

RESOLUTION NO. 5172-13

RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT WITH PATRICIA A. BITHER, AS TRUSTEE OF THE PATRICIA A. BITHER REVOCABLE LIVING TRUST, FOR 2.59 ACRES OF LAND LOCATED AT 22120 SW GRAHAMS FERRY ROAD AND INCLUDING TAX LOT 2S135BA 05300 LOT 5300.

WHEREAS Patricia A. Bither, as Trustee of the Patricia A. Bither Revocable Living Trust, UAD 9/27/02, has applied to the City for annexation of approximately 2.59 acres of land located outside of the City at 22120 SW Grahams Ferry Road and including Tax Lot 2S135BA 05300 (Lot 5300); hereafter called the "Subject Property"; and

WHEREAS the applicant indicates she is preparing to offer the property for sale for redevelopment; and

WHEREAS the Annexation Process does not provide an opportunity to address nonconforming uses and other issues; and

WHEREAS the Annexation Agreement is meant to provide an avenue to address the existing issues, identify the standards and requirements from the TDC and TMC that will apply to the Subject Property upon annexation and redevelopment, and establish the uses and property improvements that upon redevelopment shall be brought into conformance with the TDC and TMC; and

WHEREAS it is in the public's best interest for the City Council to authorize the Annexation Agreement before the Public Hearing on the Annexation of the Subject Property.

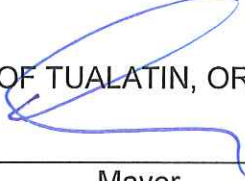
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

Section 1. The City Council authorizes the Mayor to sign annexation agreement, which is attached as Attachment A and incorporated by reference.

Section 2. This resolution is effective upon adoption.

INTRODUCED AND ADOPTED this 12th day of November, 2013.

CITY OF TUALATIN, OREGON

BY  _____
Mayor

APPROVED AS TO FORM

BY  _____
City Attorney

ATTEST:

BY  _____
City Recorder

ANNEXATION AGREEMENT
Bither Property

WHEREAS, Patricia A. Bither, as Trustee of the Patricia A. Bither Revocable Living Trust, UAD 9/27/02, (Owner) has applied to the City for annexation of property comprising 2.59 acres of land immediately adjacent to the Tualatin City limits generally located southwest of SW Grahams Ferry Road approximately ¼ mile west of SW Boones Ferry Road and more commonly known as 22120 SW Grahams Ferry Road and including Tax Lot 2S135BA 05300 (Lot 5300), AND LEGALLY DESCRIBED IN Exhibit 201AA attached hereto (the "Subject Property"); and

WHEREAS the Subject Property is located with the Tualatin Urban Planning Area on land designated on Tualatin Development Code (TDC) Map 9-1 as the Low Density Residential (RL) Planning District and on TDC Map 9-2 as Neighborhood Planning Area No. 14. The Subject Property is accessed from SW Grahams Ferry Road on the northeast via a flag drive approximately 1,000 feet in length. Immediately to the northeast and southwest of the flag drive are properties within the City boundary and developed property to the south is within the City boundary. Property to the northwest is outside the City boundary and undeveloped; and

WHEREAS, the Owner submitted a petition for annexation (ANN-13-02) to the City and has indicated a desire to subdivide the property into a single-family detached subdivision at a future date; and

WHEREAS, the City and the Owner seek to identify existing uses, buildings, access, paving and other improvements on the Subject Property; and

WHEREAS, the City and the Owner seek to identify the standards and requirements from the Tualatin Development Code (TDC) and Tualatin Municipal Code (TMC) that will apply to the Subject Property upon annexation and at the time of development; and

WHEREAS the City and the Owner will establish the uses and property improvements that upon development shall be in conformance with the TDC; and

WHEREAS, it is in the best interests of the public health and safety to determine the adequacy and suitability of improvements on the Subject Property for existing and future development on the Subject Property; and

NOW, THEREFORE, in consideration of the mutual promises contained below, the City and the Owner agree as follows:

1. The Owner and City agree the following structures and access on the Subject Property exist at the time of this Agreement and as depicted on Exhibit 201AB:
 - a. Three existing structures:
 - i. One Residential Building (A)
 - ii. One storage shed (B)
 - iii. One multi-vehicle garage (C)



