

## **ORDINANCE NO. 2043**

### **An ordinance annexation certain contiguous territory located within the City's Urban Growth Boundary and withdrawing the same territory from the Westside Rural Fire Protection District**

**WHEREAS**, Charles Foster and Anne Holmstrom. (the "Applicants"), the owner of certain property (3N10E35CD Tax Lot 609) which is not contiguous to the City limits but is located in the Urban Growth Area, applied for annexation to the City; and

**WHEREAS**, the City Council adopted policy in Resolution 2016-15 that requires annexation prior to receiving City sewer services; and

**WHEREAS**, as part of the annexation proposal, the Applicant included an additional 19 properties which make the Applicant's property contiguous with the existing city boundary, collectively all of the properties proposed for annexation (the "Annexation Territory") are legally described in Exhibit A, attached hereto and incorporated herein by this reference; and

**WHEREAS**, the Annexation Territory is located in Hood River County, Oregon within the acknowledged Urban Growth Area of the City of Hood River and is contiguous with the existing boundary of the City of Hood River; and

**WHEREAS**, pursuant to HRMC Chapter 12.09 and Resolution 2016-15, the City requires consent to annex in exchange for receiving City water or sewer service, which also requires that such properties be contiguous with the existing City boundary; and

**WHEREAS**, the Applicant seeks annexation of the Annexation Territory using the so-called Triple Majority method in ORS 222.170, based on 100% property owner consent, which meets the requirements for annexation under this statute. The written consents associated with all parcels in the Annexation Territory were included in the application; and

**WHEREAS**, the Annexation Territory is located within the service territories of Westside Rural Fire Protection District, Farmers Irrigation District, and the Ice Fountain Water District, and ORS Chapter 222 provides for the withdrawal of land from these districts upon annexation to a city that provides the same services; and

**WHEREAS**, notice of a public hearing before the Planning Commission on the annexation request and withdrawal from the affected service districts was published and posted as required by HRMC 17.09 and ORS Chapter 222; and

**WHEREAS**, the Planning Commission convened its duly noticed public hearing on the annexation and withdrawal request on September 5, 2017, accepted all manner of public testimony and written comment on the proposal and voted to recommend approval of the request to the City Council in a written recommendation attached hereto as Exhibit B; and

**WHEREAS**, the City Council held a duly-noticed public hearing on the annexation and withdrawal request on September 25, 2017, reviewed the record compiled before the Planning Commission, and the Commission’s recommendation, and accepted all manner of public testimony and written comment on the proposal, after which the Council voted that the Annexation Territory should be annexed but should be withdrawn only from the Westside Rural Fire Protection District; and

**WHEREAS**, the Council concluded that the Annexation Territory should remain within and served by the Ice Fountain Water District and Farmers Irrigation District upon annexation until further notice and Council action; and

**WHEREAS**, the City has the authority, within constitutional and statutory limits, to set the property tax rates at which annexed territories shall be taxed and to apply City land use designations and regulations to all lands within its corporate boundaries.

**NOW, THEREFORE**, the City Council for the City of Hood River ordains as follows:

**Section 1. Incorporation of Recitals.** The foregoing recitals are hereby adopted by the Council and incorporated herein in support of this Ordinance.

**Section 2. Annexation of Territory Approved.** The real property (the Annexation Territory) described in Exhibit A, attached hereto and incorporated herein by this reference, is hereby annexed into and shall become part of the City of Hood River, Hood River County, Oregon. Also specifically annexed into the City of Hood River are all public rights-of-way adjacent to the Annexation Territory. In support of this decision, the Council specifically adopts as its own the Planning Commission’s recommended Findings of Fact and Conclusions of Law, signed September 18, 2017 and attached hereto as Exhibit B.

**Section 3. Withdrawal of Territory.** The real property (the Annexation Territory) described in Exhibit A is hereby withdrawn from the service territory of the Westside Rural Fire Protection District. the Annexation Territory shall remain within and served by the Ice Fountain Water District and Farmers Irrigation District upon annexation and shall not be withdrawn from these service districts until further notice and Council action.

**Section 4. City Zoning.** The Annexation Territory shall receive Hood River Zoning (R-2 Urban Standard Density Residential) pursuant to the City’s acknowledged Comprehensive Plan and adopted land use regulations.

**Section 5. Proportionate share of debt obligation.** The Annexation Territory shall be subject to its proportionate share of debt for public obligations and shall be subject to real property tax assessment in the same manner as all other land within the City’s corporate boundaries.

**Section 6. Recordation.** The City Recorder shall cause to be recorded with the Hood River Clerk the fully executed original of this Ordinance.

**Read for the First Time** this September 25, 2017  
**Read for the Second Time** and approved October 23, 2017. This ordinance shall take effect on the 31<sup>st</sup> day following the second reading.

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Paul Blackburn, Mayor

ATTEST:

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Jennifer Gray, City Recorder

**BEFORE THE CITY OF HOOD RIVER PLANNING COMMISSION  
HOOD RIVER, OREGON**

In the matter of annexation by )  
Foster and Holmstrom)  
File No. #2017-30)

**FINDINGS AND DECISION**

**I. BACKGROUND**

- A. **REQUEST:** The applicant requests approval of an annexation of 19 parcels totaling approximately 3.84 acres of land, more or less. These 19 properties are, when considered as a whole, contiguous with existing city limits. (See Attachment “**A**” Petition for Annexation).
- B. **APPLICANTS/OWNERS:** Charles Foster and Anne Holmstrom – all property owners. (See Attachment “**A**”).
- C. **PROPERTY LOCATION:** (See Attachment “**B**” Location Map.)
- D. **PROPERTY SIZE:** 3.84 acres including rights-of-way.
- E. **SITE ZONING:** The subject properties currently are zoned Urban Medium Density Residential (Urban Growth Area, U-R-2) and will remain Urban Medium Density Residential (R-2) following annexation. The County has an Airport Height Combining (Conical) which will not be applied.
- F. **CURRENT LAND USES:** Vacant and Single family dwellings
- G. **SURROUNDING ZONING AND LAND USES:**  
North: R-2, single-family dwellings  
South: In Hood River County - U-R-2, single-family dwellings and some vacant parcels  
East: In Hood River County - U-R-2, single-family dwellings and a vacant parcel  
West: Partial City limits, partial County all R-2 – single family dwellings and vacant parcels
- H. **APPLICABLE CRITERIA:**
- **Hood River Municipal Code (HRMC) Section 17.09.040 – Quasi-Judicial Actions**
  - **HRMC Chapter 17.15 – Annexation Policy**
  - **Oregon Revised Statute (ORS) Sections 222.111 through 222.183 Annexation of Contiguous Territory**
- I. **AGENCY COMMENTS:** Affected agencies subject to an Intergovernmental Agreement with the City of Hood River were notified of this request - Ice Fountain Water District, Farmer’s Irrigation District, and Westside Fire Protection District. As of the writing of this report the City has received comments from Ice Fountain who will continue to serve all the lands proposed for annexation.
- J. **ADJACENT PROPERTY OWNERS COMMENTS:** Property owners within 250 feet of the subject site were notified of this request. One letter was received Attachment “**C**” and will be addressed at the hearing.

## K. RATIONALE FOR TYPE OF APPLICATION:

The lands to be annexed currently have a Hood River County zoning designation of “Urban Standard Density Residential (UR-2). See Exhibit 33. The territory is currently designated as “R-2 on the City’s Zoning Map. *Id. Morsman v. City of Madras*, 47 Or LUBA 80 (2004) (A city does not err in failing to follow comprehensive plan amendment procedures in approving an annexation, where the annexation decision does not amend the city’s comprehensive plan.). For this reason, this application only seeks annexation. Therefore, it is not a post-acknowledgment amendment (“PAPA).”

