

ORDINANCE NO. 4767

AN ORDINANCE ANNEXING TWO PARCELS OF LAND LOCATED AT 10270 AND 10100 SW PARK WAY AND ADJACENT RIGHT OF WAY; WITHDRAWING THE AREA FROM THE TUALATIN VALLEY WATER DISTRICT, THE WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, AND THE WASHINGTON COUNTY URBAN ROAD MAINTENANCE DISTRICT; AND ADDING THE AREA TO THE CENTRAL BEAVERTON NEIGHBORHOOD ASSOCIATION COMMITTEE; ANX2019-0004

- WHEREAS,** ORS 222.125 grants the City of Beaverton (City) authority to initiate an expedited annexation process with the consent of all landowners of the territory to be annexed; and
- WHEREAS,** the owner of the two subject parcels at 10270 and 10100 SW Park Way signed and submitted a petition to annex the parcels into the City; and
- WHEREAS,** the two parcels are in Beaverton's Assumed Urban Services Area, and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area;" and
- WHEREAS,** ORS 222.520 specifies that whenever a part less than the entire area of a water district becomes incorporated as or annexed to a city, the city may cause that part to be withdrawn from the district at any time after such incorporation or annexation; and
- WHEREAS,** the withdrawal of the area from the Tualatin Valley Water District is consistent with City policies and is in the best interest of the City; and
- WHEREAS,** the Council finds that the City complied with the criteria and notice provisions of Metro Code Section 3.09.45 for expedited annexations; and
- WHEREAS,** Council Resolution No. 3785 sets forth annexation policies for the City, and this action implements those policies; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** The two parcels and the area of right of way shown on Exhibit C, and more particularly described in Exhibit A and B, that are attached and incorporated by these references, are annexed to the City of Beaverton, effective on the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, or 30 days from the date of adoption, whichever is later.
- Section 2.** Pursuant to Beaverton Code Section 9.06.035.A, the parcels shall be added to the Central Beaverton Neighborhood Association Committee Boundary.

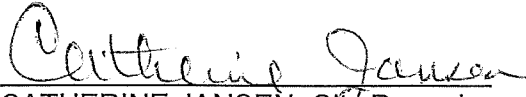
- Section 3.** The two parcels shall be withdrawn from Tualatin Valley Water District effective July 1, 2020.
- Section 4.** The Council withdraws the two parcels from Washington County's Enhanced Sheriff's Patrol District and Washington County's Urban Road Maintenance District.
- Section 5.** The Council adopts the staff report attached as Exhibit D and incorporated by this reference and finds that this annexation meets all applicable approval criteria.
- Section 6.** The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five working days of adoption.
- Section 7.** The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.
- Section 8.** The Council authorizes the City Attorney to approve the final form of the metes and bounds legal description of the area annexed by this ordinance (as shown on Exhibit B) to incorporate any revisions needed to meet the requirements of the State of Oregon.

First reading this 4th day of June, 2019.

Second reading and passage this 11th day of June, 2019.

Approved by the Mayor this 12th day of June, 2019.

ATTEST:


 CATHERINE JANSEN, City Recorder

APPROVED:

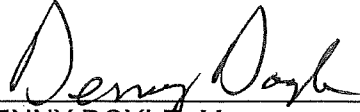

 DENNY DOYLE, Mayor



EXHIBIT D

Staff Report
Annexation of 10270 and 10100 SW Park Way
City Council

1st Reading:	June 4, 2019
2nd Reading:	June 11, 2019
Date of Report:	May 10, 2019

Application No. ANX2019-0004

Request/Summary: Expedited annexation of two parcels of land and adjacent sections of right-of-way to the City of Beaverton. Also, recommended amendment of the Central Beaverton Neighborhood Association Committee Boundary to include the area proposed for annexation. This proposal also includes withdrawal of the property from the Tualatin Valley Water District, Washington County's Urban Road Maintenance District and Washington County's Enhanced Sheriff's Patrol.

