ORDINANCE NO. 2045

AN ORDINANCE APPROVING THE ANNEXATION OF CERTAIN PROPERTY TO THE CITY OF HOOD RIVER AND REZONING THE SAME URBAN STANDARD DENSITY RESIDENTIAL ZONE (R-2) (Tanner Ranch/Kitts)

The Hood River City Council adopts the following findings:

WHEREAS, the Hood River City Council desires to annex approximately 4 acres of land within its Urban Growth Boundary and contiguous with the City's current municipal boundary, generally described as Tax Lot 1300 on Hood River County Tax Map 3N-10E-35BC in the Southwest Quarter of the Northwest Quarter of Section 35 Township 3 North, Range 10 East, Willamette Meridian, Hood River County Oregon (with a street address of 212 29th Street Hood River, Oregon 97031, as illustrated in Exhibit A (the "Annexation Territory"), attached hereto and by this reference incorporated herein; and

WHEREAS, the City received a Petition to Annex pursuant to the so-called Triple Majority Method of ORS 222.170(1) signed by a majority of the owners of land in the Annexation Territory, representing more than half of the assessed value of all of the real property in the Annexation Territory consenting to the annexation of their land; and

WHEREAS, the Hood River Planning Commission approved the annexation request, subject to conditions of approval, at a public hearing on April 16, 2018 that complied with the public hearing requirements of ORS 222.120 and issued a written order dated May 7, 2018; and

WHEREAS, at its regular meeting on May 14, 2018, the City Council held a duly noticed public hearing on the annexation request, received the Planning Commission's May 7, 2018 Findings, Decision and Recommendation (attached hereto as Exhibit B and incorporated herein by this reference), reviewed all of the documentation associated with this annexation proposal, and accepted public testimony; and

WHEREAS, at the conclusion of its May 14th public hearing, the City Council determined that the annexation request met the applicable requirements of ORS 222.170(1) and HRMC Chapter 17.15; the Council then voted unanimously to approve the annexation, and directed staff to prepare a suitable ordinance to effectuate the council's decision; and

WHEREAS, the City Council finds that annexation of the Annexation Territory, as requested, plus all abutting public rights-of-way, is in the public's interest and accepts and adopts as its own the Findings of Fact, Conclusions of Law and Conditions of Approval set forth in the Planning Commission's May 7, 2018 recommendation.

NOW THEREFORE, based on the foregoing Findings, the Hood River City Council ordains as follows:

Section 1 – Incorporation of Findings of Fact. The foregoing Findings are adopted and incorporated herein as part of this decision, as is the Planning Commission's May 7, 2018 Findings, Decision and Recommendation, attached hereto as Exhibit B and incorporated herein by this reference.

Section 2 - Annexation. The following described real property, consisting of approximately 4 acres and located in the Southwest Quarter of the Northwest Quarter of Section 35 Township 3 North, Range 10 East, Willamette Meridian, Hood River County Oregon (Tax Lot 1300) as illustrated in

Exhibit A, attached hereto and incorporated herein by this reference (the "Annexation Territory"), is hereby annexed and incorporated into the City of Hood River.

Section 3 – Annexation of abutting public rights-of-way. All federal, state, and County public rights-of-way within or abutting the Annexation Territory are hereby annexed and incorporated into the City of Hood River.

Section 4 - Land Use Designation and Zoning. All land within the Annexation Territory is hereby designated as Urban Standard Density Residential Zone (R-2). Any Urban Holding or Hood River County zoning designation within the Annexation Territory is hereby removed.

Section 5 - Assessment and Taxation. Land within the Annexation Territory shall be assessed and taxed by the City in the same manner as other similarly situated property within the City as of the effective date of this Ordinance.

Section 6 – Severability. If any portion of this ordinance is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other provision of this ordinance.

Section 7 –Transmittal. The City Recorder shall File a certified true copy of this Ordinance, with the Hood River County Board of Commissioners and the Hood River County Assessor.

Read for the first time by the Hood River City Council on July 9, 2018. Read for the second time and approved by the Hood River City Council on July 23, 2018. This Ordinance shall take effect on the 31st day following the second reading.