Roughly half of the territory to be annexed is already developed. The conceptual development plan included with this application shows how the remainder of the territory may feasibly be developed upon annexation. As discussed below, public facilities and services are in fact available to serve the subject properties. The applicant seeks to use the “**Triple Majority**” method of consent annexation because it is based exclusively on landowner consent, as opposed to consent of electors, ORS 222.170(1) allows the use of the Triple Majority method to avoid the election requirement if more than one half of the landowners collectively own more than 50% of the land representing more than 50% of the assessed property values in the territory consent to the annexation. The statute provides:

*222.170 Annexation by consent before public hearing or order for election; proclamation of annexation. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:*

*(a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or*

*(b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city.*

There was a period of time between 1986 and 2000 when it was generally believed that the triple majority annexation method was unconstitutional. This was due to the fact that the Oregon Court of Appeals had declared the triple majority provisions of ORS 199.490(2) unconstitutional in *Mid-County Future Alternatives Committee v. Metro. Area Local Gov. Boundary Comm'n*, 82 Or App 193, 728 P2d 63 (1986), modified 83 Or App 552, 733 P2d 451, rev dismissed 304 Or 89, 742 P2d 47 (1987), at least to the extent that this method was being used to avoid holding an election in the territory to be annexed. See also *Storey v. City of Stayton*, 15 Or LUBA 165, 1756 (1986) (applying Mid-County, which invalidated the triple majority provisions of ORS 199.490(2), to a proposed annexation under ORS 222, 170(1)); *Mid-County Future Alternatives Committee v. Portland Metro, Area Local Gov. Boundary Comm'n*, 83 Or App 552, 733 P2d 451 (1987), rev dismissed, 304 Or 89, 742 P2d 47 (1987).

However, in *Sherwood School Dist. 88J v. Washington Cty. Ed.*, 167 Or. App. 372, 386-87, 6 P.3d 518 (2000), the court of appeals overruled its previous decision in *Mid-County Future Alternatives Committee* and found the triple majority method to be a permissible way to avoid an election in the territory under consideration for annexation. See also *Morseman v. City of Madras*, 203 Or. App.

546; 126 P.3d 6 (2006), rev. den., 340 Or. 483, 135 P.3d 318 (2006); Kane v. City of Beaverton, 49 Or LUBA512 (2005). As a result, many jurisdictions now use the triple majority method as their preferred form of consent annexation

### III. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

#### A. STATE STATUTES AND COMMON LAW.

State law establishes some basic substantive standards for all annexations. These are addressed below.

##### 1. The “Reasonableness’ Requirement.

The Oregon Supreme Court imposed a “reasonableness’ requirement applicable to all annexations in 1952, prior to modern zoning codes and comprehensive planning requirements. See Portland Gen. Elec. Co. v. City of Estacada, 194 Or 145,291 P2d 1129 (1952); Marion County Fire Dist. #1 v. Marion-Polk County Boundary Comm’n, 19 Or App 108,526 P2d 1031 (1974); Kane v. Paulus, 41 Or App 455, 459, 599 P2d i 154 (1979), rev den, 288 Or 113 (1979); Rivergate Residents Ass’n v. PMALGBC, 70 Or App 205, 689 P2d 326 (1985), rev den, 298 Or 553 (1985); DLCD v. City of St. Helens, 138 Or App. 222,907 P2d 259 (1995); Westside Rural Fire Protection Dist. v. City of Hood River, 43 Or LUBA 546 (2003). The modern adoption of significant statewide land use and annexation laws has not superseded the judicially-imposed reasonableness standard. However, the court of appeals has stated that “the reasonableness question is no longer one that depends solely or mainly on unguided judicial determinations, but is now largely controlled by specific legislative and regulatory criteria.’ Department of Land Conservation and Development v. City of St. Helens, 138 Or App 222, 227,907 P2d 259 (1995). As it turns out, all of the above-cited cases and their progeny deal with the “reasonableness’ concept in the context of so-called “cherry-stem” or “pan handle’ annexations, an issue not triggered by this application.

##### 2. Applicable Oregon Revised Statutes (“ORS”).

ORS Chapter 222 establishes procedures and requirements for annexations by cities. These standards are addressed below.

*1. 222.111 Authority and procedure for annexation, (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 only 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.*

Staff Finding: ORS 222.111(1) requires than the territory to be annexed must be located either “contiguous to the city or “separated from it only by a public right of way or by a stream, bay, lake or other body of water.” In this case, the territory to be annexed is contiguous to the existing City boundary. See Attachment “C”.

*(2) A proposal for annexation of territory to a city may be initiated by the legislative body of the*

*city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.*

Staff Finding: This application is initiated by the petition of one (1) property owner in the territory. However, the remaining property owners (or their predecessors in interest) residing in the territory to be annexed have previously given their written consent to be annexed.

(3)

Staff Finding: This section is not applicable.

(4)

Staff Finding: This section is not applicable.

(5)

Staff Finding: This section is not applicable.

(6) Staff Finding: This proposal is not required to be voted upon by the electors of the City or of the annexation territory; therefore, this provision is not applicable.

(7)

Staff Finding: This annexation proposal will not be voted upon simultaneously with any other annexation proposal. This provision is not applicable.

***222.120 Procedure for annexation without election; hearing; ordinance subject to referendum.***

(1)

Staff Finding: This section is not applicable.

***222.125 Staff Finding:*** This applicant is not pursuing an annexation using the “100% Consent” method, and therefore this section is not applicable.

***222.170 Annexation by consent before public hearing or order for election; proclamation of annexation. (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in Writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day: (a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or (b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the question to the electors of the city. (2) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if a majority of the electors registered in the territory proposed to be annexed consent in writing to annexation and the owners of more than half of the land in that territory consent in writing to the annexation of their land and those owners and electors file a statement of their consent with the legislative body on or before the day: (a) The public hearing is held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or (b) The city legislative body orders the annexation election in the city under ORS 222.111, if the city legislative body submits the***

*question to the electors of the city. (3) If the city legislative body has not dispensed with submitting the question to the electors of the city and a majority of the votes cast on the proposition within the city favor annexation, or if the city legislative body has previously dispensed with submitting the question to the electors of the city as provided in ORS 222.120, the legislative body, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. (4) Real property that is publicly owned, is the right of way for a public utility, telecommunications carrier as defined in ORS 133.721 or railroad or is exempt from ad valorem taxation shall not be considered when determining the number of owners, the area of land or the assessed valuation required to grant consent to annexation under this section unless the owner of such property files a statement consenting to or opposing annexation with the legislative body of the city on or before a day described in subsection (1) of this section.*

Staff Finding: This section is applicable. Because of the way ORS Ch 222 is organized and written, the "general" or "default" annexation process is an "annexation by vote" of the electors in the territory to be annexed. All other annexation methods being considered "exceptions" to this general method. A City Council may elect to dispose of the election in the territory to be annexed (otherwise required under 222.111(5), ORS 222.120(4)(a) and ORS 222.160) by instead utilizing one of the three "consent" methods. Of the three consent methods, the "triple majority method is typically the most favored, because it is based exclusively on landowner consent, as opposed to consent of electors.

In this case, the applicant is requesting the City use the "triple majority annexation method". This method provides an exemption from the election requirement if more than one-half of the landowners collectively own more than 50% of the land representing more than 50% of the assessed property values in the territory consent to the annexation.

As demonstrated in Exhibits 22 through 29, all but three landowners in the territory have consented to annexation. The applicant and other consenting landowners comprise more than the 50% of the land and more than the required 50% of the total assessed value. Most of the parcels included in this application are located in the Hazelview subdivision. The developers of that subdivision previously signed consents to annexation which are recorded against those parcels. See Exhibits 22 - 26.