- b. Existing access including paved ingress and egress from SW Grahams Ferry Road.
 - c. There are no non-conforming uses on the Subject Property at the time of this Agreement
2. The Owner and City agree that the current residential use and access shall remain unchanged upon annexation until such time as a single-family (SF) residential subdivision is platted per Tualatin Development Code (TDC) 75.090 (4) Interim Access
3. The City identifies the minimum TDC chapters that will apply to any future residential subdivision(s) proposed following annexation:
 - a. Chapter 31 General Provisions
 - b. Chapter 36 Subdividing, Partitioning and Property Line Adjustments
 - c. Chapter 40 Low Density Residential Planning District (RL)
 - d. Chapter 73 Community Design Standards
 - e. Chapter 74 Public Improvement Requirements
 - f. Chapter 75 Access Management
4. In addition to the above referenced applicable TDC chapters, the City and Owner agrees to the following general framework in conjunction with any proposed Single Family subdivision of the Subject Property:
 - a. Shadow Plat: Provide a shadow plat of adjacent properties that does not limit their future development. For purposes of this agreement, a shadow plat is a preliminary subdivision plan of Tax Lots 2S135BA05200 (Lot 5200), 2S135BB10100 (Lot 10100), and 2S135BB10200 (Lot 10200) that illustrates alignments, widths, and extents of future rights-of-way (ROWs) (Exhibit 201AC).
 - b. Accessways: Provide a pedestrian connection to the existing pedestrian accessways in the Victoria Woods No. 3 Subdivision terminating at SW Choctaw Street and SW Chilkat Terrace, respectively.
 - c. Street System Connectivity: On-site connectivity shall preclude both dead-ends (except for any future street extension) and cul-de-sacs per TDC Figure 11-3 Local Street Plan.
 - d. SW Iowa Drive Extension: The extension of SW Iowa Drive shall be built to continue the local street 68 feet right-of-way (ROW) cross section and with an alignment as shown on TDC Figure 11-1 Functional Classification and Traffic Signal Plan.
 - e. New Local Street: The new street to serve Tax Lot 2S135BB10100 (Lot 10100) shall be built to local street 50 feet ROW cross section per TDC Figure 74-2F.
5. When the Annexation is effective
 - a. The Subject Property will assume the designation of the Low Density Residential (RL) Planning District per TDC Map 9-1 Community Plan Map
 - b. The Owner or its heirs, successors and assigns may choose prior to development of the Subject Property to connect to City potable water and sanitary sewer lines through applicable City permitting processes. If on the Subject Property an existing septic tank, sanitary sewer utility, or potable water utility fails such that it would require replacement, the Owner or its

heirs, successors and assigns shall connect to public facilities as required by the City through applicable permitting processes.

6. The Owner or its heirs, successors and assigns shall pay any fees required with building permits and public works permits at the time of development on the Subject Property.
7. The agreement is binding on the property owner of record and on the Owner's heirs, successors and assigns.

INTRODUCED AND ADOPTED this 12 day of November, 2013.

OWNER:

BY 
Patricia A. Bither


CITY OF TUALATIN, OREGON

BY 
Mayor

APPROVED AS TO LEGAL FORM ATTEST:

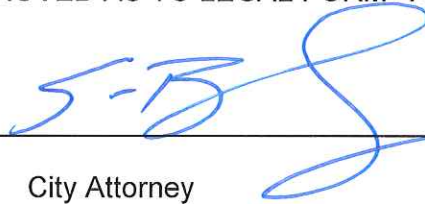

BY  BY 
City Attorney City Recorder

Exhibit "A"

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

Beginning at a 5/8" rod on the southerly right-of-way of Mulloy Road as per survey 8208, said point being the most northeasterly corner of that property described in Book 460 page 19 of Washington County deeds & records, in the Northwest 1/4, of Section 35 T 2 S., R 1 W, of the W.M.; thence S 0°21'27" E 684.45 feet more or less to a 5/8" rod as per survey 8208; thence S 57°33' 43" W 349.77 feet; thence S 27°00'E 306.79 feet to a 5/8" rod; thence S 63° W 220.54 feet to a 5/8" rod; thence N 63°06'29" W 225.12 feet to a 5/8" rod and cap; thence N 28°47'29" E 240.87 feet to a 5/8" rod and cap set in the survey of July 1975; thence N 57°33'43" E 495.23 feet to a 5/8" rod; thence N 0°21'27" W 651.54 feet to a 5/8" rod on the southerly N/W of Mulloy Road (Graham's Ferry Road) and at the Northeast corner of that property described in Book 691 page 69 W.C.D.1-1.; thence N 31°43" E 31.93 feet to the point of beginning as per Survey 18,389 of August 1979.

NOTE: This legal description was created prior to January 1, 2008.

