

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING	)	ORDINANCE NO. 01-924
LANDS CONTAINING THE	)	
WILSONVILLE PRISON SITE TO	)	
THE METRO JURISDICTIONAL	)	
BOUNDARY	)	
	)	Introduced by Executive Officer,
	)	Mike Burton
	)	

WHEREAS, the duty and authority to review and approve annexations to the Metro jurisdictional boundary is granted to Metro pursuant to Oregon Revised Statute 268.354 (3) (c); and

WHEREAS, Metro received a complete petition from the property owners and registered voters of a certain tract of land depicted on the attached map and described in Exhibit A to this ordinance, requesting that their property be annexed to Metro; and

WHEREAS, Metro received written consent from a majority of the electors in the territory to be annexed and owners of more than half the land in the territory proposed to be annexed, as required by ORS 198.855 (3); and

WHEREAS, Metro Council in Resolution No. 01-3108 has expressed its intent to adopt an ordinance amending the Urban Growth Boundary to include the territory described in Exhibit A within 30 days of receiving notification that the territory has been annexed to Metro; and

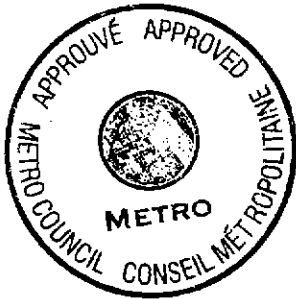
WHEREAS, a report was prepared as required by law and Metro having considered the report and the testimony at the public hearing, does hereby favor annexation of the subject property based on the findings and reasons for decision attached hereto as Exhibit B; now therefore

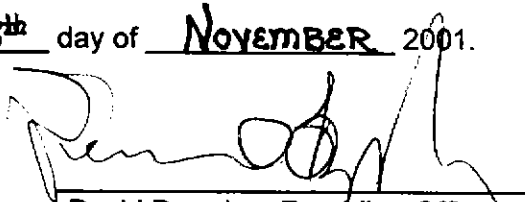
THE METRO COUNCIL ORDAINS;

1. The territory described in Exhibit A and depicted on the attached map is hereby annexed to the Metro jurisdictional boundary.
2. Pursuant to Metro Code 3.09.050 (f), the effective date of this annexation decision shall be immediately upon adoption of this ordinance.

3. This ordinance is necessary for the immediate preservation of public health, safety and welfare because it is necessary to allow the Council to subsequently change the Urban Growth Boundary which in turn will allow the City of Wilsonville to annex the territory and complete certain public improvements necessitated by the opening of the correctional facility. An emergency is therefore declared to exist, and this ordinance shall take effect immediately, pursuant to Metro Charter Section 39 (1).

ADOPTED by the Metro Council this 8<sup>th</sup> day of NOVEMBER 2001.



  
David Bragdon, Presiding Officer

ATTEST:

  
Recording Secretary

Approved as to Form:

  
Daniel B. Cooper, General Counsel

# EXHIBIT A

Proposal No. AN-0201

**LEGAL DESCRIPTION**  
**WOMEN'S PRISON AND INTAKE CENTER ANNEXATION**  
**METRO JURISDICTIONAL BOUNDARY**  
**WASHINGTON COUNTY, OREGON**

Real property situated in Washington County, Oregon, lying in the East half of Section 3, Township 3 South, Range 1 West of the Willamette Meridian, described as follows:

Beginning at the Northeast corner of said Section 3 as shown on S.N. 28,249, survey records of said county, said point being on the centerline of County Road No. 844 established in Commissioner's Journal Volume 13 at Page 88, records of said county, more commonly known as S.W. Graham's Ferry Road, thence along the East line of said Section 3 and the centerline of said S.W. Graham's Ferry Road South 00° 23' 37" East 654.40 feet to the point of intersection of said centerline with the Easterly projection of the North right of way line of Ninth Street as shown on the plat of Tonquin, recorded in Book 4 of Plats at Page 1, records of said county, more commonly known as S.W. Clay Street, said point being the True Point of Beginning; thence continuing along the East line of said Section and the centerline of said S.W. Graham's Ferry Road, and the centerline of S.W. Garden Acres Road South 00° 23' 37" East 1588.18 feet to a point on the Easterly projection of the North line of Lot 16 of Cahalin Acres, according to the plat thereof, recorded in Book 15 of Plats at Page 35, records of said county; thence along said Easterly projection, and said North line South 89° 58' 49" West 47.61 feet to the Northwest corner of said Lot 16, said point being on the Easterly right of way line of S.W. Graham's Ferry Road and being on the arc of a 438.99 foot radius curve; thence along the Westerly line of said Lot 16 and the Easterly right of way line of said Graham's Ferry Road, and from a tangent bearing of South 34° 11' 57" West, along said curve to the right, through a central angle of 07° 23' 04", an arc distance of 56.58 feet (the chord of which bears South 37° 53' 29" West 56.54 feet) to a point of tangency; thence continuing along the Westerly line of said Lot 16 and the Easterly right of way line of said Graham's Ferry Road South 41° 35' 01" West 463.09 feet to the Southwest corner of said Lot 16; thence along the Southerly projection of the Westerly line of said Lot 16 South 41° 35' 01" West 60.18 feet to a point on the South right of way line of S.W. Cahalin Road (County Road Number 1100); thence along said South right of way line South 89° 58' 49" West 1888.48 feet to a point on the East right of way line of the Southern Pacific Railroad; thence along said East right of way line North 15° 43' 00" West 46.74 feet to a point on the North right

