

ORDINANCE NO. 989

AN ORDINANCE ANNEXAING TWO PARCELS TOTALING 4.28 ACRES, AND REZONING SAME FROM JACKSON COUNTY RR-5 RURAL RESIDENTIAL TO CITY R-3 HIGH DENSITY RESIDENTIAL AND C-H COMMERCIAL HIGHWAY

WHEREAS, the owner of two parcels totaling 4.28 acres has consented in writing to annexation and rezone; and

WHEREAS, the subject property is addressed at 200 Luman Road and specifically identified as Tax Lots 3100 and 3290 on Jackson County Assessor Map 38-1W-10; and

WHEREAS, the subject property is currently zoned Jackson County RR-5 Rural Residential, and the property owner has requested rezone to City R-3 High Density Residential and C-H Commercial Highway; and

WHEREAS, the subject property is designated Medium Density Residential on the City of Phoenix Comprehensive Plan map, but the City's Land Use and Housing Comprehensive Plan Elements do not explicitly require assignment of the R-3 zone to lands designated Medium Density Residential; and

WHEREAS, the subject property abuts lands designated Medium Density Residential on the City of Phoenix Comprehensive Plan map, and zoned R-3 High Density Residential; and

WHEREAS, the requested rezone to R-3 High Density Residential would be consistent with all nearby properties that are designated Residential on the City's Comprehensive Plan map; and

WHEREAS, annexation of the subject property does not commit the City or any public or private utility to provide services to the subject property at taxpayer expense; and

WHEREAS, the Planning Commission of the City of Phoenix, after providing the required public notification, including notification to the Department of Land Conservation & Development, held a public hearing on October 23, 2017, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the City of Phoenix Land Development Code, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the property owner's request; and

WHEREAS, notice of the City Council public hearing was published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of the published notice, and it appears to be in the best interest of the City and the area involved that it be annexed to the City of Phoenix; and

WHEREAS, the City Council finds and determines that the facts and conclusions in the staff report issued for the Planning Commission's October 23, 2017 hearing, on file in the City Offices, are true and correct and are hereby adopted as findings of the council.

NOW, THEREFORE, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:

Section 1. The City Council declares and proclaims that the territory described in Exhibit "A" and depicted in Exhibit "B" is annexed to the City of Phoenix.

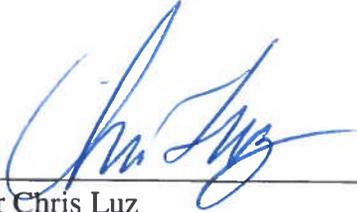
Section 2. The zoning of the above-described properties shall be amended from Jackson County RR-5 Rural Residential to City of Phoenix R-3 High Density Residential where designated Medium Density Residential on the Comprehensive Plan map, and to and C-H Commercial Highway where designated Interchange Business on the Comprehensive Plan map.

Section 3. The City Recorder is directed to
A. File the following with the Secretary of State and Department of Revenue:
a. A copy of this ordinance;
b. A copy of the land owner statement of consent.
B. Mail a copy of this Ordinance to Jackson County, to all service providers and to any other parties entitled to receive this notice of its adoption.

Section 4. This application complies with the City's Comprehensive Plan and ORS Chapter 222.120 attached as Exhibit "C" and incorporated herein by reference.

Section 5. This annexation shall become effective 30 days from the date of City Council approval.

PASSED AND ADOPTED by the City Council and signed by me in open session in authentication thereof this 20th day of November, 2017.



Mayor Chris Luz
City of Phoenix

Attest:



Kimberlyn Collins
City Recorder

Exhibit "A"

See attached map and legal descriptions, 4 pages total

Exhibit "B"