ANNEXATION CERTIFIED

BY VF

JUL 17 2013

**WASHINGTON COUNTY A & T
CARTOGRAPHY**

Exhibit 201AA
Legal Description

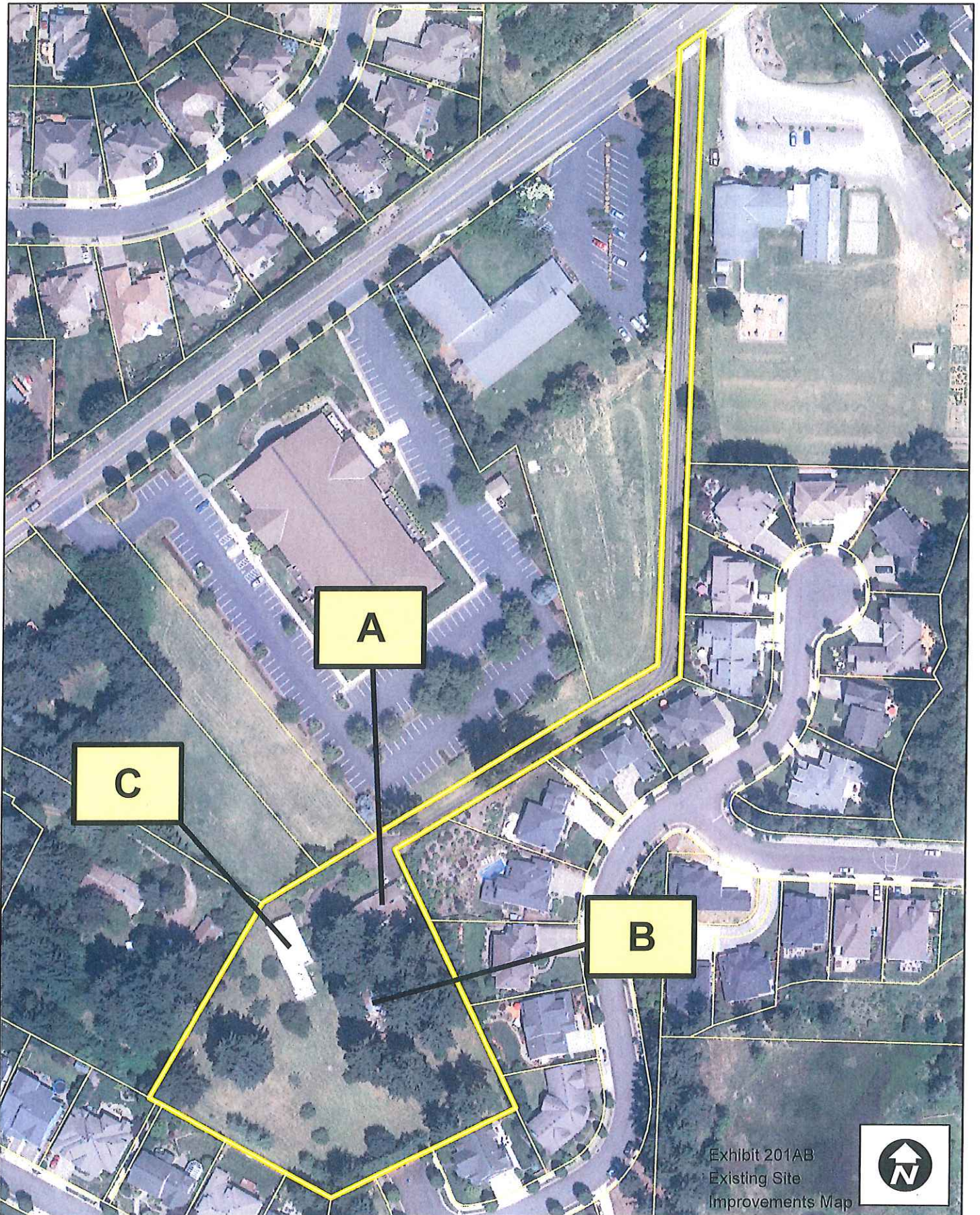
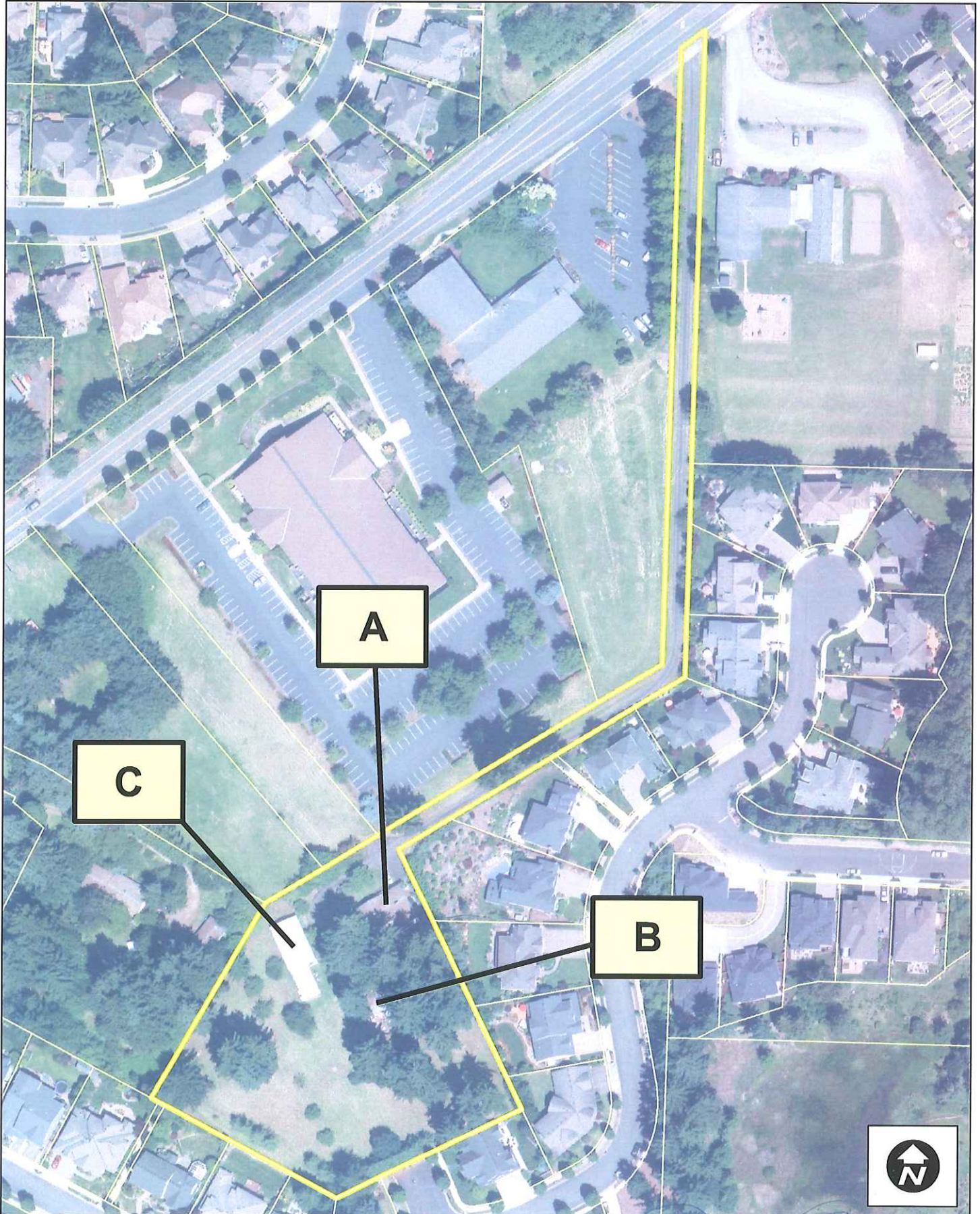
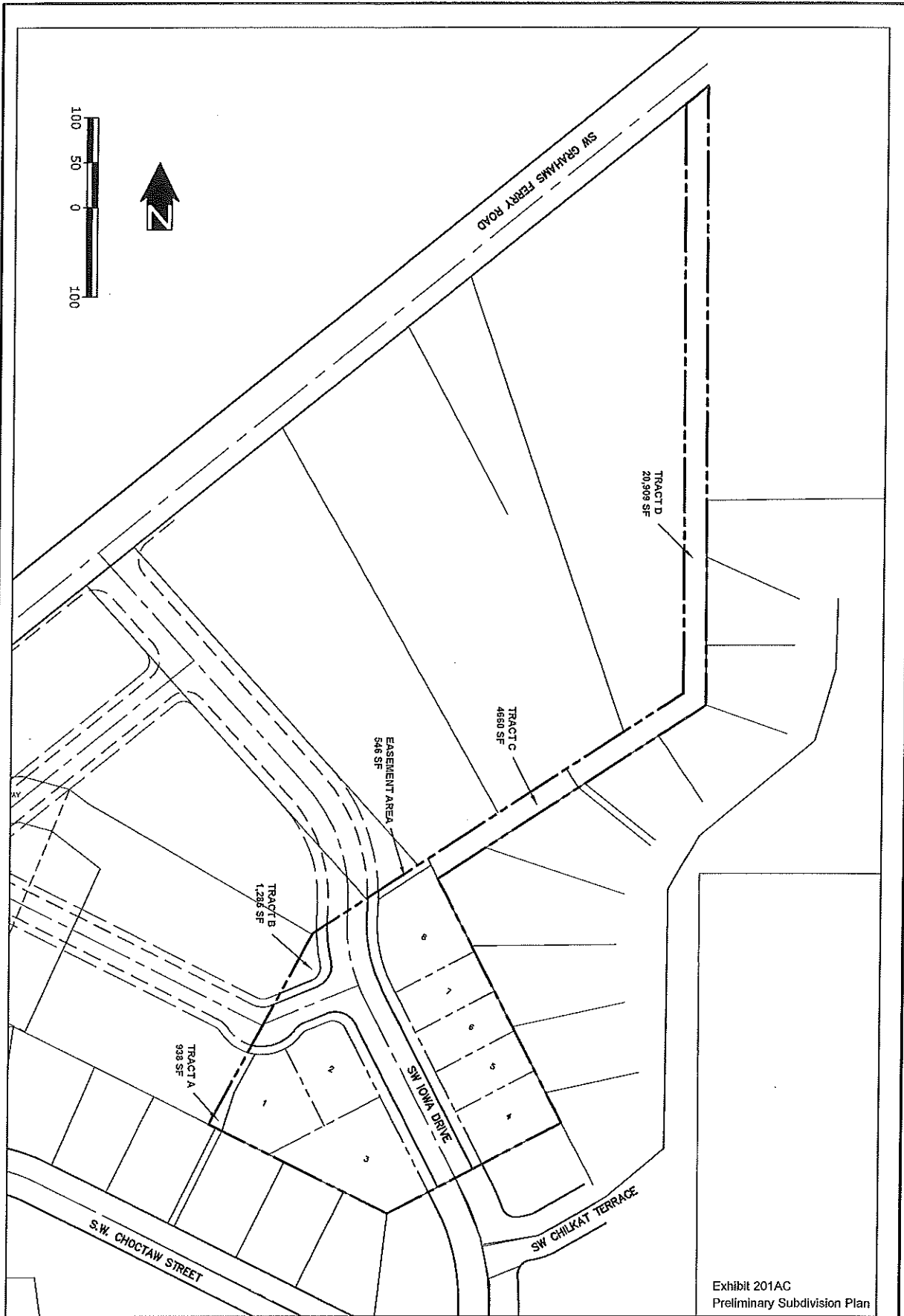


