

**ORDINANCE NO. 2624**

**AN ORDINANCE ANNEXING TO THE CITY OF LAKE OSWEGO ONE 0.27 ACRE PARCEL (A VACANT PARCEL LOCATED ON INDIAN SPRING ROAD; 21E19AA 09700) AND A PORTION OF THE PUBLIC RIGHT-OF-WAY DECLARING CITY OF LAKE OSWEGO ZONING AND RC OVERLAY DISTRICT PURSUANT TO LOC 50.01.004.5(a-c); AND REMOVING THE PARCEL FROM CERTAIN DISTRICTS (AN 13-0003).**

WHEREAS, annexation to the City of Lake Oswego of the territory shown in the map in Attachment "A" and described below, would constitute a contiguous boundary change under ORS 222.111, initiated by petition from the property owner as outlined in ORS 222.111(2); and,

WHEREAS, the City has received consent for the proposed annexation from 100 percent of the owners of land within the territory and there are no registered electors in the territory; and,

WHEREAS, the part of the territory that lies within the Lake Grove Fire District #57 will, by operation of ORS 222.520, be withdrawn from that district immediately upon approval of the annexation; and,

WHEREAS, the part of the territory that lies within the Clackamas County Enhanced Sheriff's Patrol District will, by operation of ORS 222.520, be withdrawn from the district upon approval of the annexation; and,

WHEREAS, the part of the territory that lies within the Surface Water Management Agency of Clackamas County SWMACC will, by operation of ORS 222.520, be withdrawn from the district upon approval of the annexation; and,

WHEREAS, LOC 50.01.004.5 specifies that, where the Comprehensive Plan Map requires a specific Zoning Map designation to be placed on the territory annexed to the City, such a zoning designation shall automatically be imposed on the territory as of the effective date of the annexation; and,

WHEREAS, this annexation is consistent with Chapter 14 (Urbanization) of the City of Lake Oswego's acknowledged Comprehensive Plan, Oregon Revised Statutes 222.111(2); 222.125; and 222.170 for boundary changes, and Metro Code Sections 3.09.050(b) and (d).

**Now, therefore, the City of Lake Oswego ordains as follows:**

Section 1. The real property described as follows is hereby annexed to the City of Lake Oswego:

A tract of land located in the northeast quarter of Section 19, Township 2 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon; more particularly described as follows:

All of Lot 25, Block 1, Plat of Indian Wells No. 2 (Plat # 1264), plat records of Clackamas County, Oregon.

**TOGETHER WITH** a segment of Indian Spring Road (50 feet wide) approximately 10 feet in length; cut off on the north by the westerly projection of the north line of said Lot 25 and cut off on the south by the easterly projection of the north line of Lot 1, Block 3, Plat of Indian Wells No. 2.

Section 2. The annexed area lies within the following districts and shall be retained within these districts upon the effective date of annexation:

Lake Grove Park District

Section 3. The annexed area (Tax Lot 1900 21E04BD) lies within the following districts and shall be withdrawn from these districts upon the effective date of annexation:

Lake Grove Fire District #57  
Clackamas County Enhanced Sheriff's Patrol District  
Surface Water Management Agency of Clackamas County

Section 4. In accordance with LOC 50.01.004.5, the City zoning designation of R-10 and the Resource Conservation (RC) Overlay District shall be applied to the property as shown on Attachments A and B.

Section 5. The City Council hereby adopts Exhibit A-1 to the staff report as the findings of facts and conclusions in support of this annexation ordinance.

Section 6. Effective Dates

a. Effective Date of Decision to Annex. Pursuant to Metro Code 3.09.050(f), the effective date of this annexation decision shall be immediately upon adoption, unless a governmental entity that qualifies as a "necessary party" under Metro Code 3.09.020(j) has contested this annexation, in which event this annexation decision shall be effective on the 10<sup>th</sup> day following the mailing of this ordinance by the City Recorder to Metro and to all necessary parties who appeared in this proceeding.

b. Effective Date of Annexation Ordinance. Pursuant to Lake Oswego City Charter, Section 34, this ordinance shall be effective on the 30<sup>th</sup> day after its enactment.

c. Effective Date of Annexation. Following the filing of the annexation records with the Secretary of State as required by ORS 222.177, this annexation shall be effective upon the later of either:

1. the 30<sup>th</sup> day following the date of adoption of this ordinance; or
2. the date of filing of the annexation records with the Secretary of State.