AYES: 7
NAYS: 0
ABSTAIN: 0
ABSENT: 0

Paul Blackburn, Mayor

ATTEST:

Jennifer Gray, City Recorder

Approved as to form:

Daniel Kearns, City Attorney

EXHIBIT "A"

The following described real property located in Hood River County, Oregon:

Beginning at the Southwest corner of Government Lot 6 of Section 35, Township 3 North, Range 10 East of the Willamette Meridian; thence East along the South line of said Government Lot 6 a distance of 5 330' chains; thence North 8.084 chains to the Southeast corner of that tract of land conveyed to A.B. Cooper, et ux., by deed recorded November 18, 1913, in Book 8 at page 545, Deed Records of Hood River County; thence West along the South line of said Cooper tract of land 5 330' chains to the West line of said Government Lot 6; thence South along the West line of said Government Lot 6 a distance of 8.084 chains to the place of beginning;

533' 1300 533'

TOGETHER THEREWITH a right of way for road purposes over and across the following described tracts of land, to-wit:

(a) The West 13 feet of that tract of land conveyed to Ira H. Seal et ux., by deed recorded May 1, 1947, in Book 34 at page 300, Deed Records Hood River County, which right of way for road purposes was duly reserved from said conveyance to Ira H. Seal et ux., being more particularly described as follows: Beginning at a point on the North line of Government Lot 6 of Section 35, Township 3 North, Range 10 East of the Willamette Meridian, 323 4.89 chains East of the Northwest corner of said Government Lot 6, which place of beginning is the Northeast corner of that tract of land conveyed to A.B. Cooper et ux., by deed recorded November 18, 1913, in Book 8 at page 545, Deed Records Hood River County; thence South along the East line of said Cooper tract of land 11.846 chains to the Southeast corner thereof, being also the Southwest corner of the aforesaid tract of land conveyed to Ira H. Seal et ux.; thence East along the South line of said Seal tract of land 13 feet; thence North parallel with and 13 feet Easterly from the East line of said Cooper tract of land 11.846 chains more or less, to the North line of said Government Lot 6; thence West along the North line of said Government Lot 6 a distance of 13 feet, more or less, to the place of beginning; and

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(b) Beginning at a point in Government Lot 6 of Section 35, Township 3 North, Range 10 East of the Willamette Meridian, 5 330 chains East and 8.084 chains North of the Southwest corner of said Government Lot 6 (which point of beginning is the corner common to the two parcels of land described in that certain deed dated 25 April 1947 given by Amelia Nickelsen et vir., to John G. Dixon, et ux., and which was recorded in Volume 34 of Deed Records of Hood River County, Oregon, at page 299); thence East along the South boundary line of the first parcel of the aforementioned lands conveyed to John G. Dixon et ux., a distance of 13 feet; thence in a Southwesterly direction to a point 26 feet South of the point of beginning on the East boundary line of the second parcel of the aforementioned lands; thence North a distance of 26 feet to the point of beginning.

SAVING AND EXCEPTING THEREFROM AND SUBJECT TO:

1. Reservations contained in the United States Patent.

2. Rights of the Public in and to so much of the aforesaid roadway described at (a) hereinabove lying within the boundaries of May Street Road.

933789

CITY OF HOOD RIVER

PLANNING DEPARTMENT

211 2nd Street, Hood River, OR 97031 Phone: 541-387-5210

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

In the matter of annexation by)
Michael Kitts Homes, Inc)
File No. #2017-51)

FINDINGS AND PLANNING COMMISSION RECOMMENDATION

I. BACKGROUND

A. **REQUEST:** The applicant requests approval of an annexation of one parcel totaling approximately four acres of land, more or less. The property, when considered as a whole, is contiguous with existing city limits. (See Attachment **"A"** Petition for Annexation). In conjunction with this annexation request, the Applicant has submitted a request for a 6-lot subdivision. The subdivision request for the north portion of the annexation area will be processed following approval of the annexation.

B. **APPLICANTS/OWNERS:** Michael Kitts Homes, Inc.

C. **PROPERTY LOCATION**: (See Attachment **"B"** Location Map.)

D. **PROPERTY SIZE**: Approximately 4 acres including future internal rights-of-way.

E. **SITE ZONING:** The subject property is currently zoned Urban Standard Density Residential (Urban Growth Area, U-R-2) and will remain Urban Standard Density Residential (R-2) following annexation.

