

Executive Order No. 7

Subject: Administrative Interpretation of the Urban
Growth Boundary (UGB) South of Cornelius
Authority: Section 3 of Metro Ordinance No. 81-105
Effective Date: September 24, 1981

Findings of Fact

1. The UGB in this area was established at the time the UGB was first adopted by CRAG in December 1976.
2. The map showing the UGB adopted (Exhibit C) describes the UGB as following Washington County Public Works Floodplain Map No. 24 (1974), but shows the line as running along a straight diagonal that crosses the southeast corner of the subject property.
3. Washington County Public Works Floodplain Map No. 24 (1" = 1000') shows the floodplain as curving inward so as to include in the floodplain all but the northwest corner of the subject property (Exhibit D).
4. The County map was used to draw the location of the UGB on Metro section maps (Exhibit B).
5. The cover page of the County's floodplain maps contains the following caveat:

"The floodplain location and elevations on these maps are subject to precise location in the field as provided in Section 135-1.1 of the Zoning Article."

The relevant section of the Zoning Article in turn provides:

"Delineation of the floodplain...shall be established by a Registered Engineer, from the flood surface elevations provided by the Director of Public Works. Such delineations shall...be field located...."
(Exhibit F)

6. A field survey of actual elevations locates the 155' elevation identified as the floodplain boundary in 1974 in the southeast corner of the property (Exhibit I). The 151' elevation identified as the floodplain boundary in 1980 runs just to the southeast of this line, closer to the edge of the subject site.
7. In summary:
 - The adopted 1" = 4000' scale UGB map as adopted shows a generalized line which corresponds neither to the location of the floodplain as mapped by Washington County nor the current survey of the elevation on which that map was based, although it approximates the latter more closely;
 - The current section map (1" = 400') showing the location of the UGB in this area corresponds to location of the floodplain as mapped in 1974, but this location does not in turn correspond to the actual location of the 155' elevation on which this map was based;
 - None of the above lines (the UGB as mapped at 1" = 4000' scale or 1" = 400' scale; the 1974 floodplain as shown on Washington County's maps or identified by survey) correspond to actual location of the 1980 floodplain based on a 151' elevation, as identified by survey.
8. Washington County's 1974 floodplain maps were used to define the UGB in several other locations around Cornelius and Forest Grove in addition to the subject site. The decision in this matter will thus provide the basis for resolving the location of the UGB at these other points as well.

9. Section 3(a) of Ordinance No. 81-105 provides that for administrative interpretations of the UGB, "the map location should be preferred over the legal description in absence of clear evidence to the contrary."

Analysis

The UGB could be defined by any of the following:

- (1) The 1" = 4000' map of the UGB adopted (straight diagonal along southeast corner of subject site);
- (2) The 1" = 1000' 1974 Washington County floodplain map reflected on Metro's 1" = 400' section map (curving through northwest corner of subject site);
- (3) The current mapping of the 1974 floodplain elevation of 155' (curving through the southwest corner of the subject site); or
- (4) The actual location of the floodplain as defined and located by field survey at any point in time.

The first two alternatives are difficult to map with precision on 1" = 400' section maps and the second is even more difficult actually to locate on the ground. In addition, neither accurately reflects the CRAG Board's intent to include within the UGB all buildable land between city limits and the floodplain and exclude all land within the floodplain.

The third alternative can be accurately located on the ground through field survey but can only be approximated on section maps until such time as more detailed topographic maps are available or a survey is undertaken.

The fourth alternative would allow the UGB to "float" without any specific permanent location that could be mapped or surveyed at any given point in time in advance of the time of an actual development proposal.

The last alternative has the advantage of following most closely the CRAG Board intent--and the sound planning logic it reflects--to include within the UGB all buildable land up to the natural development boundary, and to exclude from it all unbuildable floodplain land. It has the disadvantage, however, of uncertainty. If the UGB is fixed only by a survey undertaken in conjunction with an actual development proposal, then, at the time of purchase, buyers who do not desire immediate development must remain unsure as to how much of their property lies within the UGB. Such uncertainty would be a particular hardship for current property owners who have relied on a fixed location of the UGB, as mapped or described. Finally, to define the UGB by the floodplain elevation identified at the time of development would interpret the UGB in a way which follows neither the map nor description adopted, while Ordinance No. 81-105 authorizes the Executive Officer only to "determine and interpret whether the map or the legal description correctly establish the UGB location as adopted" (Section 3 a).

