



RESOLUTION 2009-064

A RESOLUTION APPROVING A BALLOT TITLE AND ANNEXATION PROPOSAL AN-09-01 AND CALLING AN ELECTION FOR CITY VOTERS TO APPROVE THIS ANNEXATION

WHEREAS, Washington County has a policy that unincorporated areas of the County should be annexed to cities so that urban services for those areas can be provided by cities as opposed to the County; and

WHEREAS, the Sherwood City Council agrees with the County annexation policy and believes that areas outside the current City boundaries and within the City Urban Growth Boundary should ultimately be annexed to the City; and

WHEREAS, the City has received a petition of property owners and registered voters meeting the requirements for initiation of annexation to the City under ORS 222.170(2) and Metro Code Section 3.09.040(a); and

WHEREAS, after legal notices, a public hearing was held on the proposal for annexation by the City Council on August 4, 2009, where comment and testimony was received and considered; and

WHEREAS, the Council reviewed and considered the staff report (Attachment 1) with proposed findings and reasons for the decision attached; and

WHEREAS, the property proposed for annexation contains 34.2 acres, no dwellings and is currently occupied only by a large PGE power substation and overhead transmission lines; and

WHEREAS, according to the Washington County tax assessment information, the two parcels have \$0 assessed value; and

WHEREAS, the property proposed for annexation is zoned FD-20 under Washington County zoning, and

WHEREAS, the Adams Avenue Concept Plan and Comprehensive Plan zoning was recently adopted by the City Council (Ord. 2009-009) designating this area as light industrial upon annexation; and

WHEREAS, Section 1.3 of the City Charter requires City voter approval for annexations.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The City Council adopts Annexation Application (AN) 0901, the staff report to the City Council attached as Exhibit 1, including the proposed findings and conclusions and reasons for decision.

Section 2. The City Council approves AN 09-001, and the annexation to the City of Sherwood of the territory legally described in Exhibit 1-A and visually depicted in Exhibit 1-B.

Section 3. A City election on this annexation is called for November 3, 2009.

Section 4. The Washington County Elections Department will conduct the election.

Section 5. The precincts for the election are all those that include territory included within the corporate limits of the City.

Section 6. The ballot title will read as follows:

CAPTION: PROPOSAL TO ANNEX 34.2 ACRES TO CITY

QUESTION: Should 34.2 acres on the northern portion of the City of Sherwood be annexed to the City of Sherwood?

SUMMARY: Approval of this ballot measure will annex two parcels totaling 34.2 acres to the City of Sherwood. The parcels are on the northern boundary of the City of Sherwood. The areas to be annexed are surrounded on all side except a portion of the eastern edge by property inside the City limits. The parcels are north of Tualatin-Sherwood Road and east of Pacific Highway. The area to be annexed is currently developed with a PGE power substation and overhead transmission lines. A legal description and maps of the parcels are on file at the Sherwood City Hall.

Section 7. The City Recorder will give notice of the election in the manner required.

Section 8. The City Recorder is authorized to submit an impartial explanatory statement for the Washington County voters' pamphlet on behalf of the City.

Section 9. The City Recorder will publish the ballot title as provided by state law.

Section 10. Under ORS 222.520 and 222.120(5), the City Council declares that upon approval of the annexation by the voters the annexed territory will be withdrawn from the County Service Districts for Vector Control, Enhanced Law Enforcement and Urban Road Maintenance effective on the date this annexation takes effect.

Section 11. If this annexation takes effect, the annexed territory will be designated Light Industrial under City zoning.

Section 12. This Resolution shall take effect immediately upon its passage by the Council and execution by the Mayor; however the annexation will take effect only after a majority vote in favor of the annexation and City Council proclamation accepting the election results

Duly passed by the City Council this 4th day of August 2009.


