



Stephen L. Madkour
County Counsel

March 23, 2023

BCC Agenda Item: _____

Board of County Commissioners
Clackamas County

Kathleen Rastetter
Scott C. Ciecko
Amanda Keller
Nathan K. Boderman
Shawn Lillegren
Jeffrey D. Munns
Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

Members of the Board:

**Public Hearing on Petition for Withdrawal of Territory from the
Canby Area Parks and Recreation District**

Previous Board Action/Review	None		
Performance Clackamas	Build Public Trust Through Good Government		
Counsel Review	Initials: JM	Procurement Review	No
Contact Person	Jeffrey D. Munns	Contact Phone	503-742-5984

BACKGROUND

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, parks and recreation, etc.) within the County. One type of special district over which the Board has jurisdiction is a parks and recreation district and the Canby Area Parks and Recreation District (CAPRD) is such a district.

Proposal No. 2023-006 is a proposed withdrawal of territory from the Canby Area Parks and Recreation District.

State statute requires the Board to hold a public hearing on the proposed withdrawal. Notice of this hearing invited testimony from any interested party. Notice consisted of:

For Filing Use Only

1) Posting a notice at Canby City Hall, one notice in the Clackamas County Courthouse, and one notice near the County hearing room; 2) Notice posted online (<https://www.clackamas.us/meetings/bcc/business>); and 3) Published notice twice in the Clackamas County Review.

This petition for withdrawal of territory was initiated by resolution of the governing body of CAPRD as provided for in ORS 199.490(1)(a). The petition meets the requirements for withdrawal set forth in ORS 198.870, and ORS 198.800-.820, and should an election be required, ORS 198.875.

PROCESS

The Board must schedule a public hearing on the withdrawal petition between 30 and 50 days from the date the petition was filed. ORS 198.800. The petition was filed on February 6, 2023. The hearing date of March 23, 2023 is 45 days from filing the petition.

The Board will consider the petition at the public hearing. Should the Board approve the proposed withdrawal the board will adopt a Preliminary Order of Withdrawal. Then within 20 to 50 days after the Preliminary Order of Withdrawal a second hearing will be scheduled to determine if 100 written requests for an election on the question of withdrawal have been received. ORS 198.810(2).

If there have not been enough requests for an election received the Board will adopt a Final Order of Withdrawal and withdrawal becomes effective from that date. If enough requests for an election are received the Board will adopt an Order to Refer Question of Withdrawal of Territory to the next scheduled election not sooner than 90 days following the date the petition was filed.

Following an election the Board will either adopt a Final Order with Withdraw, or adopt an Order to Vacate Preliminary Order of Withdrawal.

CRITERIA

The criteria for the withdrawal of territory is found in ORS 198.870.

“The county board may approve the petition as presented or it may adjust the boundaries and approve the petition. The petition shall be approved if it has not been, or is not or would not be, feasible for the territory described in the petition to receive service from the district. The petition shall be denied if it appears that it is, or would be, feasible for the territory described in the petition to receive service from the district.”

FEASIBILITY

The petition filed by CAPRD and attached to this staff report does not include evidence of the feasibility to provide or not provide the services to the territory to be withdrawn. Exhibit 1. However, the County is aware that CAPRD was formed in 1964 as the South Clackamas County Recreation District. Exhibit 2. CAPRD does not have a permanent tax assessment and it is not supported by rates charged to users. So far is known to the County CAPRD has not and is not providing parks and recreation services to the territory within its boundaries.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. 2023-006, withdrawal of territory from Canby Area Parks and Recreation District.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

71

CLACKAMAS COUNTY
FILED
JUL 13 1964
County Clerk
Deputy

In the matter of the formation and organization of the SOUTH CLACKAMAS COUNTY RECREATION DISTRICT

Order No. 11751

Date of Hearing

This matter coming before the Board of Commissioners at this time and it appearing to the Board that there has heretofore been regularly and duly filed of record a petition to the Board of Commissioners of Clackamas County, State of Oregon, for the organization of the SOUTH CLACKAMAS COUNTY RECREATION DISTRICT, the boundaries of the proposed district being as follows, to-wit:

All of that property lying within the boundaries of Clackamas County Union High School District No. 1 (Canby)

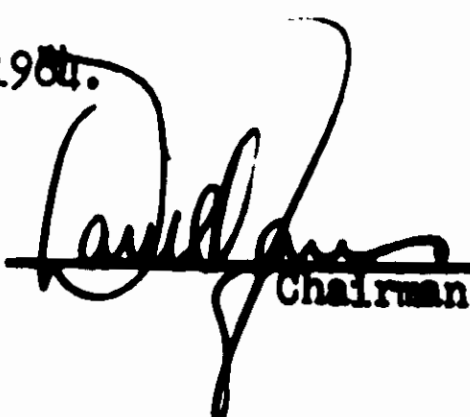
and

It further appearing that said petition has been duly examined and found to comply with all the requirements of O.R.S. 266.110 and all other laws appertaining thereto, now therefore

IT IS HEREBY ORDERED that a hearing on said petition be and the same is hereby set before the Board of Commissioners of Clackamas County, State of Oregon, at the hour of 10:00 A.M. on Wednesday, August 5, 1964 in Room 201 Courthouse, Oregon City, in order that all persons interested may appear and be heard, and