The third alternative, to follow the 1974 floodplain elevation as surveyed, appears preferable to the first two alternatives (to follow either CRAG's 1" = 4000' map or the County's 1" = 1000' map). Although this approach will still include some unbuildable

land or exclude some buildable land, where the floodplain elevation has changed since 1974, it is nonetheless less arbitrary than following a line that never more than approximated the floodplain. In addition, this definition allows the UGB to be both described and located on the ground more precisely than is possible for either of the first two alternatives.

Conclusion and Order

The UGB in this area is hereby interpreted to follow the elevation of the floodplain in 1974, as defined by the Washington County Director of Public Works. The location of the UGB shall be interpreted in the same manner wherever the UGB is defined by Washington County 1974 floodplain maps. Accordingly the affected Metro area-wide and section maps of the UGB shall be revised to add the following notice:

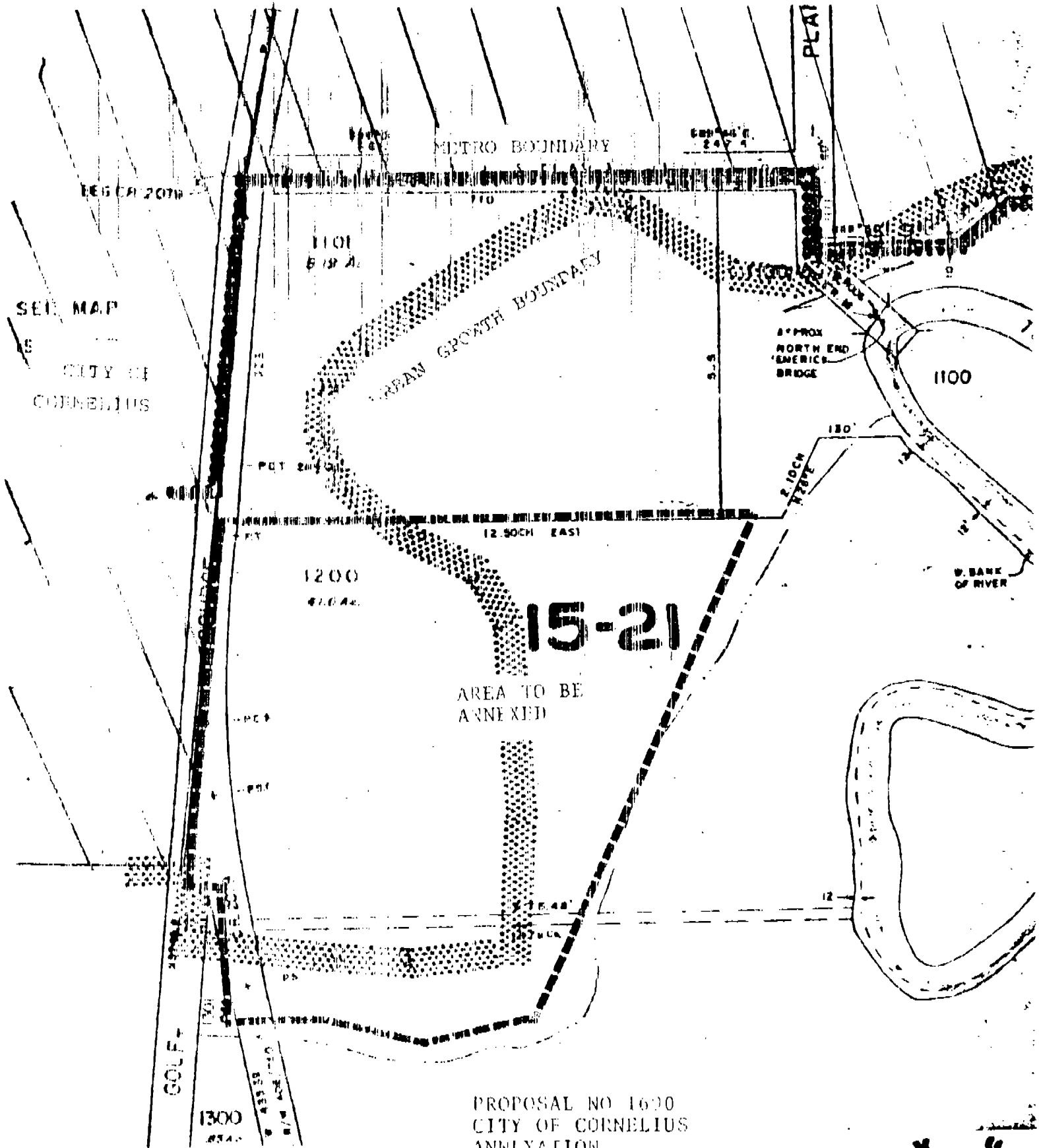
"Where the UGB is defined by floodplain boundaries as shown on Washington County 1974 floodplain maps, the precise location of the UGB shall be determined by field survey based upon floodplain elevations in 1974 as defined by the Washington County Director of Public Works, following the procedures provided in Section 135-1.1 of the Washington County Zoning Article."

