

**PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION.
800 NE OREGON ST #16 (STE 540), PORTLAND OR 97232-TEL: 731-4093**

FINAL ORDER

**RE: BOUNDARY CHANGE PROPOSAL NO: 3556 - Annexation of territory to the
City of Portland.**

Proceedings on Proposal No. 3556 commenced upon receipt by the Boundary Commission of a resolution from the City on January 4, 1996, requesting that certain property be annexed to the City. The resolution meets the requirements for initiating a proposal set forth in ORS 199.490, particularly Section (1)(a).

Upon receipt of the petition the Boundary Commission published and posted notice of the public hearing in accordance with ORS 199.463 and conducted a public hearing on the proposal on March 7, 1996. The Commission also caused a study to be made on this proposal which considered economic, demographic and sociological trends and projections and physical development of the land.

The Commission reviewed this proposal in light of the following statutory guidance:

"199.410 Policy. (1) The Legislative Assembly finds that:

"(a) A fragmented approach has developed to public services provided by local government. Fragmentation results in duplications in services, unequal tax bases and resistance to cooperation and is a barrier to planning implementation. Such an approach has limited the orderly development and growth of Oregon's urban areas to the detriment of the citizens of this state.

"(b) The programs and growth of each unit of local government affect not only that particular unit but also activities and programs of a variety of other units within each urban area.

"(c) As local programs become increasingly intergovernmental, the state has a responsibility to insure orderly determination and adjustment of local government boundaries to best meet the needs of the people.

"(d) Local comprehensive plans define local land uses but may not specify which units of local government are to provide public services when those services are required.

"(e) Urban population densities and intensive development require a broad spectrum and high level of community services and controls. When areas become urbanized and require the full range of community services, priorities are required regarding the type and levels of services that the residents need and desire. Community service priorities need to be established by weighing the total service needs against the total financial resources available for securing services. Those service priorities are required to reflect local circumstances, conditions and limited financial resources. A

single governmental agency, rather than several governmental agencies is in most cases better able to assess the financial resources and therefore is the best mechanism for establishing community service priorities.

"(2) It is the intent of the Legislative Assembly that each boundary commission establish policies and exercise its powers under this chapter in order to create a governmental structure that promotes efficiency and economy in providing the widest range of necessary services in a manner that encourages and provides planned, well-ordered and efficient development patterns.

"(3) The purposes of ORS 199.410 to 199.534 are to:

"(a) Provide a method for guiding the creation and growth of cities and special service districts in Oregon in order to prevent illogical extensions of local government boundaries and to encourage the reorganization of overlapping governmental agencies;

"(b) Assure adequate quality and quantity of public services and the financial integrity of each unit of local government;

"(c) Provide an impartial forum for the resolution of local government jurisdictional questions;

"(d) Provide that boundary determinations are consistent with acknowledged local comprehensive plans and are in conformance with state-wide planning goals. In making boundary determinations the commission shall first consider the acknowledged comprehensive plan for consistency of its action. Only when the acknowledged local comprehensive plan provides inadequate policy direction shall the commission consider the statewide planning goals. The commission shall consider the timing, phasing and availability of services in making a boundary determination; and

"(e) Reduce the fragmented approach to service delivery by encouraging single agency service delivery over service delivery by several agencies.

"199.462 Standards for review of changes; territory which may not be included in certain changes. (1) In order to carry out the purposes described by ORS 199.410 when reviewing a petition for a boundary change or application under ORS 199.464, a boundary commission shall consider local comprehensive planning for the area, economic, demographic and sociological trends and projections pertinent to the proposal, past and prospective physical development of land that would directly or indirectly be affected by the proposed boundary change or application under ORS 199.464 and the goals adopted under ORS 197.225."

"(2) Subject to any provision to the contrary in the principal Act of the affected district or city and subject to the process of transfer of territory:

"(a) Territory within a city may not be included within or annexed to a district without the consent of the city council;"

"(b) Territory within a city may not be included within or annexed to another city;
and

"(c) Territory within a district may not be included within or annexed to another district subject to the same principal Act."

The Commission also considered its policies adopted under Administrative Procedures Act (specifically 193-05-000 to 193-05-015), historical trends of boundary commission operations and decisions and past direct and indirect instructions of the State Legislature in arriving at its decision.

FINDINGS

(See Findings in Exhibit "A" attached hereto).

REASONS FOR DECISION

(See Reasons for Decision in Exhibit "A" attached hereto.)

ORDER

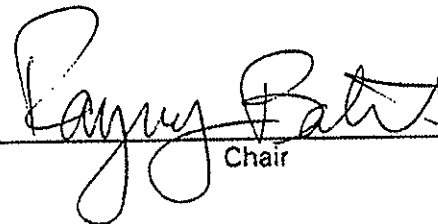
On the basis of the Findings and Reasons for Decision listed in Exhibit "A", the Boundary Commission approved Boundary Change Proposal No. 3556 as modified on March 7, 1996.

NOW THEREFORE IT IS ORDERED THAT the territory described in Exhibit "B" and depicted on the attached map, be annexed to the City of Portland as of June 30, 1996 subject to ORS 199.505.

PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT
BOUNDARY COMMISSION

DATE: MARCH 7, 1996

BY: _____


Chair

ATTEST: _____



- * The ordinary effective date of this proposal (March 24th) falls within a time period in which proposal can not take effect (see ORS 199.519).

FINDINGS

Based on the study and the public hearing the Commission found:

1. The territory to be annexed contains 38.99 acres, 7 commercial structures, 1 industrial structure, public facilities, and is evaluated at \$13,305,600.
2. The City Council initiated this annexation primarily because of transportation issues. The remaining two unincorporated segments of Highway 26 are proposed to be annexed for reasons related to transportation and transit planning including the realignment of the Sylvan interchange and because Portland frequently provides first response to emergencies. The other road segments are parts of roads which Portland is already maintaining but for which Portland receives no county funding. Annexation will trigger the transfer of the roads along with associated revenues.
3. The proposal as originally proposed would have created an island composed of 57 owner-ships. The owners of the potential island properties were all mailed notice of the proposal.
4. The Boundary Commission has three adopted policies. The first of these policies states that the Commission generally sees cities as the primary providers of urban services. Recognizing that growth of cities may cause financial problems for the districts, the Commission states in the second policy that the Commission will help find solutions to the problems. The third policy states that the Commission may approve illogical boundaries in the short term if these lead to logical service arrangements in the long term.
5. The affected territory is hilly, sloping to the southwest, with some small stream head waters. The land use in the area includes 4 office buildings, 2 churches, 1 racquet club, 1 water storage tank owned by West Slope Water District, 1 ODOT office building and storage yard, 1 PGE substation and 6 vacant parcels. The surrounding area is primarily in urban residential use.
6. The territory is within the regional Urban Growth Boundary and the jurisdictional boundary of Metro.
7. The territory is designated Urban on the Multnomah County Comprehensive Plan. The County does not have a community plan for this area. The territory is zoned R-10, R-20, C3, C4, A1-B and A2 plus a cs overlay. The County Comprehensive Framework Plan contains the following policies:

POLICY 1 PLAN RELATIONSHIPS

• • •

- E. In areas designated by this framework plan as urban, and where an applicable community plan has not been adopted, the pre-existing plan and county zoning shall remain in effect. Any change in such designations shall be consistent with this

comprehensive framework plan. Where a proposed use is permitted by both the pre-existing plan and the zoning map, required permits may be issued, notwithstanding a conflict with this comprehensive framework plan.

