

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING  
LANDS ON THE WEST SIDE OF SW  
229<sup>th</sup> AVE. SOUTH OF TUALATIN  
VALLEY HIGHWAY TO THE METRO  
JURISDICTIONAL BOUNDARY

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ORDINANCE NO. 08-1185

Introduced by Council President,  
David Bragdon

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

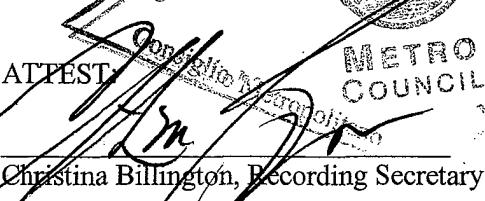
WHEREAS, Metro Council in Ordinance No. 02-969B, For the Purpose of Amending the Metro Urban Growth Boundary, the Regional Framework Plan and the Metro Code in order to Increase the Capacity of the Boundary to Accommodate Population Growth to the Year 2022 adopted on December 5, 2002 to include the territory described in Exhibit A; and


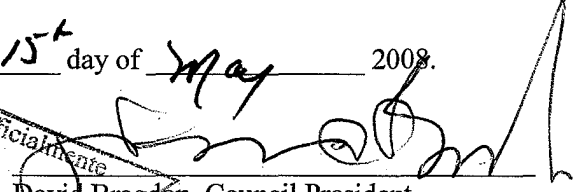
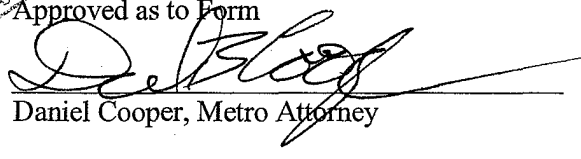
WHEREAS, a report was prepared as required by law and Metro having considered the report and the testimony at the public hearing, does hereby favor annexation of the subject property based on the findings and reasons for decision attached hereto as Exhibit B; now therefore

THE METRO COUNCIL ORDAINS;

The territory described in Exhibit A and depicted on the attached map is hereby annexed to the Metro jurisdictional boundary.

ADOPTED by the Metro Council this 15<sup>th</sup> day of May 2008.

ATTEST  
  
Christina Billington, Recording Secretary

  
Officially Approved / Approvato Ufficialmente  
METRO COUNCIL  
Approved as to Form  
  
David Bragdon, Council President  
  
Daniel Cooper, Metro Attorney

**ANNEXATION CERTIFIED**

BY Paul A. Keefe  
FEB 01 2008

WASHINGTON COUNTY A & T  
CARTOGRAPHY

MAY 1 - 2008

Ordinance No. 08-1185  
Exhibit A  
Legal/Territorial Description of Property

A tract of land in the southeast quarter of Section 10, Township 1 South, Range 2 West, Willamette Meridian, Washington County, Oregon, being more particularly described as follows:

Beginning at the northeast corner of Lot 65 of Witch Hazel Little Farms, a duly recorded subdivision in said county;

thence South  $74^{\circ}21'30''$  East, along the southeasterly projection of the north line of said lot, a distance of 41.34 feet to a point on the east right of way line of Southwest 229<sup>th</sup> Avenue;

thence South  $1^{\circ}00'$  West, along said right of way line, a distance of 1135.01 feet to the intersection of said right of way line and the easterly projection of the south line of that tract of land conveyed to Robert E. Strauss and Deanna M. Strauss by deed recorded June 20, 2007 as Document No. 2007-068327 in Deed Records of said county;

thence North  $89^{\circ}00'$  West, along said projection and said south line, a distance of 822.0 feet to the southwest corner of said Strauss Tract;

thence North  $1^{\circ}00'$  East, along the west line of Lots 68, 67, and 66 of Witch Hazel Little Farms, a distance of 881.70 feet to the northwest corner of said Lot 66;

thence South  $89^{\circ}00'$  East, along the north line of said lot, a distance of 782.0 feet to the northeast corner thereof;

thence North  $1^{\circ}00'$  East, along the west right of way line of Southwest 229<sup>th</sup> Avenue, a distance of 263.76 feet to the point of beginning.

EXCEPTING THEREFROM the following described property:

Beginning at the southeast corner of Lot 67 of Witch Hazel Little Farms;

thence North  $89^{\circ}00'$  West, along the south line of said lot, a distance of 250.0 feet to the southwest corner of that tract of land conveyed to Gregory W. Homdrom by deed recorded April 30, 2004 as Document No. 2004-048014 in Deed Records of said county;

thence North  $1^{\circ}00'$  East, along the west line of said tract and the west line of that tract of land conveyed to Brad R. Smith and Kimberly A. Smith by deed recorded May 13, 1999

as Document No. 99-58504 in Deed Records of said county, a distance of 273.85 feet to the northwest corner of said Smith Tract;

thence South  $89^{\circ}00'$  East, along the north line of said tract, a distance of 250.0 feet to the northeast corner thereof;

thence South  $1^{\circ}00'$  West, along the west right of way line of Southwest 229<sup>th</sup> Avenue, a distance of 273.85 feet to the point of beginning.

Ordinance No. 08-1185  
Exhibit B  
FINDINGS

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

1. The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant single family dwellings.
2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.
3. Oregon Revised Statute 198.850 (2) 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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change."

The applicants have prepared a detailed response to each of the criteria listed above:

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

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

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

~~UGB Amendment.~~ Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

~~K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0~~

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the*

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120  
Ordinance Findings, Page 3 of 13

*2040 Growth Concept Plan design type designation for the area.*

*1. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities

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<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

Comprehensive Plan districts, but schools and parks are permitted in the R-7 zone. The corresponding zone for the RL Comprehensive Plan District is R-7.

R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

~~Transportation System Plan.~~ The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

~~Natural Resources.~~ The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the report noted that there are 14 trees (a



mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

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

**RESPONSE:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2 automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is "designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6." (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

Section I.D. Washington County recognizes the cities and special services districts as the ultimate municipal service providers as specified in this agreement, and recognizes cities as the "ultimate local governance provider to the urban area".