Ordered by the Executive Officer this 23 day of September 1981.


Executive Officer

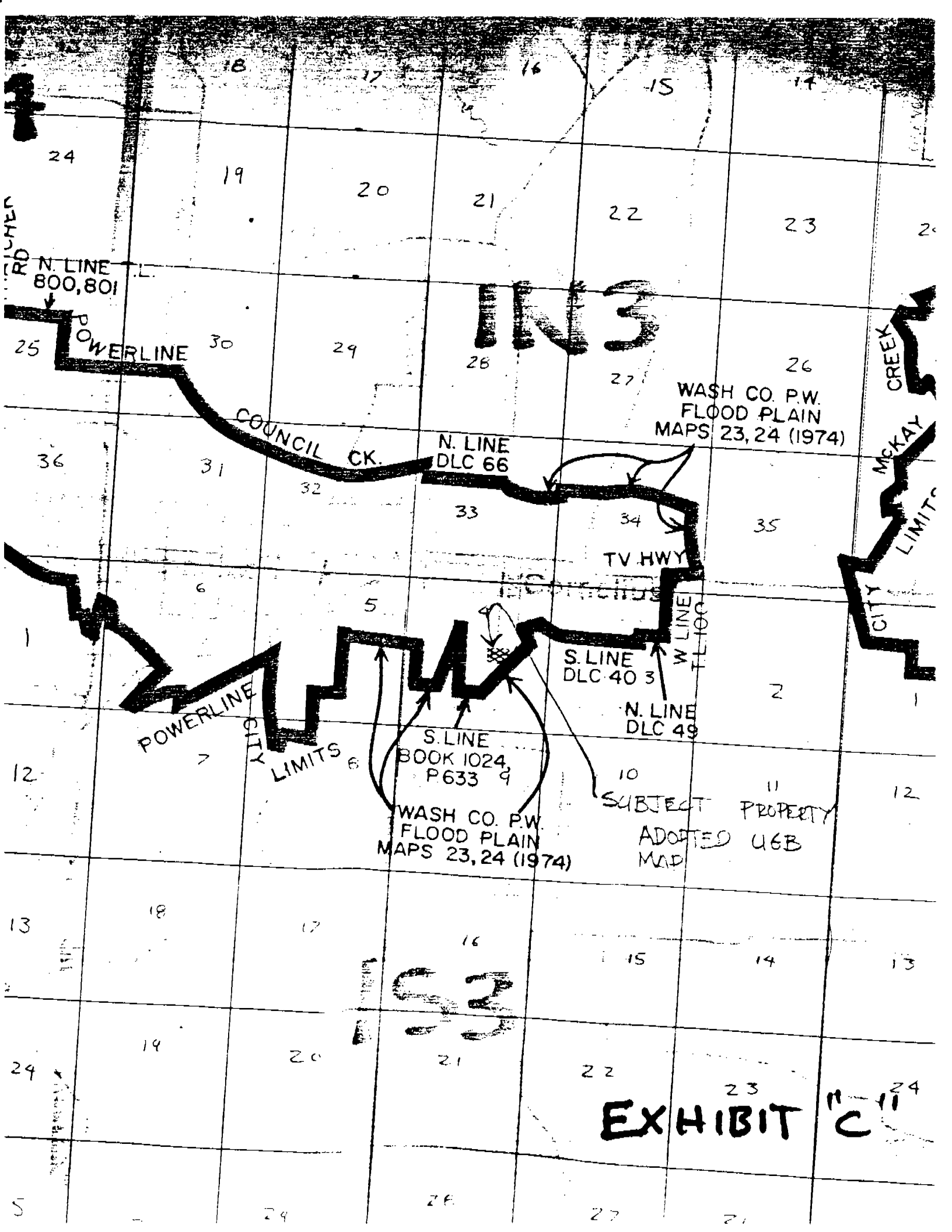
JH/srb
4093B/263

Proposal No. 1690



PROPOSAL NO 1690
CITY OF CORNELIUS
ANNEXATION
FIG. 3

EXHIBIT "B"



N. LINE
800,801

1933

WASH CO. P.W.
FLOOD PLAIN
MAPS 23,24 (1974)

