

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 15-04

AN ORDINANCE APPROVING THE SUMMIT RIDGE 5 ANNEXATION (ZCA2014-00002), CONSISTING OF THREE PARCELS OF LAND APPROXIMATELY 5.34 ACRES IN SIZE, AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT AND WASHINGTON COUNTY URBAN ROADS MAINTENANCE DISTRICT.

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 Tigard Water District, Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District upon completion of the annexation; and

WHEREAS, the Tigard City Council held public hearings on February 10 and March 17, 2015, to consider the annexation of 5.34 acres of land consisting of Washington County Tax Map (WCTM) 2S109DB, Tax Lot 1700 and portions of tax lots 1702 and 1800, located southerly of 13020 and 13100 SW Summit Ridge Road, and withdrawal of said parcels from the Tigard Water District, the Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and

WHEREAS, pursuant to Metro 3.09, ORS 222.120 and 222.524, notice was given and the City held a public hearing on the issue of the annexation into the City and withdrawal of the annexed parcel from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District on February 10, 2015; and

WHEREAS, pursuant to ORS 222.524, the City must declare the withdrawal of the annexed property from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District; and

WHEREAS, the Tigard Development Code states that upon annexation, the zone is automatically changed to the City zoning which most closely implements the City's comprehensive plan map designation or to the City designations which are the most similar; and

WHEREAS, the Tigard City Council passed Resolution 15-07 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 2016 per Oregon Administrative Rule (OAR 150-222.111); and

WHEREAS, the applicant has presented signed annexation contracts for additional land located at 13020 and 13100 Summit Ridge Road, consisting of Washington County Tax Map 2S109DB, Tax Lots 1701 and 1801; 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, along with the executed annexation contracts, substantially addresses the standards in Metro 3.09 regulating annexations; 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 as described and shown in the attached **Exhibits "A," "B," and "C"** and withdraws said parcel from the Tigard Water District, Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District.

SECTION 2: The Tigard City Council adopts the "Staff Report to the City Council" dated January 26, 2015 and Memorandum to Mayor Cook and City Council dated March 10, 2015 as findings in support of this decision; a copy of the staff report is attached hereto as **Exhibit "D"** and the Memorandum as **Exhibit "E"** and incorporated herein by this reference.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor and posting by the City Recorder.

SECTION 4: 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 5: 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 6: Pursuant to ORS 222.120(5), the effective date of the withdrawal of the property from Washington County Enhanced Sheriff's Patrol District and Washington County Urban Roads Maintenance District shall be the effective date of this annexation.

SECTION 7: In accordance with ORS 222.180, the annexation shall be effective upon filing with the Secretary of State.

SECTION 8: The Tigard City Council hereby authorizes the City Manager to counter-sign and implement annexation contracts with Janet and Richard Zeider, and Sohee and Scott Anderson, as attached hereto as **Exhibit "F"** and **Exhibit "G"** respectively.

PASSED: By UNANIMOUS vote of all Council members present after being read by number and title only, this 17th day of March 2015.

Carol A Krager
Carol A. Krager, City Recorder

APPROVED: BY Tigard City Council this 17th day of March 2015.

John L. Cook
John L. Cook, Mayor

Approved as to form:

Janet Zeider
City Attorney

Date



AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 F: (503) 563-6152

AKS Job #4105

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT A

A tract of land located in the Southeast One-Quarter of Section 9, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being more particularly described as follows:

Beginning at the northeast corner of Lot 12 of the Plat of "Woodside No. 2", thence along the north line of said Lot 12 North $88^{\circ}13'18''$ West 126.43 feet to a point; thence North $01^{\circ}14'29''$ East 43.50 feet to a point on the westerly extension of the northerly right-of-way line of SW Pine View Street (25.00 feet from centerline); thence along said westerly extension of said northerly right-of-way line North $88^{\circ}45'31''$ West 277.28 feet to a point on the east line of Lot 10 of the Plat of "Woodside"; thence along said east line and the east line of Lot 11 of said Plat North $01^{\circ}15'46''$ East 542.01 feet to a point; thence South $88^{\circ}45'31''$ East 125.82 feet to a point; thence North $01^{\circ}15'46''$ East 29.99 feet to a point; thence South $88^{\circ}45'31''$ East 277.71 feet to 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA ENG. INC." at the northwest corner of Lot 112 of the Plat of "Summit Ridge No. 2", and the City of Tigard City Limits; thence along the west line of said Plat and said City Limits South $01^{\circ}14'45''$ West 616.68 feet to the Point of Beginning.

The above described tract contains 5.34 acres, more or less.

