

## **ORDINANCE NO. 1483**

**AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON 2.64 ACRES INCLUDING 2.0 ACRES OF REAL PROPERTY DESCRIBED AS TAX LOTS 200 AND 201 OF PORTION OF SE ¼, SEC. 27, T.3S., R.1E., W.M. (TAX MAP 31E27DB); AND APPROX. 0.20 ACRES OF ADJACENT NE TERRITORIAL ROAD RIGHT-OF-WAY AND APPROX. 0.44 ACRES) OF PART OF TAX LOT 1500 (TAX MAP 31E27AD) KNOWN AS SPITZ ROAD WHICH IS VACATED COUNTY ROADWAY NOW OWNED BY THE CITY OF CANBY; AND AMENDING THE EXISTING COUNTY ZONING FROM RURAL RESIDENTIAL FARM FOREST FIVE ACRE (RRFF-5) TO CITY LOW DENSITY RESIDENTIAL (R-1) FOR THE ENTIRE AREA; AND SETTING THE BOUNDARIES OF THE PROPERTY TO BE INCLUDED WITHIN THE CANBY CITY LIMITS.**

**WHEREAS**, on March 16, 2018, at a public hearing the City Council of the City of Canby approved by a vote of 5 to 0, Annexation (ANN/ZC 18-01) which called for the annexation of 2.64 acres into the City of Canby. The applicant is Paul DuPont and owner of Tax Lot 200 and 201 of Tax Map 31E27DB. A complete legal description and survey map of the applicant's tax lots and adjacent Territorial Road right-of-way abutting along the south and adjacent City owned property known as Spitz Road abutting along the east delineates the property to be annexed and is attached hereto as Exhibit A & B respectively and by this reference are incorporated herein; and

**WHEREAS**, Pursuant to CMC 16.84.080, the City must proclaim by ordinance or resolution, the annexation of said property into the City and set the boundaries of the property by legal description; and

**WHEREAS**, the zoning of the annexed land shall be designated as R-1 Low Density Residential to conform with the Canby Comprehensive Plan Map, and such zoning shall be indicated on the official zoning map for the City of Canby; and

**WHEREAS**, an application was filed with the City by the applicant listed above to change the zoning of two parcels as indicated herein along with the adjacent road right-of-way and City owned vacated right-of-way where the applicable R-1 zoning will also apply; and

**WHEREAS**, a public hearing was conducted by the Canby Planning Commission on April 23, 2018 after public notices were mailed, posted and published in the Canby Herald, as required by law; and

**WHEREAS**, the Canby Planning Commission heard and considered testimony regarding the annexation and accompanying zone change required for annexations by Figure 16.84.040 of Chapter 16.84 of the Land Development and Planning Ordinance at the public hearing and at the conclusion of the public hearing; the Planning Commission voted to recommend that the City Council approve

the applications.

The Planning Commission written Findings, Conclusions and Order was approved with acknowledgement an accompanying Annexation Development Agreement to memorialize provisions to apply to the eventual residential development subdivision to be submitted for future development of the property; and

**WHEREAS**, the Canby City Council considered the matter and the recommendation of the Planning Commission following a public hearing held at its regular meeting on May 16, 2018; and

**WHEREAS**, the Canby City Council, after considering the applicant's submittal, the staff report, the Planning Commission's hearing record and their recommendation documented in their written Findings, Conclusions and Order and the Annexation Development Agreement, and after conducting its own public hearing; voted to approve the annexation and associated zoning designation for the properties and the Annexation Development Agreement; and

**WHEREAS**, the written Findings, Conclusions and Order of the Council action is to be approved by the City Council at the next regular Council meeting on June 6, 2018.

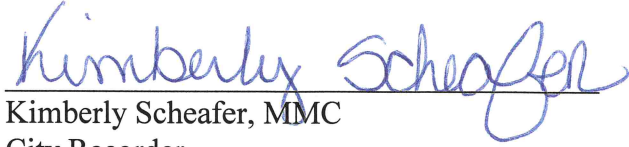
**NOW, THEREFORE, THE CITY OF CANBY ORDAINS AS FOLLOWS:**

Section 1. It is hereby proclaimed by the City Council of Canby that 2.64 acres of property described, set, and shown in Exhibit A & B and attached hereto, is annexed into the corporate limits of the City of Canby, Oregon.

