

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 03-057

Approving Annexation of Territory to the Dunthorpe-Riverdale Sanitary Service District No. 1

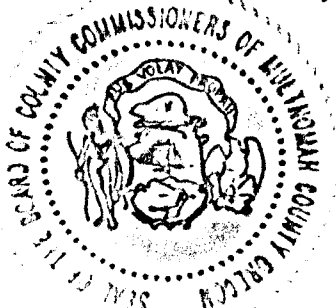
The Multnomah County Board of Commissioners Finds:

- a. A request for annexation was received pursuant to procedures set forth in ORS Chapter 198 and Metro Code 3.09.
- b. Notice of this hearing was provided as required under ORS Chapter 198.
- c. The annexation was endorsed by the Board of the District as required by ORS 198.850 (1) prior to this hearing.
- d. A report which addressed factors mandated in the Metro Code and ORS 198 was presented to the Board 15 days prior to the hearing as required by the Metro Code.
- e. A public hearing was held before the Board of County Commissioners on April 24, 2003 to determine whether the boundary change was appropriate as required by ORS 198 and whether it met the criteria laid out in the Metro Code.

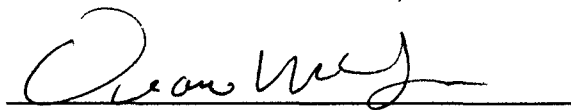
The Multnomah County Board of Commissioners Orders:

1. On the basis of the Findings and Conclusions listed in Exhibit "A", Proposal No. MU-0203 is approved and effective April 24, 2003.
2. The territory described in Exhibit "B" and depicted on the attached map, is annexed to Dunthorpe-Riverdale Sanitary Service District No. 1.
3. Staff is directed to file this document with the required parties.

ADOPTED this 24th day of April, 2003.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, ACTING COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

**PROPOSED ANNEXATION TO DUNTHORPE-RIVERDALE SANITARY SERVICE DISTRICT
REPORT AS REQUIRED UNDER METRO CODE SECTION 3.09.050**

FINDINGS

The Multnomah County Board finds that:

1. The territory to be annexed contains 2.11 acres, one single family dwelling, a population of 2 and is evaluated at \$943,320.
2. The property owner desires sanitary sewer service to replace a failed septic system.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”
4. Under Metro Code Section 3.09.050(d), a final decision shall be based on substantial evidence in the record of the hearing and the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven criteria:
 - (1) Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans.
 - (2) Consistency with directly applicable provisions of *urban planning area agreements* between the annexing entity and a necessary party.
 - (3) Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
 - (4) Consistency with directly applicable standards for boundary changes contained in the Regional framework plan or any functional plans.
 - (5) Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
 - (6) If the boundary change is to Metro, determination by Metro Council that the territory should be inside the UGB shall be the primary criteria.
 - (7) Consistency with other applicable criteria for the boundary change in question under state and local law.

The remaining findings address the above-listed criteria to this proposal.

5. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The Regional Framework Plan, the Regional Growth Management Functional Plan and the Regional Transportation Plan were examined as

required by Criteria (4) above. None of these plans were found to contain criteria for deciding boundary changes for sanitary sewer districts.

6. The applicable plan here is the Multnomah County Comprehensive Plan. That plan identifies this area as Urban.

Policy 37, Utilities, of the Multnomah County Comprehensive Plan says:

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. A proposed use can be connected to a public sewer and water system, both of which have adequate capacity;

The territory is zoned R-20 which allows single family dwellings on 20,000 square foot lots. The property is composed of four tax lots only two of which are large enough for development. The existing single family dwelling is on the northernmost of those two lots. The southernmost of those two lots contains 1.13 acres. No development of this lot is proposed.

7. LCDC required each jurisdiction requesting acknowledgement of their plan to include in the plan a written statement " . . . setting forth the means by which a plan for management of the unincorporated area within the urban growth boundary will be implemented and by which the urban growth boundary may be modified." This takes the form of urban planning area agreements (UPAA's) between each city and county.

The territory to be annexed to the Dunthorpe-Riverdale Sanitary Service District No. 1 is covered by Urban Planning Area Agreement between Multnomah County and the City of Portland. The agreement acknowledges that areas covered by the agreement can and should ultimately be provided with a full range of services by the City of Portland and that this should be accomplished through annexation to the City. However this territory is not currently contiguous to the City.

