

## **ORDINANCE NO. 1449**

**AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 1.65 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOT 1800, OF SECTION 28, T3S, R1E, WM (ASSESSOR TAX MAP 3-1E-28DD) AND 0.15 ACRES OF NE TERRITORIAL ROAD RIGHT-OF-WAY AND AMENDING THE ZONING FROM COUNTY RURAL RESIDENTIAL FARM FOREST 5-ACRE (RRFF5) TO CITY MEDIUM DENSITY RESIDENTIAL (R-1.5) AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CITY LIMIT; AND APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF CANBY AND JOHN MEREDITH, PROPERTY OWNER, FOR 1.65 ACRES OF LAND.**

**WHEREAS**, on October 19, 2016, at a public hearing the City Council of the City of Canby approved by a vote of 6-0, Annexation/Zone Change 16-04 which called for the annexation of 1.80 acres into the City of Canby. Applicant and owners of the annexed property are: John and Katherine Meredith, tax lots 1800 (3S-1E-28DD) and one-half of the adjacent right-of-way located on the southeast side of NE Territorial Road. A complete legal description of the tax lots and adjacent right-of-way is attached hereto as Exhibit "A", and a map showing the location of the tax lots and adjacent right-of-way is attached hereto as Exhibit "B" and by this reference are all incorporated herein; and

**WHEREAS**, Pursuant to CMC 16.84.080, the City must proclaim by ordinance or resolution, the annexation of said property in the City and set the boundaries of the new property by legal description; and

**WHEREAS**, the zoning of the annexed land shall be designated as R-1.5 Medium Density Residential which conforms with the Canby Comprehensive Plan, and such zoning shall be indicated on the official zoning map for the City of Canby; and

**WHEREAS**, an application was filed with the City by the applicant/owners listed above to change the zoning of one parcel and one-half the adjacent right-of-way totaling 1.80 acres from Rural Residential Farm Forest 5-Acre (RRFF5) to Medium Density Residential (R-1.5); and

**WHEREAS**, in accordance with Canby Municipal Code 16.84.040 of the Canby Municipal Code, a Development Agreement is a necessary criteria to approve an annexation and execution of a Development Agreement by and between the City of Canby and Meredith for 1.65 acres is a part of the annexation approval; and

**WHEREAS**, a public hearing was conducted by the Canby Planning Commission on September 26, 2016 after public notices were mailed, posted and printed in the Canby Herald, as required by law; and

**WHEREAS**, the Canby Planning Commission heard and considered testimony regarding the annexation, accompanying zone change, and development agreement at said public hearing and at the conclusion of the public hearing the Planning Commission voted 4-0 to recommend that the City

Council approve the applications. The written Findings, Conclusions and Order was approved by the Planning Commission and forwarded to the Council with its recommendation; and

**WHEREAS**, the Canby City Council considered the matter and the recommendation of the Planning Commission following a public hearing held at its regular meeting on October 19, 2016; and

**WHEREAS**, the Canby City Council, after considering the staff report, reviewing the record of the Planning Commission's decision and conducting its own public hearing, voted to accept the Planning Commission's recommendation; and

**WHEREAS**, the written Findings, Conclusions and Order was approved by the City Council on October 19, 2016; and

**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. It is hereby proclaimed by the Council of Canby that 1.80 acres of property described in Exhibit "A" and shown on Exhibit "B" is annexed into the corporate limits of the City of Canby, Oregon. Said boundaries of the property are set by the legal descriptions set forth in Exhibit "A".

Section 2. The annexed land shall be rezoned from the county Rural Residential Farm Forest 5-Acre (RRFF5) to City Medium Density Residential (R-1.5) as called for in Canby's Comprehensive Plan and the Mayor, attested by the City Recorder, is hereby authorized and directed to have the zone change made to the official zoning map for the City of Canby.

Section 3. The Council hereby approves the Development Agreement by and between the City of Canby and John Meredith, attached as Exhibit "C", an as-yet-unexecuted draft copy of which is attached hereto this ordinance for which the City Administrator is hereby authorized and directed to sign the final Development Agreement at which time "Meredith" is hereby authorized to record the signed Development Agreement with the official records of Clackamas County within seven (7) calendar days from the 2<sup>nd</sup> reading of this ordinance.