*222.173 Time limit for filing statements of consent, public records. (1) For the purpose of authorizing an annexation under ORS 222.170 or under a proceeding initiated as provided by ORS 199.490(2), only statements of consent to annexation which are filed within any one-year period shall be effective, unless a separate written agreement waiving the one-year period or prescribing some other period of time has been entered into between an owner of land or an elector and the city. (2) Statements of consent to annexation filed with the legislative body of the city by electors and owners of land under ORS 222.170 are public records under ORS 192.410 to 192.505.*

Staff Finding: This section is applicable. The recorded consents contain a separate written agreement waiving the one-year period.

*222.177 Transmittal of annexation records to Secretary of State. When a city legislative body*

*proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State: (1) A copy of the resolution or ordinance proclaiming the annexation.*

*(2) An abstract of the vote within the city, if votes were cast in the city...*

Staff Finding: Not applicable.

*222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation, (2) For annexation proceedings initiated by a city; the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177.*

Staff Finding: The City will comply with this section.

## **B. STATEWIDE PLANNING GOALS**

Annexation is a planning responsibility under ORS 197. 175(1) and is subject to compliance with the statewide planning goals. *Petersen v. City of Klamath Falls*, 279 Or 249,566 P2d 1193 (1977). However, in situations where the city has annexation criteria in its comprehensive plan and/or land use regulations, the statewide planning goals should not be directly applicable *Morsman v. City of Madras*, 45 Or LUBA 16 (2003)(so stating), Nonetheless, to the extent the Statewide Planning Goals are applicable, this application demonstrates compliance with the Goals as follows:

Goal 1 - Citizen Involvement. Citizen involvement is always applicable to quasi-judicial applications such as this. Statewide Planning Goal 1 is met via the implementation of the provisions in the acknowledged City of Hood River Zoning Ordinance (HRMC) that relate to citizen participation. This application will be reviewed by staff, the Planning Commission and the City Council. At least two public hearings will be conducted with notice and opportunity to be heard presented as required by the HRMC. The property will be posted with notice as well as mailed notice to surrounding property owners and affected governmental agencies. At the public hearings anyone wishing to present relevant testimony or documentary evidence will be allowed to do so. Adequate citizen involvement is guaranteed in this case.

Goal 2 - Land Use Planning The HRCP (Hood River Comprehensive Plan) and HRMC are acknowledged to be in compliance with statewide planning goals and guidelines. Goal 2's coordination obligation will be met because the applicant and City shall seek public comment from any affected unit of government, including the County and any special district whose boundaries overlap with the site. The application does not trigger the Goal 2 exception standards, because no exceptions to any goals are required.

Goals 3 & 4 - Farm and Forest The subject property has been deemed to be urbanizable because it is inside an urban growth boundary (UGB). Therefore, neither Goal 3 nor Goal 4 applies to this land.

Goal 5. Open Spaces, Scenic and Historic areas, and Natural Resources

A city is not required to apply Goal 5 to a decision to annex property, where the annexation decision does not change the county planning and zoning designations of the property and does not make any of the changes specified in OAR 660-023-0250(3)(a)-(c) that would require application of Goal 5. *Roads End Water District v. City of Lincoln City*, 67. Or LUBA 452 (2013). The subject property is not designated as an open space, scenic, or historic area and has no natural resources to protect. There are no natural resources located on the subject property. There are no wetlands or floodplains in the territory. There are no landslide hazard areas. There are no historic resources or cultural areas located or identified on the site. There are no identified mineral or aggregate resources on the site. The site is not located in the local downtown historic district. Therefore this goal is satisfied.

Goal 6 - Air, Water and Land Resources Quality - The end use of this property will be for residential use and the 23 other properties are already in residential use. This development will not create any industrial emissions. Storm water will be detained on-site and through the existing storm drainage system and future on-site drainage. There are no significant water demands, and no potential for pollution. This annexation application will not affect in any way the air, water or land resources. Therefore, this goal is met.

Goal 7 Areas Subject to Natural Disasters and Hazards - The subject property is not in a floodplain, does not include slopes greater than 25%, does not contain any environmental protection "EP" zones and has no designated geologic hazard "GH" combining zone within its boundaries. There are no identified landslide areas on the subject property and the remaining properties have been previously developed into small subdivision lots. There are no identified wetlands on the subject property nor on other developed lots. Goal 7 is complied with by this application.

Goal 8. Recreational Needs - The applicant's property is proposed primarily for housing, which creates a need for park land. The major park service providers within the boundary are the City of Hood River, Hood River Valley Parks and Recreation District, Hood River County, the Port of Hood River, the Hood River Valley School District, Oregon State Parks, and the U.S. Forest Service. These numerous and varied agencies offer a wide range of parks and recreational facilities for the community and visitors,

The Hood River Valley Parks and Recreation District Master Plan (2012-2022) indicates that there is a "high level of satisfaction with the current park system quality and maintenance and the array of recreation opportunities that serves a diverse group of users. Master Plan at p. 20.

The City of Hood River maintains numerous parks within the City limits, providing a number of venues for recreation, family gatherings and larger group gatherings and events.

Goal 8, Policy 6 states: "As parcels of land are annexed from the UGA into the City, some land will be designated Open Space/Public Land for the development of new parks and public facilities, including access ways, to serve the recreational needs of the community."

The following parks and open spaces are identified in the Hood River Valley Parks and Recreation District’s Capital Facilities Master Plan<sup>1</sup>:

**Open space areas in the City:**

Eliot Park	11.8 acres
Indian Creek Trail (HRVPRD)	3.3 miles
Indian Creek Park	12.38 acres
Morrison Park, north of I-84	5.5 acres
Sherman Triangle	0.06 acre
Waucoma Park	0.5 acre
Wells Island (portion)	18 acres

*Parks in the City:*

Aquatic Center (HRVPRD)	1.35 acres
Culbertson Park (HRVPRD)	0.73 acre
Hazelview (HRVPRD)	0.43 acre
Morrison Park South (HRVPRD)	5.33 acres
Rotary Skate Park & BMX (HRVPRD)	2.71 acres
Children’s Park	1.24 acres
Coe Park	0.34 acre
Collins Field	2.6 acres
Friendship Park	0.9 acre
Georgiana Smith Park	0.5 acre
Jackson Park	2.5 acres
Mann Park	0.86 acre
Marina Park (Port)	12 acres
Memorial Overlook & Stratton Garden	0.2 acre
Montello Park	0.28 acre
Tsuruta Park	1.01 acres
Tsuruta Tennis Courts	1.1 acres
Wilson Park	1.05 acres
Waterfront Park	6.4 acres
Event Site (Port)	5.5 acres
The Hook (Port)	3.8 acres
The Spit (Port)	4.7 acres

**Parks in the Urban Growth Area:**

Ruthton Park	1.5 acres
Bowe Addition	0.4 acre
Total park lands = approximately 55 acres (does not include schools or UGA)	
Total open space lands = approximately 51.5 acres	
Total park and open space lands = approximately 106.5 acres	

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<sup>1</sup> Hood River Valley Parks & Recreation District/City of Hood River “Parks & Recreation Capital Facilities Master Plan”, Don Ganer & Associates, 1998.

The updated Hood River Valley Park and Recreation Master Plan (2012), not yet adopted by the City of Hood River, includes a needs analysis for provision of parks and open space based upon local demographic trends, a bilingual mail-in household survey, a community workshop, a Latino focus group and stakeholder surveys. The Park Master Plan includes goals for new or enhanced parks and recreation facilities within a 10-year time frame. **The City is working with the Parks District (who has been granted funds to begin working on an updated Master Plan, starting Fall, 2017)** on an updated Plan to ultimately be adopted by the City under Goal 8 – Recreational Needs. At that time, the west side of Hood River will be evaluated for additional need.