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for "the eventual annexation of all urban unincorporated properties into the cities". Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including "law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building."

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit 'A' of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated

by Exhibit 'A'.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to

properties in the HUSA west of Cornelius Pass Road between Sunset Highway and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services. Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

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

**RESPONSE:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality

facilities and will be piped along the west boundary line of the neighboring tax lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

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

**RESPONSE:** The annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

**(5) The proposed effective date of the decision.**

**RESPONSE:** The proposed effective date is July 1, 2008.

4. The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

5. This territory abuts the Metro jurisdictional boundary on the north, east and south.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

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

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-969B).

6. The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. The area is covered by an Urban Services Agreement which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

7. All major public Services are available from the City of Hillsboro.
8. 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 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.

## 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 Council has reviewed the applicable comprehensive plan which is the Hillsboro 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. 3 Metro is a party to an Urban Service Agreement which identifies Hillsboro as the appropriate provider of urban services for this area.
3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. Therefore the Council finds this proposed annexation to be consistent with that criterion.
4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is "The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services." As noted in Finding 6 the territory has been protected from premature development by application of FD-20 zoning. The territory has been annexed to Hillsboro and as stated in Finding 3 the City has necessary urban services available. The Council concludes this criterion is met.



**STAFF REPORT**

IN CONSIDERATION OF ORDINANCE NO. 08- 1185 FOR THE PURPOSE OF ANNEXING LANDS ON THE WEST SIDE OF SW 229<sup>th</sup> AVE. SOUTH OF TUALATIN VALLEY HIGHWAY TO THE METRO JURISDICTIONAL BOUNDARY

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Date: May 15, 2008

Prepared by: Ken Martin, Annexation Staff

**SECTION I: APPLICATION SUMMARY**

CASE: AN-0108, Annexation To Metro Jurisdictional Boundary

APPLICANT: 100% Owners/100% Voters of Three Properties

PROPOSAL: The petitioners are requesting annexation to the Metro boundary following the Metro Council's addition of the property to the Urban Growth Boundary in December, 2002 and the City of Hillsboro's annexation of the property in January, 2008.

LOCATION: The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. (See Figure 1).

PLAN/ZONING Future Urban/FD-20 (Future Development – 20 Acre District).

APPLICABLE REVIEW CRITERIA: ORS Chapter 198, Metro Code 3.09

**SECTION II: STAFF RECOMMENDATION**

Staff recommends adoption of Ordinance No. 08-1185 approving Boundary Change Proposal No. AN-0108, annexation to Metro.

**SECTION III: BACKGROUND INFORMATION**

**Initiation:** Proposal No. AN-0108 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 is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant single family dwellings.

## **REASON FOR ANNEXATION**

The annexation is being sought to continue the process, which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.

## **CRITERIA**

Oregon Revised Statute 198.850 (2) 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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change.”

The applicants have prepared a detailed response to each of the criteria listed above. These responses are attached as Attachment 1.

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

## REGIONAL PLANNING

This territory abuts the Metro jurisdictional boundary on the north, east and south.

### Regional Framework Plan

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

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

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

### Urban Growth Boundary Change

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-969B).

## CITY PLANNING

The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. As explained in Greater detail in Attachment 1, the area is covered by an Urban Services Agreement, which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

## **FACILITIES AND SERVICES**

Public Services. The availability of public services is addressed in Attachment 1.

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 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 IV: ANALYSIS/INFORMATION**

1. **Known Opposition** - There is no known opposition to this annexation. No one has contacted staff on this matter despite extensive notification which included posting and publishing of notices and notices to surrounding property owners.
2. **Legal Antecedents** - This annexation is a follow-up to the UGB change passed by the Council as Ordinance 02-969B. The annexation is being processed under provisions of ORS 198 and Metro Code 3.09.
3. **Anticipated Effects** - No significant effect is anticipated. The uses allowed on this site will be under the control of the City of Hillsboro and as anticipated by the Metro UGB expansion.
4. **Budget Impacts** - None

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

This petition seeks to annex approximately 14.268 acres of land into the Metro Jurisdictional boundary in order to provide for construction of an elementary school and eventual residential development within the City of Hillsboro. Based on the study above and the proposed Findings and Reasons For Decision found in Attachment 2, the staff recommends that Proposed Annexation No. AN-0108 be *approved*. This approval should be implemented by adoption of Ordinance No. 08-1185 (attached).

Ordinance No. 08-1185  
ATTACHMENT 1

Proposal No. AN-01-08

**V. RESPONSE TO CRITERIA FOR ANNEXATION**

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

**METRO CODE, SECTION 3.09.050(B).**

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

**RESPONSE:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will

construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality facilities and will be piped along the west boundary line of the neighboring tax lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

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

**RESPONSE:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2

automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is "designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6." (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

Section I.D. Washington County recognizes the cities and special services districts as the ultimate municipal service providers as specified in this agreement, and recognizes cities as the "ultimate local governance provider to the urban area".

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for "the eventual annexation of all urban unincorporated properties into the cities". Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including "law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building."

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering an construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the

sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit 'A' of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated by Exhibit 'A'.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to properties in the HUSA west of Cornelius Pass Road between Sunset Highway and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services.



Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

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

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

UGB Amendment. Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

*K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0*

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed*

*in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the 2040 Growth Concept Plan design type designation for the area.*

*I. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120

<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities Comprehensive Plan districts, but schools and parks are permitted in the R-7 zone. The corresponding zone for the RL Comprehensive Plan District is R-7. R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

Transportation System Plan. The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

Natural Resources. The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the

report noted that there are 14 trees (a mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

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

**RESPONSE:** The annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

**(5) The proposed effective date of the decision.**

**RESPONSE:** The proposed effective date is July 1, 2008.

**METRO CODE, SECTION 3.09.050(D)**

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

**RESPONSE:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. As noted in the previous section, the annexation is consistent with the applicable provisions of the Agreement.