of way line of said S.W. Cahalin Road; thence continuing along the East right of way line of said Southern Pacific Railroad as shown on said S.N. 28,249 the following courses:

North 15° 43' 00" West 708.72 feet to a point of spiral; thence along the arc of a spiral curve to the to the right a distance of 226.48 feet (the chord of which bears North 14° 33' 14" West 226.44 feet) to a point of curvature with a 1884.86 foot radius curve; thence from a tangent bearing of North 12° 13' 00" West, along said curve to the right, through a central angle of 20° 48' 00", an arc distance of 684.26 feet (the chord of which bears North 01° 49' 00" West 680.51 feet) to a point of spiral; thence along the arc of a spiral curve to the right a distance of 226.48 feet (the chord of which bears North 10° 55' 14" East 226.44 feet) to a point of tangency; thence North 12° 05' 00" East 137.49 feet

to an iron rod marking the centerline of vacated S.W. Clay Street; thence along the centerline of said vacated street North 89° 30' 41" East 299.82 feet to an iron rod on the Westerly right of way line of S.W. Clay Street, said point being on the arc of a 45.00 foot radius curve; thence along said Westerly right of way line, and the Northerly right of way line of said S.W. Clay Street the following courses:

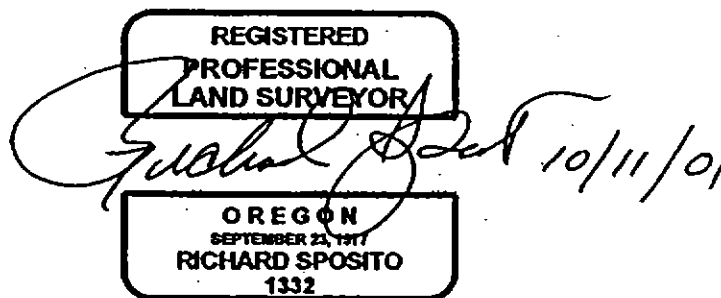
from a tangent bearing of North 00° 29' 19" West, along said curve to the right, through a central angle of 131° 24' 35", an arc distance of 103.21 feet (the chord of which bears North 65° 12' 58" East 82.03 feet) to a point of reverse curvature with a 15.00 foot radius curve; thence along said curve to the left, through a central angle of 41° 24' 35", an arc distance of 10.84 feet (the chord of which bears South 69° 47' 02" East 10.61 feet) to a point of tangency; thence North 89° 30' 41" East 156.53 feet to an iron rod; thence South 00° 29' 07" East 10.00 feet; thence North 89° 30' 41" East 1977.87 feet

to the True Point of Beginning.

Containing approximately 114.2 acres.

Subject to easements and restrictions of record.

Basis of bearings: the East line of Section 3 as shown on said S.N. 28,249.

