

LEGAL DESCRIPTION

HILLTOP, Unincorporated portion of LOT 3 TL 501 R180987 (R390000104). (SPLIT LEVY R621072 (R390000110)) in MULTNOMAH COUNTY, OREGON

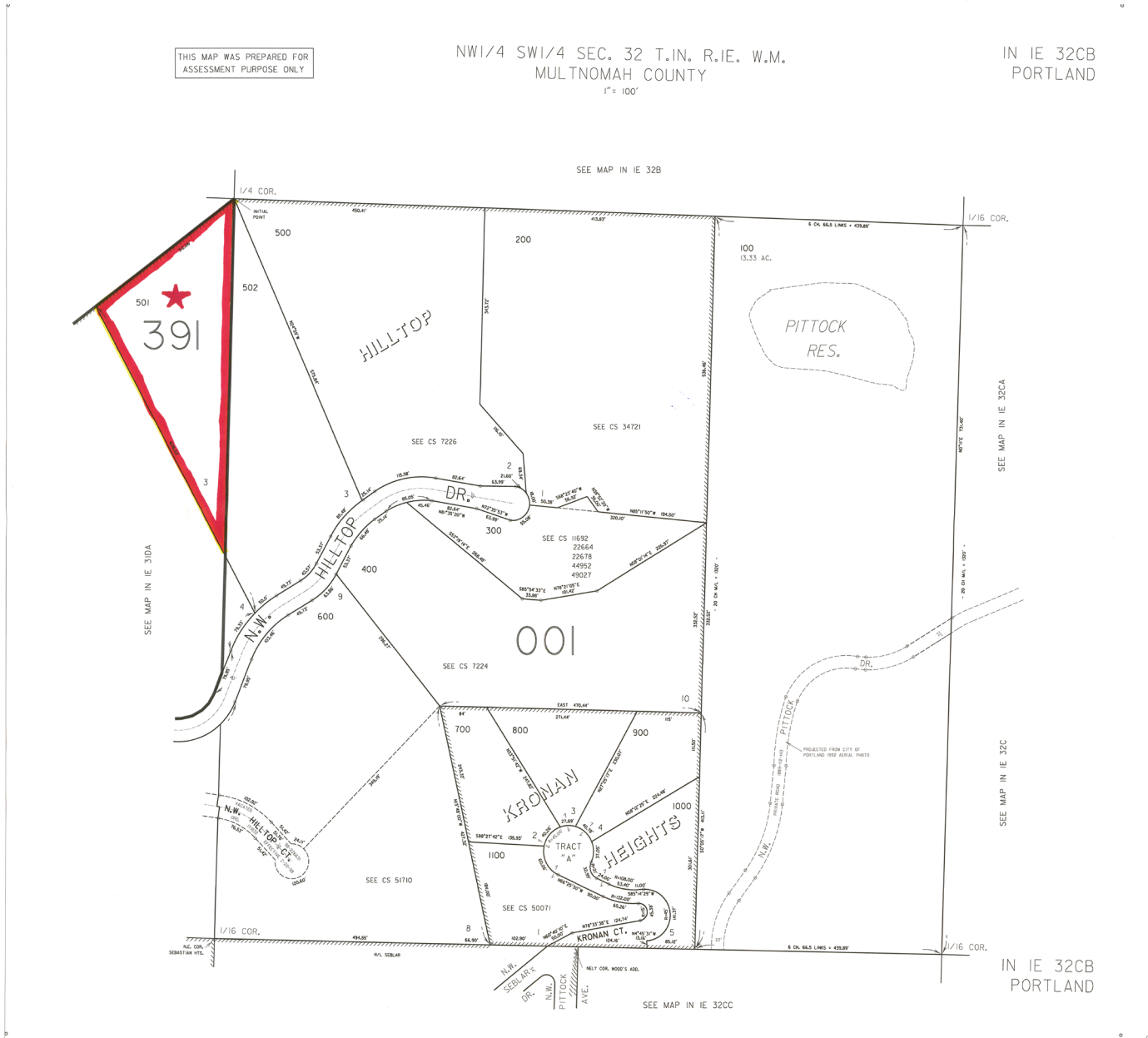
Containing 1.78 acres more or less.

