

RECEIVED

MAR 04 1999
2:35 pm
UMATILLA COUNTY
RECORDS

UMATILLA COUNTY
ORDINANCE #99-03

IN THE MATTER OF CO-ADOPTING HERMISTON ORDINANCE #1969, AMENDING THE CITY'S COMPREHENSIVE PLAN MAP BY THE CONVERSION OF CERTAIN LANDS FROM URBANIZABLE TO URBAN STATUS TO ESTABLISH A LAND USE DESIGNATION OF LOW DENSITY RESIDENTIAL; AND CO-ADOPTION OF HERMISTON ORDINANCE #1964 TO ALLOW ANNEXATION OF SAME LAND, TO BE DESIGNATED R-2 DUPLEX RESIDENTIAL; SAID PROPERTY BEING 76.01 ACRES AND DESCRIBED AS TAX LOT 900 ON ASSESSOR'S MAP 4N 28 12B, AND TAX LOT 200 ON ASSESSOR'S MAP 4N 28 12CB, COMMONLY KNOWN AS "PACIFIC WESTERN HOMES" PROPERTY.

WHEREAS, In a joint meeting on October 12, 1998, the Hermiston City Council and Planning Commission unanimously approved the Pacific Western Homes application for conversion from Urbanizable to Urban status, annexation, withdrawal of land from special districts and zoning designation of the Pacific Western Homes property located west of and adjacent to Townsend Road and south of and adjacent to Sandstone Middle School; and

WHEREAS, Pacific Western Homes wishes to have said property within the city limits to allow for future residential development; and

WHEREAS, The City has agreed to annex the Pacific Western Homes property upon County co-adoption of the comprehensive plan amendment, and has requested co-adoption; and

WHEREAS, The City and the County have previously entered into a Joint Management Agreement applying to lands within the city urban growth area, and this comprehensive plan map amendment and annexation is in compliance with the provisions of the Joint Management Agreement; and

WHEREAS, At their November 19, 1998 meeting, the Umatilla County Planning Commission reviewed the Pacific Western Homes proposal and recommended co-adoption to the Board of County Commissioners, subject to several conditions; and

WHEREAS, The Board of Commissioners held a public hearing on December 29, 1998, at which time they voted to continue the hearing to January 19, 1999 to allow the Board and interested parties time to meet with the City and discuss a proposal to transfer ownership of Townsend Road from the County to the City, with the County to provide maintenance until such time as road improvements are completed; and

WHEREAS, Interested parties met on January 7, 1999 at the Hermiston City Hall Conference Room and developed a *Revised Proposed Condition of Approval* and a draft *Intergovernmental Agreement Between Umatilla County, Oregon and the City of Hermiston*; and

WHEREAS, The Board of Commissioners reconvened on January 19, 1999 and voted unanimously to co-adopt said conversion, comprehensive plan map and zoning map amendments, allowing for annexation of the Pacific Western Homes property as described above, conditioned upon the following:

(1) The developer obligate itself contractually to the *Revised Proposed Condition of Approval*, which states: "Pacific Western and its transferees, successors or assigns agrees that, at such time as it provides access to Townsend Road, Pacific Western will improve Townsend Road from the south side of its property (to the north of and not including the Maxwell Canal Bridge) to Diagonal Road to a 24-foot (two travel lanes) width with a chip seal surface. Pacific Western also agrees to install at the same time a multi-purpose trail for pedestrian and bicycle purposes on its property north of Main Street and on the west side of Townsend Road where the right-of-way width allows. Pacific Western agrees to dedicate, as part of the approval of its preliminary subdivision application when such subdivision application abuts Townsend Road, up to fifteen (15) feet of right-of-way on the west side of Townsend Road for roadway and multi-purpose trail purposes." (NOTE: It is understood that if emergency access to Townsend Road is required by the City, that this requirement will not necessitate the improvements required by this paragraph).

(2) The City of Hermiston accept and sign the *Intergovernmental Agreement between Umatilla County, Oregon and the City of Hermiston*, as amended, as noted on attached Exhibit C.