F. **CURRENT LAND USES:** The subject property is currently developed with a single-family dwelling and associated out buildings, including a garage and multiple sheds and barns.

G. **SURROUNDING ZONING AND LAND USES:**

North: R-2, single-family dwellings
South: In Hood River County - U-R-2, agricultural land
East: Partial Hood River County - U-R-2, agricultural land, and partial City limits – R-2, single-family dwellings.
West: In Hood River County – U-R-1, single family dwellings.

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 and Farmers Irrigation. No objections or outstanding comments remain.

J. **ADJACENT PROPERTY OWNERS COMMENTS**: Property owners within 250 feet of the subject site were notified of this request. At the time of this report, no comments had been received regarding the subdivision or annexation.

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). The territory is currently designated as "R-2 on the City's Zoning Map. For this reason, this application only seeks annexation and is not a post-acknowledgment amendment ("PAPA)."

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.).

The conceptual development plan included with this application shows how the subject land may feasibly be developed upon annexation. As discussed below, public facilities and services are in fact available to serve the subject properties or will be prior to issuance of occupancy of any residence proposed on the annexed land. 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. I I I, 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 "B".**

(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 the sole property owner of the territory.

(3)

Staff Finding: This section is not applicable.

(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510 (Annexation of entire district), the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. 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).

Staff Finding: The territory to be annexed includes part of a district named in ORS 222.510 (water district and rural fire protection district). Therefore, this section is applicable and withdrawal from the districts will occur in accordance with ORS 222.465.

(5)

Staff Finding: This section is not applicable.

(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.

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) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot. [1957 c.613 §2 (enacted in lieu of 222.110); 1959 c.415 §1; 1967 c.624 §13; 1985 c.702 §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 annexation will not be voted upon by electors. ORS 222.120 requires a public hearing when the city elects to dispense with submitting the question of a proposed annexation to the electors of the city; however, ORS 222.125 does not require a public hearing when 100 % of

landowners and not less than 50 % of electors in the area proposed for annexation consent. As addressed below, the proposed annexation area is owned by a single property owner and therefore, 100 % of property owners and not less than 50% of electors have consented in writing to annexation.

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 (Procedure for annexation without election) 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]

Staff Finding: The proposed annexation area is owned by a single property owner who has consented in writing to the annexation. Therefore, a public hearing is not required by state statute. However, City policy requires a public hearing before the planning commission (HRMC 17.15.040). A public hearing will be scheduled for this annexation request.

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 222.11 l (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 submission of the voluntary petition, the sole property owner in the territory has consented to annexation. The applicant owns more than the 50% of the land and more than the required 50% of the total assessed value.

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: A separate written agreement waiving the one-year period has not be submitted, but as part of the application the sole applicant and owner seeks an immediate incorporation.

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 inventoried 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. This development will not create any industrial emissions. Storm water will be detained on-site and through 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. Goal 7 is complied with by this application.

Goal 8. Recreational Needs - The applicant’s property is proposed 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[1]:

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

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

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

The updated Hood River Valley Park and Recreation Master Plan (2012), not 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 on an updated Plan (work began in March 2018) 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.

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 all 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 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 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 subject territory is or will be (after planned infrastructure improvements are constructed) served by Talon Avenue, 29th Street, and 30th Street. Talon Avenue, 29th Street, and 30th are classified as local streets by the TSP. *Local streets have the sole function of providing immediate access to adjacent land. These streets should be designed to enhance the livability of the neighborhood as well as to generally accommodate less than 2,000 vehicles per day. When traffic volumes reach 1,000 to 1,200 Vehicles per day through residential areas, safety and livability can be degraded. A well-connected grid system of relatively short blocks can minimize excessive volumes of motor vehicles and encourage more use by pedestrians and bicyclists. Speeds are not normally posted, with a statutory 25-mph speed limit in effect.*

These streets currently operate at acceptable Levels of Service (LOS), as these roads do not exceed 1,200 trips per day. Therefore, the transportation systems serving the subject territory are adequate, and will not be adversely impacted by annexation of the territory. In addition, according to the TSP, 30th Street is planned for an upgrade, to bring the road's functional classification from a local street to a minor arterial. These improvements would give 30th Street greater capacity to absorb more traffic volume, which would further marginalize traffic volumes produced by annexation and potential development of the territory.