The First Baptist Church of Hood River and the Saint Mary’s Catholic Church, located near the site, have ballfields that are used by organizations in the community, and Westside School offer fields and play areas during off school times. As such, development of a park or open space on the subject site has not been justified for this area.

At this time, the finding is that the parks are adequate to meet the needs of the new development which will result from this annexation. This goal is satisfied.

Goal 9 - Economic Development. The applicant proposes to annex the territory to meet housing needs. Goal 9 is therefore inapplicable.

Goal 10 – Housing. An annexation decision that leaves existing county comprehensive plan and land use regulations in place, including county residential comprehensive plan and Zoning map designations, does not implicate Goal 10. *Roads End Water District v. City of Lincoln City*, 67 Or LUBA 452 (2013). In any event, Goal 10 was significantly weakened by the case of *GMK Developments et al v. City of Madras*, 57 Or LUBA 81 (2008), affa, 225 Or App 1, 199 P3d 882 (2008), as least as applied to cities with populations under 25,000. After *GMK Developments*, a city is not required to contemporaneously remedy an identified housing shortfall which it has identified over its 20-year planning period. Since the city can defer fixing any identified Goal 10 problem until a later proceeding, such as periodic review, no annexation could possibly violate Goal 10. In fact, it appears that post-*GMK Developments*, Goal 10's only remaining direct applicability is at periodic review.

In this case, to the extent a Goal 10 deficiency is anticipated, this annexation helps remedy that shortfall. This annexation application will allow the landowners to apply for Zone changes and development permits which will provide needed housing to the City of Hood River.

Goal 11 - Public Facilities and Services. Goal 11 policies and implementation strategies emphasize the coordination of urban development with provision of public facilities including water, sewer, and transportation. In this case, all of the key public facilities and services are available to serve the proposed annexed area (sewer, water, fire, police, and irrigation). Therefore, the effect of this proposal on the City's continued Goal 11 compliance is neutral.

**Goal 12 – Transportation.** Goal 12 policies and strategies emphasize a creating and maintaining a safe, accessible, and efficient transportation system. Transportation goals, policies, and implementation strategies of the Comprehensive Plan are to be articulated and detailed in the City’s Transportation System Plan (TSP). The TSP lists Belmont Ave as an Urban Collector. *(From TSP: Collector streets provide both access and circulation within and between residential, commercial, industrial, and mixed land uses. Collectors differ from arterials in that they provide more of a citywide circulation function and penetrate residential neighborhoods, distributing trips from the local street system to minor and major arterials. They are intended to carry between 1,200 and 10,000 vehicles per day, including limited through traffic, at a minimum posted speed of 25 mph. The maximum interval for collector roadways should be approximately 1,500 feet. While access and mobility are more balanced than on arterials, new driveways serving single or multi-family homes should not be permitted where traffic volume forecasts exceed 5,000 vehicles per day.)*

Belmont currently operates at an acceptable Level of Service (“LOS”) because it does not carry 10,000 vehicle trips per day. Belmont Street currently consists of 60 foot of ROW improved with two 12-foot wide travel lanes and two 3-foot wide bicycle lanes for a total pavement width of 30 feet.

The intersection of Belmont and 12/13<sup>th</sup> is also in the City’s TSP, but has not reached as high a level of importance as Cascade/Rand, Cascade/20<sup>th</sup> or 2<sup>nd</sup>/Oak. It is in the TSP at Motor Vehicle project MV21.

**Goal 13 – Energy.** LUBA and the Courts have never given any regulatory affect to this Goal. The proposed annexation is neutral from an energy consumption standpoint,

**Goal 14 - Urbanization.** The land is considered “urbanizable because it is in a UGB. Goal 14 discusses urbanizable land as follows:

Urbanizable Land. Land within urban growth boundaries shall be considered available for urban development consistent with plans for the provision of urban facilities and services. Comprehensive plans and implementing measures shall manage the use and division of urbanizable land to maintain its potential for planned urban development until appropriate public facilities and services are available or planned.

This policy is fully implemented by the HRCP and HRMC. Other applicable Goal 14 policies include:

2. The size of the parcels of urbanizable land that are converted to urban land should be of adequate dimension so as to maximize the utility of the land resource and enable the logical and efficient extension of services to such parcels.
3. Plans providing for the transition from rural to urban land use should take into consideration as to a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
4. Comprehensive plans and implementing measures for land inside urban growth boundaries should encourage the efficient use of land and the development of livable communities.

These policies are fully implemented by the HRCP and HRMC, as reflected in the fact that the City zoning for this property is Urban Standard Density Residential (R-2), and that urban services are required for the land can develop.

C. **ZONING ORDINANCE -CHAPTER 17.15 – ANNEXATION POLICY:**

***17.15.010 introduction. It is the policy of the City of Hood River to promote orderly, efficient, and fiscally responsible annexation of territories in conjunction with urban growth or expected or desired urban growth within the urban growth area. Accordingly, the City shall annex property where: 1. The proposed annexation represents the natural extension of the existing City boundary consistent with urban growth; 2. The proposed annexation would not, when developed or as developed, unreasonably limit the ability of the City to provide a level of services to City residents consistent with community needs and the financial capabilities of the City, as determined by the City; 3. The proposed annexation would not cause the City to pledge extension of services beyond its resources so as to result in a deficit operation of the service; 4. The proposed annexation would serve the interests of the entire community and not solely the interests or convenience of those within the territory proposed to be annexed***

Staff Finding: These introductory statements are not, in and of themselves, approval standards. Rather they mirror and duplicate the approval standards found at HRMC 17.15.050. See *West Side Rural Fire Protection Dist, v. City of Hood River*, 43 Or LUBA 546, 555 (2003).

***17.15.020 Application and Process. An annexation may be proposed by the City of Hood River, landowners, or a group of residents and shall include the following elements: 1. Preliminary plans and specifications, drawn to scale, showing the actual shape and dimensions of the property to be annexed and the existing and proposed land uses and residential density, City and County zoning in the proposed territory, as shown on a vicinity map, and contiguous lands must also be indicated.***

Staff Finding: The annexation is being proposed by one landowner who owns undeveloped property.

The application includes preliminary plans and specifications, drawn to scale, showing the actual shape and dimensions of the property to be annexed and the existing and proposed land uses and residential density. **See Attachment “A”**.

The application also includes an aerial photograph showing City and County Zoning in the proposed territory, as shown on a vicinity map, and contiguous lands are also indicated. **See Attachment “A”**.

***2. Comprehensive statement of reasons in support of the annexation addressing the applicable annexation criteria.***

Staff Finding: See below.

***3. Completed certifications of property ownership, registered voter status, map, and legal description.***

Staff Finding: Voter status is not relevant to a triple majority annexation method.

***17.15.030 Filing Fees, Fees for filing for annexation requests shall be set by City Council resolution.***

Staff Finding: The application fee was paid.

***17.15.040 Planning Commission Review. The Planning Commission shall review the application in a public hearing and forward a recommendation with findings to the City Council who will conduct a public hearing according to the Quasi-Judicial Hearing Procedures or Legislative Hearing Procedures (Chapter 17.09), whichever is applicable.***

Staff Finding: The proposed annexation is quasi-judicial in nature, and therefore the procedures set forth in HRMC 17.09.060(A) apply.

**17.15.050 Evaluation Criteria - Developed land. Prior to approving a proposed annexation of developed land, affirmative findings shall be made relative to the following criteria:**

***1. The territory is contiguous to the city limits and within the Urban Growth Area;***

Staff Finding: See findings in response to HRMC 17.15.060, below.

***2. The annexation represents the natural extension of the existing City boundary to accommodate urban growth;***

Staff Finding: See findings in response to HRMC 17.15.060, below.

