



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

April 30, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Approval of Annexation to Tri-City Service District

Purpose/Outcomes	Conduct Public Hearing/Approve Order
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Perpetual if annexation is approval
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel Ken Martin, Boundary Change Consultant – 503-222-0955
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Tri-City Service District is such a district.

Proposal No. CL 15-001 is a proposed annexation to Tri-City Service District.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the West Linn Tidings; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute the City of West Linn has agreed to annexation of territory inside the City into the District.

This proposal 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) (lists Metro's minimum requirements for petition). If the Board approves the proposal, the boundary change will become effective immediately.

The territory to be annexed is located generally inside the City of West Linn in three locations: on the south edge of Weatherhill Road; on the north edge of Ridge Lane and the south edge of Rosemont Road; on the north edge of Bland Circle. The territory contains 9.99 acres, three single family dwellings, a population of six and has a value of \$2,308,804.

REASON FOR ANNEXATION:

The property owners desire sewer service to facilitate eventual redevelopment. While physical service to the property will be provided by the City, major trunk lines and treatment service is provided to the City (and the cities of Gladstone and Oregon City) by Tri-City Service District. When properties are annexed to the City of West Linn (as these properties were recently) they must subsequently be annexed to the District and that is what is happening here.

CRITERIA:

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

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 territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the section below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

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

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (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;
 - (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.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The City's public facility plan calls for major transmission and treatment service by the District. The proposal is consistent with the Wet Linn Comprehensive Plan as stated in the section below.

Staff has conducted an analysis consistent with the above criteria, included as Exhibit A to the draft board order attached hereto.

RECOMMENDATION:

Based on the study and the Proposed Findings and Reasons for Decision attached in Exhibit A to the draft board order, the staff recommends Proposal No. CL-15-001 be approved.

Respectfully submitted,



Chris Storey
Assistant County Counsel

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving
Boundary Change Proposal
No. CL-15-001



ORDER NO.

WHEREAS, this matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half the land in the territory to be annexed have petitioned to annex the territory to Tri-City Service District; and

WHEREAS, it further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

WHEREAS, it further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

WHEREAS, it further appearing that this matter came before the Board for public hearing on April 30, 2015 and that a decision of approval was made on April 30, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-15-001 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Tri-City Service District.

DATED this 30th day of April, 2015.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary

FINDINGS

Based on the study and the public hearing the Board found:

1. The territory to be annexed contains 9.99 acres, three single family dwellings; a population of six and has a value of \$2,308,804.
2. The property owners desire sewer service to facilitate eventual redevelopment. While physical service to the property will be provided by the City of West Linn, major trunk lines and treatment service is provided to the City (and the cities of Gladstone and Oregon City) by the Tri-City Service District. When properties are annexed to the City of West Linn (as these properties were recently) they must subsequently be annexed to the District and that is what is happening here.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

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 territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in Findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County 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;

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (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;
 - (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.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The City's public facility plan calls for major transmission and treatment service by the District. The proposal is consistent with the Wet Linn Comprehensive Plan as stated in the section below.

4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

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 chapter 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 Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

5. The territory in Parcels A and C are designated Low Density Residential on the City Comprehensive Plan and are zoned R-7 (7,000 square foot minimum lot size). Parcel B is designated Low Density Residential on the City Comprehensive Plan and is zoned R-10 (10,000 square foot minimum lot size).

According to Section 1 of the Public Services and facilities Chapter of the West Linn Comprehensive Plan:

The Water Environment Services Department of Clackamas County is responsible for providing wastewater treatment services for the cities of West

Linn, Oregon City and Gladstone.

6. 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. There are no urban service agreements relative to sewer service in this area.
7. The District provides treatment and major sewer transmission lines for the cities of Oregon City, West Linn and Gladstone. The City of West Linn will provide the collector sewers.
8. The City of West Linn provides water service to the area.
9. The area receives police service from the City of West Linn.
10. The area receives fire service from Tualatin Valley Fire and Rescue.
11. The area to be annexed receives park & recreation service from the City of West Linn.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 6 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the City's public facility plan calls for major transmission and treatment service to be provided by the Tri-City District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan, which is the City's Comprehensive Plan and concludes this proposal complies with it. All other urban services are available from the City of West Linn.

The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.



