

RESOLUTION NO. 5275-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ANNEXATION AGREEMENT WITH STEIN OIL LLC FOR PROPERTY LOCATED AT 18600 SW PACIFIC HIGHWAY (TAX MAP 2S121A, TAX LOT 001100).

WHEREAS, Stein Oil, LLC ("Owner") applied to the City to annex 2.05 acres of land, located at 18600 SW Pacific Highway (Tax Map 2S121A, Tax Lot 001100) ("Property"); and

WHEREAS, a public hearing was held before the Council on March 14, 2016 and continued to May 23, 2016 relating to the annexation of the Property; and

WHEREAS, during the Annexation Hearing, public testimony raised concerns about use of the Property as a gas station; and

WHEREAS, during the Annexation Hearing, Owner agreed to not use the Property as a gas station and to work with the City to execute an Annexation Agreement; and

WHEREAS, Owner and City have come to agreement on the term and conditions of an *Annexation Agreement and Restrictive Covenant* to prevent gas station uses at the Property;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The Council authorizes the City Manager to execute the *Annexation Agreement and Restrictive Covenant* with Stein Oil LLC, which is attached as Exhibit 1 and incorporated herein.

**Section 2.** This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 23<sup>rd</sup> day of May, 2016.

CITY OF TUALATIN OREGON

BY *Monique Beckman*  
Mayor Pro Tem

APPROVED AS TO LEGAL FORM

BY *S-B*  
City Attorney

ATTEST

BY *Shouh*  
City Recorder

After recording return to:  
City of Tualatin, Oregon  
18880 SW Martinazzi Ave.  
Tualatin, OR 97062-7092



## ANNEXATION AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANT

**Property Address:** 18600 SW Pacific Highway  
**Tax Parcel ID:** 2S121A001100

This ANNEXATION AGREEMENT AND RESTRICTIVE COVENANT is made this \_\_\_ Day of \_\_\_\_\_ 2016, by and between Stein Woodburn LLC, 13001 Clackamas River Dr., Oregon City, Oregon 97040 ("Grantor") and City of Tualatin ("Grantee").

Grantor is the owner of property described in Exhibit A (Legal Description) and as depicted in Exhibit B (Map) ("Property"). Grantor has petitioned Grantee to have the Property annexed into the City of Tualatin ("Annexation"). As part of the Annexation application, Grantor included a conceptual proposal to develop the Property with a gas station, card lock gas station and convenience store. Based on public comments submitted by neighbors expressing concern about the gas station and card lock, Grantor agreed to the conditions in this *Annexation Agreement and Restrictive Covenant*. To facilitate this agreement and permit the annexation of the Property into the City of Tualatin, Grantee and Grantor enter into this *Annexation Agreement and Restrictive Covenant*.

Grantor, in consideration of Grantee's approval of the Annexation and the covenants, terms, conditions and restrictions set forth in this *Annexation Agreement and Restrictive Covenant* and other good and valuable consideration, receipt of which is acknowledged, grants and conveys to Grantee, its successors and assigns, forever, a restrictive covenant in the Property as set forth herein.

- A. Restricted Uses:** Grantor covenants and agrees that the Property will be held, sold and conveyed subject to the following covenants, conditions and restrictions forever:

The Property will not be used as an automobile service station (gas station) or card lock automobile service stations (card lock gas station).