* * *

POLICY 4 INTERGOVERNMENTAL COORDINATION

It is the County's policy to participate in intergovernmental coordination efforts with federal, state and local governments and with special service districts. The County will ensure that the responsibility and support for land use planning will be coordinated with adjacent jurisdictions through the adoption of urban planning area agreements which will recognize:

- A. That it is not the County's primary role to provide urban services, and
- B. That the County's comprehensive framework plan and component community plans and implementing ordinances will be the primary plan for unincorporated areas until and during any jurisdictional transition, and
- C. The county has a responsibility to support the planning process for unincorporated areas and,
- D. Establish and participate in a cooperative process to address the future of urban service provision issues.

In addition, it is the County's policy to support:

- 1. Accountability and responsiveness to regional and county-wide needs, and
- 2. The identification and maintenance of the urban growth boundary as adopted by metro, and
- 3. The delivery of services necessary county-wide and in the areas outside the urban growth boundary, and

* * * *

POLICY 37 UTILITIES

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

WATER AND DISPOSAL SYSTEM

- A. The proposed use can be connected to a public sewer and water system, both of which have adequate capacity; or
- B. The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or

- C. There is an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. There is an adequate private water system, and a public sewer with adequate capacity.

DRAINAGE

- E. There is adequate capacity in the storm water system to handle the run-off; or
- F. The water run-off can be handled on the site or adequate provisions can be made; and
- G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.

• • •

POLICY 38 FACILITIES

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

SCHOOL

- A. The appropriate school district has had an opportunity to review and comment on the proposal.

FIRE PROTECTION

- B. There is adequate water pressure and flow for fire fighting purposes; and
- C. The appropriate fire district has had an opportunity to review and comment on the proposal.

POLICE PROTECTION

- D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.

- 8. In 1983, the Multnomah County Board of Commissioners passed Resolution A. Resolution A stated the County's policy that its revenues should be spent for County-wide services available to all residents of the County and announced that it's resources were insufficient to continue current municipal service levels.
- 9. The City of Portland has an acknowledged plan for its current city limits.
- 10. In February, 1983, Portland adopted an Urban Services Policy and boundary showing the area the City might serve in the future. This territory is within that boundary. In the Urban Services policy the City found that:

1. There is a need for higher level of urban services in the urbanized, unincorporated area surrounding Portland,
2. Portland has an interest in helping to resolve the service needs,
3. A strong central city enhances the economic well-being of the entire area,
4. Lack of services constrains the region's development and economic growth,
5. Service deficiencies create long-term health hazards for the region,
6. Portland has the physical, financial and institutional capacity to serve a wider area,
7. Future jobs for city residents depends on provision of urban services to developable industrial sites, many of which are outside the City,
8. There is a need to spread the costs of providing urban services more equitably among all those receiving services,
9. The most cost effective method for delivery of urban services is through a full-service city government.

The pertinent policies adopted in the Urban Services Policy follow:

4. The City shall consider requests for delivery of services within the urban services boundary wherever the following conditions exist:
 - * A majority of residents and property owners within an area to be served desire delivery of services by the City of Portland.
 - * The City can meet the new demands without diminishing its ability to serve existing City of Portland residents and businesses.
 - * The City can supply the needed services most effectively and efficiently.
 - * The City can expect to recapture its service investment.
5. The City shall deliver services within the urban services boundary by means of annexation to Portland or, on an interim basis, through alternative approaches . . .
11. State law (ORS 215.130) provides that "land use and zoning designations on areas annexed to cities will continue in effect unless or until the city has by ordinance or provision provided otherwise."

Multnomah County's urban planning area agreement with the City of Portland contains the following pertinent provisions:

- VII. With the exception of the conflicts mentioned . . . the City accepts the County's land use designations within the Urban Planning Area, subject to the following conditions:
 1. At the time of annexation, the City will retain the right to assign any one of its land use designations within the category of land use assigned by the County.
..
 2. The City reserves the right to amend the Plan and/or rezone land to a different category after annexation through established due process procedures, involving full public notification and supported by legally sufficient reasons.

Table 855-1
Assigned City Zoning for Multnomah County Zones

Multnomah County zones	Assigned City Zoning
<u>Base zones</u>	
HR-2, A-2	R2(3)
LC, C4, SC	CN2
GC, EC, C2, NC, C3	CG
CS	If open space, then OS base zone; just the base zone otherwise

VIII. The following additional issues of concern have been identified:

2. The Sunset Highway Corridor is presently under consideration as a future transit corridor. Were this to occur, reevaluation of the land use pattern with respect to the transit corridor would be needed.

IX. The City and County have agreed on the location of an Urban Services Boundary suitable and appropriate for provision of future City services and eventual annexation to the City. For purposes of this agreement, the Urban Services Boundary shall constitute the City's Urban Planning Area Boundary. The City shall also be responsible for the preparation of the Public Facilities Plan within this Boundary. . . .

According to the City's December 12, 1995 staff report the Bureau of Planning has selected the southwest portion of the City for its next comprehensive community plan, following the development of the Outer Southeast Community Plan. All of the proposal is within the Southwest Community Plan boundaries. The Planning Bureau recently began the planning process for Southwest Portland, and it is expected to be completed in 1997.

12. The territory in Parcel 1 is within the Unified Sewerage Agency of Washington County. Upon annexation the territory would be automatically withdrawn from USA. Portland and USA have a contract providing that USA provides sewage transmission and treatment services for the City for lands lying in the Tualatin drainage basin but the City is the provider of local sewage services and bills the customers at City rates which are lower than District rates.

The Portland Racquet Club in Parcel 2 is receiving sanitary sewer service from the City of Portland.

13. All of the territory was previously within the Sylvan Water District which dissolved. Upon dissolution of the District the City received all the District's facilities and the Boundary Commission granted the City authority to provide service to the area that was in the district. Therefore, the area is being served by the City.

14. The area is served by the Multnomah County Sheriff's Department. The population for the Sheriff's west side patrol district is estimated to be 8,208, served by 6.5 deputies and sergeants for a police services ratio of .792 sworn officers per thousand population.

There is one patrol car covering the unincorporated area of Multnomah County west of the Willamette River. This Patrol District reaches from Dunthorpe Riverdale to Sauvie's Island.

Upon annexation the territory would receive police protection from the City of Portland. Portland has budgeted the Police Bureau to maintain a ratio of 1.98 sworn officers per thousand population. According to the City staff report the City's Patrol District 861 will be adjusted to serve the area.

15. Upon annexation the territory will be automatically withdrawn from the Tualatin Valley Fire and Rescue District. ORS 199.510(2)(c). The City of Portland will assume responsibility for fire protection. The area will continue to be served for now by the existing Tualatin Valley and Portland stations at:

TVF& R station 251	Canyon Road in West Slope
Portland Engine 15	SW Vista Ave. and SW Spring St.
Portland Engine 3	NW 17th Ave. and NW Johnson St.

The following information is from the City's December 12, 1995 staff report:

Portland's Bureau of Fire, Rescue, and Emergency Services and the Gresham Fire Dept. contracted for a County-wide Station Location Study last fiscal year. The final Report and Recommendations are due out shortly. Portland is quite aware of service deficiencies in our West Hills service area. Therefore, one of the Report's highlights will be it's recommendations for Station relocation in this general area. Findings from the Study will be presented to the Boundary Commission if the report is released in time.

The central part of the proposal area has been within the Tualatin Valley Fire District for some time. Other portions of the affected territory were formerly a part of Multnomah County RFPD #4 or served by the Tualatin Valley Fire under contract with the Valley View Water District. The Boundary Commission approved District 4's merger with Tualatin Valley Fire, as well as the annexation of the Valley View Water District territory, on February 9, 1995 despite objections from the City. Our position at that time was that the territory could be served equally well by continuing its service contract with Valley View and extending the service contract to the District 4 territory. Our concern was that the annexation and/or merger with the Tualatin Valley District would expand the Tualatin Valley District's constituent base, and that the true motive for joining the TV Fire were an attempt to avoid annexation to Portland.