8. The City of Portland has established an Urban Services Boundary which has also been adopted as the Urban Planning Area Agreement boundary. The City's Urban Services Policy acknowledges the City's ultimate primacy as service provider but also calls on the City to coordinate with other urban service providers within the urban services area prior to the ultimate timely annexation of the area.
9. This statute requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but there are no urban service agreements in place in this part of Multnomah County to date.
10. The Dunthorpe-Riverdale Sanitary Service District No. 1 is separate governmental entity which has as its board of the directors the County Commissioners. The District provides collector sanitary sewer service in the Dunthorpe-Riverdale portion of the County.

Through an agreement with the City of Portland, sewage from the District is treated at the City's Tryon Creek regional sewage treatment plant. While previously staffed and run by County employees, the District is now maintained by the City of Portland through a contract. The District has an 8 inch sewer line along the upper edge of the territory to be annexed. Service to territory can be provided by an individual private pump which is allowed by DEQ.

The Dunthorpe-Riverdale Sanitary Service District purchased capacity for the District's use from the Tryon Creek plant by means of a tax levy and general obligation bonds. This capacity was reserved for those properties within the original District. The City of Portland has agreed to sell the District additional units of capacity for newly annexed areas.

11. The territory receives water service from the Palatine Hill Water District.
12. The territory is within the Multnomah County Rural Fire Protection District #11 (also known as Dunthorpe-Riverdale RFPD #60). This District provides fire protection services via a contract with the City of Lake Oswego.
13. The site is served generally by Multnomah County.
14. The Riverdale School District services this area and it is within the Portland Community College District. The jurisdictional boundaries of Tri-Met, Metro and the Port of Portland also cover the territory.
15. Other services are provided generally by Multnomah.

CONCLUSIONS

Based on the above findings, the Multnomah County Board concluded that:

1. The Metro Code at 3.09.050(d)(4) calls for consistency between the Board decision and any "specifically directly applicable standards or criteria for boundary changes contained in . . . Regional Framework Plan or any functional plan . . ."

There are no directly applicable criteria in Metro's two adopted functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan.

All other elements of the Regional Framework Plan were examined and found not to contain any directly applicable standards and criteria for boundary changes.

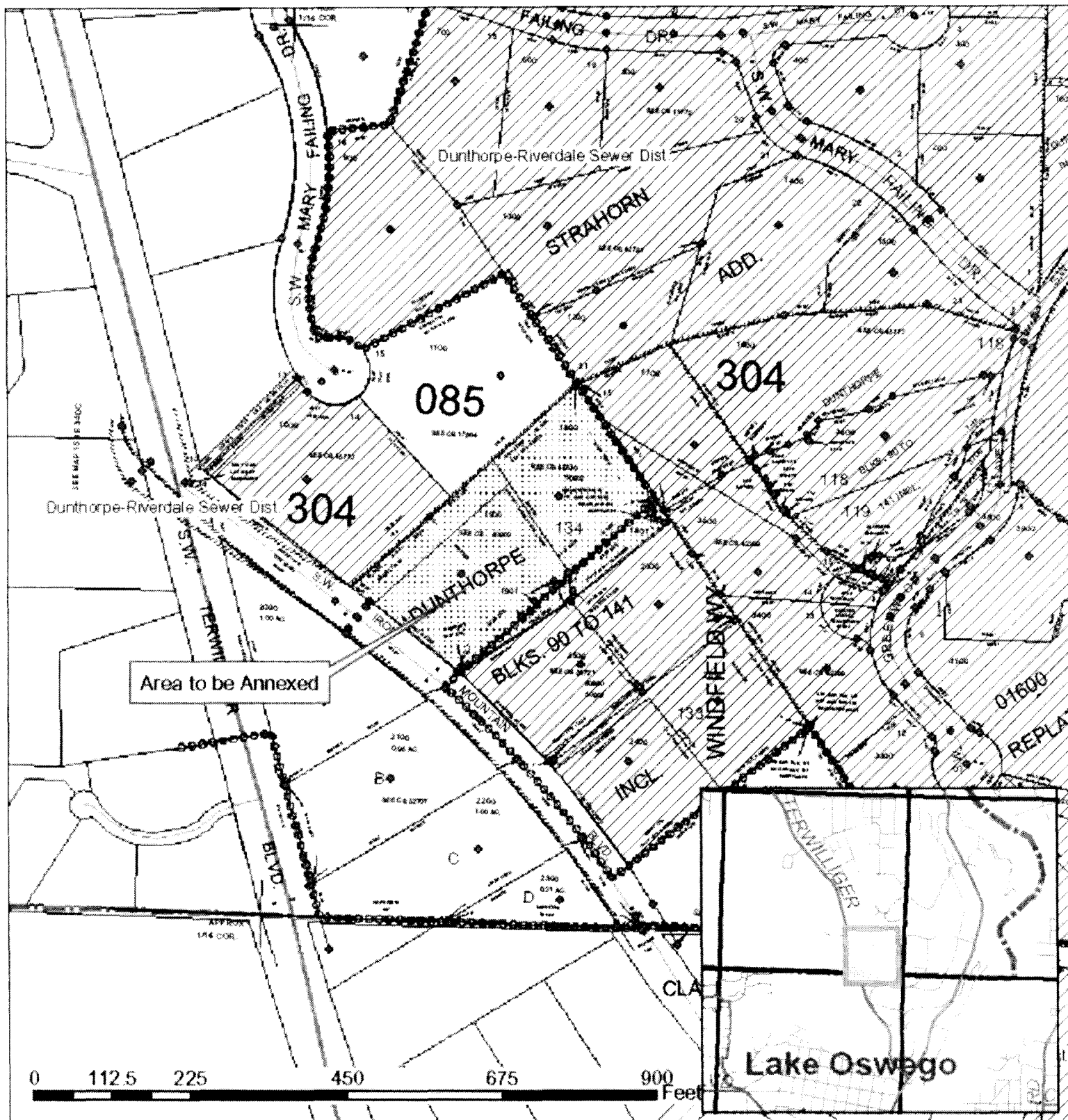
2. The Metro Code at 3.09.050(3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans . . ." The Board reviewed the applicable comprehensive plan which is the Multnomah County Comprehensive Plan and finds approval of this annexation to be consistent with the applicable section of the Plan as noted in Finding No. 5 above.