Section 2. The annexed land shall be rezoned from the county Rural Residential Farm Forest (RRFF-5) to city Low Density Residential (R-1) as reflected on the Canby's Comprehensive Plan Map and as indicated by Tax Lot and legal description in this Ordinance. The Mayor, attested by the City Recorder, is hereby authorized and directed to have the zone change made to the official zoning map for the City of Canby.

Section 3. The City Council hereby approves the Development Agreement by and between the City of Canby and Paul DuPont, attached as Exhibit "C", an as-yet-unexecuted draft copy of which is attached hereto this ordinance for which the City Administrator is hereby authorized and directed to sign the final Development Agreement at which time "Dupont" is hereby authorized to record the signed Development Agreement with the official records of Clackamas County within seven (7) calendar days from the 2<sup>nd</sup> reading of this ordinance.

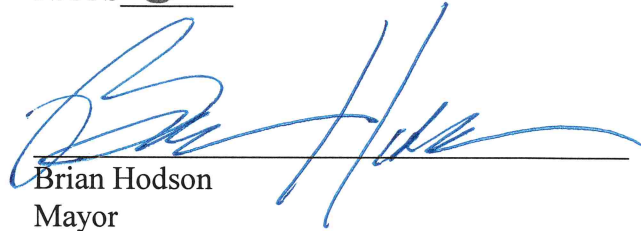
**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, May 16, 2018; ordered posted as required by the Canby City Charter and scheduled for second reading on Wednesday, June 6, 2018, after the hour of 7:30 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.



Kimberly Scheafer, MMC  
City Recorder

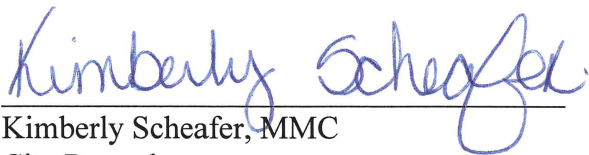
**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on June 6, 2018 by the following vote:

YEAS 5      NAYS 0



Brian Hodson  
Mayor

ATTEST:



Kimberly Scheafer, MMC  
City Recorder

EXHIBIT A



**CENTERLINE CONCEPTS**  
LAND SURVEYING, INC.

19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045  
P. 503-650-0188 F. 503-650-0189

***Annexation Description***

A tract of land located in the southeast one-quarter of Section 27, Township 3 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

**BEGINNING** at a point on the centerline of Territorial Road, aka County Road No. 1485 (a 40.00 foot wide right of way), being North 60°42'30" West, 839 feet from the most northerly corner of the plat of "East Canby Gardens", Plat No. 436, Clackamas County Plat Records, thence, along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 2010-034213, and continuing along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 97-091755, Clackamas County Deed Records, North 34°15'30" East, 501.06 feet to the northeast corner of that tract of land described as Parcel I in deed recorded as Document No. 2015-059629, Clackamas County Deed Records; thence, along the northeasterly line of said deed Document No. 2015-059629, and the southeasterly extension thereof, South 58°42'30" East, 222.93 feet to the northwesterly line of that tract of land conveyed by deed recorded as Document No. 2012-025234, Clackamas County Deed Records; thence, along said northwesterly line, South 34°15'30" West, 513.33 feet to the northeast line of the plat of "Walnut Crossing", Plat No. 3892, Clackamas County Plat Records, being 20.00 feet southwesterly of the centerline of said Territorial Road; thence, along the northeast line of said plat of "Walnut Crossing", and continuing along the northeast line of the plat of "Vine Meadows", Plat No. 3436, Clackamas County Plat Records, North 60°42'30" West, 223.47 feet; thence North 34°15'30" East, 20.08 feet to the centerline of said Territorial Road and the **POINT OF BEGINNING**.