We were assured by TV Fire at the Commission hearing on the merger and annexation that this was an interim measure, that TV Fire recognized that the affected area was within Portland's adopted urban services boundary, and that TV Fire would not oppose future annexations by Portland and the subsequent withdrawal of the territory by the City. We fully expect the District to live up to its commitment.

16. The territory is within the jurisdiction of the Unified Sewerage Agency which has authority for storm water services. Upon annexation and automatic withdrawal from the District, Portland will become responsible for storm water services. Storm water in this area is generally provided by the use of culverts, storm sewer lines, and natural drainage ways. Because the area is mostly developed or platted for development already, most known drainage problems have been addressed in the development approval conditions.
17. The affected territory includes no City Park or Recreation facilities. However, the territory is close to the Metro Zoo, Washington Park, Macleay Park, and Forest Park. The new South-west Portland Community Center will be relatively nearby at Gabriel Park.
18. In 1983, the City and the County executed a municipal services transfer agreement. Under that agreement Portland agreed to maintain all County roads (public roads for which the County had accepted maintenance responsibility) within the City's urban services boundary west of the Willamette River. The County agreed to transfer to Portland quarterly County roads annexed by Portland and to give Portland a proportionate share (based on City and County populations), of road maintenance equipment and road revenues associated with the roads transferred. Thus, Portland has had responsibility for road maintenance for County Roads (in this annexation SW Fairview Blvd., SW Canyon Ct., SW Highland Rd. and SW Hewett Blvd.) and has had only funds generated within the City to finance the service. Upon annexation the County will pay Portland a portion of County Road funds for maintenance of these roads.

The City of Portland has invested over \$3,000,000 to provide maintenance services to County roads west of the Willamette River. The estimated annual cost of providing maintenance services to 19 miles of County roads west of the Willamette is approximately \$241,000 per year.

This annexation, in conjunction with adjacent Proposal No. 3555D would bring 3 miles of County road into the City. Under the City-County IGA of 1984 as amended in 1989 the City would receive approximately \$72,00 per year to provide maintenance services on these three miles.
19. The territory is within the boundary of the Mid-County Service District #14 for Street lights. Upon annexation the territory would be automatically withdrawn from the District and property owners would no longer pay \$35.00 per lot for street lighting. Existing street lights in the area become part of Portland's system after annexation. The City's street lighting levy is \$0.50 per thousand assessed value.

The District function is primarily administrative, to collect the revenues to pay PGE for lighting services. The withdrawal of this area should have no significant effect on the District.
20. Planning, building inspection, permits, parks and recreation and other municipal services will be available from the City upon annexation.
21. This annexation and it's companion proposal, 3555D, generated a great deal of interest. The Commission received approximately 77 letters and telephone calls on these two proposals.

Of these contacts the vast majority of them expressed opposition to one or both proposals. Also most of these contacts were from parties residing near but not within the proposed annexations, nor within the potential island areas created by the proposals. Of the 77 contacts 7 were from parties within Proposal No. 3555D (5 of these appeared to be parties who purchased lots that were signed for annexation by the previous owner) and 3 were from parties potentially islanded by that proposal. None of the contacts were from parties within Proposal No. 3556 and 6 were from parties potentially islanded by that proposal. The remaining approximately 61 contacts were from parties in areas near the proposed annexations.

The comments made by those opposing the annexations may be summarized as follows:

- a. Do not want to pay higher taxes
- b. Satisfied with current services and/or do not believe services will improve with annexation
- c. Believe people should be allowed to vote on annexation
- d. Belief that the City of Portland is trying to surround them so they can be annexed against their will
- e. Concerns about adequate notice particularly for territory not directly within the annexations

REASONS FOR DECISION

Based on the Findings, the Commission determined:

1. This proposal is approved with a delayed effective date of June 30, 1996 as requested by the City. This will allow the City adequate time to plan for accomplish a smooth transition of responsibility for the area.
2. ORS 199.410 (1)(a) calls for the orderly development and growth of Oregon's urban areas. It states that a fragmented approach to local government services results in duplications in services, unequal tax bases, resistance to cooperation and that such fragmentation is a barrier to planning implementation.

There is fragmentation of service delivery in and around the area to be annexed. Some of the area is inside the City of Portland from which is received a wide range of urban services. The area to be annexed receives some services from special districts such as Tualatin Valley Fire & Rescue, some services such as subdivision control from Multnomah County and other services extraterritorially (water) or by contract (building inspection) from the City of Portland.

Annexation of this area to the City will eliminate most of the service fragmentation and that is the goal called for by this section of the statute.

3. ORS 199.410 (1)(b) charges the Boundary Commission with insuring the "orderly determination and adjustment of local government boundaries to best meet the needs of the people" [emphasis added]. The Commission believes, in this case, that "the people" means all of the people affected including those inside the City and those in the area to be annexed. The Commission finds that the City of Portland is providing street maintenance on the roads within this proposed annexation (excluding Hwy. 26) and that since this is being funded by City revenues it is logical that these streets be within the legal jurisdiction of the City. The Commission believes it "best meets the needs of the people" to have these roads within the legal jurisdiction of the unit of government whose constituents are paying the maintenance costs.
4. ORS 199.410 (1)(e) states that "a single governmental agency, rather than several governmental agencies is better able to assess the financial resources and therefore is the best mechanism for establishing community service priorities." Annexing this area to the City of Portland will remove the area from a layering of single purpose agencies and place it within a single governmental agency. This single agency with a single governing body can more easily facilitate establishment of community service priorities and allocate scarce resources. These tasks are much more difficult when numerous governmental entities with separately elected officials are involved.
5. A goal of the Commission, according to ORS 199.410 (2), is to "... create a governmental structure that promotes efficiency and economy in providing the widest range of necessary services. . ."

The Commission finds generally that the most efficient and economical governmental structure for delivering a wide range of urban services is a city. The area to be annexed is highly urbanized and in need of a full range of urban services such as police, fire, storm drainage, road maintenance, traffic control, etc. The City of Portland can provide the full range of necessary services. Thus the Commission finds that this annexation is in accord with the requirements of ORS 199.410 (2).

6. ORS 199.410 (3) (a) asks the Commission to prevent illogical extensions of local government boundaries. Since almost any boundary extension could potentially be called "illogical" the Commission has adopted an administrative rule interpreting this notion of logical boundaries. OAR 193-05-015 provides for approval of boundaries which may at first blush appear somewhat illogical, if a longer range view indicates that a logical boundary will prevail.

In the present case that policy is applicable. The area around the territory to be annexed will ultimately be annexed to the City of Portland in accord with assumptions of the City and County Plans, the County's Resolution A (see Finding # 8) and the City's Urban Service Policy.

This section of the law also encourages the Boundary Commission to "encourage the reorganization of overlapping governmental agencies." Approval of this proposal removes this territory from several overlapping agencies which is in accord with this stated purpose of the law.

7. ORS 199.410 (3) (b) requires the Commission to assure that there is an adequate quality and quantity of public services available and assure the financial integrity of each affected unit of government. Findings # 12-20 establish that adequate services will be available to the area following annexation to the City.

The area will be automatically withdrawn from Tualatin Valley Fire and Rescue. This will result in withdrawal of \$13,305,600 in assessed value out of a total assessed value of \$15,956,123,005. That is less than one tenth of one percent of the district's total A.V. The Commission concludes that such a loss would be insignificant to the financial integrity of the District. The financial effect on the Unified Sewerage Agency would be even smaller as relates to tax revenue. Revenue for treatment services will still flow to the District via an existing contract with the City of Portland. There is no negative impact on the County Service District for street lights. The District only exists to collect assessments from each property and pass these along to PGE for service costs. Following annexation this transfer would cease and any service would be provided by the City from its street lighting serial levy. Thus the Commission concludes that the requirement for maintenance of financial integrity included in ORS 199.410(3)(b) is met with regard to this proposal.