- B. Grantee's Approval of the Annexation:** This *Annexation Agreement and Restrictive Covenant* is contingent upon Grantee's approval of the Annexation without any additional conditions or restrictions on the type of use allowed on the Property, except those applicable conditions or restrictions that apply to the General Commercial Planning District on the effective date of the Annexation. If Grantee does not approve the Annexation, or approves the Annexation in a manner inconsistent with this *Annexation Agreement and Restrictive Covenant* this *Annexation Agreement and Restrictive Covenant* shall be null and void. Nothing in this *Annexation Agreement and Restrictive Covenant* restricts Grantee from imposing conditions or restrictions on the Property in the future through any subsequent legislative or quasi-judicial process and decision after the Property has been annexed.
- C. Terms and Conditions:** The restrictions described in this *Annexation Agreement and Restrictive Covenant* continue in perpetuity. This *Annexation Agreement and Restrictive Covenant* is inheritable and assignable and runs with the land as an incorporeal interest in the property enforceable by Grantee, and its successors and assigns, against Grantor and its heirs, successors, and assigns. It is the intent of the Grantor and Grantee that all statutory common law requirements of a restrictive covenant are met in this agreement.
- D. Enforcement and Remedies:** Grantor grants to Grantee the right to enforce the terms of this *Annexation Agreement and Restrictive Covenant*. In the event that Grantor, its heirs, successors, or assigns violate or breach any such terms, conditions or restrictions contained in this *Annexation Agreement and Restrictive Covenant*, Grantee, its successors and any assigns, has all remedies at law and equity to stop the violation or breach of this *Annexation Agreement and Restrictive Covenant*. Grantee, its successors, and assigns, by any prior failure to act, does not waive or forfeit the right to take actions as may be necessary to insure compliance with the terms, conditions, and purposes of this *Annexation Agreement and Restrictive Covenant*. In the event a claim, suit or arbitration is instituted to enforce or interpret this Agreement, each party will bear its own costs, including attorneys' fees.
- E. Removal:** This *Annexation Agreement and Restrictive Covenant* may be removed only by the prior written consent of the Grantee, which must be preceded by a vote of the Tualatin City Council authorizing the removal.
- F. Entire Agreement:** This *Annexation Agreement and Restrictive Covenant* sets forth all the covenants, promises, agreements, conditions, and understandings between the parties---either oral or written relating to Annexation of the Property. Except as herein otherwise provided, no subsequent alteration, amendment, change, or addition to the terms of this *Annexation Agreement and Restrictive Covenant* shall be binding upon either party unless reduced to writing and signed by both parties.
- G. Governing Law:** This *Annexation Agreement and Restrictive Covenant* shall be



On this \_\_\_\_ day of \_\_\_\_\_, 2016, before me, the undersigned, a  
Notary Public, personally appeared \_\_\_\_\_ and acknowledged the  
foregoing instrument to be their voluntary act and deed.

Before me: \_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

APPROVED AS TO FORM

By: \_\_\_\_\_  
City Attorney

Exhibit A

## Legal Description for annexation to the City of Tualatin

A parcel of land located in in the Northeast quarter of Section 21, Township 2 South, Range 1 West, Willamette Meridian described as follows:

Beginning at the Northwest corner of that land described in Washington County document 2011-81668, Thence North  $60^{\circ} 11'$  East 368.7' m/l to the Northeast corner of said document, thence South  $11^{\circ} 35'$  East 255.4' m/l to the North Right of way line of SW Pacific Highway, thence along the North line of SW Pacific Highway and its extension South  $67^{\circ} 30'$  West 368.6' m/l to a point on the southerly extension of the east line of SW Cipole Road, thence along said east line North  $8^{\circ} 31'$  West 208.1' m/l to the point of beginning.