***3. The development of the property is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area;***

Staff Finding: See findings in response to HRMC 17.15.060, below.

***4. The City is capable of providing and maintaining its full range of urban services to the territory without negatively impacting the City's ability to adequately serve all areas within the existing city limits;***

Staff Finding: See findings in response to HRMC 17.15,060, below,

***5. The fiscal impact of the annexation is favorable, as determined by the City of Hood River because of existing development;***

Staff Finding: See findings in response to HRMC 17.15.060, below.

***6. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area; and***

Staff Finding: With regard to the properties that are already fully developed, there has been no history of conflict. The vacant property owned by Marchesi will develop with up to 18 homes. They are developing on an Urban Collector which has not reached capacity, have sewer, water and police and fire services available to them that will not conflict with the service provided to the rest of the City.

***7. The annexation conforms to the Comprehensive Plan.***

Staff Finding: This criterion is addressed below.

**17.15.060 Evaluation Criteria - Undeveloped land. Prior to approving a proposed annexation of undeveloped land, affirmative findings shall be made relative to the following criteria:**

***1. The territory is contiguous to the city limits and within the Urban Growth Area;***

The annexation request shows contiguity with the City limits.

***2. The annexation represents the natural extension of the existing City boundary to accommodate urban growth;***

Staff Finding: The current City of Hood River municipal boundary is rather circuitous and erratic. Nonetheless, the City's long-term goal is to annex all of the land inside the UGA, which sets forth an orderly boundary between urban and rural land uses. LUBA has previously held that HRZC 17.15.050.B does not require that the city's ultimate goal regarding annexation of the UGA properties be achieved in one annexation. Westside Rural Fire Protection Dist. v. City of Hood River, 46 Or LUBA 451, 458-9 (2003). The fact that annexations are typically initiated by the landowners virtually ensures a somewhat erratic and circuitous interim bounty.

In this case, the territory to be annexed is ready to be developed at urban residential densities. In light of the fact that the applicant cannot develop without sanitary sewer, it makes sense from a policy standpoint for the City to require annexation prior to providing the required urban services, even when those services are adjacent and contiguous to the subject property. The city should interpret HRMC 17.50.050(2) as allowing for the annexation of any contiguous property in the UGA which can be served with water and sewer so long as the annexation can be accomplished without a cherry stem. Because the proposed boundary is not a cherry stem, and does not include land that is not located inside the UGA, it does represent a logical extension of the existing city boundary, and this criterion is met.

***3. The annexation of the territory is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area;***

Staff Finding: Belmont Drive is designated as an urban collector street in the TSP, and is currently operating at an acceptable level of service. The proposed annexation will result in development that will make improvements to Belmont Street, in order to ensure that this street remained adequate to serve the transportation needs of the territory to the annexed as well as surrounding lands. The majority of the territory to be annexed is currently served with urban levels of water and sewer service. Urban services such as water and sewer are available in Belmont Drive, adjacent to property owned by the applicant.

***4. The City is capable of providing and maintaining its full range of urban services to the property without negatively impacting the City's ability to adequately serve all areas within the existing city limits;***

Staff Finding: Evaluation of the availability of police, fire, parks and school facilities occurred when the subject property was brought into the Urban Growth Boundary and again when the territory was Zoned UR2. Police and fire services were found to be adequate through the additional funds that would be provided after the property is annexed and developed (including permit fees, system development charges and property taxes). Parks and schools were found to be adequate through the inclusion of lands devoted to park and school uses within the UGA.

Annexation of the Subject property will help facilitate provision of adequate police, fire, parks and school facilities to serve the subject area. The City does not anticipate any service deficiencies. See also *Cutsforth v. City of Albany*, 49 Or LUBA559 (2005) (Findings that an annexation area is adjacent to a long-developed urban neighborhood with full public services that can be readily extended to the annexed territory area are sufficient to demonstrate compliance with a code criterion requiring that "an adequate level of urban services and below structure is available or will be made available in a timely manner.").

Annexation and connection to the City's sanitary sewer and water facilities will result in additional demand on City services including maintenance of sanitary sewer and water lines. The City Public Works Department determined that sanitary sewer and water facilities are adequate to serve the site without negatively impacting the City's ability to adequately serve all areas within the existing City Limits, Water. In an agreement with Ice Fountain, water will continue to be provided by Ice Fountain Water District who has sufficient capacity and well as the City of Hood River water system has sufficient capacity if they were to eventually serve the annexed areas.

Storm Drainage: Undeveloped areas within the territory to be annexed will be served by storm drainage facilities built by the applicant and maintained by a home owners association (HOA). There are private storm systems in both Bowe Addition and Hazelview which will not be included in the City's storm

system.

Sewer: Sewer service will be provided by the City of Hood River. The City Wastewater Treatment Plant is designed to accommodate the Urban Growth Area. The City's SDC Reimbursement Fee Methodology states that the current sewer system has a treatment capacity of 3.75 Million gallons per day (MGD). According to the Capital Facilities Plan, approximately 1.55 mgd is flowing to the wastewater treatment plant. Therefore, more than enough remaining capacity exists to accommodate the growth contemplated by this annexation.

Police: Police service will be provided by the City of Hood River. Annexation and future development will result in a modest amount of increased demand for service by the City's Police Department. However, the Police Department already provides service inside the City Limits immediately west of the subject property. In addition, the City's Police Department has an informal mutual aid agreement with the Hood River County Sheriff's Office to ensure adequate service in the Urban Growth Area. Neal Holste, Police Chief responded to this application stating this is a natural extension of their service area.

Fire: Fire Protection services will be provided by the City of Hood River. Annexation and future development will result in a modest amount of increased demand for service by the City's Fire Department.

Schools: The Hood River County School District serves the territory to be annexed.

Parks: Hood River Parks and Recreation District provides park services to the territory to be annexed.

***5. The fiscal impact of the annexation is favorable, as determined by the City of Hood River, either upon approval or because of a commitment to a proposed development, unless the City determines that a public need outweighs the increase;***

Staff Finding: The permanent tax rate for the City of Hood River is \$2.8112 per thousand dollars of assessed valuation. As such, the City will receive approximately \$10.4 thousand in annual general fund revenue for the approximately \$3.7 million of assessed value proposed for annexation. If this annexation is approved, property taxes due to the City based on its tax rate are anticipated beginning on November 15, 2018.

Pursuant to the City's Intergovernmental Agreement (IGA) with West Side Rural Fire Protection District (WSFD), the City is required to compensate the District for five years of lost property tax revenue when property is withdrawn from WSFD. Costs associated with withdrawal from the WSFD are estimated to be a total of approximately \$4.6 thousand in the first year, increasing by 5.8% annually thereafter pursuant to the IGA, for an estimated \$26.0 thousand total over five years. Over the same five-year period, the City is anticipated to receive \$55.0 thousand in increased revenues from the subject properties. The net result is an additional \$29.1 thousand dollars over a five-year period without incorporating the value of proposed new residential developments.

As such, the fiscal impact of the annexation is favorable and the proposal is consistent with this criterion.

***6. The annexation meets the City's urban growth needs, and it is to the City's advantage to control the growth and development plans for the territory; i.e., to be able to address the issues of traffic, density, land use, and the level and timing of necessary facilities and services;***

Staff Finding: The annexed territory will be used for urban density residential land. Residential land uses

generally do not have any negative impact on neighboring properties in terms of odors, fumes, vibrations, noise, etc. There will be some increase in traffic resulting from the development of new homes, but such increased use will not exceed the carrying capacity of transportation facilities.

Belmont currently operates at an acceptable Level of Service (“LOS”) because it does not carry 10,000 vehicle trips per day. Belmont Street currently consists of 60 foot of ROW improved with two 12-foot wide travel lanes and two 3-foot wide bicycle lanes for a total pavement width of 30 feet.