8. ORS 199.410 (3) (d) requires the Boundary Commission to "Provide that boundary determinations are consistent with acknowledged local comprehensive plans and are in conformance with statewide planning goals." The Commission examined the Multnomah County Comprehensive Plan and found the proposed annexation to be consistent with the Plan. Policy 4 of that Plan calls for adoption of a city-county urban planning area agreement which recognizes that it is not the County's primary role to provide urban services. The City and County have

adopted an urban planning area agreement which acknowledges the City's projected ability to provide services and ultimately annex unincorporated territory. The territory to be annexed is included in the City's urban services boundary. The City-County Urban Planning Area Agreement spells out how the City and County will coordinate the transition of this area from County unincorporated to City status. Because the action [annexation] is consistent with the acknowledged comprehensive plan, the Commission need not consider the statewide planning goals directly.

9. ORS 199.410 (3) (e) calls for reducing the fragmented approach to service delivery and encouraging single agency service delivery over service delivery by several agencies. This annexation would automatically withdraw a portion of the territory from the Unified Sewerage Agency and all of the territory from Tualatin Valley Fire & Rescue and Multnomah County Service District No. 14. The City of Portland would take on primary responsibility for providing these services. Additionally, a number of services previously provided by the County, such as planning and traffic control, would also be provided by the "single agency," the City of Portland. Therefore the Commission concludes that this annexation is in accord with the requirements of ORS 199.410(3)(e).
10. In accord with ORS 199.462 the Boundary Commission considered the assessed values, population, zoning and existing and future densities for the area as noted in Findings 1,5 and 7-11. As noted in Finding No. 3, the Commission also acknowledged that the annexation as originally would have created an island of certain properties.
11. The Boundary Commission concludes that approval of this annexation is consistent with the Commission's policy on Long Range Governmental Structure. That policy, codified as OAR 193-05-015, says that the Commission will approve what may appear to be illogical boundaries in the short term, "When that longer range view indicates eventual logic, economy, efficiency, structural simplification, greater community identity, equity --- and other long term results compatible with sound long term governmental structure."

This annexation as originally proposed, would have created an island of a number of properties and it could be concluded that creation of islands is also creation of an illogical boundary. However, the Commission does not agree with that possible conclusion. The Commission believes that in the long term, these areas will ultimately be within the City of Portland. In support of this conclusion the Commission notes that the City already supplies directly the water service, sewer service and road maintenance service for this area. While police service officially comes from the County, incidents requiring immediate response will generally draw a City response since they have far more cars in closer proximity to the area than does the County. Nearby parks are generally City of Portland facilities. The County has no community plan for the area and the area will be included in the City of Portland's soon to be started Southwest Community Plan.

The Commission does, however, have serious concerns about creation of islands which contain registered voters. Persons within the potential islands testified that they felt it was unfair if not unconstitutional to place them in islands, thus depriving them of their ability "to vote" either in an actual election or by signing as a voter on a double majority annexation petition.

The Commission also expressed serious concern about the City's position on whether it would ultimately exercise its authority to initiate annexations under the island annexation statute.

As a result of these concerns and notwithstanding their strong feelings that this area should ultimately be within the City, the Commission chose to modify the proposal so as not to create islands in the Highland Rd. area.

12. The annexation is in accord with the Boundary Commission's Policy on Incorporated Status. OAR 193-05-005 states that: "The Boundary Commission generally sees cities as the primary provider of urban services."
13. The approval of this proposal will be consistent with the "maintenance of financial integrity" requirement in ORS 199.410 (3)(b) particularly with regard to street maintenance. Currently the City of Portland maintains County Roads in this area for which it is not reimbursed by the County. Approval of the annexation would help rectify this situation as detailed in Finding No. 18. This would improve the financial integrity of the City of Portland which is consistent with the statutory requirement.

LEGAL DESCRIPTION
ANNEXATION TO
City of Portland

PARCEL 1:

A tract of land situated in the Southwest one-quarter of Section 6, Township 1 South, Range 1 East, Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the intersection of the north line of SW Mill Street and the east line of SW 61st Drive; thence SOUTHEASTERLY along the east line of SW 61st Drive, 315.43 feet; thence EAST, 630.58 feet to the west line of SW 60th Avenue; thence NORTH along the west line of SW 60th Avenue, 598.69 feet; thence EAST, 30 feet to the center line of SW 60th Avenue; thence SOUTHERLY along the center line of SW 60th Avenue, 950 feet, more or less, to its intersection with the center line of SW Canyon Court; thence EASTERLY along said center line to a point 105 feet east of the east line of SW 58th Avenue extended and measured parallel to the north line of Lot 4, WALLACE PARK; thence S10°15'33"E, 170 feet, more or less, to the northwest corner or the northwesterly railing of the State Highway viaduct crossing SW Canyon Road; thence SOUTHWESTERLY along the northwesterly railing extended parallel to the center line of said viaduct 283 feet, more or less, to the northerly extension of the west line of SW Hewett Boulevard; thence SOUTH along the west line of SW Hewett Boulevard 190 feet, more or less, to the westerly extension of the south line of SW Humphrey Boulevard; thence N79°20'E along the south line of SW Humphrey Boulevard to an angle point 546 feet, more or less; thence SOUTH, 50 feet; thence WEST, 47.88 feet; thence SOUTH, 50.82 feet; thence EAST, 34 feet, more or less; thence SOUTH, 100 feet; thence EAST, 16.5 feet; thence SOUTH, 51.63 feet to a line lying 120 feet north of the north right-of-way line of SW Grant Street; thence WEST, 175.56 feet; thence NORTH, 14.4 feet; thence WEST, 320 feet to the east line of SW Hewett Boulevard; thence SOUTH along the east line of SW Hewett Boulevard 128 feet to the north line of SW Grant Street; thence EAST along the north line of SW Grant Street, 488.4 feet; thence SOUTH, 56 feet to the south line of SW Grant Street; thence WEST along the south line of SW Grant Street, 513.93 feet to the west line of

Hewett Boulevard; thence NORTH along the west line of Hewett Boulevard, 203 feet; thence WEST, 147.35 feet; thence SOUTH, 146.61 feet; thence WEST, 113.4 feet to the east line of SW Scholls Ferry Road (Road 1202); thence SOUTHWESTERLY, 80 feet, more or less, to a point on the west line of said SW Scholls Ferry Road, said point lying N43°58'23"E, 305.89 feet (calculated) from a point which lies EAST 871.39 feet and N43°56'23"W, 649.78 feet from the southwest corner of said Section 6, T1S, R1E, W.M.; thence continuing SOUTHWESTERLY, 955.47 feet; thence WEST, 540.98 feet; thence NORTH, 670 feet, more or less, to the south line of SW 64th Avenue; thence SOUTHWESTERLY along the south line of SW 64th Avenue, 74.58 feet to the southerly extension of the west line of said SW 64th Avenue; thence NORTH along the west line of SW 64th Avenue, 242 feet, more or less, to the south line of SW Raab Road; thence SOUTHWESTERLY along the south line of SW Raab Road, 385.28 feet to the west line of Section 6, T1S, R1E, W.M.; thence NORTH along the west line of said Section 6, 40 feet to the north line of SW Raab Road; thence NORTHEASTERLY along the north line of SW Raab Road, 261.77 feet; thence N82°39'30"W, 92.21 feet; thence NORTH, 110 feet to the south line of SW Canyon Road; thence SOUTHWESTERLY along the south line of SW Canyon Road, 125 feet, to the west line of said Section 6; thence NORTH along the west line of said Section 6, 747 feet, more or less, to a point lying 376.8 feet north of the north line of SW Canyon Court; thence EAST, 555.29 feet; thence S10°46'E, 152.72 feet; thence S79°14'W, 71.63 feet; thence S11°57'E, 16 feet (which lies N00°15'W, 1225.62 feet, N89°45'E, 508.2 feet, N00°15'W, 229.47 feet, N79°14'E, 6.5 feet from the southeast corner of said Section 6); thence N79°14'E, 215.67 feet; thence S10°46'E, 60 feet to the north line of SW Canyon Court; thence EASTERLY along the north line of SW Canyon Court, 360 feet, more or less, to the west line of SW 61st Drive; thence NORTHWESTERLY along the west line of SW 61st Drive, 800 feet, more or less, to the westerly extension of the north line of SW Mill Street; thence EAST, 50 feet to the point of beginning.