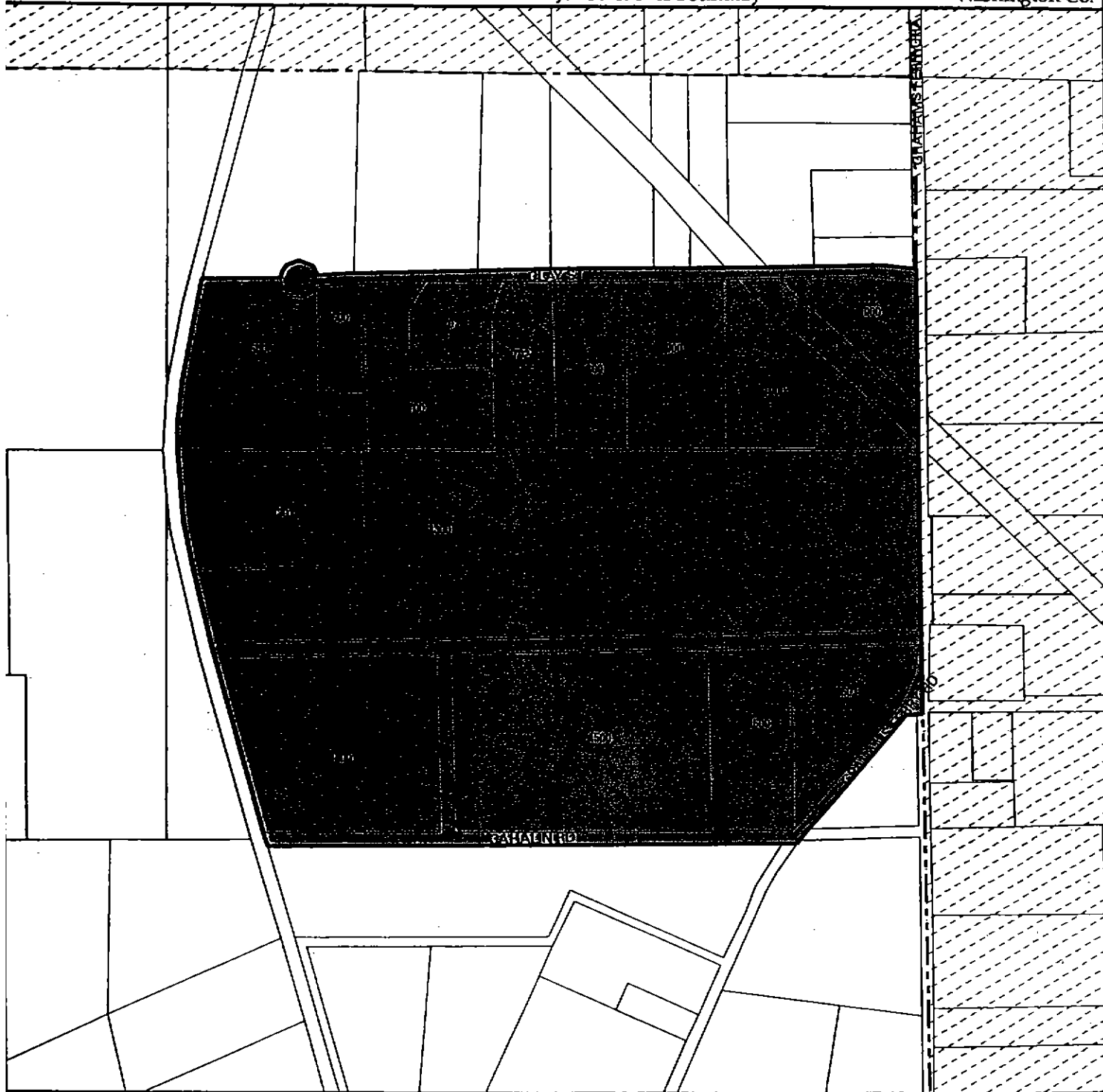


EXPIRES: 6-30-02

# Proposal No. AN-0201

3S1W03 Annexation to the Metro Jurisdictional Boundary

Washington Co.



REGIONAL LAND INFORMATION SYSTEM



600 NE Grand Ave.  
Portland, OR 97232-2736  
Voice 503 787-1742  
FAX 503 787-1908  
Email [dro@metro-region.org](mailto:dro@metro-region.org)

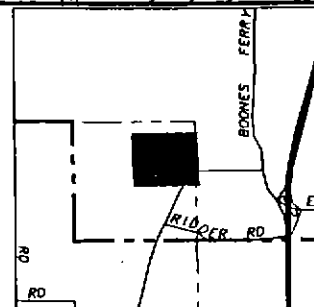
**METRO**

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

- Metro boundary
- Annexation boundary
- Area to be annexed

Proposal No. AN-0201  
METRO JURISDICTIONAL BOUNDARY  
Figure 1

Scale: 1" = 500'  
0 500 1000



Please recycle with colored office grade paper

## FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory to be annexed contains 119 acres and an Oregon Correctional Department installation known as the Coffee Creek Correctional Facility.
2. The annexation is being sought primarily at the behest of the City of Wilsonville. The City believes that this is an essentially urban facility located directly adjacent to the City's urban limits and should be within the Metro UGB. The City believes it can better plan for future urban development in this area if the facility is included in the corporate boundary of the City. Thus traffic planning, road construction standards and other issues relative to the site can be controlled by the City.