A-1-18
Exhibit B

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW1/4 SW1/4 SEC. 32 T.1N. R.1E. W.M.
MULTNOMAH COUNTY
1" = 100'

IN IE 32CB
PORTLAND



★ Location of triangular taxlot to be annexed

December 19, 2018 City Council Meeting

PROPOSAL NO. A-1-18 - CITY OF PORTLAND – Annexation

Petitioners: Chris Gelber for Nathan Frankel, Forest Parkland LLV

Proposal No. A-1-18 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 222.170(2) double majority annexation law and Metro Code 3.09.040(a), Metro’s minimum requirements for an annexation petition.

The territory to be annexed is located generally along the western boundary of the city on the northwest side of NW Hilltop Drive, north of West Burnside. The taxlot proposed to be annexed is 1.78 acres in size. It adjoins a 6.4-acre parcel under the same ownership that is located within the municipal limits. One replacement single family residence is proposed for construction on the reconfigured property including the annexed area.

REASON FOR ANNEXATION

This request is being submitted in response to a City of Portland requirement that the unincorporated portion of this property be annexed prior to the extension of a new sanitary sewer line to serve one replacement single family residence. Sanitary service to this property has previously been provided through an on-site septic system that has been decommissioned.

CRITERIA FOR DECISION MAKING

The only criteria for deciding city boundary changes within state statutes is that the territory must be contiguous to the city. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

The Metro Code states that a final decision must include findings of fact and conclusions from those findings. The Code also allows cities to adopt procedures for an expedited annexation which Portland has done.

To approve a boundary change through an expedited process, the City must:

1. *Find that the change is consistent with expressly applicable provisions in:*
 - A) *Any applicable urban service agreement adopted pursuant to ORS 195.205;*

- B) *Any applicable annexation plan adopted pursuant to ORS 195.205;*
- C) *Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;*
- D) *Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;*
- E) *Any applicable comprehensive plan;*
- F) *Any applicable concept plan; and*

2. *Consider whether the boundary change would:*

- A) *Promote the timely, orderly and economic provision of public facilities and services;*
- B) *Affect the quality and quantity of urban services; and*
- C) *Eliminate or avoid unnecessary duplication of facilities and services.*

The City of Portland and Multnomah County have entered into intergovernmental agreements regarding land use planning and the provision of urban services for territory including the subject property. An Urban Planning Area Agreement was initially drafted in 1979 and has been amended several times since then including in 2002 when the City of Portland was assigned Planning authority over properties within certain areas within unincorporated Multnomah County including the subject property. Similarly, the City of Portland and Multnomah County agreed to the location of an urban service boundary, that area within which the City of Portland was the logical provider of expanded urban services in 1986. This agreement has also been amended several times including most recently in 2016 as part of the City of Portland 2035 Comprehensive Plan Update. The Urban Planning Area and the Urban Services Area are coincidental.

Under these agreements, the subject property is assigned RfC, f, p Residential Farm and Forest zoning with future urban, conservation, and preservation environmental zoning overlays. This property is also located within the Northwest Hills Plan District, specifically the Balch Creek and Skyline subdistricts.

Annexation of this property and the provision of city services to a replacement single family dwelling is consistent with the applicable City of Portland Urban Planning Area and Urban Service Boundary agreements.

LAND USE PLANNING

Regional Planning. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of the Metro regional government.

Regional Framework Plan. The law that requires Metro to adopt criteria for boundary changes specifically requires the District (Metro) to “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.” Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans – The Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules related to Urban Growth Boundary expansions into Urban Reserve areas. These requirements do not relate directly to the issue of annexation to a city.