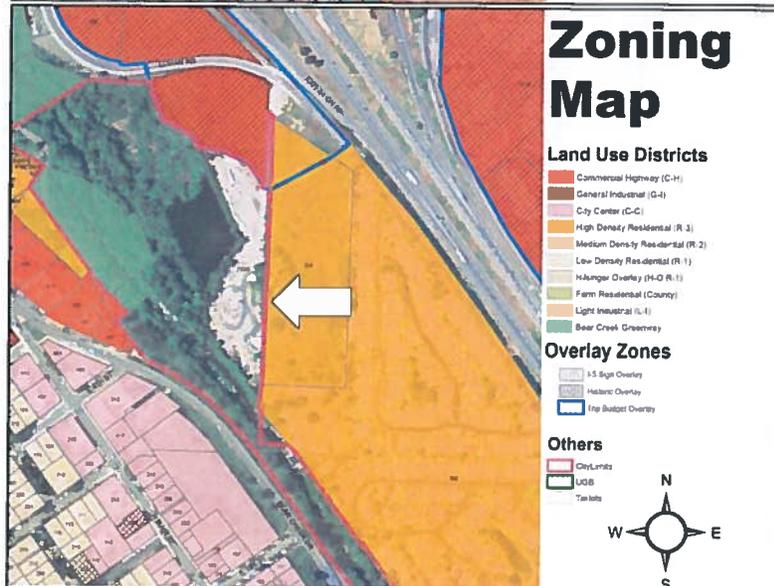
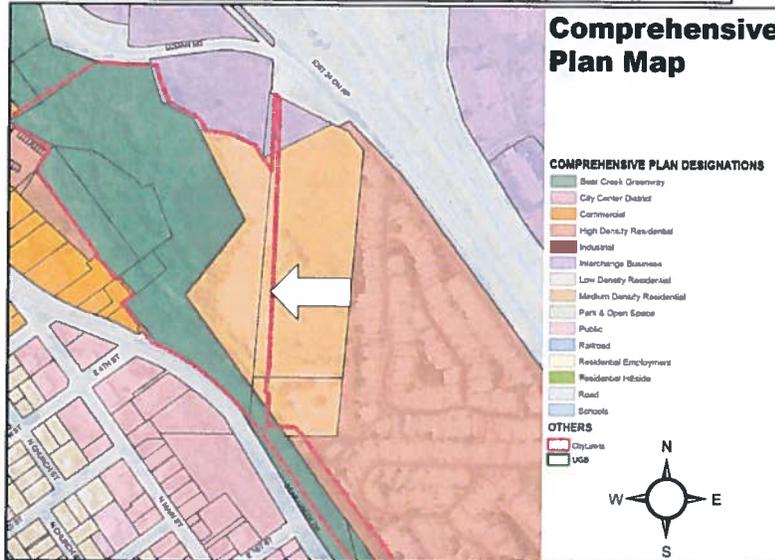
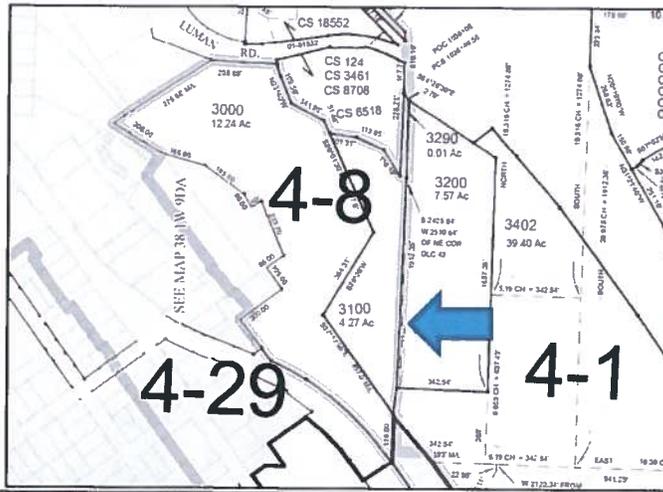


Exhibit "C"

ORS § 222.120

Procedure without election by city electors

1. Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.
2. When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.
3. The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.
4. After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:
 - a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;
 - b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125(Annexation by consent of all owners of land and majority of electors) or 222.170 (Effect of consent to annexation by territory), prior to the public hearing held under subsection (2) of this section; or
 - c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915).
5. If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510 (Annexation of entire district), the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district), the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district).
6. The ordinance referred to in subsection (4) of this section is subject to referendum.
7. For the purpose of this section, ORS 222.125 (Annexation by consent of all owners of land and majority of electors) and 222.170 (Effect of consent to annexation by territory), owner or landowner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcels land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

CITY OF PHOENIX LAND USE ELEMENT

As Amended ORD 788 Page 22 Land Use Element March 2, 1998 Phoenix Planning Department Updated September 15, 2008 – ORD 905

Policy 3.1

The City Council may approve annexations, without referral to the City's entire electorate, when findings and facts show that development of the property or properties proposed for annexation would be consistent with the Plan and:

- A) That development on the land proposed for annexation can be served with all urban services and facilities without adverse impact on the availability, quality, quantity, or reliability of City services provided to or likely to be needed by;
1. Existing development within the incorporated area, and
 2. Undeveloped, partially vacant, or redevelopable incorporated land (considering approved development plans or permissible densities as set out in the Plan), and
- B) Population impacts of the proposed development will not cause the City's population to grow at a rate in excess of the Comprehensive Plan, Populating Element's planned population. The population impact of residential lands development shall be computed by:
1. Multiplying the gross area in square feet times 72 percent (to account for lands dedicated to streets) then,
 2. Dividing by the maximum lot size permissible within the zone that would be applied to the property if annexed, and then,
 3. Multiplying by the average occupancy associated with the dwelling type based upon the most recent U.S. Census.

Such analysis shall be submitted by the applicant at the time of application.

An annexation conforms to the Population Element if the average rate of population growth likely to result from annexation (considering development phasing of the proposed annexation) when added to the development of previously annexed lands (considering their phasing and historical rate of development) will not exceed 133 percent of the average annual population growth rate computed as follows:

Planned Population – most recent PSU1 estimate of population Forecast Year – the year of the most recent estimate.

Policy 3.2

The City Council may, at its discretion, refer to the City's electorate any annexation that does not fully comply with Policy 3.1. The procedures described within ORS 222.130 regarding annexation elections shall be followed. A simple majority of votes cast shall determine the outcome.

Policy 3.3

The Council may annex territory to the City, and dispense with the requirements of Policy 3.1 and 3.2 where the Oregon Health Division has issued a finding that a danger to public health exists because of conditions within the territory.

Policy 3.4

All properties annexed to the City shall eventually be improved to City standards; including but not limited to street improvements, curbs, gutters, lighting, and other improvements included within the City's development standards or as may otherwise be specified by the City's Engineer, Public Works Director, or Planner and approved by the City Council. If required improvements are not proposed at the time of annexation, then the annexation agreement shall specify that the improvements shall be installed at the time of partitioning, subdivision, development or other time as approved by the Council.

Policy 3.5

The City shall initiate proceeding to annex "islands" of unincorporated area within the City Limits immediately following their creation or as soon thereafter as practical when deemed to be in the overall best interest of the City. Such annexations are required to ensure orderly and equitable provision of public improvement, utilities, and community services, and to further growth and development of the community in accordance with this Plan.

Policy 3.6

The City Council may initiate "contract annexation" or an alternative procedure, other than standard annexation, when it is determined that the community will derive significant economic advantage.



Exhibit "A"

PO Box 330, Phoenix, Oregon 97535
541-535-2050 Fax 541-535-5769

Annexation Application

Fee: \$4,000.00

I. Property Information:

- A. Location (Address If Available) 200 Luman Rd Phoenix - Talent / County
+ Luman Rd Phoenix - Talent / County
- B. Assessor's I.D.:
Township 38 Range: 1W Section: 10 Tax Lots(S) 3100 + 3290
- C. Size Of Parcel(S): Acres 4.27 + 001 Square Feet 186,001.2 + 435.6 square feet.
- D. Describe Adjacent Land Uses (Example: Single Family, Restaurant, Auto Repair, Etc.):

North: vacant road
 South: none / creek vacant
 East: vacant road
 West: none / post / creek vacant

II. Description Of Annexation:

- A. Comprehensive Plan Land Use Designation
 - 1) Current Jackson County Designation: rural / residential - 1B overlay
 - 2) Proposed City Of Phoenix Designation: multifamilis
- B. Zoning
 - 1) Current Jackson County Zoning: PP-5 / county rural residential - 5 acres
 - 2) Proposed City Of Phoenix Zoning: R3

III. Submittal Requirements:

Submit one of each of the Submittal Requirements that follow for review by the City Planner. Once this "Application Package" is deemed complete, submit 20 additional "Application Packages" (excluding numbers 6 & 9) to the Planning Department.