This criterion is similar to Metro Section 3.09.050(B)(2). See the response to that criterion, above, for a more complete explanation of how the annexation to the Metro district is consistent with the provisions of the urban service provider agreement.

Annexation to the Metro district is consistent with directly applicable provisions in the urban service provider agreement, and therefore the proposed boundary change meets Criterion #1.

**(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;**

**RESPONSE:** There are no other applicable urban planning or other agreements between Metro and any other necessary party.

The City-County Urban Planning Area Agreement (UPAA), adopted as an element of the County Comprehensive Plan, outlines the planning responsibilities for areas outside the City limits that are expected to eventually annex to the City. The subject site (and the rest of Area 71) was not included in the UPAA, so the UPAA is not applicable in this case. Therefore, the City and County entered into a separate Memorandum of Understanding (MOU).

That MOU was executed in 2002, and expired in 2006. However, the City of Hillsboro and Washington County expect to enter into a new MOU soon which will formally assign concept planning responsibility for the "South Hillsboro Community Plan" area, which contains approximately 2,330 acres - including Area 71, which includes the subject site. The City of Hillsboro would then have the authority and responsibility to conduct and complete a concept plan as may be required by OAR 660 of the State Land Conservation and Development Commission (DLCD) rules and Section 3.07, Title 11, of Metro.

A draft concept plan for the South Hillsboro Community Plan area has been substantially completed by the City Planning Department, but not yet officially adopted by the City Council. Approval of the annexation to the Metro district, together with the recent annexation of the site to Hillsboro, would bring the site fully under Hillsboro's planning and land use regulatory jurisdiction. This would allow the City to implement Hillsboro Comprehensive Plan and Zoning provisions applicable to the site that would implement the concept plan, once it is adopted and approved by Metro in compliance with its Title 11 concept plan requirements.

The draft concept plan designates the subject site partly for "new civic/institutional", which would accommodate the proposed elementary school, and partly for "recreation/open space", which would accommodate a public park, if the City acquires the property, or a residential development, if the City does not acquire the property. The applicants applied for a Comprehensive Plan designation of "Public Facilities" on the portion of the site owned by the Hillsboro School District, and "Residential Low" density on the remainder of the site. An alternative designation for the 5.25-acre balance of the site is "Open Space". The decision on the Comprehensive Plan designation has not yet been made at this time, nor has a decision on the Concept Plan.

Annexation to the Metro district is consistent with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party, and therefore, the proposed boundary change meets Criterion #2.

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

**RESPONSE:** The annexation is consistent with directly applicable standards or criteria for boundary changes are found in the City of Hillsboro Comprehensive Plan. Applicable policies and implementation measures include the following:

*Section 2. Urbanization Policy (III)(A). Urbanization within the planning area shall be consistent with the goals and policies of this Plan. Development shall occur according to the availability of urban services and within the context of the Urban Planning Area Agreement. The City and other government agencies shall encourage property owners to maintain the present rural use and character of undeveloped or underdeveloped lands within the Hillsboro Planning Area until such land is required and proposed for urban use and the necessary urban services are available.*

*Section 2. Urbanization Implementation Measure (IV)(A). Urban development shall occur only where urban services exist or are available. It is the intent of this Plan to encourage development in those areas where such services are currently available or can be readily provided in a logical manner.*

*Section 2. Urbanization Implementation Measure (IV)(G). All land in the Hillsboro Planning Area is assumed to be available for annexation and/or development, consistent with the Comprehensive Plan, zoning, subdivision regulations, and the Urban Planning Area Agreement.*

*Section 12. Public Facilities and Services, Goal (A). Provide public facilities and services in an orderly and efficient manner consistent with the expansion of urbanization into rural areas.*

*Section 12. Public Facilities and Services, Goal (D). Public facilities and services shall be provided at a level sufficient to create and maintain an adequate supply of housing and serve an increasing level of commercial and industrial activity.*

*Section 12. Public Facilities and Services, Goal (G). The location of schools should be used as a tool in directing future growth within the planning areas.*

*Section 12. Public Facilities and Services, Goal (K). Utilization of schools and other public facilities as multi-purpose facilities should be encouraged to help meet the education, recreation and civic needs of the community.*

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

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

*Section 12. Public Services Implementation Measure (J)(1). Public Facilities planning and projections shall be maintained in five year increments and shall be coordinated with the joint City/County urbanization studies.*

*Section 12. Public Services Implementation Measure (J)(2). The City shall coordinate with the school districts located in the Urban Area to help assure an adequate level of educational services. Areas of coordination shall include:*

- (a) Location of school site;*
- (b) Reservation of potential school sites during the development approval process;*
- (c) Provision of adequate pedestrian, bicycle and bus access from residential districts to school sites;*
- (d) Consideration of school capacities, school population, and district assessed value during the development approval process; and*
- (e) Provision of population projections.*

The proposed annexation to the Metro district is consistent with these policies and implementation measures. Development will occur when all urban services currently available or can be readily provided in a logical, orderly and efficient manner. The elementary school will be located in an area in which the City of Hillsboro expects to grow, and will become a vital part of a new residential neighborhood. The school will help meet the educational, recreational needs of the community. The parcels have already been annexed to the City, which will provide sewer and water services. The School District has coordinated with the City of Hillsboro about potential locations for schools in the south Hillsboro planning area, including this particular site.