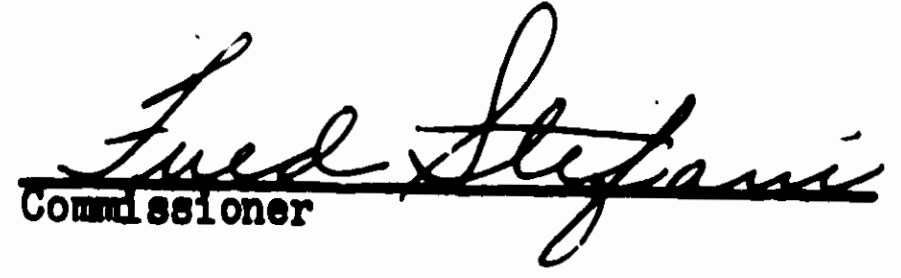
IT IS FURTHER ORDERED that the County Clerk of Clackamas County, State of Oregon, be and he is hereby directed to give notice of said hearing pursuant to the requirements of the law.

DATED this 10th day of July, 1964.


Chairman

Commissioner

BCC


Commissioner

Prospective Petition

Local Initiative and Referendum

Warning Supplying false information on this form may result in conviction of a felony with a fine of up to \$125,000 and/or prison for up to 5 years. Each chief petitioner is required to provide, on the same form, their name, residence address, contact phone number and signature attesting that the information on the form is true and correct. Changes to the information provided for a chief petitioner or to the circulator pay status must be reported to the filing officer no later than the 10th day after a chief petitioner first has knowledge or should have had knowledge of the change. At least one original chief petitioner must remain throughout the petition process or the petition is void.

Petition Information	Type			
This filing is an	<input checked="" type="checkbox"/> Original	<input type="checkbox"/> Amendment	<input checked="" type="checkbox"/> Initiative	<input type="checkbox"/> Referendum

Jurisdiction	Some Circulators may be Paid			
<input type="checkbox"/> County	<input type="checkbox"/> City	<input checked="" type="checkbox"/> District	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Title Subject or name you give your petition.
 Canby Area Parks and Recreation District Withdrawal of Territory

Petition Correspondence Select the method of receiving notices or other correspondence from the Filing Officer.

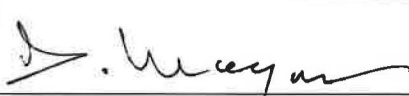
Correspondence Recipient Email Chief Petitioners Mail Chief Petitioners

Recipient Information

Name Donald Morgan	Email Address donbarn@msn.com
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Chief Petitioner Information Only chief petitioner's residential city and state will appear on petition sheets.

→ By signing this document, I hereby state that all information on the form is true and correct and attest that no circulators will be compensated money or other valuable consideration on this petition based on the number of signatures obtained by the circulator.

Name Donald C. Morgan	Contact Phone 503-680-4451
Residence Address street, city, state, zip 26725 S Elisha Road, Canby, OR, 97013	
Mailing Address if different	Email Address donsbarn@msn.com
Signature 	Date Signed 2/6/2023

Name	Contact Phone
Residence Address street, city, state, zip	
Mailing Address if different	Email Address
Signature	Date Signed

Name	Contact Phone
Residence Address street, city, state, zip	
Mailing Address if different	Email Address
Signature	Date Signed



January 31, 2023

To: Clackamas County Board of Commissioners
2015 Kaen Road
Oregon City, Oregon 97045

**In the matter of withdrawal of tax parcels from Special District,
Canby Area Parks and Recreation District (CAPRD)**


The Canby Area Parks and Recreation District's Board of Directors are requesting the Clackamas County Board of Commissioners, acting as the governing body, to withdraw described areas from the present boundary of the district.

The Canby Area Parks and Recreation District was formed in August 7, 1964 as South Clackamas County Recreation District by Clackamas County Board Order #11832. It is organized and exists under the provisions of ORS Chapter 266 - Park and Recreation Districts.


On June 27, 2022, the Canby Area Parks and Recreation District (CAPRD) Board unanimously voted to withdraw tax parcels from the Canby Area Parks and Recreation District (CAPRD) boundary as shown by their resolution (Exhibit A).

The new CAPRD boundary shall be represented by the ten (10) Clackamas County Tax Assessor maps, maps of the current and proposed Park District Boundary attached as (Exhibit B), and a written description attached as Exhibit C. All maps and the written description have received preliminary approval of the Clackamas County Assessors Office and the Oregon Department of Revenue.

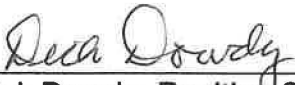
Sincerely,
Canby Area Parks and Recreation District (CAPRD) Board



Shantel Harney, Position 1



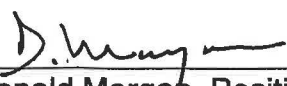
Andrew Hale, Position 2



Dick Dowdy, Position 3



Ryan Nelson, Position 4



Donald Morgan, Position 5

EXHIBIT A

CLACKAMAS COUNTY ELECTIONS
2023 FEB 6 PM 2:32:57

Canby Area Parks and Recreation District (CAPRD)

June 27, 2022

Motion to Withdraw Tax Parcels from the Special District

The Canby Area Parks and Recreation District (CAPRD) board hereby moves to withdraw tax parcels from the Special District such that the boundary shall be adjusted to match the ten (10) Assessor Maps and the Map of the current and proposed Park District as preliminarily approved by the Oregon Department of Revenue.