Location: 10100 SW Park Way
10270 SW Park Way

Owner/Applicant: Cedar Hills Shopping Center, LLC
Cedar Hills II, LLC

Total Area: Approximately 7.76 acres

Taxable Assessed Value: \$4,619,260

Review Criteria: Metro Code Chapter 3.09.045

Staff Reviewer: Jeff Salvon, AICP

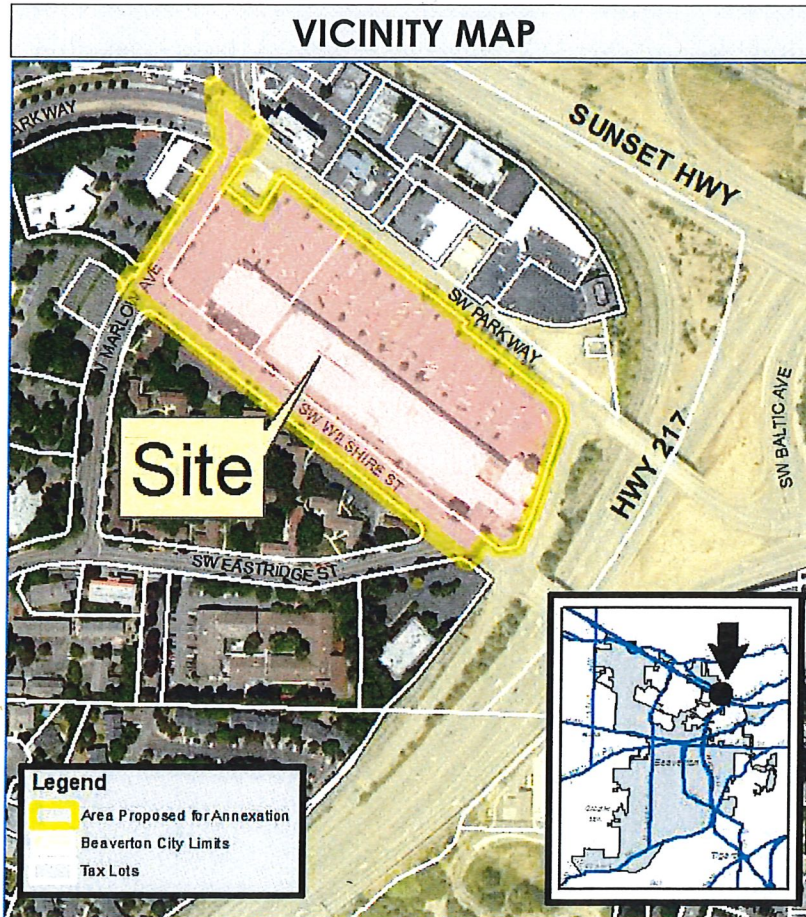
RECOMMENDATION: Staff recommends the City Council adopt an ordinance annexing the referenced property effective as of the date the ordinance is filed with the Secretary of State as specified by ORS 222.180 or 30 days from the date the ordinance is signed, whichever is later; withdrawing the property from the Tualatin Valley Water District, the Washington County

Urban Road Maintenance District and the Enhanced Sheriff's Patrol District; and adding the annexed area to the Central Beaverton Neighborhood Association Committee.

BACKGROUND

The subject properties are in unincorporated Washington County. The property owner seeks to redevelop the property with a mix of residential and commercial uses and prefers to process this development application under the City of Beaverton's development review process. Subsequent to annexation, Beaverton will administer all development review, plan review and permitting required in the process of redevelopment of the property

Under ORS 222.125 and Metro Code 3.09.045, consent to annex on the part of the landowner allows this proposal to be processed as an expedited annexation. Under this state law, annexations that are owner initiated do not require a public hearing.



EXISTING CONDITIONS

Map and Tax Lot	Site Address	Lot Size (acres)	Existing Land Use
1S102CC02900	10100 SW Park Way	5.59	Commercial
1S102CC02800	10270 SW Park Way	2.17	Commercial

The subject parcels currently support a commercial shopping center. The site is near the junction of Highway 26 and Highway 217. The property exists in a small commercial area southwest of the Highway 26/Highway 217 interchange. The neighborhood to the south includes multi-family developments. A depiction of the annexation area and immediate neighborhood can be viewed on the vicinity map above. The annexation area is described by the legal description (Exhibit A of the subject ordinance).

CRITERIA FOR APPROVAL

Metro Code Section 3.09.045 identifies expedited procedures applicable to owner-initiated annexations that occur within the Portland Metropolitan Area. Section (c) and (d) contain minimum criteria that must be considered in the decision-making process for all expedited annexation decisions. Those criteria are addressed below.

Criterion: *3.09.045 (C) At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:*

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

Response: The proposal involves annexation of two parcels involving approximately 7.76 acres of land and an area of adjacent right of way. Essential and critical urban services are currently available to the parcel by Washington County or specific area service districts. Annexation of the property will mean a transfer of services in some cases. A detailed explanation as to how these services will be addressed is provided below. The proposed annexation does not entail extra-territorial extensions of city services.

Police:

The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff's Patrol District

(ESPD). Upon annexation, the property will be withdrawn from the ESPD, and the City of Beaverton will provide police service. In practice, whichever law enforcement agency is able to respond first to an emergency does so in accordance with a mutual aid agreement.

