

**Exhibit A****LEGAL DESCRIPTION**

Real property in the County of Multnomah, State of Oregon, described as follows:

PART OF THE SOUTHWEST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 34, TOWNSHIP 1 SOUTH, RANGE 1 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

PALATINE HILL 3, BLOCK 86, INCLUDING PART OF VACATED STREET LOT 1-4, INCLUDING PART VACATED STREET LOT 13-16 (VACATED 4-29-47, COUNTY ORDER 1609) .

September 26, 2012 Meeting

**PROPOSAL NO. A-2-12 - CITY OF PORTLAND - Annexation**

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Petitioner: Josh Hoffman

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Proposal No. A-2-12 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 a petition).

The territory to be annexed is located generally on the south edge of the City on the edge of SW Vacuna St. south of SW Palatine Hill Road, west of SW Military Rd. and east of SW Terwilliger Blvd. The territory contains 1.15 acres, 1 single family dwelling, a population of 4 and has an assessed value of \$ 635,370.

**REASON FOR ANNEXATION**

The property owners want to annex to Portland to obtain City services, particularly sewer service.

**CRITERIA FOR DECISION-MAKING**

The only criterion for deciding city boundary changes within the statutes is 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 and Portland has done so.

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;

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- (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; and
  - (E) Any applicable comprehensive 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 or services.

There are no urban service agreements, cooperative agreements or annexation plans under ORS 195 covering this area. The City is the designated sewer service provider for this area. As noted in the section below, the action is consistent with the applicable plan and the City has appropriate urban services available to the site.

## LAND USE PLANNING

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

Regional Framework Plan. The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. 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 relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

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

Multnomah County Planning. In 2001 the Multnomah County Board adopted the City'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 took over implementation and administration of planning and zoning for this area. The territory is designated Low Density Residential by Multnomah County and is zoned R-20 (which permits residential development with a minimum lot size of 20,000 square feet).

Portland/Multnomah County Urban Services Agreement.

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

Portland Planning. The Portland Comprehensive Plan contains the following Urban Development Policies & Objectives:

2.3 Annexation

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

\* \* \*

The Comprehensive Plan contains the following public facilities Goal and policies and objectives:

GOAL 11A Provide a timely, orderly and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities.

POLICIES & OBJECTIVES

11.1 Service Responsibility

A. Outside its boundaries of incorporation, the City of Portland shall:

- (3) Consider requests for delivery of services within the Urban Services Boundary wherever the following conditions exist:
  - Residents or property owners within an area to be served desire delivery of services by the City of Portland.
  - The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.

- The City can supply the needed services most effectively and efficiently.
  - The City can expect to recapture its service investment.
- (4) Deliver services within the Urban Services Boundary by means of annexation to Portland . . .

\* \* \*

#### 11.2 Orderly Land Development

Urban development should occur only when urban public facilities and services exist or can be reasonably made available.

#### 11.3 Orderly Service Extension

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's ability to provide all other necessary urban public facilities and services at uniform levels.

As discussed below in the Facilities and Services section of the staff report, urban services are readily available to the site from the City. There is no evidence that serving the area would diminish the City's ability to serve existing residents and businesses.

The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

### **FACILITIES AND SERVICES**

ORS 195 Agreements. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.

Sanitary Sewer Service. Sanitary sewer service will be available from the City via an 8 inch Dunthorpe-Riverdale County Service District sanitary sewer line which runs along the east property line of the territory to be annexed. The City and the District have an intergovernmental agreement which allows each entity access to the other's lines to get sewage back to their own pipes and facilities. The District covers areas to the north and east of this parcel but the sewage will ultimately re-enter the City's system to be treated at the City's Tryon Creek regional treatment facility.

Water Service. Water service is currently provided by the Palatine Hill Water District. The City of Portland supplies the Palatine Hill District with water. The City and the District have an agreement under which Palatine Hill may continue to provide water to this property through a City-installed meter. Subsequent to annexation the property owner will pay the City for water and the City will reimburse the District for the cost of the District-supplied water. Since the City is the District's ultimate supplier of water, this reimbursement is in the form of a credit against the District's bill from the City.