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, City Recorder

City of Sherwood
Staff Report for PGE Annexation:

July 24, 2009
File No: AN 09-01



Signed: _____
Michelle Miller, Associate Planner

Proposal:

I. BACKGROUND

- A. Applicant **Portland General Electric (PGE)**
 121 SW Salmon St.
 Portland OR 97205
- B. Location: Generally located north of SW Tualatin-Sherwood, east of 99W and west of SW Olds Place. Specifically known as tax lots 2S129B001800 and a portion of 2S129A001600.
- C. Review Type: City Charter requires a vote on annexation if approved by the City Council. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the August 4, 2009 City Council hearing on the proposed annexation was provided and notice was posted in five public locations around town and mailed to all property owners within 100 feet of the area to be annexed on July 10, 2009. Notice of the hearing was published in the Tigard Times on July 23 and July 30, 2009.
- E. Review Criteria: While the Oregon Revised Statutes (ORS 222) guide the process for annexations, there are no specific criteria for deciding city boundary changes with the statutes. Metro, the regional government for this area, has legislative authority to provide criteria for reviewing (Metro Code 3.09). In addition, the City of Sherwood Comprehensive Plan Growth Management policies for urbanization are applicable and will be addressed (Chapter 3, Section B.2 and F.1.b).
- F. Legislative history: The area was brought into the Sherwood Urban Growth Boundary in 2002 via Metro Ordinance 02-0986A to allow for the construction of SW Adams Avenue, a collector street and serve as an alternate route between Highway 99W and SW Tualatin-Sherwood Road. PGE owns all of the approximate 34.2 acres under consideration for the annexation and is currently used for a large substation, high voltage transmission lines, and tall transmission line towers. PGE leases the land for agricultural purposes.

These two lots are part of the Adams Avenue Concept Plan Area, a recently approved concept plan area (Ordinance No. 2009-008 A5). The primary purpose of the concept plan was to give local traffic an alternative connection between 99W and downtown Sherwood,

thereby reducing reliance on the congested intersection at 99W-SW Tualatin Sherwood and Roy Rogers. Future Adams Avenue will provide secondary access to developed property between these roadways and provide access to this undeveloped land.

- G. Site Characteristics: The flat site is approximately 34.2 acres in size on two tax lots. The site is mostly constrained by the power substation and high voltage power lines and easements, leaving approximately 6.5 acres for development. Large PGE and Bonneville Power Administration transmission towers and lines cross the area.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The following agencies were notified and either responded that they had no comment or provided not comment: Metro, ODOT, Tri-met, NW Natural Gas, DLCD, DEQ, BPA, Sherwood Public Works, Sherwood Engineering, TVF&R, Pride Disposal, PGE, Washington County, Sherwood Broadband, Tualatin Valley Water District, and Kinder Morgan.

Public:

As of the time of this staff report, no written comments have been submitted.

III. REQUIRED CRITERIA AND FINDINGS FOR ANNEXATION AND BOUNDARY CHANGE

State

Oregon revised Statute 222 guides the process for annexations. While ORS 222.125 states that the Council does not need to hold an election if 100% of the property owners and at least 50% of the registered voters within the territory to be annexed consent to the annexation, the City of Sherwood charter requires all annexations to be approved by the electors within the city. Therefore, ORS 222.160 is applicable. ORS 222.160 states that when the annexation is put to the electors, the City shall proclaim the annexation via resolution or ordinance if it receives a majority vote. Assuming the annexation is approved by the voters, a resolution proclaiming the annexation and forwarding notification to the Secretary of State, Department of Revenue and affected agencies and districts will be prepared for Council approval.

Regional Standards

There are no specific criteria for deciding city boundary changes within the Oregon statutes. However, the Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary. The applicable Metro Code Chapter is Chapter 3.09 (Local Government Boundary Changes)

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

(a) The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

(b) Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:

(1) The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;

Water: There is currently an 8 inch water line in Highway 99W and an 8 inch water line SW Tualatin -Sherwood. The Master Plan recommends upsizing the existing 8 inch in SW Tualatin Sherwood Road to a 12-inch and installing a 16-inch water line in Adams Avenue North looping this segment with the existing water system.

Sewer: Sanitary sewer can be provided from existing lines north and south of the study area. These lines drain to the Rock Creek trunk line. Although the proposed development of the concept plan does not adversely impact capacity, future development of the industrial zones in Area 48, a large urban growth boundary expansion in northeastern Sherwood, will lead to capacity issues that will need to be addressed with the eventual planning and development of Area 48.

The City is within the Clean Water Services County Service District and is served by the Durham regional treatment plant. The territory to be annexed is not currently within the District but a separate annexation request to CWS will be submitted.

Storm Drainage. Within the study area there is generally one low point. A storm drainage system will be constructed with Adams Avenue to convey runoff to this low point location at the east end of the study area near the wetland. Use of the storm drainage system installed with construction of Adams Avenue as a regional facility for the entire study area is being reviewed.