While the prison site will not generate property tax revenues for the City, the prison population can be counted as part of the City population for the purposes of state-shared revenues. Thus a secondary motivation for the City is to seek revenues to cover the impact which this facility will have on the City.

3. Oregon Revised Statute 198.852 directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

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

- timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
  7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

4. The site is basically flat with some trees and small wetlands. It is already developed with the intended use, a correctional facility. To the west of the site lies a railroad track and a gravel mine. To the north and south are some residential and industrial uses. To the east is residential, some industrial and some vacant land.
5. This territory abuts the Metro jurisdictional boundary and the regional Urban Growth Boundary (UGB) on the east along Grahams Ferry Road between Day Road and Clay Street.

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan. These were examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The Metro Council recently considered a proposal to add this property to the regional Urban Growth Boundary. On October 4, 2001 the Council expressed its intent to adopt an ordinance amending the Urban Growth Boundary to include this territory. The Council Resolution (No. 01-3108) states this ordinance will be adopted within 30 days of receiving notification that the property has been annexed to Metro.
7. The Washington County Comprehensive Plan was searched for criteria relative to annexations. No directly applicable criteria were found.

Washington County and the City of Wilsonville have an Urban Planning Area Agreement (UPAA) as required by LCDC. Under the Washington County/Wilsonville UPAA, the City and County agree to some mutual notification requirements but nothing in the agreement speaks to the issue of annexations to Metro.

This territory is zoned MA-E, Land Extensive Industrial on approximately the western one third. MA-E usually allows for farm and forest related industrial uses needed to support the natural resource base. The balance of the property is zoned AF-5, Agriculture and Forest, 5 acre minimum parcel size. The Planning designations are the same as the zoning designations on the Washington County Comprehensive Plan.

Notwithstanding County planning and zoning designations the correctional institution was sited and built under the provisions of ORS 421.635 to 421.657. This process allowed the Department of Corrections to site and build the prison. Necessary permits were mandated to be issued by the appropriate state agencies and by Washington County.

In its County 2000 program Washington County has adopted a policy favoring a service delivery system which distinguishes between municipal and countywide services. The reason for the policy is to achieve tax fairness and expenditure equity in the provision of public services. The County policy favors municipal services being provided by cities or special districts.

8. The territory is not within any city's Urban Planning Area since it has been outside the regional Urban Growth Boundary. The City of Wilsonville intends to annex the area into the City upon approval of its inclusion in the UGB.
9. Oregon Revised Statute 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but there are no urban service agreements in place in this general area to date. In fact the requirement for urban service agreements only applies to areas within urban growth boundaries. Thus no ORS 195 agreements were required relative to the territory since it has been outside the regional UGB.

ORS 195 also provides for a new method of annexation based on an annexation plan which has been voted on by the residents of a governmental entity and the residents of the area the entity intends to annex. No such plans cover this area.

10. Some urban services are currently extended to this site despite the fact that it is not within an urban growth boundary. These extensions were allowed under the authority granted to the Department of Corrections to obtain public services under ORS 421.649.

Water service has been extended to the site from the City of Wilsonville via 18 inch



waterlines in Day Road and Garden Acres Road. The City has recently experienced water supply problems but is in the process of developing a new source (the Willamette River with treatment) and the Department has made a significant financial contribution to this project. City sewer service has also been made available to the prison site from the City with an 18-inch sewer line which enters the property mid-way along Cahalin Road. Storm sewers have been installed along Day Road which provides access to the site. On-site storm drainage flows to the west via a 42-inch storm sewer line leaving the site's southwest corner near the intersection of Cahalin Road and the railroad tracks. Road improvements, including off-site improvements to Day Road, will be funded by the Department of Corrections. These improvements have been intentionally delayed until annexation to the City takes place so that the improvements can be made under City standards instead of County standards.

Annexation to Metro in and of itself will not make additional urban services available because the services which Metro offers are not what would generally be described as *urban services*. After annexation to Metro and after inclusion of the property within the UGB, the availability of additional urban services will be addressed through annexation to the City of Wilsonville.

11. This territory lies within Tualatin Valley Fire & Rescue. This is a large rural fire protection district serving both urban and rural areas in Washington, Multnomah and Clackamas counties. The nearest District station is on Elligsen Road just across the I-5 freeway.

The Sherwood School District services this area and it is within the Portland Community College District. The jurisdictional boundaries of Tri-Met and the Port of Portland also cover the territory.

Other services are provided generally at a rural level by Washington County. This includes police protection, the courts, tax collection, etc.

12. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and tentatively approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo

and tax levies for bonded debt.

Metro has no service agreements with local governments which would be relative to district annexation in general or to this particular site.