*on file
(Sketch)*

- 1. A 24x36 copy of an assessor's map of the proposed annexation area. The map shall identify those parcels for which consents to annex have been acquired. An 8 1/2" x 11" set of reductions and one (1) set of 8 1/2" x 11" clear transparencies of all exhibits.
- 2. Submit one of the following:
 - a. Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area, or see attachments 1+2
 - b. Consent to annex form by a majority of the registered voters living within the proposed annexation area. see attachments. 1+2

3. Legal metes and bounds description of the annexation area. Legal metes and bounds description of adjacent roadways that will be annexed with the parent annexation.
See as an attachment - (Content to Annexation City of Phoenix)
4. Specific information on each parcel within the proposed annexation area.
 - a. Current assessed valuation as determined by the county #3100 \$133,350[±] #3290 = \$740[±]
 - b. Acreage to the hundredth percentile 4.27 + 0.01
 - c. Map and tax lot number 38 1W 10 3100 + 3290
 - d. Current county zoning designation RR-5
5. Addresses of all dwelling units and businesses located within the annexation area.
None.
6. Property owners master mailing list and notification labels (see attached instruction sheet).
7. Written findings which address the following:
 - a. Existing land uses within the annexation area. *None.*
 - b. Existing improvements:
 - _____ water system
 - _____ streets
 - See attachment* sanitary sewer
 - _____ storm sewer
 - c. Special districts within the area:
 - None* water system
 - Luman Rd* streets *Luman Rd adjacent to property*
 - #5* fire district
 - Phoenix-Talent* school district
 - RVSS* bear creek valley sanitary authority *(please contact Shanon Hertel or Nick Bakke! (RVSS) Road Valley Sewer Service)*
 - none* others
 - d. The present availability of urban services to the proposed annexation area, their capacity, and cost of extension or improvement:

| | | |
|------------------------------------|----------------------|---|
| <i>Rogue Valley</i> sanitary sewer | _____ parks | <i>Please contact Shanon Hertel or Nick Bakke! (RVSS) Road Valley Sewer Service</i> |
| _____ storm drainage | _____ water | |
| _____ fire | <i>Pacific</i> power | |
| _____ streets | _____ police | |
| | | |
 - e. Compliance with all applicable goals and policies of the comprehensive plan. (including goal 3 of the land use element)
 - f. Compliance with the annexation criteria provided in the city's zoning ordinance.
8. Completed application with property owner and applicant signatures.
9. Application fee.

on file Stellen. ✓

Notice To Applicants: Applications Cannot Be Processed Until All Of The Required Information Has Been Submitted And Has Been Found To Be Complete. Refer To The Handout Titled "Planning Application Submittal Requirements". Also Refer To The Document Titled "City Of Phoenix Procedural Requirements" For A More Detailed Description Of What Must Be Included With Any Application Package. Because Of State Rules Annexation Applicants Are Requested To Waive The 120 Day Processing Requirement. Please Sign The Following Waiver:

On This Date 11-29-2016 I Agree to Waive the State 120-Day Application Processing Mandate.

Urich Wingen
Applicant's Signature

IV. Property Owner/Applicant Information

Property Owner Name: Uly 2, LLC
(Please Print Or Type)
Address: 200 Luman Rd + Luman Rd Phoenix-Talent Jackson
Phone: 408-307-7900 2nd Phone: _____

Applicant's Name: Uly 2, LLC Urich Wingen : c/o Inken Robrahn
Address: P.O. Box 5038 San Jose CA 95150
Phone: 408-307-7900 2nd Phone: _____

Other Contact Name: Inken Robrahn
Address: P.O. Box 5038, San Jose, CA 95150
Phone: 408-307-7900 2nd Phone: _____

V. Applicant's Certification: I Do Hereby Certify That The Information Submitted Herein Is True And Correct To The Best Of My Knowledge And Belief.

Urich Wingen
Applicant's Signature

Date 11-29-2016

Vi. Property Owner Certification: I Do Hereby Certify That The Information Submitted Herein Is True And Correct To The Best Of My Knowledge And Belief.

Urich Wingen
Property Owner Signature

Date 11-29-2016

For City Use Only

Received By: _____

Date: _____

Fee Received: _____

Receipt No.: _____

File No. Assigned: _____

CITY OF PHOENIX
CONSENT TO ANNEXATION
(Individual Owners)

Consent is hereby given to the annexation by the City of Phoenix, Oregon of the following described real property:

Map and Tax Lot: 381W10 lots 3100 Address 200 Luman Rd Phoenix-Talent } Jackson
Legal Description: + 3290 + Luman Rd Phoenix-Talent } county,
OR

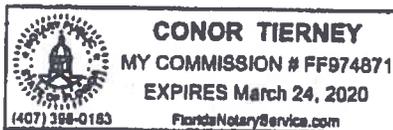
See attachment

in the corporate limits of said city, which is owned by the undersigned.