Shantel Harney, Position 1



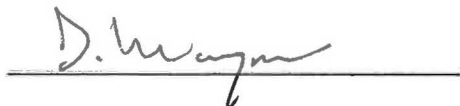
Andrew Hale, Position 2



Dick Dowdy, Position 3



Ryan Nelson, Position 4



Don Morgan, Position 5

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Approving a
Preliminary Order Withdrawing
Territory from the Canby Area
Parks and Recreation District



Order No.

This matter coming before the Board at this time, and it appearing that the governing board of the district has petitioned to withdraw territory from the Canby Area Parks and Recreation District;

It further appearing that this Board is charged with deciding this petition to withdraw territory pursuant to ORS Chapter 198; and

It further appearing that staff retained by the County have reviewed the proposed withdrawal petition, properly noticed the public hearing; and

It further appearing that this matter came before the Board for public hearing on March 23, 2023 and that a decision of approval of the withdrawal of territory was made on March 23, 2023;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. 2023-006 Withdrawal of Territory from the Canby Area Parks and Recreation District is approved for the reasons stated in attached Exhibit A and the territory depicted in Exhibit B and described on Exhibit C is withdrawn from the Canby Area Parks and Recreation District should 100 written requests for an election not be received by the close of the public hearing required by ORS 198.810(2). A public hearing to determine if an election is to be held or a Final Order will be adopted shall be scheduled 20-50 days from the date of this Order.

ADOPTED this 23rd day of March, 2023.

BOARD OF COUNTY COMMISSIONERS

Tootie Smith, Chair

Anthony Mayernik, Recording Secretary

FINDINGS

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

1. Proposal No. 2023-006 is a petition for withdrawal of territory from the Canby Area Parks and Recreation District ("District").
2. The Board approves the petition and shall schedule a public hearing 20-50 days following the date of the Preliminary Order Approving the Withdrawal of Territory to determine if 100 requests for an election have been received.

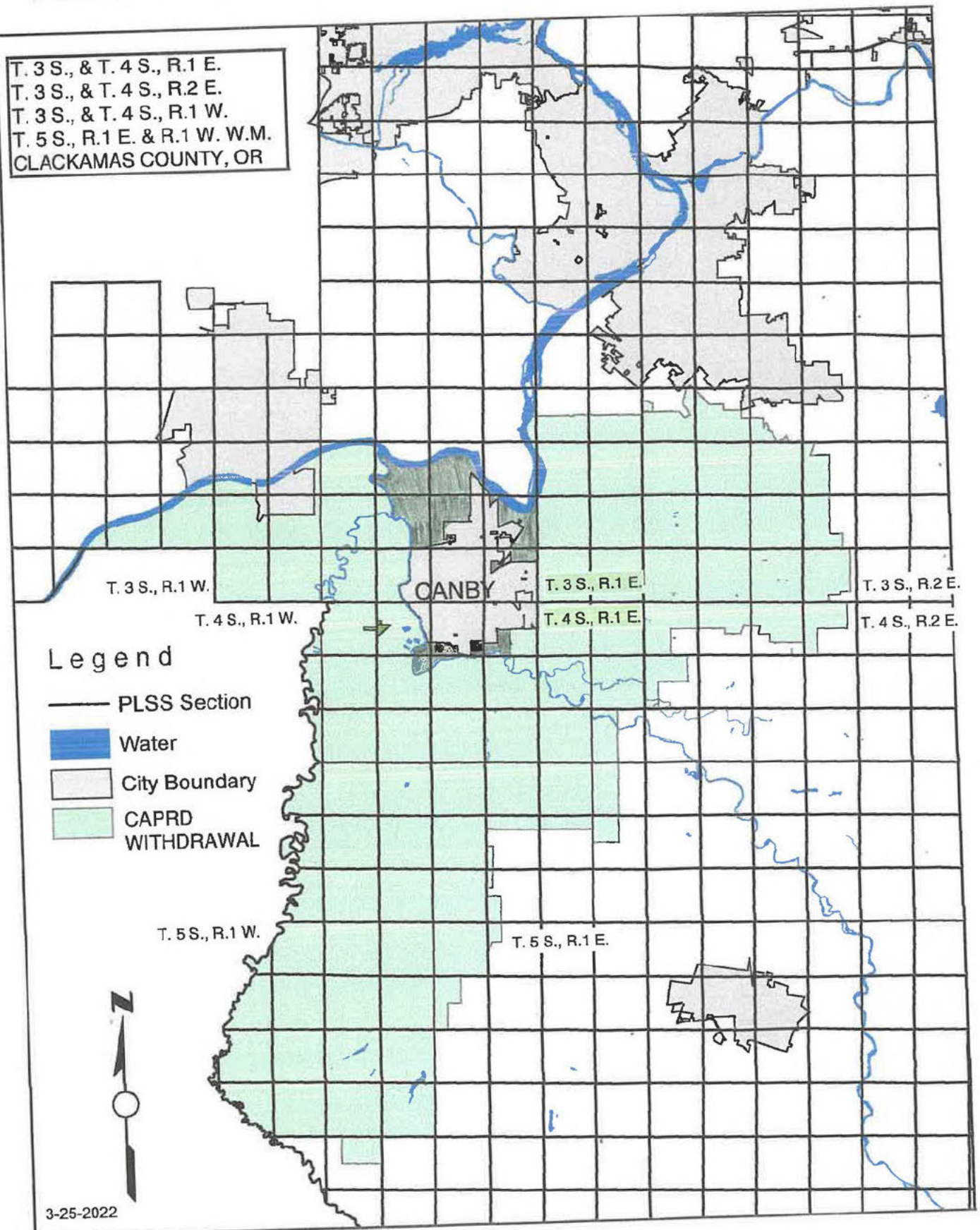
CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Board finds that CAPRD was formed in 1964 and during its existence does not have a permanent tax assessment and it is not supported by rates charged to users. CAPRD has not and is not providing parks and recreation services to the territory within its boundaries.
2. As a result of CAPRD's lack of funding, assets, and programs it is not feasible for CAPRD to provide parks and recreation services to the area to be withdrawn.