In addition to the policies and implementation measures noted above, there are goals, policies and implementation measures more directly related to the residential component of this application in Section 3 of the Hillsboro Comprehensive Plan. Some of these are quoted below, in whole or in part:

*Section 3. Housing. (1) Goal: To provide for the housing needs of the citizens of Hillsboro and surrounding community by encouraging the construction, maintenance, development and availability of a variety of housing types, in sufficient number and at price ranges and rent levels which are commensurate with the financial capabilities of the community's residents.*

*Section 3. Housing. Policies:*

*(A). Buildable land sufficient to meet the community's project population growth and resulting housing needs shall be designated within the planning area. The development of housing shall be coordinated with the extension of public facilities and services necessary to assure safe, healthy, and convenient living conditions.*

*(B). A variety of housing units shall be encouraged throughout the planning area for households of all incomes, ages and living patterns.*

*(C) Housing in the planning area shall be designed and constructed in a manner that assures safe, healthy and convenient living conditions for the community's citizens. Residential projects shall be designed to promote a diverse, pedestrian-scale environment; respect surrounding context and enhance community character; consider security and privacy; and provide usable open spaces.*

*(D) The provision of housing of various types and prices/rents and developments which provide for an efficient and compatible mix of housing types shall be encouraged. This will increase the choice of housing and will act to disperse housing types throughout the planning area in developments of design and construction consistent with policy (C) of this Section.*

*(L) New residential areas shall have water, sewers, storm drainage, street lights and underground utilities. In addition, new residential areas shall have paved streets, curbs, and pedestrianways; and where site conditions are favorable to stormwater infiltration, the use of vegetated stormwater management facilities, pervious pavement and similar "green streets" elements is encouraged where technically feasible and appropriate.*

*(Y) Residential land shall develop within the density range designated by the Comprehensive Plan unless higher densities are approved by the City under the Planned Unit Development process. Density reductions and transfers may also be allowed within the Significant Natural Resource Overlay (SNRO) District and within Habitat Benefit Areas that fall outside of the SNRO District.*

Annexation to the Metro district is consistent with all of the policies cited above. The policies basically require the City to assure that proposed new housing developments in undeveloped or newly annexed areas will be adequately serviced by necessary public facilities and services. The subject properties can be served by all necessary public facilities and services. This site is very appropriate for residential development because of its location adjacent to the proposed elementary school. Children and their parents will be able to walk to the school, and use the school open space/recreational facilities during non-school hours.

Lower density residential development is an ideal use next to an elementary school, as it will attract families with elementary school-age children, help maintain security for the school, encourage pedestrian activity, provide useable open spaces, and help build a sense of neighborhood identity and character.



The proposed R-7 zone is within the density range of the Low-Residential (LD) Comprehensive Plan designation, which the applicants have requested.

Annexation to the Metro district is consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans, and therefore the proposed boundary change meets Criterion #3.

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

**RESPONSE:** The annexation is consistent with directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan and functional plans. Specifically, site will be developed as an elementary school and a residential development appropriate with the appropriate density for an "Inner Neighborhood". Some or all of the property could also be developed as a park, if the city acquires it for such purposes.

The Metro Urban Growth Management Functional Plan has applicable policies.

Section 3.07.170 of the Metro Urban Growth Management Functional Plan defines Metro's 2040 Growth Concept design types. For "Inner Neighborhoods", which applies to this site, Metro recommends an average housing density of 14 persons per acre. If there are an average of 2.5 persons per house, that would come out to 5.6 houses per acre. If "acre" in this case means gross acre, that comes out the same density as 7 units per net acre, or the higher end of the Hillsboro R-7 zone. (The R-7 zone, which is the zone the property owners are requesting, allows 5 units per net acre.)

Section 3.07.920.B, Title 9: Performance measures, mentions the provision of schools and other community resources as part of what creates vibrant places to live and work.

The Framework Plan (which includes the regional urban growth goals and objectives and the 2040 Growth Concept) does not contain any directly applicable standards and criteria for boundary changes.

The Urban Growth Management Functional Plan contains only one provision in its Title 11 component which speaks to annexations and prescribes a directly applicable standard or criterion for an annexation boundary change. Title 11, Section 3.07.1110.A., interim Protection of Areas Brought into the Urban Growth Boundary, concerns annexations of land added to the UGB. It requires local comprehensive plans to ensure that land added to the UGB will include "provides for annexation to the (Metro) district and to a city or any necessary service district prior to

urbanization of the territory...to provide all necessary services.” Because the City of Hillsboro requires annexation of the subject site to the Metro district and to the Clean Water Services district prior to its development for urban uses, and because the City provides all other basic urban-level services itself (water, sanitary sewer, fire protection, police protection, parks and recreation, street maintenance, etc.), this provision of Title 11 is met.

The Regional Transportation Plan does not contain any directly applicable standards and criteria for boundary changes.

Annexation to the Metro district is consistent with directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan, and therefore the proposed boundary change meets Criterion #4.

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

**RESPONSE:** The proposed change will promote the timely, orderly and economic provisions of public facilities and services. Water service is available to the properties from a 10-inch City water line located in SE Alexander Street right-of-way. Sanitary sewer service is available from a 10-inch City sewer line located in SE Alexander Street right-of-way. Fire and police protection will be provided by the City of Hillsboro.

Annexation to the Metro district promotes and does not interfere with the timely, orderly and economic provisions of public facilities and services, and is therefore the proposed boundary change meets criterion #5.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

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

**RESPONSE:** There are no other state or local laws containing applicable criteria.

Annexation petitions to Metro and local governments are permitted by ORS 222.111(2) and governed generally by ORS 222.111 et. seq. ORS 222.125 permits the City and Metro not to call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing on the annexation otherwise required by ORS 222.120 “...when all of the owners of land in that territory and not

less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body." Approval of the annexation petition would be consistent with the applicable provisions in ORS 222.111. In accordance with Metro Code Section 3.09.045(a) and ORS 222.125, this annexation petition is supported by written consent of 100% of the owners residing on the properties to be annexed to the Metro District. There are not electors living on any of the properties. (See attached Annexation Consent Forms).

Annexation to the Metro district is consistent with other applicable criteria for the boundary change in question under state and local law, and therefore the proposed boundary change meets Criterion #7.