DATED this 16 day of Nov. 2016.

Ulrich Wingers

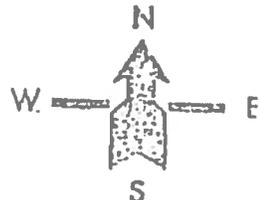
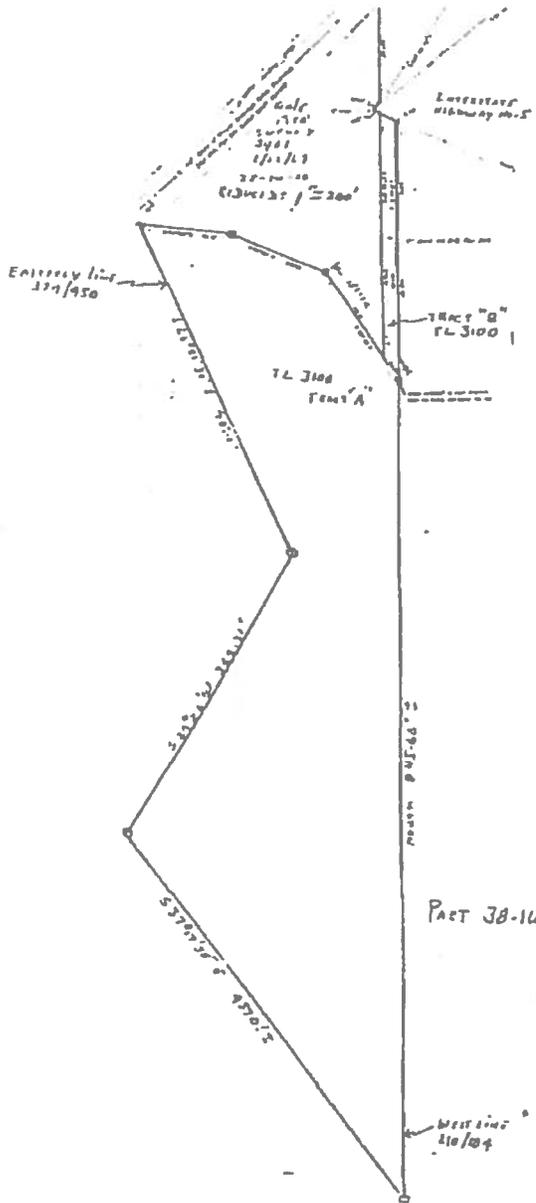
Florida
STATE OF OREGON)
Palm Beach) SS
COUNTY OF JACKSON)



On this 16 day of November, 2016, personally appeared Ulrich Wingers

who, being duly sworn did acknowledge the foregoing instrument to be his/her/their voluntary act and deed.

Ulrich Wingers



AMERICAN PACIFIC
 TITLE & ESCROW COMPANY
 Prestige Plaza Bldg, Suite A
 100 Main Street East
 Medford, Oregon 97501
 THIS MAP IS PROVIDED SOLELY FOR THE
 PURPOSE OF ASSISTING IN THE LOCA-
 TION OF THE PROPERTY. THE COMPANY
 ASSUMES NO LIABILITY FOR VARI-
 ATIONS, IF ANY, IN DIMENSIONS OR
 LOCATIONS ASCERTAINED BY AN
 ACTUAL SURVEY.



PACT 38-1W-10

Order No. 715821-CT

Exhibit 'A'

TRACT A:

Commencing at a point in the right of way of Interstate Highway No. 5, said point being South 1516.35 feet and West 2510.64 feet from the Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence South 888.69 feet to the true point of beginning; thence North 33°30' West 151.14 feet; thence North 67°00' West 113.85 feet; thence North 84°00' West 101.31 feet to the Easterly line of tract described in Volume 374 Page 450 of the Deed Records of Jackson County, Oregon; thence along said line, the following: South 26°01'30" East 407.5 feet; thence South 29°26' West 364.31 feet; thence South 37°17'55" East 457.0 feet, more or less, to the West line of tract described in Volume 210 Page 184, said Deed Records; thence North, along said line, 845.66 feet, more or less, to the true point of beginning.

TRACT B:

ALSO, that portion of the following described tract lying South of the Southwesterly right of way line of Interstate Highway No. 5, as described in deed recorded in Volume 534 Page 58 of the Deed Records of Jackson County, Oregon: Beginning at a point which is 1516.35 feet South and 2517.92 feet West of the Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence South 0°28'10" East 888.72 feet; thence North 33°30' West 33.02 feet; thence North 0°28'10" West 861.19 feet; thence East 18.0 feet to the point of beginning.