**ANNEXATION CERTIFIED**

BY VF

**DEC 30 2015**

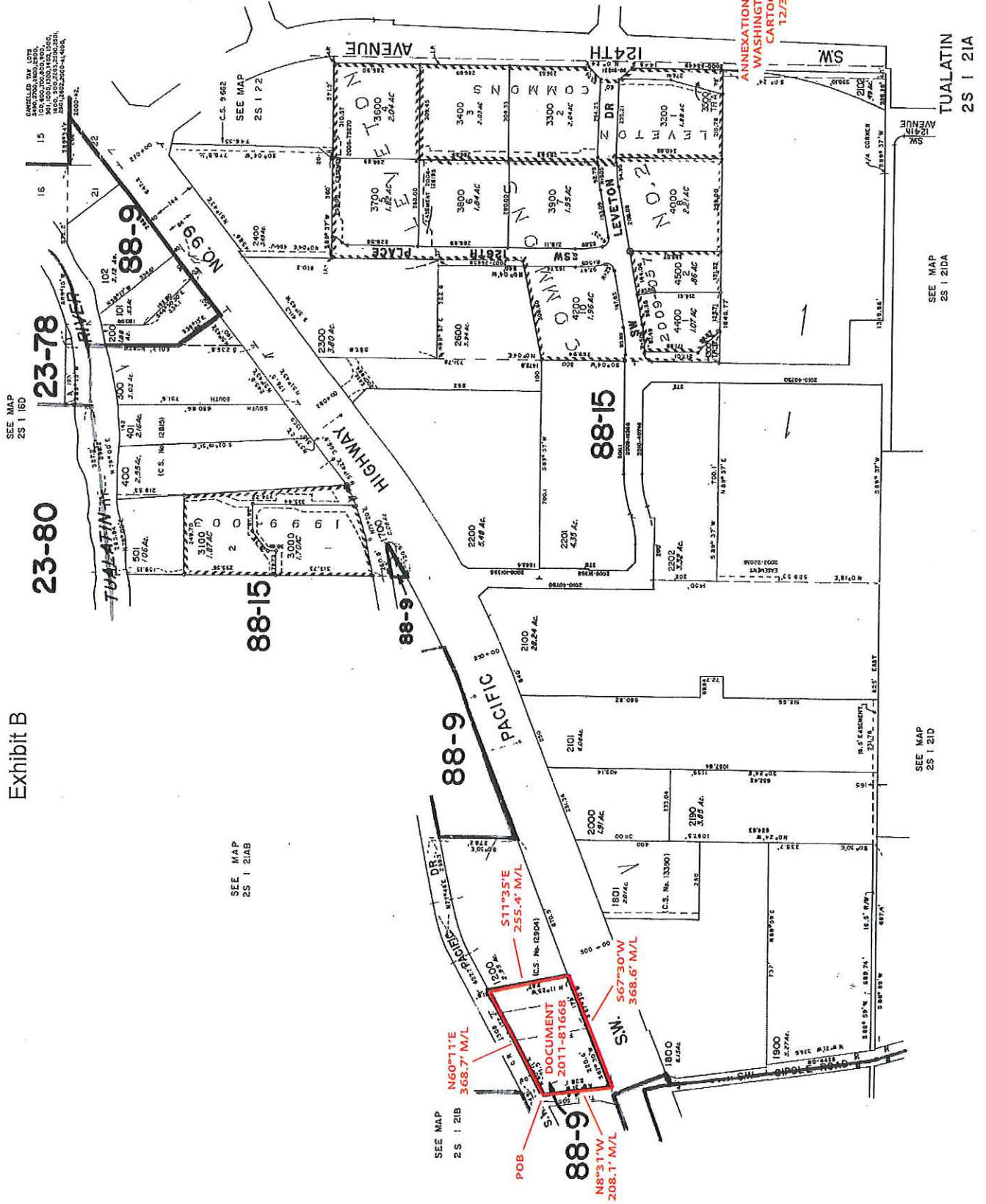
**WASHINGTON COUNTY A & T  
CARTOGRAPHY**

NE 1/4 SECTION 21 T2S R1W W.M.  
 WASHINGTON COUNTY OREGON  
 SCALE 1"=200'