Provided, however, that pursuant to ORS 222.040(2), if the effective date of the annexation as established above is a date that is within 90 days of a biennial primary or general election or after the deadline for filing notice of election before any other election held by any city, district or other municipal corporation involved in the area to be annexed, then the effective date of the annexation shall be delayed until, and the annexation shall become effective on, the day after the election.

Section 8. Mailing Copies of this Ordinance; Metro Notice.

Within 30 days following the date of adoption:

a. The City Recorder shall mail a copy of this ordinance to all persons and governmental entities that appeared at the public hearing and requested a copy of the ordinance following adoption.

b. The City Recorder shall mail a copy of this ordinance together with the applicable mapping and notice fee charged by Metro pursuant to Metro Code 3.09.110, to the Metro Data Resource Center, 600 NE Grand Ave., Portland, OR 97232.

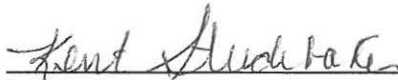
Read by title only and enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 16<sup>th</sup> day of July, 2013.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Jordan, Kehoe, O'Neill

NOES: None

ABSTAIN: None

EXCUSED: None

  
\_\_\_\_\_  
Kent Studebaker, Mayor

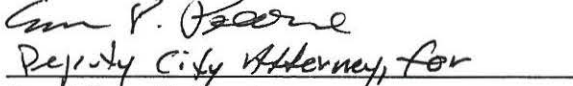
7/16/13  
\_\_\_\_\_  
Dated:

ATTEST:



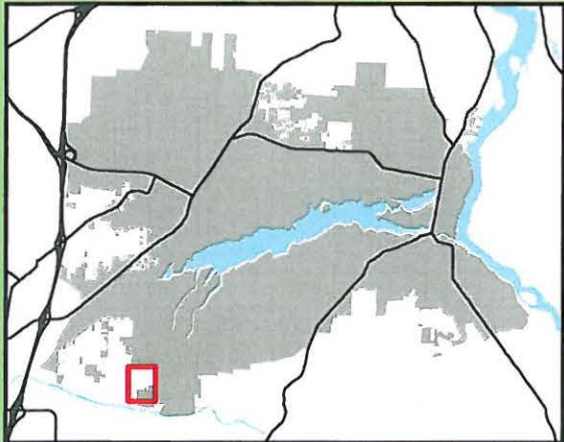
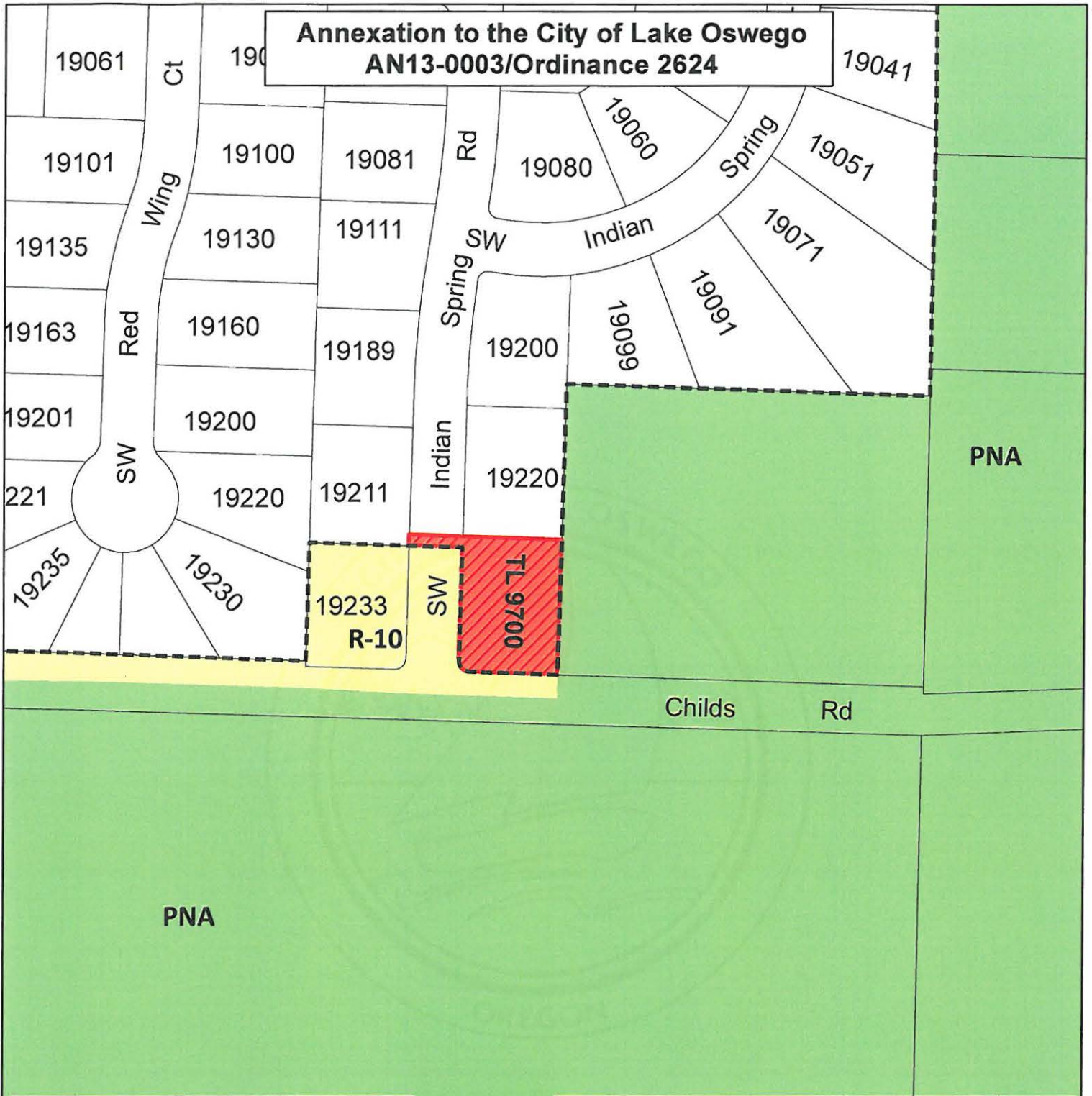
Catherine Schneider, City Recorder