Containing 115,154 square feet, more or less


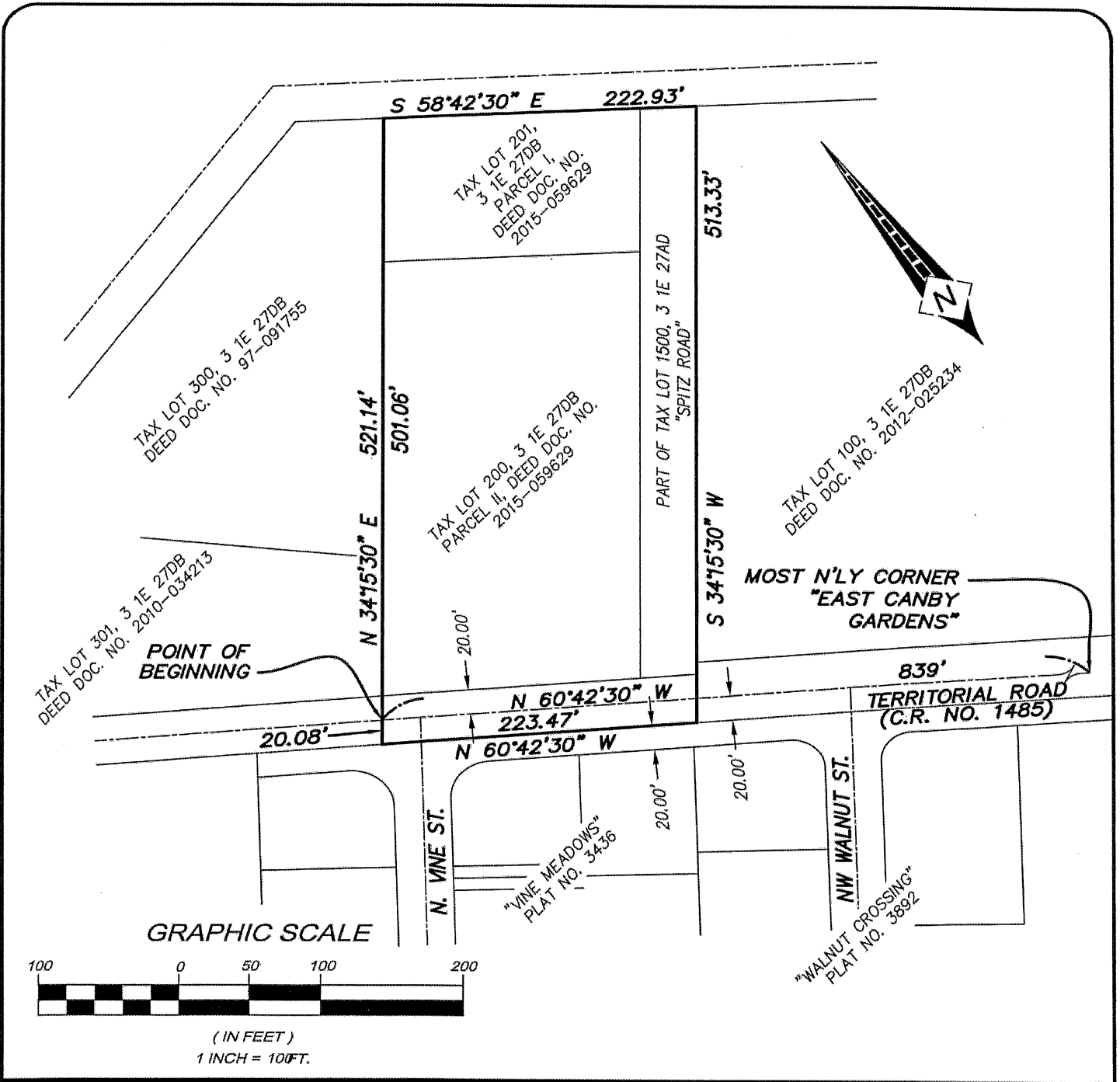
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REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
  