NOW THEREFORE, BE IT ORDAINED that the attached City of Hermiston Ordinances #1969 and #1964 are hereby co-adopted by Umatilla County, Oregon, subject to Conditions (1) and (2) stated above.

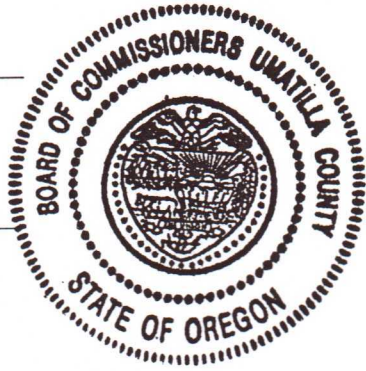
Signed this 24th day of February, 1999.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Emile M. Holeman
Emile Holeman, Chairman

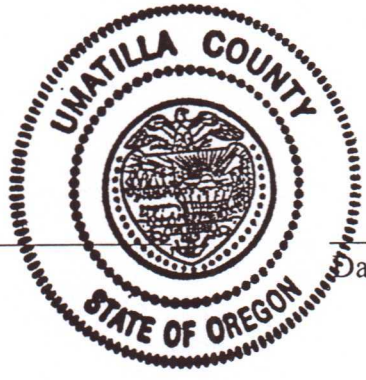
William S. Hansell
Bill Hansell, Vice-Chairman

Dennis D. Doherty
Dennis Doherty, Commissioner



ATTEST:

Jean Tompkins
Records Officer



2-24-1999
Date

AGREED AND ACCEPTED:

Chet Antonsen, Pacific Western Homes, Inc.

Date

AGREED AND ACCEPTED:

City of Hermiston, by: _____

Date: _____

Signed this 24th day of February, 1999.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Emile M. Holeman
Emile Holeman, Chairman

William S. Hansell
Bill Hansell, Vice-Chairman

Dennis D. Doherty
Dennis Doherty, Commissioner



ATTEST:

Jean Humphries
Records Officer



2-24-1999
Date

AGREED AND ACCEPTED:

Chet Antonsen
Chet Antonsen, Pacific Western Homes, Inc.

2-26-99
Date

AGREED AND ACCEPTED:

City of Hermiston, by: _____

Date: _____

Signed this 24th day of February, 1999.

UMATILLA COUNTY BOARD OF COMMISSIONERS

Emile M. Holeman
Emile Holeman, Chairman

William S. Hansell
Bill Hansell, Vice-Chairman

Dennis Doherty
Dennis Doherty, Commissioner



ATTEST:

Jean Tompkins
Records Officer



2-24-1999
Date

AGREED AND ACCEPTED:

Chet Antonsen, Pacific Western Homes, Inc.

Date

AGREED AND ACCEPTED:

City of Hermiston, by: [Signature]

Date: 2/26/99

ORDINANCE NO. 1969

AN ORDINANCE AMENDING THE CITY OF HERMISTON COMPREHENSIVE PLAN MAP BY THE CONVERSION OF CERTAIN LANDS FROM URBANIZABLE STATUS TO URBAN STATUS, ESTABLISHING LAND USE PLAN DESIGNATION AND DECLARING AN EMERGENCY.

WHEREAS, the City Council and City Planning Commission did propose to convert certain lands from urbanizable status to urban status, in accordance with Policy 6 in the City's comprehensive plan, and

WHEREAS, the City Planning Commission and the City Council did hold a public hearing on October 12, 1998, on the proposed conversion and plan designation, and

WHEREAS, the City Planning Commission did recommend to the City Council that certain land be converted from urbanizable status to urban status in accordance with Policy 6 in the City's comprehensive plan, now therefore

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

SECTION 1. That the following described land area be converted from urbanizable status to urban status in accordance with Policy 6 in the City's comprehensive plan:

Being a portion of the east half of Section 12, Township 4 North, Range 28 East, Willamette Meridian, Umatilla County, Oregon, and more particularly described as follows:

Beginning at a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc." at the northeasterly corner of the plat of Highland Summit, thence along the south line of the northwest quarter of said Section 12, South 89°30'46" East, 647.55 feet;

Thence along the easterly line of that tract of land described in reel 181 page 668, Umatilla County Deed Records, North 00°00'38" East, 661.89 feet to a point on the south line of the north half of the southeast quarter of the northwest quarter of Section 12;

Thence along said south line, South 89°30'22" East, 1345.27 feet to a point on the easterly right-of-way line of Townsend Road (County Road No. 1217), said point being 20.00 feet by perpendicular measure easterly of the north-south centerline of said Section 12;

Thence along said easterly right-of-way line, South 1656.57 feet;

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Thence west 40 feet to the westerly right-of-way line;

Thence leaving said westerly right-of-way line, North 89°51'55" West, 110.00 feet;

Thence along the northwesterly line of that tract of land described in Reel 265 page 601, Umatilla County Deed Records, South 51°53'27" West, 529.67 feet to the east-west running southwest 16th section line;

Thence along said 16th section line North 89°32'13" West, 1340.89 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc." at the southeast corner of said plat of Highland Summit;

Thence along the easterly line of said plat, north 00°04'35" East, 419.89 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 89° 45'25" West, 60.00 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 56°48'28" West, 32.18 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 00°14'35" East, 889.48 feet to the point of beginning.

Containing 76.01 acres, more or less.

Excepting therefrom a parcel of land beginning at the southeast corner of the northeast quarter of the southwest quarter of Section 12, Township 4 North, Range 28, thence North along the east line of the northeast quarter of the southwest quarter 331 feet; thence West at right angles 130 feet; thence Southwesterly to a point on the south line of the Northeast Quarter of the Southwest Quarter of said Section 12, said point being 546 feet West of the point of beginning; thence East along the south line of the northeast quarter of the southwest quarter, 546 to the point of beginning; also including an easement to go over and across the Maxwell Canal, disclosed by instrument between the Hermiston Irrigation District, and Gordon Fjeld, et ux, recorded in Book 341, Page 433, Deed Records; subject to any and all water rights of way and roads; all being East of the Willamette Meridian, Umatilla County, Oregon.

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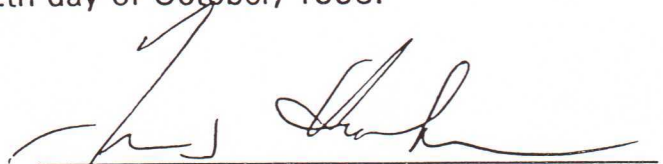
SECTION 2. That the following land use plan designation be established:

<u>Land Description</u>	<u>Proposed Plan Designation</u>
Approximately 76.01 acres located west of Townsend Road, south of Sandstone Middle School, east of S.E. 10th Street and north of the proposed E. Newport Avenue	Low Density Residential

SECTION 3. The findings of fact consisting of four pages adopted by the city council at the October 12, 1998, Pacific Western Homes conversion hearing are attached as Exhibit B and incorporated herein by reference.

SECTION 4. Inasmuch as it is necessary for the health, safety, comfort and convenience of the people of the City of Hermiston that this ordinance have immediate effect, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the council and approval by the mayor.

PASSED by the Common Council this 12th day of October, 1998.
APPROVED by the Mayor this 12th day of October, 1998.


MAYOR

ATTEST:



