

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ANNEXING
LANDS ON THE NORTH EDGE OF
WILSONVILLE RD. AT ITS INTER-
SECTION WITH WILLAMETTE WAY
WEST TO THE METRO
JURISDICTIONAL BOUNDARY

) ORDINANCE NO. 08-1207
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Introduced by Michael Jordan,
Chief Operating Officer with the
Concurrence of 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, 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

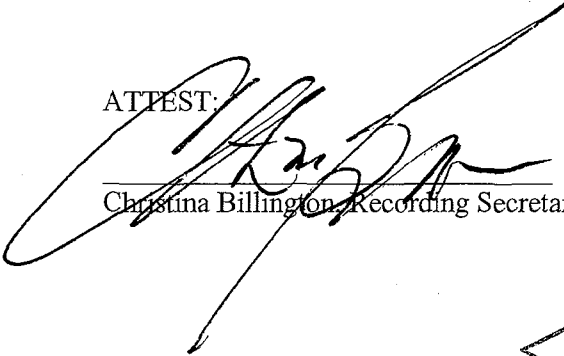
THE METRO COUNCIL ORDAINS;

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 18th day of December 2008.


David Bragdon, Council President

ATTEST:


Christina Billington, Recording Secretary

Approved as to Form


Daniel Cooper, Metro Attorney

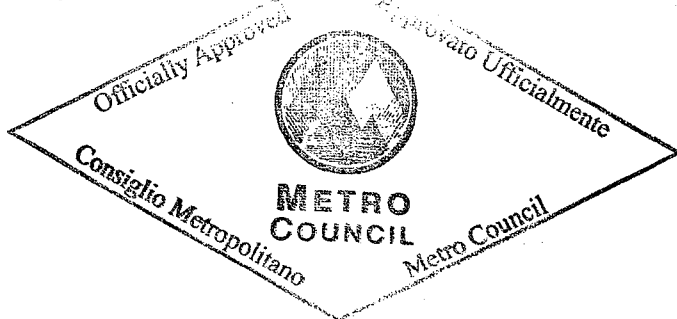


EXHIBIT 'A'

Legal Description

Urban Growth Boundary Expansion
Graham Oaks Nature Park

A tract of land situate in the northwest quarter of Section 22, Township 3 South, range 1 West, Willamette Meridian, being a portion of that certain tract of land described in Bargain and Sale Deed to Metropolitan Service District (Metro), recorded May 8, 2001 as Fee No. 2001-033484, Clackamas County Deed Records, more particularly described as follows:

Beginning at a point on the easterly line of said Metro property bearing South 33°05'31" East 706.64 feet from the northwest corner of that certain tract of land described in Statutory Warranty Deed to West Linn-Wilsonville School District, recorded November 29, 1999 as Fee No. 99-110481, Clackamas County Deed Records, thence continuing along said easterly line South 33°05'31" East 523.99 feet to a point on the centerline of re-aligned Wilsonville Road (County No. 1244) as shown on Survey No. SN2006-435, Clackamas County Survey Records; thence along said re-aligned centerline South 64°19'31" West 969.33 feet; thence leaving said centerline North 25°48'14" West 520.56 feet; thence North 64°23'08" East 902.86 feet to the **Point of Beginning**.

Containing 486,826 square feet (11.176 acres), more or less.

All as shown on Exhibit "B", attached hereto and by this reference made a part hereof.

Subject to covenants, conditions, reservations, restrictions, rights of way and easements of record, if any.

Prepared by me or under my direction on October 24, 2008.