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 before 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.

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

Staff Finding: The proposed annexation is currently developed with a single-family home and associated out buildings. Additional development is proposed following annexation; therefore, the following criteria are addressed in response to HRMC 17.15.060, Evaluation Criteria – Undeveloped land.

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: The character of the adjacent properties would remain unchanged as a result of the annexation. Land uses surrounding the site consist of single-family homes to the north, east and west of the site, and agriculture to the south. Annexation of the subject territory would be consistent with the existing uses, and would potentially lead to the development of more single-family homes in the area, as the land is zoned R-2. Development of single-family homes on the annexed land would occur on local roads, which based on traffic impact studies supplied in the application, have yet to reach their maximum capacity. Other public utilities and services are available to serve the site for future development and 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.

<u>17.15.060 Evaluation Criteria - Undeveloped land</u>. 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 on the north and west and meets the contiguity criteria.

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 boundary.

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, is contiguous on two sides, 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: Talon Avenue, 29th Street, and 30th street are currently designated as local streets in the TSP, and are currently operating at acceptable levels of service**.** The proposed annexation will result in development that will make improvements to these streets, and Belmont Street to the south, in order to ensure that the streets remain adequate to serve the transportation needs of the annexed territory as well as surrounding lands and meet the City's roads standards. Urban services such as water and sewer are available in Talon Avenue and 29th Street, 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. The site is currently served by Ice Fountain; however, upon annexation the City will require the existing dwelling and all future dwellings on the subject property to be served by the City of Hood River water system. The City system has sufficient capacity to 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).

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 grown 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 north and east 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.

Fire: Fire Protection services will be provided by the City of Hood River. Annexation and future development will result in a minor 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 $930 in annual general fund revenue based on the current assessed value of approximately $330,630 for the annexation area. Future development proposed on the site will increase the assessed value and the tax revenue received. 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 property. 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.

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 adding16 potential building lots to the neighborhood under present zoning.

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 served by public services, with public utilities available adjacent to the subject land within the 29th Street and Talon Avenue rights-of-way. These utilities and services can feasibly serve the land proposed for annexation, 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.

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: The property owner subject to this annexation request has initiated the request to be annexed.

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 property in the annexation is contiguous with the city limits. The key portions of the 1982 Annexation Policy are reproduced below along with findings.

<u>3. Size of Annexation.</u> 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 is proposed by a single property owner, but represents an area that is mostly "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. Approval of this annexation request would be in the best interest of the City, as the area of the land proposed for annexation is large enough to offset financial encumbrances to the City, while also providing additional tax revenue. In addition, annexation of the applicant's property will bring more land into City jurisdiction, which is suitable for development of additional housing.

<u>5. Annexations Shall Be in the Best Interests of the Entire City.</u>

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.

<u>it shall be City's policy to encourage annexation where:</u>

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 these 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 advanced 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 with populations greater 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 in the City's best interest to allow this area to annex and develop 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 city sewer and water services; there are no insufficiency 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: Annexation of the land will result in the absorption of one existing single-family home into City limits. This will marginally increase the City’s tax base. However, the City will see a larger tax benefit when the remainder of the land is developed.

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 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 $930 in annual general fund revenue based on the current assessed value of approximately $330,630 for the annexation area. Future development proposed on the site will increase the assessed value and the tax revenue received. 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 property. 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.

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.

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 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 $930 in annual general fund revenue based on the current assessed value of approximately $330,630 for the annexation area. Future development proposed on the site will increase the assessed value and the tax revenue received. 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 property. 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.

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 County has zoned this property R-2, which is consistent with the zoning established as part of the Urban Growth area and will be reaffirmed and conditioned upon annexation.

IV PLANNING COMMISSION RECOMMENDATION: Commissioner Irving moved and Commissioner Lassen seconded a motion to approve the Tanner Ranch Preliminary Subdivision File 2017-51 and recommend the approval of the Annexation project based upon the above Findings of Fact and subject to the Conditions of Approval of this Final Order. The motion passed with a 4-0 vote.