**SUBMITTED** to the Council and read the first time at a regular meeting thereof on October 19, 2016 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter, and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on November 2, 2016, commencing at the hour of 7:30 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

  
Kimberly Scheafer, MMC  
City Recorder

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on November 2, 2016 by the following vote:

YEAS 4

NAYS 0

  
\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

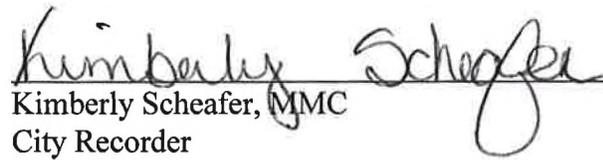
  
\_\_\_\_\_  
Kimberly Scheafer, MMC  
City Recorder

EXHIBIT "A"

**Associated Land Surveyors, Inc.**

375 Portland Ave., Gladstone OR 503-656-9440

**Exhibit A**

July 20, 2016

Property description for annexation to the City of Canby  
Meredith Property and Territorial Road

A portion of Tract 60, CANBY GARDENS, in the Southeast quarter of Section 28, Township 3 South, Range 1 East, of the Willamette Meridian, Clackamas County, Oregon, more particularly described as follows:

Commencing at the Southwest corner of said Tract 60; thence N89°59' E along the South boundary of said Tract 60 a distance of 149.6 feet to the Point of Beginning of the property herein described; thence continuing along said South boundary a distance of 200 feet to the Southeast corner of the tract of land conveyed to John T. Meredith and Katherine A. Meredith by Clackamas County Deed Document No. 2011-001990; thence N00°01'W along the East line thereof a distance of 398.34 feet to the Northeast corner of said Meredith property on the Southeasterly right-of-way line of Territorial Road (County Road No. 1485); thence S69°03'W along said Southeasterly right-of-way line a distance of 214.13 feet to Northwest corner of said Meredith property; thence S00°01'E along the West line thereof a distance of 321.83 feet to the Point of Beginning.

Together with the following described portion of Territorial Road (County Road No. 1485) abutting said Meredith property:

Beginning at the Northeast corner of the above described Meredith property; thence N 00°01'W along the Northerly extension of the East line thereof a distance of 32.12 feet to the center line of said Territorial Road; thence S69°03'W along said center line a distance of 214.13 feet to the intersection with the Northerly extension of the West line of said Meredith property; thence S00°01'E along said line a distance of 32.12 feet to the Northwest corner of said Meredith property on the Southeasterly right-of-way line of Territorial Road; thence N69°03'E along said line a distance of 214.13 feet to the point of beginning.

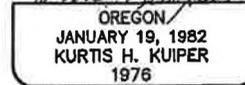
The combined areas totaling 1.80 acres.

The courses of this description are as shown on a survey filed at the Clackamas County Surveyor's Office as PS 5957.

canbyannex.doc



A handwritten signature in cursive script, appearing to read "Kurtis H. Kuiper".



VALID THRU: 6/30/17

EXHIBIT "B"

