



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 11/21/2014
Jurisdiction: City of Donald
Local file no.: A 2014-01
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/17/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 001-14 {22465}

Received: 11/17/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Donald

Local file no.: **A-2014-01**

Date of adoption: 10/14/2014

Date sent: 11/17/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted):

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

N/A

Local contact (name and title): Renata Wakeley, City Planner

Phone: 503.540.1618

E-mail: RWakeley@mwvcog.org

Street address: 100 High St SE, Suite 200

City: Salem

Zip: 97301

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

N/A

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from UTF for this change.	to Employment Industrial	0.45 acres.	A goal exception was required
Change from change.	to	acres.	A goal exception was required for this
Change from change.	to	acres.	A goal exception was required for this
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 4S 1W 17 CB 100

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres: 0.45

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:

Non-resource – Acres:

Forest – Acres:

Marginal Lands – Acres:

Rural Residential – Acres:

Natural Resource/Coastal/Open Space – Acres:

Rural Commercial or Industrial – Acres:

Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from UTF to Employment Industrial Acres: 0.45

Change from to Acres:

Change from to Acres:

Change from to Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: Acres added: Acres removed:

Location of affected property (T, R, Sec., TL and address): 4S 1W 17 CB 100

List affected state or federal agencies, local governments and special districts: Marion County, Oregon Department of Revenue, Oregon Secretary of State

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Annexation ordinance, legal description, application notice and staff report included. This application was considered a correction to the legal description/boundary of an previously completed UGB expansion and annexation.

ORDINANCE NO. 156-2014

AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF DONALD PROPERTY PURSUANT TO ORS 222.125 AND ORS 222.120.

WHEREAS, ORS 222.125 authorizes cities to annex contiguous territory when all of the owners of the subject property and not less than fifty percent of the electors, if any, residing in the property consent in writing to the annexation and file a statement of their consent with the legislative body and providing that public notice of the proposed annexation and a public hearing to consider the annexation is conducted as provided by ORS 222.120; and

WHEREAS, by Land Use Application dated August 5, 2014 the owner of the subject property, Donald Corporate Park, LLC, having provided to the City the required consent (a copy of the application is attached hereto and by this reference incorporated herein as Exhibit "B"), and

WHEREAS, the Donald City Council having elected to dispense with submitting the question of the proposed annexation to the electors of the City by Resolution Number 372-14, and having fixed a date for public hearing before the legislative body at which time the electors of the City may appear and be heard on the question of annexation and the City having caused notice of the hearing to be published once each week for two successive weeks prior to the date of hearing in a newspaper of general circulation in the City and, in addition, having caused notice of the hearing to be posted in four public places in the City for a like period; and

WHEREAS, a public hearing pursuant to ORS 222.120(2) having been held on September 29, 2014.

NOW, THEREFORE, the City of Donald ordains as follows:

Section 1: The property proposed to be annexed is described in Exhibit "A" attached hereto and incorporated by this reference herein. The property proposed to be annexed is more fully described in the map attached hereto as Exhibit "C" and by this reference incorporated herein.

Section 2: The City of Donald having lawfully dispensed with the submission of this annexation to the electors of the City and having otherwise complied with the statutory requirements of ORS 222.120 and ORS 222.125, does hereby annex the property described on Exhibit "A" hereto to the City of

Donald.

Section 3: The City Manager shall cause a certified true copy of this Ordinance to be transmitted to all persons to whom transmittal is required by statute.

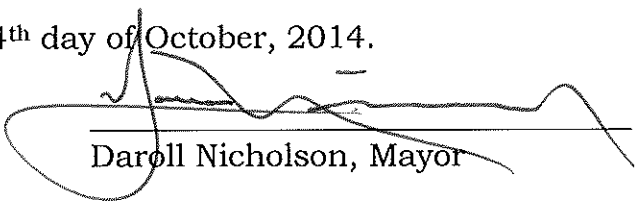
Section 4: The property annexed by this ordinance shall be given a City of Donald zoning designation of Employment Industrial (EI) as described by the Donald Comprehensive Plan Designation and the Donald Development Ordinance.

Section 5: The first reading of this Ordinance was conducted on September 29, 2014. The second reading of this Ordinance was conducted on October 14, 2014 and was passed and adopted by the City Council on October 14, 2014 as follows:

7 AYES
0 NAYS
0 ABSTENTIONS

Section 6: This Ordinance shall be effective on the thirtieth day after the date of enactment below.

DATE OF ENACTMENT: this 14th day of October, 2014.