10/23/2014



Nick White

OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/16

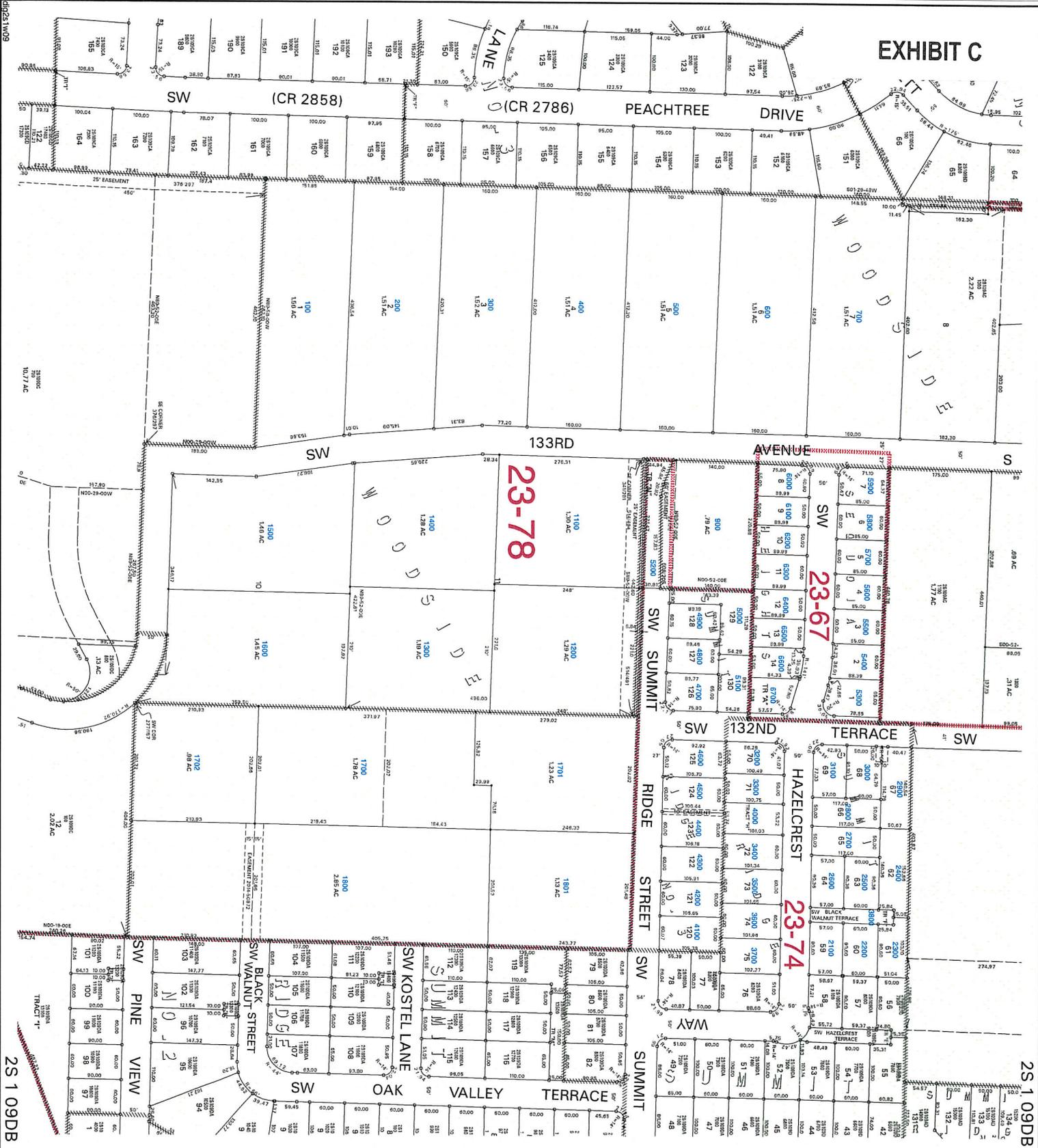
ANNEXATION CERTIFIED

BY *NF*

OCT 28 2014

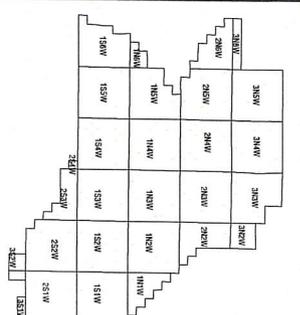
WASHINGTON COUNTY A & T
 CARTOGRAPHY

EXHIBIT C

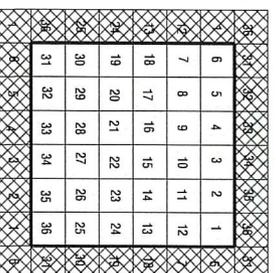


2S 1 09DB

2S 1 09DB



WASHINGTON COUNTY OREGON
NW1/4 SECTION 09 T2S R1W W.M.
SCALE 1" = 100'



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

BB	BA	AB	AA
B	BD	AC	AD
SECTION 09			
CB	CA	DA	DB
C	CD	DC	DD

Cancelled Tracts For: 2S109DB
20001390, 0003590, 800.