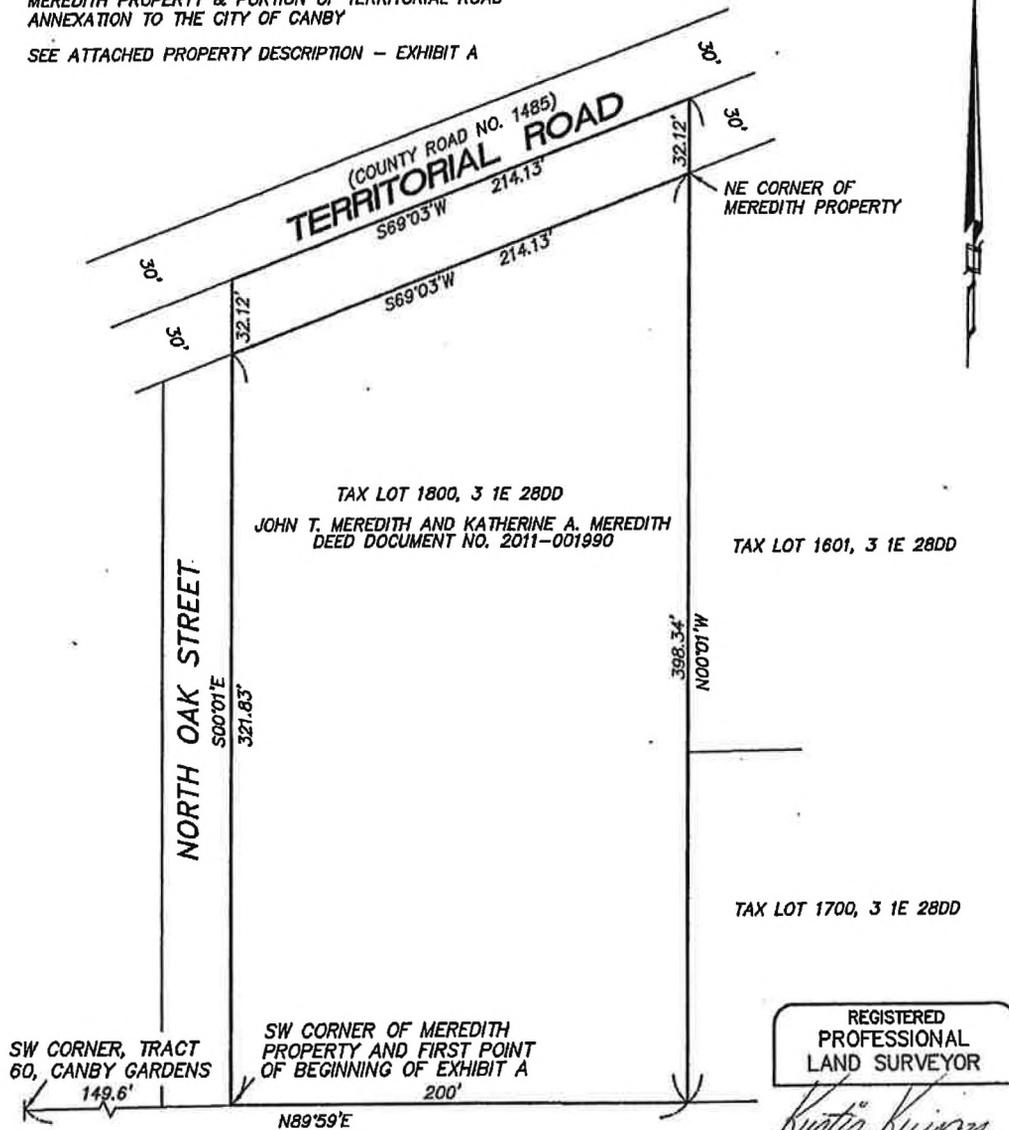
EXHIBIT B

July 20, 2016

Scale: 1" = 60'

MEREDITH PROPERTY & PORTION OF TERRITORIAL ROAD  
ANNEXATION TO THE CITY OF CANBY

SEE ATTACHED PROPERTY DESCRIPTION - EXHIBIT A



PREPARED BY:  
**ASSOCIATED LAND SURVEYORS, INC.**  
375 PORTLAND AVE.  
GLADSTONE, OREGON 97027  
PHONE: (503) 656-9440

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Kurtis Kuiper*

OREGON  
JANUARY 19, 1982  
KURTIS H. KUIPER  
1976

VALID THRU: 6/30/17  
PROJECT: 1609

Exhibit "C"

AFTER RECORDING RETURN TO:  
City of Canby, Attn: City Recorder  
P O Box 930  
Canby OR 97013

Clackamas County Official Records  
Sherry Hall, County Clerk

2016-077169



\$83.00

01999679201600771690070076

11/08/2016 03:22:37 PM

UNTIL REQUESTED OTHERWISE,  
SEND TAX STATEMENTS TO:  
John Meredith  
377 NW Territorial Road  
Canby, OR 97013

D-DEVA Cnt=1 Stn=9 COUNTER1  
\$35.00 \$16.00 \$22.00 \$10.00

DEVELOPMENT AGREEMENT  
(ANNEXATION)

RECITALS:

1. John Meredith hereinafter referred to as "MEREDITH", own real property commonly described as 1009 NE Territorial Road, Canby, OR 97013 and more particularly described in the attached Exhibit A and depicted on a survey attached as Exhibit B.
2. The City of Canby, hereinafter referred to as "CANBY", is an Oregon municipal corporation.
3. The property described in Exhibit A and depicted on Exhibit B is located within the boundaries of a designated annexation "Development Agreement Area" as shown on the City of Canby Annexation Development Map (City of Canby Municipal Code Title 16, Figure 16.84.040).
4. CANBY procedures for annexation specify the Planning Commission shall conduct a public hearing to review any proposed annexations and determine the appropriate zoning designation upon annexation. The Planning Commission shall furnish its recommendation concerning annexation and assigned zoning to the City Council. The City Council will determine whether the applicable standards and criteria of Canby Municipal Code 16.84.040 are met and will determine appropriate zoning for the property based on the criteria set forth in the Canby Municipal Code 16.54.040.
5. The purpose of this Annexation Development Agreement is to satisfy the requirements of Canby Municipal Code 16.84.040 including providing adequate public information and information evaluating the physical, environmental, and related social effects of a proposed annexation. The proposed annexation does not require the statutory development agreement of ORS 94.504 et seq.