2S 1 21A  
 Exhibit 1

FOR ASSESSMENT PURPOSES Resolution No. 5275-16  
 DO NOT RELY ON FOR ANY OTHER USE

Exhibit B



ANNEXATION CERTIFIED BY  
 WASHINGTON COUNTY  
 CARTOGRAPHY  
 12/30/15

SEE MAP  
 2S 1 16D

SEE MAP  
 2S 1 21A

SEE MAP  
 2S 1 21D

12/30/15



**Annexation Agreement  
ANN15-0002  
18600 SW Pacific Highway**

**City Council**

**May 23, 2016**



*City of Tualatin*



# **Purpose of Tonight's Meeting**

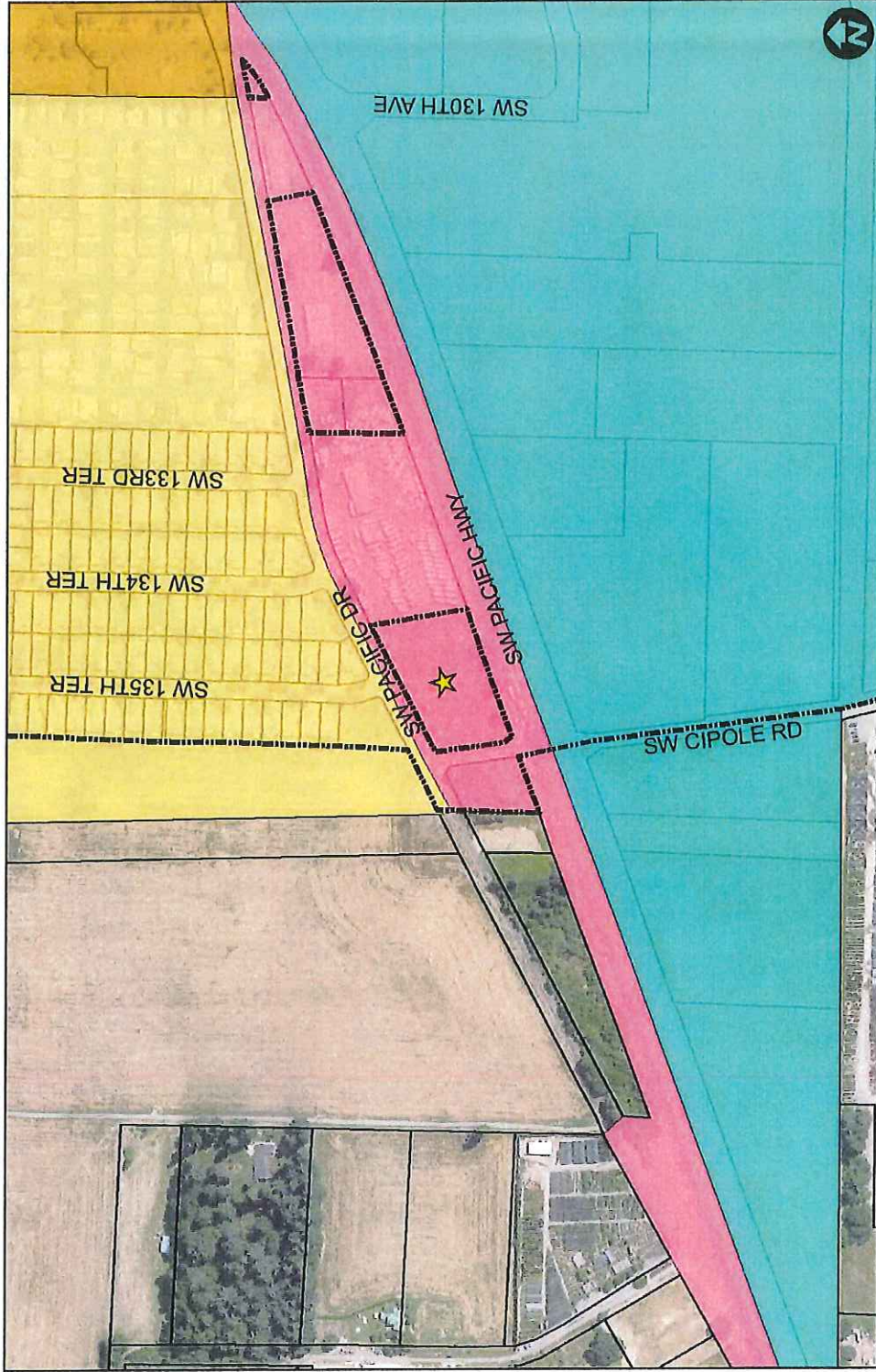
- Consider a resolution authorizing the City to enter an Annexation Agreement with Stein Woodburn LLC, property owners of 18600 SW Pacific Highway

# **Background**

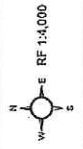
- A public hearing opened on March 14, 2016
- Applicant agreed to not use property for a gas station or card lock facility
- Council directed staff to work out an Annexation Agreement with applicant