APPROVED AS TO FORM:



Reputy City Attorney, for  
David Powell, City Attorney

**Annexation to the City of Lake Oswego  
AN13-0003/Ordinance 2624**



**Attachment A**

Map and Lot # 21E19AA TL 9700  
 City of Lake Oswego:  
 COMPREHENSIVE PLAN = R-10, Residential  
 ZONING = R-10, Residential

Clackamas County:  
 ZONING = R-10, Residential

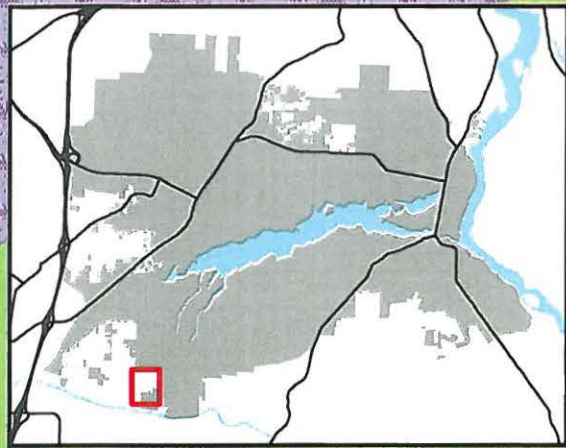
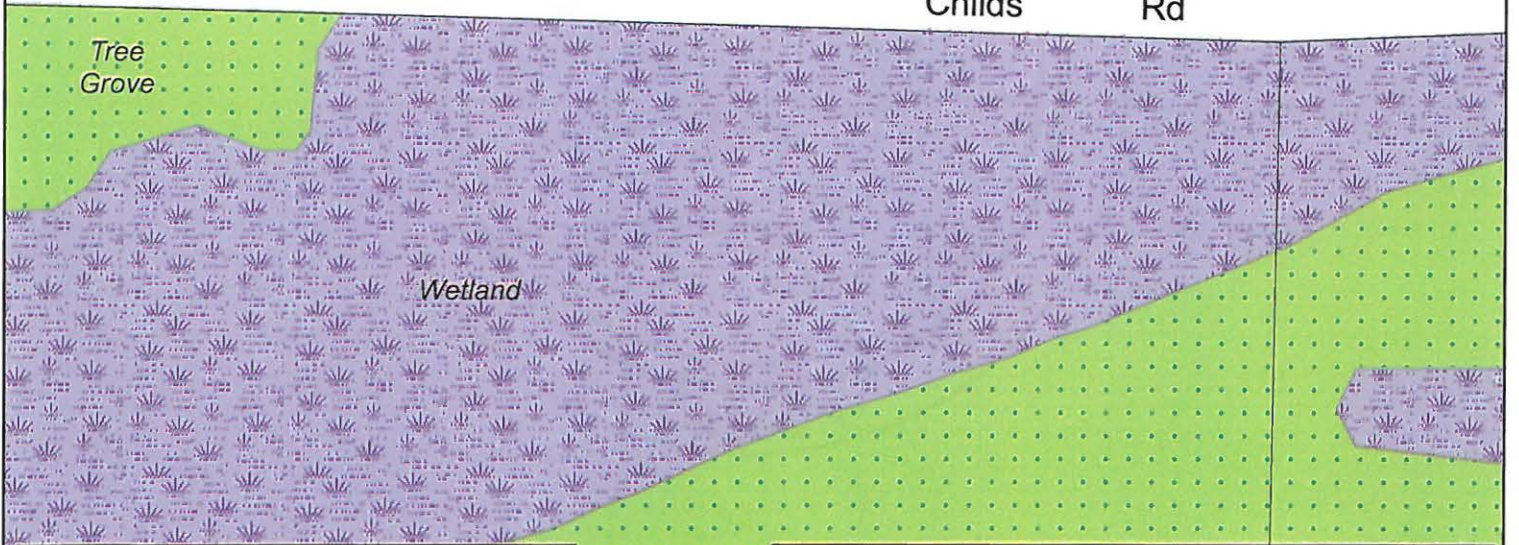
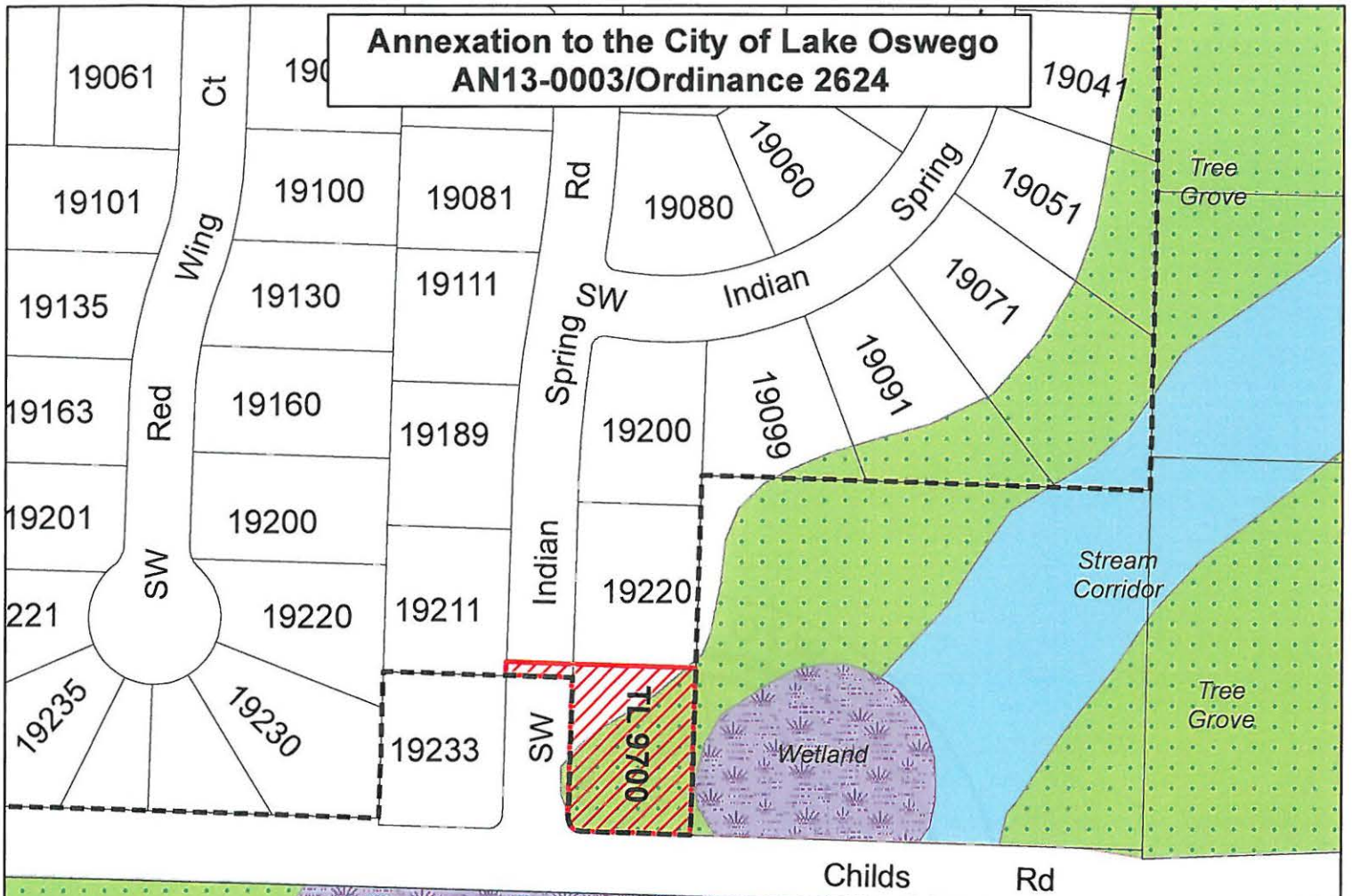
Lake Oswego City Limits      Subject Property