CITY RECORDER

EXHIBIT A
to Ordinance No. 1969

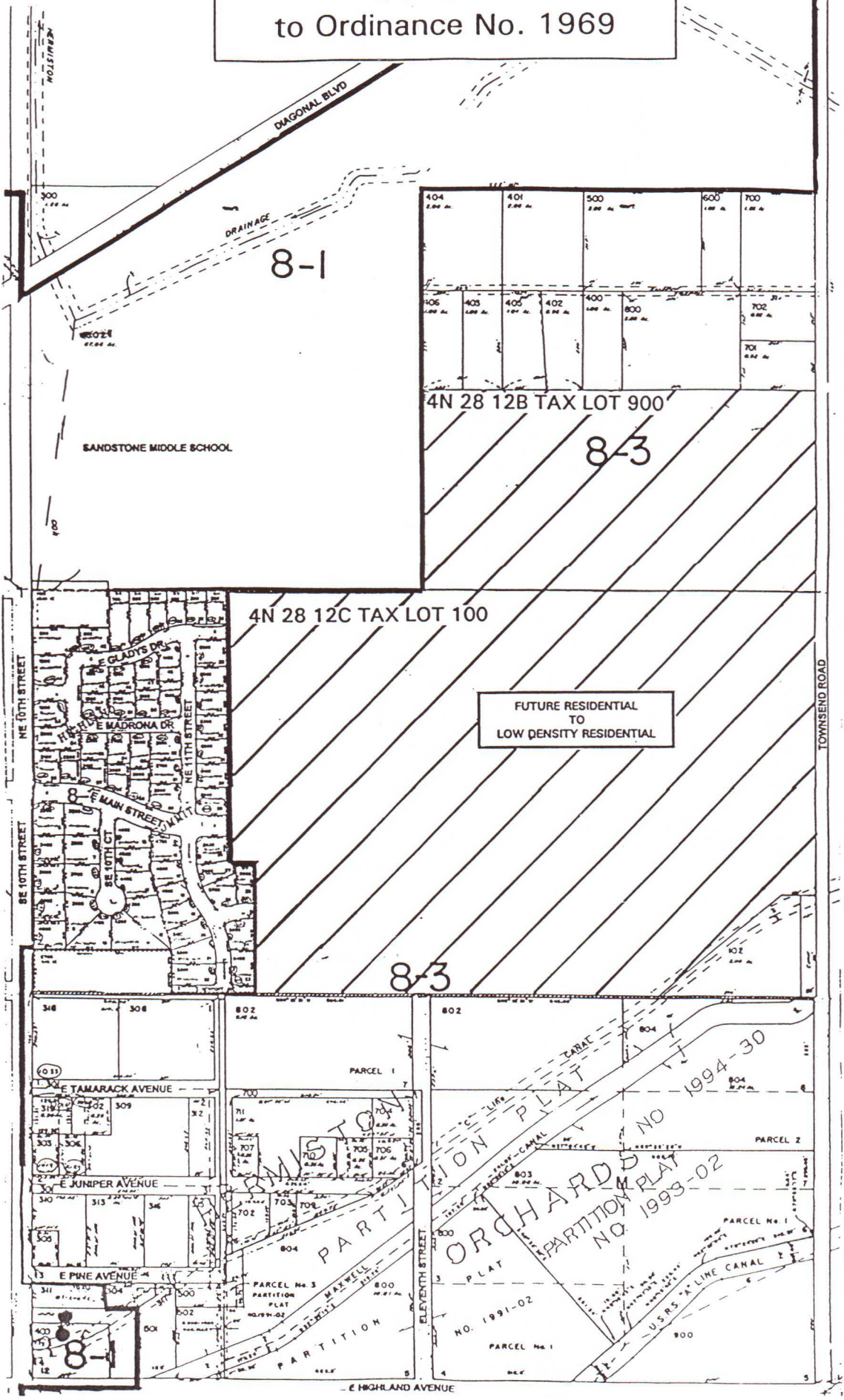


EXHIBIT B
to Ordinance No. 1969

FINDINGS OF FACT
for the Pacific Western Homes
Conversion from Future Residential Urbanizable to
Low Density Residential Urban Status
October 12, 1998

1. Public notice requirements have been met by publication in the local newspaper, and no objections have been received as a result of that publication at this date.
2. All properties within 100 feet of the periphery of the site were provided a direct mailing of the proposal. Staff received one objection from Dave Murdock of 90 S Townsend Road, Hermiston, Oregon, as a result of that mailing.
3. Notice of the proposed action was sent to the Department of Land Conservation and Development (DLCD) on August 25, 1998, more than 45 days prior to the final hearing in accord with OAR 660-18-020. The notice to DLCD listed Umatilla County, the Hermiston Irrigation District, the Hermiston School District and the Oregon Department of Transportation (ODOT) as agencies which may be interested or impacted by the proposal.
4. Patty Perry of the Umatilla County Planning Department in a letter dated October 8, 1998, stated:

"The most important concern about the proposed land use amendments and annexation proposal involves transportation. Of considerable concern is how the proposed development will impact Townsend Road. Townsend Road is a county road. It is a basic gravel road and is substandard to handle urban traffic. County staff feels the city should annex this county road and take over its ownership and maintenance responsibilities. This will allow the city to require right-of-way and the necessary improvements that will allow urban development and related traffic onto Townsend Road. Planning staff believes that the county will not co-adopt any conversion and or land use amendments that do not address traffic impacts upon Townsend Road."
5. Staff received letters from the Oregon Department of Transportation and the Umatilla County Road Department as a result of the notice of affected agencies.
6. The proposed change will promote compact urban development because the subject property is within the urban growth boundary and adjacent to the city limits.

Exhibit B to Ordinance No. 1969

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7. Per the City's water and wastewater superintendents, major sewer and water line extensions will be required.

8. Annexation of the subject property will facilitate compact urban growth, however, major sewer and water line extensions will be required to be extended to serve the subject property in order to provide orderly and efficient provision of facilities and services.

9. The proposed conversion meets the conversion eligibility criteria in Section H of the Hermiston Planning Area Joint Management Agreement (JMA) and was processed in cooperation with the county.

10. Portions of the subject property are identified in the comprehensive plan as subject to ground water pollution hazards due to excessively well drained soils and high water table. The applicants will comply with the conditions on the development imposed by the development hazard overlay of the zoning ordinance so Hermiston's water quality will be protected.

11. This proposal, by providing additional areas for urban residential development, shall provide substantial vacant buildable land for new single and two family housing opportunities.

12. The subject properties can be served by appropriate levels of police services, storm drainage facilities, streets and pedestrian facilities, and energy and communication services. However, per the City of Hermiston's wastewater and water superintendents, major sewer and water line extensions will be required in order to service the subject site properly.

13. Per the City of Hermiston Water Master Plan, it appears that the southeast corner of the land proposed for annexation cannot be serviced in the existing pressure zone. Thus, the southeast corner of the proposed annexation may need to be serviced by another pressure zone.

14. Per the City of Hermiston Wastewater Utility Plan, "the redundant capacity of pump station #5 (Ridgeway) has been exceeded and needs to be increased immediately."

15. Per the City of Hermiston Wastewater Utility Plan, larger pumps and a larger wet well will be needed at this pump station to serve both the near term and long term growth in this service area. This pump station will need to be increased in size and will need to be relocated.

Exhibit B to Ordinance No. 1969

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16. Pacific Western Homes, Inc. will extend sewer, water and storm sewer services directly from those lines in NE Main Street, NE Tenth Street and NE Gladys Street to this area.

17. The subject properties will be annexed prior to the extension of public water and sewer facilities.

18. The subject properties can be developed in a manner that will promote an integrated transportation system because it is large enough and configured such that there can be adequate access to and within the site, as well as logical connections to the surrounding network of streets and street rights-of-way.

19. This annexation will not significantly affect any transportation facility because it will not allow types or levels of land uses inconsistent with the functional classification of a transportation facility nor will it reduce the level of service of a transportation facility below the minimum acceptable level identified in the City's Transportation System Plan ("TSP").

CRITERIA

Zoning Ordinance No. 1840, Section 26, provides the method and approval criteria for granting or denying an amendment to the zoning map. The proposed amendment has been deemed a quasi-judicial change in that it involves the map and does not have widespread and significant impact beyond the immediate area of the proposed amendment. The following criteria as cited in Section 26 (4.2) must be followed in deciding upon a quasi-judicial proceeding:

1. The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.
2. The requested zone change must be justified by proof that:
 - a. The change is in conformance with the comprehensive plan and also the goals and policies of the plan.
 - b. The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.
 - c. The public need is best served by changing the classification of the subject site in question as compared with other available property.
 - d. The potential impact upon the area resulting from the change has been considered.