Ordinance No. 08-1185 Attachment 2  
FINDINGS

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

1. The territory is located on the west edge of the District on the west side of SW 229<sup>th</sup> Ave. south of Tualatin Valley Highway. The territory contains 14.26 acres and 2 vacant single family dwellings.
2. The annexation is being sought to continue the process which will lead to development of the property. The property has been included in the Urban Growth Boundary and annexed to the City of Hillsboro. The City is developing the Concept Plan for the area. The Metro Functional Plan requires that the entity responsible for the Concept Plan make annexation to the Metro jurisdictional boundary a requirement of the Plan. This annexation will meet that requirement. The Hillsboro School District plans to construct an elementary school on approximately 9 acres. The remaining 5+ acres would be utilized for low density residential uses but there are no current development plans in place.
3. Oregon Revised Statute 198.850 (2) 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:

(e) The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions that demonstrate:

1. The affected territory lies within the UGB;
2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and
3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS chapter 195.

Additionally Metro Code 3.09.050 (b) requires issuance of a report that addresses:

- (1) The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
- (2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
- (3) The proposed effective date of the boundary change."

The applicants have prepared a detailed response to each of the criteria listed above:

**Oregon Revised Statute 198.850 (2)**

**(2) ORS 198.800 to 198.820 apply to the proceeding conducted by the county board and the rights, powers and duties of petitioners and other persons having an interest in the proceedings. However, when determining whether to approve an annexation petition filed under this section, the county board, in lieu of the criteria prescribed by ORS 198.805 (1) and 199.462, shall consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.**

This ORS section makes it clear that the service agreement between the City of Hillsboro, Metro and Washington County and other local governments is the primary document to rely upon for these types of decisions, in lieu of other economic, demographic and sociological trends and projections, past or prospective physical development of land, and other criteria that might be pertinent if a service agreement was not in effect.

The directly applicable criteria for annexation to the Metro district include Chapter 3.09.050(b) and (d) of the Metro Code. Responses to each criterion are listed below, which can be considered findings of fact and conclusions from those findings.

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

**RESPONSE:** The properties have been considered for eventual urbanization for a number of years. The South Hillsboro Concept Plan that was completed in 1998, though never officially adopted, included the subject properties.

UGB Amendment. Metro brought the area into the Metro Urban Growth Boundary in December 2002, via Ordinance #02-969B, as part of Study Area #71. At that time, the findings adopted by Metro included the following statements, found on Page 5 of Exhibit P to Ordinance No. 02-969B.

*K. Westside Area, Study Areas 62 (partial), 63, 64, 67, 69 (partial), 71 and 0*

*These non-contiguous study areas lie west of and adjacent to the UGB as it existed prior to this expansion. The portions included are all exception lands and designated Inner Neighborhood on the 2040 Growth Concept Map (Exhibit N). Part of the included portion of Study Area 62 will be used by the City of King City as a park and storm-water retention area. The cities of Tigard, Beaverton and Hillsboro will use the other portions of the Westside Area to provide housing.*

*Study Areas 63, 64, 67, 69 (partial), 71 and 0 rate "easy" to "difficult" for sewer, water, storm-water and transportation services. The cities of Tigard, Beaverton and Hillsboro, Clean Water Services and the Tualatin Valley Water District will be the service providers; all have expressed a willingness to provide the services. These areas are adjacent to the UGB as it existed prior to this expansion; services can be extended in an orderly manner.*

*Adverse economic, energy, environmental and social consequences of urbanization in these areas will be relatively low. Compliance with Title 3 of the UGMFP will reduce the consequences to water quality and the few wetlands, streams, floodplains and riparian areas present.*

*Urbanization of the areas will bring urban development near agricultural activities to the west and south of the UGB. However, most of the areas are already developed in a rural residential pattern. Application of General Condition 5 in Exhibit M will reduce incompatibility with farm practices.*

The Council included these exception lands to provide opportunities for a wide range of housing types in a part of the region that was relatively "housing-poor."

Metro Planning Requirements. A "concept plan" for areas brought into the UGB is required prior to development. Metro's Urban Growth Management Plan (UGM) Functional Plan requires that all land annexed into the UGB "shall be subject to adopted comprehensive plan provisions consistent with the requirements of all applicable titles of the Metro Urban Growth Management Functional Plan and in particular Title 11"<sup>1</sup>. The applicable provisions of Title 11 include the following statements:

*B. Provision for average residential densities of at least 10 dwelling units per net developable residential acre or lower densities, which conform to the 2040 Growth Concept Plan design type designation for the area.*

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<sup>1</sup> Metro Code, UGM Functional Plan, Section 3.07.1120  
Findings, Page 3 of 13

*1. A concept school plan that provides for the amount of land and improvements needed, if any, for school facilities on new or existing sites that will serve the territory added to the UGB. The estimate of need shall be coordinated with affected local governments and special districts.*

Witch Hazel Village Community Plan. The City of Hillsboro completed a concept plan for a portion of Area #71, which was completed in February 2004. That plan, called the "Witch Hazel Village Community Plan", did not include the subject site in the Witch Hazel Village Planning Area boundary. That is, the concept plan, which was adopted into the Hillsboro Comprehensive Plan, excluded any land use planning designations for that portion of Area 71 south and east of Gordon Creek. (It did include 10 acres in Area 71 north of Gordon Creek).

South Hillsboro Planning Process. The City intended to begin the concept planning process for the majority of Area 71 in 2003. That process was delayed by a few years, but commenced in earnest in January 2007, and is currently nearing completion. The subject site is included in the current land use planning process, which is called the "South Hillsboro Community Plan". Although earlier scenarios of this plan designated the site as "Single Family Neighborhood"<sup>2</sup> then as "School"<sup>3</sup>, the latest draft shows it as a combination of Civic/Institutional (labeled "School" on the map) and Recreational/Open Space (labeled "Park" on the map)<sup>4</sup>.