13. Adjacent property owners north of Clay Street have suggested inclusion of their properties in this boundary change proposal.

### CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ." The Council has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 12 Metro has no relevant service agreements.
3. Metro Code 3.09.050 (d) (1) requires the Council to address the consistency between its decision and any urban service agreement or annexation plan under ORS 195. There are no ORS 195 agreements or annexation plans in place in this area (see Finding No. 9). Therefore the Council concludes that its decision is not inconsistent with any such agreements or plans.
4. The Metro Code calls for consideration of any directly applicable standards or criteria to be found in urban planning area agreements. There is an urban planning area agreement between Washington County and the City of Wilsonville but it does not cover the territory to be annexed. That agreement calls for notice to be provided to one unit of government when the other unit is taking an action such as an annexation. While this agreement is between Washington County and the City of Wilsonville and therefore might not technically apply to an action by Metro, none-the-less the City was notified of this annexation.
5. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Council decision

and any "specific directly applicable standards or criteria for boundary changes contained in . . . regional framework and functional plans . . . " As noted in Finding No. 5 there are no directly applicable criteria in Metro's regional framework plan or in the two adopted functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan.

6. Metro Code 3.09.050 (e) (5) states that another criteria to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." The Council finds that the provision of public facilities and services to this area has already been addressed through the correctional facility siting statutes. As noted in Finding 10 all necessary urban services have already been made available or can be made available to the site under the aegis of ORS 421 and through annexation to the City of Wilsonville. Therefore the Council finds that this annexation does not interfere with the timely, orderly and economic provision of public facilities and services. Since this annexation is necessary for Wilsonville to be able to annex the area and Wilsonville will supply additional services, this action is a logical step towards making urban services available to the territory as required by this criteria.
7. Metro Code 3.09.050 (d) (6) states that if a proposed boundary change is for annexation to Metro, a determination by the Council that the property should be within the UGB shall be the primary criteria for approval. The Council has made such a determination as noted in Finding No. 6. Therefore the Council finds that the primary reason for approving this proposal is the determination that the property should be within the UGB.
8. The final criteria to be considered under the Metro Code 3.09.050 (d) (7) is consistency with other applicable criteria under state and local law. The applicable criteria under state law were covered in Reasons No. 1 & 2 above. No other local laws applying to this annexation were found to exist.
9. The Council notes in No. 7 above that the primary criteria in judging this boundary change is whether we have made a determination that the affected property should be within the UGB. With regard to the request by the owners north of Clay Street, no such determination has been made and inclusion of these properties in Metro's jurisdictional boundary at this time is therefore not warranted.

Date: October 19, 2001

## **STAFF REPORT TO THE METRO COUNCIL**

### **SECTION I: APPLICATION SUMMARY**

**CASE:** AN-0201, Annexation To Metro Jurisdictional Boundary

**APPLICANT:** State of Oregon Department of Corrections

**PROPOSAL:** The petitioner is requesting annexation to the Metro boundary following the Metro Council's "expression of intent to amend the urban growth boundary" on October 4, 2001.

**LOCATION:** The territory is located on the south edge of the District on the north of Cahalin Road east of the Southern Pacific Railroad tracks, south of Clay Street (See Figure 1).

**PLAN/ZONING  
DESIGNATION:** MA-E, Land Extensive Industrial (western part) and AF-5, Agriculture And Forest (eastern part)

**APPLICABLE  
REVIEW CRITERIA:** ORS Chapter 198, Metro Code 3.09

### **SECTION II: STAFF RECOMMENDATION**

Staff recommends adoption of Ordinance No. approving Boundary Change Proposal No. AN-0201, annexation to Metro.

### **SECTION III: BACKGROUND INFORMATION**

Initiation: Proposal No. AN-0201 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law), ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040 (a) (which lists minimum requirements for petition).

Site Information: The territory to be annexed is located on the south edge of the District on the north of Cahalin Road east of the Southern Pacific Railroad tracks, south of Clay Street. The territory contains 119 acres and an Oregon Correctional Department installation known as the Coffee Creek Correctional Facility.

## REASON FOR ANNEXATION

The annexation is being sought primarily at the behest of the City of Wilsonville. The City believes that this is an essentially urban facility located directly adjacent to the City's urban limits and should be within the Metro UGB. The City believes it can better plan for future urban development in this area if the facility is included in the corporate boundary of the City. Thus traffic planning, road construction standards and other issues relative to the site can be controlled by the City.

While the prison site will not generate property tax revenues for the City, the prison population can be counted as part of the City population for the purposes of state-shared revenues. Thus a secondary motivation for the City is to seek revenues to cover the impact which this facility will have on the City.