Exhibit 201AB
Existing Site
Improvements Map

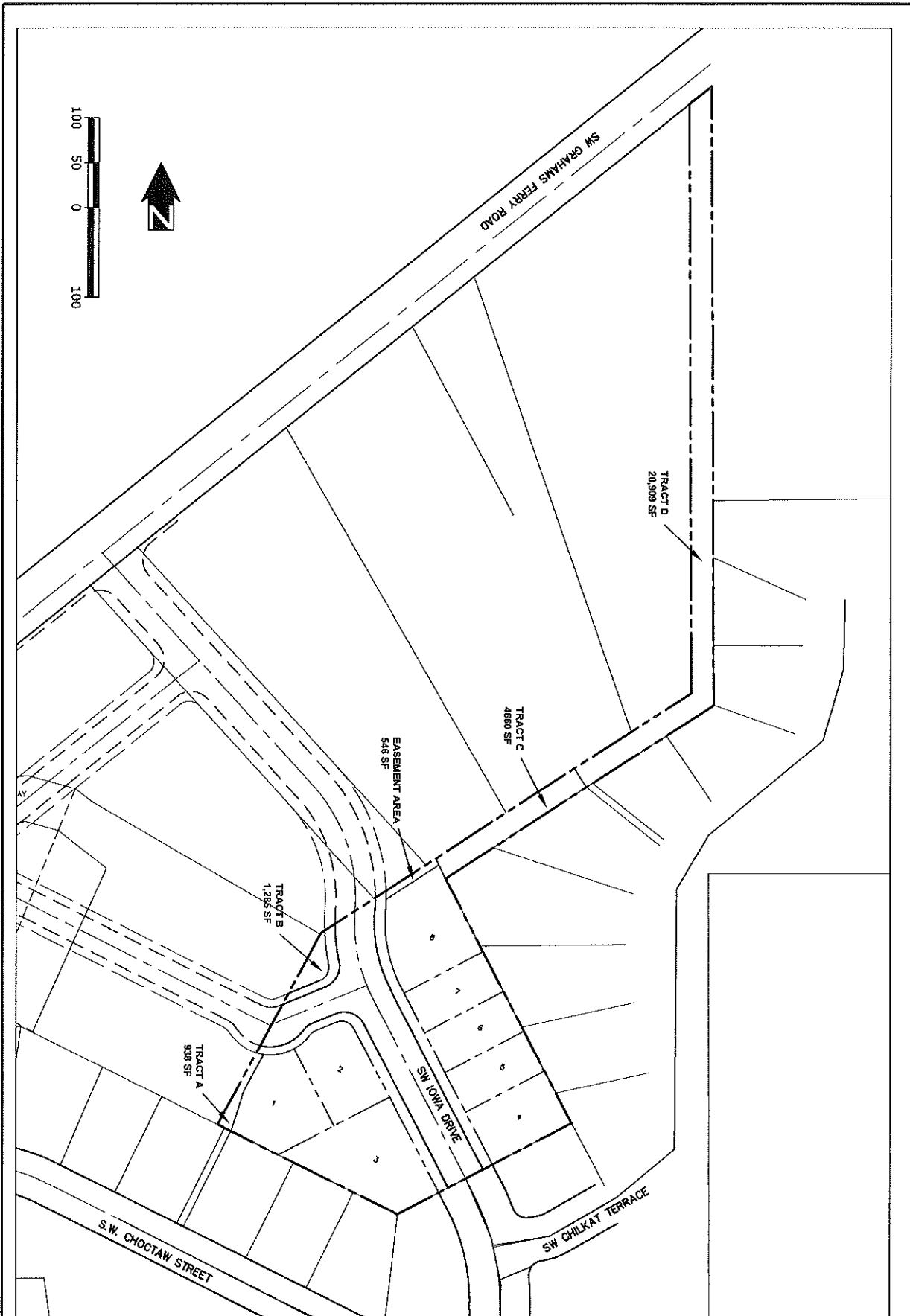






B. Patricia Bither & H



SHEET 1	PROJECT NO.: 2694 DATE: 08/15/13 DESIGNED BY: ARW DRAWN BY: ARW	REVISIONS _____ _____ 2694-PRE.DWG	CES NW 13190 SW 68th Parkway, Suite 150 Tigard, Oregon 97223 503.968.6655 www.cesnw.com	GRAHAMS FERRY ROAD CASE FILE NO. ANN-13-02 GERTZ FINE HOMES 19200 SW 45TH AVE. TUALATH, OR 97062
	PRELIMINARY SITE PLAN 22120 SW GRAHAMS FERRY RD			