Comprehensive Plan Amendment application. The applicants applied for an amendment to the City of Hillsboro Comprehensive Plan, changing the designations of these properties from the Washington County "Future Development – 20 acre minimum" (FD-20) district to the City of Hillsboro "Public Facilities" (PF) for the 9 acres owned by the School District, and "Residential Low" Density (RL) district for the remaining 5+ acres. That application is pending, and is tentatively scheduled for a Planning Commission hearing on March 12, 2008.

Zone Change. The applicants are applying for a zone change to R-7 (residential, 7000 square foot minimum lot size). The City does not have a corresponding zone district for the Open Space or Public Facilities Comprehensive Plan districts, but schools and parks are permitted in the R-7

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<sup>2</sup> Scenarios "A" and "B", South Hillsboro News newsletter, Volume 1, Issue 3, July 2007

<sup>3</sup> Hybrid Scenario, South Hillsboro New newsletter, Volume 1, Issue 4, September 2007

<sup>4</sup> Final Concept map, Figure 7, December 14, 2007

zone. The corresponding zone for the RL Comprehensive Plan District is R-7. R-7 is also an appropriate implementing zone for the City's "Open Space" and "Public Facilities" Comprehensive Plan districts.

Transportation System Plan. The proposed annexation is consistent with the City's Transportation System Plan. SW 229<sup>th</sup> Avenue is a collector street in this location. It has an existing, 40'-wide right-of-way. The property owners will dedicate additional right-of-way and improve the west side of the street to collector standards with the development of those properties.

Natural Resources. The site does not contain any streams, wetlands, open water, flood areas, or steep slopes. A Clean Water Services Sensitive Area Pre-screening Site Assessment was completed in July 5, 2007. CWS noted that sensitive areas potentially exist on site or within 200 feet of the site. A jurisdictional wetland determination and delineation report on the property was completed by Schott & Associates, dated July 17, 2007. The report found no wetlands present on the site.

The site was included in the Tualatin Basin Partners for Natural Places report, and is included on Metro's Interactive web site. These maps do not show any streams, wetlands or open water, or any flood areas or steep slopes. One map shows a portion of the property as "Class A Wildlife". However, most of the site is shown on the "Metro Council's recommendation on habitat protection" map as "not affected". The remaining portion of the site is shown as "allow development".

The City of Hillsboro's website shows a portion of tax lot 1S210DC00600 as "Natural Resource Protection – Level 3". But the Significant Natural Resources Overlay District map also shows the site as "unincorporated – not regulated by SNRO [Significant Natural Resource Overlay] unless annexed". Therefore, the City SNRO regulations did not apply prior until the properties were annexed to the City.

There is a relatively small grouping of about 21 trees, mostly Douglas Firs, on the south portion of the site, basically all on or adjacent to tax lot 1S210DC00600. Some of the Douglas Fir trees were removed by the School District prior to annexation to the City, based on the preliminary site plans and the District's concern about potential risks to the public and to the school facilities from falling trees. An arborist report noted that none of these on-site Douglas Fir trees were in an "equilibrium environment", or appropriate for long term preservation. However, the report noted that there are 14 trees (a mix of Douglas Fir, Incense Cedar, Silver Birch, and Garry Oak) along the



south and west property lines that are viable, and which should be protected as the site is developed. The arborist report specifies how these trees should be protected during the development process.

The proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth boundary goals and objectives, urban planning agreements of affected entity and of all necessary parties, and therefore meets Criterion #3.

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

**RESPONSE:** There is currently a Hillsboro Urban Service Provider Agreement in place for this area, dated April 2, 2003, as required by ORS 195.065. The local governments which are a party to this agreement are as follows: Washington County, the City of Hillsboro, the City of Beaverton, Metro, Clean Water Services, TriMet, Tualatin Valley Park and Recreation District, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, and Washington County Fire District No. 2. The annexation is consistent with the applicable provisions of the Agreement, specifically Section 1, Roles and Responsibilities, subsections C. and G.

Approval of the Petition to Annex the site to the Metro District would be consistent with, and carry out the intent and stated purposes and objectives of, the Hillsboro Urban Service Agreement. The subject properties are included in that document and marked as "Future Urban" (Map C-2). Section III.C makes it clear that the agreement applies to properties identified on Map C-2. In fact, Section IX.E.2 automatically amends the boundary of the Hillsboro Urban Service Agreement (HUSA) to include the properties shown on Map C-2 "once the final action has been taken by Metro and the Department of Land Conservation and Development (DLCD) and appeals have been finalized".

Specifically, this annexation complies with that agreement as follows:

It fulfills Sections I.C., which designates the City of Hillsboro as the appropriate provider of services to citizens residing within the boundaries shown on Maps A-1 to A-6, which include the area shown on Map C-2.

Approval of this Annexation Petition will enable the City of Hillsboro to

exercise full municipal governance of the site consistent with the following relevant provisions of the Hillsboro Urban Service Agreement.

Section I.C. Hillsboro is “designated as the appropriate provider of services to citizens residing within its boundaries and to unincorporated areas...as shown on Maps A-1 to A-6.” (As noted above, Section III.C. added the properties identified on Map C-2 to Maps A-1 to A-6 when those properties were added to the UGB.)

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

Section I.G.1. Consistent with Section I.C., I.D., and I.E, the County, City and Special Districts agree to develop a program for “the eventual annexation of all urban unincorporated properties into the cities”. Further, Section I.G.2. states that the program will include the transfer of Washington County responsibilities, programs, equipment and personnel to the City for urban municipal services, including “law enforcement; road maintenance; engineering and construction; land use and transportation planning; land development; and building.”

Approval of this annexation petition would be consistent with I.G of the Hillsboro Urban Services Agreement because it would expedite the transfer of law enforcement, road maintenance, engineering an construction, land use and transportation planning, land development and building services as contemplated by Section I.G. Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, assumption of law enforcement, road maintenance, engineering and construction, land use and transportation planning, land development and building services to the site would be in the best interest of the City.