The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes was identified.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

Multnomah County Planning and City of Portland Zoning. In 2016 the Multnomah County Board of Commissioners adopted the City of Portland’s Comprehensive Plan Update and implementing regulations as the County’s plan and zoning for this area. By intergovernmental agreement signed in January 2002, the City assumed responsibility for implementation and administration of planning and zoning for the area. The territory is designated for Forest Use by Multnomah County and zoned RF c, f, p by the City of Portland, further subject to the requirements of the Balch Creek and Skyline subdistricts of the Northwest Hills Plan District.

- The RF zone is intended to foster the development of single-dwelling residences on lots having a minimum area of 52,000 square feet, with minimum width and depth dimensions of 60 and 60 feet, respectively. Newly created lots must have a maximum density of 1 lot per 87,120 square feet of site area.
- The environmental “c”-conservation overlay is intended to conserve important environmental features and resources while still allowing compatible development. New development and exterior modifications to existing development must meet environmental standards or are subject to environmental review.
- The environmental “p”- protection overlay provides the highest level of protection to the most important resources and functional values. Development will be approved in the environmental protection zone only in rare and unusual circumstances through environmental review.
- The “f” overlay The Future Urban overlay zone limits development by prohibiting the creation of new lots with a total area of less than 20 acres.
- The Northwest Hills plan district protects sites with sensitive and highly valued resources and functional values. The portions of the plan district that include the Balch Creek Watershed and the Forest Park subdistrict contain unique, high quality resources and functional values that require additional protection beyond that of the Environmental overlay zone. The plan district also promotes

the orderly development of the Skyline subdistrict while assuring that adequate services are available to support development.

Annexation of this taxlot does not result in any additional development potential being assigned to the larger development site which must comply with all applicable base zone, overlay zone and plan district requirements. Development will also be subject to standards and procedures applicable to property line adjustments and replacement dwellings.

Portland/Multnomah County Urban Services Agreement.

The property to be annexed falls within the City's Urban Service Boundary.

Portland Planning.

The Portland Comprehensive Plan contains the following policies applicable to this annexation request:

Policy 1.7 **Annexations.** *Provide a process incorporating urban and urbanizable land within the City's Urban Services Boundary through annexation.*

See policies 8.11-8.19 for service extension requirements for annexations.

Service extension

The policies in this section outline the City's approach towards annexation and service extension to newly-incorporated areas.

Policy 8.11 **Annexation.** *Require annexation of unincorporated urbanizable areas within the City's Urban Services Boundary as a prerequisite to receive urban services.*

Policy 8.12 **Feasibility of service.** *Evaluate the physical feasibility and cost-effectiveness of extending urban public services to candidate annexation areas to ensure sensible investment and to set reasonable expectations.*

Policy 8.13 **Orderly service extension.** *Establish or improve urban public services in newly-annexed areas to serve designated land uses at established levels of service, as funds are available and as responsible engineering practice allows.*

Policy 8.14 **Coordination of service extension.** *Coordinate provision of urban public services to newly-annexed areas so that provision of any given service does not stimulate development that significantly hinders the City's ability to provide other urban services at uniform levels.*

Policy 8.15 **Services to unincorporated urban pockets.** *Plan for future delivery of urban services to urbanizable areas that are within the Urban Services Boundary but outside the city limits.*

Policy 8.16 **Orderly urbanization.** *Coordinate with counties, neighboring jurisdictions, and*

other special districts to ensure consistent management of annexation requests, and to establish rational and orderly process of urbanization that maximize efficient use of public funds.

Policy 8.17 *Services outside the city limits. Prohibit City provision of new urban services, or expansion of the capacity of existing services, in areas outside city limits, except in cases where the City has agreements or contracts in place.*

The proposed annexation is consistent with the relevant Comprehensive Plan policies as annexation is required as a prerequisite for provision of urban services, specifically sanitary sewer service to serve development consistent with City land use regulations. A full complement of City services as discussed below is readily available to serve this site.