NOW, THEREFORE, it is hereby agreed:

- I. CANBY MUNICIPAL CODE 16.84.040 APPLICABLE PROVISIONS.

A. Timing of the submittal of an application for zoning. Concurrent with review of this Agreement, the Council shall consider MEREDITH'S annexation application and requests that, upon approval of the annexation by the City Council, the property described in Exhibit A shall be zoned R-1.5. This approach will insure that the development agreement as well as the annexation and zone change approvals are consistent with City Code 16.84.

B. Scope of annexation request. In addition to the property owned by MEREDITH and described in Exhibit A, MEREDITH's annexation application shall include the southern one-half of the NE Territorial Road right-of-way, County Road No. 1485 adjacent to the MEREDITH property. The southern half of the NE Territorial Road right-of-way shall be measured from the right-of-way centerline and also as described in Exhibit A and depicted on Exhibit B. MEREDITH agrees to dedicate street right-of-way for NE Territorial Road to meet the standards of the City of Canby with future land use actions on the property as part of the development approval process.

C. Timing for Recording. MEREDITH shall have seven (7) calendar days from the date the City Council takes final action approving this Agreement, the annexation, the zone change request, to record this Agreement. A condition of approval will be attached to the annexation and zone change approval imposing this requirement.

D. Dedication of land for future public facilities including park and open space land. At the time of development, MEREDITH agrees to dedicate street right-of-way for NE Territorial Road, N. Oak Street and for other streets being created inside the property to the standards of the City of Canby and to satisfy CANBY's parkland dedication obligation through payment of the City's park system development charge.

E. Street construction/layouts, utilities, right of ways/dedications, and lots. At the time of development, City required public street improvements will be constructed to Canby Municipal Code specifications by MEREDITH. Specifically, MEREDITH agrees to improve the southern one-half of the NE Territorial Road right-of-way and the east one-half of the N. Oak Street right-of-way along the frontage of the property, and to construct a new street, NE 18<sup>th</sup> Avenue, west from N. Oak Street. The southern one-half of the NE Territorial Road right-of-way and the east one-half of the N. Oak Street right-of-way shall be measured from the right-of-way centerline. MEREDITH will position the NE 18<sup>th</sup> Avenue intersection to N Oak Street at a location deemed appropriate by the City of Canby Planning Department during the tentative plat design and approval process. Street cross section layouts, public utilities, franchise utilities, and right of way widths/associated dedications will be determined at the time of development in conformance with the Canby Municipal Code and Canby Public Works Design Standards. The submitted General Land Use Plan dated July, 2016 in conjunction with the ANN/ZC 16-04 applications is for general reference only and is non-binding. Lot sizes and layouts will be determined at the time of development and are contingent upon street cross sections and right of way widths.

F. Utility availability. At the time of development, MEREDITH agrees to ensure that utilities and infrastructure are available to serve the property described in Exhibit A at densities currently authorized in the R-1.5 zone. To the extent that additional utility or

service infrastructure is required to serve the property in the future, MEREDITH agrees to provide those utilities and services in a way that is commensurate with the impacts from development and consistent with the City's Code. MEREDITH also agrees to allow connection to MEREDITH's constructed public facilities by adjacent property owners.

G. Water and Sewer. At the time of development, MEREDITH agrees to install public waterlines in all new or extended public streets and sewer lines in new City streets as is needed to serve the development. CANBY agrees that MEREDITH can connect to the public water system and that MEREDITH can connect the existing public sanitary sewer. CANBY agrees that no new sewer main is needed in NE Territorial Road along the frontage of the Meredith parcel.

H. Waiver of compensation claims. MEREDITH waives compensation or waiver of land use regulations as provided in ORS 195.300 and 195.336, as well as Measure 49, resulting from annexation and the concurrent zone change approval.