EXHIBIT B

Proposal No. CL-15-0011

Parcel A

SECTION 1: LEGAL DESCRIPTION OF PROPERTY TO BE ANNEXED. THE PROPERTY DESCRIBED AS FOLLOWS IS HEREBY ANNEXED TO THE CITY OF WEST LINN:

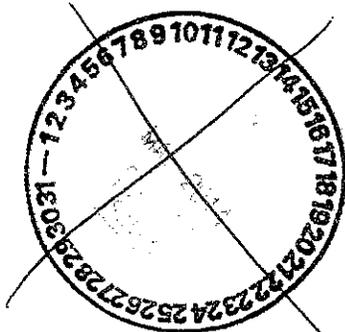
A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON, BEING THAT PROPERTY CONVEYED TO JOHN C. DE VRIES AND VIRGINIA N. DE VRIES, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE DE VRIES LIVING TRUST, DATED AUGUST 17, 1995, AND ANY AMENDMENTS THERETO, A REVOCABLE LIVING TRUST, BY WARRANTY DEED RECORDED AS DOCUMENT NUMBER 98-106410, CLACKAMAS COUNTY DEED RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF LOT 22, "BLAND ACRES", A PLAT OF RECORD IN CLACKAMAS COUNTY, OREGON; THENCE ALONG THE EAST LINE OF SAID LOT 22, SOUTH 24°14'17" WEST 499.81 FEET TO THE SOUTHEAST CORNER OF SAID LOT 22; THENCE ALONG THE SOUTH LINE OF SAID LOT 22 SOUTH 84°55'10" WEST 329.85 FEET TO THE SOUTHWEST CORNER OF THE AFOREMENTIONED DE VRIES TRACT; THENCE ALONG THE WEST LINE OF SAID DE VRIES TRACT NORTH 01°47'40" EAST 476.53 FEET TO THE INTERSECTION OF THE SOUTHEASTERLY LINE OF LOT 23, "BLAND ACRES" WITH THE SOUTH RIGHT OF WAY LINE OF WEATHERHILL ROAD (COUNTY ROAD NO. 1367); THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 63°02'00" EAST 6.50 FEET; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE NORTH 71°42'01" EAST 243.38 FEET TO AN ANGLE POINT IN SAID RIGHT OF WAY LINE; THENCE CONTINUING ALONG SAID RIGHT OF WAY LINE NORTH 54°20'47" EAST 14.48 FEET TO THE SOUTH LINE OF LOT 10, "BLAND ACRES"; THENCE ALONG SAID SOUTH LINE SOUTH 74°49'59" EAST 279.94 FEET TO THE POINT OF BEGINNING.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1978
DON DEVLAEINCK
1634

DATE OF SIGNATURE: 5/3/14
EXPIRES 12/31/2015



4107 SE International Way, Suite 705, Milwaukie, Oregon 97222

Phone: 503.653.9093 Fax: 503.653.9095 Email: compass@compass-landsurveyors.com

EXHIBIT B

Proposal No. CL-15-001

Order No: 250505

Parcel B

LEGAL DESCRIPTION

A tract of land situated in the Southwest one-quarter of Section 25, Township 2 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being Tract 31 and a portion of Tracts 30 and 32, SHANNON ACRE TRACTS, being more particularly described as follows:

Beginning at a point on the Southerly right of way line of Rosemont Drive (County Road No. 82), which bears South 80°13'47" East 81.08 feet from a 1/2 inch iron pipe at the Northwest corner of Tract 32, SHANNON ACRES TRACTS; thence South 00°07'36" West along the Northerly extension of the Westerly line of LIVERMORE'S SUBDIVISION NO. 1, and the Westerly line thereof, 407.32 feet to a 5/8 inch iron rod on the Northerly right of way line of Ridge Lane; thence North 89°46'02" West along said Northerly right of way line, 348.00 feet; thence North 00°00'24" West parallel with and 180.00 feet Easterly when measured at right angles to the Westerly line of said Tract 30 a distance of 280.19 feet to a 5/8 inch iron rod; thence North 89°59'36" East 84.00 feet to a 5/8 inch iron rod; thence North 00°00'24" West 43.50 feet to a 5/8 inch iron rod; thence North 89°59'36" East 73.20 feet to a 5/8 inch iron rod thence North 09°46'13" East 113.54 feet to a 5/8 inch iron rod on the Southerly right of way line of Rosemont Drive; thence South 80°13'47" East along said right of way line, 175.00 feet to the point of beginning.

Encumbrances, continued



1. Covenants, conditions and restrictions, but omitting restrictions if any, based on race, color, religion, sex, handicap, familial status or national origin, unless and only to the extent that said covenant, (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, imposed by instrument, including the terms and provisions thereof.