PLAT DATE: January 20, 2015
FOR ASSESSMENT PURPOSES
DO NOT FILE ON
FOR OTHER USE

TIGARD
2S 1 09DB

Hearing Date: February 10, 2015 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: SUMMIT RIDGE 5 ANNEXATION
CASE NO: Zone Change Annexation (ZCA) ZCA2014-00002

APPLICANT: Venture Properties, Inc.
 4230 Galewood Street, #100
 Lake Oswego, OR 97035

OWNERS: Sohoo and Scott Anderson
 13020 SW Summit Ridge St.
 Tigard, OR 97224

Janet and Richard Zeider
 13100 SW Summit Ridge St.
 Tigard, OR 97224

PROPOSAL: A request to annex to the City of Tigard approximately 5.34 acres of property.

LOCATION: 13020 and 13100 Summit Ridge Road
 Assessor Map 2S109DB, Tax Lot 1700 and portions of Lots 1701, 1702, 1800 and 1802

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

**EQUIVALENT
CITY ZONE:**

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

**APPLICABLE
REVIEW
CRITERIA:**

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

SECTION II. STAFF RECOMMENDATION

Staff recommends that City Council find that the proposed annexation (ZCA2014-00002) is inconsistent with the approval criteria identified in Community Development Code Chapters 18.320.020.B and 18.390.060; Comprehensive Plan Policy 14.2.4, and Metro Code 3.09. Therefore, staff recommends DENIAL of the current request, or accept a request for a continuance to allow the applicant sufficient time to modify their proposal to meet the approval criteria.

SECTION III. BACKGROUND INFORMATION

Annexation Process

A public election is not required for a voluntary annexation of a single parcel. 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 placed within the Urban Growth Boundary.

Vicinity Information

The subject parcels are located in the Bull Mountain neighborhood, at the western terminus of Kostel Lane, Black Walnut Street and Pine View Street, in the vicinity of Alberta Rider Elementary School. Adjoining lands were developed as a series of subdivisions collectively known as Summit Ridge, which were annexed into the City in 2004 and 2005 under the Arbor Summit Annexation (ZCA2014-00001) and the Alberta Rider/Summit Ridge Annexation (ZCA2005-00003).

Site Information & Recent Boundary Changes

The proposed annexation area is heavily wooded and slopes downhill from a northwesterly to southeasterly direction, with an approximately 140 foot change in elevation from highest to lowest points. Single family homes surround the site on all sides, and three streets stub into the property along the eastern side (Kostel Lane, Black Walnut Street, and Pine View Street). City services are readily available within each of the streets adjoining the property.

The affected area has been the subject of two pre-application conferences to discuss requirements for annexation and subdivision into single-family homes. In addition, the property has been the subject of three recent lot line adjustments approved by Washington County Land Use & Transportation. As not all of the adjustments have been recorded, the legal boundaries of the lots are not yet finalized but are expected to conform to the proposed annexation area when completed. The Washington County case file numbers are as follows:

- 14-393-PLA (Zeider)
- 14-394-PLA (Anderson)
- 15-014-PLA (Zeider/Anderson/Whitaker)

The purpose of the first two adjustments was to separate existing single family homes from a larger assembly of developable land. The third lot line adjustment provides a buffer for the property owner to the south, and removes direct access between the annexation area and SW 133rd right of way. All three adjustments were requested and coordinated by Venture Properties, who intends to subdivide the area for residential development. The latest available Washington County Tax Map for the affected area is dated October 3, 2014, and has not yet been modified to reflect the new lot configurations.

Proposal and Staff Recommendation

The area proposed for annexation affects three parcels of land owned by two parties, and totals approximately 5.34 acres in size. The homes of the two property owners were separated from the property within the proposed annexation boundaries through lot line adjustments in the County. If the annexation is approved, these homes will be surrounded by the City of Tigard on three sides and will continue to access City streets for transportation access and utility service.

While the configuration does not create an unincorporated island, which would be prohibited by Comprehensive Plan Policy 14.2.4, it does create a situation that is likely to delay or prohibit future annexations to the west if the owners resist future annexation. Not including these parcels may also preclude

connectivity to the surrounding street network. As a result of these potential outcomes, staff is recommending denial of the annexation request unless the boundary is amended to include the two existing homes on parcels 1701 and 1801. Findings in support of this recommendation are included in Section IV of this report.

SECTION IV. APPLICABLE REVIEW CRITERIA, FINDINGS AND CONCLUSIONS

City: Community Development Code Chapters 18.320 and 18.390
Comprehensive Plan Goal 1, 11, 14 and implementing policies
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 inconsistent 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. Each service is available and adequate to serve the property as discussed below.

Water – City of Tigard. Upon annexation, City of Tigard will be the provider of water. According to an October 9, 2014 email and a January 13, 2015 comment letter from Project Engineer Greg Berry, the city provides water service to this area with two elevation zones. A design that accounts for the two zones will be required at the time of development.

Sewer – Clean Water Services/City of Tigard. Clean Water Services (CWS) is the service provider of sewer service. Upon annexation, the City of Tigard will be the retail provider of sewer service prior to ultimate treatment by Clean Water Services. According to an October 9, 2014 email from Project Engineer Greg Berry to the applicant, the City is capable of providing sewer service to this property from existing streets adjoining the property.