## CRITERIA

Oregon Revised Statute 198.852 directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

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

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The site is basically flat with some trees and small wetlands. It is already developed with the intended use, a correctional facility. To the west of the site lies a railroad track and a gravel mine. To the north and south are some residential and industrial uses. To the east is residential, some industrial and some vacant land.

### *REGIONAL PLANNING*

This territory abuts the Metro jurisdictional boundary and the regional Urban Growth Boundary (UGB) on the east along Grahams Ferry Road between Day Road and Clay Street.

#### Regional Framework Plan

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]. The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan. These were examined and found not to contain any directly applicable standards and criteria for boundary changes.

#### Tentative Urban Growth Boundary Change

The Metro Council recently considered a proposal to add this property to the regional Urban Growth Boundary. On October 4, 2001 the Council expressed its intent to adopt an ordinance amending the Urban Growth Boundary to include this territory. The Council Resolution (No. 01-3108) states this ordinance will be adopted within 30 days of receiving notification that the property has been annexed to Metro.

## **COUNTY PLANNING**

The Washington County Comprehensive Plan was searched for criteria relative to annexations. No directly applicable criteria were found.

Washington County and the City of Wilsonville have an Urban Planning Area Agreement (UPAA) as

required by LCDC. Under the Washington County/Wilsonville UPAA, the City and County agree to some mutual notification requirements but nothing in the agreement speaks to the issue of annexations to Metro.

This territory is zoned MA-E, Land Extensive Industrial on approximately the western one third. MA-E usually allows for farm and forest related industrial uses needed to support the natural resource base. The balance of the property is zoned AF-5, Agriculture and Forest, 5 acre minimum parcel size. The Planning designations are the same as the zoning designations on the Washington County Comprehensive Plan.

Notwithstanding County planning and zoning designations the correctional institution was sited and built under the provisions of ORS 421.635 to 421.657. This process allowed the Department of Corrections to site and build the prison. Necessary permits were mandated to be issued by the appropriate state agencies and by Washington County.

### County 2000

In its County 2000 program Washington County has adopted a policy favoring a service delivery system which distinguishes between municipal and countywide services. The reason for the policy is to achieve tax fairness and expenditure equity in the provision of public services. The County policy favors municipal services being provided by cities or special districts.

### *CITY PLANNING*

The territory is not within any city's Urban Planning Area since it has been outside the regional Urban Growth Boundary. The City of Wilsonville intends to annex the area into the City upon approval of its inclusion in the UGB.

### **FACILITIES AND SERVICES**

ORS 195 Agreements. This statute requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but there are no urban service agreements in place in this general area to date. In fact the requirement for urban service agreements only applies to areas within urban growth boundaries. Thus no ORS 195 agreements were required relative to the territory since it has been outside the regional UGB.

ORS 195 also provides for a new method of annexation based on an annexation plan which has been voted on by the residents of a governmental entity and the residents of the area the entity intends to annex. No such plans cover this area.

Urban Services. Some urban services are currently extended to this site despite the fact that it is not within an urban growth boundary. These extensions were allowed under the authority granted to the Department of Corrections to obtain public services under ORS 421.649.

Water service has been extended to the site from the City of Wilsonville via 18 inch waterlines in Day Road and Garden Acres Road. The City has recently experienced water supply problems but is in the

process of developing a new source (the Willamette River with treatment) and the Department has made a significant financial contribution to this project. City sewer service has also been made available to the prison site from the City with an 18-inch sewer line which enters the property mid-way along Cahalin Road. Storm sewers have been installed along Day Road which provides access to the site. On-site storm drainage flows to the west via a 42-inch storm sewer line leaving the site's southwest corner near the intersection of Cahalin Road and the railroad tracks. Road improvements, including off-site improvements to Day Road, will be funded by the Department of Corrections. These improvements have been intentionally delayed until annexation to the City takes place so that the improvements can be made under City standards instead of County standards.

Annexation to Metro in and of itself will not make additional urban services available because the services which Metro offers are not what would generally be described as *urban services*. After annexation to Metro and after inclusion of the property within the UGB, the availability of additional urban services will be addressed through annexation to the City of Wilsonville.

Other Services. This territory lies within Tualatin Valley Fire & Rescue. This is a large rural fire protection district serving both urban and rural areas in Washington, Multnomah and Clackamas counties. The nearest District station is on Elligsen Road just across the I-5 freeway.

The Sherwood School District services this area and it is within the Portland Community College District. The jurisdictional boundaries of Tri-Met and the Portland of Portland also cover the territory.