0      100      200      300 Feet

N

06/12/13

**Annexation to the City of Lake Oswego  
AN13-0003/Ordinance 2624**



**Attachment B**

Map and Lot # 21E19AA TL 9700



- |  |                       |  |                         |
|--|-----------------------|--|-------------------------|
|  | Stream Corridor       |  | Wetland                 |
|  | Stream Corridor Delin |  | Wetland Delin           |
|  | Tree Grove            |  | Lake Oswego City Limits |
|  | Tree Grove Delin      |  | Subject Property        |



## Exhibit A-1

### Criteria, Findings, Conclusion, and Effective Date

#### APPLICABLE CRITERIA:

- A. Oregon Revised Statutes (ORS), Boundary Changes; Mergers and Consolidations.
  - 1. ORS 222.111(2) - Annexation of Contiguous Territory, Authority and Procedure for Annexation, Generally.
  - 2. ORS 222.125 - Annexation by consent of all owners of land and the majority of electors.
  - 3. ORS 222.170 - Annexation by consent of more than half of the owners of land in the territory to be annexed, who also own more than half of the land in the territory.
- B. Metro Code
  - 1. 3.09.040(a)(1-4) Minimum Requirements for Petitions.
  - 2. 3.09.050 Uniform Hearing Requirements for Final Decisions Subsections (b)(1-3) and (d).

#### FINDINGS:

##### **A. Oregon Revised Statutes (ORS), Boundary Changes; Mergers and Consolidations.**

##### **1. ORS 222.111(2) Annexation of Contiguous Territory, Authority and Procedure for Annexation, Generally.**

ORS 222.111(2) provides that 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. The property owners have petitioned the City for this annexation.

##### **2. ORS 222.125 - Annexation by consent of all owners of land and the majority of electors.**

ORS 222.125 states that an election need not be held on the question of annexation within the area proposed to be annexed if all of the owners of land in the territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation. The property owners have signed the annexation application. There are no registered voters on the property. One hundred percent of the property owners have consented to this annexation.

##### **3. ORS 222.170 - Annexation by consent of more than half of the owners of land in the territory to be annexed, who also own more than half of the land in the territory.**

ORS 222.170 states that an election need not be held on the question of annexation within the area proposed to be annexed if not less than 50 percent of the owners of land residing on the property consent in writing to the annexation. These owners must also own more than half of the land in the territory to be annexed. The property owners have consented to the annexation on the annexation petition (On File). The proposed annexation complies with these statutes.