PORTION to be WITHDRAWN from the CANBY AREA PARKS AND RECREATION DISTRICT

T. 3 S., & T. 4 S., R.1 E.
 T. 3 S., & T. 4 S., R.2 E.
 T. 3 S., & T. 4 S., R.1 W.
 T. 5 S., R.1 E. & R.1 W. W.M.
 CLACKAMAS COUNTY, OR



3-25-2022



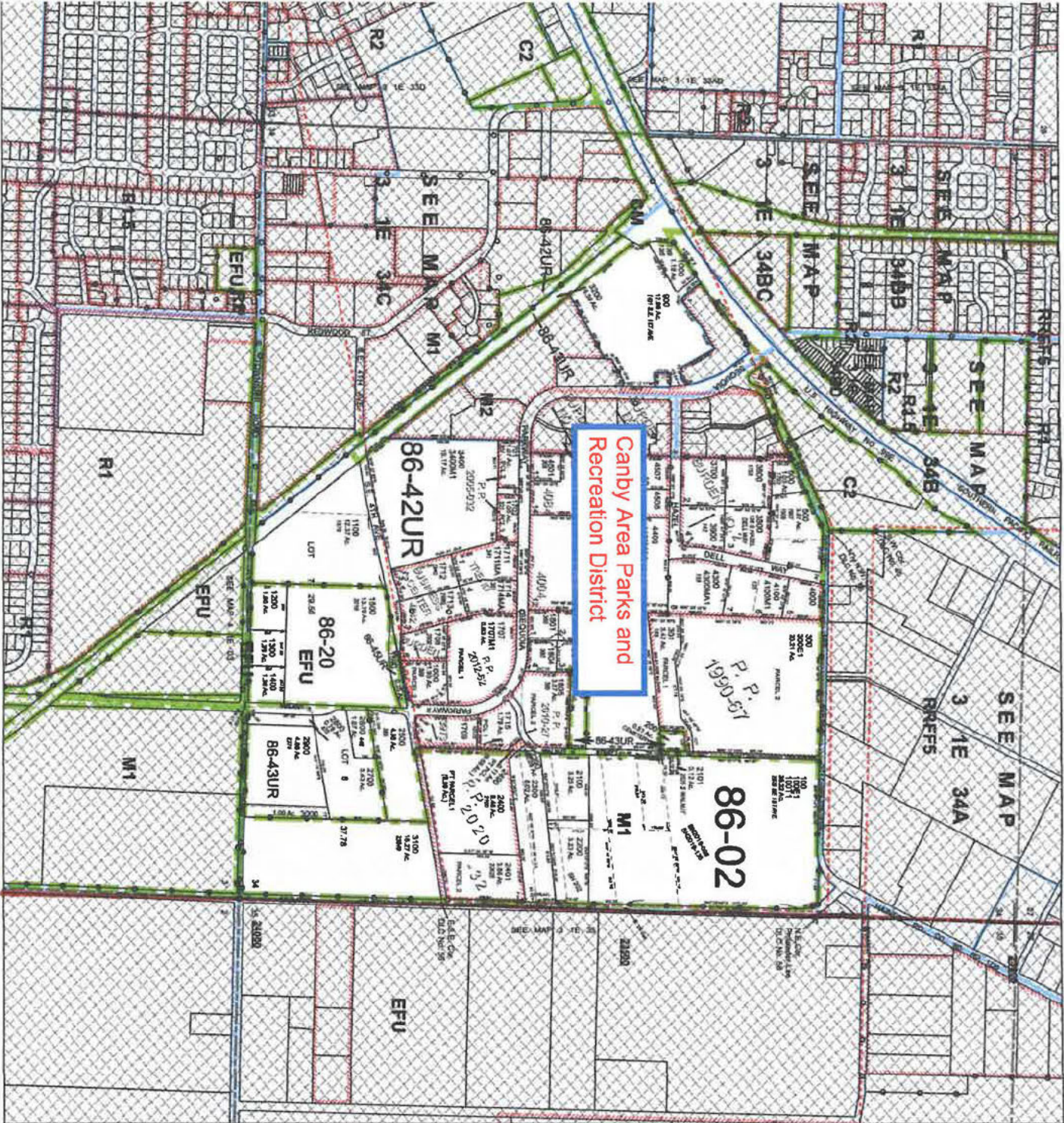
PROPOSED
CAPRD
BOUNDARY

S Central Point Rd

S Union Hk

Approved by Oregon
Department of Revenue on
3/29/2022

Exhibit B



Canby Area Parks and
Recreation District

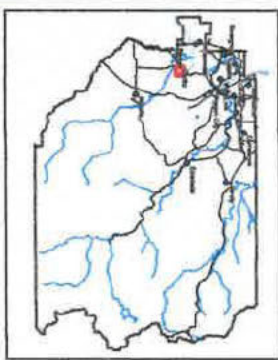
3 1 E 34
CANBY