Parks and Recreation. The City of Sherwood maintains a number of developed parks and open spaces. Additionally the City maintains over 300 acres of Greenway/greenspace/natural areas. The parks and open space system is funded out of the General Fund. The City also assesses a Parks and Open Space System Development Charge on residential, commercial and industrial development. The Zoning Code identifies the requirements of the Parks and Open Space System Development Charge.

Transportation. The territory is within the boundary of the Washington County Urban Road Maintenance District. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District, on the effective date of the annexation the District's tax levy value will no longer apply.

Access to the site is currently off of a roadway on 99W. Proposed road SW Adams Avenue will traverse the site, providing a connection between SW Tualatin Sherwood Road and 99W.

Fire. The territory is within the boundary of the Tualatin Valley Fire and Rescue District, which is served by Station 33 located on SW Oregon Street. Station 35 in King City and Station 34 in Tualatin are also in close proximity. This will not change with annexation

Police. The territory is within the Washington County Enhanced Sheriff's Patrol District which, included with the basic County-wide level of protection, provides .94 officers per 1000 population. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

Upon annexation police services will be provided by the Sherwood Police Department which provides 24-hour/day protection.

Vector Control. The territory is within the County Service District for Vector Control. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5).

(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

As discussed above, upon annexation, the territory would be withdrawn from the Vector Control District, Enhanced Law Enforcement District and Urban Road Maintenance District.

(3) The proposed effective date of the boundary change.

Because of the City of Sherwood charter requirement that annexations be approved by the citizens of Sherwood, the annexation would not take effect until after voter approval at the November 9, 2009 election. The effective date of annexation will be finalized after the election and Council acceptance of the election results via resolution and filing the approval and election results with the Secretary of State, Department of Revenue, and other affected agencies.

(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.

Portland General Electric (PGE) is the property owner and has submitted an application for annexation sufficient to demonstrate compliance.

(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in Subsections (d) and (e) of Section 3.09.045.

The criteria are evaluated immediately below

Metro Criteria § 3.09.045 (d.)

1. **Find that the change is consistent with expressly applicable provisions in:**
 - (a) **any applicable urban service agreement adopted pursuant to ORS 195.065**

Under the Washington County/Sherwood Urban Planning Area Agreement (UPAA), the City was responsible for preparing the comprehensive plan and public facilities plan within the regional urban growth boundary surrounding the City limits. In the UPAA the County agreed that the CITY would be responsible for comprehensive planning within the Urban Planning Area and would be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the Urban Planning Area. The UPAA also identifies the City as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area.

FINDING: As discussed within this report, the concept plan for the area was developed consistent with the UPAA. The UPAA specifies that the City of Sherwood is the appropriate urban service provider for this area and the County will not oppose annexation. Therefore, the annexation is fully consistent with Washington County policies and agreements.

- (b) **Any applicable annexation plan adopted pursuant to ORS 195.205**

This is not applicable

- (c) **Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party**

The City is in the Clean Water Services District and this area will need to be annexed into the CWS district. The City and CWS have cooperative agreements that will not be affected by this annexation. The territory is also in the TVF&R service district which will not change upon annexation. The area is in the Washington County Enhanced Sherriff Patrol District. The area will be withdrawn from this district upon annexation; however both the City and Washington County will continue to honor the mutual aid agreements which ensure coverage of law enforcement regardless of the jurisdictional boundary. The area is also on the Urban Road Maintenance District and Vector Control. The area to be annexed will be withdrawn from these district as the City of Sherwood provides these services and the special district service will no longer be needed. Pursuant to the ORS, the cooperative agreements call for coordination of planning activities. As affected agencies, the County, CWS and TVF&R received notice of the proposed annexation and the opportunity to provide comments.

- (d) **Any applicable public facility plan adopted pursuant to a Statewide planning goal on public facilities and services; and**

City Council reviewed and adopted the Adams Avenue North Concept Plan on July 16, 2009. At that hearing the Council evaluated the Plan's consistency with the Comprehensive Plan and found that these were met.

Specifically the Sherwood Transportation Plan (TSP) indicates that the future roadway, SW Adams Avenue will connect SW Tualatin-Road and 99W together through this area. PGE plans on donating the right of way and the construction costs will be shared with a public private partnership.