Daroll Nicholson, Mayor

ATTEST:


Heidi Blaine, City Manager

PASSED by the City Council: 10/14/2014
SIGNED by the Mayor: 11/13/2014
EFFECTIVE: 11/13/2014

Legal Description of Properties Annexed Into the City of Donald by
(document reference)

A portion of that tract of land deeded to S. Pete Feller and Annette C. Feller and recorded April 27, 1998 in Reel 1482, Page 759 of the Marion County Deed Records. Located in Section 17, Township 4 South, Range 1 West, Willamette Meridian, Marion County, Oregon. Being more particularly described as follows:

Beginning at a 5/8 inch iron rod located at the intersection of the south line of said Feller tract and the easterly right-of-way line of Butteville Road (Market Road No. 65), and being North 14°05'27" East 939.51 feet and South 71°24'33" East 30.09 feet from a 2-1/2 inch brass disk in a monument box at the intersection of the centerline of Donald Road and the centerline of Butteville Road;
thence North 14°05'27" East along said right-of-way line 393.23 feet to a 5/8 inch iron rod on the north line of said Feller tract;
thence South 75°54'33" East 327.92 feet to a 5/8 inch iron rod at the northeast corner of said tract;
thence South 14°05'27" West 419.03 feet to a 5/8 inch iron rod at the southeast corner of said tract;
thence North 71°24'33" West along the south line of said tract 328.93 feet to the Point of Beginning, containing 3.06 acres.

All bearings and distances are based on Marion County Survey Record #36848.

CITY OF DONALD LAND USE ACTION APPLICATION



Donald Development Code
Application Requirements and Review Procedures Section 3.1
Land Use Action Fee Schedule Resolution 336-12

Office Use Only:

Date: _____
Permit Fee: _____

Permit No. _____
Receipt # _____

Property Owner's Name DONALD CORPORATE PARK LLC
Owner's Address 4300 11TH AVENUE NW, SEATTLE WA 98107

Owner's Phone Number 2062238231
Owner's Email PWNELSON@SUTHDEV.COM

Applicant Name DONALD CORPORATE PARK LLC
Applicant Address 4300 11TH AVENUE NW, SEATTLE, WA 98107
Applicant Telephone 2062238231
Applicant Email PWNELSON@SUTHDEV.COM

Contractor Name _____
Contractor Address _____
Contractor Telephone _____
Contractor Email _____

Property Information (Use additional sheets as needed)

Street Address 21268 BUTTEVILLE ROAD NE, DONALD, OR

Total Square Footage _____

Zoning _____

Property Tax Map _____

Existing Structures/Use _____

Existing Plan Designation _____

Proposed Action (Use additional sheets as needed)

Action Requested ANNEXATION

Purpose and Description of Proposed Action _____

Authorization and Finalization Signatures

I am the owner/authorized agent of the owner empowered to submit this application and affirm that the information submitted with this application is correct to the best of my knowledge. I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request. I understand that the filing fee is nonrefundable and that I am responsible for all additional costs of processing this application in excess of the filing fee, including but not limited to, all planning, engineering, city attorney, and city administration fees and costs. I understand that no final application approval shall be given and/or building permit shall be issued until all actual costs for processing this application are paid in full.

Applicant's Signature _____

8/5/2014

Date

Owner's Signature _____

8/5/2014
Date

CITY OF DONALD LAND USE ACTION APPLICATION



Supplemental Materials To Be Submitted With Application

In order to expedite and complete the processing of this application, the City of Donald requires that all pertinent material required for review of the application is submitted at the time application is made along with the application fee. If the application is found to be incomplete, review and processing of the application will not begin until the application is made complete. The submittal requirements relative to the application may be obtained from the specific sections of the Donald Development Ordinance pertaining to the application but include, at a minimum, those items outlined below.

In submitting this application, the applicant must be prepared to give evidence and information which will justify the request and satisfy all the required applicable criteria. The filing fee must be paid at the time of submission. This fee in no way assures approval of the application.

Submit eight copies of the following and one electronic version:

1. A brief statement describing how the proposed action satisfies the required findings criteria contained in the Land Development Ordinance for the action requested, (Mark "Exhibit A").
2. Plans, with dimensions, of the proposed action (if applicable). These would include vicinity maps, plot plans, development plans, etc. (Mark "Exhibit B").
3. An accurate list of names and addresses of all owners of property within 100 feet of all boundaries for a Type I action and 200 feet of all boundaries for a Type II or III actions. The applicant assumes notification problems associated with notification lists which are more than 30 days old. (Mark "Exhibit C").
4. A copy of the applicable County Assessor's map. (Mark "Exhibit D").
5. Applicable existing conditions and proposed development plan information. (Mark "Exhibit E")

Office Use Only:

Application Received By	_____	Date	_____
Planning Dept. Review By	_____	Date	_____
Public Works Review By	_____	Date	_____
Engineer Review By	_____	Date	_____
Legal Review By	_____	Date	_____
Fire Dept. Review By	_____	Date	_____
School Dist. Review By	_____	Date	_____
Marion County Sheriff Office Review By	_____	Date	_____

Level of Decision

Staff Approval By	_____	Date	_____
Planning Commission Approval	_____	Public Hearing Date	_____
Council Approval	_____	1 st Public Hearing Date	_____
		2 nd Public Hearing Date	_____

EXHIBIT

PAGE 2 OF 5

EXHIBIT A

**CITY OF DONALD
LAND USE ACTION APPLICATION**

The annexation area satisfies all required findings contained in the Land Development Ordinance for this action. The annexation area is within the City of Donald's Urban Growth Boundary, and surrounded by property previously annexed into the City.