Drainage – Clean Water Services/City of Tigard. Clean Water Services is the current provider of stormwater service. Upon annexation, the City of Tigard will be the provider of stormwater service. According to an October 9, 2014 email and January 13, 2015 comment letter from Project Engineer Greg Berry, the city is capable of providing storm drainage, subject to a downstream analysis as required by CWS R&O 07-20, 5.5.4 to determine the adequacy of capacity at the time of development. Onsite detention and water quality treatment will be required as part of future development.

Streets – City of Tigard Engineering Division. The subject property abuts stubs for three public streets within the City of Tigard. According to an October 9, 2014 email and a January 13, 2015 comment letter from Project Engineer Greg Berry, these public streets may be extended into the property and dedicated to provide adequate capacity, if built to required standards.

Police – City of Tigard Police Department. The City of Tigard Police Department reviewed the subject proposal and commented that they have no objection to it, and are prepared and able to serve the area.

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 Bull Mountain area, both inside and outside of the City of Tigard. The Fire District 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. According to the Tigard Urban Services Agreement, The City is designated as the provider of parks within the Urban Services Area. Actual provision of services depends on annexation of territory within this service area, subject to the City’s Park System Master Plan.

CONCLUSION: Based upon this review, staff finds that all public services and facilities (as defined by the Comprehensive Plan) are available or can be made available to the proposed annexation territory and have sufficient capacity to provide service if developed to the most intense use allowed and will not significantly reduce the level of services available to developed and undeveloped land in the City of Tigard. Approval criterion 18.320.020.B.1 is met.

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

FINDINGS: The following Comprehensive Plan goals and implementing policies apply to the proposed annexation: Goal 1.1, Goal 11.1, Goal 11.3, and Goal 14.2. As detailed below, staff finds the proposal not consistent with all of the applicable goals and policies. Therefore, this standard is not met.

“Goal 1.1: Citizen Involvement. 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 January 20, 2015: Tigard City Hall, Tigard Permit Center, City of Tigard Website, and at three different locations on the project site. The City published notice of the hearing in *The Tigard Times* for two successive weeks (January 15, 2015 and January 22, 2015) prior to the February 10, 2015, public hearing. Notice was mailed to interested parties and all property owns within 500 feet of the project boundary on January 20, 2015. This goal is met.

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

Policy 11.1.4: The City shall require the property to be located within the city limits prior to receiving City stormwater services.”

The applicant is not requesting City stormwater services at this time. It is anticipated that after annexation, city stormwater services are likely to be requested as part of a future development application. This policy will be met.

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

Policy 11.3.6: The City shall require the property to be located within the city limits prior to receiving City wastewater services.”

The applicant is not requesting City wastewater services at this time. It is anticipated that after annexation, City wastewater services are likely to be requested as part of a future development application. This policy will be met.

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

Policy 14.2.1: 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 applicable Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C. This policy is met.

“Policy 14.2.2: 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 under findings pertaining to 18.320.020.B.1 above, consistent with this policy. This policy is met.

**“Policy 14.2.3 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 availability of the City’s public facilities and services has been addressed under findings pertaining to 18.320.020.B.1 above, consistent with this policy. This policy is met.

“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. This policy is met.

“Policy 14.2.4: 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

The proposal will not create an unincorporated island within the city, but would create a situation where two existing homes are surrounded by the City on three sides (north, east, and south). While the configuration does not create an unincorporated island under state statute, not annexing these properties may delay or prohibit future annexations to the west if the owners decline to participate in any annexation in the future. Such a result could prohibit the efficient and effective delivery of services to the entire area by delaying or precluding future urbanization of adjacent parcels and associated extensions of public services to the area.

The proposed boundaries would also preclude a direct road and/or pedestrian connection between the annexation area and Summit Ridge Street at the time of future development. The result would be a decrease in the efficiency of the transportation system within the neighborhood, with the unincorporated land forming a barrier between Summit Ridge Street and any potential new development. This connection was requested by the City at two recent pre-application conferences regarding the subdivision of the proposed annexation area. These pre-application conferences were held in December 2013 and August 2014, prior to the three property line adjustments the applicant is implementing through Washington County and this annexation request. Copies of the engineering notes for PRE2013-00044 and PRE2014-00033 are included as Attachment F to this report.

Goal 2 of the adopted 2014-2034 Strategic Plan is to “ensure development advances the vision” of the plan, which is to be “the most walkable city in the Pacific Northwest where people of all ages and abilities enjoy healthy and interconnected lives”. Objective 2.1 directs the city to “make best use” of undeveloped and underdeveloped land to maximize implementation of the mission. When interpreting Comprehensive Plan Policy 14.2.4 under direction provided by the Strategic Plan, the proposed annexation boundaries do not make the best use of underdeveloped land in this area as leaving out the two parcels with existing houses would preclude or significantly delay the most efficient and effective delivery of public services to the entire area.