(e) Any applicable comprehensive plan; and

Compliance with the local Comprehensive Plan is discussed further in this report under the "Local Standards" section.

2. Consider whether the boundary change would:

(a) Promote the timely, orderly and economic provision of public facilities and services;

As discussed previously, the annexation will enable the PGE property to develop to urban standards and in exchange for the City completing the concept plan work and processing the annexation, PGE will likely donate the land necessary to allow the construction of Adams Avenue. As such, the annexation will promote the timely, orderly and economically efficient provision of public facilities.

(b) Affect the quality and quantity of urban services; and

Currently there are no urban services provided in the territory to be annexed. There is a PGE power substation and transmission lines. The ground under the transmission lines is leased out for agricultural use. Upon annexation, the area would be able to develop to light industrial standards and public infrastructure would be provided. Therefore the annexation positively affects the quality and quantity of urban services.

(c) Eliminate or avoid unnecessary duplication of facilities or services.

The annexation is neutral to the ability to eliminate or avoid duplication of services. Currently, the property is generally undeveloped therefore; the chances of duplication of services such as law enforcement are minimal. Upon annexation the clear transfer of jurisdiction will occur, therefore there will not be any duplication of facilities or services.

C. Local Standards

The territory is within the City's Urban Planning Area as identified in Sherwood/Washington County Urban Planning Area Agreement. As such, the Comprehensive Plan goals and policies for urbanization apply. In addition, the city recently adopted the Adams Avenue Concept Plan, including amendments to the Comprehensive Plan to implement the concept plan. Ordinance

2009-009 designated the subject properties as light industrial. This zoning will be applied upon annexation of the area.

The Growth Management Chapter of the City's Comprehensive Plan contains several policy objectives

Chapter 3, section B.2

- a. **Focus growth into areas contiguous to existing development rather than "leap frogging" over developable property.**

The subject property is surrounded on all sides, except a portion of the eastern side of the area to be annexed, by property already in the City limits.

- b. **Encourage development within the present city limits, especially on large passed-over parcels that are available.**

The area was brought into the UGB by Metro in 2002 for the primary purpose of providing for the Adams Avenue extension. The decision to annex the property provides for additional development opportunities within the City; however this is a secondary factor to why the area was proposed for urbanization.

- c. **Encourage annexation inside the UGB where services are available.**

The area to be annexed is in the UGB and services are available to be extended into the area.

- d. **When designating urban growth areas, consider lands with poorer agricultural soils before prime agricultural lands.**

This is now a criterion that Metro must consider in its decision to expand the UGB. Any land's brought into the UGB have already undergone extensive weighing of the need and ultimately the decisions were made that allowing the area to be urbanized outweighs the need to preserve the agricultural land.

- e. **Achieve the maximum preservation of natural features.**

This standard is not applicable to this proposal as there are minimal natural features within the area to be annexed. There is a small wetland in to the northeast; however it is not expected to be impacted by development of this area. There are very few trees on the site and preservation will be encouraged as part of any site plan reviews.

- f. **Provide proper access and traffic circulation to all new development.**

This area will allow for the better provision of access and traffic circulation by allowing the extension of Adams Avenue to occur.

- g. Establish policies for the orderly extension of community services and public facilities to areas where new growth is to be encouraged, consistent with the ability of the community to provide necessary services. New public facilities should be available in conjunction with urbanization in order to meet future needs. The City, Washington County, and special service districts should cooperate in the development of a capital improvements program in areas of mutual concern. Lands within the urban growth boundary shall be available for urban development concurrent with the provision of the key urban facilities and services.**

This is a goal that is achieved through the concept planning and public facility planning for new urban areas. This was done concurrent with the Adams Avenue Concept Plan.

- h. Provide for phased and orderly transition from rural to suburban or urban uses.**

The concept plan that was developed to ensure that the urbanization of this area was orderly and met the needs of the community; therefore the annexation of the area is also consistent with the policies outlined above.

The Growth Management chapter of the Comprehensive Plan also contains the following City Limits Policies

Chapter 3 section F.1.b

Policy 5 Changes in the City limits may be proposed by the City, County, special districts or individuals in conformance with City policies and procedures for the review of annexation requests and County procedures for amendment of its comprehensive plan.

The proposed annexation was requested by the property owner, Portland General Electric.

Policy 6 provides guidelines for the UPAA consideration and is not directly relevant to the annexation proposal since the UPAA already exists.