It has also been pointed out by the properties subject to this annexation application that their neighboring properties are not also being annexed. This happened because the applicant applied under the Triple Majority and applied for just the properties required to meet that threshold. The City is well aware that the boundaries created by both of the annexations and is prepared to complete the annexation process when these are complete and when staff time allows.

***7. If the criteria in 17.15.060 (6) does not apply, the annexation provides a solution for existing problems resulting from insufficient sanitation, water service, needed routes for utility or transportation networks, or other service-related problems;***

Staff Finding: This section is not applicable.

***8. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area; and***

Staff Finding: The annexed territory will be used for urban density residential land. Residential land uses generally do not have any negative impact on neighboring properties in terms of odors, fumes, vibrations, noise, etc. There will be some increase in traffic resulting from the development of new homes, but such increased use will not exceed the carrying capacity of transportation facilities. This land has been in the Urban Growth Area since 1983 and this annexation is only adding two potential building lots to the neighborhood.

***9. The annexation conforms to the Comprehensive Plan.***

Staff Finding: This criterion is addressed below.

***17.15.070 Evaluation Criteria - Fiscal impact. The following factors are to be taken into consideration when determining fiscal impact for both developed and undeveloped land and may include, but are not be limited to: 1. The additional revenues, if any, available to the City as a result of the annexation; 2. Whether any unusual or excessive costs will be incurred as a result of the annexation; and 3. The impact on the City's tax base, if any, as a result of the annexation.***

Staff Finding: Staff will address this criterion. See 1982 Annexation Policy No. 4.

***17.15.080 Evaluation Criteria - Urban Service Capabilities. A. The municipal service needs, if any, of the territory to be annexed, including those of police and fire protection, public sewer and water supply facilities, street improvement and/or construction, and such other municipal services as may reasonably be required. Both short term and long term plans for all services shall be addressed.***

Staff Finding: Staff will address this criterion. See 1982 Annexation Policy No. 4.

***B. The projected costs of supplying reasonably needed municipal services to the territory proposed to be annexed.***

Staff Finding: Staff will address this criterion. See 1982 Annexation Policy No. 4.

#### **D. CITY OF HOOD RIVER COMPREHENSIVE PLAN**

The following comprehensive plan policies have been identified as being applicable to this annexation request and are therefore addressed below:

#### **GOAL 10 HOUSING.**

*Policy 2. The City will ensure the Orderly development of public utilities and services to serve buildable lands within the City and Urban Growth Boundary to meet the residential development needs of the community.*

Staff Finding: The territory to be annexed is currently partially served with public utilities and Services, and it is feasible to serve the vacant land in territory, as discussed elsewhere in this application.

*Policy 3. Development in the Urban Growth Area will occur in accordance with the land use designations established in the Plan Map and as further defined in the Urban Growth Management Agreement with Hood River County.*

Staff Finding: The land within the territory to be annexed already has an R-2 designation. No further rezoning is required.

*Policy 13. A residential lot within the City shall be capable of being served by the City sewer system before a building permit is issued. A residential lot within the UGA shall be capable of being served by either the City sanitary sewer system or an approved sanitary sewer system before a building permit is issued. If the builder elects to build within the UGA prior to the availability of the City sanitary sewer system, the lot area will be determined by the County Sanitarian for a septic tank system.*

Staff Finding: The vacant land in the territory will be served by City Sewer. Ice Fountain will provide water service until such mutually-agreed upon time as the City takes over these facilities.

*Policy 14. The City will annex parcels that are contiguous to city limits or separated from the City by a public right of Way or body of water to provide water, wastewater or storm water service.*

Staff Finding: This plan policy is implemented by HRMC 7.15.050(1) and HRMC 17.15.060(1) and is therefore not directly applicable to this application. Where the text of the comprehensive plan supports a conclusion that a city's land use regulations fully implement the comprehensive plan and displace the comprehensive plan entirely as a potential source of approval criteria, demonstrating that a permit application complies with the city's land use regulations is sufficient to establish consistency/compliance with the comprehensive plan. *Save Our Skyline v. City of Bend*, 48 Or LUBA 192, 211-12 (2004); *Murphy v. City of Ashland* 19 Or LUBA 182, 199 (1990); *Miller v. City of Ashland*, 17 Or LUBA 147, 169 (1988).

#### **Goal 14 - URBANIZATION.**

*Implementation Strategy 3 - City sewer and water services will be provided to property only after the area has been annexed to the City, or "consent to annex" has been put forth.*

Staff Finding: All of the property owners subject to this annexation request have already signed valid or their properties were previously encumbered by recorded, consents to annexation.

*4. Only areas contiguous to the City will be considered for annexation. Annexations will be done in accordance with the Annexation Policy adopted by City Council in May, 1982.*

Staff Finding: The properties in the annexation represent contiguity between the city limits and the applicant's vacant land. The key portions of the 1982 Annexation Policy are reproduced below along with findings.

**3. Size of Annexation.** *The City prefers to consider large area annexations of the convenience of the property owner are usually not in the best interest of the City as they can result in administrative and financial encumbrances for the City. Small area annexations will, however, be considered where special circumstances Warrant. Such circumstances would include:*

***A. Where such annexation would assist in carrying outgrowth and development in the Comprehensive Plan.***

***B. Where it is in the best interest of the public, according to the criteria set forth in section 5 below.***

Staff Finding: This policy is intended to encourage groups of property owners to work together to submit annexation applications which propose to bring in larger assemblages of properties, as opposed to each property owner filing a separate annexation application. There is a degree of administrative inefficiency in processing smaller, single parcel annexation requests, and this policy seeks to discourage such practices.

In this case, the application proposes a "large area annexation," which is a primarily "developmental" in character. The 1982 policy defines a "developmental annexation as one "that would include land that is described as primarily developmental and promotional in character, which is largely undeveloped and unimproved and which annexation is requested in order to further a project of promotion and development.

**5. Annexations Shall Be in the Best Interests of the Entire City.**

Staff Finding: Each annexation must be advantageous to the City as a Whole and should not have an adverse impact on the citizens of Hood River, either financially or in relation to the livability of the City or particular neighborhoods. Currently, the residents of the City are subsidizing residents who are not currently located within the City boundary but who are receiving urban services from the City such as sanitary sewer and police services. These properties were allowed to develop conditioned on their agreement to annex if and when a proposal to annex is made. Current city leadership seeks to reverse this trend and bring these lands into the City so that tax revenues can be collected on these properties. This annexation request furthers the City's current policy.

**it shall be City's policy to encourage annexation where:**

Staff Finding: Note that the use of the word "OR, as used in the policy, is intended to signal that an annexation request should be encouraged if it meets any one of the following **seven policy objectives (originally the policy objectives were lettered, but were renumbered to follow the 7 issues more easily).**

***1. The annexation must be advantageous to the City as a whole and provide a clearer identification for the City UGB, OR***

Staff Finding: This annexation is advantageous to the City as a whole because it will bring in more tax revenue to the City. It also creates a path for the development of additional needed housing. Because of the current shortage of buildable land within the City limits, prices of homes have been increasing at unsustainable rates over the past few years. This, in turn, causes rental

prices to increase, and creates pressure on landlords to sell rental stock. The combined result of this economic factors results in more families being priced out of the housing market. Providing more housing stock restores a balance of supply and demand, keeping inflationary pressures at bay.

The City's long term goal is to urbanize the entire area inside the UGB. This annexation provides an incremental step towards meeting that goal.