FACILITIES AND SERVICES

ORS 195 Agreements. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewer, water, fire protection, parks, open space, recreation and streets, roads and mass transit. The following urban services are available to this property upon its annexation to the City of Portland.

Sanitary Sewer Service. Sanitary sewer service is available from the City of Portland from an existing 8” PVC sanitary sewer in NW Hilltop Drive.

Water Service. Water service is currently provided by the City of Portland through a 6” water main located in NW Hilltop Drive.

Police Service. This property falls within patrol district 860 of the City of Portland Central Precinct. Police service will be provided by the City at the same level as currently provided to other city residents.

Fire and Rescue. The property to be annexed is within the Tualatin Valley Fire and Rescue District. Following annexation, the City would provide fire service. The City of Portland and the Tualatin Valley Fire District have a mutual response agreement so that initial service may still come from either jurisdiction.

ORS 222.120(5) provides that the City may declare in its ordinance annexing property that the property may be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation.

Transportation. Access to the site is provided from NW Hilltop Drive, currently a City of Portland roadway.

Recommendation

Based on the Study and the Proposed Findings and Reasons for Decision found in Attachment 2, the Staff recommends that Proposal No A-1-18 be **approved** and that the territory to be annexed be concurrently withdrawn from the Tualatin Valley Fire District.

FINDINGS AND REASON FOR DECISION

Based on the staff study and submitted report the City Council finds:

1. The taxlot proposed to be annexed is 1.78 acres in size. It adjoins a 6.4-acre parcel under the same ownership that is already located within the municipal limits.
2. The property owner desires to annex to the City of Portland to obtain city services, specifically access to a sanitary sewer line.
3. The only criteria for deciding city boundary changes within state statutes is that the territory must be contiguous to the city. However, the 1997 Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary and Metro has done so through adoption of Section 3.09 of the Metro Code.

The Metro Code states that a final decision must include findings of fact and conclusions from those findings. The Code also allows cities to adopt procedures for an expedited annexation which Portland has done.

To approve a boundary change through an expedited process, the City must:

(1) Find that the change is consistent with expressly applicable provisions in:

- A) *Any applicable urban service agreement adopted pursuant to ORS 195.205;*
- B) *Any applicable annexation plan adopted pursuant to ORS 195.205;*
- C) *Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;*
- D) *Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;*
- E) *Any applicable comprehensive plan;*
- F) *Any applicable concept plan; and*

(2) Consider whether the boundary change would:

- A) *Promote the timely, orderly and economic provision of public facilities and services;*
- B) *Affect the quality and quantity of urban services; and*
- C) *Eliminate or avoid unnecessary duplication of facilities and services.*

The City does have both a cooperative planning agreement and an urban service boundary agreement with Multnomah County that are applicable to the proposed annexation. Annexation of this property to the City of Portland is consistent with both agreements in that the existing and proposed use of this property as a single-family residence as described in the city/county zoning agreement and the annexation of this property is anticipated by its inclusion within the city's urban service boundary.

4. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of the Metro regional government.
5. The law that requires Metro to adopt criteria for boundary changes specifically requires the District (Metro) to *"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."* Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro has adopted two functional plans – The Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules related to Urban Growth Boundary expansions into Urban Reserve areas. These requirements do not relate directly to the issue of annexation to a city.

The Regional Transportation Plan was examined and no specific criteria applicable to minor boundary changes was identified.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to minor boundary changes.

6. In 2002 the Multnomah County Board of Commissioners first adopted the City of Portland's Comprehensive Plan and implementing regulations as the County's plan and zoning for this area. By intergovernmental agreement signed in January 2002, the City assumed responsibility for implementation and administration of planning and zoning for the area. These agreements have been updated several times over the years including in 2016 when the County Commissioners adopted the City of Portland Comprehensive Plan Update 2035.

Under these agreements, the subject property is assigned RF c, f, p residential farm and forest zoning with future urban, conservation, and preservation environmental zoning overlays. This property is also located within the Northwest Hills Plan District specifically the Balch Creek and Skyline subdistricts.