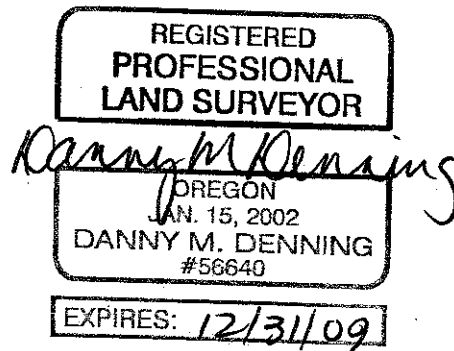
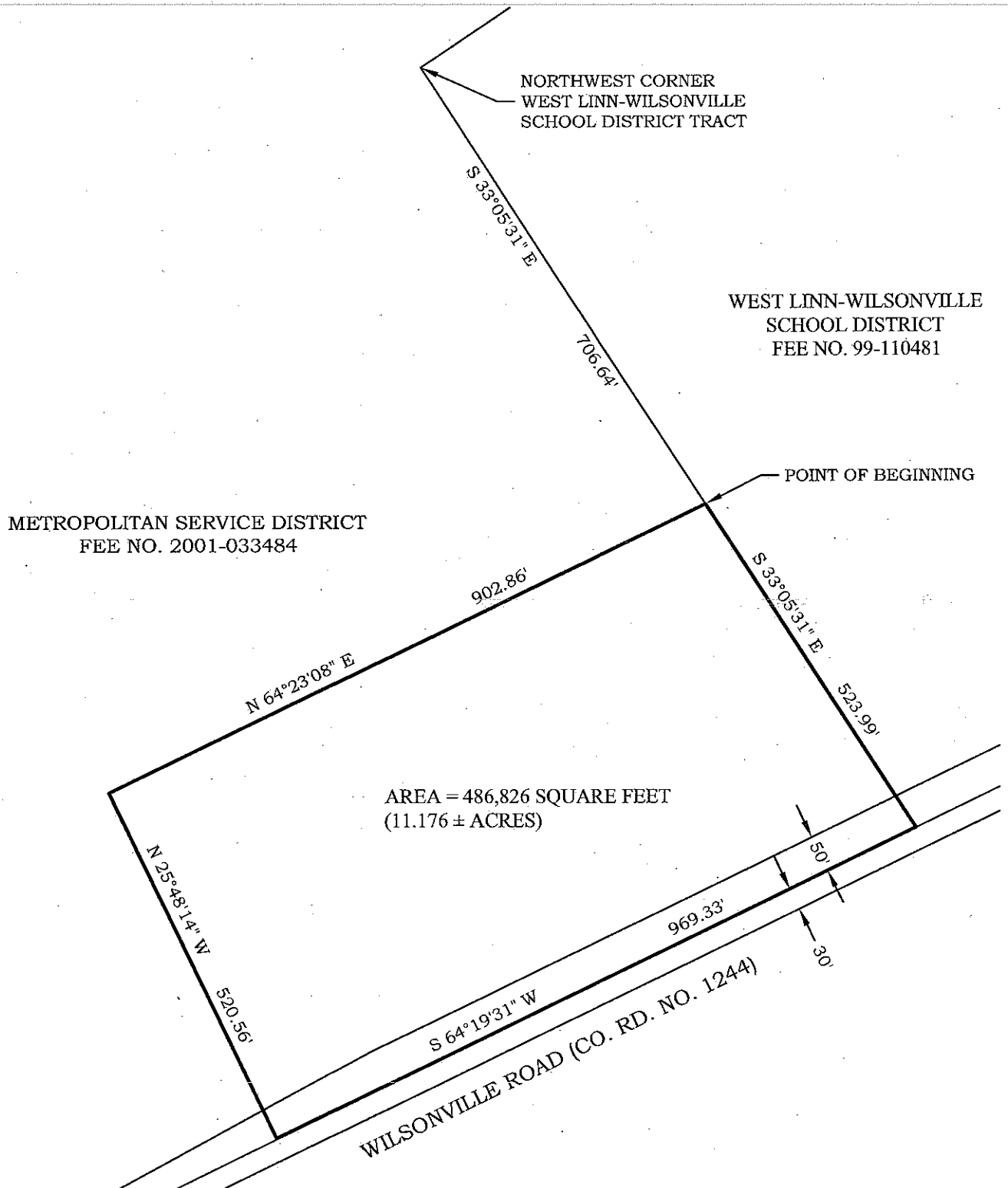