For the reasons described above, the proposed annexation boundaries are not consistent with Policy 14.2.4 of the Tigard Comprehensive Plan.

C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.”

Public services are available and can be efficiently extended as discussed above. No concept plans or sub-area master plans apply to the affected parcel. Section C of Policy 14.2.4 does not apply.

CONCLUSION: Based upon this review, as discussed above, the proposed annexation is not consistent with approval criteria for Annexations as set forth in 18.320.020.B.2. Approval criterion 18.320.020.B.2 is not satisfied.

“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.”

The Washington County Land Use Districts Map and online GIS Intermap system show the affected parcel as being within the R-6 Land Use District. This designation is common throughout the unincorporated Bull Mountain neighborhood. The purpose of the Washington County R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2 or Section 303-6 of the Washington County Community Development Code. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

The most similar City of Tigard Zoning District is the R-7 Zoning District, as set forth in TDC 18.320.1 (Conversion Table for County and City Plan and Zoning Districts). The City of Tigard R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

This standard is met.

“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 20 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 January 20, 2015, and published public notice in *The Tigard Times* for two successive weeks (January 15, 2015 and January 22, 2015) prior to the February 10, 2015 public hearing.

“Additionally, Chapter 18.390.060 sets forth five decision-making considerations for a Type IV decision:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;”

The City’s Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals. As reviewed above, the annexation proposal does not meet existing Comprehensive Plan policy 14.2.4 and is, therefore, not in compliance with state planning goals. This standard for consideration is not met.

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

ORS 222:

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places for two successive weeks prior to the hearing.

The owner of the subject parcel has signed a petition for annexation to the City. The subject parcel is contiguous to the City's boundary.

The City mailed notice on January 20, 2015, and published public notice in The Tigard Tualatin Sherwood Times for two successive weeks (January 15, 2015 and January 22, 2015) prior to the February 10, 2015 public hearing and posted the hearing notice for public view on January 20, 2015 in the Tigard City Hall, Tigard Permit Center, the City of Tigard Website and in three places on the subject property. Staff finds that the provisions of ORS 222 have been met.

As shown in the above findings the proposed annexation satisfies the applicable Comprehensive Plan Policies and implementing ordinance provisions related to Local Government Boundary Changes.

“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 determined that the applicable METRO regulations have not been met based on the following 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;”

The Urban Planning Area Agreement (UPAA) 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 Tigard Urban Service Agreement 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 (TUSA). These services are addressed above at the beginning of this report.

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

This standard is met.

“(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 applicant and property owner have submitted a petition to annex. This standard is met.

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

The UPAA (2006) includes the proposed annexation territory. The City has followed all processing and

notice requirements in the *UPAA*, providing Washington County with notice prior to the public hearing. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.” The annexation proposal is consistent with this agreement. This standard is met.

“(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 compliance with statewide planning goals and Oregon Administrative Rule 660-11. 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. This standard is met.

“(E) Any applicable comprehensive plan; and”

The Tigard Comprehensive Plan applies in this case. The proposed annexation boundaries are not consistent with all applicable policies as addressed previously in this report. This standard is not met.

“(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.”

As discussed in findings pertaining to Tigard Comprehensive Plan Policy 14.2.4, the proposed annexation does not promote the timely, orderly, and economic provision of services to the project area. This standard is not met.

“(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 standard 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:

(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 made available to the affected property. This standard is met.

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

If approved, the proposed territory will be withdrawn from the Washington County Enhanced Sheriff's Patrol District & Urban Road Maintenance District. This standard is met.

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

The staff report does not recommend approval. This standard does not apply.

“(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. This standard

is met.

“(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 Summit Ridge 5 Annexation does not satisfy the Metro Code regulations related to Local Government Boundary Changes. As a result, this standard is not met.

**“(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 not consistent with all applicable comprehensive plan policies.

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

FINDINGS: Resolution 14-10 extended previously approved incentives for property owners that voluntarily annex into the city limits through February 2015. 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.

Resolution 14-53 adopted the City of Tigard 2014-2034 Strategic Plan including a Vision Statement and four Goals. The Strategic Plan provides guidance for the city’s priorities for the next 20 years including, proactively planning for the city’s growth. Goal 2 of the Strategic Plan is to “ensure development advances the vision” of the plan. Objective 2.1 directs the city to “make best use of undeveloped and underdeveloped land to...advance the vision”. The proposed annexation boundaries do not make the best use of underdeveloped land in this area to advance the Strategic Plan Vision, as leaving out the two parcels with existing houses precludes the opportunity to make important transportation connections for walkability and circulation.

CONCLUSION: Based upon previous and above findings, all applicable provisions of the city’s implementing ordinances have not been satisfied.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department reviewed the proposal and had no objections.

The city’s Public Works Department and Building Division were sent a request for comments. No comments were received.