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3. The courts will require a "graduated burden of proof" depending upon the more intensive land use that will occur as a result of the proposed rezoning.
4. Procedural process for a quasi-judicial hearing:
 - a. Parties at a public hearing must have an opportunity to be heard, to present and rebut evidence.
 - b. There must be a record which will support the findings made by the city council or planning commission.

ORDINANCE NO. 1964

AN ORDINANCE PROPOSING TO ANNEX NEW TERRITORY TO THE CITY OF HERMISTON WITHDRAWING SAID TERRITORY FROM THE UMATILLA COUNTY LIBRARY DISTRICT, DISPENSING WITH AN ELECTION AND CALLING FOR A PUBLIC HEARING ON THE PROPOSED ANNEXATION AND WITHDRAWAL AND ESTABLISHING LAND ZONING, DIRECTING THAT NOTICE OF HEARING BE PUBLISHED AND POSTED AS REQUIRED BY LAW, AND DECLARING AN EMERGENCY.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

SECTION 1. The following described property be proposed for annexation, withdrawal from the Umatilla County Library District, and the land area be designated as R-2 (Duplex Residential), to wit:

Being a portion of the east half of Section 12, Township 4 North, Range 28 East, Willamette Meridian, Umatilla County, Oregon, and more particularly described as follows:

Beginning at a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc." at the northeasterly corner of the plat of Highland Summit, thence along the south line of the northwest quarter of said Section 12, South 89°30'46" East, 647.55 feet;

Thence along the easterly line of that tract of land described in reel 181 page 668, Umatilla County Deed Records, North 00°00'38" East, 661.89 feet to a point on the south line of the north half of the southeast quarter of the northwest quarter of Section 12;

Thence along said south line, South 89°30'22" East, 1345.27 feet to a point on the easterly right-of-way line of Townsend Road (County Road No. 1217), said point being 20.00 feet by perpendicular measure easterly of the north-south centerline of said Section 12;

Thence along said easterly right-of-way line, South 1656.57 feet;

Thence west 40 feet to the westerly right-of-way line;

Thence leaving said westerly right-of-way line, North 89°51'55" West, 110.00 feet;

Thence along the northwesterly line of that tract of land described in Reel 265 page 601, Umatilla County Deed Records, South 51°53'27" West, 529.67 feet to the east-west running southwest 16th section line;

Thence along said 16th section line North 89°32'13" West, 1340.89 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc." at the southeast corner of said plat of Highland Summit;

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Thence along the easterly line of said plat, north 00°04'35" East, 419.89 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 89° 45'25" West, 60.00 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 56°48'28" West, 32.18 feet to a 5/8" iron rod with yellow plastic cap marked "G & L Land Surveying, Inc.";

Thence continuing along said easterly line North 00°14'35" East, 889.48 feet to the point of beginning.

Containing 76.01 acres, more or less.

SECTION 2. An election on the question of annexation of the above described property shall be dispensed with, and a public hearing shall be held before the city council and planning commission at the city council's regular meeting on October 12, 1998, at or after the hour of 7:00 p.m. at which time the public may appear and be heard on these questions.


SECTION 3. The city recorder shall cause to be published a Notice of Public Hearing in the Hermiston Herald on September 22 and September 29, 1998, and that the recorder shall also cause the Notice of Public Hearing to be posted in four (4) places during this time.

SECTION 4. Inasmuch as the health and safety of the City of Hermiston and its inhabitants are affected by the annexation, withdrawal and land zoning of the herein described property, it is necessary that this ordinance go into effect at once, and an emergency is hereby declared to and does exist, and this ordinance shall be in full force and effect from and after its passage by a unanimous vote of all councilmen present at the meeting upon which said ordinance is adopted.

PASSED by the unanimous vote of the Council this 24th day of August, 1998.
APPROVED by the Mayor this 24th day of August, 1998.