APPROVED BY THE CITY OF HOOD RIVER PLANNING COMMISSION the day of_____, 2018.

_____ _____

Arthur Babitz, Vice Chair Attest: Dustin Nilsen, Planning Director

Attachment A

File No.: _____
Fee: _____
Date Submitted: _____

CITY OF HOOD RIVER APPLICATION
ANNEXATION REQUEST and REQUEST for CONNECTION to CITY of HOOD RIVER SEWER and/or WATER SERVICE

Submit the completed application with twelve (12) additional complete copies, one electronic copy, and appropriate fees to the City of Hood River Planning Department, 211 2nd St., Hood River, OR 97031. Please note the review criteria attached to this application. If you have any questions, please contact the Planning Department at (541) 387-5210.

APPLICANT: ***(attach a copy of title or purchase contract if applicable*)***

Name: Michael Kitts

Address: (physical) 3880 May St.
Hood River, OR 97031

(mailing) _____

(email) Kitmich@aol.com

Telephone: 541-490-0383 Cell Phone: Same

Signature: _____

PARCEL OWNER: (if different than applicant)

Name: Michael Kitts Homes

Address: (mailing) 3880 May St.
Hood River, OR 97031

Telephone: 541-490-0383 Cell Phone: Same

Signature: _____
Authorization of parcel owner required.

PARCEL INFORMATION:

Township 3N Range 10E Section 35BC Tax Lot(s) 1300

Current Zoning: UR2 Parcel Size: 4.01 ac

Property Location (cross streets or address): 24th & Tohon 1212 24th St HR

Existing Water Service, if any: Ice Fountain

Farmers Irrigation: ☑ YES ☐ NO Existing Septic: ☐ YES ☑ NO

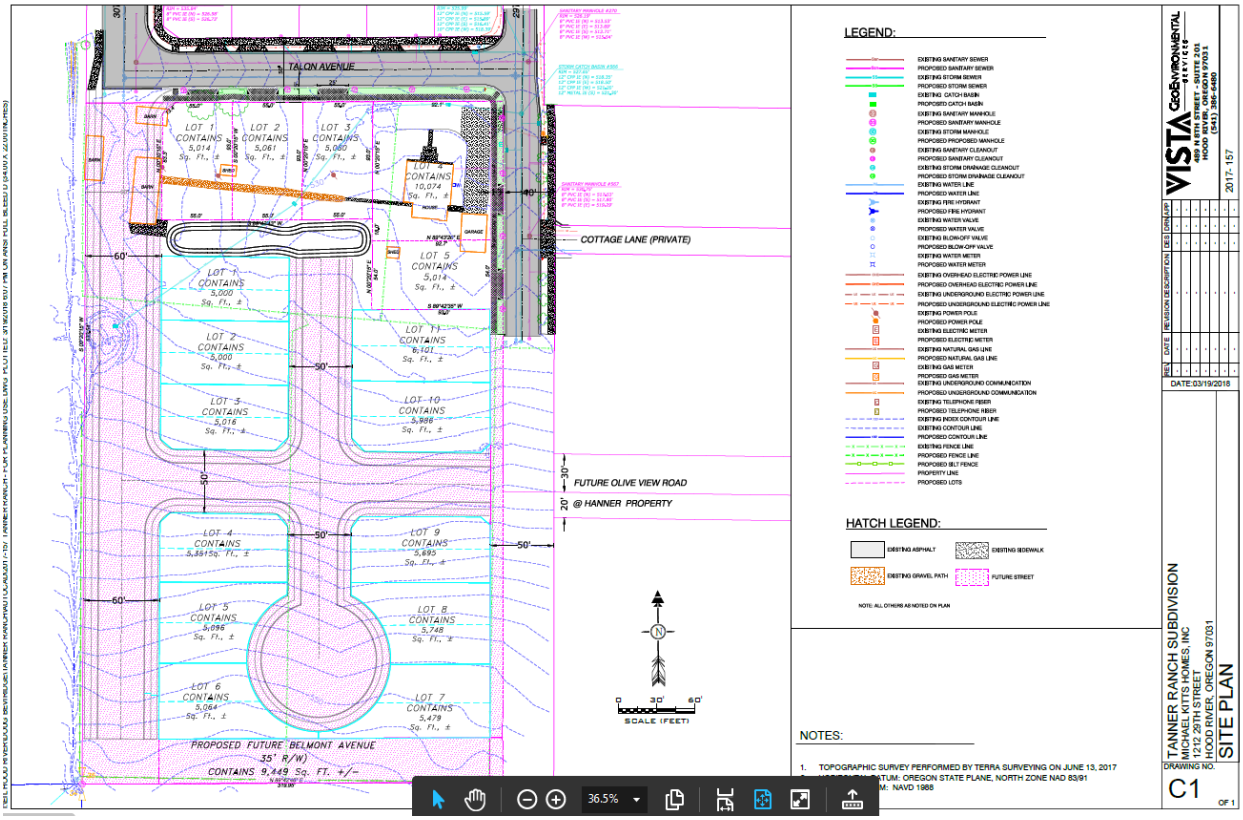
Is this a health hazard request for sewer connection? ☐ YES ☑ NO