Other services are provided generally at a rural level by Washington County. This includes police protection, the Courts, tax collection, etc.

Metro Services. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and tentatively approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments that would be relative to district annexation in general or to this particular site.

## **SECTION V: SUMMARY AND RECOMMENDATION**



This petition seeks to annex approximately 119 acres of land into the Metro Jurisdictional boundary in order to allow expansion of the UGB. Expansion of the UGB will allow the City of Wilsonville to annex the Coffee Creek Correctional Facility to the City. Based on study above and the proposed Findings and Reasons For Decision found in Exhibit A, the staff recommends that Proposed Annexation No. AN-0201 be **approved**.

## FINDINGS

Based on the study and the public hearing, the Council found:

1. The territory to be annexed contains 119 acres and an Oregon Correctional Department installation known as the Coffee Creek Correctional Facility.
2. The annexation is being sought primarily at the behest of the City of Wilsonville. The City believes that this is an essentially urban facility located directly adjacent to the City's urban limits and should be within the Metro UGB. The City believes it can better plan for future urban development in this area if the facility is included in the corporate boundary of the City. Thus traffic planning, road construction standards and other issues relative to the site can be controlled by the City.

While the prison site will not generate property tax revenues for the City, the prison population can be counted as part of the City population for the purposes of state-shared revenues. Thus a secondary motivation for the City is to seek revenues to cover the impact which this facility will have on the City.

3. Oregon Revised Statute 198.852 directs the Council to consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.

A second set of criteria can be found in Chapter 3.09 of the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

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

- timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
  7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party so these additional criteria need not be addressed.

4. The site is basically flat with some trees and small wetlands. It is already developed with the intended use, a correctional facility. To the west of the site lies a railroad track and a gravel mine. To the north and south are some residential and industrial uses. To the east is residential, some industrial and some vacant land.
5. This territory abuts the Metro jurisdictional boundary and the regional Urban Growth Boundary (UGB) on the east along Grahams Ferry Road between Day Road and Clay Street.

The law that dictates that Metro adopt criteria for boundary changes requires those criteria to include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) has been examined and found not to contain any directly applicable standards and criteria for boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan. These were examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The Metro Council recently considered a proposal to add this property to the regional Urban Growth Boundary. On October 4, 2001 the Council expressed its intent to adopt an ordinance amending the Urban Growth Boundary to include this territory. The Council Resolution (No. 01-3108) states this ordinance will be adopted within 30 days of receiving notification that the property has been annexed to Metro.
7. The Washington County Comprehensive Plan was searched for criteria relative to annexations. No directly applicable criteria were found.

Washington County and the City of Wilsonville have an Urban Planning Area Agreement (UPAA) as required by LCDC. Under the Washington County/Wilsonville UPAA, the City and County agree to some mutual notification requirements but nothing in the agreement speaks to the issue of annexations to Metro.

This territory is zoned MA-E, Land Extensive Industrial on approximately the western one third. MA-E usually allows for farm and forest related industrial uses needed to support the natural resource base. The balance of the property is zoned AF-5, Agriculture and Forest, 5 acre minimum parcel size. The Planning designations are the same as the zoning designations on the Washington County Comprehensive Plan.

Notwithstanding County planning and zoning designations the correctional institution was sited and built under the provisions of ORS 421.635 to 421.657. This process allowed the Department of Corrections to site and build the prison. Necessary permits were mandated to be issued by the appropriate state agencies and by Washington County.

In its County 2000 program Washington County has adopted a policy favoring a service delivery system which distinguishes between municipal and countywide services. The reason for the policy is to achieve tax fairness and expenditure equity in the provision of public services. The County policy favors municipal services being provided by cities or special districts.

8. The territory is not within any city's Urban Planning Area since it has been outside the regional Urban Growth Boundary. The City of Wilsonville intends to annex the area into the City upon approval of its inclusion in the UGB.
9. Oregon Revised Statute 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but there are no urban service agreements in place in this general area to date. In fact the requirement for urban service agreements only applies to areas within urban growth boundaries. Thus no ORS 195 agreements were required relative to the territory since it has been outside the regional UGB.

ORS 195 also provides for a new method of annexation based on an annexation plan which has been voted on by the residents of a governmental entity and the residents of the area the entity intends to annex. No such plans cover this area.

10. Some urban services are currently extended to this site despite the fact that it is not within an urban growth boundary. These extensions were allowed under the authority granted to the Department of Corrections to obtain public services under ORS 421.649.

