

RESOLUTION NO. 5186-14

RESOLUTION AUTHORIZING THE EXECUTION OF AN ANNEXATION AGREEMENT WITH OWNERS OF 12 ACRES OF LAND LOCATED AT 17865 AND 17985 SW PACIFIC HIGHWAY AND INCLUDING TAX MAP 2S115C TAX LOTS 2191, 2202, AND 2300

WHEREAS, the property commonly known as the “Espedal Property,” is owned by Kenneth R. Espedal, Joyce Lee Poppert, and Donna J. Degele, Trustee of the Degele Family Trust U/T/A dated 1/19/93, each as to an undivided one-third interest, as tenants in common (the “Owner”); and

WHEREAS, Owner has applied to the City for annexation of 12 acres of land immediately adjacent to the Tualatin City limits generally located northeast of the intersection of SW Pacific Highway (Hwy 99W) and SW 124th Avenue and more commonly known as 17865 and 17985 SW Pacific Hwy and including Tax Map 2S115C Tax Lots 2191, 2202, and 2300; hereafter called the “Subject Property”; and

WHEREAS the Subject Property is located within Tualatin’s Planning Area on land designated on TDC Map 9-1 as the General Commercial (CG) Planning District (TL 2191), the Commercial Recreational (CR) Planning District (TL 2202), and the Residential High Density (RH) Planning District (TL 2300); and on TDC Map 9-4 as Design Type “Corridor” (CO).

WHEREAS, the Subject Property was previously developed as a manufactured home park, but is now vacant other than some outbuildings and home park remnants.

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

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 the attached Annexation Agreement as referenced above.

Section 2. This Resolution is effective upon adoption.

Adopted by the City Council this 24 Day of March, 2014

CITY OF TUALATIN, OREGON

BY [Signature]
Mayor

APPROVED AS TO FORM

BY [Signature]
City Attorney

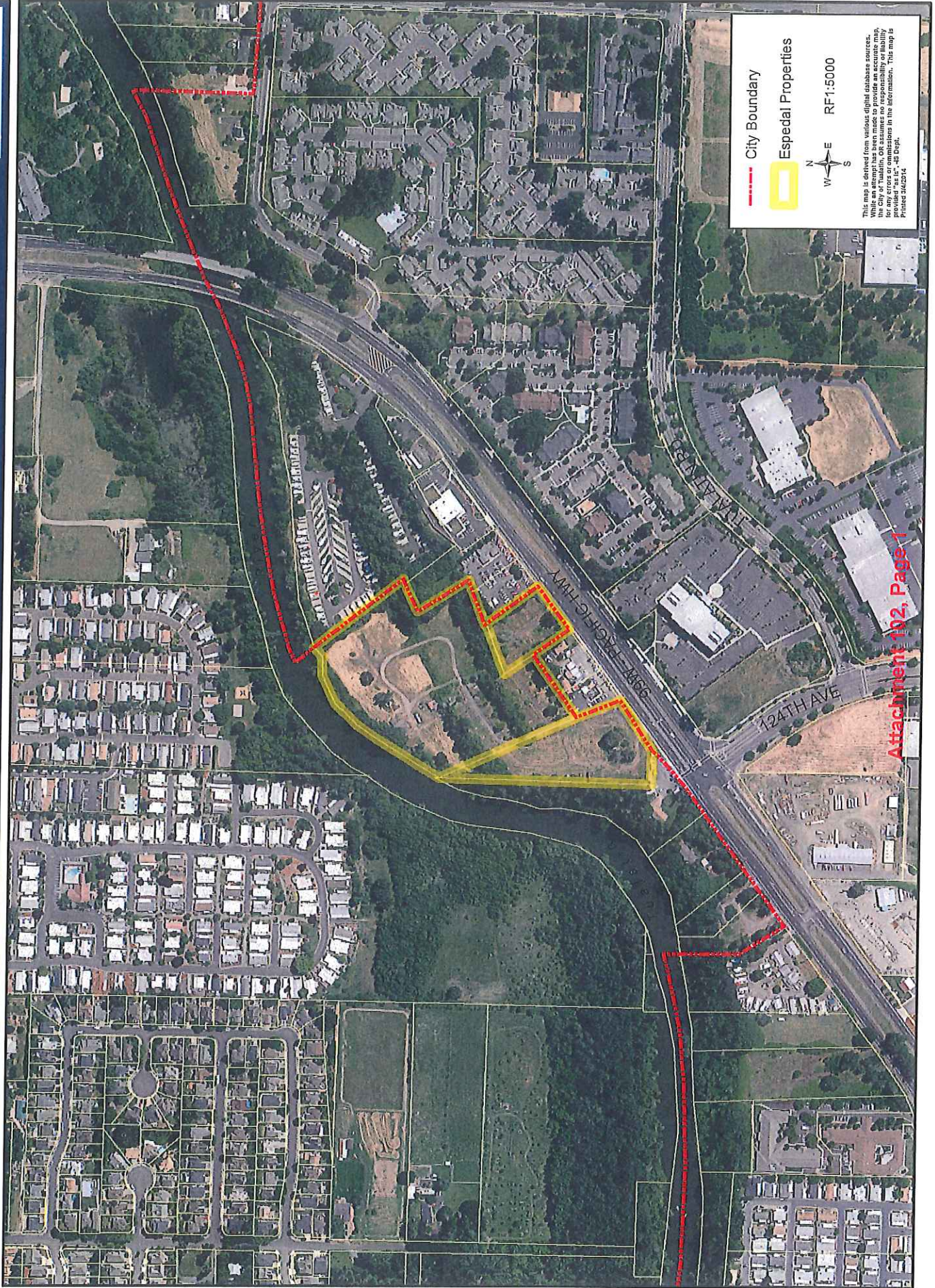
ATTEST:

BY [Signature]
City Recorder

Espedal Site

2S115C002191 - 2S115C002202 - 2S115C002300

Aerial Photo: Summer 2013



Attachment 102, Page 1

**ANNEXATION AGREEMENT
Espedal Property**

WHEREAS the property commonly known as the "Espedal Property" comprising approximately 12 acres of land immediately adjacent to the Tualatin City limits generally located northeast of the intersection of SW Pacific Highway (Hwy 99W) and SW 124th Avenue and more commonly known as 17865 and 17985 SW Pacific Hwy and including Tax Map 2S115C Tax Lots 2191, 2202, and 2300, and legally described in Exhibit A attached hereto (the "Subject Property"); and

WHEREAS the Subject Property is land currently owned by Kenneth R. Espedal, Joyce Lee Poppert, and Donna J. Degele, Trustee of the Degele Family Trust U/T/A dated 1/19/93, each as to an undivided one-third interest, as tenants in common (the "Owner"); and

WHEREAS the Subject Property is located within Tualatin's Planning Area on land designated on TDC Map 9-1 as the General Commercial (CG) Planning District (TL 2191), the Commercial Recreational (CR) Planning District (TL 2202), and the Residential High Density (RH) Planning District (TL 2300); and on TDC Map 9-4 as Design Type "Corridor" (CO). The Subject Property is adjacent to SW Pacific Highway, northwest of the highway, and adjacent to and east of the Tualatin River. The Subject Property was previously developed as a manufactured home park, but is now vacant other than some outbuildings and home park remnants. Between portions of the Subject Property and SW Pacific Hwy and across SW Pacific Hwy to the east are developed properties within the City boundary. Property to the north and east are developed but outside the city boundary; 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

WHEREAS on January 10, 2014 the Owner submitted a petition for annexation (ANN-14-01) and application for Comprehensive Plan Map Amendment (PMA-14-01) to the City for that purpose and such petition and application were deemed complete on January 31, 2014; and

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

WHEREAS the Comprehensive Plan Map designation for the Subject Property will change to High Density-Residential Planning District (RH), and the City and the Owner seek to identify the standards and requirements from the Tualatin Development Code and Municipal Code that will apply to the Subject Property upon annexation and at the time of Plan Map Amendment acknowledgment.

WHEREAS the City has been in discussions with a potential developer and

applicant and understands the purpose of this Annexation and Plan Map Amendment is for a future multifamily development. The Annexation decision is needed to bring the property into the City for purposes of receiving urban services such as sewer and water. A Plan Map Amendment is proposed to make all three lots on the site the same Planning Designation of High Density Residential which permits multifamily developments.

WHEREAS Multi-family residential developments of 100 units or more require Architectural Review and approval by the Architectural Review Board.

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

1. The Owner and the City agree the following structures, uses, access, and facilities on the Subject Property exist at the time of this Agreement (as seen on Exhibit A):
 - a) 11 existing structures:
 - i. Five sheds (A, B, C, D, and E) on tax lot 2300.
 - ii. One house on tax lot 2300 (F).
 - iii. One barn on tax lot 2202 (G).
 - iv. Three sheds on tax lot 2202 (H, I, and J).
 - v. One house on tax lot 2202 (K).
 - vi. 4 rows of foundations on tax lot 2202 (L, M, and N)
 - vii. One wall on tax lot 2191 (O).
 - viii. One existing access on tax lot 2191 (P).
 - ix. Access Q is not a part of the subject site and the subject site does not have physical or legal access to it.
 - x. One existing access on tax lot on tax lot 2203 through a recorded easement to tax lot 2202 (R).
 - xi. One existing access on tax lot 2300 (S).
 - b) One house or shed is used as a current dwelling.
 - c) Access points to the subject site:
 - i. An existing paved ingress and egress access from Highway 99W directly to tax lot 2191 comprised of one, paved curb cut (Access P on Exhibit A).
 - ii. An existing second paved curb cut from tax lot 2300 directly to Highway 99W (Access S on Exhibit A).