Fire:

Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to the property. TVF&R is designated as the long-term service provider to this area.

Sanitary Sewer:

The size of the property and its primary use as a commercial shopping center impose considerable service needs on existing sanitary sewer facilities. Redevelopment of the site to include a mix of commercial and residential uses could add to sanitary sewer service requirements.

Sufficient sanitary sewer facilities are available to serve the subject parcels. To the north of property, an 8-inch pipe runs along the property frontage within the SW Park Way right of way. This segment of pipe is maintained by the city of Beaverton. To the west, another 8-inch line within the SW Marlow Avenue right of way runs north and south of the property. To the south, another 8-inch line runs east and west the property within the SW Wilshire Street right of way. Both the SW Marlow and the SW Wilshire lines are maintained by Clean Water Services. Subsequent to annexation, the city will assume maintenance responsibility for sanitary sewer lines cited above.

Water:

The subject parcel is within the Tualatin Valley Water District and is served by the District. Pipes capable of serving the property exist within both the SW Park Way right of way on the north side of the property and within the Highway 217 right of way to the east of the property.

Pursuant to an intergovernmental agreement between the City of Beaverton and TVWD, and as part of the city's water services transfer program, the city is proposing to withdraw this property from TVWD as part of a larger service territory withdrawal process. Subsequent to annexation, the City of Beaverton will assume

responsibility for water service to the subject parcel. Pursuant to the intergovernmental agreement between Beaverton and TVWD, service area withdrawal from the district will not take effect until July 1, 2020.

Stormwater Drainage:

The properties are served by 21-inch stormwater pipe maintained by the City within the SW Park Way right of way. Additionally, two 18-inch lines and a 12-inch line exist under SW Wilshire Street on the south side of the property. All three of these pipes are maintained by Clean Water Services. Each feeds into a 24-inch trunk line that traverses the southeastern corner of the subject property and continues westward along SW Eastridge Street. As the subject parcels exist at the crest of southwestward slope decline, all flows recede southward at an average 5 percent grade.

Subsequent to annexation, the city will assume maintenance responsibility for stormwater lines with a diameter of less than 24 inches that are cited above.

Streets and Roads:

The subject parcels front SW Park Way, which is designated as a collector on Beaverton Functional Classification Map. All other adjacent street segments are classified as local streets. Although the annexation proposal includes segments of SW Marlow Avenue and SW Wilshire Street, both will continue to be maintained by Washington County after annexation occurs.

The area is provided with excellent regional transportation access via its proximity to Highway 26 and Highway 217, both of which have access points within a quarter mile of the property. A pedestrian walkway 300 feet north of the property provides foot traffic and bicycle access from the area across Highway 26 to the Sunset Central Transit Station.

The neighborhood itself is designated a Station Area under Metro's 2040 Concept Plan, primarily because of its close proximity to the Sunset Central Transit Station. This designation establishes a framework for local jurisdictions encourage and provide zoning that allows or requires density and transit-oriented design that allows more people to live and work in an area with

high accessibility to transit. Washington County implements these design concepts by applying its Transit Oriented (TO) zoning. Similarly, the City of Beaverton designates its Station Community design standards. If the property redevelops, these elements will be incorporated into future redevelopment efforts.

Schools and Parks:

The proposed annexation is within the Beaverton School District (BSD). Because the proposed action does not propose new residential use of the property, school enrollment will not be affected by the proposed annexation and no additional service demands will be imposed upon the school district. Potential impacts affecting enrollment may occur if residential redevelopment of the property is approved. When that occurs, potential impacts upon enrollment should be addressed.

The subject property is also within the Tualatin Hills Park & Recreation District (THPRD). Subsequent to annexation, school district and park district boundaries will remain unaffected.

Planning, Zoning, and Building:

Washington County currently provides long-range planning, development review and building inspection services to the property. Once the annexation becomes effective, the city will conduct all planning and zoning functions associated with the property. Which Beaverton land-use designation and zone will be applied after annexation will be determined by the City of Beaverton pursuant to the Washington County Urban Planning Area Agreement (UPAA). Those land use and zoning changes will be completed through a separate process.

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

Response: As part of this annexation proposal, the City of Beaverton is proposing that the property be withdrawn from Tualatin Valley Water District's service territory so the City of Beaverton can assume the role of primary water service provider for the property over time. This action is being proposed pursuant to an agreement that the city has with TVWD to take over water service for specific areas of City.

Additionally, the property will be withdrawn from Washington County's Enhanced Sheriff's Patrol District and Urban Road Maintenance District. The proposed annexation will not require withdrawal of territory from any other service districts identified as necessary parties. Necessary parties include Clean Water Services, Tualatin Valley Fire & Rescue, and Tualatin Valley Parks & Recreation District.

