINGS:

“Metro 3.09.045 (d) and (e)”

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

“(d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;”

There are two applicable urban service agreements: Urban Planning Area Agreement and Tigard Urban Service Agreement. Of the annexation territory, only the five CWS parcels are within the agreement area boundaries.

The Urban Planning Area Agreement (UPAA – 2006) between the city and the county provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in these findings and acknowledges that the city is the ultimate provider of urban services within the Tigard Urban Service Area.

The city has followed all processing and notice requirements in the UPAA. 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.” A request for comments was sent to the Washington County Long Range Planning Division. Although there were no written comments submitted, a phone conversation took place on August 5, 2011 between planners at both the city and county in which the county raised minor questions about the applicable review criteria. The county planner’s questions were answered to their satisfaction.

The Tigard Urban Service Agreement (TUSA – 2004) is between the city, county, Metro, and the service districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. As noted in these findings, the city has coordinated with affected jurisdictions and service agencies throughout the review process and will continue this coordination as the community plan is developed. The provision of services is addressed above at the beginning of these findings.

Because the annexation is consistent with the TUSA and UPAA, the City Council finds that this standard is satisfied.

“(B) Any applicable annexation plan adopted pursuant to ORS 195.205;”

There is no applicable annexation plan. ORS 195.205 outlines the process for annexations initiated by a city or district, including public hearings and voting procedures. Here, no property owners were solicited for statements of consent, therefore an annexation plan is not required. This statute is not applicable since

this annexation was initiated by the property owners. The applicants have submitted petitions to annex signed by the property owners. Therefore, the City Council finds that this standard is satisfied.

“(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;”

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. Many of these districts will be the same following annexation, including fire and school districts. The majority of the area is not currently served with water or sewer, which will be provided by CWS. Upon annexation, the city will work to annex the area into CWS service boundaries to include it in service agreements already set up with the city. Although the properties south of Scholls Ferry Road were brought into the UGB in 2002, they still remain outside of the Metro boundary.

The city has coordinated with all affected jurisdictions and agencies including special districts. No objections have been raised. Accordingly, the annexation is consistent with any applicable planning agreements between Metro and an affected district. Therefore, the City Council finds that this standard is satisfied.

“(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and”

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. The development of the community plan and its public facility elements will be coordinated consistent with the new facility plan being prepared through periodic review and with CWS and TVF& R facility plans as required by Statewide Planning Goal 14, Urbanization. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11), and the applicable goals and policies were addressed previously in this report. Because public facilities will not be extended to the annexation area until the adoption of the community plan and associated amendment of the public facilities plan, the proposed annexation is consistent with the Tigard Public Facility Plan. Therefore, the City Council finds that this standard is satisfied.

“(E) Any applicable comprehensive plan; and”

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report. Therefore, the City Council finds that this standard is satisfied.

“(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.”

River Terrace was brought into the Portland Metro UGB in 2002 to ensure future regional housing and employment needs would be met. Since that time, the area has not significantly changed from its rural level development. One reason for this is the inadequate level of services currently available to the area within Washington County. The city is the most efficient provider of urban level services and has the capacity to serve the area effectively. The proposed annexation will not affect the provision of public facilities and services. Conceptual and master plans exist for the River Terrace Area, but provision of services, including financing, will be greater defined through the community planning process, which is another service the City of Tigard is able to provide the area. However, none of these city services are available without annexation into the city limits. Therefore, the City Council finds that this standard is satisfied.

“(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.”

The property to be annexed is not outside the UGB nor does the city propose to extend any services beyond the UGB. Therefore, the City Council finds that this standard is satisfied.

“Metro 3.09.050 (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 subsection (d) below, and that includes at a minimum the following:”

Note that the staff report is available 15 days before the hearing (August 8, 2011 for an August 23, 2010 hearing). Therefore, the City Council finds that this standard is satisfied.

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

The staff report addresses provision of urban services which can be available to the affected territory to serve urban level development. The city will prepare a comprehensive community plan to provide for urban level services. Therefore, the City Council finds that this standard is satisfied.

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

The staff report states that the proposed territory will remain within Washington County but the five CWS parcels along SW Barrows Road will be withdrawn from the Washington County Enhanced Sheriff's Patrol District & Urban Road Maintenance District. Three of these five parcels will also be withdrawn from Washington County Service Districts for Lighting. Therefore, the City Council finds that this standard is satisfied.

“(3) The proposed effective date of the boundary change.”

The staff report states that the public hearing will take place August 23, 2011 and that if the Council adopts findings to approve ZCA2011-00001, the effective date of the annexation will be September 30, 2011. Therefore, the City Council finds that this standard is satisfied.

“(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.”

The applicant has provided evidence and findings within a narrative that addresses the applicable criteria. Therefore, the City Council finds that this standard is satisfied.

“(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.”

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in these findings, and are satisfied. Therefore, the City Council finds that this standard is satisfied.

CONCLUSION: As shown in the above findings the proposed annexation of River Terrace satisfies the Metro Code regulations related to Local Government Boundary Changes.

“(Tigard CDC 18.390.060)

4. Any applicable comprehensive plan policies; and”

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

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CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

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

FINDINGS: Resolution 11-08 extended previously approved incentives for property owners that voluntarily annex into the city limits through February 2012. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. To ensure property tax increases are properly phased, the phasing language is included in the proposed ordinance. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

CONCLUSION: Based upon previous and above findings, all applicable provisions of the city’s implementing ordinances are satisfied.