- iii. A third existing paved curb cut to Tax Lot 2202 via an access easement (County Records Book 493, Page 397) across Tax Lot 2203 (Nacho Mama's Restaurant). This easement allows tax lot 2202 to access Highway 99W, but not tax lot 2300. Tax lots 2191, 2202 and 2300 shall be consolidated to consolidate the access rights (Access R on Exhibit A).
 - iv. Tax lots 2202, 2300, and 2191 do not have access rights to access Q across tax lot 2200.
2. The City identifies the minimum Tualatin Development Code (TDC) chapters that will apply to existing structures, signs, uses, access, and facilities on the Subject Property as agreed to by the Owner and the City upon annexation as follows:
 - a) Chapter 31 General Provisions
 - b) Chapter 35 Nonconforming Uses, Signs and Structures.
 - c) Chapter 38 Sign Regulations
 - d) Chapter 43 High Density Residential (if PMA is approved)
 - e) Chapter 73 Community Design
 - f) Chapter 74 Public Improvements
 - g) Chapter 75 Access Management
3. The applicants have applied for Plan Map Amendment to change one tax lot from Recreational Commercial (CR) to High Density Residential (RH), a second tax lot from General Commercial (CG) to High Density Residential (RH). The third tax lot on the subject site already has the High Density Residential (RH) designation. If the Plan Map Amendment is approved the properties will be designated High Density Residential when the Annexation is effective.
4. Prior to any development of the Subject Property, the Owner agrees to submit application and receive approval for annexation of the Subject Property into the Clean Water Services District boundary.
5. The Owner agrees that following annexation, any change to the existing uses, site or buildings on the Espedal Property will require an Architectural Review of the entire subject property. A change in use, alteration or expansion of the buildings or structures of the existing development identified in section 1 above will be considered initiation of redevelopment and trigger Architectural Review subject to TDC Chapter 73.
6. Redevelopment shall require an Architectural Review of all of the improvements on the Subject Property and will be subject to the requirements of the Tualatin Development Code in effect at the time and in accordance with this agreement. With Redevelopment, all existing structures, signs, uses, and facilities on the Subject Property will be removed or demolished. Public

improvements required along the Subject Property's frontage will be determined as conditions of the Architectural Review pursuant to TDC Chapters 73, 74, and 75.

7. As conditions of any Architectural Review approval for development on the subject property, the Owner agrees to do the following :
 - a) Prior to obtaining Building Permits for any phase of construction: Grant to the City, by Statutory Warranty Deed or by a permanent public Greenway Easement, land for the Tualatin River Greenway as generally described in the Natural Resources Protection Overlay District (NRPO), and related Accessways with at least one connection to Pacific Highway, and as shown on Exhibit B, along with easements, the location of which will be determined by the City, for any City-approved utility crossings of the Greenway area, and
 - b) Prior to obtaining Building Permits for any phase of construction: Construct a public Shared Pathway within the Tualatin River Greenway in the approximate location and alignment shown on Exhibit B in exchange for a credit against the Park System Development Charge, if mutually agreed, or coordinate with the City to ensure the feasibility of constructing the pathway in the future and to pay the Parks System Development Charge in effect at the time of the Owner's building permits and, if necessary due to such Parks System Development Charges being insufficient to cover the pathway costs, compensate the City for all costs of offsite mitigation and enhancement as required by Clean Water Services for construction of the Shared Pathway within the Tualatin River Greenway on the subject property, and
 - c) To provide City temporary construction easements, as necessary, if the City constructs the Shared Pathway within the Tualatin River Greenway on the subject or adjoining properties, and
 - d) To provide City with a Natural Resources Assessment describing the conditions required by Clean Water Services to obtain a Service Provider Letter for construction of the Shared Pathway within the Tualatin River Greenway, and
 - e) To comply with development restrictions for the protection of natural resources within the Natural Resources Protection Overlay District (NRPO), except any specifically approved modifications approved by City, and
 - f) To provide a geotechnical report to ensure the long-term stability of the riverbank before and after construction of the Shared Pathway and any other improvements.
8. In addition to the Parks Systems Development Charges referenced in Section 7 above, the Owner shall pay any fees required with building permits and

public works permits at the time of redevelopment on the Subject Property.