SECTION 34 T.3S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

D. L. C.
PHILANDER LEE NO. 56
WALTER FISH NO. 45

Garwood, Trask

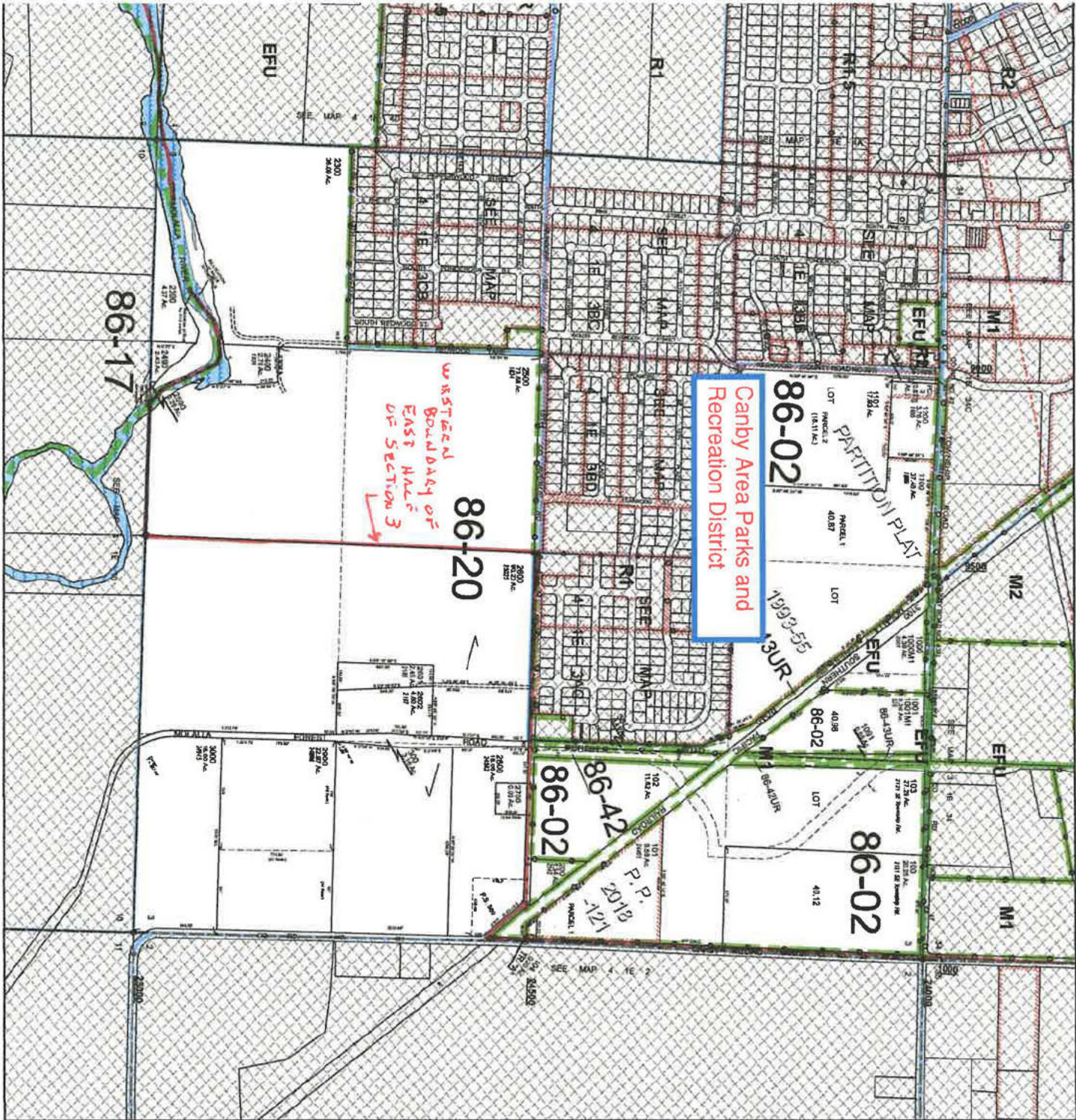
- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Sublot Centerline
- Sublot Centerline
- Map Index
- Waterlines
- Land Use Zoning
- Pits
- Well
- Corner
- Station Center
- Station Line
- Split Lot Line
- D/LC Line
- Member Line
- PLS Station Line
- Station Center 40'
- Station Center 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