OREGON  
JULY 13, 2004  
TOBY G. BOLDEN  
60377LG  
RENEWS: 31 DEC 17

EXHIBIT B



CLIENT: PAUL DUPONT  
 ORIG. DATE: 23AUG17  
 DRAWN BY: TGB  
 Scale: 1" = 100'

**PROPOSED ANNEXATION**  
**TAX LOTS 200 AND 201, 3 1E 27DB**  
**AND PART OF TAX LOT 1500, 3 1E 27AD**  
 NE 1/4 & SE 1/4 SEC 27, T3S R1E, WM, CLACKAMAS COUNTY, OR

  
**CENTERLINE CONCEPTS**  
 LAND SURVEYING, INC.  
 19376 MOLALLA AVE., SUITE 120  
 OREGON CITY, OREGON 97045  
 PHONE 503.650.0188 FAX 503.650.0189

Plotted: 8/24/2017 - 5:36pm, M: \PROJECTS\DUPONT-TERRITORIAL\dwg\ANNEX.dwg, Layout: Model

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AFTER RECORDING RETURN TO:  
City of Canby  
P O Box 930  
Canby OR 97013

*Paul DuPont*



\$133.00

06/07/2018 01:20:44 PM

UNTIL REQUESTED OTHERWISE,  
SEND TAX STATEMENTS TO:  
Paul DuPont  
21211 Olmstead Rd. NE  
Aurora, OR 97002

D-DEVA Cnt=1 Stn=2 COUNTER3  
\$45.00 \$16.00 \$62.00 \$10.00

DEVELOPMENT AGREEMENT  
(ANNEXATION)

RECITALS:

1. Paul DuPont hereinafter referred to as "DUPONT", owns real property commonly described as 2525 NE Territorial Place, Canby, OR 97013 and more particularly described in the attached Exhibit A and depicted on a survey attached as Exhibit B.
2. The City of Canby, hereinafter referred to as "CANBY", is an Oregon municipal corporation.
3. The property described in Exhibit A and depicted on Exhibit B is located within the boundaries of a designated annexation "Development Agreement Area" as shown on the City of Canby Annexation Development Map (City of Canby Municipal Code Title 16, Figure 16.84.040).
4. CANBY procedures for annexation specify the Planning Commission shall conduct a public hearing to review any proposed annexations and determine the appropriate zoning designation upon annexation. The Planning Commission shall furnish its recommendation concerning annexation and assigned zoning to the City Council. The City Council will determine whether the applicable standards and criteria of Canby Municipal Code 16.84.040 are met and will determine appropriate zoning for the property based on the criteria set forth in the Canby Municipal Code 16.54.040.
5. The purpose of this Annexation Development Agreement is to satisfy the requirements of Canby Municipal Code 16.84.040 including providing adequate public information and information evaluating the physical, environmental, and related social effects of a proposed annexation. The proposed annexation does not require the statutory development agreement of ORS 94.504 et seq.

NOW, THEREFORE, it is hereby agreed:

I. CANBY MUNICIPAL CODE 16.84.040 APPLICABLE PROVISIONS.

A. Timing of the submittal of an application for zoning. Concurrent with review of this Agreement, the Council shall consider DUPONT'S annexation application and

requests that, upon approval of the annexation by the City Council, the property described in Exhibit A shall be zoned R-1. This approach will insure that the development agreement as well as the annexation and zone change approvals are consistent with City Code 16.84.

B. Scope of annexation request. In addition to the property owned by DUPONT and described in Exhibit A, DUPONT'S annexation application shall include the northern portion of the NE Territorial Road, County Road No. 1485, right-of-way that is presently outside of the city limits and adjacent to the DUPONT property. The northern portion of the NE Territorial Road right-of-way shall be as described in Exhibit A and depicted on Exhibit B. DUPONT agrees to dedicate street right-of-way for NE Territorial Road to meet the standards of the City of Canby with future land use actions on the property as part of the development approval process.

C. Timing for Recording. DUPONT shall have seven (7) calendar days from the date the City Council takes final action approving this Agreement, the annexation, the zone change request, to record this Agreement. A condition of approval will be attached to the annexation and zone change approval imposing this requirement.