**B. Metro Code**

**1. 3.09.040 - Minimum Requirements for Petitions.**

- (a) A petition for a boundary change shall be deemed complete if it includes the following information:
- 1) The jurisdiction of the approving entity to act on the petition;
  - 2) A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
  - 3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and,
  - 4) For boundary changes under ORS 198.855 (3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.

The above information was submitted as required by Metro Code. The property owners have signed the application and petition. A map and legal description have been included in the application materials and are on file. The applicants own the private property to be annexed and have consented to the annexation on the annexation petition. The proposed annexation complies with the code requirements.

**2. 3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions.**

- (b) Not later than 15 days prior to the date set for a boundary change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, that includes at a minimum, the following:
- (1) The extent to which urban services presently are available to serve the affected territory including any extra-territorial extensions of service.

The property is located within the Urban Growth Boundary and the City's Urban Services Boundary. Metro Code section 3.09.020 defines urban services as including sanitary sewer, water, fire protection, parks, open space, recreation, streets, roads and mass transit.

Water: Water is available from six-inch River Grove Water District lines in Childs Road and Indian Spring Road. A fire hydrant is located on Indian Spring Road along the site frontage.

Sewer: Sanitary sewer service is available from a City of Lake Oswego eight-inch collection line in the section of Indian Spring Road abutting the property.

Surface Water Management: Surface runoff may be characterized as sheet flow in a general south-to-southeasterly direction, where it is intercepted by a shallow ditch along the north side of Childs Road and then flows into Bryant Woods Nature Park to the east. Upon annexation, the territory will be subject to the City's storm water management regulations.

Fire: Lake Grove Fire District #57 provides fire protection services to the property by agreement with the City of Lake Oswego. Upon annexation, the property will be withdrawn from this fire district and will be served directly by the City. The Jean Road Fire Station, located north of the site, would be able to respond to emergencies under the eight minute goal established in the Comprehensive Plan.

Police: The property is currently served by the Clackamas County Sheriff's Department.

Upon annexation, it will be withdrawn from the Clackamas County Enhanced Sheriff's Patrol District and will be served by the City of Lake Oswego. The police department has reviewed the proposal and indicated that they would not have any concerns serving this property upon annexation.

Parks: The City has 537 acres of park and open space lands, or 14.6 acres per 1,000 population. The nearest parks to this property are Canal Acres/Bryant Woods Natural Park and Pilkington Park. Canal Acres is 31 acres and located on the north and south sides of Childs Road in the vicinity of the site. Because this is a natural park there are no amenities for organized recreation activities. Pilkington Park is a 3.7 acre neighborhood park and provides drop in play fields, a walking path and a picnic table. The city's park system will not be overburdened by any additional population annexed to the city with this application.

Lake Grove Park District: The Lake Grove Swim Park, managed by the Lake Oswego School District, is located at 3800 Lakeview Boulevard. The swim park is approximately 1.3 acres in size with rest room, play and swim facilities. This property will remain within the Lake Grove Park District following annexation.

Transportation - Streets and Mass Transit: Childs Road is designated as a two-lane major collector in the City's road classification system. Access is not permitted on Childs Road if a property has frontage on a street of a lesser functional classification. Along this site's frontage on Childs Road, there is a widened asphalt area adjacent to the travel lane. This widening is consistent with the City's Transportation System Plan that calls for a pedestrian pathway on Childs Road. The widened area terminates at the site's east property line. Indian Spring Road is a curbed local street and has no sidewalks. Any future vehicular access to this parcel will be required to be taken from Indian Spring Road.

The Childs Road right-of-way and street maintenance along the site frontage is under the jurisdiction of the City of Lake Oswego. The Indian Spring right-of-way and street maintenance along the site frontage is under the jurisdiction of the City of Lake Oswego; however, there appears to be a short segment (approximately 10') at the north end of the property that is currently under the jurisdiction of Clackamas County. The right-of-way for the subject segment of road will fall under the City's jurisdiction upon annexation; however, the road maintenance jurisdiction will be transferred to the City upon completing the road transfer process with the County.

Tri Met Line 36 provides service on Pilkington Road to the transfer station in the City of Tualatin.

**(2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties.**

The City has entered into four ORS 195.065 agreements with: 1) Clackamas County (for roadways); 2) Lake Oswego School District; 3) Lake Grove Fire District; and, 4) the Southwood Park Water District. Two of these agreements are applicable to this proposal.