Currently, the site is protected by the Washington County Fire District No. 2 (Dist. No. 2), which has primary fire protection responsibility for much of rural, unincorporated Washington County. Under the Hillsboro Urban Services Agreement, Dist. No. 2 and the City of Hillsboro have agreed that the City will ultimately be the sole provider of fire protection services to the site. Approval of this annexation petition would be consistent with Exhibit ‘A’ of the Hillsboro Urban Services Agreement because it would expedite the transfer of fire protection services to the site from Dist. No. 2 to the City, as contemplated by Exhibit ‘A’.

Pursuant to ORS 222.524, the City of Hillsboro has determined that upon its annexation to the City, withdrawal of the site from the Dist. No. 2 service area and subsequent City provision of fire protection services to the site would be in the best interest of the City.

Exhibit 'B' states that TriMet is currently the sole provider of public mass transit in the HUSD. Annexation to the Metro District would not alter that provision of the Agreement.

Exhibit 'C' states that the City will assume law enforcement services as annexations occur within the HUSA, and the area will be withdrawn from the Enhanced Sheriff's Patrol District. The subject properties are not in the Enhanced Sheriff's Patrol District, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'D' states that the City, rather than the Tualatin Hills Park and Recreation District (THPRD), will be the designated provider of park, recreation and open spaces services to the HUSD. The subject properties are not within the THPRD boundary, so they do not have to withdraw from that district. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'E' states that the County will continue to retain jurisdiction over the network of arterials and collectors within the HUSD, and that the City will accept responsibility for "public streets, local streets, neighborhood routes and collectors and other streets and roads that are not part of the County-wide road system" upon annexation. The City intends to accept responsibility for that portion of SW 229<sup>th</sup> Avenue that is within its city limits. Annexation to the Metro District is consistent with this provision of the Agreement.

Exhibit 'F' states that Clean Water Services (CWS) is responsible for sanitary sewage and storm water management within the City and the urban unincorporated area. Further, the City performs a portion of the local sanitary sewer and storm water management programs as defined in an operating agreement between the City and CWS. Annexation to the Metro district will not impact the agreement between the City and CWS, and is consistent with this provision of the Agreement.

Exhibit 'G' states that the City will be the designated water provider to properties in the HUSA west of Cornelius Pass Road between Sunset Highway

and TV Highway, and the Tualatin Valley Water District will provide services north of Sunset Highway, east of Cornelius Pass Road between Sunset Highway and TV Highway, and east of SW 209<sup>th</sup> Avenue. The subject site will be served with City water services. Annexation to the Metro district will not impact the agreement between the City and TVWD, and is consistent with this provision of the Agreement.

The proposed boundary change complies with the urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties, and therefore, meets Criterion #2.

**(6) If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criterion for approval;**

**RESPONSE:** The property was brought into the Urban Growth Boundary in December 2002, under Metro Council Ordinance #02-969B. Therefore, the proposed boundary change meets Criterion #6.

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

**RESPONSE:** No extraterritorial extensions of service are necessary. The property has been annexed into the City of Hillsboro, which will supply water and sanitary sewer services. Currently, there are no public utilities within SW 229<sup>th</sup> Ave south of SE Alexander Street. Utilities will be extended within SW 229<sup>th</sup> Avenue as needed.

The City of Hillsboro currently is in the process of extending their sanitary sewer main from SE River Road to SW 229<sup>th</sup> Ave, along SE Davis Road and Gordon Creek. Once that is complete, the applicants can extend the gravity system from this point to the subject properties. (However, if this sewer has not been constructed at the time of occupancy of the new elementary school, the Hillsboro School District will construct a private sanitary sewer pump station to pump the sanitary sewer to a manhole at the intersection of SE Alexander Street and SW 229<sup>th</sup> Avenue).

Storm water services will be provided by Clean Water Services and the City of Hillsboro. Storm water runoff will be routed through approved water quality facilities and will be piped along the west boundary line of the neighboring tax

lot (1S210DC00100) to Gordon Creek, once an easement has been procured.

Street maintenance for local streets will be provided by the City of Hillsboro. SW 229<sup>th</sup> Avenue will continue to be maintained by Washington County until the City and the County both agree to transfer that responsibility to the City.

Police, Fire and Parks services will be provided by the City of Hillsboro.

All private utilities will be extended as required by the utility companies as well.

In addition to local services, Metro provides a variety of services that will be available to this site. These include regional land use planning, solid waste disposal, the Oregon Zoo and other regional facilities, and regional park and greenspaces acquisition. Similarly, Washington County provides services to this site, including the County Sheriff's services, the County court system, the County health services, and several other general services available to all properties within the County. The annexation of the properties to the Metro district will not impact the Metro or County services.

All necessary urban services are presently available to serve the affected territory, and therefore the proposed boundary change meets Criterion #1.

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

**RESPONSE:** The annexation to the Metro boundary will not result in the withdrawal of the affected territory from the legal boundary of any necessary party. However, annexation to the City of Hillsboro resulted in a withdrawal from Washington County Rural Fire Protection District No. 2.

Therefore, the proposed boundary change is meets Criterion #4.

**(5) The proposed effective date of the decision.**

**RESPONSE:** The proposed effective date is July 1, 2008.

4. The site consists of level ground mostly cleared of vegetation with trees along the west and south edges.

To the east (across SW 229<sup>th</sup>) lies farmland. To the north, west and south of the property are rural residential properties.

5. This territory abuts the Metro jurisdictional boundary on the north, east and south.

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall “. . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS 195.” ORS 197.015 says “Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components.” The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Plan and the Regional Transportation Plan.

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

The Regional Transportation Plan was examined and found not to contain any directly applicable standards and criteria for boundary changes.

This area was added to the UGB by the Metro Council in December, 2002 (Metro Ordinance No. 02-969B).