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

Response: ORS 222.180 specifies that the date an approved annexation becomes effective is determined by the date the Secretary of State files the jurisdiction's decision with its office. ORS 222.180 also specifies that when annexation proceedings are initiated by a city, the city may specify a later effective date than that determined by the Secretary of State.

The city's annexation process requires that the proposed ordinance receive first and second readings on consecutive meeting dates. Additionally, Section 36 of the city's Charter specifies that city ordinances shall take effect 30 days after their adoption by the Council and approval of the mayor.

The properties shown on Exhibit B of the ordinance, and described in Exhibit A, is hereby annexed to the City of Beaverton effective upon the date the ordinance is filed with the Secretary of State (as specified by ORS 222.180) or 30 days from the date of adoption, whichever is later.

FINDING: Staff has addressed the elements contained in Metro Code Section 3.09.045 (C) above. Additionally, this staff report will be made available to the public on or before May 28, 2019, at least seven days prior to the date of decision. Therefore, staff finds that the proposal satisfies Metro Code Section 3.09.045 (C).

Criteria: ***3.09.045 (D) To approve a boundary change through an expedited process, the city shall:***

(1) Find that the change is consistent with expressly applicable provisions in:

(a) Any applicable urban service agreement adopted pursuant to ORS 195.065;

Response: With the exception of area special district water providers Raleigh Water District and West Slope Water District, cooperative, urban service and/or intergovernmental agreements affecting provision of service to the subject property have been established with all critical and essential special service providers. This includes Clean Water Services, Tualatin Valley Fire & Rescue District, and Tualatin Hills Parks & Recreation District.

No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation. This action is consistent with those agreements.

FINDING: *Staff finds that where applicable, the proposed annexation is consistent with urban service agreements in place as demonstrated in the staff report and as such the proposal satisfies Metro Code Section 3.09.045 (D)(1)(a).*

Criteria: ***(b) Any applicable annexation plan adopted pursuant to ORS 195.205;***

Response: The City has not submitted or received voter approval for an annexation plan related to this annexation, so this criterion is not applicable.

FINDING: *Because a comprehensive urban service agreement has not been established as a basis for preparing city annexation plans, staff finds that provisions in Metro Code Section 3.09.045 (D)(1)(b) do not apply.*

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

Response: As noted in the previous section of this report, the city has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire & Rescue District, Tualatin Valley Water District and Tualatin Hills Park & Recreation District. *the boundary changes proposed are consistent with other IGAs cited and described elsewhere in the staff report*

FINDING: *Staff finds that the proposed annexation is consistent with urban service agreements in place as demonstrated in the staff report and as such the proposal satisfies Metro Code Section 3.09.045 (D)(1)(c).*

Criteria: (d) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Response: The city's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan; the Transportation Element of the Comprehensive Plan; the city's Capital Improvements Plan; and the most recent versions of master plans adopted by providers of the following facilities and services that exist in the city: stormwater drainage; potable water; sewage conveyance and processing; parks and recreation; schools; and transportation. Where a service is provided by a jurisdiction other than the city, by adopting the master plan for that jurisdiction as part of its public facilities plan, the city has essentially agreed to abide by any provisions of that master plan.

Staff could not identify any provisions in the Washington County Public Facilities Plan or special district plans applicable to this proposed annexation.

FINDING: Staff finds that the proposed annexation is consistent with applicable Public Facility Plans and therefore satisfies Metro Code Criterion 3.09.045 (D)(1)(d).

Criteria: (e) Any applicable comprehensive plan;

Response: Staff has identified two elements that are relevant to this criteria.

1) Washington County's Cedar Hills-Cedar Mill Community Plan is one of a number of planning elements which in total comprise the Washington County Comprehensive Plan.

The Cedar Hills – Cedar Mill identifies the area where the subject parcels are located as an Area of Special Concern. It specifies the following:

Portions of this area, which includes the Cedar Hills Shopping Center and surrounding properties, may be redeveloped by the year 2017. Should such redevelopment occur, opportunities may arise to achieve a more transit oriented development pattern that includes a mix of retail commercial, office and higher density residential uses. Residential development particularly is anticipated to occur that

will count toward meeting Washington County's capacity targets for dwelling units in mixed use areas, as shown in Table 1 of the Metro Urban Growth Management Functional Plan.

So as to assure that if redevelopment occurs in this area needed housing will be provided, it shall be required that any redevelopment in the area of sites which exceed one acre in size, shall be pursuant to an approved master plan that demonstrate at least 50% of the total floor area of the redevelopment will be residential upon build-out of the master plan. Consistent with Section 375-6 of the Community Development Code, limited changes or expansions of existing uses shall not constitute redevelopment.