Recorded: April 30, 1962
Book: 602
Page: 791
(Affects Lot 30)

EXHIBIT B

Parcel C

Proposal No. CL-15-001

A portion of Lot 30, BLAND ACRES, in the Northwest one-quarter of Section 35, Township 2 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

Beginning at the intersection of the lot line between Lots 28 and 30 with the North right of way line of road, as dedicated on said plat; thence South $60^{\circ}52'56''$ West 16.87 feet to a point, which is a 2 inch galvanized iron pipe set 6 inches deep at the angle point in right of way lines of said road; thence South $15^{\circ}49'46''$ East 5.05 feet to a one-half inch iron pipe called for in Deed Book 634, Page 773, Alfred L. Joy, et ux, to Clackamas County; thence South $40^{\circ}48'33''$ West 146.34 feet to a one-half inch iron pipe called to in said deed; thence continuing South $40^{\circ}48'33''$ West 7.48 feet to the point of curve of a non-tangent curve (the radius point bears North $49^{\circ}28'38''$ West 58.76 feet); thence, on the arc of said curve to the right, 69.61 feet (the chord bears South $74^{\circ}29'44''$ West 65.61 feet) to a point on the North right of way line of a 30 foot wide road between Lots 30 and 31 of said plat, from which point said radius point bears North $18^{\circ}26'07''$ East 58.76 feet; thence, on last said right of way line, North $71^{\circ}07'00''$ West 141.68 feet to the East line of contract between Marcella M. Joy and John T. Allison, et ux, recorded January 11, 1974, Recorder's Fee No. 74 847; thence North $11^{\circ}09'41''$ West 238.13 feet, on said East line, to the Southwest corner of the tract as conveyed to the City of West Linn, by deed recorded May 18, 1979, as Recorder's Fee No. 79 20637; thence North $63^{\circ}55'27''$ East 262.41 feet to the Southeast corner of said City of West Linn tract, said point being on the Easterly line of said Lot 30; thence South $26^{\circ}07'52''$ East, along the East line of said Lot 30, a distance of 275.99 feet to the point of beginning.

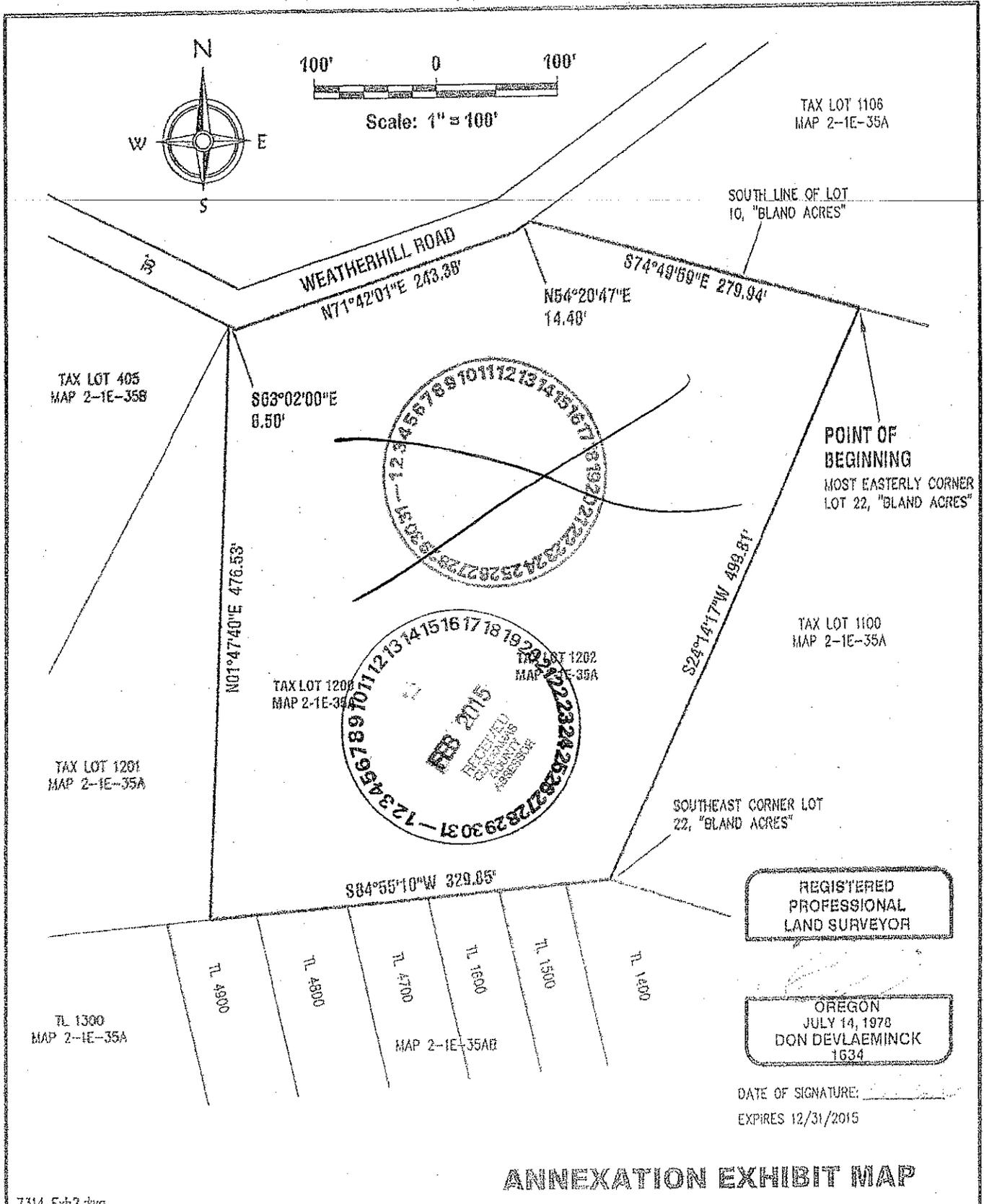
Excepting therefrom that portion deeded to the City of West Linn, by deed recorded February 20, 2001, as Recorder's Fee No. 2001-011129, Clackamas County Deed Records.