TOWNSHIP 4 SOUTH, RANGE WEST, WILLAMETTE MERIDIAN,
 CITY OF DONALD, MARION COUNTY, OREGON
 DATE SURVEYED: JULY 8, 2005
 SHEET 1 OF 2

REEL 2026, PAGE 127
 AREA = ±27.437 ACRES
 ANNETTE C. FELLER

6.349 CHAINS = 419.007

(N14°05'E

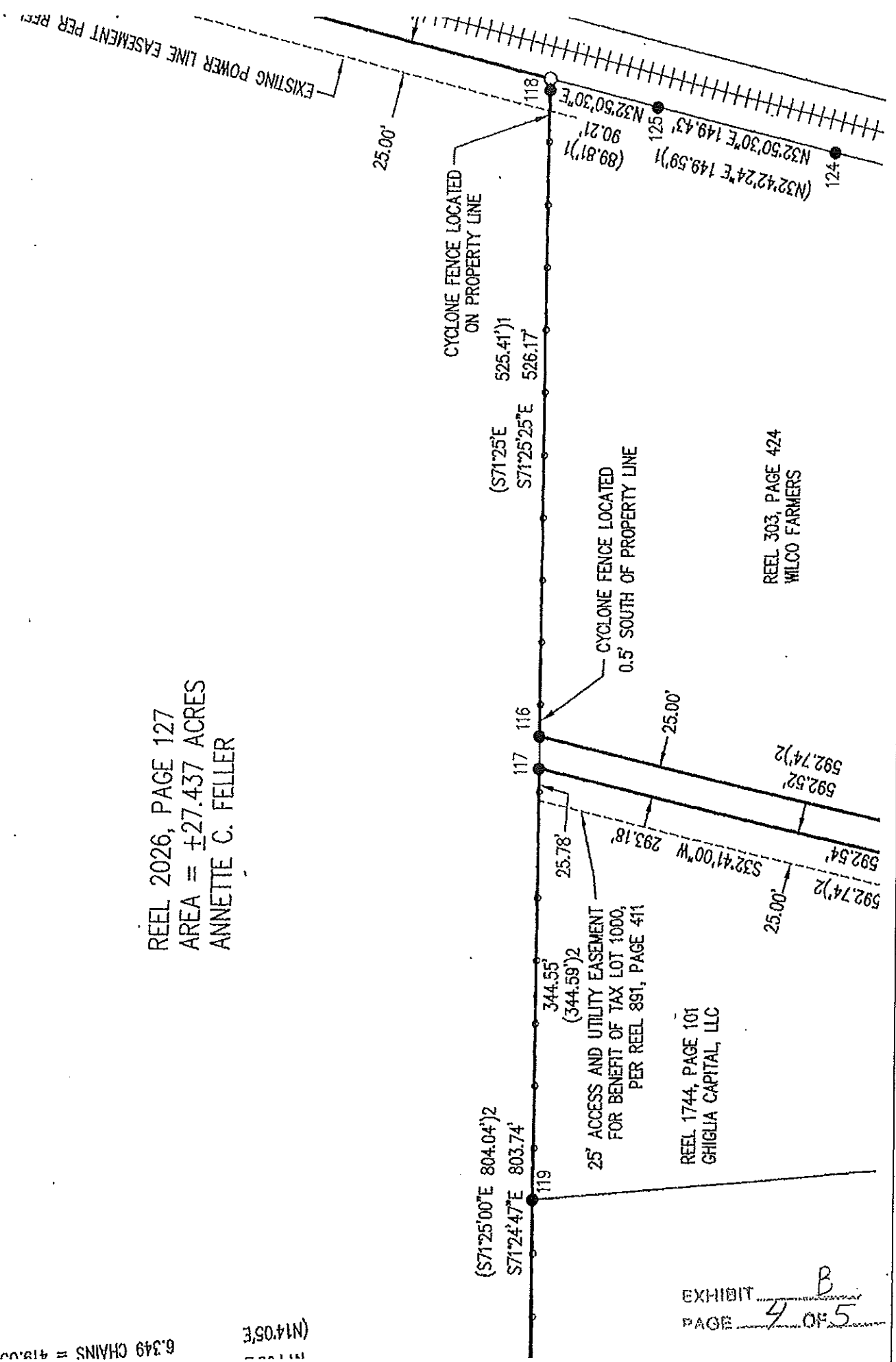


EXHIBIT B
 PAGE 4 OF 5

REEL 1744, PAGE 101
 GHIGLIA CAPITAL, LLC

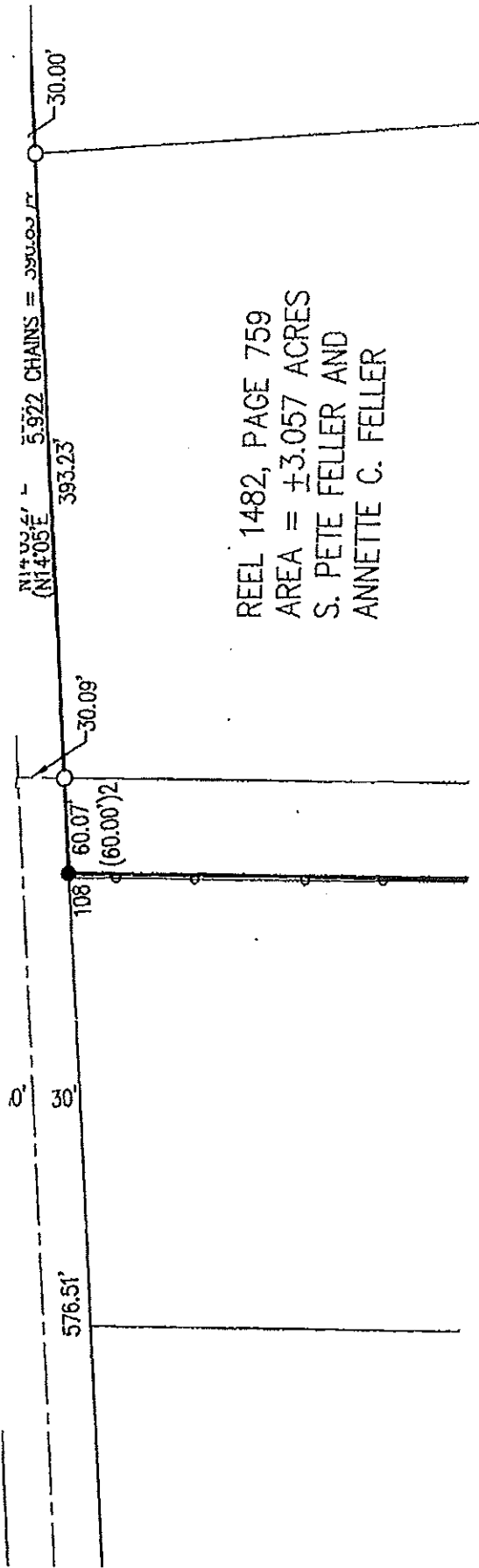
REEL 303, PAGE 424
 WILCO FARMERS

25' ACCESS AND UTILITY EASEMENT
 FOR BENEFIT OF TAX LOT 1000,
 PER REEL 891, PAGE 411

CYCLONE FENCE LOCATED
 ON PROPERTY LINE

CYCLONE FENCE LOCATED
 0.5' SOUTH OF PROPERTY LINE

EXISTING POWER LINE EASEMENT PER REEL



REEL 2
AREA =
ANNETT

REEL 1482, PAGE 759
AREA = ± 3.057 ACRES
S. PETE FELLER AND
ANNETTE C. FELLER

NARRATIVE

THE PURPOSE OF THIS SURVEY WAS TO ESTABLISH THE BOL
PAGE 127 OF MARION COUNTY DEED RECORDS.
THE BASIS OF BEARINGS OF THIS SURVEY IS BETWEEN FOUR
109, PER SURVEY NUMBER 31753, AS SHOWN.

I HELD SAID MONUMENTS AT 103 AND 109 TO ESTABLISH 1
MONUMENT AT 135 TO ESTABLISH THE CENTERLINE OF BUTT
MONUMENT AT 131 TO ESTABLISH THE NORTH LINE OF THE
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EXHIBIT B
PAGE 5 OF 5