EXHIBIT 'B'
SKETCH TO ACCOMPANY LEGAL DESCRIPTION



307272-UGB



Consulting Engineers
111 S.W. Fifth Avenue
Suite 2500
Portland, Oregon 97204
503-227-3251

URBAN GROWTH BOUNDARY EXPANSION
METROPOLITAN SERVICE DISTRICT

NW QTR SECTION 22, T. 3S., R. 1W., W.M.
CITY OF WILSONVILLE, CLACKAMAS COUNTY, OREGON

| |
|----------------------|
| DATE: 10/24/08 |
| SCALE: 1" = 200' |
| CONTOUR INTERVAL: NA |
| PROJECT NO. 307272 |
| SHEET: 1 OF 1 |

Ordinance No. 08-1207
Exhibit B

FINDINGS

1. The territory is located on the south edge of the District on the north edge Wilsonville Rd. at its intersection with Willamette Way West. The territory contains 11.117 acres and is vacant.
2. The applicant (Metro) proposes annexation in keeping with the District's earlier decision to include this area in the Urban Growth Boundary. The property is to be developed as part of a nature park with trails, a picnic shelter and restrooms. The balance of the proposed park's 250 acres is adjacent and outside the UGB. The subject site (the 11 acres) is also being annexed to the City of Wilsonville, making services available for the restrooms.
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.
4. The area is currently being restored as a natural area with open savannah, scrub/shrub, wetland and forest area.
 5. This territory abuts the Metro jurisdictional boundary on the south and east.

6. 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. This is to be accomplished 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 land is being annexed to a City which can provide adequate urban services.

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

7. This area was added to the UGB by the Metro Council in October 2008.
8. The territory is in the process of being annexed to the City of Wilsonville. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.
9. The territory is currently zoned EFU, Exclusive Farm Use by Clackamas County. This effectively prevents premature development prior to annexation to a city which can provide urban services in keeping with the requirements of Title 11, Section 307.1110.A of the Metro Code. The County Plan does not contain specific criteria for consideration of boundary changes.
10. The City of Wilsonville has an 8 inch water line in Wilsonville Road which can serve the site subsequent to City annexation. Following City annexation sewer service will be available through the School District property to the east. Storm drainage will be retained on site. Police, planning and other services will be available from the City upon annexation.
11. 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. Annexation to Metro does not effect withdrawal from any governmental entities.

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 Clackamas County Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 8 there is no Urban Service Agreement in effect 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. 7. 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 9 the territory is zoned EFU in the County which effectively prevents premature development. Additionally the property is in the process of being annexed to Wilsonville and as stated in Finding 10 the City has necessary urban services available. The Council concludes this criterion is met.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 08-1207 FOR THE PURPOSE OF ANNEXING LANDS ON THE NORTH EDGE OF WILSONVILLE RD. AT ITS INTERSECTION WITH WILLAMETTE WAY WEST TO THE METRO JURISDICTIONAL BOUNDARY

Date: November 28, 2008

Prepared by: Ken Martin, Annexation Staff

SECTION I: APPLICATION SUMMARY

CASE: AN-0308, Annexation To Metro Jurisdictional Boundary

APPLICANT: Owners of 100% Land Area of One Property

PROPOSAL: Annexation to the Metro boundary is being sought following the Metro Council's addition of the property to the Urban Growth Boundary in October, 2008.

LOCATION: The territory is located on the south edge of the District on the north edge Wilsonville Rd. at its intersection with Willamette Way West (See Figure 1).

PLAN/ZONING Clackamas County EFU – Exclusive Farm Use.

APPLICABLE REVIEW CRITERIA: ORS Chapter 198, Metro Code 3.09

SECTION II: STAFF RECOMMENDATION

Staff recommends adoption of Ordinance No. 08-1207 approving Boundary Change Proposal No. AN-0308, annexation to Metro.

SECTION III: BACKGROUND INFORMATION

Initiation: Proposal No. AN-0308 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 south edge of the District on the north edge Wilsonville Rd. at its intersection with Willamette Way West. The territory contains 11.176 acres and is vacant.