D. Dedication of land for future public facilities including park and open space land. At the time of development, DUPONT agrees to dedicate street right-of-way for NE Territorial Road, N. Vine Street and for other streets being created inside the property to the standards of the City of Canby and to satisfy CANBY'S parkland dedication obligation through payment of the City's park system development charge.

E. Street construction/layouts, utilities, right of ways/dedications, and lots. At the time of development, City required public street improvements will be constructed to Canby Municipal Code specifications by DUPONT. Specifically, DUPONT agrees to improve the northern one-half of the NE Territorial Road right-of-way along the frontage of the property. Additionally, DUPONT will construct the 40 foot strip of land presently called Spitz Road. This strip of land is owned by the City of Canby and the City agrees to dedicate it as street right-of-way. DUPONT will also be responsible for the dedication and construction of new street within DUPONT'S property to Canby Municipal Code specification. Street cross section layouts, public utilities, franchise utilities, and right-of-way-widths/associated dedications will be determined at the time of development in conformance with the Canby Municipal Code and Canby Public Works Design Standards. The submitted Conceptual Site Plan A, dated January, 2018, in conjunction with the ANN/ZC 18-01 applications is for general reference only and is non-binding. Lot sizes and layouts will be determined at the time of development and are contingent upon street cross sections and right-of-way widths.

F. Utility availability. At the time of development, DUPONT agrees to ensure that utilities and infrastructure are available to serve the property described in Exhibit A at densities currently authorized in the R-1 zone. To the extent that additional utility or service infrastructure is required to serve the property in the future, DUPONT agrees to provide those utilities and services in a way that is commensurate with the impacts from development and consistent with the City's Code. DUPONT also agrees to allow connection to DUPONT'S constructed public facilities by adjacent property owners.



G. Water and Sewer. At the time of development, DUPONT agrees to install public waterlines in all new or extended public streets and sewer lines in new City streets as is needed to serve the development. CANBY agrees that DUPONT can connect to the public water system and that DUPONT can connect the existing public sanitary sewer. CANBY agrees that no new sewer main is needed in NE Territorial Road along the frontage of the DUPONT parcel.

H. Waiver of compensation claims. DUPONT waives compensation or waiver of land use regulations as provided in ORS 195.300 and 195.336, as well as Measure 49, resulting from annexation and the concurrent zone change approval.

I. Rough proportionality of future exactions. To the extent that this agreement identifies right-of-way dedication, utility or service obligations, these obligations are necessary and will be limited to an amount necessary to serve this development based on the proposed development application as well as on the uses and densities permitted in the R-1 zone.

J. Other commitments deemed valuable to the City of Canby. DUPONT agrees any future development will meet the requirements of the adopted CANBY Municipal Code in effect at the time of development.

## II. OTHER CONSIDERATIONS.


A. Duration. This Agreement shall be effective upon CANBY, acting by and through its city council, approving this Agreement and upon its recording with the Clackamas County Recording Office. As used herein, "approval" means the granting of the approval and the expiration of the period of appeal, or if appeal is filed, the resolution of that appeal. This Agreement shall continue in effect for a period of eight (8) years after its effective date unless cancelled as provided in Section II, C below

B. Recording. Within seven (7) calendar days after the City Council makes a final decision approving ANN/ZC 18-01, DUPONT shall record this agreement with the Clackamas County Recorder's Office and provide a copy of the recorded agreement to the City Attorney.

C. Cancellation. This Development Agreement shall not be cancelled.

D. Modification. This Agreement may be modified, amended, or extended upon the mutual consent of DUPONT and CANBY.

Dated this 18<sup>th</sup> day of May, 2018.