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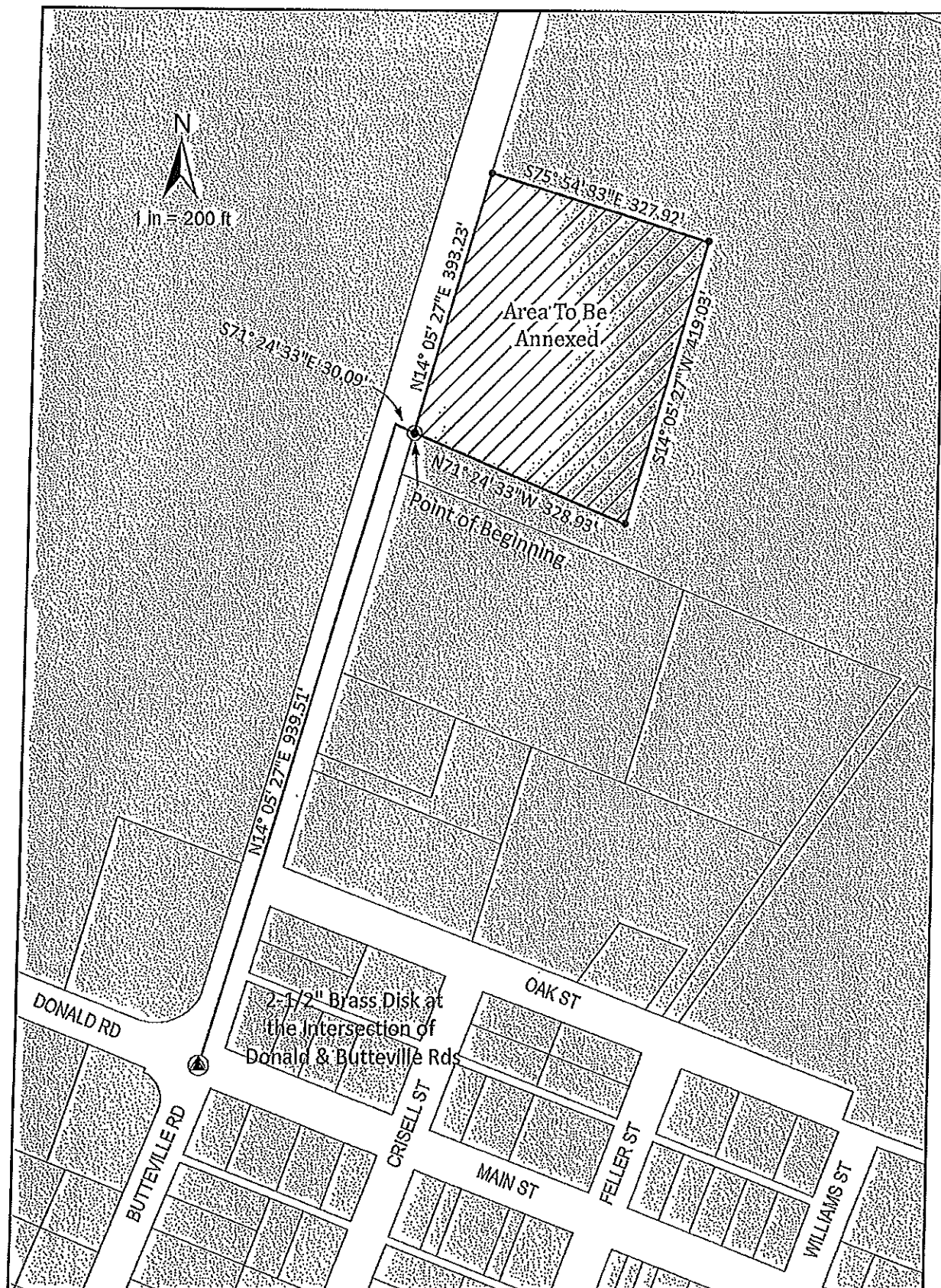
PARTITION
) CORNER

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XS 31851;

PARTITION
T

HELD



AFFIDAVIT OF POSTING

I, Heidi Blaine, DEPOSE AND STATE AS FOLLOWS:

That the attached Exhibit "A" was posted by myself in the locations listed in Exhibit "B", attached hereto and incorporated herein by reference.

That the aforementioned copies were posted by myself on September 10, 2014

A handwritten signature in cursive script, reading "Heidi Blaine", written over a horizontal line.

Heidi Blaine
Donald City Manager

Exhibit B

Donald City Hall, Community Board: 10710 Main ST, Donald, OR 97020

Donald Downtown Public Space, Community Board: 10790 Main ST, Donald, OR 97020

Donald Post Office, Community Board: 10751 Main ST, Donald, OR 97020

Donald Market, Front Window, 10750 Main ST, Donald, OR 97020

Exhibit A

CITY OF DONALD CITY COUNCIL NOTICE OF PUBLIC HEARING

DATE: September 29, 2014
TIME: 6:45 P.M.
PLACE: Donald City Council Chambers
10710 Main Street NE, Donald
FILE: A-2014-01
APPLICANT: Donald Corporate Park, LLC
4300 11th Avenue NW, Seattle WA 98107
PROJECT LOCATION: Map 041W17CB Lot 100 (northern 60 feet of the subject parcel located east of Butteville Road).
PROPOSED LAND USE: The applicant is requesting annexation of approximately 0.45 acres, east of Butteville Road. The application is to correct a previous error in urban growth boundary expansion and annexation which erroneously did not include the northern 60 feet of this previously annexed property.