9. This agreement is binding on the property owner of record and on the Owner's heirs, successors, and assigns.
10. This agreement is effective upon signing by the City and the Owner and shall continue until all conditions of an Architectural Review Decision for redevelopment of the Subject Property are met and a Certificate of Occupancy has been issued for the development by the Building Department.

DATED this (day) of (month) 2014.

OWNER 1:

By _____

OWNER 2:

By _____

OWNER 3:

By _____

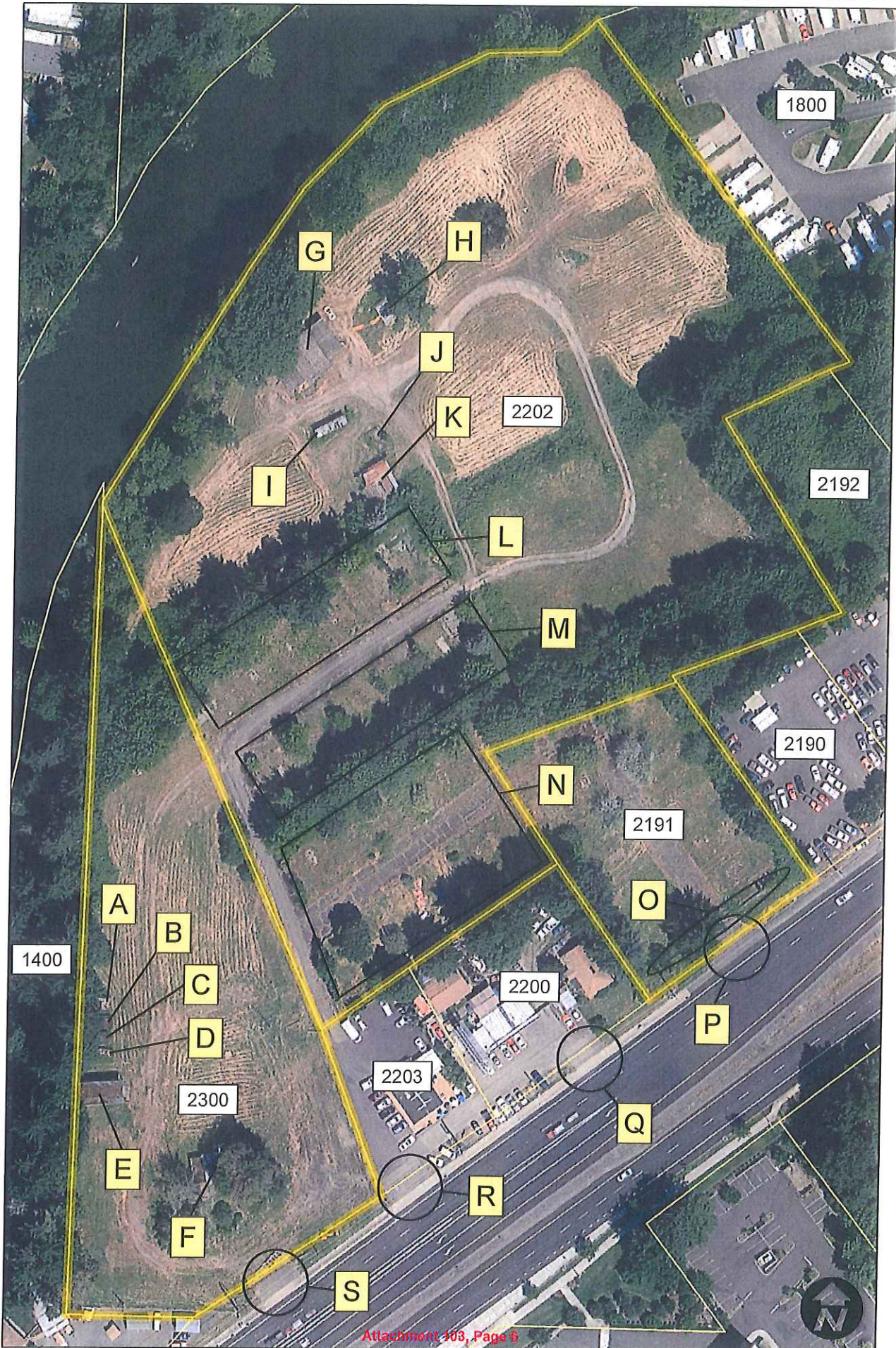
CITY OF TUALATIN, Oregon

DATED this (day) of (month) 2014.