	PROJECT NO.: 2894 DATE: 04/19/13 REVISIONS:		GRAHAMS FERRY ROAD CASE FILE NO. ANN-13-02
	DESIGNED BY: ARW DRAWN BY: ARW		
PRELIMINARY SITE PLAN 22120 SW GRAHAMS FERRY RD		13190 SW 68th Parkway, Suite 150 Tigard, Oregon 97223 503.968.6655 www.cesnw.com	GERTZ FINE HOMES 19200 SW 46TH AVE. TUALATIN, OR 97062

Patricia A. Butler #

Colin Cortes

From: hulsman5997@comcast.net
Sent: Sunday, September 15, 2013 9:29 AM
To: AQUILLA HURD-RAVICH
Cc: Colin Cortes
Subject: Pedestrian Pathway / Bithers' Driveway

Mayor Ogden and Tualatin City Council,

I am writing in regards to the property directly my home and the homes of 6 of my neighbors. In past years it has served primarily as the driveway for the Bithers family. We understand that the future of this property is currently being considered by the Council.

This summer I wrote to Gertz Fine Homes and spoke directly with Christy Wiegel, a representative from Gertz, considering the future of this property. I proposed that this long driveway be subdivided and sold to the 7 neighbors who back to this property. This would be a desire of ours for three reasons.

1) This would increase our backyards by 25 feet; increasing the yard, improving the livability of our homes and increasing our property value. In the case of my home, this would more than double our backyard.

2) A pedestrian pathway would bring back the problems that we faced in the early years of this portion of our neighborhood. I moved into my home in March of 2000. Though the Bithers' driveway and the property belonging to surrounding churches is private property, it was never treated in that manner by many. It was used as a pedestrian pathway throughout the day and much of the night on weekends. Some of the problems we experienced were:

Loud groups coming through late at night and the very early hours of the morning.

Alcohol and beer bottles littered, indicating under age drinking.

Litter in general.

Some fences kicked in from the Bithers' side.

Trespassers going into our yards, including damage to plants and whole plants pulled up.

A top to a hot tub was flipped up on several occasions. Use was not determined.

Gates opened to back yards, allowing dogs to be released.

Homes' doors pressed in far enough to set off internal alarms and summon police. Whether these were potential break-ins or pranks to set off the alarms is not known.

Much of this, though not all, stopped when the 6 foot cedar fence was installed at the end of the easement on Chilkat Terrace. The fence received a conditional use permit from City Council. Some of the nuisances continue still, though drastically reduced.

3) A pedestrian pathway in this location would not only be a nuisance, it would be unsafe. Though by city regulations it might be off limits after the sun sets, past practices indicate this would be ignored. It would be a very long and unlit path. Police would have difficulty being a presence down it without walking. Neighbors' views would be very limited. It would once again be a very private place for underaged kids to gather and go unchecked.

My concern is not that the path would be used at night by runners and walkers. My concern is for the safety of these people down a very long, unlit path and that will be very hard to have under any kind of surveillance.

Attachment 202
Public Comment

I appreciate connectivity and the efforts of the city of Tualatin to make this happen. In this particular case it is not wise and not safe. I urge you to encourage the sale of this property to the neighbors who back to this driveway and not allow it to become a pedestrian pathway.

Further, I request that my neighbors and I be notified in the future if this topic comes before you again.