Lake Oswego School District: The City and the Lake Oswego School District entered into an

ORS 195.065 urban service agreement for park services in July, 2003. The School District operates the Lake Grove Swim Park located at 3800 Lakeview Boulevard. The agreement states that the annexation of property by the City within the Lake Grove Park District shall not cause the withdrawal of the property from the district.

Lake Grove Fire District #57: The City and District entered into an ORS 195.065 urban service agreement for fire protection in July 2003. The agreement states that upon annexation of property within the district by the city, the annexed property shall be withdrawn from the District and the City shall provide fire protection services.

**(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;**

Consistency of the proposed boundary change with comprehensive plan policies is discussed in section (d)(3), below.

The City's Public Facilities Plan does not identify any sanitary service, water, or storm water projects in this area that would affect the subject property.

There are no regional framework plans or regional urban growth goals or objectives that are directly applicable to this annexation.

Compliance with urban planning agreements and other agreements with necessary parties is discussed in section (d)(2), below.

**(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party.**

ORS 222.520 authorizes the City to withdraw the property from the Lake Grove Fire District #57, the Clackamas County Enhanced Sheriff's Patrol District and the Surface Water Management Agency of Clackamas County. Upon approval of the annexation, the ordinance will withdraw the property from these service districts.

**(5) The proposed effective date of the decision.**

The proposed effective date of the decision is outlined in the final section of this report.

**(c) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:**

**(1) Consistency with directly applicable provisions in an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065.**

ORS 195.065 agreements are discussed above under Metro Code Section 3.09.050(b)(2).

**(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.**

The Metro Code defines necessary party as "a county, city or district whose jurisdictional boundary or adopted urban service area includes any part of the affected property, or who provides any urban service to any portion of the affected." The list of necessary parties for the proposed annexation includes:

- Clackamas County

- Clackamas County Enhanced Sheriff's Patrol District
- Lake Grove Fire District #57
- Lake Grove Park District
- Tri-County Metropolitan Transportation District

The only agreement with directly applicable provisions is the City's Urban Growth Management Agreement with Clackamas County:

Clackamas County Urban Growth Management Agreement/City of Lake Oswego: The City currently has an urban planning agreement with Clackamas County. This agreement ensures coordination and consistency between the City and County comprehensive plans and outlines responsibilities in providing services and managing growth within the Dual Interest Area. Subsections 6 and 7, provided below, are applicable to annexations.

*"6. City and County Notice and Coordination:  
The City shall provide notification to the County, and an opportunity to participate, review and comment, at least 35 days prior to the first public hearing on all proposed public facilities plans, legislative changes to the City Comprehensive Plan, or quasi-judicial land use actions adjacent to, or in close proximity to unincorporated areas. The City shall provide notice to the County of private or City initiated annexation requests within five days of the filing of an application with the Portland Metropolitan Boundary Commission."*

The Urban Growth Management Agreement specifies that the City notify the County of an annexation request within five days of when it is submitted to the Boundary Commission. There is no longer a Boundary Commission for the Portland Metropolitan area. Staff relies on the notice requirements of Metro Code 3.09.030, which requires notice 20 days prior to the scheduled hearing for an annexation for all necessary parties (other governmental entities), unless a shorter time is agreed upon. The County is a necessary party under the Metro Code definition and has been notified.

*"7. City Annexations  
A. The City may undertake annexations in the manner provided for by law within the Dual Interest Area. The City annexation proposals shall include adjacent road right-of-way to property proposed for annexation. The County shall not oppose such annexations.  
B. Upon annexation, the City shall assume jurisdiction of the County roads and local access roads pursuant to a separate road transfer agreement between the City and county."*

The City is undertaking this annexation in the manner provided for in the applicable ORS and Metro Code for the territories that lie within the Dual Interest Area. The City and County entered into an Urban Growth Management Agreement in 1997 which stipulates a mutual interest in coordinated land use planning, compatible comprehensive plans and provision of urban services and facilities. This annexation will be consistent with the City and County comprehensive plans which will be coordinated in the Dual Interest Area within the regional Urban Growth Boundary (UGB).

The separate road agreement referenced in 7(B) is now expired. This parcel takes direct access from Indian Spring Road, which is being annexed as a part of this proposal.