  
\_\_\_\_\_  
Paul DuPont



CITY OF CANBY, OREGON

By: [Signature]  
Richard W. Robinson, City Administrator

Dated: June 6, 2018

APPROVED AS TO FORM:

By: [Signature]  
Joseph Lindsay, City Attorney

Dated: May 18, 2018

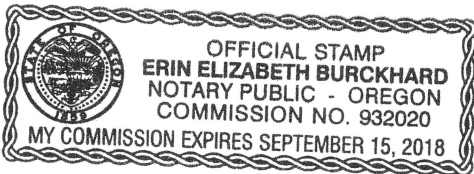
**APPROVED BY ACTION OF CITY COUNCIL ON JUNE 6, 2018 BY CITY COUNCIL ORDINANCE NO. 1483.**

STATE OF OREGON        )  
                                  ) ss.  
County of Clackamas    )

May 18, 2018

Personally appeared before me, PAUL DUPONT, and acknowledged the foregoing instrument to be his voluntary act and deed.

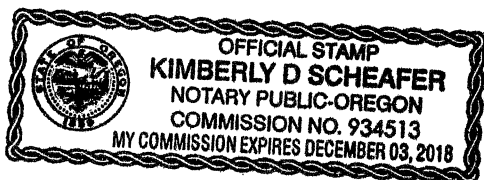
[Signature]  
Notary Public for Oregon  
My Commission Expires: 9/15/2018



STATE OF OREGON        )  
                                  ) ss.  
County of Clackamas    )

June 6, 2018

Personally appeared before me, RICHARD W. ROBINSON, as the City Administrator of the City of Canby, Oregon.



Kimberly D. Scheaffer  
Notary Public for Oregon  
My Commission Expires: 12-3-2018

EXHIBIT A



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P. 503-650-0188 F. 503-650-0189

***Annexation Description***

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**BEGINNING** at a point on the centerline of Territorial Road, aka County Road No. 1485 (a 40.00 foot wide right of way), being North 60°42'30" West, 839 feet from the most northerly corner of the plat of "East Canby Gardens", Plat No. 436, Clackamas County Plat Records, thence, along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 2010-034213, and continuing along the southeasterly line of that tract of land conveyed by deed recorded as Document No. 97-091755, Clackamas County Deed Records, North 34°15'30" East, 501.06 feet to the northeast corner of that tract of land described as Parcel I in deed recorded as Document No. 2015-059629, Clackamas County Deed Records; thence, along the northeasterly line of said deed Document No. 2015-059629, and the southeasterly extension thereof, South 58°42'30" East, 222.93 feet to the northwesterly line of that tract of land conveyed by deed recorded as Document No. 2012-025234, Clackamas County Deed Records; thence, along said northwesterly line, South 34°15'30" West, 513.33 feet to the northeast line of the plat of "Walnut Crossing", Plat No. 3892, Clackamas County Plat Records, being 20.00 feet southwesterly of the centerline of said Territorial Road; thence, along the northeast line of said plat of "Walnut Crossing", and continuing along the northeast line of the plat of "Vine Meadows", Plat No. 3436, Clackamas County Plat Records, North 60°42'30" West, 223.47 feet; thence North 34°15'30" East, 20.08 feet to the centerline of said Territorial Road and the **POINT OF BEGINNING**.