REASON FOR ANNEXATION

The applicant (Metro) proposes annexation in keeping with the District's earlier decision to include this area in the Urban Growth Boundary. The property is to be developed as part of a nature park with trails, a picnic shelter and restrooms. The balance of the proposed park's 250 acres is adjacent and outside the UGB. The subject site (the 11 acres) is also being annexed to the City of Wilsonville, making services available for the restrooms.

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."

LAND USE PLANNING

SITE CHARACTERISTICS

The area is currently being restored as a natural area with open savannah, scrub/shrub, wetland and forest area.

REGIONAL PLANNING

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

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. This is to be accomplished 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 land is being annexed to a City which can provide adequate urban services.

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 October 2008.

CITY PLANNING

The territory is in the process of being annexed to the City of Wilsonville. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.

COUNTY PLANNING

The territory is currently zoned EFU, Exclusive Farm Use by Clackamas County. This effectively prevents premature development prior to annexation to a city which can provide urban services in keeping with the requirements of Title 11, Section 307.1110.A of the Metro Code. The County Plan does not contain any specific criteria for consideration of boundary changes.

FACILITIES AND SERVICES

Public Services. The City of Wilsonville has an 8 inch water line in Wilsonville Road which can serve the site subsequent to City annexation. Following City annexation sewer service will be available through the School District property to the east. Storm drainage will be retained on site. Police, planning and other services will be available from the City upon annexation.

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. Annexation to Metro does not effect withdrawal from any governmental entities.

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 in October of this year. The annexation is being processed under provisions of ORS 198 and Metro Code 3.09.
3. **Anticipated Effects** - No significant effect is anticipated. The property will be developed as a nature park in conjunction with adjacent property outside the Urban Growth Boundary.
4. **Budget Impacts** - None

SECTION V: SUMMARY AND RECOMMENDATION

This petition seeks to annex approximately 11.176 acres of land into the Metro Jurisdictional boundary as part of the development of a large nature park. Based on the study above and the proposed Findings and Reasons For Decision found in Attachment 1, the staff recommends that Proposed Annexation No. AN-0308 be **approved**. This approval should be implemented by adoption of Ordinance No. 08-1207 (attached).