***2. It would be clearly up to the City's advantage to control the growth and development plans for the area; i.e., to be able to address the issues of traffic, density, land use and the level of timing of necessary facilities and services, OR***

Staff Finding: Using annexation as a tool to achieve control over objectives such as traffic, land use, and density, is largely obsolete. Oregon's land use has advances greatly since 1982. For example, the Transportation Planning Rule ("TPR") was enacted in 1991 to implement both Goal 12 (Transportation) and, to the extent it addresses transportation, Goal 11 (Public Facilities and Services). As initially adopted, the TPR required jurisdictions larger than 2,500 to prepare a transportation systems plan (TSP), and for the metropolitan planning areas to adopt regional transportation plans (RTPs). The TPR also set performance goals, and required multi-modal systems and a financing strategy to implement the TSP. As another example, the Goal 10 administrative rule, OAR 660, Div. 8, implemented Goal 10 and provides a framework for controlling density and providing for needed housing. Likewise LCDC enacted rules for public facilities planning in 1984 which implement Goal 11. For all of these reasons, the issues raised by this 1982 are largely governed by other applicable laws. In any event, it is clearly in the City's best interest to allow this area to annex and development consistent with the City's comprehensive plan and Zoning code.

***3. The annexation would provide land for development to meet urban needs, OR***

Staff Finding: The primary justification for this annexation proposal is to provide needed housing, pursuant to Statewide Planning Goal 10 and as implement by the Hood River Comprehensive Plan and Zoning Code.

***4. The annexation would provide a solution for existing problems resulting from insufficient sanitation, water services, or other service related problems, OR***

Staff Finding: The City is requiring the annexation to connect to sewer; there are no insufficient problems, just a requirement to develop to an urban standard in city limits.

***5. The annexation would provide needed routes for utility and transportation networks, OR***

Staff Finding: Not applicable.

***6. The annexation will favorably increase the City's tax base because of existing development, OR***

Staff Finding: As mentioned above, the developed portion of the territory to be annexed currently receives City services without paying the same tax rates charged to residents of the City. This annexation request remedies that inequity.

***7. An impact analysis, as specified in Section 8 below, indicates that an annexation would be in the best interest of the City.***

Staff Finding: The fiscal impact of the annexation is favorable, as determined by the City of Hood River, either upon approval or because of a commitment to a proposed development, unless the City determines that a public need outweighs the increase;

The fiscal impact of the annexation is favorable, as determined by the City of Hood River, either upon approval or because of a commitment to a proposed development, unless the City determines that a public need outweighs the increase;

The permanent tax rate for the City of Hood River is \$2.8112 per thousand dollars of assessed valuation. As such, the City will receive approximately \$10.4 thousand in annual general fund revenue for the approximately \$3.7 million of assessed value proposed for annexation. If this annexation is approved, property taxes due to the City based on its tax rate are anticipated beginning on November 15, 2018.

Pursuant to the City's Intergovernmental Agreement (IGA) with West Side Rural Fire Protection District (WSFD), the City is required to compensate the District for five years of lost property tax revenue when property is withdrawn from WSFD. Costs associate with withdrawal from the WSFD are estimated to be a total of approximately \$4.6 thousand in the first year, increasing by 5.8% annually thereafter pursuant to the IGA, for an estimated \$26.0 thousand total over five years. Over the same five-year period, the City is anticipated to receive \$55.0 thousand in increased revenues from the subject properties. The net result is an additional \$29.1 thousand dollars over a five-year period without incorporating the value of proposed new residential developments.

As such, the fiscal impact of the annexation is favorable and the proposal is consistent with this criterion.

***6. Unfavorable Annexations.***

It shall be the City's policy to discourage annexation where:

***A. The annexation would cause an unreasonable disruption of the current city boundary, such as permanent protuberances, peninsulas, islands, or other unusual extensions; or***

Staff Finding: All of the land surrounding the territory to be annexed is located in the current UGB. The long term goal of the City is to urbanize all land inside the UGB. This annexation provides an incremental step towards achieving that long term goal, For this reason, the boundary shape created by this annexation is merely temporary, and will not create any permanent protuberances, peninsulas, islands, or other unusual extensions. The City plans to annex the remaining portions of Bowe Addition and Hazelview soon to even out the line.

***B. The annexed area, when fully developed, would severely decrease the ability of the City to provide urban services to the area or the rest of the City.***

Staff Finding: All services can be provided without decreasing the City ability to provide services to the rest of the City. The applicant provided letters which indicate that there will be no decrease in the ability of the City of provide urban services to the territory or the rest of the City.

***C. An economic analysis of the proposed annexation indicates a deficit operation for city services to the area.***

Staff Finding See #7 above.

***D. The annexation would be solely for the benefit of one or a few property owners,***

Staff Finding: As mentioned above, the entire City of Hood River benefits by a policy that seeks to have urban density residential growth occur inside the City's boundary, as opposed to continuing to allow urban growth to occur in the County pursuant to consents to annexation. The City simply loses too much tax revenue by allowing development to occur outside the City limits.

***7. Conformance with the Comprehensive Plan.***

***The Comprehensive Plan provides a plan for the future growth of the City of Hood River, Annexations are a major means of implementing the Comprehensive Plan Therefore, each annexation must be in agreement with the plan. Annexation will occur within the Urban Growth Area.***

Staff Finding: The territory to be annexed is located in the Urban Growth Area. Compliance with the applicable portions of the comprehensive plan has been established via this application narrative.

***8. Impact Analysis.***

Staff Finding: The fiscal impact of the annexation is favorable, as determined by the City of Hood River, either upon approval or because of a commitment to a proposed development , unless the City determines that a public need outweighs the increase;

The fiscal impact of the annexation is favorable, as determined by the City of Hood River, either upon approval or because of a commitment to a proposed development, unless the City determines that a public need outweighs the increase;

The permanent tax rate for the City of Hood River is \$2.8112 per thousand dollars of assessed valuation. As such, the City will receive approximately \$10.4 thousand in annual general fund revenue for the approximately \$3.7 million of assessed value proposed for annexation. If this annexation is approved, property taxes due to the City based on its tax rate are anticipated beginning on November 15, 2018.

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As such, the fiscal impact of the annexation is favorable and the proposal is consistent with this criterion.

**9. Zoning of Annexed Land.**

***Upon annexation to the City of Hood River, land shall automatically be designated the City zone which most closely resembles the County zone applicable to the land at the time of annexation.***

Staff Finding: The City has already zoned this property R-2, conditioned upon annexation.

**V. DECISION:** Commissioner Babitz moved and Commissioner Lassen seconded a motion to forward a recommendation of approval of the annexation to the City Council based upon the above Findings of Fact and subject to the Conditions of Approval of this Final Order. The motion passed with a 7-0 vote.

**APPROVED BY THE CITY OF HOOD RIVER PLANNING COMMISSION the 18<sup>th</sup> day of September, 2017.**

  
\_\_\_\_\_

Arthur Babitz, Approved by the Planning Commission on 9/18 to sign for Chair DeVol

ATTEST:

  
\_\_\_\_\_

Cindy Walbridge, Planning Director

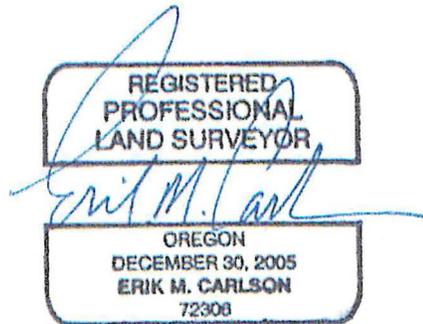
**Exhibit 'A'**  
**TERRA SURVEYING**  
**P.O. Box 617**  
**Hood River, OR 97031**  
**PHONE & FAX (541) 386-4531**  
**E-Mail: [terra@gorge.net](mailto:terra@gorge.net)**