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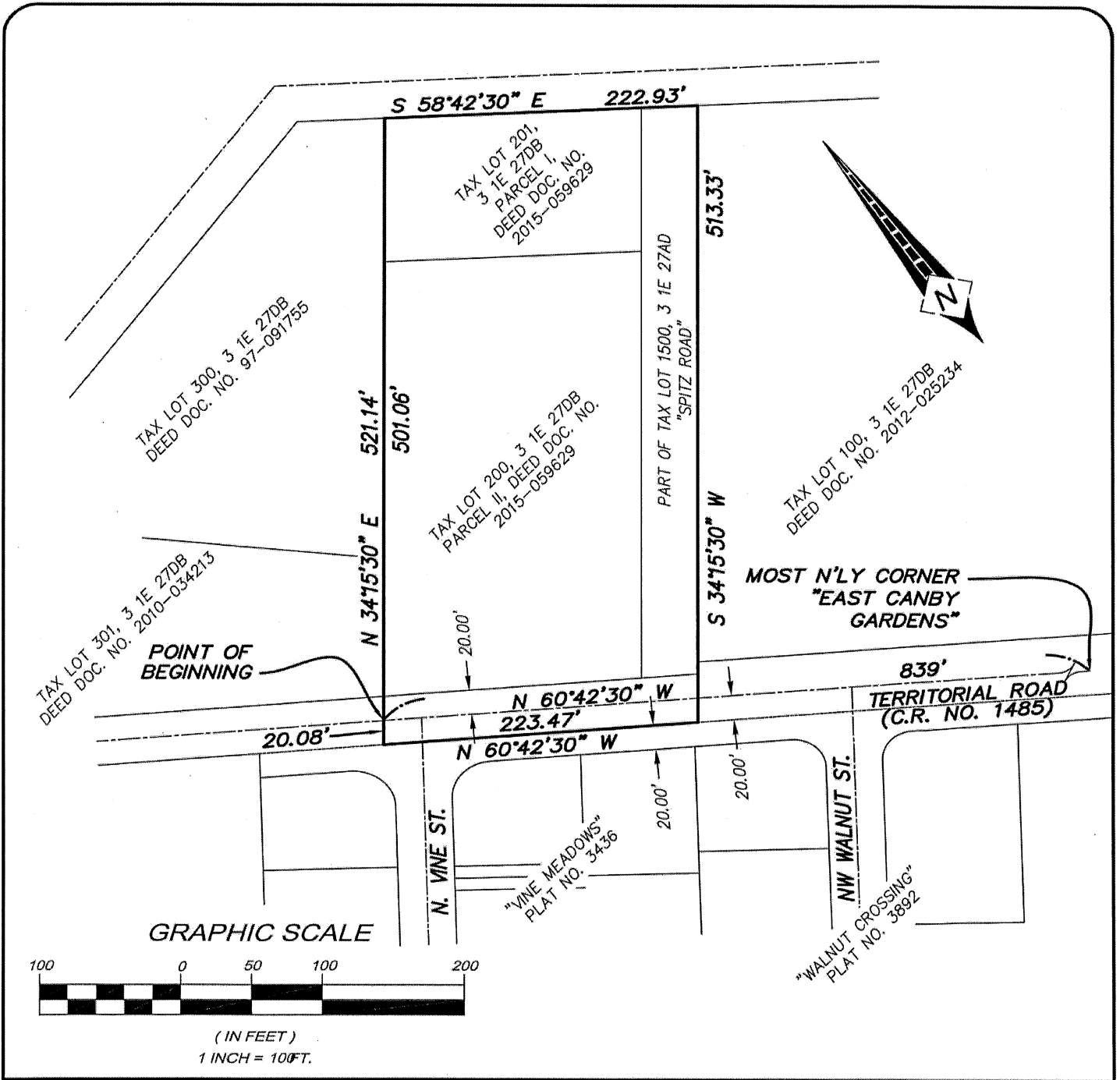
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RENEWALS: 31 DEC 17

EXHIBIT B



CLIENT: PAUL DUPONT  
 ORIG. DATE: 23AUG17  
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**AND PART OF TAX LOT 1500, 3 1E 27AD**  
 NE 1/4 & SE 1/4 SEC 27, T3S R1E, WM, CLACKAMAS COUNTY, OR

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Plotted: 8/24/2017 - 5:36pm, M:\PROJECTS\DUPONT-TERRITORIAL\dwg\ANNEX.dwg, Layout: Model