Policy 7 All new development must have access to adequate urban public sewer and water service.

As discussed previously, the subject area will have access to public sewer and water via the extension of Adams Avenue through the site. Services have adequate capacity to service the area.

Policy 8 through 10 are not relevant to the annexation proposal.

IV. RECOMMENDATION

Based on the analysis and findings in this report Staff recommends Proposal No. AN 09-01 be **approved** subject to the required election of the City of Sherwood registered voters. It is further recommended that if the annexation is approved by the voters, the area be withdrawn from the Vector Control District, the Enhanced Law Enforcement District and the Urban Roads Maintenance District.

V. EXHIBITS

- A. Legal description of area to be annexed
- B. Vicinity map of are to be annexed



**Harper
Houf Peterson
Righellis Inc.**

ENGINEERS ♦ PLANNERS
LANDSCAPE ARCHITECTS ♦ SURVEYORS

ANNEXATION CERTIFIED

BY *Del A. Kaff*

MAY 21 2009

EXHIBIT A

April 30, 2009

LIMITS OF CONCEPT PLAN

**WASHINGTON COUNTY A & T
CARTOGRAPHY**

Being a portion of that property described in that Warranty Deed to Portland General Electric, recorded May 11, 1966, in Book 600 Page 55, Washington County Deed Records, located in the Northwest and the Northeast One Quarters of Section 29, Township 2 South, Range 1 West of the Willamette Meridian, Washington County, Oregon being more particularly described as follows:

Beginning at the most northerly northwest corner of Parcel 1 of Partition Plat 2003-025, Washington County Plat Records also being a point on the south line of Parcel 1 of Partition Plat 2002-027, Washington County Plat Records and also being the northeast corner of Tract A of Partition Plat 2001-048, Washington County Plat Records;

Thence S88°27'45"E, along the north line of Parcel 1 of said Partition Plat 2003-025, 660.10 feet to the Metro Urban Growth Boundary established by Ordinance 02-986A;

Thence S01°19'34"W, along said Metro Urban Growth Boundary, 659.85 feet to the northwest corner of Tract A of the Plat of "Sherwood Commercial Center", Document Number 2007023715, Washington County Plat Records;

Thence S01°19'34"W, along the west line of said Plat of "Sherwood Commercial Center", 760.65 feet to the northeast corner of Parcel 2 of Partition Plat 1999-085, Washington County Plat Records;

Thence N88°29'47"W, along the north line of Parcel 2 of said Partition Plat 1999-085, 660.81 feet to the northwest corner thereof also being a point on the east line of that Statutory Bargain and Sale Deed recorded as Document Number 2005-063362, Washington County Deed Records;

Thence N01°21'17"E, along the east line of said Document Number 2005-063362, 107.77 feet to the northeast corner thereof;

Thence N88°33'54"W, along the north line of said Document Number 2005-063362, 432.93 feet the most easterly northeast corner of Parcel 2 of Partition Plat 1994-013, Washington County Plat Records;

Thence N50°36'13"W, along the northerly line of Parcel 2 of said Partition Plat 1994-013, 438.74 feet the southeast corner of Parcel 2 of said Partition Plat 2003-025;

Thence N39°27'48"E, along the east line of Parcel 2 of said Partition Plat 2003-025, 1,235.58 feet to the northeast corner thereof also being a point on the south line of Tract A of said Partition Plat 2001-048;

Thence S88°27'45"E, along the south line of Tract A of said Partition Plat 2001-048, 15.92 feet to the southeast corner thereof;