6. The territory was recently annexed to the City of Hillsboro. The territory has been designated FD-20 (Future Development, 20 Acre District) as a way to prevent premature development prior to adoption of a Concept Plan and rezoning in compliance with that plan. The area is covered by an Urban Services Agreement which identifies Hillsboro as the appropriate provider of urban services. The subject site is included in a currently underway Concept Plan (South Hillsboro Planning Process). The applicants have applied for an amendment to the City Comprehensive Plan from Washington County’s Future Development – 20 acre minimum to Public Facilities (for the 9 acres owned by the Hillsboro School District) and Residential Low for the remaining 5+ acres. A corresponding zone change to R-7 has also been applied for.

7. All major public Services are available from the City of Hillsboro.
8. 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 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.

## 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 Council has reviewed the applicable comprehensive plan which is the Hillsboro 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. 3 Metro is a party to an Urban Service Agreement which identifies Hillsboro as the appropriate provider of urban services for this area.
3. Metro Code 3.09.070 (e) (1) establishes inclusion of the territory within the Urban Growth Boundary as one criterion for any annexation subject to the Metro rules. The Council has made such a determination as noted in Finding No. 5. Therefore the Council finds this proposed annexation to be consistent with that criterion.
4. The final criterion to be considered under the Metro Code 3.09.120 (e) (2) is "The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services." As noted in Finding 6 the territory has been protected from premature development by application of FD-20 zoning. The territory has been annexed to Hillsboro and as stated in Finding 3 the City has necessary urban services available. The Council concludes this criterion is met.



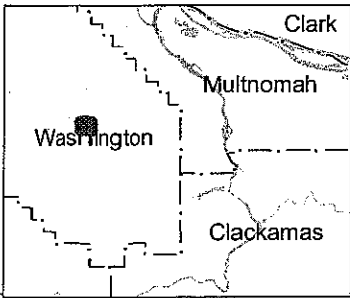
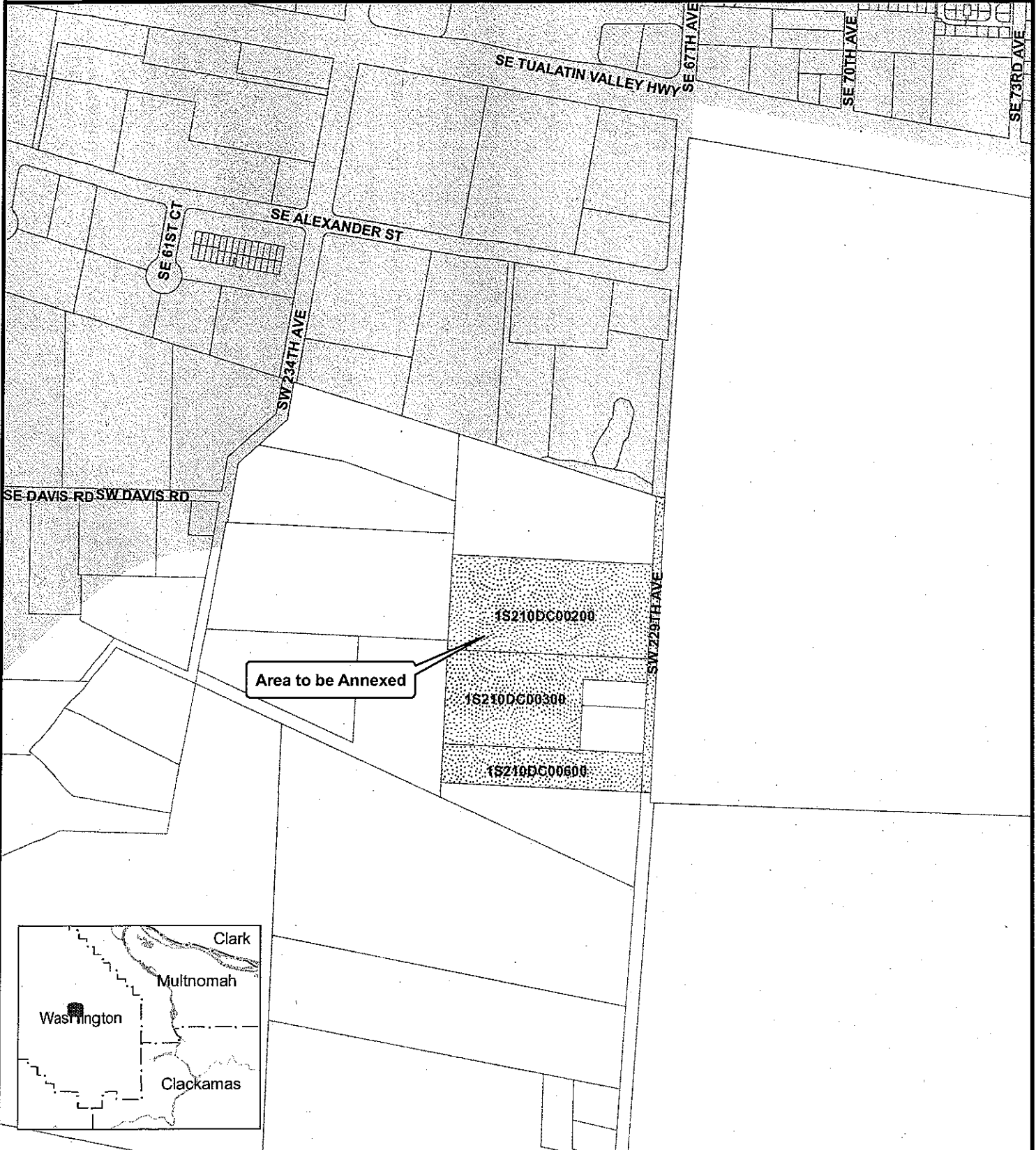
# AN-1-08

Ordinance 08-1185  
Attachment 3

1S2W10

Annexation to Metro Boundary

WASHINGTON COUNTY



METRO

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



Area to be Annexed

Area Inside the Metro Boundary

WA0908

Ken Martin Consulting  
P.O. Box 29079  
Portland, OR 97296-9079  
(503) 222-0955

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