# Vicinity Map

18600 SW Pacific Highway



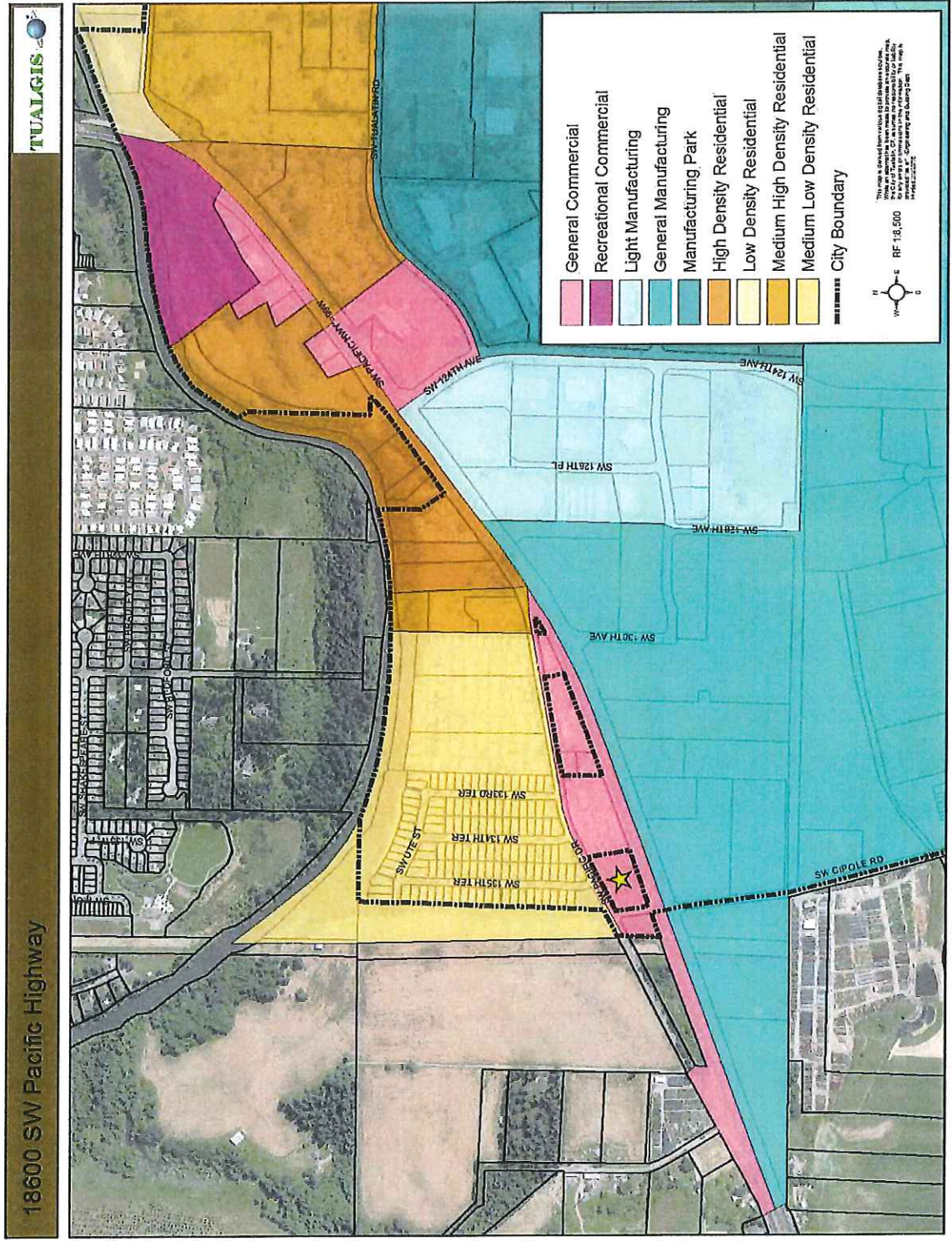
This map is derived from various digital database sources. The City of Florida, CE, assumes no responsibility for the accuracy of the information shown on this map. Printed: 10/15/10. Prepared by: Planning and Building Dept. Permit: 2010-001



RF 1:10,000

- General Commercial
- Medium High Density Residential
- General Manufacturing
- Medium Low Density Residential
- City Boundary

# Vicinity Map (zoomed out)



# Existing Conditions

18600 SW Pacific Highway

TVALGIS



Subject  
Property

# **Annexation Agreement**

- Staff and the applicant worked on an *Annexation Agreement and Restrictive Covenant*
- Language from document:
  - “The Property will not be used as an automobile service station (gas station) or card lock automobile service stations (card lock gas station).”

# Council Action

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- Approval of Resolution authorizes the City to execute the Annexation Agreement
- Denial of Resolution will not authorize City to execute the Agreement
- Direct staff to continue discussions and make changes to the Annexation Agreement

# Questions?

18600 SW Pacific Highway

TUALGIS