PARCEL 2:

A tract of land situated in the Southeast one-quarter of Section 6, the Southwest and Northwest one-quarters of Section 5, Township 1 South, Range 1 East, Willamette Meridian, Multnomah County, Oregon, described as follows:

Beginning at the southwest corner of Lot 7, Block 3, of the plat, THE HIGHLANDS; thence NORTHEASTERLY along the east line of SW Highland Road, 1581 feet, more or less, to its intersection with the south line of SW Fairview Boulevard; thence SOUTHEASTERLY along the south line of SW Fairview Boulevard, 347.37 feet to the northeast corner of Lot 5, Block 7, of the plat, THE HIGHLANDS PLAT NO. 2; thence $N22^{\circ}38'E$, 30 feet to the center line of SW Fairview Boulevard; thence NORTHWESTERLY along the center line of SW Fairview Boulevard, 172.42 feet; thence $N44^{\circ}43'E$, 30 feet to the north line of SW Fairview Boulevard; thence NORTHWESTERLY along the north line of SW Fairview Boulevard, 376 feet, more or less, to the center line of vacated SW Fairview Court; thence NORTHWESTERLY along the center line of vacated SW Fairview Court, 32 feet, more or less, to its intersection with the center line of SW Fairview Boulevard; thence SOUTHERLY along the center of SW Fairview Boulevard, 212 feet, more or less, to its intersection with the center of SW Highland Road; thence WESTERLY along the center line of SW Highland Road, 89.78 feet; thence NORTHWESTERLY, 25 feet to the west line of SW Highland Road; thence SOUTHERLY along the west line of SW Highland Road, 2825 feet, more or less, to the southeast corner of Lot 9, Block 2, said THE HIGHLANDS plat; thence $N57^{\circ}12'W$, along the southwest line of said Lot 9, 240.85 feet to its intersection with the northwesterly line of the vacated Canyon Farm Road; thence SOUTHWESTERLY along the west line of the vacated Canyon Farm Road, 425 feet, more or less, to the north line of SW Canyon Court; thence WESTERLY along the north line of SW Canyon Court, 130 feet, more or less, to the east line of Lot 1, Block 1, of the plat WEST HIGHLANDS PARTITION PLAT; thence NORTH along the east line of said Lot 1, 84.71 feet to a point lying 65 feet south of the northeast corner thereof; thence WEST, 135 feet, more or less, to the center line of SW Highland Parkway; thence SOUTH along the center line of SW Highland Parkway, 105 feet, more or less, to its intersection with the center line of Canyon Court; thence WESTERLY along the center line of SW Canyon Court, 1224 feet, more or less, to its intersection with the northerly extension of the west line of the plat, HUMPHREY PARK;

thence SOUTH, 269 feet, more or less, to the northwest corner of Lot 51 said HUMPHREY PARK plat; thence EASTERLY along the south line of SW Canyon Road, 2058 feet, more or less, to the east line of Lot 25, said HUMPHREY PARK plat; thence NORTH along the northerly extension of the east line of said Lot 25, 133 feet to the center line of SW Canyon Road; thence EASTERLY along the center line of SW Canyon Road, 917.63 feet, more or less, to the southerly extension of the east line of Block 1, of the plat, THE HIGHLANDS PLAT NO. 1; thence NORTH, 276 feet, more or less, to the north line of SW Canyon Boulevard; thence WESTERLY along the north line of SW Canyon Boulevard, 425.68 feet, to its intersection with the east line of SW Highland Road; thence NORTHERLY along the east line of SW Highland Road, 566 feet, more or less, to the southwest corner of Lot 4, said Block 3; thence N27°54'E, 149.93 feet; thence N27°02'E, 8 feet; thence N48°12'10"W, 94.66 feet to the southeast corner of said Lot 7; thence N45°14'W, 164.6 feet to the Point of Beginning.

EXCEPTING therefrom the following six parcels in the Southwest and Northwest one-quarters of Section 5, T1S, R1E, W.M., described as follows:

Exception 1:

Beginning at the northwest corner of Lot 3, Block 2, of the plat, THE HIGHLANDS; thence SOUTHEASTERLY along the south line of SW Highland Road, 555 feet, more or less, to its intersection with the north line of SW Canyon Road; thence NORTHWESTERLY along the north line of SW Canyon Road, 272.5 feet, more or less; thence N14°34'W, 90 feet to the west line of said Lot 3; thence N27°17'E, along the east line of said Lot 3, 168.6 feet to the point of beginning.

Exception 2:

Beginning at the point of intersection of the west line of Section 5, T1S, R1E, W.M. and the center line of SW Canyon Road, said center line also being the southerly line, plat of THE HIGHLANDS; thence NORTHEASTERLY across SW Canyon Road, 250 feet, more or less, to a point which is S14°34'E, 90 feet from the southwest corner of Lot 3, Block 2, THE HIGHLANDS; thence SOUTHEASTERLY along the north line of SW Canyon Road, 120 feet, more or less, to its intersection with the east line, extended said Lot 3, Block 2;

thence SOUTHWESTERLY, 262 feet, more or less, to the intersection of the east line, extended, Lot 25, plat of HUMPHREY PARK and the center line of SW Canyon Road; thence SOUTH along said extension and east line, 133 feet to the south line of said SW Canyon Road; thence N56°12'W, 120.5 feet to the west line of said Section 5; thence NORTH along said west section line to the Point of Beginning.

Exception 3:

That portion of the right-of-way of SW Highland Road between the east line extended, of Lot 3, Block 2, THE HIGHLANDS and a line extended northeasterly from the northwest corner said Lot 3, Block 2 to the southwest corner of Lot 4, Block 3 THE HIGHLANDS.

Exception 4:

That portion of the right-of-way of SW Highland Road between the westerly extension of the north line of SW Torr Lane and the easterly extension of the south line of Lot 3, Block 4, THE HIGHLANDS.

Exception 5:

That portion of the right-of-way of SW Highland Road bounded in the west by the northeasterly extension of the west line of Lot 7, Block, THE HIGHLANDS and on the east by the northeasterly extension of a line beginning at a 1-inch iron pipe, S 84°25'44" E, 20 feet from an ½-inch iron pipe marking the southeast corner of said Lot 7; thence N 12°50'52" E, 185.95 feet to the south line of said SW Highland Road.