EXHIBIT 'A'

Tract A:

Commencing at the North-Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence South 2405.04 feet, thence West 2510.64 feet, thence North 33°30' West 33.02 feet to a 5/8" iron pin for the true point of beginning, said point also being the point of beginning of Tract A. of Parcel A as described in instrument recorded as No. 80-17777 of the Official Records of Jackson County, Oregon; thence, along the Southwesterly boundary of said Tract A, North 33°30' West 118.12 feet; thence North 67°00' West 113.85 feet; thence North 84°00' West 101.31 feet; thence North 28°10' West 51.48 feet; thence North 63°30' West 141.90 feet; thence North 23°40' West 109.56 feet; thence north 17°54' West 199.78 feet; thence North 62°00' West 73.48 feet; thence, leaving said Southwesterly boundary, North 62°00' West 11.17 feet; thence North 01°30'30" East 226.44 feet to the Southerly right of way boundary of Fern Valley Road (County Road); thence along said Southerly boundary and the arc of a 542.96 foot radius curve to the right (the long chord to which bears North 82°02' East 26.46 feet), a distance of 26.47 feet to the Westerly boundary of said Tract A; thence along the boundary of said Tract A, North 11°49'40" East 39.50 feet to the Northeast corner of said tract; thence East, along the North boundary of tract described in Volume 527 Deeds page 224, a distance of 97.72 feet to intersect the Northwesterly right of way boundary of Interstate Highway No. 5; thence South 50°44'29" West, along said boundary, 12.15 feet; thence South 73°11' East, along the Southwesterly boundary of said Highway, 178.32 feet; thence South 46°34'10" East, along said boundary, 411.27 feet to intersect the West boundary of tract described in Volume 319 Deeds Page 195; thence South 0°28'10" East, along said boundary, 519.16 feet to the true point of beginning.

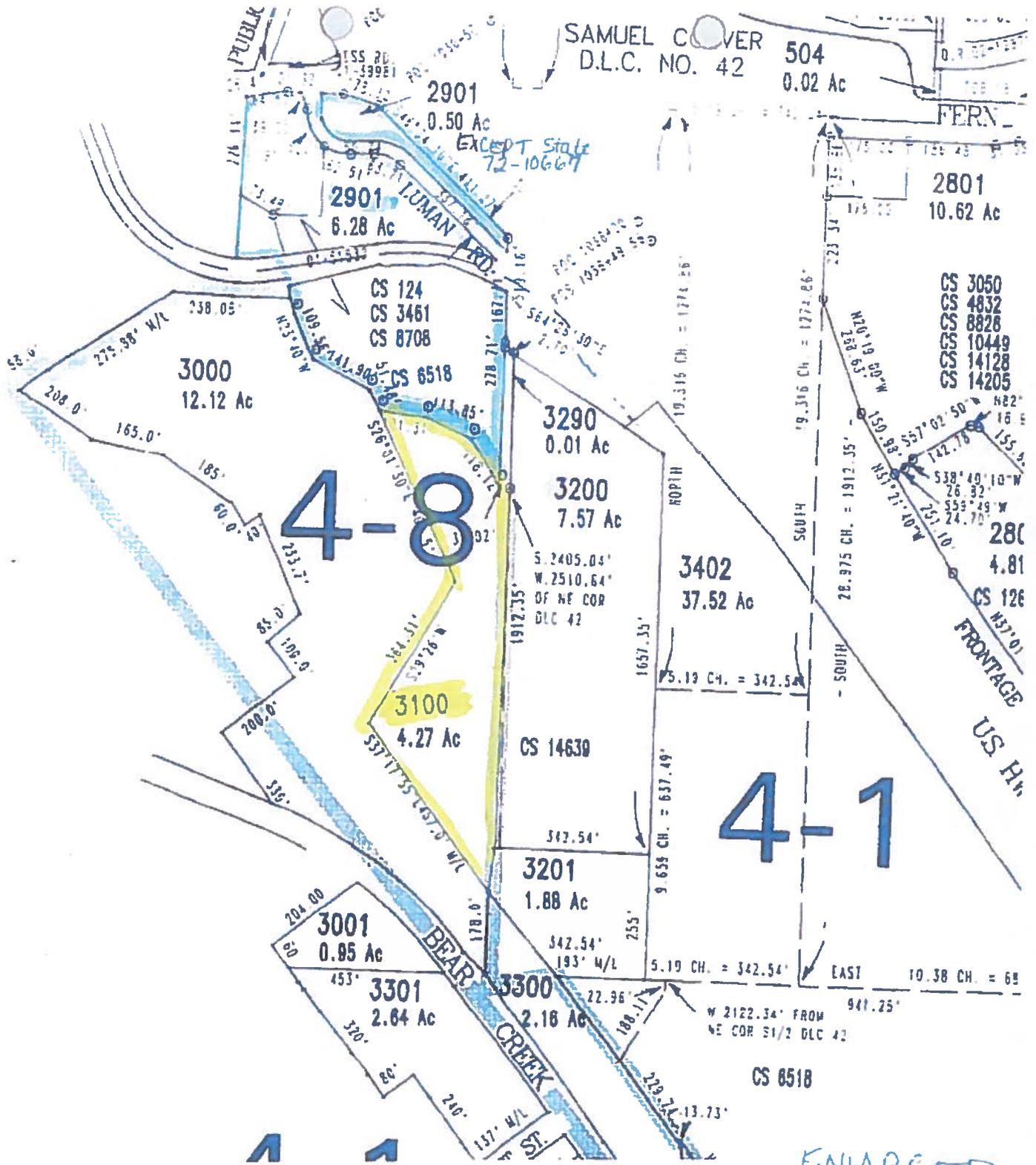
EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by and through its State Highway Commission, recorded as No. 72-10667 of the Official Records of Jackson County, Oregon.