SECTION VIII. AGENCY COMMENTS

The following agencies and jurisdictions were sent a request for comments but provided no formal written comments: Tualatin Valley Fire and Rescue, Clean Water Services, Metro – Land Use & Planning, Washington County – Department of Land Use & Transportation, Washington County Assessment & Taxation, Washington County Cartography, Tigard-Tualatin School District, Northwest Natural Gas, Metro Area Communications, Comcast Cable Corporation, Verizon, Portland General Electric and Centurylink

SECTION IX PUBLIC COMMENTS

One public comment letter was received from Carrie Brickey of 12998 SW Pine View Street, dated January 21, 2015 and received by the City on January 26, 2015. The letter writes to oppose the “addition of 30 homes” due to “a saturated housing market, traffic control issues and...clear cutting old growth trees.” The future extension of Pine View Street is specifically opposed, and the adequacy of future roads within a potential future subdivision intended for the annexation area. Staff has reviewed the letter and finds these issues to be relevant to any future development application that may occur within the annexation area, but not directly relevant to annexation criteria.

PREPARED BY: _____ January 26, 2015
John Floyd DATE
Associate Planner

REVIEWED BY: _____ January 26, 2015
Tom McGuire DATE
Assistant Community Development Director

- Attachments:
- A. Proposed Legal Description
 - B. Proposed Boundary map
 - C. Washington County Tax Map
 - D. Comment Letter from Carrie Brickey, dated January 21, 2015
 - E. City Zoning and Project Location Map
 - F. Pre-Application Engineering Notes for PRE2013-00044 and PRE-2014-00033



City of Tigard Memorandum

To: Mayor Cook and Tigard City Council

From: John Floyd, Associate Planner

Re: Summit Ridge Annexation (ZCA2014-00002)

Date: March 10, 2015

Summary

On March 17th, Council will hold a second public hearing on the Summit Ridge Annexation, a continued item from the February 10th Council meeting. At that hearing Council considered an annexation request by Venture Properties who intends to develop three unimproved parcels owned by the Zeiders and Andersons, but must first annex to obtain needed services. As detailed below, the applicant has amended their request and staff can now support a recommendation of approval.

Background

At the February 10th hearing, staff recommended denial of the annexation request based upon Policy 14.2.4 of the Comprehensive Plan, which requires the City to consider the following when approving annexation requests:

“Policy 14.2.4: 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;”*

At issue were two additional parcels of land owned by the same property owners, each improved with a single-family home, but excluded from the annexation request. While the exclusion of these two parcels would not immediately result in the creation of an unincorporated island, failure to annex these properties could delay or prohibit future annexations to the west if the owners declined to participate. Such a configuration could also prohibit the efficient and effective delivery of services to the entire area by delaying or precluding future urbanization of adjacent parcels and associated extensions of public services to the area.

Revised Proposal

In response to the original staff recommendation and feedback from Council, the applicant has proposed the City accept annexation contracts for the two excluded parcels as a means of satisfying Policy 14.2.4. These contracts would allow the city to annex the properties in four years, or sooner at the written request of the property owner. Under the terms of the contract, each owner consents to annexation and waives any right to remonstrate. The City Attorney has reviewed and edited the contract language, and finds the proposed contracts enforceable and transferable to future property owners should a sale occur before the City enforces the contract.

Staff Analysis and Recommendation

While the proposed contracts are neither the quickest nor the most administratively efficient method to address the policy, the proposed contracts would allow the City to find the application consistent with Policy 14.2.4 of the Tigard Comprehensive Plan and other applicable approval criterion for annexations.

Should Council find in favor of the revised application, staff strongly recommends Council withhold final action until the applicant provides signed contracts for both affected properties. To account for potential delays in obtaining signatures from both property owners, additional time has been reserved on April 14, 2015.

Attachments:

1. Draft Ordinance to Approve ZCA2014-00002
2. Draft Annexation Contract (Janet Zeider and Richard Zeider)
3. Draft Annexation Contract (Sohee Anderson and Scott Anderson)
4. Email from Carrie Brickey; February 20, 2015

AFTER RECORDING RETURN TO:

Kenny Asher
 City of Tigard
 13125 SW Hall Blvd.
 Tigard, OR 97223

This space provided for recorder's use.

ANNEXATION CONTRACT

CONSENT TO ANNEXATION AND WAIVER OF REMONSTRANCE

Recitals

A. Janet Zeider and Richard Zeider ("Owners") are the Owners of the real property (the "Property") located at 13100 SW Summit Ridge Street, Tigard, Oregon (Washington County Assessor's Map No. 2S109DB, Tax Lot 1701) legally described in the attached and incorporated Exhibit 1.

B. As of the date shown below, Owners are entering into a written Annexation Contract - Consent to Annexation and Waiver of Remonstrance ("Annexation Contract") with the City of Tigard ("City").