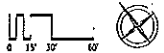
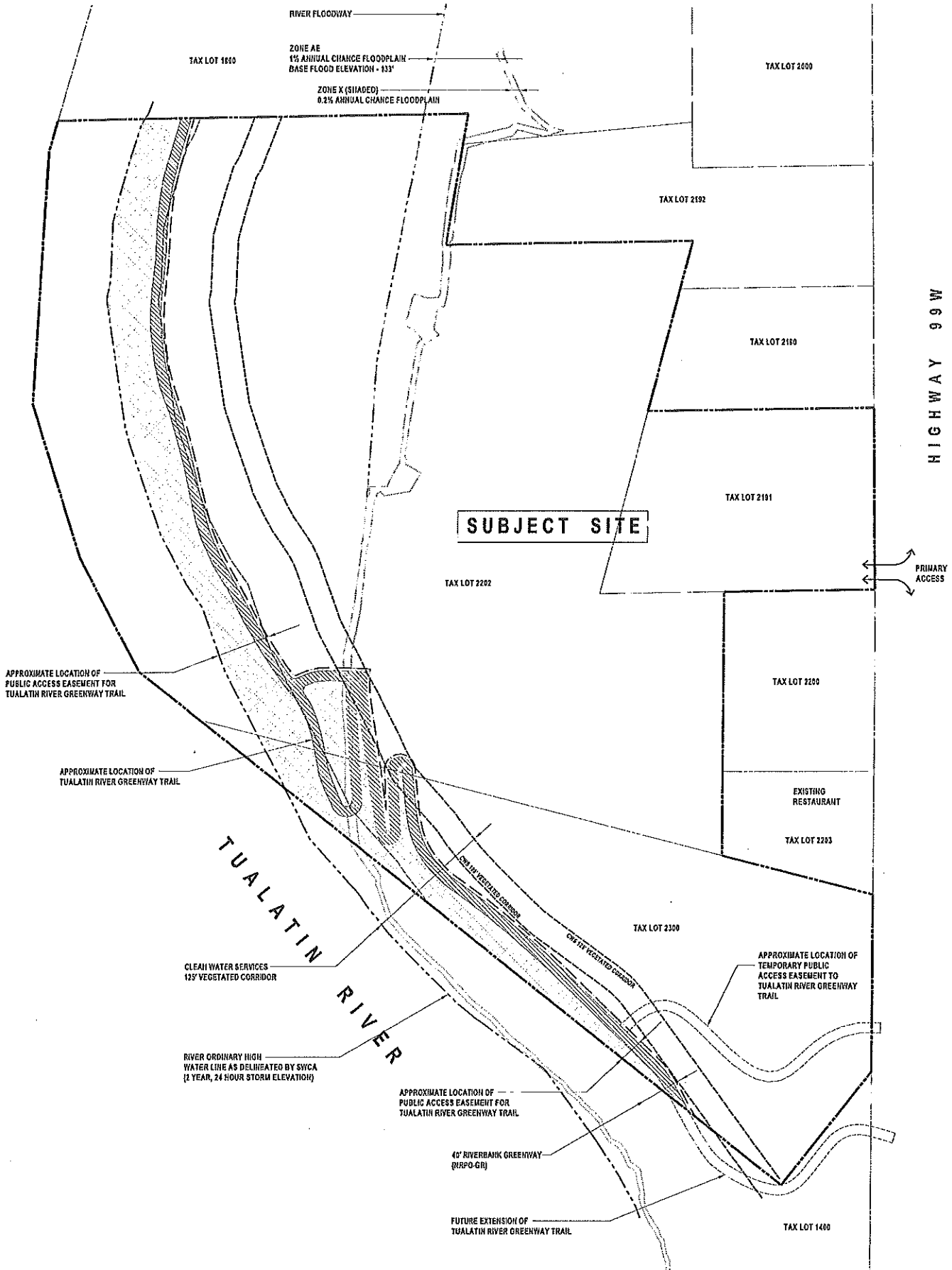
By _____
Mayor

Attest:

By _____
City Recorder



M



TUALATIN APARTMENTS
TUALATIN, OREGON

HILL ARCHITECTS

SITE PLAN ANNEXATION EXHIBIT B
MARCH 6, 2014

Annexation and Annexation Agreement

ANN-14-01

Espedal Property

March 24, 2014

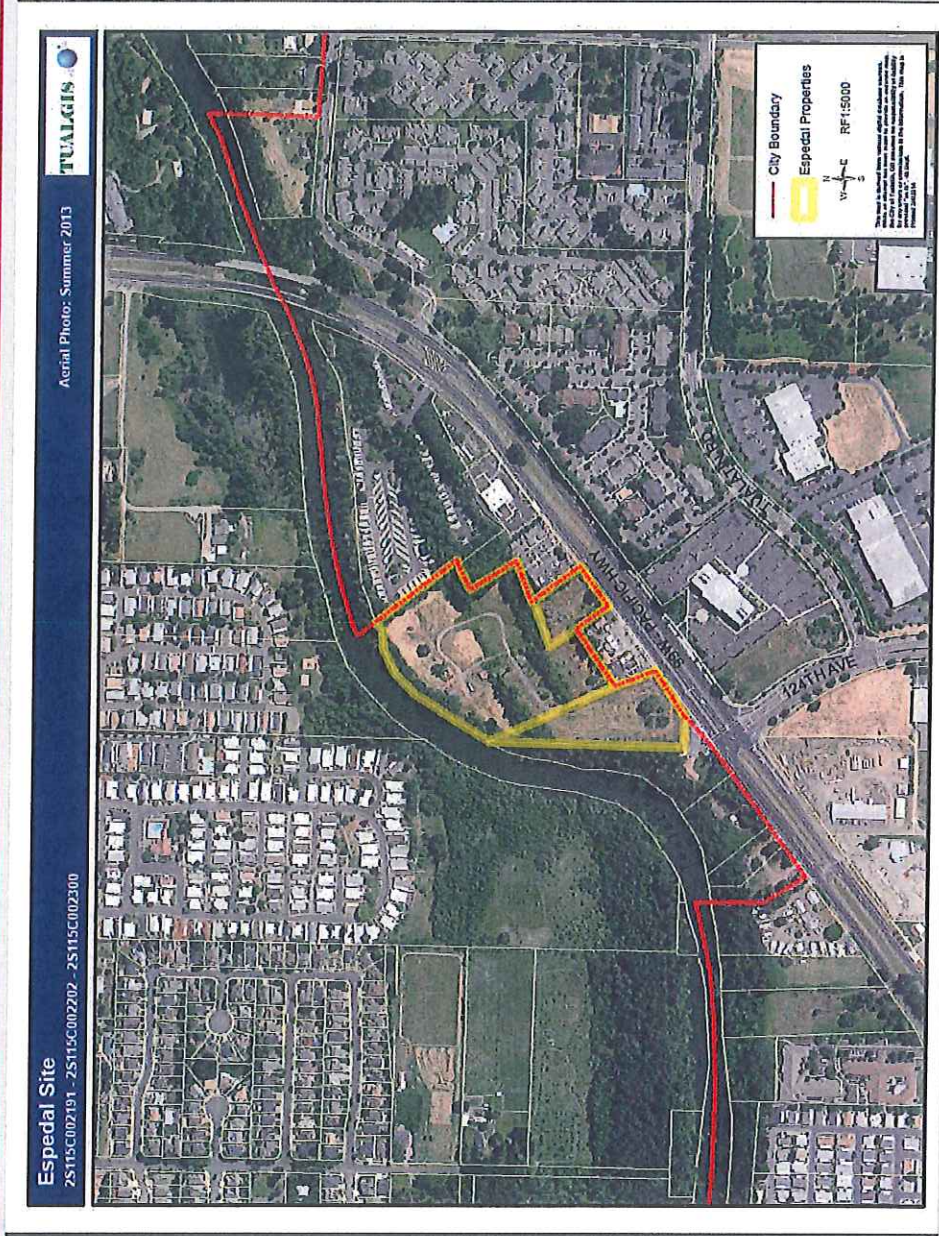


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Attachment G



Vicinity Map



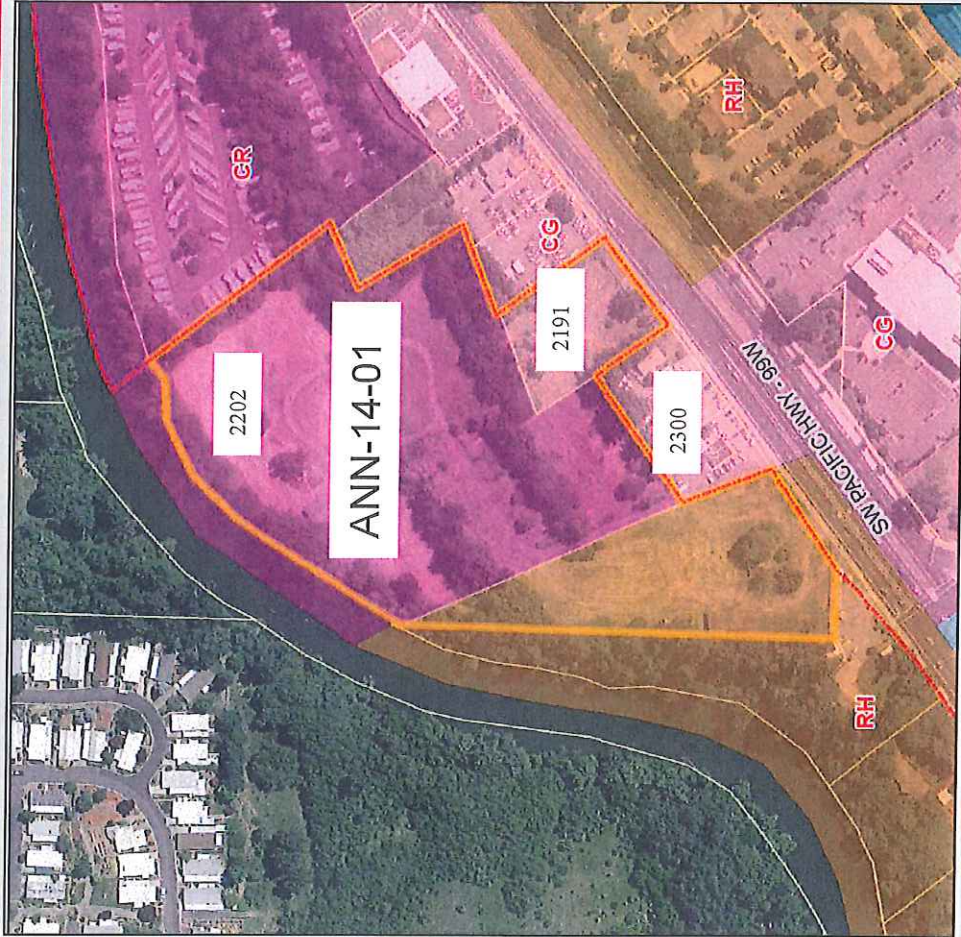