Exception 6:

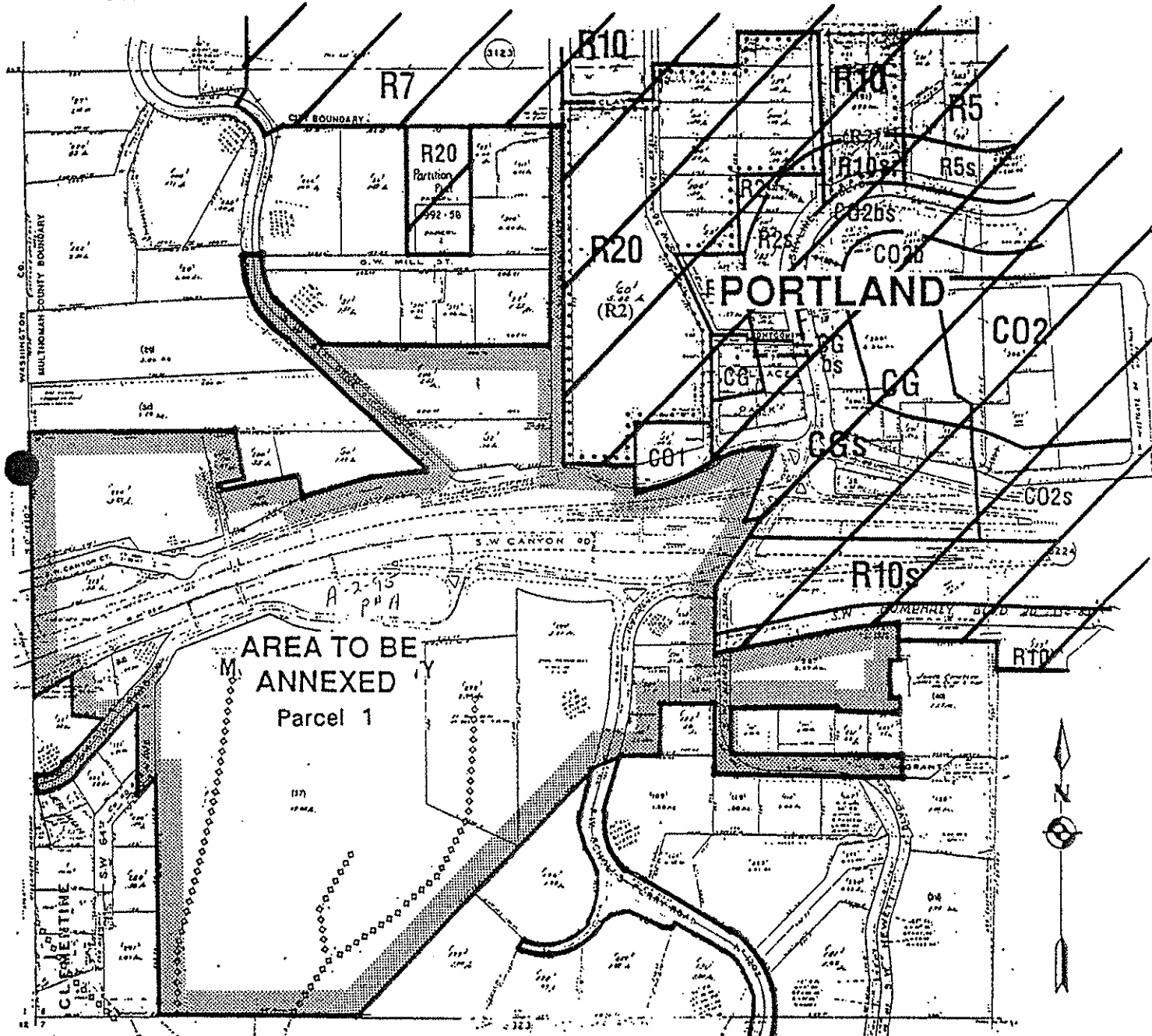
That portion of SW Fairview Boulevard lying between a line extended S 49°53' W across said SW Fairview Boulevard to its southwesterly line, from a point lying 24 feet, southerly, along the northeast line said SW Fairview Boulevard from the most westerly corner of Lot 3, Block 8, THE HIGHLAND PLAT NO. 2 and a line extended S 44°43' W to the southerly line, said SW Fairview Boulevard, from a point lying 30.2 feet southeasterly, along its north line, from the southeast corner said Lot 3, Block 8 THE HIGHLAND PLAT NO. 2.

PROPOSAL NO. 3556

SW1/4 SECTION 6 T1S R1E W.M.
Multnomah County

1S 1E 6C
3223

Scale: 1" = 400'



Modified
3/15/96

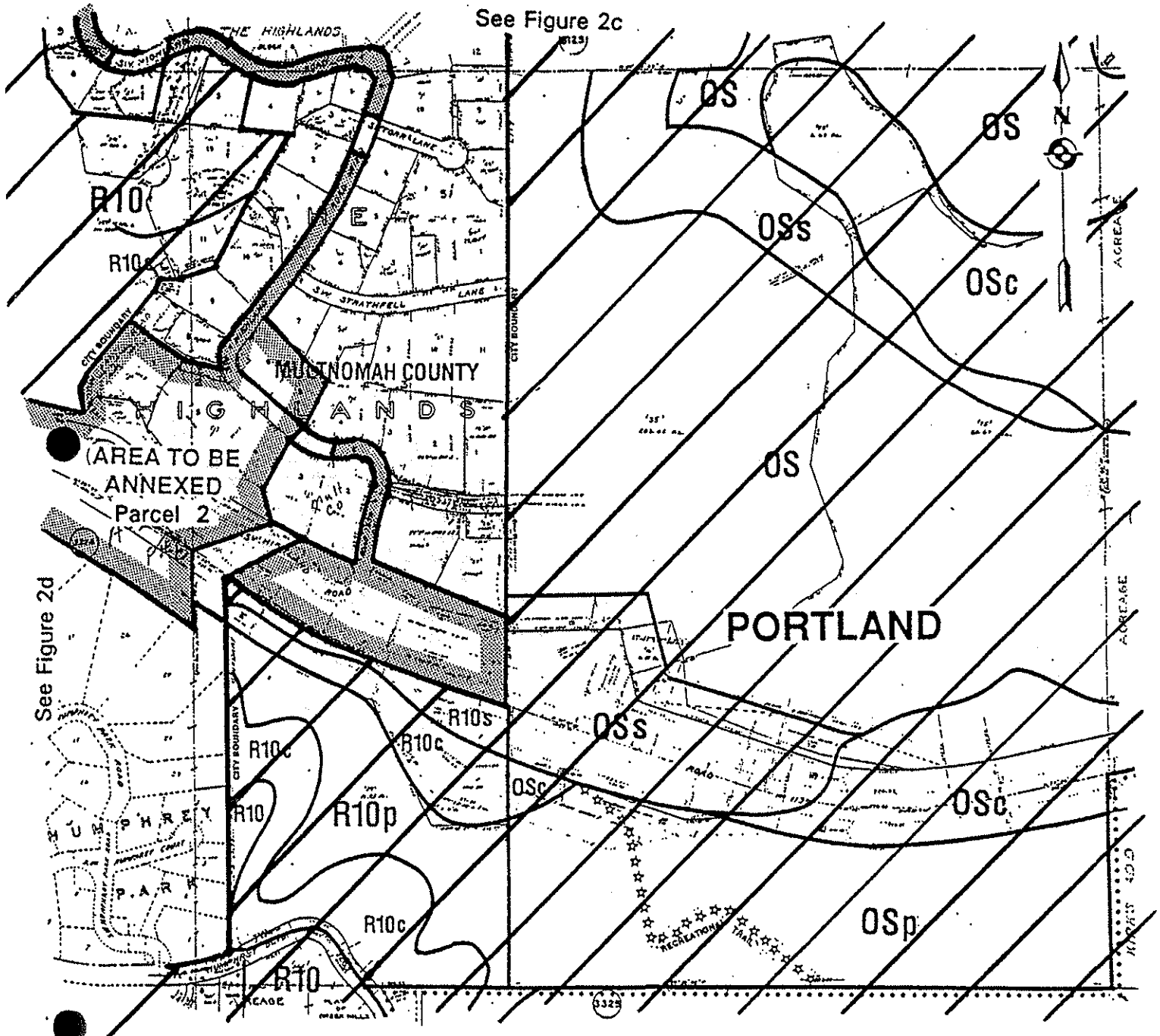
PROPOSAL NO. 3556
CITY OF PORTLAND
ANNEXATION
FIGURE 2a

PROPOSAL NO. 3556

SW1/4 SECTION 5 T1S R1E W.M.
Multnomah County

1S 1E 5C
3225

Scale: 1" = 400'