EXHIBIT C

Proposal No. CL-15-001

Parcel A



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 14, 1978
 DON DEVLAE MINCK
 1634

DATE OF SIGNATURE: _____
 EXPIRES 12/31/2015

ANNEXATION EXHIBIT MAP

7314 Exh2.dwg

COMPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

NE 1/4 OF SECTION 35, T.2S., R.1E., W.M.
 CLACKAMAS COUNTY, OREGON

N.W.1/4 S.W.1/4 SEC.25 T.2S. R.1E.
 CLACKAMAS COUNTY

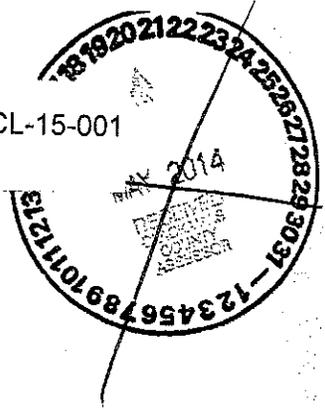
1" = 100'

D. L. C.
 JULIA ANN LEWIS NO. 54
 SAMUEL W. SHANNON NO. 70

Cancelled
 3C
 31
 33
 33
 34
 21
 33

EXHIBIT C
 Parcel B

Proposal No. CL-15-001



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line

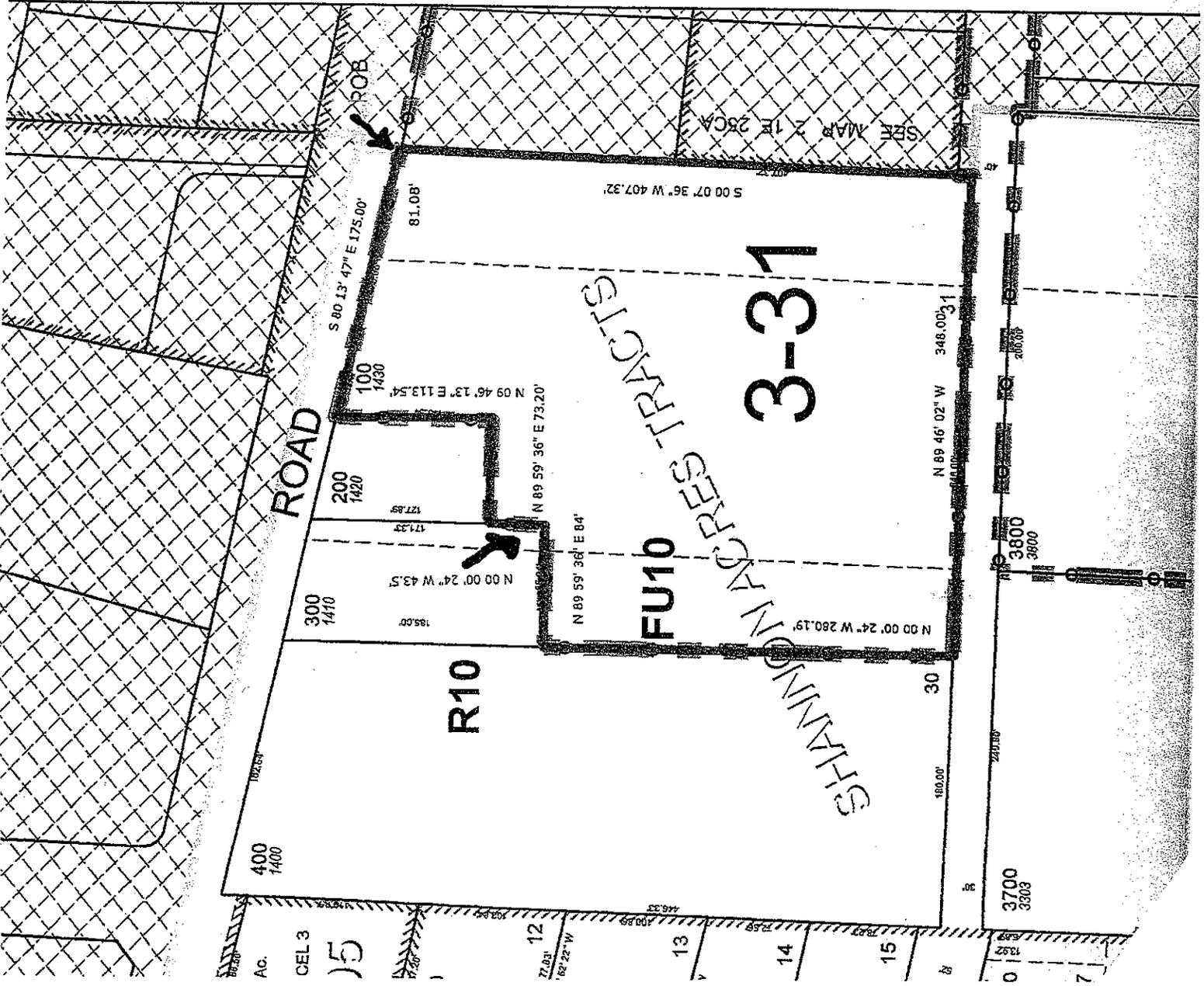
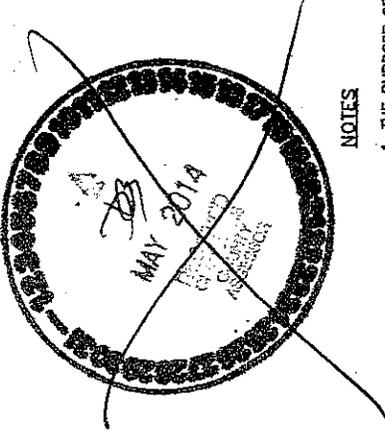
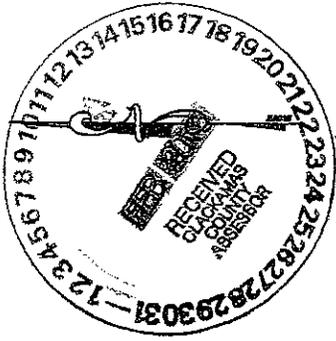