CITY COUNCIL HEARING PROCESS:

The City Council will conduct a public hearing to review the application and make a decision on the application. The City Council hearing is scheduled for **Monday, September 29, 2014 at 6:45 p.m.**, Donald City Council Chambers, 10710 Main Street NE, Donald.

The public hearing on this matter will be conducted in accordance with the rules of Oregon Revised Statutes (ORS) 222.005 through 222.183.

Anyone wishing to present written testimony on this proposed action may do so in writing prior to or at the public hearing. Oral testimony may be presented at the public hearing. At the public hearing, the city council will review a staff report, open the public hearing and invite both oral and written testimony. These documents are available for review at City Hall. Information submitted in support of this application after **September 22, 2014** will allow any interested party to request a continuance of this application.

The City Council may continue the public hearing to another meeting to obtain additional information, or close the public hearing and take action on the application. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing.

An issue that may be the basis for an appeal to the Land Use Board of Appeals (LUBA) shall be raised not later than the close of the record at or following the final evidentiary hearing on this case. Such issues shall be raised with and accompanied by statements or evidence sufficient to afford this body, and the parties to this hearing an adequate opportunity to respond to each issue.

It is the responsibility of the applicant in this matter to raise constitutional or other issues relating to any proposed conditions of approval. The failure of the applicant to raise such issues with sufficient specificity to allow this body to respond to this issue precludes an action for damages in circuit court.

All documents in the above-noted file are available for inspection at City Hall at no cost or 8½" by 11" copies can be obtained for \$0.25 per page. At least seven (7) days prior to the hearing, a copy of the staff report will be available for inspection at no cost, or a copy can be obtained for \$0.25 per page.

(over)

For further information, please contact Renata Wakeley, Planner, at (503) 588-6177, or ask for help from the administrative staff, at (503) 678-5543, City Hall, 10710 Main Street NE, Donald, OR, 97020.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to City Hall 503-678-5543.

**CITY OF DONALD
STAFF REPORT**

TO: Donald City Council

FILE: A-2014-2001

HEARING DATE: August 12, 2014, 6:45 pm
Donald City Council Chambers, Donald City Hall
10710 Main Street NE
Donald, OR 97020

APPLICANT: Donald Corporate Park, LLC
4300 11th Avenue NW, Seattle WW 98107

**SUBJECT
PROPERTY** Northern 60 feet of Lot 100 of Map 041W7BC

REQUEST: The applicant is requesting annexation of approximately 0.45 acres, or 19,620 feet (327 feet by 60 feet), or the northern 60 feet of Lot 100 of Map. The land is currently shown by Marion County as having a split Industrial and Residential zoning. The City zoning map and comprehensive plan map show the subject property as within the city limits and urban growth boundary and having a Employment Industrial (EI) zone. The application is to correct a previous error in urban growth boundary expansions and annexations that occurred around 2009 to annex the property and apply the applicable Comprehensive Plan designation upon annexation.

**APPLICABLE
CRITERIA:** Oregon Revised Statutes (ORS) 222.005 through 222.183; Independence Comprehensive Plan goals and policies

EXHIBITS: Exhibit A: Site Map and materials submitted by applicant
Exhibit B: Oregon Revised Statutes section 222.005 through 222.183

BACKGROUND:

The City has received an application for property annexation, requesting correction to a previous error in the legal description of property previously included in an urban growth boundary expansion and annexation. The subject application consists of the northern 60 feet of Lot 100 of Map 41W17BC, the remainder of which is currently annexed into the city and zone Employment Industrial (EI). The property shows a current Donald Comprehensive Plan designation and zoning of Employment Industrial (EI). The subject property is within the City of Donald Urban Growth Boundary (UGB) with the Donald city limits.

Access to the subject property is via Butteville Rd, located to the west, which is currently within the City of Donald UGB and city limits. The property is surrounded by EI zone to the north, east, and south. The property has Butteville Road, currently within the city limits, to the west and Marion County Exclusive Farm Use (EFU) land further to the west.

PROPOSED USE:

The purpose of the land use action is to annex the subject property into the City in order to correct a previous error in the annexation of this and surrounding properties via an inaccurate legal description.

ANNEXATION PROCESS:

The City uses Oregon Revised Statutes (ORS) 222.005 through 222.183 to consider applications for annexation. Either a legislative body or owners of real property may generate a request. A legislative body may refer the annexation to vote under a general or special election or may dispense with the vote. If the legislative body does not defer the decision to the electors, it conducts a public hearing to consider the request for annexation of contiguous territory. The City is not required to approve an annexation petition.