March 24, 2014

City of Tualatin

Attachment 104, Page 2



Current Planning District Map



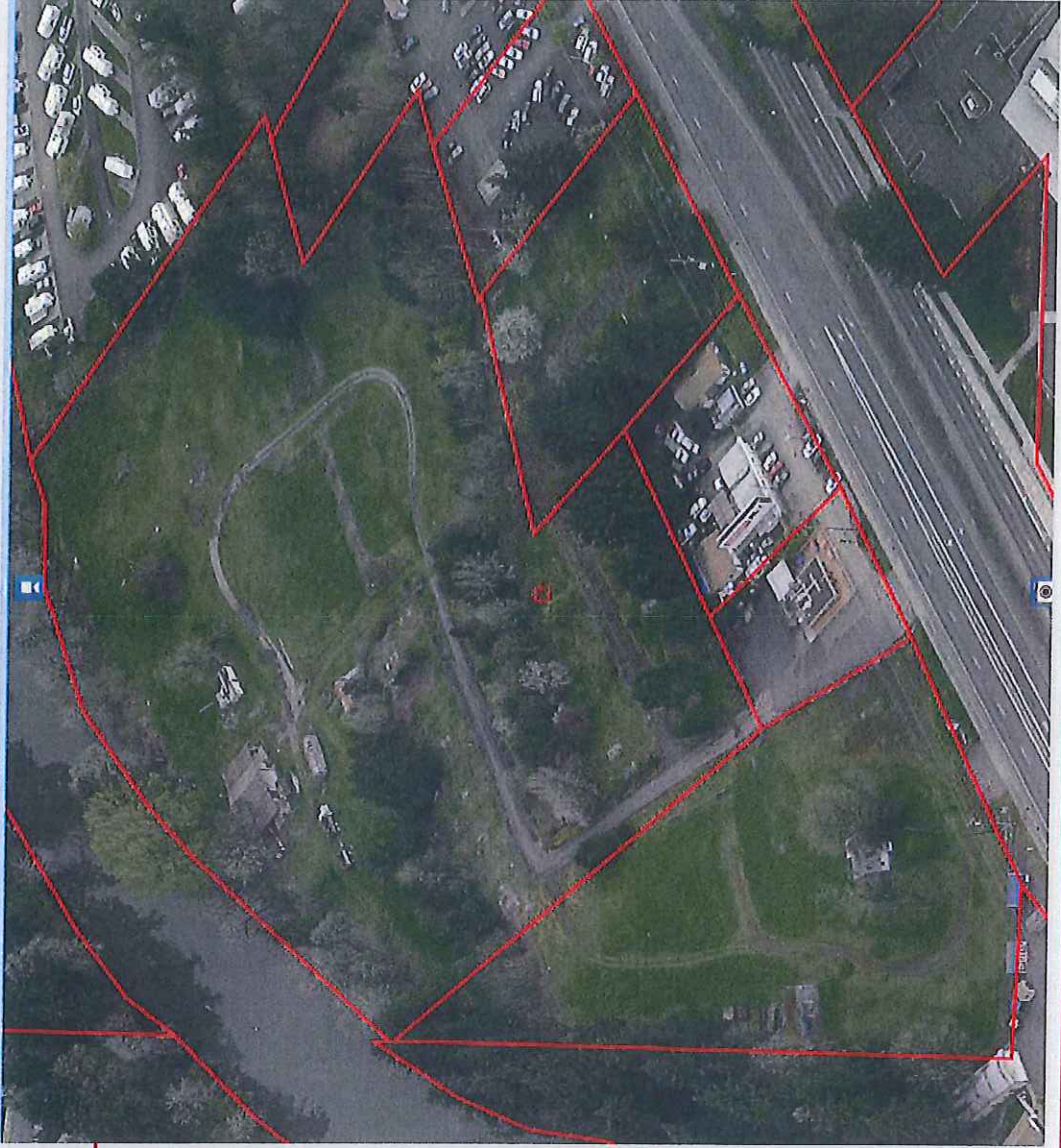
Recreational
Commercial (CR) = 

General Commercial
(CG) = 

High Density
Residential (RH) = 



PMA-14-01 Oblique View



March 24, 2014

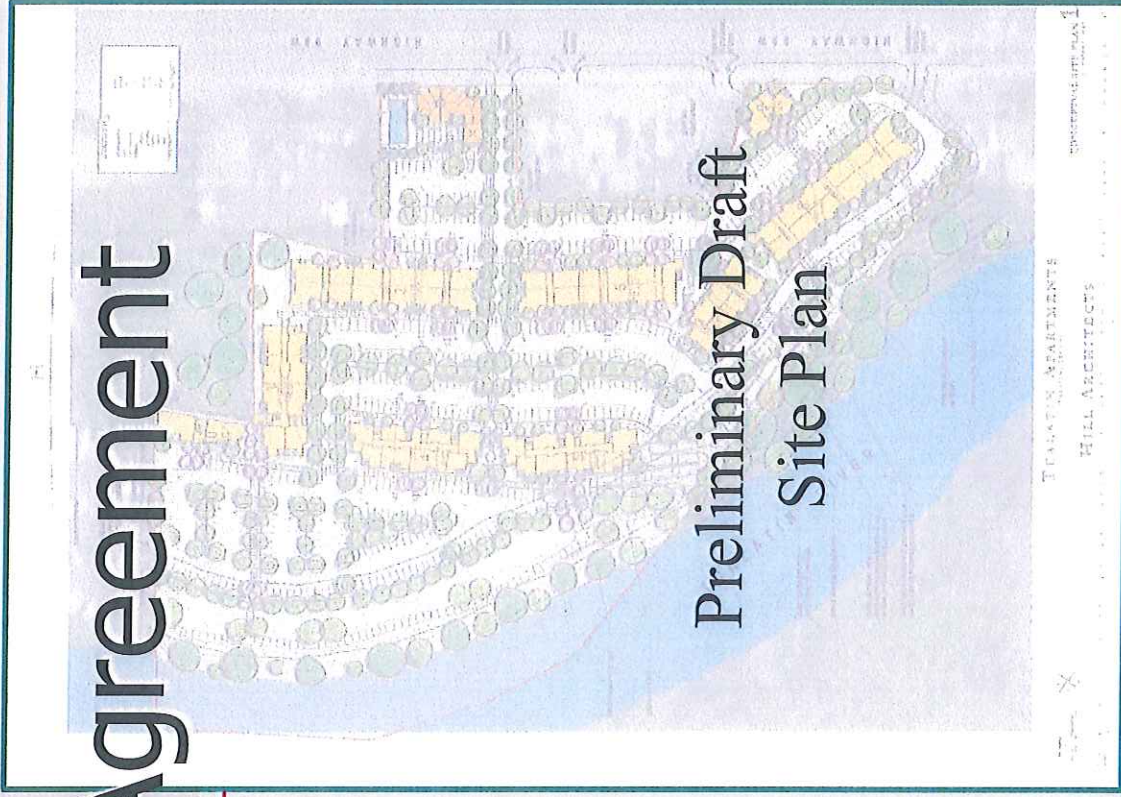
City of Tualatin

Attachment 104, Page 4



Annexation Agreement

- Existing non-conforming uses, structures, accesses, and paving.
- Identifies the standards and requirements.
- Future property development
- Tualatin River Greenway Trail





Conclusion & Questions

- Analysis and Findings show the Degele Family Trust Petition meets Annexation requirements TDC 31.067.

Questions?

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