I. Rough proportionality of future exactions. To the extent that this agreement identifies right-of-way dedication, utility or service obligations, these obligations are necessary and will be limited to an amount necessary to serve this development based on the proposed development application as well as on the uses and densities permitted in the R-1.5 zone.

J. Other commitments deemed valuable to the City of Canby. MEREDITH agrees any future development will meet the requirements of the adopted CANBY Municipal Code in effect at the time of development.

## II. OTHER CONSIDERATIONS.

A. Duration. This Agreement shall be effective upon CANBY, acting by and through its city council, approving this Agreement and upon its recording with the Clackamas County Recording Office. As used herein, "approval" means the granting of the approval and the expiration of the period of appeal, or if appeal is filed, the resolution of that appeal. This Agreement shall continue in effect for a period of eight (8) years after its effective date unless cancelled as provided in Section II, C below

B. Recording. Within seven (7) calendar days after the City Council makes a final decision approving ANN/ZC 16-04, MEREDITH shall record this agreement with the Clackamas County Recorder's Office and provide a copy of the recorded agreement to the City Attorney.

C. Cancellation. This Development Agreement shall not be cancelled.

D. Modification. This Agreement may be modified, amended, or extended upon the mutual consent of MEREDITH and CANBY.

Dated this 8<sup>th</sup> day of November 2016.

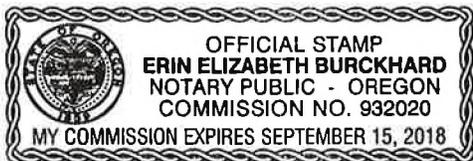
  
\_\_\_\_\_  
John Meredith

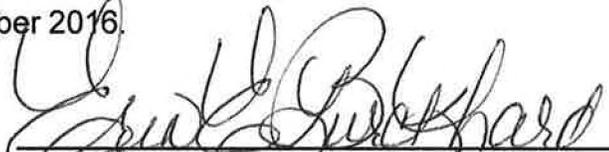
APPROVED BY ACTION OF THE CITY COUNCIL ON OCTOBER 19, 2016 THROUGH CITY COUNCIL ORDINANCE NO. 1449 ADOPTED ON NOVEMBER 2, 2016.

STATE OF OREGON            )  
  ) ss.  
County of Clackamas        )

Personally appeared before me, JOHN MEREDITH, and acknowledged the foregoing instrument to be his voluntary act and deed.

Dated this 8<sup>th</sup> day of November 2016.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 9/15/2018

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Joseph Lindsay, City Attorney

Dated: November 2, 2016

Dated this 3<sup>rd</sup> day of November 2016.

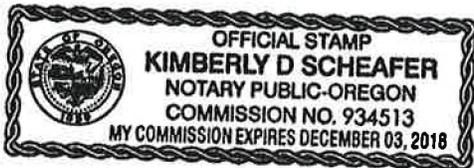
CITY OF CANBY, OREGON

By:   
Richard Robinson, City Administrator

STATE OF OREGON        )  
                                  ) ss.  
County of Clackamas    )

Personally appeared before me, RICHARD ROBINSON as the City Administrator of the City of Canby, Oregon.

Dated this 3<sup>rd</sup> day of November 2016.



  
Notary Public for Oregon  
My Commission Expires: 12-3-18

EXHIBIT "A"

**Associated Land Surveyors, Inc.**

375 Portland Ave., Gladstone OR 503-656-9440

**Exhibit A**

July 20, 2016

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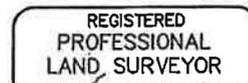
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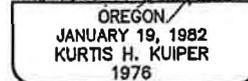
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The courses of this description are as shown on a survey filed at the Clackamas County Surveyor's Office as PS 5957.