N. LINE
DLC 66

TV HWY

S. LINE
DLC 40 3

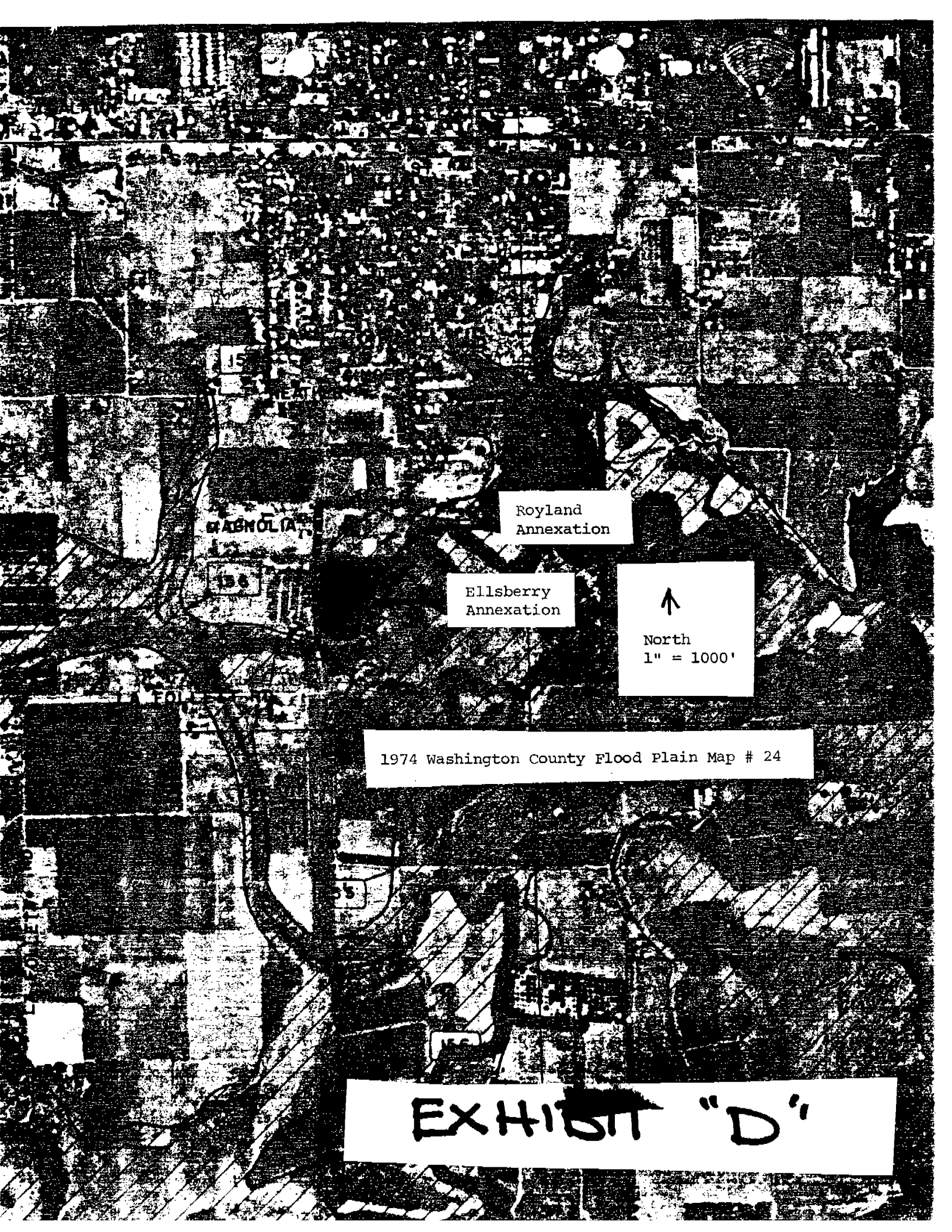
N. LINE
DLC 49

S. LINE
BOOK 1024
P633 9

WASH CO. P.W.
FLOOD PLAIN
MAPS 23,24 (1974)

SUBJECT PROPERTY
ADOPTED UGB
MAP

EXHIBIT "C"



MAGNOLIA

15

Royland
Annexation

Ellsberry
Annexation

↑
North
1" = 1000'

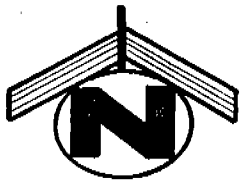
1974 Washington County Flood Plain Map # 24

EXHIBIT "D"

FLOOD PLAIN SERIES

MOHR, BANCROFT & ASSOCIATES, INC.
140 N.E. THIRD AVE.
HILLSBORO, OREGON 97123



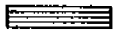

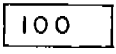
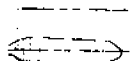
WASHINGTON COUNTY OREGON



SCALE 1"=1000'

THE FLOOD PLAIN LOCATION AND ELEVATIONS ON THESE MAPS ARE SUBJECT TO PRECISE LOCATION IN THE FIELD AS PROVIDED IN SECTION 135-1.1 OF THE ZONING ARTICLE.

LEGEND

-  FLOOD PLAIN
-  PONDS
-  STORAGE RESERVOIR
-  FLOOD PLAIN DELINEATED
-  FLOOD PLAIN SURFACE ELEVATION
MEAN SEA LEVEL DATUM
-  DRAINAGE HAZARD AREA

- 132-8 Drainage Hazard Area. Those areas subject to flooding as the result of a 25 year storm based upon the Intensity-Duration-Frequency curves of the Columbia Region Association of Government Drainage Plan.
- 132-9 Drainageway. The normal stream of drainage channel needed to convey the waters of a 25 year storm.

133 USES PERMITTED BY RIGHT

The following are the principle permitted uses by right within the floodway, floodway fringe, or drainage hazard area of an FP District where the existing grade is not materially altered thereby impeding the floodway or drainageway flow or flood plain capacity.

- 133-1 General Farm Uses conducted without locating a structure in the zone district except for a boundary fence that is designed to impede as little as possible the movement of flood waters and flood carried materials.
- 133-2 Assessory Residential or Institutional Uses within any Primary Zone which allows residential or institutional uses such as a use that does not require a structure including, but not limited to the following: Lawns, gardens, parking areas and play areas.
- 133-3 Assessory Industrial or Commercial Uses within any Primary Zone which allows said uses such as a use that does not require a structure other than surfacing at ground level such as for a loading area, or parking area that requires only temporary use that need not be in zone during the periods of annual flood risk.
- 133-4 Recreational and Assessory Recreational Uses within any Primary Zone which allows said uses, and that requires only minor structures above ground and which are designed to impede as little as possible the movement of flood waters and flood carried materials.