**(3) Consistency with specific directly applicable standards or criteria for boundary**

**changes contained in the comprehensive land use plans and public facility plans.**

Comprehensive Plan Map: The subject property is currently designated R-10, Low Density Residential on Clackamas County's Comprehensive Plan and Zoning Maps, with a zone of R-10. The property is designated as Low Density Residential R-10 on the City's Comprehensive Plan Map. Upon annexation, a City zoning designation of R-10 will be applied to this parcel.

The City and County have coordinated their comprehensive plans within the Dual Interest Area outlined in the City/County Urban Growth Management Agreement (dated February 4, 1992 and updated November 18, 1997), hence the City/County designations have been determined to be compatible. Therefore, this annexation is compatible with the City's Comprehensive Plan Map.

Comprehensive Plan Policies: The relevant Comprehensive Plan policies are addressed below:

*Goal 14, Urbanization - Policy 10: The Urban Services Boundary is Lake Oswego's ultimate growth area within which the City shall be the eventual provider of the full range of urban services.*

The property to be annexed is within the City's Urban Services Boundary as outlined in the Comprehensive Plan. City services are available or can be made available to the property. The annexation of this property is consistent with this policy.

*Goal 14, Urbanization - Policy 13: Ensure that annexation of new territory or expansion of Lake Oswego's Urban Service Boundary does not:*

- a) Detract from the City's ability to provide services to existing City residents;*
- b) Result in property owners paying for urban services which do not benefit their property:*

The approval of this annexation will result in the addition of 0.27 acres to be served by the City.

As stated in Section 2(b)(1), the addition of this territory will not detract from the City's ability to provide police and fire protection to existing City residents. Annexation of this property will not affect the City's ability to provide parks and recreation services. Public facilities such as sewer and water are also found to be adequate to serve this site.

In regard to subsection b) of Policy 13, the policy ensures that existing City property owners do not subsidize newly annexed areas in the provision of urban services. The City has established systems development charges, and imposes rates that result in payment by users for different City services such as sewer, water, surface water, parks and recreation, and transportation systems. Therefore, existing City property owners will not pay for urban services that do not benefit their property.

*Goal 14, Urbanization - Policy 14: Prior to the annexation of non-island property, the City shall ensure urban services are available and adequate to serve the subject property or will be made available in a timely manner by the City or a developer commensurate with the scale of the proposed development. Urban services consist of water, sanitary sewer, surface water management, police and fire protection, parks, and transportation including: streets, transit, pedestrian and bicycle facilities.*

Community Development Code Section 50.06.008.3 requires that all development be

provided with the following utility services: sanitary sewer, water, sidewalks, pedestrian and bicycle paths, traffic control signs and devices, street lights, streets, and TV cable. These utilities are now in place or can be put in place to serve this property.

In the event that future development occurs, an applicant for development is obligated to construct all necessary public facilities to serve their development.

As noted above, police and fire services are available upon annexation. The amount of protection provided will be similar to protection provided to other City residents because the property proposed to be annexed is not isolated from other areas of the City.

**(4) Consistency with specific standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan.**

There are no Regional Framework Plan or Functional Plan criteria or standards applicable to this annexation.

**(5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services.**

Due to the proximity of the property to existing City services, this annexation will promote the timely, orderly and economical extension of public facilities and services. If and when additional development occurs in the area, provision of public facilities and services will occur.

**CONCLUSION:**

Based on the criteria and findings set forth above, the City Council concludes that AN 13-0003 complies with all applicable criteria and should be annexed to the City.

**EFFECTIVE DATE:**

A. Effective Date of Annexation Ordinance. Pursuant to Lake Oswego City Charter, Section 34, the ordinance shall be effective on the 30<sup>th</sup> day after its enactment.

B. Effective Date of Annexation. Following the filing of the annexation records with the Secretary of State as required by ORS 222.177, this annexation shall be effective upon the later of:

1. the 30<sup>th</sup> day following the date of adoption of this ordinance; or
2. the date of filing of the annexation records with the Secretary of State;

provided however that pursuant to ORS 222.040(2), if the effective date of the annexation as established above is a date that is within 90 days of a biennial primary or general election or after the deadline for filing notice of election before any other election held by any City, district or other municipal corporation involved in the area to be annexed, then the effective date of the annexation shall be delayed until, and the annexation shall become effective on, the day after the election.