↑

3 1 E 34
CANBY

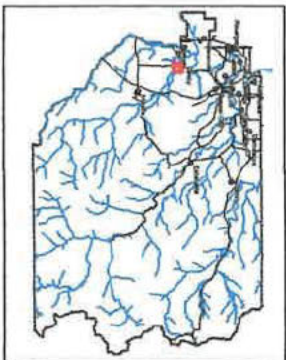


Canby Area Parks and Recreation District

WASTED Boundary of EAST HALF OF SECTION 3

4 1 E 03
CANBY
SECTION 3 T.4S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'
*REVISION DATE:
3-29-2022*

- Parcel Boundary
- Private Road ROW
- Flooded Boundary
- Rainfall Contours
- Tax Code Lines
- Water Lines
- Map Index
- Land Use Zoning
- Plat
- Center
- Section Center
- 1/16th Line
- Dept. Lot Line
- D.C. Line
- Manhole Line
- PL 43 Station Line
- Historic Corridor 42
- Historic Corridor 207



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



4 1 E 03
CANBY

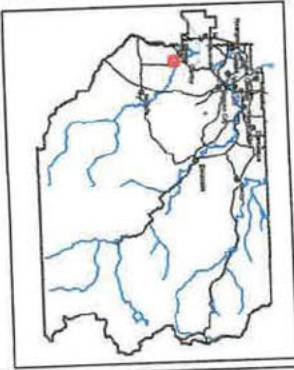
Canby Area Parks and Recreation District

SECTION 9 T.4S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

*REVISION DATE:
3-25-2022*

4 1 E 09

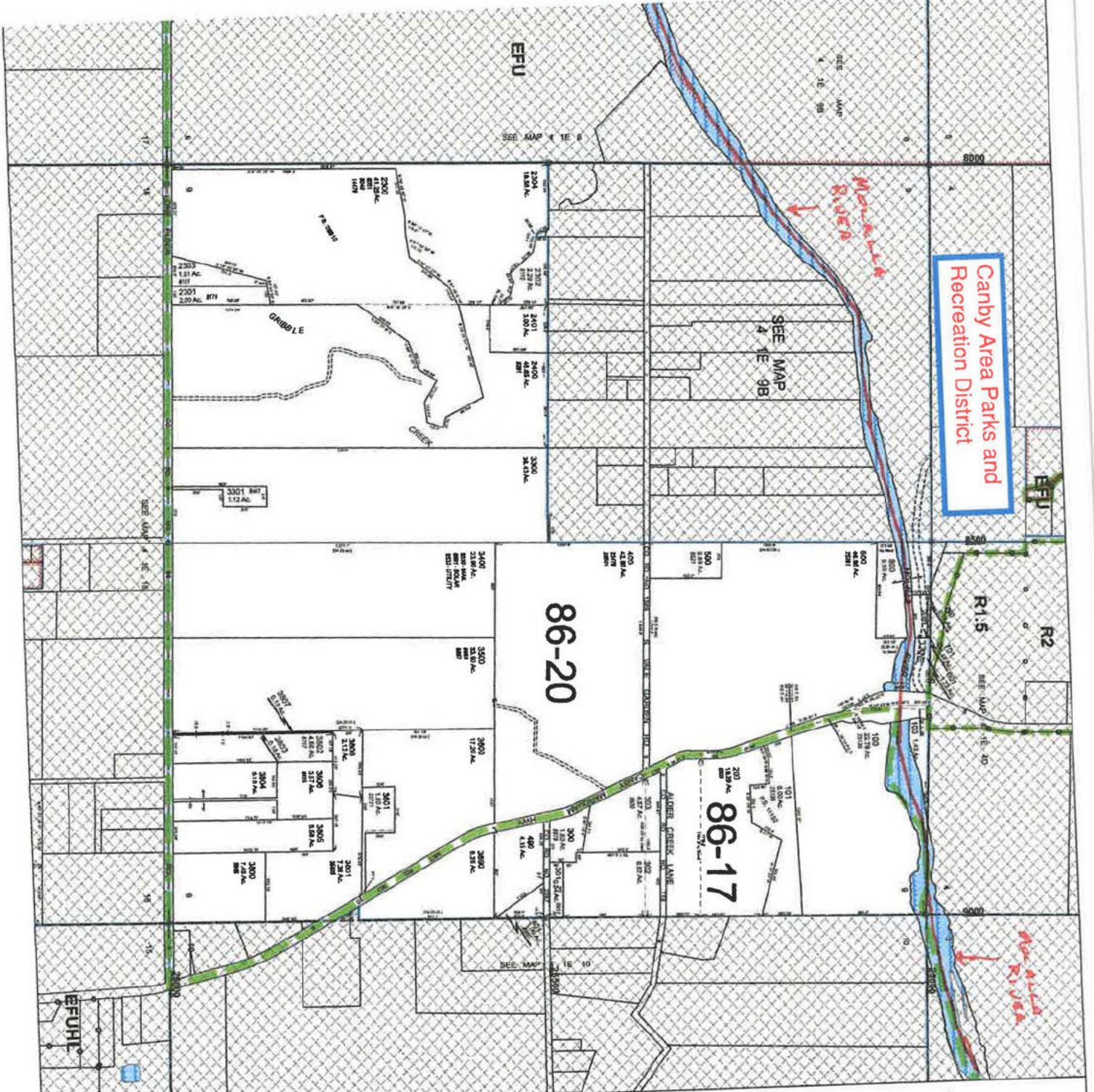
- Controlled Landmarks**
- 100' 1000'
 - 100' 800'
 - 100' 600'
 - 100' 400'
 - 100' 200'
 - 100' 0'
 - 100' -100'
 - 100' -200'
 - 100' -300'
 - 100' -400'
 - 100' -500'
 - 100' -600'
 - 100' -700'
 - 100' -800'
 - 100' -900'
 - 100' -1000'
- Private Road ROW
 - Historical Boundary
 - Railroad Centerline
 - TaxParcelLine
 - Map Index
 - Waterline
 - ○ Land Use Zoning
 - ○ PMS
 - ○ Water
 - Center
 - Section Center
 - 1/16th Line
 - Open Lot Line
 - D/C Line
 - Mainstem Line
 - ALSO Section Line
 - Historic Corridor 40'
 - Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