Appreciatively,

Michael Hulsman

22395 SW Chilkat Terrace

Tualatin, Oregon

503-691-9988

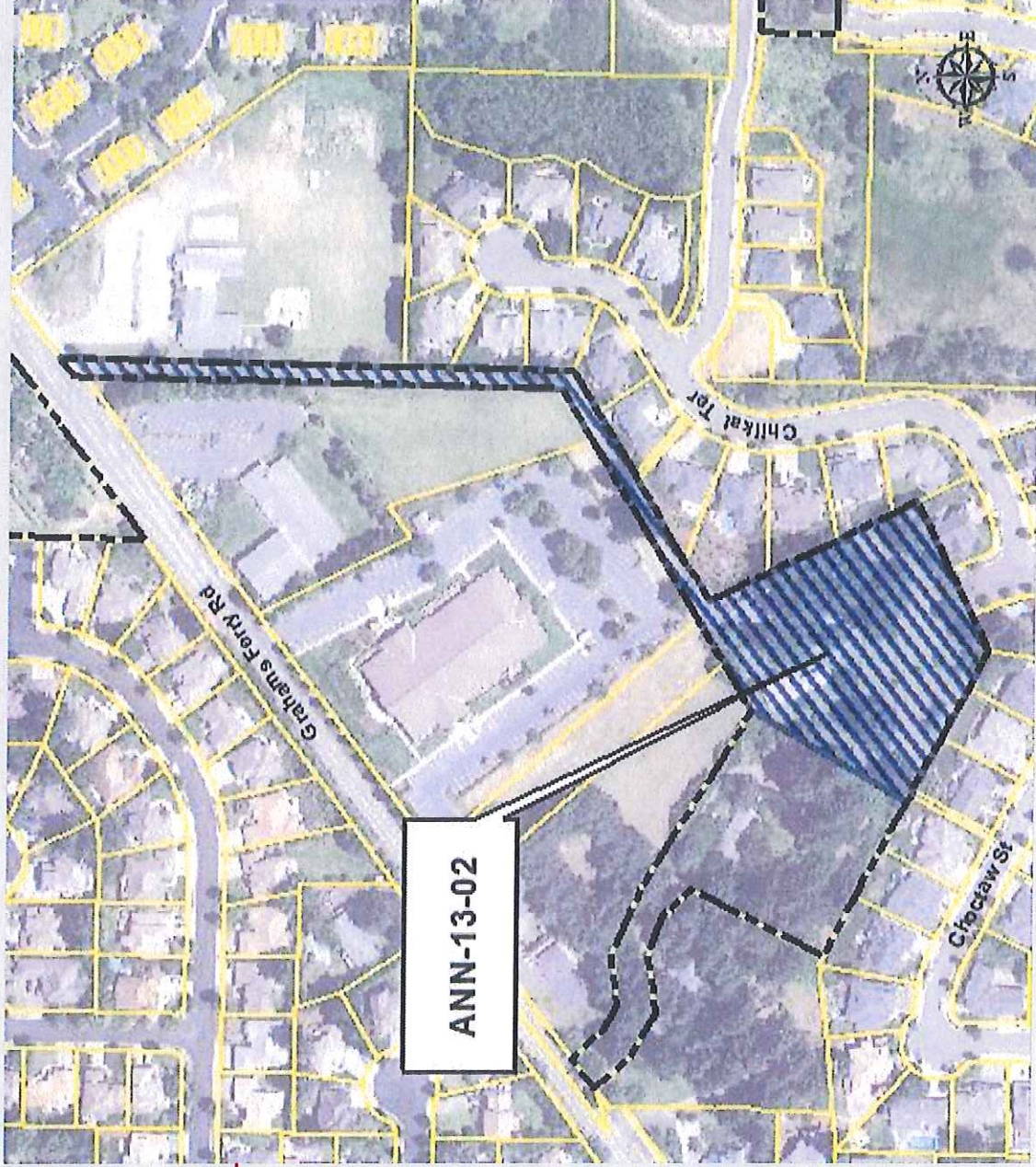
Citizen of Tualatin for 13 years.