134 USES PERMITTED UNDER PRESCRIBED CONDITIONS IN FLOODWAY FRINGE

The following are the permitted uses subject to the cited conditions hereinafter imposed for each use:

- 134-1 Floodway Fringe. Any use permitted in the Primary Zone, with which the FP District is combined, either by right, under prescribed conditions as a conditional use is permitted within the floodway fringe subject to the provisions of the primary district and Section 135 of this Chapter.

135 GENERAL USE PROVISIONS

135-1 Flood Plain Location and Grade Plan

135-1.1 Delineation of the flood plain including the floodway and floodway fringe area shall be established by a Registered Engineer, from the flood surface elevations provided by the Director of Public Works. Such delineation shall be based on mean sea level datum and be field located from recognized valid bench marks. The delineation shall then be submitted to the Director of Public Works for review.

135-1.2 Alteration of the existing topography of flood plain areas may be made upon application and payment of appropriate fee, and upon approval of a site plan by the Planning Director, pursuant to the provisions of Chapter 120 (Design Review). The plan shall include both existing and proposed topography and a plan for alternate drainage.

Contour intervals for existing and proposed topography shall be included and shall be not more than one foot for ground slopes up to five percent and for areas immediately adjacent to a stream or drainage way, two foot for ground slopes between five and ten percent, and five foot for greater slopes.

WASHINGTON
COUNTY ZONING
ORDINANCE

EXHIBIT "F"