Water service has been extended to the site from the City of Wilsonville via 18 inch waterlines in Day Road and Garden Acres Road. The City has recently experienced

water supply problems but is in the process of developing a new source (the Willamette River with treatment) and the Department has made a significant financial contribution to this project. City sewer service has also been made available to the prison site from the City with an 18-inch sewer line which enters the property mid-way along Cahalin Road. Storm sewers have been installed along Day Road which provides access to the site. On-site storm drainage flows to the west via a 42-inch storm sewer line leaving the site's southwest corner near the intersection of Cahalin Road and the railroad tracks. Road improvements, including off-site improvements to Day Road, will be funded by the Department of Corrections. These improvements have been intentionally delayed until annexation to the City takes place so that the improvements can be made under City standards instead of County standards.

Annexation to Metro in and of itself will not make additional urban services available because the services which Metro offers are not what would generally be described as *urban services*. After annexation to Metro and after inclusion of the property within the UGB, the availability of additional urban services will be addressed through annexation to the City of Wilsonville.

11. This territory lies within Tualatin Valley Fire & Rescue. This is a large rural fire protection district serving both urban and rural areas in Washington, Multnomah and Clackamas counties. The nearest District station is on Elligsen Road just across the I-5 freeway.

The Sherwood School District services this area and it is within the Portland Community College District. The jurisdictional boundaries of Tri-Met and the Port of Portland also cover the territory.

Other services are provided generally at a rural level by Washington County. This includes police protection, transportation, tax collection, etc.

12. Metro provides a number of services on the regional level. Primary among these is regional land use planning and maintenance of the regional Urban Growth Boundary. Metro has provided this service to this site through the process of reviewing and tentatively approving the inclusion of this area in the UGB.

Metro provides some direct park service at what are basically regional park facilities and has an extensive green spaces acquisition program funded by the region's voters. Metro is responsible for solid waste disposal including the regional transfer stations and contracting for the ultimate disposal at Arlington. The District runs the Oregon Zoo and other regional facilities such as the Convention Center and the Performing Arts Center. These are all basically regional services provided for the benefit of and paid for by the residents within the region. These facilities are funded through service charges, excise taxes and other revenues including a small tax base for operating expenses at the Zoo and tax levies for bonded debt.

Metro has no service agreements with local governments which would be relative to district annexation in general or to this particular site.

### CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Council concluded:

1. Oregon Revised Statutes 198 requires the Council to consider the local comprehensive plan when deciding a boundary change. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ." The Council has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 12 Metro has no relevant service agreements.
3. Metro Code 3.09.050 (d) (1) requires the Council to address the consistency between its decision and any urban service agreement or annexation plan under ORS 195. There are no ORS 195 agreements or annexation plans in place in this area (see Finding No. 9). Therefore the Council concludes that its decision is not inconsistent with any such agreements or plans.
4. The Metro Code calls for consideration of any directly applicable standards or criteria to be found in urban planning area agreements. There is an urban planning area agreement between Washington County and the City of Wilsonville but it does not cover the territory to be annexed. That agreement calls for notice to be provided to one unit of government when the other unit is taking an action such as an annexation. While this agreement is between Washington County and the City of Wilsonville and therefore might not technically apply to an action by Metro, none-the-less the City was notified of this annexation.
5. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Council decision and any "specific directly applicable standards or criteria for boundary changes contained in . . . regional framework and functional plans . . ." As noted in Finding No. 5 there are no directly applicable criteria in Metro's regional framework plan or in the two adopted functional plans, the Urban Growth Management Functional Plan and the

Regional Transportation Plan.

6. Metro Code 3.09.050 (e) (5) states that another criteria to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." The Council finds that the provision of public facilities and services to this area has already been addressed through the correctional facility siting statutes. As noted in Finding 10 all necessary urban services have already been made available or can be made available to the site under the aegis of ORS 421 and through annexation to the City of Wilsonville. Therefore the Council finds that this annexation does not interfere with the timely, orderly and economic provision of public facilities and services. Since this annexation is necessary for Wilsonville to be able to annex the area and Wilsonville will supply additional services, this action is a logical step towards making urban services available to the territory as required by this criteria.
7. Metro Code 3.09.050 (d) (6) states that if a proposed boundary change is for annexation to Metro, a determination by the Council that the property should be within the UGB shall be the primary criteria for approval. The Council has made such a determination as noted in Finding No. 6. Therefore the Council finds that the primary reason for approving this proposal is the determination that the property should be within the UGB.
8. The final criteria to be considered under the Metro Code 3.09.050 (d) (7) is consistency with other applicable criteria under state and local law. The applicable criteria under state law were covered in Reasons No. 1 & 2 above. No other local laws applying to this annexation were found to exist.