Agreement

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Owners and City hereby agree as follows:

1. Pursuant to ORS 222.173(1), Owners hereby waive the one year period for effectiveness of the Annexation Contract and consent to annexation. City and Owners agree that this Annexation Contract shall allow the City to complete annexation of the Property on the fourth anniversary of the earlier date shown below, or thereafter at the sole discretion of the City, or before the fourth anniversary of the date shown below upon Owners' written request to the City.
2. Owners waive any right to remonstrate against annexation of the Property to the City of Tigard.
3. This waiver is a material inducement to the City to enter into the Annexation Contract.

4. This Annexation Contract, including the agreement, consent, and waivers, shall run with the land, shall be recorded in the Deed Records of Washington County, and all terms and conditions contained herein shall be binding on all heirs, executors, administrators, assigns, and other successors-in-interest to the above-described Property

5. If any provision of this document is held to be invalid or unconstitutional by any court of competent jurisdiction or preempted by federal or state regulations or law, such provision shall be deemed separate and independent of the document and such holding or preemption shall not affect the validity of the remaining provisions.

6. This Annexation Contract is not intended as any limit on the City of Tigard's lawful authority under its adopted regulations to take action on Owners' application by approval, denial, or approval with conditions, or to take any other lawful action relating to the application.

7. Owners and City agree that no dedication of real property to the City by Owners nor any public improvements by Owners are required by City until such time as the Property is annexed to the City and such dedication or improvements are required by a final land use or limited land use decision necessary to redevelop the Property.

8. If suit, action, judicial review, arbitration, bankruptcy proceeding or any other type of proceeding is instituted to enforce or interpret this Annexation Contract, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorney fees and, in the event of appeal or review, as allowed by the appellate court or body.

DATED this 9th day of March, 2015.

OWNERS

CITY, an Oregon municipal corporation

By: 
Name: Janet Zeider

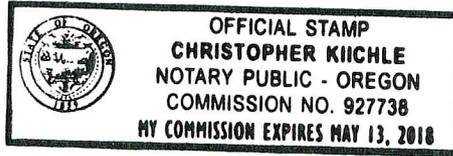
By: _____
Name: _____
Its: _____

By: 
Name: Richard Zeider

Mailing Address: _____
88 SW Center St
Tigard OR 97223

Telephone Number: 503 639-3167

[Acknowledgements continue on next page]



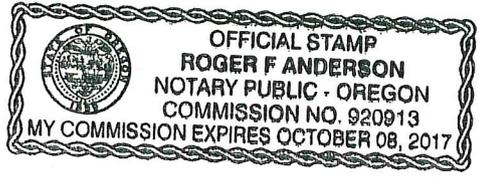
STATE OF OREGON)
) ss.
County of Washington)

The foregoing instrument was acknowledged before me on March 9th, 2015,
by Janet Zeider

NOTARY PUBLIC FOR OREGON
My Commission Expires: 5/13/2018

STATE OF OREGON)
) ss.
County of Washington)

The foregoing instrument was acknowledged before me on March 9, 2015,
by Richard Zeider



NOTARY PUBLIC FOR OREGON
My Commission Expires: 10/8/2017

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument was acknowledged before me on _____, 2015,
by _____ as _____ of the City of Tigard.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT 1

LEGAL DESCRIPTION



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #4105

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

EXHIBIT A

Legal Description

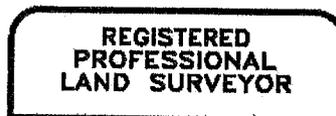
Adjusted Document Number 2014-050873

A tract of land located in the Southeast One-Quarter of Section 9, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being more particularly described as follows:

Beginning at a 1-1/4 inch iron pipe at the southeast corner of Lot 10 of the Plat of "Woodside", thence along the east line of said Plat North 01°15'46" East 582.90 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR." and the **True Point of Beginning**; thence continuing along said east line and the northerly extension thereof North 01°15'46" East 279.02 feet to a 3/4 inch iron pipe on the southerly right-of-way line of SW Summit Ridge Street (variable width right-of-way); thence along said southerly right-of-way line South 88°00'47" East 202.02 feet to a 5/8 inch iron rod inscribed "ALPHA ENG. INC." at the northeast corner of Document Number 2014-050873; thence along the east line of said Document Number South 01°15'46" West 246.39 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR."; thence North 88°45'31" West 76.18 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR."; thence South 01°15'46" West 29.99 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR."; thence North 88°45'31" West 125.82 feet to the True Point of Beginning.

The above described tract of land contains 1.23 acres, more or less.

10/08/2014



Nick White
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

AFTER RECORDING RETURN TO:

Kenny Asher
City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

This space provided for recorder's use.

ANNEXATION CONTRACT

CONSENT TO ANNEXATION AND WAIVER OF REMONSTRANCE

Recitals

A. Sohee Anderson and Scott Anderson ("Owners") are the Owners of the real property (the "Property") located at 13020 SW Summit Ridge Street, Tigard, Oregon (Washington County Assessor's Map 2S109DB, Tax Lot 1801) legally described in the attached and incorporated Exhibit 1.

B. As of the date shown below, Owners are entering into a written Annexation Contract-Consent to Annexation and Waiver of Remonstrance ("Annexation Contract") with the City of Tigard ("City").