T. 15 R. 3W, W.M.
Y, OREGON

February 1981

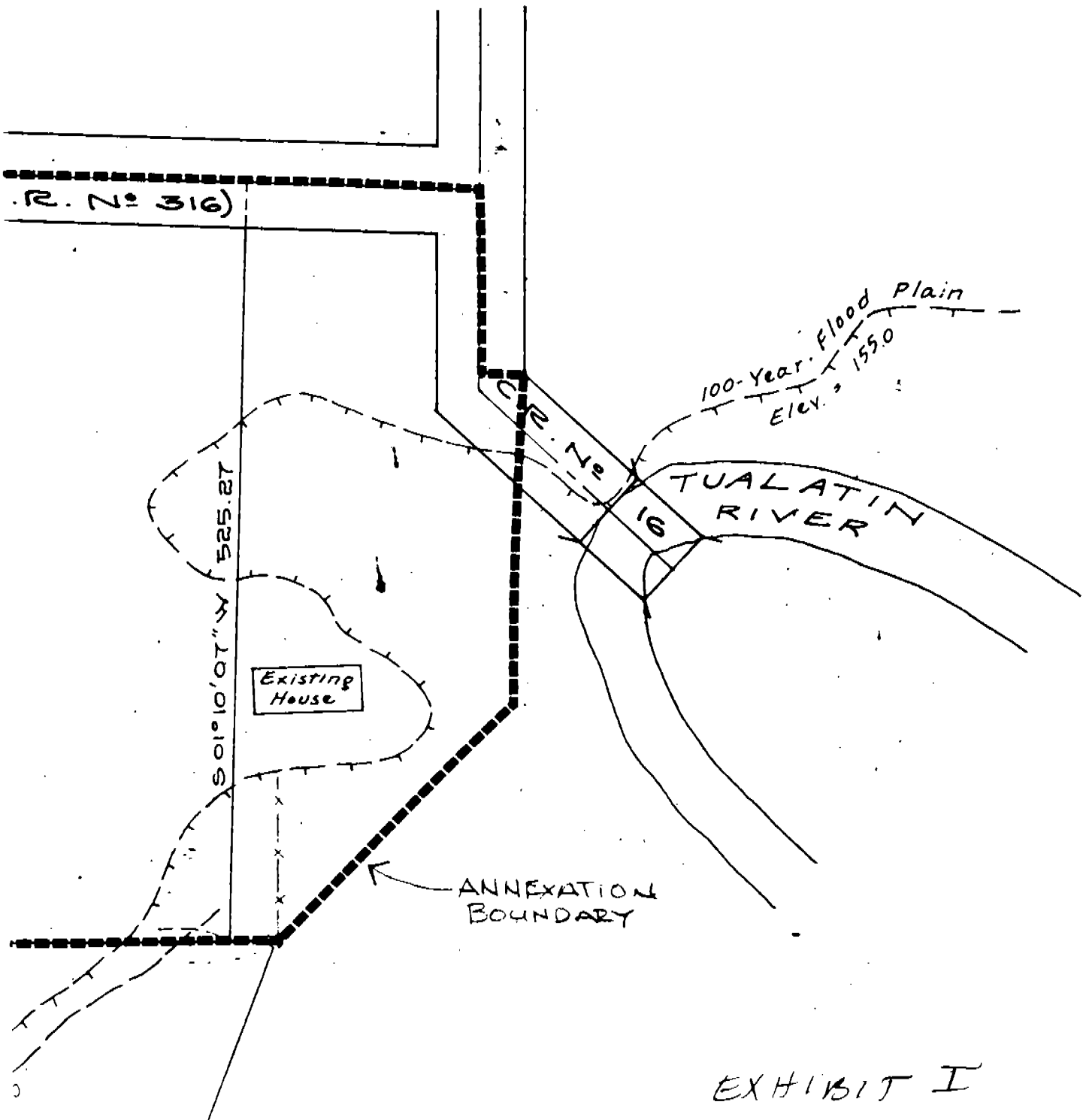


EXHIBIT I



METROPOLITAN SERVICE DISTRICT
527 S.W. HALL ST., PORTLAND, OR. 97201, 503/221-1646

MEMORANDUM

Date: September 25, 1981
To: Regional Development Committee
From: Jill Hinckley, Land Use Coordinator
Regarding: Administrative Interpretations of the UGB

As you may recall, Ordinance No. 81-105, Establishing Procedures for Locational Adjustments to the UGB, included a procedure for the Executive Officer to make administrative corrections of either the map or the legal description for the UGB in a given area in cases where the two disagreed. The Ordinance requires that affected local jurisdictions and property owners, along with the Council, be notified of the Executive Officer's decision in such cases within ten days. The Executive Officer's decision may be appealed to the Council. On September 24 and 29, Rick issued the two attached Executive Orders making administrative interpretations of the UGB at two locations, one near Cornelius and the other near Troutdale.

The Troutdale case (Executive Order 8) involves the correction of a drafting error. The Cornelius case, however, involves issues with policy implications beyond the area affected. The UGB in the area affected and at a number of other points around Cornelius and Forest Grove was defined by the 100-year floodplain, as shown on Washington County's 1974 floodplain maps. These maps approximated the location of the elevations identified as the floodplain boundary at that time.

The first problem relating to a UGB defined in this way is whether its location is defined by the lines shown on the County's maps or by the elevation the line was intended to approximate. Executive Order No. 7 resolves this problem by defining the location of the UGB by the actual floodplain elevations, as identified by field survey.