canbyannex.doc



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VALID THRU: 6/30/17

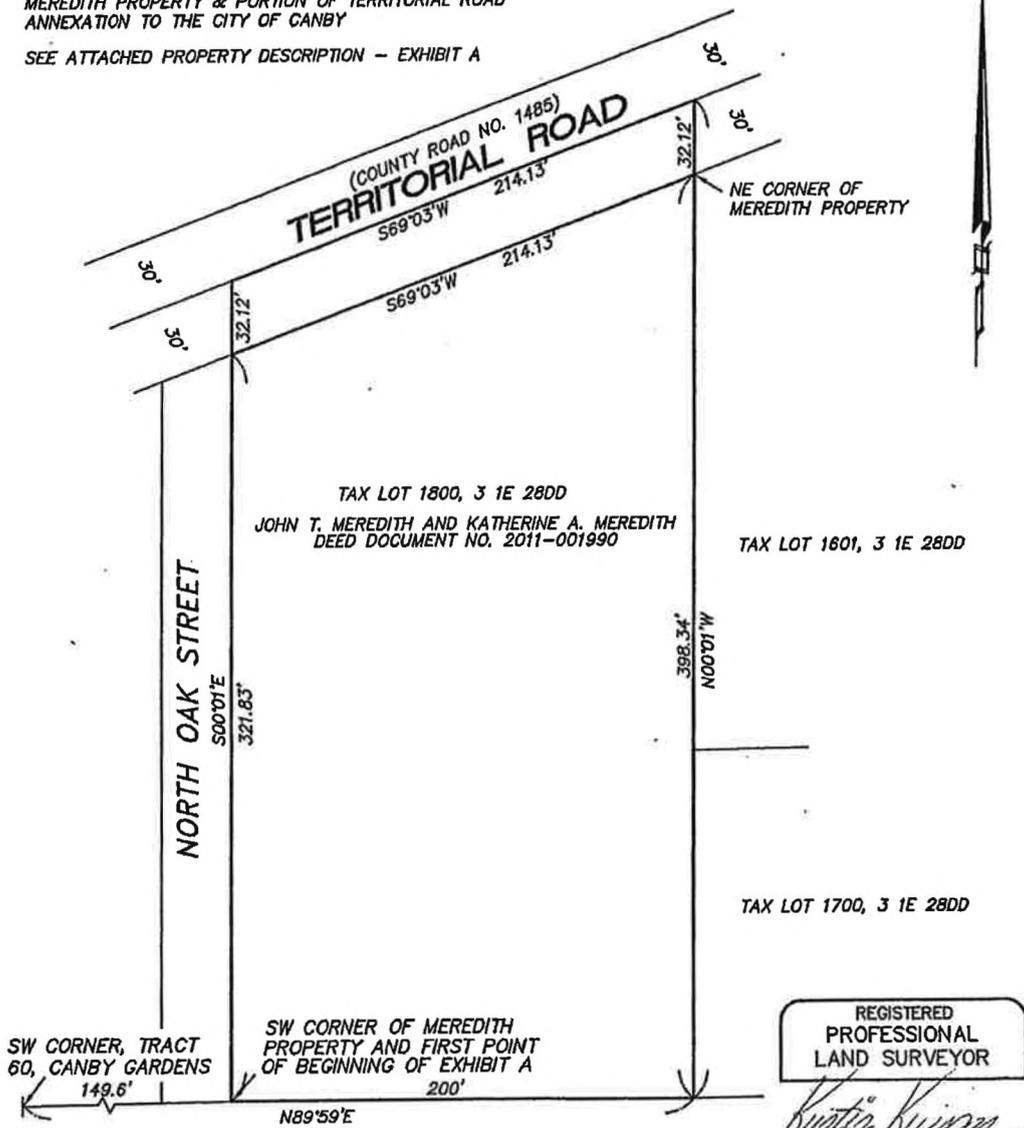
EXHIBIT "B"

**EXHIBIT B**

July 20, 2016

Scale: 1" = 60'

MEREDITH PROPERTY & PORTION OF TERRITORIAL ROAD  
ANNEXATION TO THE CITY OF CANBY  
SEE ATTACHED PROPERTY DESCRIPTION - EXHIBIT A



PREPARED BY:  
**ASSOCIATED LAND SURVEYORS, INC.**  
375 PORTLAND AVE.  
GLADSTONE, OREGON 97027  
PHONE: (503) 656-9440

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Kurtis Kuiper*  
OREGON  
JANUARY 19, 1982  
KURTIS H. KUIPER  
1976  
VALID THRU: 6/30/17  
PROJECT: 1609

EXHIBIT "B"