AN-03-08

Ordinance No. 08-1207

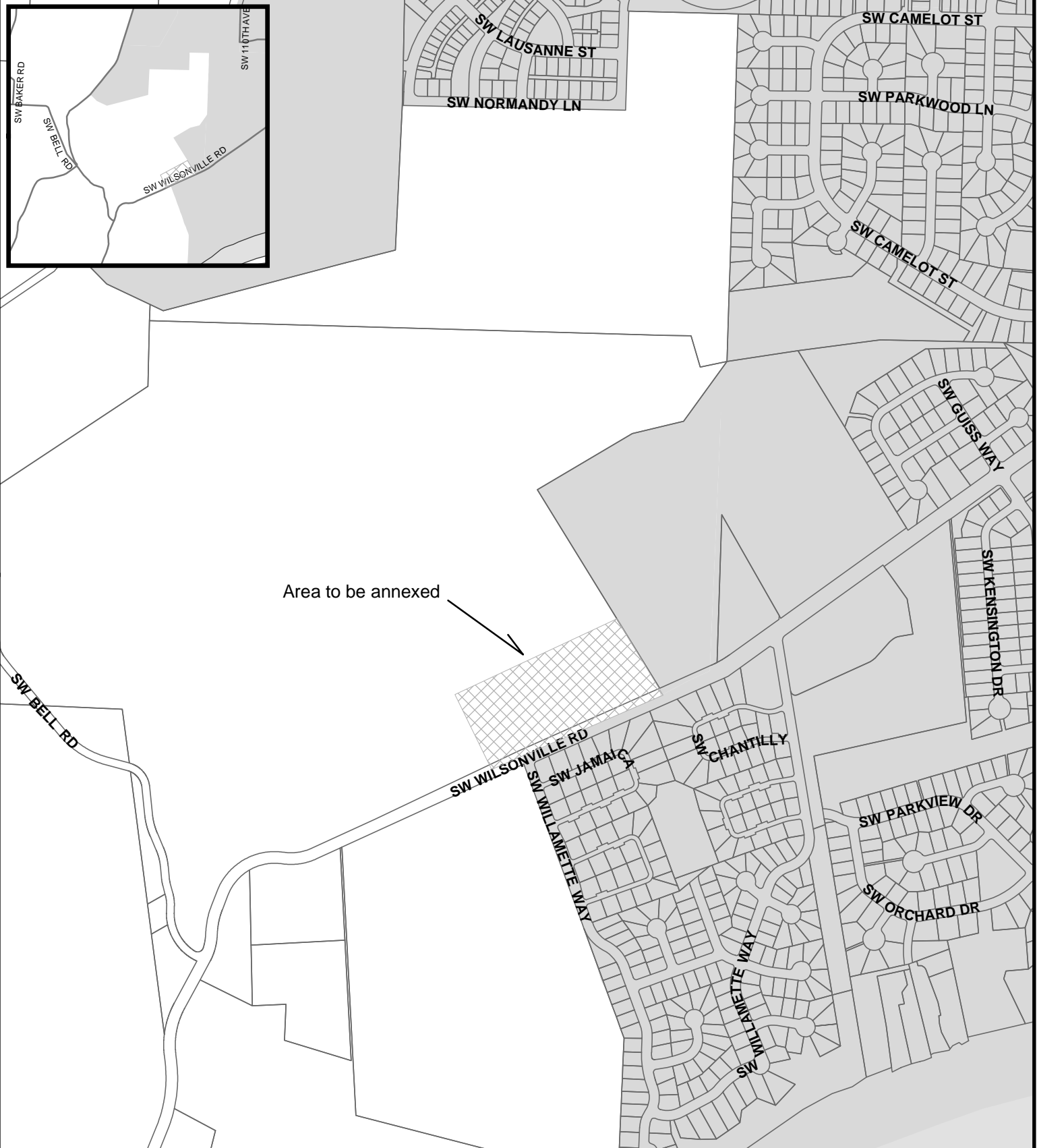
Figure 1

Dec. 9, 2008

3S1W22

Annexation to Metro Boundary

Clackamas Co.



Area to be annexed



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



 Area to be Annexed
 Metro boundary

Figure 1
1:8,000

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



FINDINGS

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

1. The territory is located on the south edge of the District on the north edge Wilsonville Rd. at its intersection with Willamette Way West. The territory contains 11.176 acres and is vacant.
2. The applicant (Metro) proposes annexation in keeping with the District's earlier decision to include this area in the Urban Growth Boundary. The property is to be developed as part of a nature park with trails, a picnic shelter and restrooms. The balance of the proposed park's 250 acres is adjacent and outside the UGB. The subject site (the 11 acres) is also being annexed to the City of Wilsonville, making services available for the restrooms.
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4. The area is currently being restored as a natural area with open savannah, scrub/shrub, wetland and forest area.
 5. This territory abuts the Metro jurisdictional boundary on the south and east.
 6. 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.

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

7. This area was added to the UGB by the Metro Council in October 2008.
8. The territory is in the process of being annexed to the City of Wilsonville. Because this area was only recently added to the Regional Urban Growth Boundary it was not included Urban Service Agreement adopted pursuant to ORS 195.
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CONCLUSIONS AND REASONS FOR DECISION

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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 Clackamas County Comprehensive Plan and finds that it contains no directly applicable criteria for making district boundary change decisions.
2. Oregon Revised Statutes 198 also requires consideration of "any service agreement executed between a local government and the affected district." As noted in Finding No. 8 there is no Urban Service Agreement in effect 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. 7. 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 9 the territory is zoned EFU in the County which effectively prevents premature development. Additionally the property is in the process of being annexed to Wilsonville and as stated in Finding 10 the City has necessary urban services available. The Council concludes this criterion is met.