PROPOSAL NO. 3556
CITY OF PORTLAND
ANNEXATION
FIGURE 2b

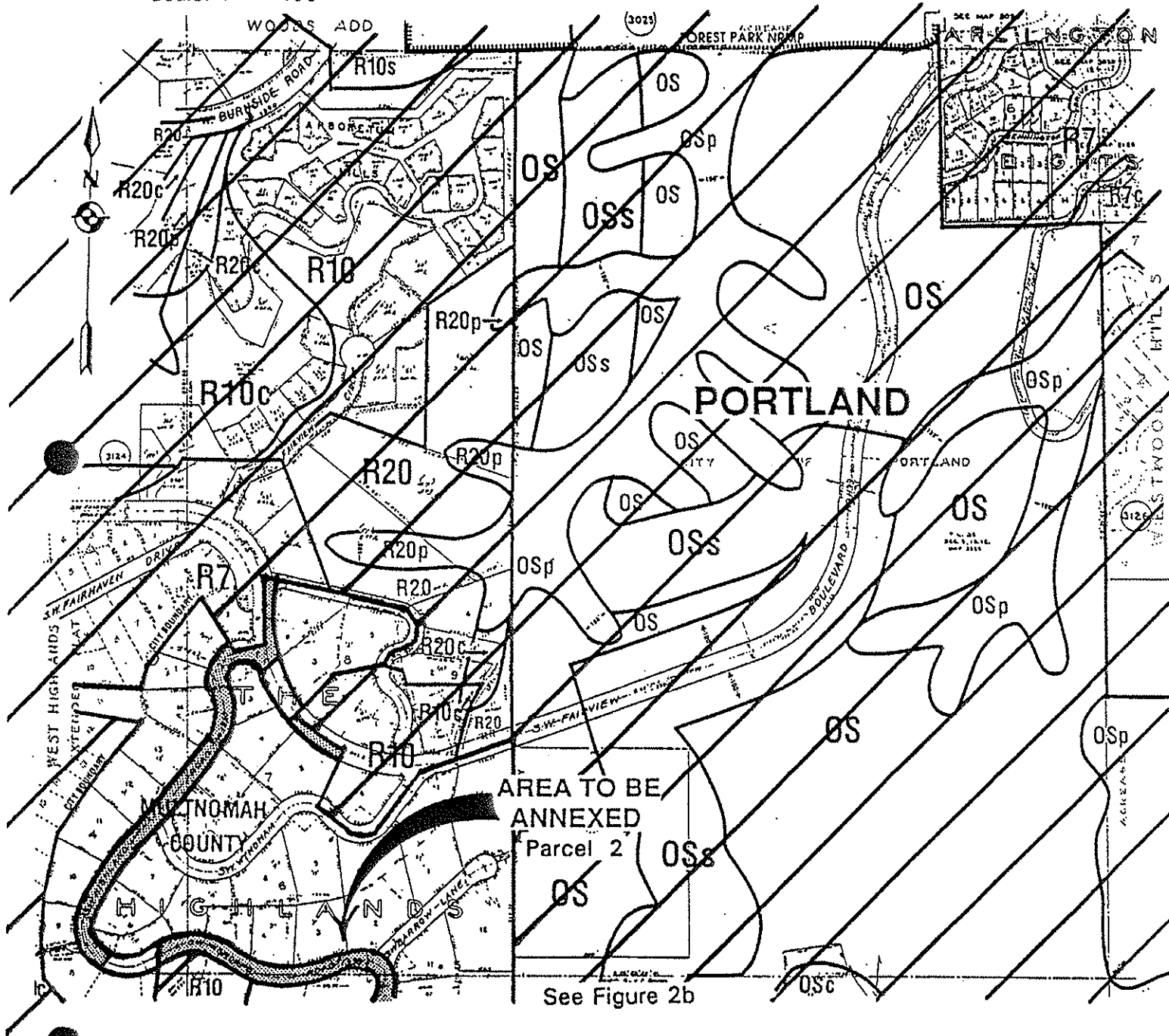
Modified
3/15/86

PROPOSAL NO. 3556

NW1/4 SECTION 5 T1S R1E W.M.
Multnomah County

1S 1E 5C
3125

Scale: 1" = 400'



Modified
3/15/96

PROPOSAL NO. 3556
CITY OF PORTLAND
ANNEXATION
FIGURE 2c

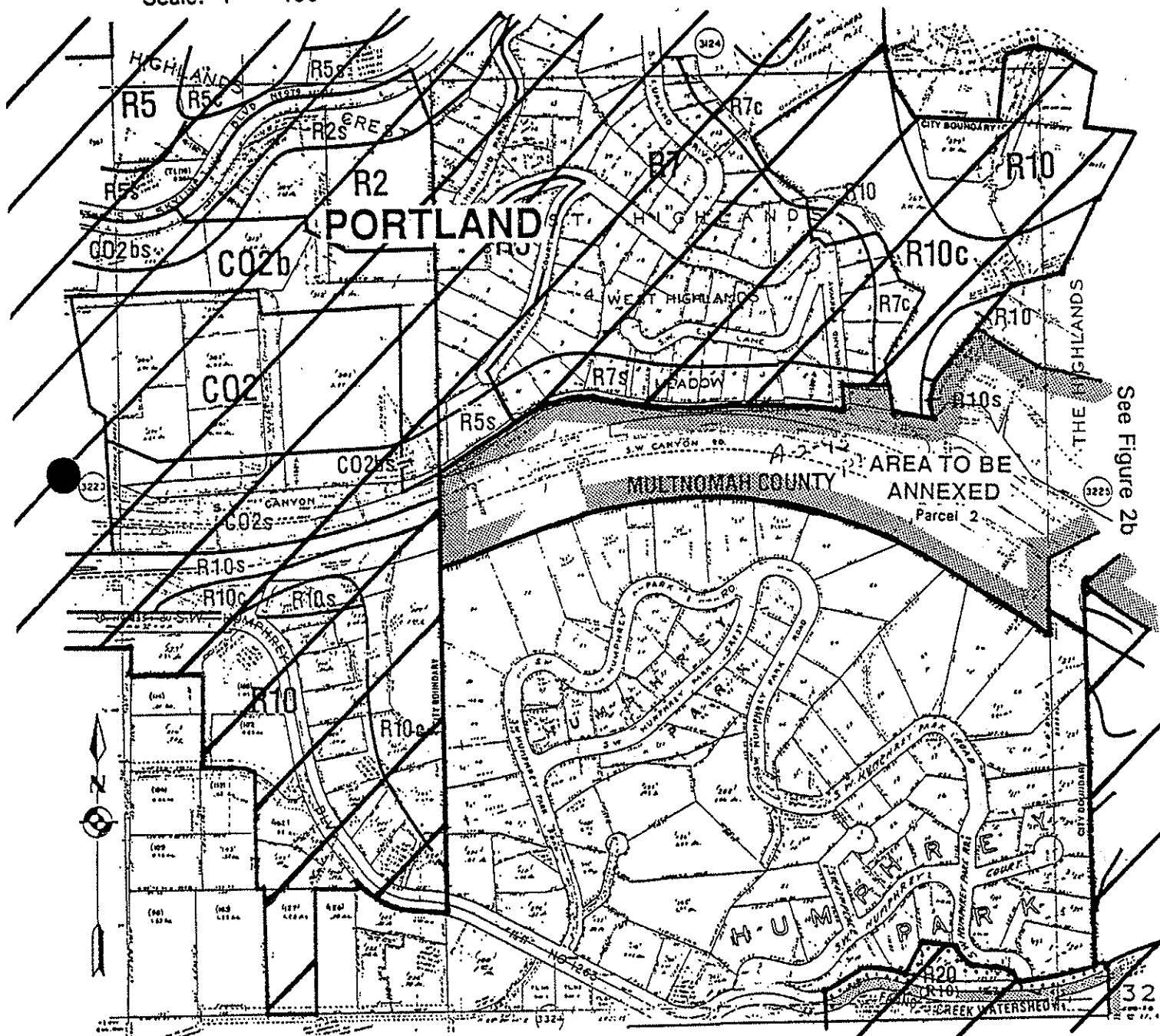
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PROPOSAL NO. 3556