**Annexation
ANN-13-02**

Bither Property

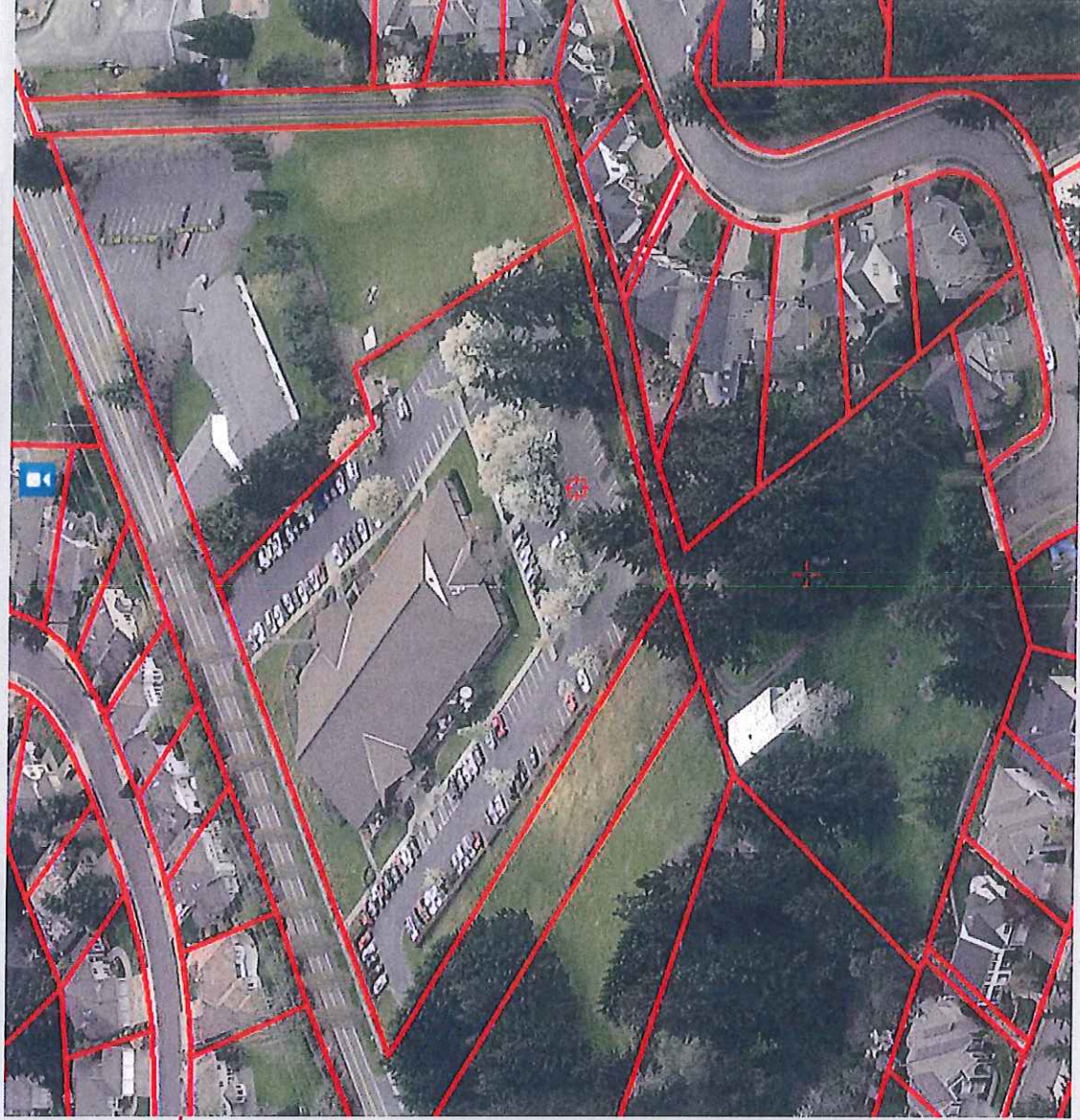
November 12, 2013







Oblique Aerial View



North is up.

November 12, 2013

City of Tualatin



Annexation Request

- Petition by property owner to annex the 2.59-acre subject property
- Property will be designated in the Low Density (RL) Planning District.
- Proposed Annexation Agreement between the City and Owner to address existing and future development on the property

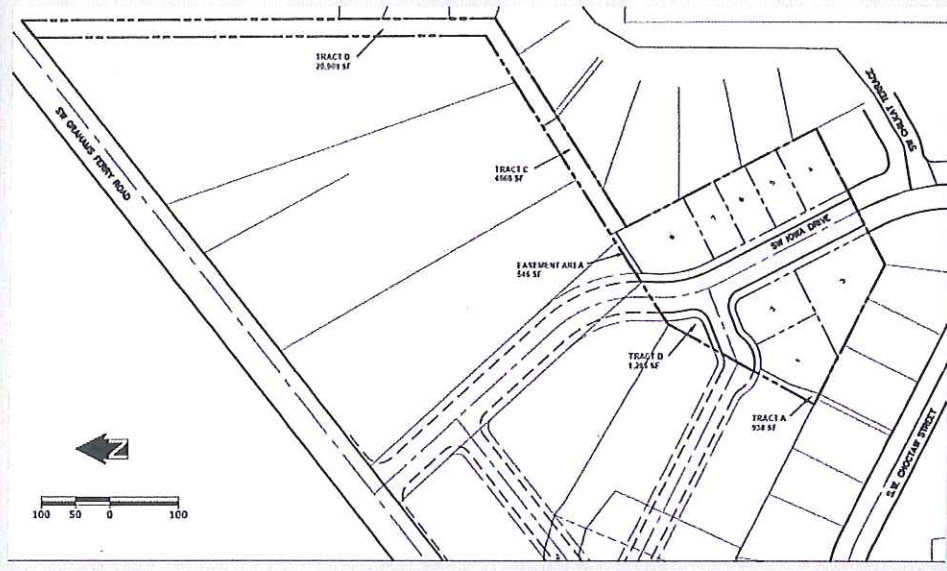


Annexation Agreement

- Identify existing uses, buildings, and other property improvements
- Identify the standards and requirements from the TDC and TMC applicable to the property upon annexation and at time of redevelopment
- Address existing and future property development



Preliminary Subdivision Plan





Subdivision Improvements Addressed

The agreement addresses these parts of future subdivision:

- SW Iowa Drive extension northward
- Preservation of future extension of SW Iowa Drive northward to intersect with SW Grahams Ferry Road
- Establishment of a new local street for the preliminary subdivision
- Preparation for street connectivity within the preliminary subdivision and for future street connections within adjacent undeveloped property
- Provision of two pedestrian accessways, one to SW Chilkat Terrace and one to SW Choctaw Street



Conclusion

- Separate and parallel Bither Annexation Agreement sets framework identifying expected attributes of a preliminary subdivision plan and addresses existing and future development
- Analysis and Findings show the Bither Petition meets annexation requirements of TDC 31.067



Questions?