3. The Metro Code calls for consideration of any directly applicable standards or criteria to be found in urban planning area agreements. This annexation is consistent with the City of Portland agreement with Multnomah County which recognizes that this area may ultimately be a part of Portland but may be served by other means until annexation to the City is appropriate.
4. The Metro Code also requires that these conclusions address consistency between this decision and any urban service agreements under ORS 195. As noted in Finding number 8, there are no ORS 195 agreements in place in this area. Therefore, the Board addresses this criterion by finding that there are no agreements and that its decision is not inconsistent with any such agreements.
5. Metro Code 3.09.050(d)(5) states that another criteria to be addressed is “whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services.” The Board finds that the County Service District can provide the urban service it controls to the site immediately in adequate quantity and quality. The surrounding area is urban. As set out in findings number 9 through 14, the full range of urban services and facilities is available to this area.
6. Metro Code 3.09.050(d)(6) says: “If the proposed boundary change is for annexation of territory to Metro, a determination by the Metro Council that the territory should be included in the Urban Growth Boundary shall be the primary criteria for approval.” The Board finds this criteria to be inapplicable since this is not an annexation to Metro.
7. As required by ORS 198 the Board considered the local comprehensive plan for the area (see Reason No. 2). Also with regard to the ORS 198 criteria the Board found that there was a service agreement between Dunthorpe-Riverdale Sanitary Service District No. 1 and “a local government” (City of Portland). That agreement provides service capacity for the area to be annexed and assures that the system will be maintained and operated.

Exhibit B

A tract of land in the Southeast quarter, Section 34, Township 1 South, Range 1 East, Willamette Meridian, in the County of Multnomah and State of Oregon, with reference made to Survey Map (50902) of Carl R. Clinton, of Kampe Associates, Inc., dated December 29, 1988, being more particularly described as follows:

Beginning at a 5/8 inch iron rebar with yellow plastic cap inscribed "KAMPE ASSOCIATES, INC.", being North 35°06'15" West, 359.42 feet from a 1-inch iron pipe at the corner common to Blocks 132, 133, 119, and 120, being the TRUE POINT OF BEGINNING; thence South 49°39'26" West, 182.99 feet to a 5/8 inch iron rebar with yellow plastic cap inscribed "KAMPE ASSOCIATES, INC."; thence South 55°44'54" West, 195.38 feet to a 5/8 inch iron rebar with yellow plastic cap inscribed "KAMPE ASSOCIATES, INC.", being in the Northerly right-of-way line of Iron Mountain Boulevard; thence along the said right-of-way along the arc of a curve to the left (the chord of which bears North 52°37'46" West, a distance of 169.15 feet, a radius of 1530', and central angle of 06°20'15") a distance of 169.23 feet; to a 5/8" iron rod with aluminum cap stamped "KAMPE ASSOCIATES, INC.", thence continuing along said right-of-way along the arc of a curve to the left (the chord of which bears North 55°28'36" West, a distance of 33.60 feet, a radius of 2970', and a central angle of 00°38'53") a distance of 33.66 feet, thence North 46°46'50" East, a distance of 445.14 feet; thence South 35°06'15", a distance of 245.68 feet to the POINT OF BEGINNING.