4 1 E 09



SECTION 8 T.4S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

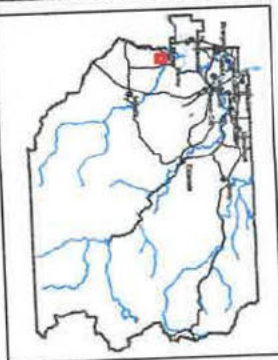
DLG
SAMUEL K. BARLOW NO. 50

Copyrighted Territory
2008

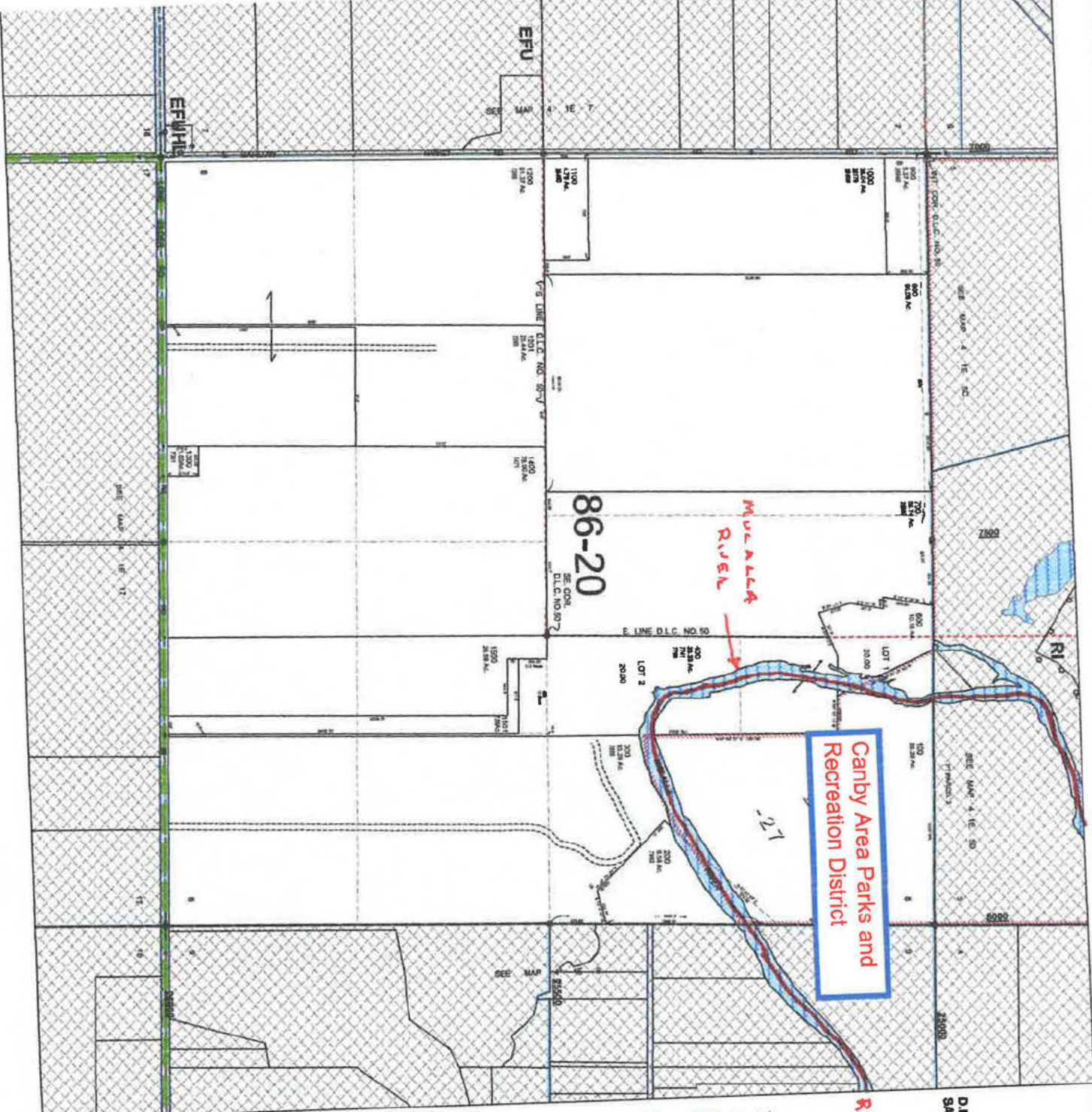
Canby Area Parks and
Recreation District