7. The property to be annexed falls within the City's Urban Service Boundary.

8. The Portland Comprehensive Plan contains the following Goals and Policies that are applicable to this proposed annexation:

Policy 1.7 ***Annexations.** Provide a process incorporating urban and urbanizable land within the City's Urban Services Boundary through annexation.*

See policies 8.11-8.19 for service extension requirements for annexations.

Chapter 8 of the 2035 Comprehensive Plan for the City of Portland Public Facilities and Services outlines the City's approach towards annexation and service extension to newly-incorporated areas.

Policy 8.11 ***Annexation.** Require annexation of unincorporated urbanizable areas within the City's Urban Services Boundary as a prerequisite to receive urban services.*

Policy 8.12 ***Feasibility of service.** Evaluate the physical feasibility and cost-effectiveness of extending urban public services to candidate annexation areas to ensure sensible investment and to set reasonable expectations.*

Policy 8.13 ***Orderly service extension.** Establish or improve urban public services in newly-annexed areas to serve designated land uses at established levels of service, as funds are available and as responsible engineering practice allows.*

Policy 8.14 ***Coordination of service extension.** Coordinate provision of urban public services to newly-annexed areas so that provision of any given service does not stimulate development that significantly hinders the City's ability to provide other urban services at uniform levels.*

Policy 8.15 ***Services to unincorporated urban pockets.** Plan for future delivery of urban services to urbanizable areas that are within the Urban Services Boundary but outside the city limits.*

Policy 8.16 ***Orderly urbanization.** Coordinate with counties, neighboring jurisdictions, and other special districts to ensure consistent management of annexation requests, and to establish rational and orderly process of urbanization that maximize efficient use of public funds.*

Policy 8.17 ***Services outside the city limits.** Prohibit City provision of new urban services, or expansion of the capacity of existing services, in areas outside city limits, except in cases where the City has agreements or contracts in place.*

The proposed annexation is consistent with the relevant Comprehensive Plan policies as the proposed annexation is being required as a prerequisite for provision of urban services, specifically sanitary sewer service to serve development consistent with City land use regulations. A full complement of City services is readily available to serve this site further described below.

9. ORS 195 Agreements ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewer, water, fire protection, parks, open space, recreation and streets, roads and mass transit. The following urban services are available to this property upon its annexation to the City of Portland:
 10. Sanitary sewer service is available from the City of Portland.
 11. Water Service is available from the City of Portland.
 12. Police service will be provided by the City at the same level as currently provided to other city residents.
 13. The property to be annexed is within the Tualatin Valley Fire and Rescue District. Following annexation, the City would provide fire service. The City of Portland and the Tualatin Valley Fire and Rescue District have a mutual response agreement so that initial service may still come from either jurisdiction.

ORS 222.120(5) provides that the City may declare in its ordinance annexing property that the property may be withdrawn from a fire district. The effective date of a withdrawal from a fire district is the effective date of the annexation.
14. Access to the site is provided from NW Hilltop Drive, currently a City of Portland roadway.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, The City Council determines:

- 1 Metro Code at 3.09.045(d)(1)(A) seeks consistency with expressly applicable provisions in an applicable urban service agreement adopted pursuant to ORS 195.065. The proposed annexation is consistent with any such agreement in this area.
- 2 Metro Code at 3.09.045(d)(1)(B) seeks consistency with expressly applicable provisions in an annexation application plan adopted pursuant to ORS 195.205 There are no such annexation plans in this area.
- 3 Metro Code at 3.09.045(d)(1)(C) seeks consistency with expressly applicable provisions in any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the City and a necessary Party. The proposed annexation is consistent with applicable cooperative planning agreements for this area.
- 4 Metro Code at 3.09.045(d)(1)(D) seeks consistency with expressly applicable provisions in any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services. Determination that the area be included in the City's urban service area was made through adoption of an Urban Services Policy adopted as an element of the City's Comprehensive Plan. The annexation is consistent with the public facility plan.
- 5 Metro Code at 3.09.045(d)(1)(E) seeks consistency with expressly applicable provisions in any applicable Comprehensive Plan. Council has reviewed the City Comprehensive Plan and the County Comprehensive Plan. The County Plan has no criteria that are directly applicable to annexation decisions.
6. Policy 1.7 of the Portland Comprehensive Plan instructs the City of Portland to provide a process for incorporating urban and urbanizable land within the City's Urban Service Boundary through annexation. The City of Portland meets this policy through its "Expedited Process for Minor Boundary Changes (ENB-1.03)" adopted in general conformance with Chapters 195 Local Government Planning Coordination and Chapter 222 City Boundary Changes, Mergers, Consolidations Withdrawals of State Statutes and Chapter 3.09 Local Government Boundary Changes of Metro Code.
7. Policy 8.11 states that annexation should be a prerequisite to the provision of urban services to properties outside of municipal boundaries but within the City's Urban Service Boundary. The subject property is within the City's urban service boundary. This annexation is a prerequisite to the provision of sanitary sewer service. Therefore, Council finds the annexation consistent with Policy 8.11.

8. Policy 8.12 requires the evaluation of the physical feasibility and cost effectiveness of service extension. In this instance, urban infrastructure is readily available within NW Hilltop Drive to serve the proposed development. Therefore, Council finds the annexation consistent with Policy 8.12.
9. Policy 8.13 calls for establishing urban services within newly annexed areas at established levels. Upon its annexation this property will receive full city services at levels consistent with the surrounding properties. Therefore, Council finds this annexation request to be consistent with Policy 8.13.
10. Policy 8.14 calls for the coordination of service provision so that annexation does not stimulate development in areas where the provision of public services is not readily available at uniform levels. In this instance the property is adjacent to water and roads meeting City standards and served by police and fire protective services either directly by the City of Portland or through mutual aid agreements. Therefore, Council finds the annexation consistent with Policy 8.14.
11. Policy 8.15 calls for the City to plan for future delivery of urban services to urbanizable areas that are within the Urban Services Boundary but outside the city limits. This proposal has been reviewed by the relevant city service bureaus and their recommendations have led to this annexation request. Therefore, Council finds the annexation consistent with Policy 8.15.
12. Policy 8.16 calls for the City to coordinate with counties, neighboring jurisdictions, and other special districts to ensure consistent management of annexation requests, and to establish rational and orderly process of urbanization that maximize efficient use of public funds. The City of Portland has communicated with the relevant county and special districts who have not expressed any objections to the proposed annexation. Therefore, this annexation is consistent with Policy 8.16.
13. Policy 8.17 Prohibits City provision of new urban services, or expansion of the capacity of existing services, in areas outside city limits, except in cases where the City has agreements or contracts in place. The subject property will be entirely within the City of Portland municipal boundary prior to the provision of sanitary sewer service so this annexation is consistent with Policy 8.17.
14. Metro Code 3.09.045(d)(2)(A) requires consideration of whether the boundary change would “promote the timely, orderly and economic provision of public facilities and services.” Council finds that the proposed annexation can be served by existing public facilities and is therefore consistent with this policy.
15. Metro Code 3.09.045(d)(2)(B) requires consideration of whether the boundary change would affect the “quality and quantity of urban services”. Given the size and nature of this annexation Council determines that this annexation will have no negative impact on the quality or quantity of urban services available in the area. Therefore, Council finds that this annexation is consistent with this Metro Code section.

16. In accordance with Metro Code 3.09.045(d)(2)(C) Council considered whether this annexation would “eliminate or avoid unnecessary duplication of services.” Council notes that the territory to be annexed will be withdrawn from Tualatin Valley Fire and Rescue District as a component of this annexation. Therefore, Council finds that this annexation is consistent with this Metro Code section.