The approval of a municipal annexation involves political, as well as land use implications. The political considerations concern taxation, granting the right to vote in City elections, and the timing of the annexation in light of the needs of the community to expand.

State law does provide a procedure for annexation:

"ORS 222.111 Authority and procedure for annexation, generally. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies."

"ORS 222.125 Annexation by consent of all owners of land and majority of electors. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50% of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent within the legislative body. Upon receiving written consent to annexation and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal

description and proclaim the annexation.

While the provisions of ORS Chapter 222 regulate annexations, these statutes do not provide any specific decision criteria. Annexations need to be consistent with applicable Comprehensive Plan policies, and the policies or requirements of any other applicable planning documents, such as the Intergovernmental Agreement Between Marion County and the City of Donald regarding the Urban Growth Boundary and Management of the Urbanizable Area, Marion County-Donald IGA.

Annexation of property into the Donald city limits is by petition of the legal owner or contract purchaser to the City Council. There is no City policy for processing of annexation requests and therefore, ORS 222 is being followed which allows the City Council review the request without review or recommendation by the Planning Commission. The City Council will hold a public hearing in regards to the annexation request.

ANALYSIS OF APPLICABLE CRITERIA

1) Annexation Petition 2014-01:

The applicant and owners of the subject property have "petitioned" the City for annexation. The City is not required to annex property into the city for any development for any reason if it is not in the best interest of the city to do so.

In considering this request, the Council should consider whether the request meets the applicable criteria from the Comprehensive Plan and Marion County-Donald IGA. The Council should also consider the following questions: What are the impacts to city services? And is the proposal consistent with the Independence Comprehensive Plan?

Findings: The Planning Director and Public Works have reviewed this application and provide the following comments regarding the availability of services to the proposed development:

1. The City has capacity in its water system to serve the subject property. Indeed, the remainder of the property is annexed into the City. The applicant will be required to connect to the water system in accordance with city standards and meet wastewater requirements as outlined in the Donald Development Ordinance and public works design standards. The subject property has frontage onto Butteville Road and creation of a new parcel is not proposed. Staff concludes that adequate public facilities are currently available to serve the proposed development.

Incremental impacts associated with development of the subject property include maintenance of additional feet of water main and increased demand for Police and Fire/Emergency. The property is an island that is not annexed into the City and the properties surrounded the subject property are served by City water, police and fire/emergency.

While development of the northern 60 feet of Lot 100 of Map 41W17BC will have some incremental effect on public facilities and services, no significant adverse impacts are anticipated. In fact, the City may see a slight increase in tax base as a result of the correction to the previously un-annexed portion of Lot 100.

As part of the review process, the City Council must consider whether the proposed annexation is consistent with the applicable goals and policies of the Comprehensive Plan. The following Comprehensive Plan Goals and associated policies were found to be applicable to this application:

A) Donald Community Goals: Industrial Development, Comprehensive Plan, 1988 (pg 8)

- 1. Promote and encourage compatible industrial development*
- 2. Provide for the community's need for local employment opportunities by encouraging a balanced and diversified economic base.*

Findings: The Comprehensive Plan designation for Lot 100 is Employment Industrial (EI) and the subject property is surrounded by land to the north, east, and south that is zone EI and annexed into the City. Annexation of the subject property will encourage compatible industrial development with surrounding uses and serve the identified employment lands and needs as identified in the Comprehensive Plan.

B) Urban Growth Program Policies, Comprehensive Plan 1988 (pg 51)

The following policies are applicable to this request:

- 1. Annexations of the City should be discouraged until a major portion of the City's buildable vacant land is developed.*

Findings: The City has designated the area, including the subject property to be Employment Industrial (EI) upon annexation into the city.

C) Urban Growth Boundary and Policy Agreement with Marion County

The following urbanization policies are applicable to this request:

- 6. The City and County shall strive to enhance the livability of the urban growth area and to promote logical and orderly development therein in a cost effective manner.*
- 7. The City is the basic provider of public facilities and services in the urban growth area. Therefore, annexation to the City generally should precede the provision of public facilities and services therein.*

Findings: The subject property is surrounded by lands within the UGB and city limits. Public facilities and services are available to the subject property and surrounding property and the annexation of the subject 0.45 acres will allow for the cohesive provision of services to the area. With portions of the subject properties located outside the corporate limits of the city, the remainder of lot 100 have been annexed into the city. The subject property is considered "urbanizable land". Annexation is the first step in the process of converting land from "urbanizable areas" to "urban uses".

SUMMARY AND RECOMMENDATION:

An annexation decision constitutes a legislative action on the part of the City Council. The provisions of ORS Chapter 222 outline the annexation process, but do not provide any clear and objective criteria or standards to evaluate a particular request. Similarly, neither the Statewide Planning Goals and associated administrative rules, nor the city's Comprehensive Plan provide any objective standards to use in reviewing an annexation application. The applicable Comprehensive Plan policies provide general guidance, but do not establish clear and objective review standards. Without these criteria, evaluation of the request focuses on whether the application is consistent with the intent of these broad policy statements.