SE1/4 SECTION 6 T1S R1E W.M.
Multnomah County

1S 1E 6D
3224

Scale: 1" = 400'



PROPOSAL NO. 3556
CITY OF PORTLAND
ANNEXATION
FIGURE 2d

Modified
3/15/96



PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION

800 NE OREGON STREET # 16 (SUITE 540) PORTLAND, OREGON 97232 PHONE: (503) 731-4093 FAX: (503) 731-8376

December 17, 1997

Jim Manary, Administrator
Property Tax Division
Department of Revenue
Room 256, Revenue Bldg.
Salem, Oregon 97310

Re: Boundary Change Proposal No. 3556, Annexation To City Of Portland

Dear Jim,

I am writing to request your help in resolving a problem which has come up with regard to the above noted annexation. The problem is the inadvertent inclusion of a property in the legal description of this annexation. I desire to adjust the annexation Final Order to correct this error.

The facts in this situation are as follows:

1. On January 4, 1996 the Boundary Commission received a resolution from the Portland City Council initiating an annexation to the City. This method of initiation (authorized under ORS 199.490 (1)(c)) allows for a remonstrance election if there are any registered voters in the area. The City consciously drew the boundary of this proposal so that no properties containing residences with registered voters were included. They wanted to be able to take over all roads in the area because they were already responsible for maintenance on these roads and they did not want to allow for any possibility that the proposal could be overturned.
2. The packet from the City included a legal description and County Assessor's cadastral maps with the annexation outlined in red. The map clearly excluded Lot 8, Blk. 2 of The Highlands but the legal description included this lot. The 8 1/2 X 11 map attached to the legal also did not include Lot 8, Blk. 2 and this is the map which the City Council saw when it passed the resolution according to city staff.

STAFF

KENNETH S. MARTIN, Executive Officer
DENIECE WON, Executive Assistant
ALISA BROOHAY, Planner
LANA RULIEN, Administrative Assistant

COMMISSIONERS

RAY BARTEL, Chair
TOM WHITTAKER, Vice-Chair
BOB BOUNEFF
NATHALIE DARCY

ROBERT ENNINGA
MARILYNN HELZERMAN
SY KORN BRODT

3. The Boundary Commission advertised a public hearing on this annexation through legal notices in a newspaper of general circulation and had posted legal notices and maps in and near the area to be annexed. The published and posted legal notices listed all included property by tax lot or lot & block description and they did not include Lot 8, Block 2 of The Highlands. The maps which were posted also did not include Lot 8.

Because of the potential controversy on this proposal (as originally submitted it would have islanded many residential properties) the Boundary Commission sent individual letters to all potentially islanded properties including the owners of Lot 8, Blk. 2. These letters clearly indicated that the recipients were not included in the current proposal but were being notified because the proposal would surround them if it were approved as submitted.

4. Preliminary review by the Revenue Department did not catch the discrepancy between the map and legal description relative to Lot 8 but did find some other major problems with the legal. These were ultimately resolved via direct discussions between the City and the Department. The resulting legal description, including modifications made by the Commission to exclude some sections of road r-o-w, was then attached to the Boundary Commission's Final Order.
5. The Boundary Commission approved the annexation on March 7, 1996 with a delayed effective date of June 30, 1996. As noted above the legal description and map attached to the Final Order continued to contain the discrepancy.

Throughout the entire annexation process there was never any doubt that the Boundary Commission believed Lot 8, Blk. 2 of The Highlands was not included in this proposal. The controversy surrounding this proposal centered around the very fact that the City had drawn the boundaries to specifically exclude any of the residential portions of The Highlands. (A court case was in fact pursued by the Racquet Club which was the one non-street portion of The Highlands which was included.)

When the Boundary commission staff receives a valid proposal they send a copy of the legal description and reduced County Assessors cadastral maps outlining the area, to the Revenue Dept. for preliminary review.

Jim Manary, Administrator
Property Tax Division
Page 3
December 17, 1997

The Boundary Commission Final Order ultimately was sent to all the required parties including the Revenue Department and the Multnomah County Assessor's office. In due time the Assessor's office "worked" the order utilizing the erroneous legal description and Lot 8, Blk. 2 showed up on the July 1, 1997 tax roll as being inside the City of Portland.

Two events occurred which may have exacerbated the problem. First, at some point after the annexation was approved the property changed hands. The old property owners had no reason to believe their property was in the City of Portland and so of course the new owner certainly would have no reason to suspect this. Second, Measures 47 and 50 passed and the mechanism by which the new owner would become informed, the tax statement, was significantly delayed.

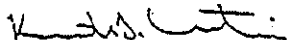
To bring you up to date then, the following has occurred recently:

1. The owner got his tax bill and contacted the Assessor's office (Marn Wilding) and the City of Portland where he was ultimately in contact with John Bonn, the City's annexation coordinator.
2. John contacted me to see what could be done.
3. After checking with our legal counsel (Assistant Attorney General Michael Huston) I told both John and Marn that I believed we could simply issue a revised legal description on the basis that the Commission had never actually annexed Lot 8, Blk. 2 of The Highlands. John offered to have his folks rewrite the portion of the legal which needed fixing and Marn suggested we run it back by the Revenue Department to make sure the new description was okay.
4. John's legal description writer contacted the Revenue Department directly and those two parties assert that it is not appropriate to simply reissue the legal description.
5. I have talked with Mike Hughes in your Valuation and Cartography section and he conferred with his team leader. They believe the solution to this problem should be the withdrawal of the property from the City. That poses two problems: 1) the property owner would remain liable for the taxes for the period his property was in the City; 2) there is no guarantee a proceeding to withdraw would be favorably acted on by the City or the Boundary Commission.
6. I have also spoken with the new property owner and he is very anxious to get this issue resolved. He does not wish to pay taxes he does not believe he legally owes and he does not wish to be found delinquent for not paying because this issue remains unresolved.

Jim Manary, Administrator
Property Tax Division
Page 4
December 17, 1997

I have consulted with our legal counsel on this issue again today. We would appreciate being able to speak with you further on this matter so that it can be resolved expeditiously.

Sincerely,



Kenneth S. Martin
Executive Officer

KSM/lmr

CC: Ray Bartel, Chair
Robert Ames
John Bonn, City of Portland
Marn Wilding, Multnomah Co. Assessments
Michael Hughes, Oregon Dept. of Revenue
Michael Huston, Assistant Attorney General