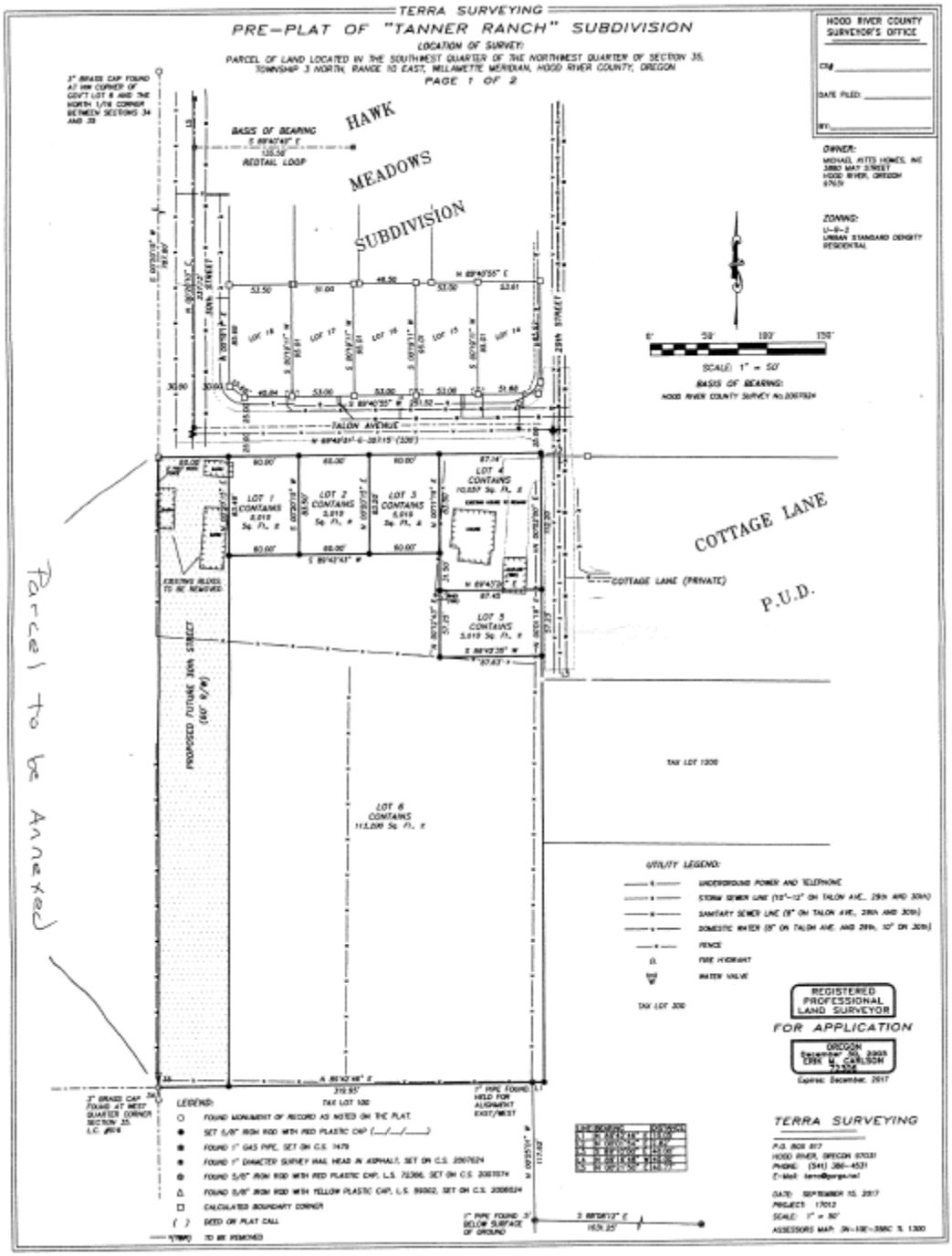
If yes, Explain: _____

Tanners Ranch Project Description from Applicant.

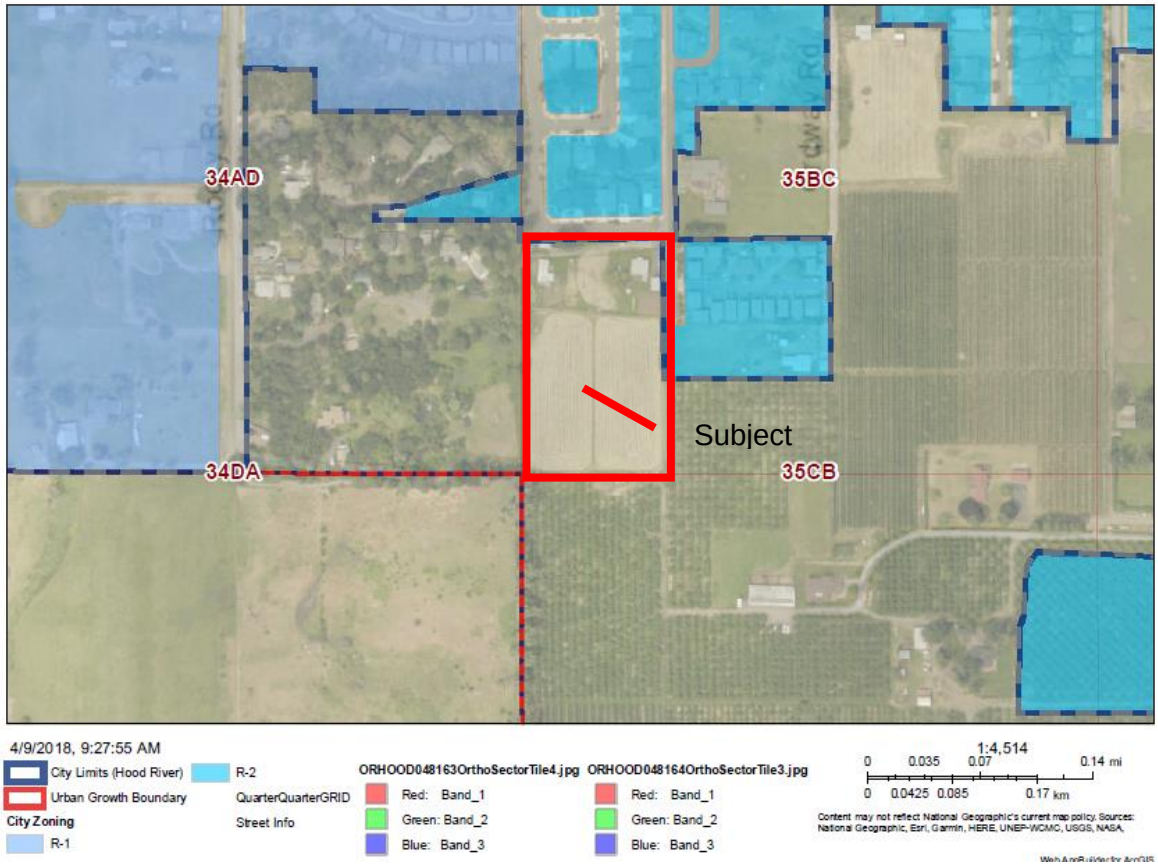
Tanners Ranch is a 4-acre parcel currently in the county and zoned UR2. We have submitted a request for annexation and would anticipate the zoning to be R2. This zoning will allow us to create lots with 5,000 sq.ft. minimum. We are planning on doing this project in phases. The first phase would be for a 6-lot subdivision with lots bordering on the existing streets of Talon an 29th. There is an existing house located at 1212 Talon that will need a bigger lot to accommodate the house and garage. The rest of the project will also be developed for single family homes with a minimum lot size of 5,000 sq.ft.
The surrounding parcels of land are zoned R2
The nearest cross street is Talon
The set backs will be as per city standard 5' side set back, 10' on the rear of property, and 20' from the garage with 50 feet of road frontage.
Maximum building height of 28'
Houses will be stick built on site all in the range of 1000 sq.ft to 1800 sq.ft
Lighting will be as to city standards for street lights
Fences will be allowed in this project but must not exceed 6' in height which is compliance with city standards.
This project should be of minimal impact as it will be all single-family homes consistent with what has already been built to the north and east of this project.
Ingress and egress for this project will be located primarily off of 30th st. and Talon
This project is consistent with the Comprehensive plan and zoning
If a performance bond is required to ensure performance of special conditions we will comply.
Site plan criteria
Natural features - The parcel is currently in use as a hay farm the, it has several out buildings on the northwest portion of the parcel fronting Talon as well as a three bedroom house located on the northeast corner of the parcel (1212 29th}.
Air Quality - We don't anticipate that there will be an adverse effect on air quality