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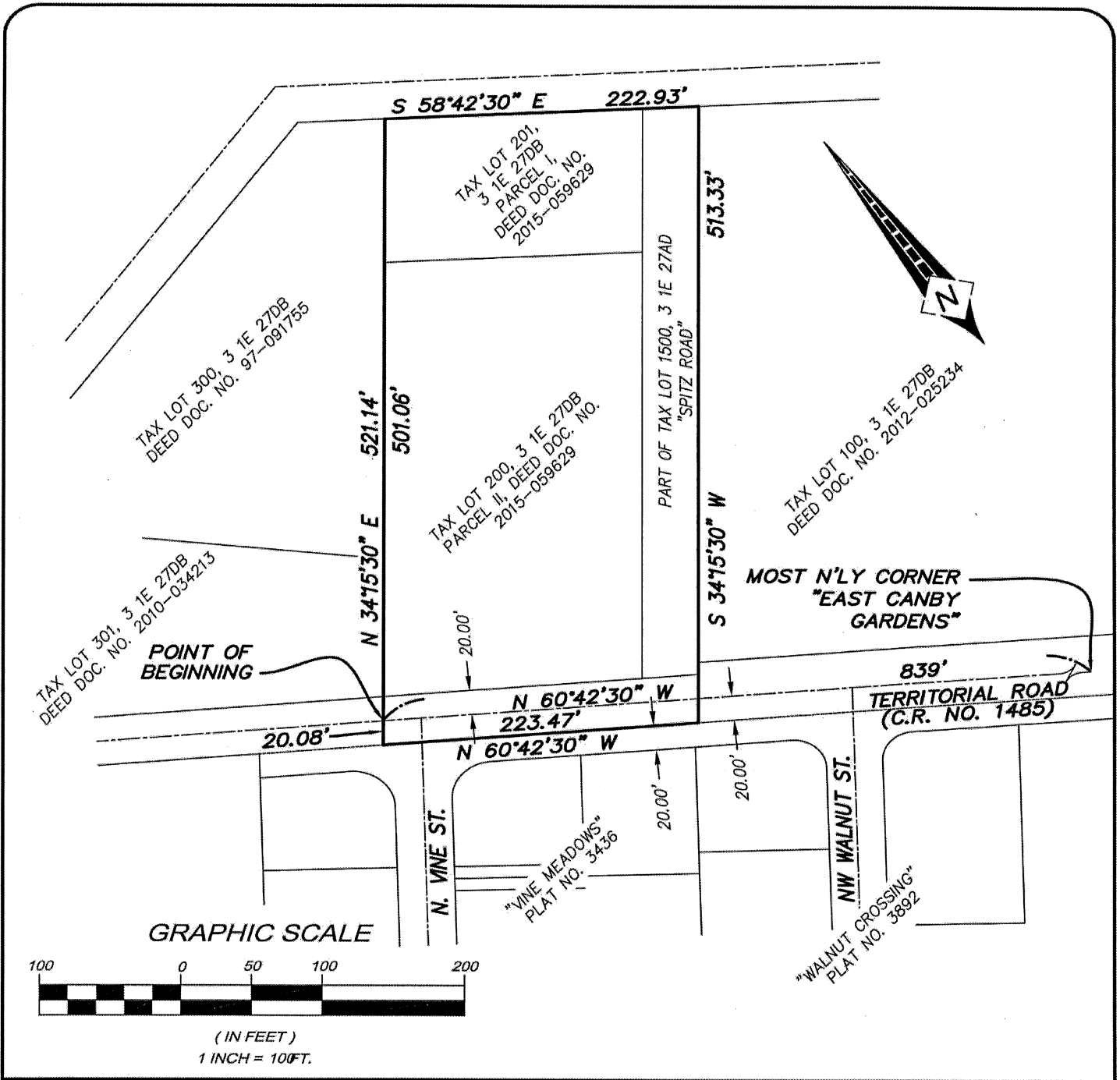
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<p>CLIENT: PAUL DUPONT          ORIG. DATE: 23AUG17          DRAWN BY: TGB          Scale: 1" = 100'</p>	<p><b>PROPOSED ANNEXATION</b>  <b>TAX LOTS 200 AND 201, 3 1E 27DB</b>  <b>AND PART OF TAX LOT 1500, 3 1E 27AD</b>          NE 1/4 &amp; SE 1/4 SEC 27, T3S R1E, WM, CLACKAMAS COUNTY, OR</p>	 <p><b>CENTERLINE CONCEPTS</b>          LAND SURVEYING, INC.          19376 MOLALLA AVE., SUITE 120          OREGON CITY, OREGON 97045          PHONE 503.650.0188 FAX 503.650.0189</p>
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