MAYOR

ATTEST:


CITY RECORDER

INTERGOVERNMENTAL AGREEMENT BETWEEN UMATILLA
COUNTY, OREGON AND THE CITY OF HERMISTON

WHEREAS, Umatilla County, Oregon (the "County") and the City of Hermiston, Oregon (the "City"), an Oregon municipal corporation, desire to enter into an agreement pursuant to ORS Chapter 190 for the transfer of jurisdiction and the continued maintenance of Townsend Road, a county road, between the south end of the Pacific Western property and its intersection on the north with Diagonal; and

WHEREAS, ORS Chapter 190 and the Joint Management Agreement ("JMA") between the County and the City allow the transfer of roads from the County to the City; and

WHEREAS, the County and the City believe that this agreement is in the best interest of the public welfare and will advance the public welfare by ensuring improvements to and the maintenance of Townsend Road for the benefit of vehicular travel, pedestrians and bicyclists; and

WHEREAS, this Agreement will contribute to the orderly and timely improvement of Townsend Road in such a way as to allow urban development in the City of Hermiston.

NOW, THEREFORE, the parties do agree as follows:

1. The County Agrees to Transfer the Jurisdiction of Townsend Road to the City of Hermiston.

The County agrees to initiate and successfully transfer the jurisdiction of Townsend Road, a County road, between its intersection with Diagonal on the north and the south end of the

Pacific Western property, as shown on Exhibit 1, attached hereto and incorporated by this reference, as soon as possible after complying with applicable requirements for the transfer of jurisdiction of a County road.

2. The City Agrees to Accept the Transfer of Jurisdiction of Townsend Road Subject to the terms of this Agreement.

The City agrees to accept the transfer of jurisdiction of Townsend Road as described in Section 1, above, after action by the County transferring the road, subject to the other terms of this Agreement.

3. The City and County Agree to Waive the Requirement of Paragraph F(7) of the Joint Management Agreement.

Paragraph F(7) of the JMA requires that prior to the transfer of jurisdiction of a County road to the City, certain improvements to the road shall be made. In light of the other provisions of this Agreement as shown below, the City and the County jointly agree to waive JMA paragraph F(7) and agree that such improvements shall be unnecessary in this instance. The City and County take this action because, as provided below, the County agrees to maintain Townsend Road until such time as it is improved as described in paragraph 4, below.

4. The County Agrees to Maintain Townsend Road until such Time as it is Improved to the Standard Specified Below.

The County agrees that notwithstanding the transfer of jurisdiction of Townsend Road as described in Section 1, above, it shall agree to maintain and be responsible for the maintenance of Townsend Road by providing gravel for the roadway surface, blading

the roadway surface and taking such other actions as the County would normally take in its sole discretion for the maintenance of a County road. Nothing in this Agreement is intended to require the County to do more for this road than it does for any other road.

The City agrees that it will begin maintenance of Townsend Road between the north side of the Maxwell Line Canal bridge and Diagonal Road at such time as the road is improved to a standard consisting of a twenty four (24) foot wide chip seal travel surface (two travel lanes). The County shall provide a letter to the City of Hermiston notifying it of the existence of such condition allowing the transfer of maintenance of Townsend Road from the County to the City as described herein within thirty (30) days of the date of that letter.

5. Authority.

The parties agree that each has the authority to execute this Agreement and that the Agreement is executed pursuant to each party's lawful authority.

6. Change or Modifications.

The parties agree that any changes, additions or modification sot this Agreement shall be made only in writing and executed by the parties to this Agreement. This Agreement shall become effective as of the date shown below.

UMATILLA COUNTY

By: _____
Emile Holeman, Chairman
Board of Commissioners

Date

CITY OF HERMISTON

By: _____
Frank Harkenrider, Mayor

Date

Approved as to form:

Douglas R. Olsen, County Counsel

STATE OF OREGON)
) ss.
County of Umatilla)

This instrument was acknowledge before me on ~~January~~ 1999, by Emile Holeman.

Notary Public for Oregon

STATE OF OREGON)
) ss.
County of Umatilla)

This instrument was acknowledge before me on ~~January~~ 1999, by Frank Harkenrider.

Notary Public for Oregon