We are proposing a 6 lot subdivision on 4 acres of land zoned R-2 that lie in Hood River County adjacent to Hood River city limits. We are requesting that this property be annexed into the city. This is the first phase of the project which is 5 lots, fronting 29th street and Talon. These five lots are all fronting on improved city standard roads with all the necessary infrastructure in place. We will be installing curbs gutters and planting strips as per city requirements. The lots we are creating will all be minimum of 5000 sq.ft. the existing house will be on a 10,073 sq.ft. lot. Lot number six will be developed in the future and consist of 11 lots all 5,000 sq.ft minimum with 5,000 sq. ft. All the city utilities will be extend as well as the extension to the south of 30th, there will also be a connector street running east and west through the project to connect 29th and 30th. All streets and improvements will be to city standards.


TALON AVENUE
COTTAGE LANE (PRIVATE)
FUTURE OLIVE VIEW ROAD
@ HANNER PROPERTY
PROPOSED FUTURE BELMONT AVENUE
35' R/W)
CONTAINS 9,449 Sq. FT. +/-
LOT 1 CONTAINS 5,014 Sq. Ft. ±
LOT 2 CONTAINS 5,061 Sq. Ft. ±
LOT 3 CONTAINS 5,060 Sq. Ft. ±
LOT 4 CONTAINS 5,015 Sq. Ft. ±
LOT 5 CONTAINS 5,014 Sq. Ft. ±
LOT 6 CONTAINS 5,064 Sq. Ft. ±
LOT 7 CONTAINS 5,478 Sq. Ft. ±
LOT 8 CONTAINS 5,748 Sq. Ft. ±
LOT 9 CONTAINS 5,695 Sq. Ft. ±
LOT 10 CONTAINS 5,696 Sq. Ft. ±
LOT 11 CONTAINS 5,101 Sq. Ft. ±
LOT 12 CONTAINS 5,000 Sq. Ft. ±
LOT 13 CONTAINS 5,000 Sq. Ft. ±
LOT 14 CONTAINS 10,074 Sq. Ft. ±
SCALE (FEET)
LEGEND:
HATCH LEGEND:
NOTES:
1. TOPOGRAPHIC SURVEY PERFORMED BY TERRA SURVEYING ON JUNE 13, 2017
VISTA GEOENVIRONMENTAL
TANNER RANCH SUBDIVISION
MICHAEL KITTS HOMES, INC
HOOD RIVER, OREGON 97031
SITE PLAN
DRAWING NO.
C1
DATE:03/19/2018
2017- 157



Parcel to be Annexed

Attachment B

City of Hood River Planning Department Map