LEGAL DESCRIPTION  
FOR  
ANNEXATION FOR FOSTER

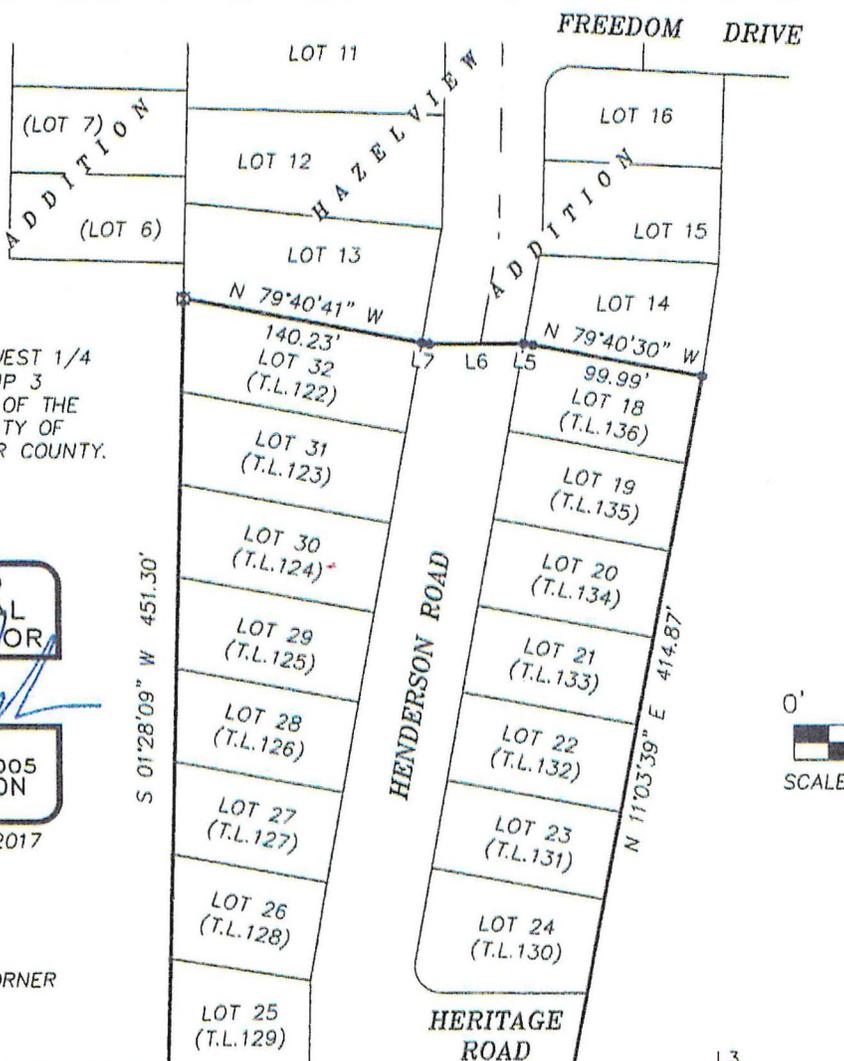
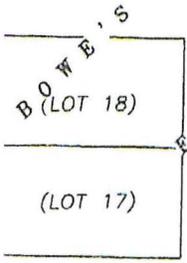
The following tract of land to be annexed is located in the southwest quarter Section 35, Township 3 North, Range 10 East, Willamette Meridian, County of Hood River and State of Oregon, is more particularly described as follows.

Beginning at the northwest corner of Lot 32 of Hazelview's First Addition Subdivision Plat recorded on August 24<sup>th</sup> 2001 in Hood River County records, filed as C.S. 2001-064 in Hood River County Surveyor's office; thence along the western line of said subdivision South 01°28'09" West a distance of 451.30 to the northwest corner of Parcel 2 of Partition Plat No. 9526 (C.S.95067); thence South 89°59'28" East a distance of 131.06 feet to the northwest corners of Parcel 1 of Partition Plat No.9517 (C.S.95036), being on the easterly right of way of Henderson Road; thence South 00°16'47" West along said east right of way a distance of 247.99 feet to the southwest corner of Parcel 2 of Partition Plat No. 9701 (C.S.97007); thence North 89°36'26" East a distance of 232.27 feet to the southeast corner of Parcel 3 of said Partition Plat No.9701; thence North 00°11'56" West a distance of 77.53 feet to the cusp of a curve concaved northeasterly whose chord bears North 52°13'09" West a distance of 24.61 feet. Radius measures 50.00 feet. Thence along said curve through the central angle of 28°29'37" a distance of 24.87 feet to the point of reverse curvature concave southwesterly whose chord bears North 63°58'52" West a distance of 13.16 feet. Radius measures 15.00 feet. Thence along said curve through central angle 52°02'16" a distance of 13.62 feet; thence North 00°00'44" East a distance of 50.00 feet to the southeast corner of Parcel 2 of Partition Plat No. 9517; thence North 00°16'47" East a distance of 100.01 feet to the northeast corner of said Parcel 2; thence South 89°52'43" West along said north line a distance of 4.81 feet to a point; thence continuing South 88°35'35" West along said north line a distance of 94.01 feet to the southeast corner of said Hazelview's First Addition subdivision, being that point on the south right of way of Heritage Road; thence North 11°03'39" East a distance of 414.87 feet to the northeast corner of Lot 18 of said Hazelview's First Addition Subdivision Plat; thence North 79°40'30" West along the north line of said subdivision plat a distance of 99.99 feet to a point; thence North 79°43'59" West a distance of 5.36 feet to a point on the eastern right of way of said Henderson Road; thence South 89°30'38" West a distance of 54.31 feet to a point; thence North 79°40'41" West a distance of 4.65 feet to a point on the western right of way of said Henderson Road, being the northeast corner of Lot 32 of said Hazelview's First Addition; thence North 79°40'41" West a distance of 140.03 feet to the point of beginning.

May 18, 2017  
Contains 3.84 Acres, more or less (includes roadways)  
EMC



TERRA SURVEYING  
ANNEXATION EXHIBIT MAP  
for  
THE ESTATE OF NAOMI FOSTER



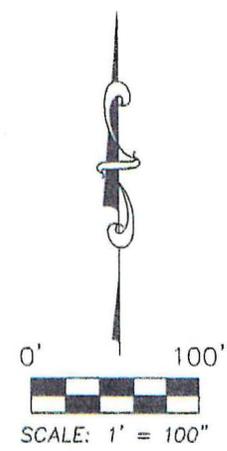
**LOCATION:**  
LOCATED IN THE SOUTHWEST 1/4  
OF SECTION 35, TOWNSHIP 3  
NORTH, RANGE 10 EAST OF THE  
WILLAMETTE MERIDIAN, CITY OF  
HOOD RIVER, HOOD RIVER COUNTY.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Erik M. Carlson*

OREGON  
December 30, 2005  
ERIK M. CARLSON  
72306

Expires: December, 2017



- LEGEND:**
- ANNEX BOUNDARY CORNER
  - ⊠ POINT OF BEGINNING

LINE	BEARING	DISTANCE
1	N 00°00'44" E	50.00'
2	N 00°16'47" E	100.01'
3	S 89°52'43" W	4.81'
4	S 88°35'35" W	94.01'
5	S 79°43'59" E	5.36'
6	N 89°30'38" E	54.31'
7	N 79°40'41" W	4.65'

TERRA SURVEYING

DATE: MAY 18, 2017  
PROJECT: 17071ANNEX  
SCALE: 1" = 100'  
ASSESSORS MAPS: 3N-10E-35CA&CD  
P.O. BOX 617

HOOD RIVER, OREGON 97031  
PHONE: (541) 386-4531

CURVE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH	DELTA ANGLE
C1	50.00'	24.87'	N 52°13'09" W	24.61'	28°29'37"
C2	15.00'	13.62'	N 63°58'52" W	13.16'	52°02'16"