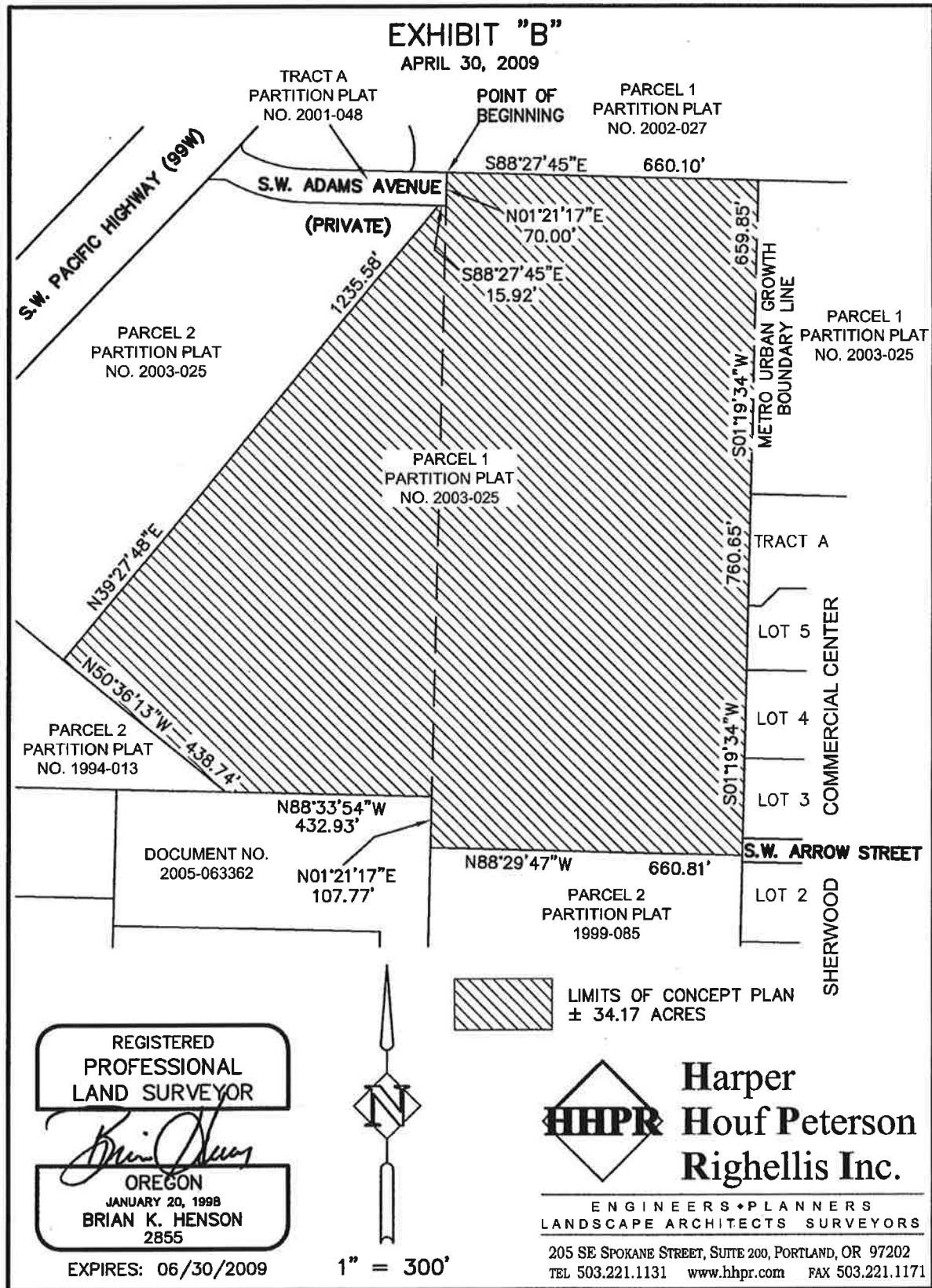
Thence N01°21'17"E, along the east line of Tract A of said Partition Plat 2001-048, 70.00 feet to the northeast corner thereof and the Point of Beginning.

Containing 34.17 acres more or less.

The Basis of bearings for this legal description is the Oregon Coordinate System, North Zone, North American Datum 83 (91).



EXP 6-30-09



KATE BROWN
SECRETARY OF STATE

BARRY PACK
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 4, 2010

RECEIVED

FEB - 9 2010

CITY OF SHERWOOD
RECORDER'S OFFICE

COMPLETED
[Signature]

Metro
Linda Martin
600 NE Grand Ave
Portland, Oregon 97232-2736

Dear Ms. Martin:

Please be advised that we have received and filed, as of February 4, 2010, the following records annexing territory to the following:

Ordinance/Resolution Number(s)	Our File Number
<i>copy w/ resolution</i> 2009-064,066,084 [Sherwood]	AN 2010-0013
10-2 [Clean Water Services District]	SD 2010-0010

For your records please verify the effective date through the application of ORS 199.519.

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

Sincerely,

Linda Bjornstad

Linda Bjornstad
Official Public Documents

cc: County Clerk(s)
Department of Revenue
ODOT
Population Research Center