Tract B:

Commencing at the North-Northeast corner of Donation Land Claim No. 42 in Township 38 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence South 2405.04 feet, thence West 2510.64 feet, thence North 33°30'00" West 33.02 feet to a 5/8" iron pin, thence North 33°30'00" West 118.12 feet, thence North 67°00'00" West 113.85 feet, thence North 84°00'00" West 101.31 feet, thence North 28°10'00" West 51.48 feet, thence North 63°00'00" West 141.90 feet, thence North 23°40'00" West 109.56 feet, thence North 17°54'00" West 199.78 feet to the true point of beginning; thence North 62°00'00" West 73.48 feet; thence continue North 62°00'00" West 11.17 feet; thence South 01°30'30" West 193.96 feet to the South boundary of Parcel B described in instrument recorded as No. 80-17777 of the Official Records of Jackson County, Oregon; thence East, along said boundary 129.64 feet to a point South 17°54'00" East from the point of beginning; thence North 17°54'00" West 161.99 feet to the true point of beginning.

FURTHER EXCEPTING Tracts A and B all those portions conveyed to the State of Oregon, by and through its Department of Transportation recorded October 30, 2001 as Document No. 01-51532.

For informational purposes only, the following is included:
(Map No. 381W10, Tax Lot 2901, Account No. 1-007590-7, Code 4-01)