Although the City of Beaverton has no authority to require the property owner to prepare a master plan that includes the property, the SC:MU zoning that is proposed for the subject parcels was adopted for the purpose of implementing the Metro's 2040 Growth Management Functional Plan for the area. Accordingly, the standards specified for the SC:MU district seek to promote transit oriented development pattern that includes a mix of commercial and residential uses on the property with no maximum residential density requirement. As stated previously, the property owner has expressed an intent to redevelop the property as multiple use featuring residential and commercial uses in a manner that is consistent with the underlying zoning.

2) Beaverton Comprehensive Plan Policy 5.3.1.d, states, "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's acknowledged Comprehensive Plan.

In reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the county's website (reflecting changes through county ordinance No. 851) that will amend the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- A paragraph in the "County-Wide Development Concept" at the beginning of the Comprehensive Framework Plan that states:

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service providers to achieve efficiencies and ensure availability, etc. As such issues arise; the county should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the county itself in how to evaluate annexation proposals and not guidance to the city regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if they believe the boundary change is inconsistent with the approval criteria (see Metro Code Section 3.09).

- Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

Subsequent to annexation, the City of Beaverton will apply its plan and zone designations to the parcel. Selection as to which designations are appropriate will be dictated by the City of Beaverton pursuant to the terms specified in the Washington County — Beaverton UPAA}.

FINDING: Staff finds that the proposed annexation is consistent with applicable provisions contained in the City of Beaverton's Comprehensive

Plan and Washington County's Framework Plan. The proposed amendment therefore satisfies Metro Code Criterion 3.09.045 (D)(1)(e).

Criteria: ***(f) Any applicable Concept plan;***

Response: No concept plan applies to this area, so this criterion is not applicable.

FINDING: Staff finds that Metro Code Criterion 3.09.045 (d)(1)(f) is not applicable to this proposal.

Criteria: ***(2) Consider whether the boundary change would:***

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

Response: Changes that affect public facility and service provisions to individual properties are generally subject to agreements between the City of Beaverton, Washington County and special districts. These agreements are adopted and periodically updated to address which urban service provider will assume responsibilities for service in the event of a boundary change. By entering into these agreements and through the adoption of planning documents, the city and its service district partners have attempted to ensure that the provision of services subsequent to the proposed boundary change will be timely, orderly, and economically viable. In this case, utility services are already available for this lot and so will be provided in a timely, orderly and economic manner.

FINDING: Staff finds that for the reasons indicated above, changes in service provision occurring subsequent to the proposed boundary change have been adequately anticipated and planned for. The proposed amendment therefore satisfies Metro Code Criterion 3.09.045 (D)(2)(a).

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

Response: Responsibilities pertaining to the provision of public facilities and services will either remain unchanged or transfer to the city. In general, because cities provide services on an urban scale, they

can provide services at a level equal or higher than provided in unincorporated areas. Accordingly, the city is generally regarded as offering a level of service to properties that annex from unincorporated county that is equal or higher than what was previously received. Annexation to the City of Beaverton will therefore retain or enhance the quality and quantity of urban services for the annexed area. In addition, annexation will allow any new development occurring on the property to access city sanitary sewer and stormwater conveyance services to that development.

FINDING: *The proposed annexation will generally retain or enhance the quality and quantity of urban service. Criterion 3.09.045(D)(2)(b) has been met.*

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

Response: This staff report identifies which agency will be responsible for the providing of urban services in this area. The city and service providers have agreements that specify which agency provides services. These agreements therefore fulfill the role of eliminating duplication.

FINDING: *As the proposed annexation is subject to the terms of agreements among the city and other governments and service providers, provisions have been made to avoid unnecessary duplication of facilities or services involving the subject parcel. Criterion 3.09.045(D)(2)(c) has been met.*

PROCESS

- Consistent with Metro Code Section 3.09.045, the city sent notice of the proposed annexation on April 30, 2019, (at least 20 days prior to the City Council's first reading of the ordinance that would approve the annexation) to all necessary parties including Washington County, Metro, affected special districts and county service districts.
- The notice and a copy of this staff report was posted on the city's website on May 28, 2019, (at least 7 days prior to the City Council's first reading of the ordinance that would approve the annexation).

CONCLUSION

Based on the facts and findings in this report, staff concludes that approval of the owner-initiated annexation for Tax Lot #s 1S102CC02800 and 1S102CC02900, meets all pertinent criteria outlined in Metro Section 3.09.045.