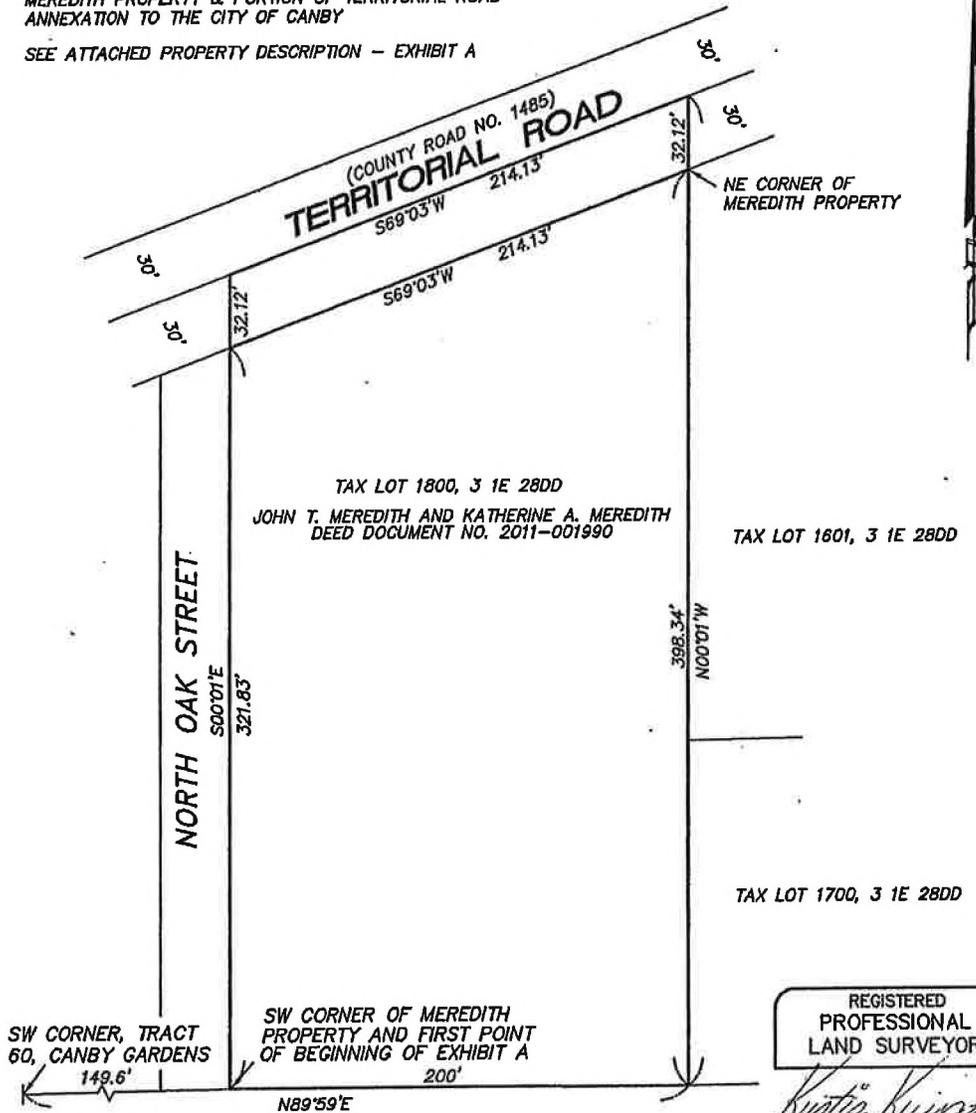
**EXHIBIT B**

July 20, 2016

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MEREDITH PROPERTY & PORTION OF TERRITORIAL ROAD  
ANNEXATION TO THE CITY OF CANBY

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PHONE: (503) 656-9440

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Kurtis H. Kuiper*

OREGON  
JANUARY 19, 1982  
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1976

VALID THRU: 6/30/17  
PROJECT: 1609

OFFICE OF THE SECRETARY OF STATE

DENNIS RICHARDSON  
SECRETARY OF STATE

LESLIE CUMMINGS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
MARY BETH HERKERT  
DIRECTOR

800 Summer Street NE  
Salem, Oregon 97310  
(503) 373-0701  
Facsimile (503) 378-4118

February 9, 2017

City Recorder  
City of Canby  
P.O. Box 930  
Canby, OR 97013

Dear City Recorder,

Please be advised that we have received and filed as of December 27, 2016 the following records annexing territory into the following:

Ordinance Number  
1449

Our File Number  
AN 2016-0113

For your records please verify the effective date through the application of the applicable ORS.

Our assigned file number(s) are included in the above information.

Sincerely,

A handwritten signature in cursive script that reads "Kayne Sawyer".

Official Public Documents

Cc: County Clerk  
ODOT  
Department of Revenue  
Population Research Center