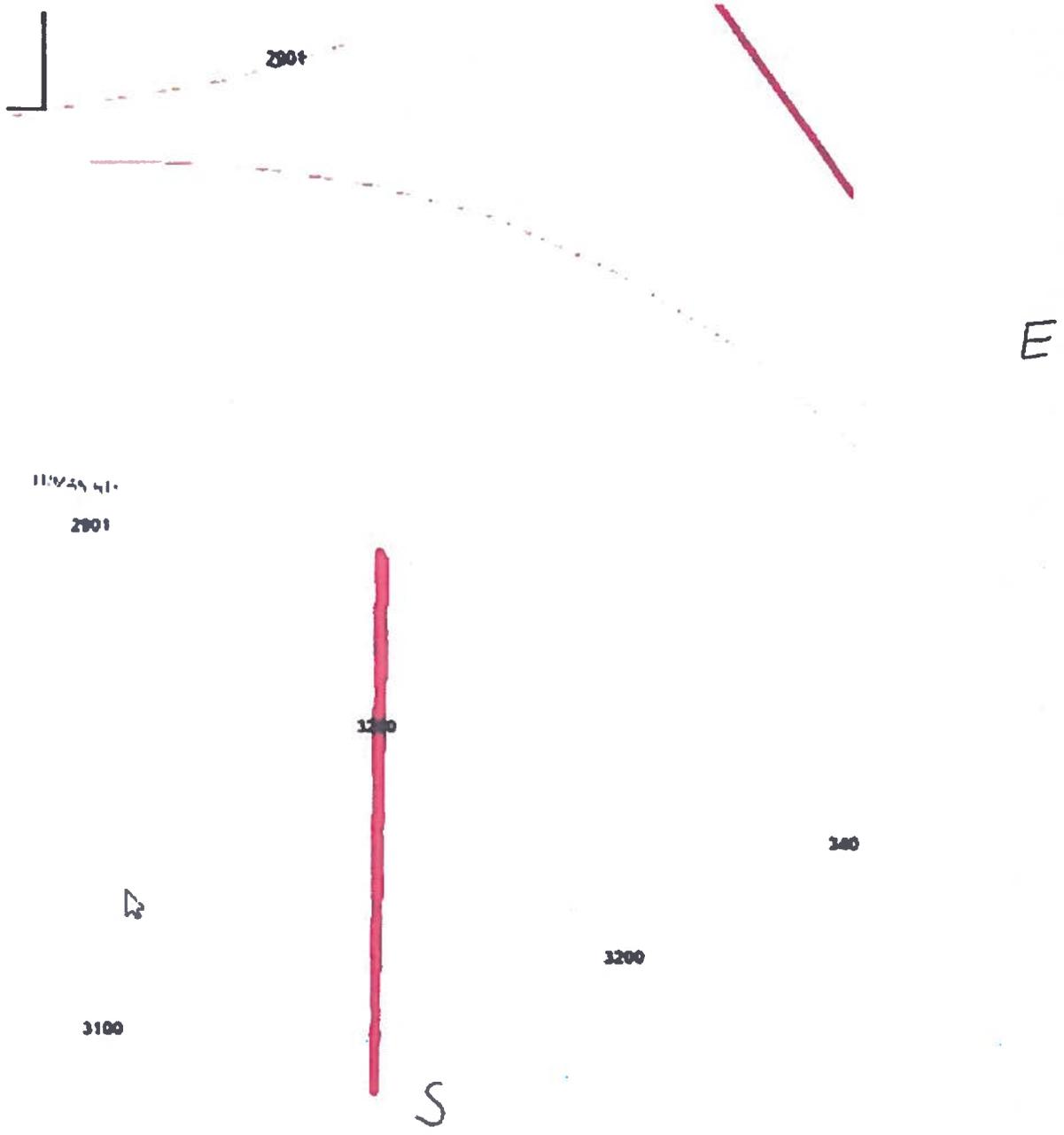
Twp. 35 R 1W Sec. 10

ENLARGED
not to scale

This print is made solely for the purpose of assisting in locating said premises, and the Company assumes no liability for information printed on this map, including zoning, variations (if any) in actual dimensions, and locations as determined by actual survey.

N

All that parcel located in Township 38 South, Range 2 West, Section 10, more particularly described as: Commencing at the northwest corner of parcel described in Instrument Number 1998-55689 of the Official Records of Jackson County, Oregon, said corner also being a point of the southern line of the right of way of Luman Road and Interstate 5, The True Point of Beginning, Thence Northwesterly along said right of way to the northeast coner of parcel described in Instrument Number 1998-53739, Thence South along the eastern boundary of said parcel to point on the western line of parcel described in Instrument Number 1998-55689 of the Official Records of Jackson County, Oregon, Thence North along said boundary to the Point of Beginning.
(Map 381W10-3290, Tax account 10665656)



**CITY OF PHOENIX
SEPARATE AGREEMENT MAKING CONSENT IRREVOCABLE
(Individual Owners)**

The undersigned hereby agree(s) that the consent to annexation on the reverse side of this page is irrevocable and shall be binding upon our heirs, successors, and assigns forever, being a covenant running with the land. The one-year period prescribed by ORS 222.173 is hereby waived.

DATED this 16 day of Nov. 2016, _____.

Ulrich Wiggens

Florida
STATE OF ~~OREGON~~)
Palm Beach.) SS
COUNTY OF ~~JACKSON~~)

On this 16 day of November, 2016, personally appeared

Ulrich Wiggens

who, being duly sworn did acknowledge the fore going instrument to be his/her/their voluntary act and deed.



Conor Tierney

Notary Public for ~~Oregon~~ Florida
My Commission expires: 3/24/2018

Filed with the City of Phoenix this _____ day of _____, _____.

Planning Director