EXHIBIT C

Proposal No. CL-15-001

Parcel C



NOTES

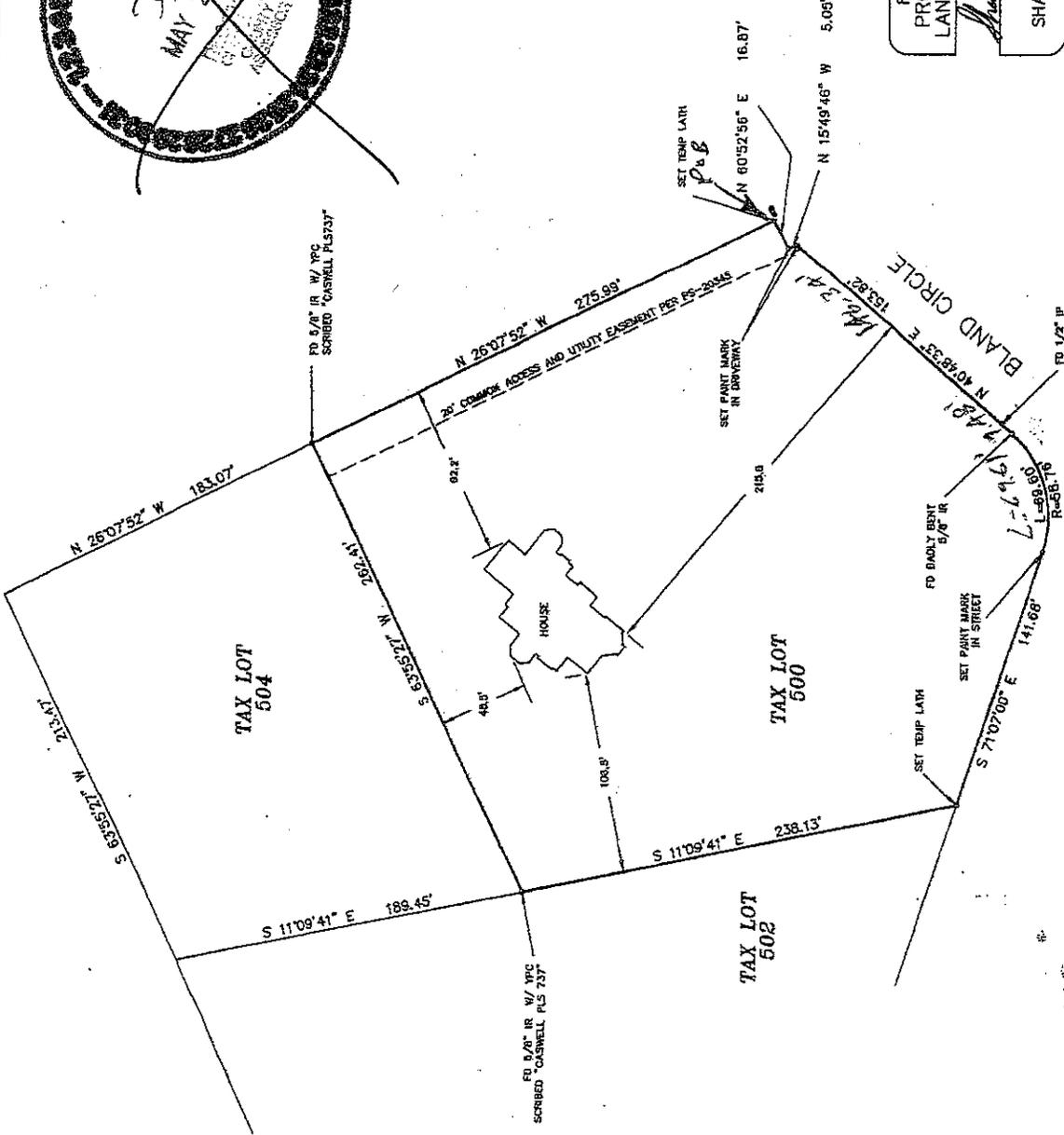
1. THE PURPOSE OF THIS MAP WAS TO PREPARE A SCALE DRAWING FOR 23128 BLAND CIRCLE.
2. THE BASIS OF BEARINGS WAS PER SURVEY PS-20349, CLACKAMAS COUNTY SURVEY RECORDS.
3. THIS MAP WAS PREPARED FOR THE EXCLUSIVE USE OF ACCENT HOMES AND HOME OWNER TO SHOW LOCATION OF HOUSE AND APPROXIMATE LOCATION OF PROPERTY LINES.
4. THIS MAP WAS PREPARED BY SURVEY RECORDS, CALCULATED DATA, AND FIELD MEASUREMENTS, NO BOUNDARY SURVEY WAS PERFORMED.

SCALE DRAWING
23128 BLAND CIRCLE
NW 1/4 SEC 35, 12S, R1E, W.M.
CLACKAMAS COUNTY, OREGON
FEBRUARY 9, 2006
DRAWN: JBB CHECKED: SPF
SCALE: 1"=60' ACCOUNT # 189
Z:\189-003\DWG\TL500
CONSTRUCTION
MAPPING TEAM

14910 SE MORNING WAY
SUITE 202 CLACKAMAS, OR 97015
PHONE 503-558-9686 FAX 503-558-9293

REGISTERED PROFESSIONAL LAND SURVEYOR
Shaun P. Fidler
OREGON
JULY 12, 2005
SHAUN P. FIDLER
503333

RENEWAL DATE DECEMBER 31, 2007



Cappedg
2007-10-20

Laurie Cappedg
503-248-2984

nd Cir
17068