Agreement

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Owners and City hereby agree as follows:

1. Pursuant to ORS 222.173(1), Owners hereby waive the one year period for effectiveness of the Annexation Contract. City and Owners agree that this Annexation Contract shall allow the City to complete annexation of the Property on the fourth anniversary of the earlier date shown below, or thereafter at the sole discretion of the City, or before the fourth anniversary of the date shown below upon Owners' written request to the City.

2. Owners waive any right to remonstrate against annexation of the Property to the City of Tigard.

3. This waiver is a material inducement to the City to enter into the Annexation Contract.

4. This Annexation Contract, including the agreement, consent, and waivers, shall run with the land, shall be recorded in the Deed Records of Washington County, and all terms and conditions contained herein shall be binding on all heirs, executors, administrators, assigns, and other successors-in-interest to the above-described Property.

5. If any provision of this document is held to be invalid or unconstitutional by any court of competent jurisdiction or preempted by federal or state regulations or law, such provision shall be deemed separate and independent of the document and such holding or preemption shall not affect the validity of the remaining provisions.

6. This Annexation Contract is not intended as any limit on the City of Tigard's lawful authority under its adopted regulations to take action on Owners' application by approval, denial, or approval with conditions, or to take any other lawful action relating to the application.

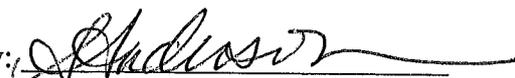
7. Owners and City agree that no dedication of real property to the City by Owners nor any public improvements by Owners are required by City until such time as the Property is annexed to the City and such dedication or improvements are required by a final land use or limited land use decision necessary to redevelop the Property.

8. If suit, action, judicial review, arbitration, bankruptcy proceeding or any other type of proceeding is instituted to enforce or interpret this Annexation Contract, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable as attorney fees and, in the event of appeal or review, as allowed by the appellate court or body.

DATED this 10 day of March, 2015.

OWNERS

CITY, an Oregon municipal corporation

By: 
Name: Sohee Anderson

By: _____
Name: _____
Its: _____

By: 
Name: Scott Anderson

Mailing Address:
13020 SW Summit Ridge St
Tigard OR 97224

Telephone Number: 5037083458

[Acknowledgements continue on next page]

EXHIBIT 1
LEGAL DESCRIPTION



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 F: (503) 563-6152

AKS Job #4105

OFFICES IN: TUALATIN, OR - VANCOUVER, WA - SALEM, OR

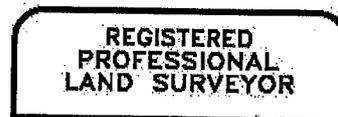
EXHIBIT D
Legal Description
Adjusted Document Number 2014-050870

A tract of land located in the Southeast One-Quarter of Section 9, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon and being more particularly described as follows:

Beginning at a 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA COM. DEV." at the southeast corner of the Plat of "Summit Ridge No. 3", being on the southerly right-of-way line of SW Summit Ridge Street (variable width right-of-way); thence along the west line of the Plat of "Summit Ridge" and the west line of the Plat of "Summit Ridge No. 2", South 01°14'45" West 243.77 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA ENG. INC." at the northwest corner of Lot 112 of the Plat of "Summit Ridge No. 2"; thence North 88°45'31" West 201.53 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "AKS ENGR." on the east line of Document Number 2014-050873; thence along said east line North 01°15'46" East 246.39 feet to a 5/8 inch iron rod with a yellow plastic cap inscribed "ALPHA COM. DEV." on the said southerly right-of-way line; thence along said southerly right-of-way line South 88°00'47" East 201.48 feet to the Point of Beginning.

The above described tract of land contains 1.13 acres, more or less.

10/08/2014

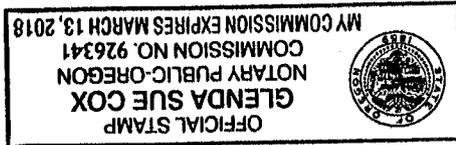


Nick White
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/16

STATE OF OREGON)
County of Washington) ss.

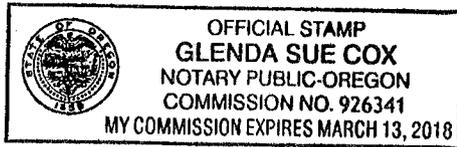
The foregoing instrument was acknowledged before me on March 10, 2015,
by Sohee Anderson



Glenda S. Cox
NOTARY PUBLIC FOR OREGON
My Commission Expires: Mar 13, 2018

STATE OF OREGON)
County of Washington) ss.

The foregoing instrument was acknowledged before me on March 10, 2015,
by Scott Anderson



Glenda S. Cox
NOTARY PUBLIC FOR OREGON
My Commission Expires: Mar 13, 2018

STATE OF OREGON)
County of Washington) ss.

The foregoing instrument was acknowledged before me on March 10, 2015,
by _____ as _____ of the City of Tigard.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____