In reviewing this request, staff has attempted to answer the following questions: (1) Are adequate public facilities and services available to serve the subject property?; and (2) Is the proposal consistent with the Comprehensive Plan?

Staff has concluded that adequate public facilities are available to serve the subject property and the proposal is found to be consistent with the Comprehensive Plan.

Based on the findings above and in the body of this report, staff recommends the City Council **APPROVE** the application, A-2014-01.

CITY COUNCIL ACTION

1. **Annexation 2014-01:**
 - A. A motion to approve the request for Annexation 2014-01:
 1. With findings and conditions as recommended by staff, and instructing staff to prepare an ordinance for the next regular meeting; or
 2. With findings and conditions as recommended by staff and as further amended by the City Council (stating any revisions), and instructing staff to prepare an ordinance for the next regular meeting.
 - B. A motion to continue the annexation request to a date and time certain (stating the date and time).
 - C. A motion to continue the annexation request indefinitely, stating at what point the City Council would consider reopening the hearing.
 - D. A motion to deny the request for Annexation 2014-01 stating the reason(s) for denial.

2011 ORS § 222.125¹

Annexation by consent of all owners of land and majority of electors

• proclamation of annexation

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 (Procedure without election by city electors) when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

Note: 222.125 (Annexation by consent of all owners of land and majority of electors) was added to and made a part of ORS chapter 222 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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Notes of Decisions

Provisions of this chapter do not require final decisions on small tract annexations to be made in quasi-judicial proceedings rather than by popular vote. *Stewart v. City of Corvallis*, 48 Or App 709, 617 P2d 921 (1980), Sup Ct review denied

Related Statutes²

- 199.487
Commission authority to initiate minor boundary change
- 222.120
Procedure without election by city electors

- 222.177

Filing of annexation records with Secretary of State

¹ Legislative Counsel Committee, *CHAPTER 222—City Boundary Changes; Mergers; Consolidations; Withdrawals*, <http://www.leg.state.or.us/ors/222.html> (2011) (last accessed Mar. 25, 2012).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2011, Chapter 222*, <http://www.leg.state.or.us/ors/annos/222ano.htm> (2011) (last accessed Mar. 25, 2012).

³ OregonLaw.s.org assembles these lists by analyzing references between Sections. Each listed item refers back to the current Section in its own text. The result reveals relationships in the code that may not have otherwise been apparent.

Currency Information

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2011 ORS § 222.120¹**Procedure without election by city electors****• hearing****• ordinance subject to referendum**

- (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.
- (2) When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.
- (3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.
- (4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:
 - (a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;
 - (b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 (Annexation by consent of all owners of land and majority of electors) or 222.170 (Effect of consent to annexation by territory), prior to the public hearing held under subsection (2) of this section; or
 - (c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915).
- (5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510 (Annexation of entire district), the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any

subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district), the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district).

- (6) The ordinance referred to in subsection (4) of this section is subject to referendum.
- (7) For the purpose of this section, ORS 222.125 (Annexation by consent of all owners of land and majority of electors) and 222.170 (Effect of consent to annexation by territory), owner or landowner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcels land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

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Atty. Gen. Opinions

Metes and bounds description as required in notice of hearing, (1972) Vol 36, p 89

August 2012

Notes of Decisions

Provisions of this chapter do not require final decisions on small tract annexations to be made in quasi-judicial proceedings rather than by popular vote. *Stewart v. City of Corvallis*, 48 Or App 709, 617 P2d 921 (1980), Sup Ct review denied

Related Statutes³

- 199.490
Procedure for minor boundary changes or transfers of territory
- 199.534
Legislative annexation of territory to cities and districts

- 222.111
Authority and procedure for annexation
- 222.125
Annexation by consent of all owners of land and majority of electors
- 222.170
Effect of consent to annexation by territory
- 222.177
Filing of annexation records with Secretary of State
- 222.460
Procedures for withdrawal of territory
- 222.520
Annexation of less than entire district
- 222.524
Procedure for withdrawal of part of district from district
- 222.528
Territory withdrawn from district not liable for certain obligations

¹ Legislative Counsel Committee, *CHAPTER 222—City Boundary Changes; Mergers; Consolidations; Withdrawals*, <http://www.leg.state.or.us/ors/222.html> (2011) (last accessed Mar. 25, 2012).

² Legislative Counsel Committee, *Annotations to the Oregon Revised Statutes, Cumulative Supplement - 2011, Chapter 222*, <http://www.leg.state.or.us/ors/annos/222ano.htm> (2011) (last accessed Mar. 25, 2012).

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