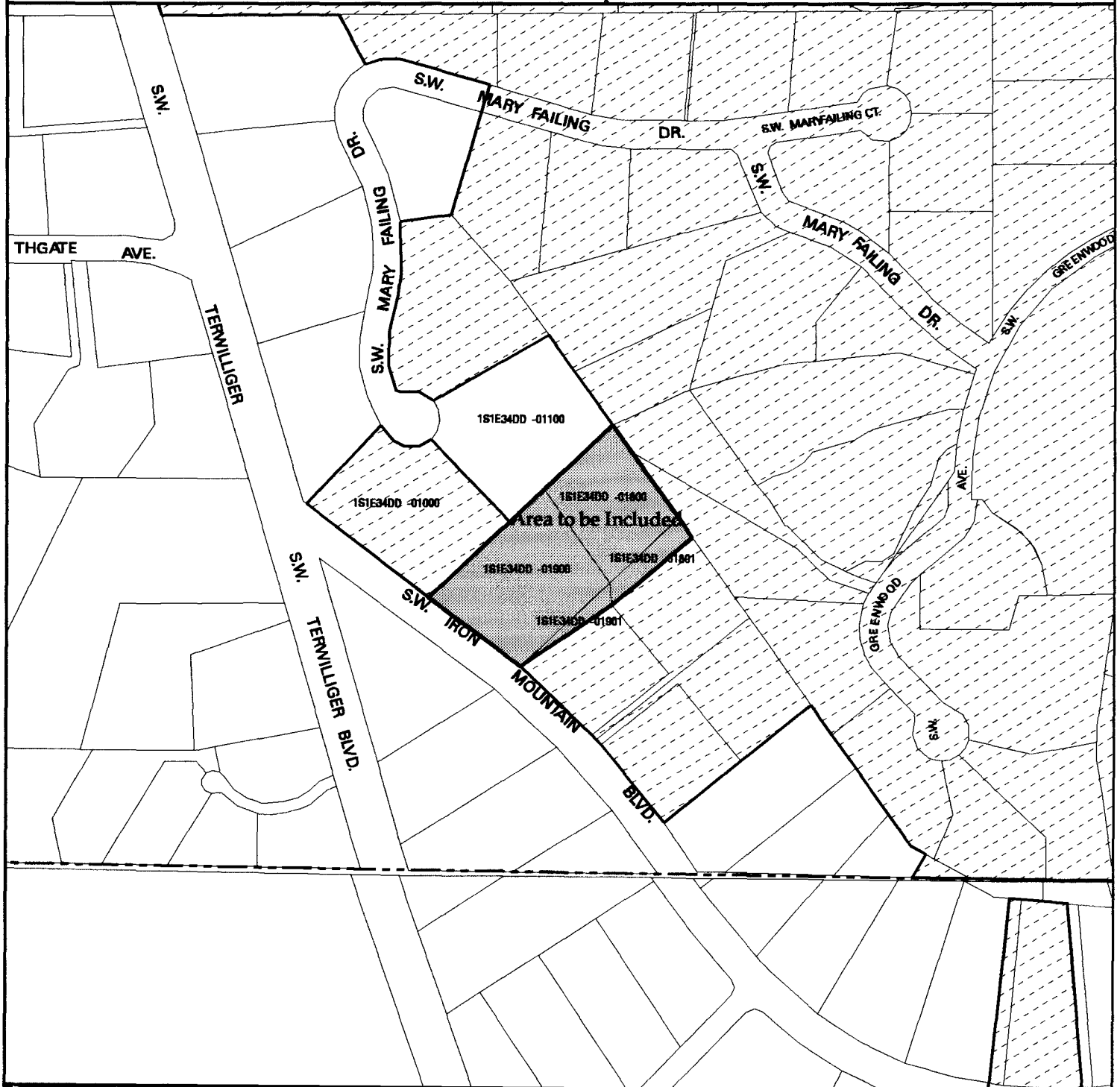


Proposal No. MU0203

1S1E34

Annexation to the Dunthorpe-Riverdale Sewer Dist.

Multnomah Co.



REGIONAL LAND INFORMATION SYSTEM



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Portland, OR 97232-2736
Voice 503 797-1742
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METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the accuracy of measurements or the use of any data for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

- County lines
- Annexation boundary
- District

Proposal No. MU0203
DUNTHORPE-RIVERDALE SEWER DIST.
Figure 1

Scale: 1" = 250'
0 200 400