The second problem is whether the floodplain elevation used to define the UGB should be the elevation identified in 1974 or in 1980. In some cases, including the subject one, the 1980 elevation is lower, leaving a strip of buildable land between the 1974 floodplain and the 1980 floodplain.

Since the purpose of defining the UGB by the floodplain boundary was to designate for urban use all buildable land

outside the floodplain, it makes good planning sense to change the location of the UGB in response to a change in the location of the floodplain. The Executive Officer found, however, that to locate the UGB along the floodplain elevation defined in 1980, rather than that identified in 1974, could not be accomplished as an administrative resolution of an inconsistency between the map and the legal description, but requires UGB amendment by the Council.

Accordingly, we have asked the city of Cornelius to prepare a petition for a locational adjustment of the UGB to follow property lines, or other legally describable lines, that approximate the location of the 1980 floodplain. The need for an adjustment of the UGB to include buildable land between the 1974 and 1980 floodplains and to follow property lines rather than elevations that can only be located through field survey results from the way the UGB in this area was originally defined. It is, therefore, a matter of regional interest to rectify the problems arising from this practice and the Executive Officer will, accordingly, recommend that the Council initiate its own consideration of the adjustment to be proposed by Cornelius, rather than require the City to sponsor its own petition for such a change.

JH/gl
4202B/D4