ORS 222.120(5) provides that the City may declare in its ordinance annexing territory that the territory will be withdrawn from a water district. The effective date of a withdrawal from the water district would be July 1, 2013 (ORS 222.120 (5) & ORS 222.465). The City Water Bureau favors withdrawal of the territory from the Palatine Hill Water District. Under the City-District agreement the District will serve the territory for the City but the residents will be billed as City customers.

Police Service. Police Service will be provided by the City at the same level as currently provided to other City residents.

Fire. The territory currently receives fire protection from Multnomah County R.F.P.D. # 11 which contracts for service with the Lake Oswego Fire Department. Following annexation the City would provide fire service. The City's nearest station is the Burlingame Station #10 at 451 SW Taylor's Ferry Road. The City of Portland and the City of Lake Oswego have a mutual response agreement so that initial service might still come from either jurisdiction.

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

Street Lights. The territory is within the boundary of Multnomah County Service District No. 14 for street lights. The District's function is primarily administrative, to collect the revenues to pay PGE for lighting services. The district charges a flat annual fee for street lighting services. Portland has a property tax levy to finance street lights.

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

Transportation. Access to the site is provided by SW Palatine Hill Road.

## RECOMMENDATION

Based on the Study and the proposed Findings and Reasons for Decision found in Exhibit A, the staff recommends that Proposal No. A-2-12 be **approved**. It is also recommended that territory to be annexed be withdrawn from Multnomah County R.F.P.D. # 11, Multnomah County Service District #14 (street lights) and the Palatine Hill Water District.

Attachment A, Staff Report  
Proposal No. A-2-12

**PROPOSED FINDINGS AND REASONS FOR DECISION**

Based on the staff study and the public hearing the City Council found:

1. The territory to be annexed contains 1.15 acres, 1 single family dwelling, a population of 4 and has an assessed value of \$ 635,370.
2. The property owners want to annex to Portland to obtain City services, particularly sewer service.
3. The only criterion for deciding city boundary changes within the statutes is 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 and Portland has done so.

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; and
  - (E) Any applicable comprehensive plan; and
- (2) Consider whether the boundary change would:
  - (A) Promote the timely, orderly and economic provision of public

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facilities and services;

- (B) Affect the quality and quantity of urban services; and
- (C) Eliminate or avoid unnecessary duplication of facilities or services.

There are no urban service agreements, cooperative agreements or annexation plans under ORS 195 covering this area. The City is the designated sewer service provider for this area. As noted in findings below, the action is consistent with the applicable plan and the City has appropriate urban services available to the site.

4. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. 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 relating to Urban Growth Boundary expansion into Urban Reserve areas. None of these requirements relate directly to the issue of annexation to a city. The Regional Transportation Plan was examined and no specific criteria applicable to boundary changes were discovered.

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

5. In 2001 the Multnomah County Board adopted the City'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 took over implementation and administration of planning and zoning for this area. The territory is designated Low Density Residential by Multnomah County and is zoned R-20 (which permits residential development with a minimum lot size of 20,000 square feet).



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6. The property to be annexed falls within the City's Urban Services Boundary.
7. The Portland Comprehensive Plan contains the following Urban Development Policies & Objectives:

2.3 Annexation

Phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the Comprehensive Plan and the Urban Growth Boundary as administered by the Metropolitan Service District, provides smooth transition in urban improvements programming. Annex land within the Urban Services Boundary in accordance with this Policy and Policy 11.1. Annexations outside the Urban Services Boundary will not be accepted.

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POLICIES & OBJECTIVES

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#### 11.2 Orderly Land Development

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#### 11.3 Orderly Service Extension

The improvement and expansion of one urban public facility or service should not stimulate development that significantly precedes the City's, or other appropriate jurisdiction's ability to provide all other necessary urban public facilities and services at uniform levels.

As discussed below in Findings 9-13, urban services are readily available to the site from the City. There is no evidence that serving the area would diminish the City's ability to serve existing residents and businesses.

The urban service policy found that a full-service city government can provide urban services most cost-effectively. The City of Portland is the only available city to provide services to this area.

8. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this area.
9. Sanitary sewer service will be available from the City via an 8 inch Dunthorpe-Riverdale County Service District sanitary sewer line which runs along the east property line of the territory to be annexed. The City and the District have an intergovernmental agreement which allows each entity access to the other's lines to get sewage back to their own pipes and facilities. The District covers areas to the north and east of this parcel but the sewage will ultimately re-enter the City's system to be treated at the City's Tryon Creek regional treatment facility.

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11. Police Service will be provided by the City at the same level as currently provided to other City residents.
12. The territory currently receives fire protection from Multnomah County R.F.P.D. # 11 which contracts for service with the Lake Oswego Fire Department. Following annexation the City would provide fire service. The City's nearest station is the Burlingame Station #10 at 451 SW Taylor's Ferry Road. The City of Portland and the City of Lake Oswego have a mutual response agreement so that initial service might still come from either jurisdiction.

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

13. Access to the site is provided by SW Palatine Hill Road.

## CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the City Council determined:

1. The 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. There are no such agreements in this area.
2. The Metro Code at 3.09.045(d)(1) (B) seeks consistency with expressly applicable provisions in an applicable annexation plan adopted pursuant to ORS 195.205. There are no such annexation plans in this area.
3. The 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. There are no such agreements in this area.
4. The 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 as noted in Finding No. 7.
5. The Metro Code at 3.09.045(d)(1) (E) seeks consistency with expressly applicable provisions in any applicable comprehensive plan. The Council has reviewed the City Comprehensive Plan and the County Comprehensive Plan. The County plan contains no criteria that are directly applicable to annexation decisions.

Policy 11.1 of the Portland Comprehensive Plan contains criteria related to annexation. It says that the city shall "acknowledge its role as the principal provider of urban services" within the City's urban services boundary and "coordinate closely" with other service providers in the area. The City serves adjacent areas within the City and coordinates with the Dunthorpe-Riverdale County Service District which serves adjacent areas.

The Council concludes that the annexation is consistent with Policy 11.1.

Policy 11.2 says urban development is appropriate when urban services are available and they are in this case. Therefore the Council finds the annexation consistent with Policy 11.2

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Policy 11.3 cautions against allowing one urban service to dictate premature extension of other public services. In this case the other public services are readily available. The Council concludes the annexation is consistent with Policy 11.3.

Policy 11.4 calls for maximum use of existing facilities. This proposed annexation is consistent with policy 11.4.

Under Policy 11.5, to the maximum extent possible costs for new public facilities & services should be borne by those benefiting from them. The major facility to be extended in this case – sewer service – will be paid for by the applicant. Therefore the Council concludes the proposal is consistent with this policy.

6. Metro Code 3.09.045(d)(2)(A) calls for consideration of whether the boundary change would “promote the timely, orderly and economic provision of public facilities and services.” The Council concludes that the City’s adequate services can be provided to serve this area, based on Findings 9 through 14. Therefore the proposed change promotes the timely, orderly and economic provision of services.
7. Metro Code 3.09.045(d)(2)(B) calls for consideration of whether the boundary change would affect the “quality and quantity of urban services.” Given the size of this annexation (one dwelling on one lot) the Council concludes this annexation will have no impact on the overall quality and quantity of services available in the area.
8. In accordance with Metro Code 3.09.045(d)(2)(C) Council considered whether this annexation would “eliminate or avoid unnecessary duplication of services” and concludes the annexation will neither negatively nor positively relate to this criterion.
9. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from Multnomah County Service District # 14 for street lights, the Palatine Hill Water District and Multnomah County F.F.P.D. # 11. To prevent confusion about which units of government are responsible for providing services, the territory should be simultaneously withdrawn from these districts.

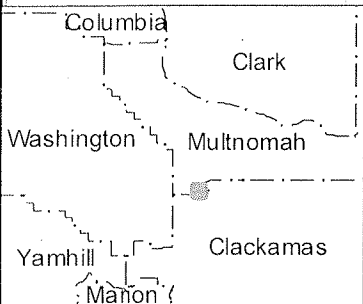
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City of Portland

Multnomah County



Metro

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

- City of Portland
- Area to be annexed

AN-2-12

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P.O. Box 29079  
Portland, OR 97296-9079  
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