Revised DATE
3-25-2022

- Personal Boundary
- Private Road ROW
- Standard Boundary
- Related Certificate
- Tract/Parcel Lines
- Map Index
- Water
- Land Use Zoning
- 1/16th Line
- 1/4th Line
- Section Corner
- Center
- D.C. Line
- Mandrel Line
- P168 Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



SECTION 5 T4S, R 1E, W.M.
CLACKAMAS COUNTY
1" = 400'

D.L.C.S.
LUCIUS A. SEELEY NO. 48
SAMUEL K. BARLOW NO. 50

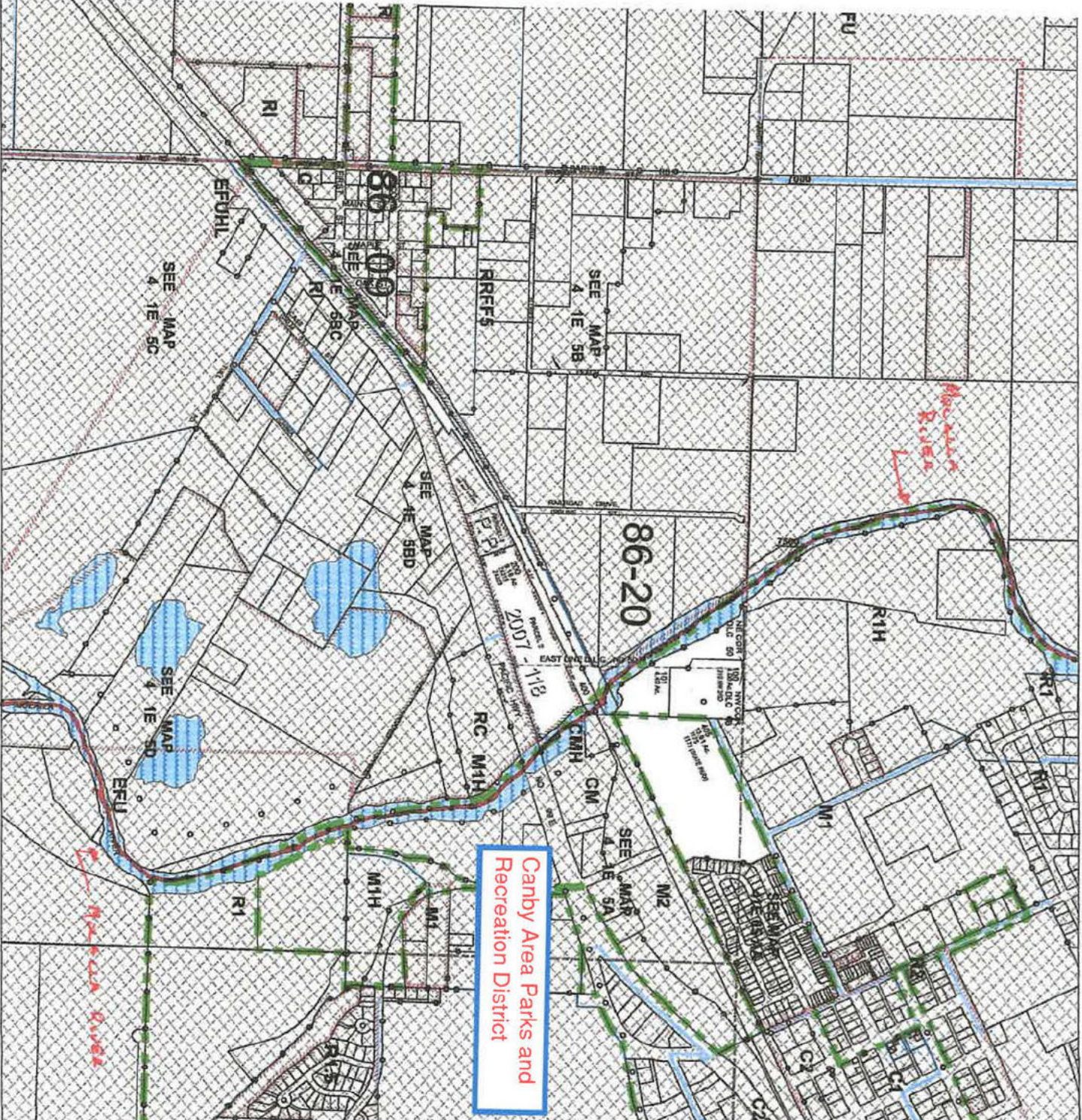
Revised Date:
3-25-2022

Cancelled Tracts

311	200
312	200
313	200
314	200
315	200
316	200
317	200
318	200
319	200
320	200
321	200
322	200
323	200
324	200
325	200
326	200
327	200
328	200
329	200
330	200

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Corridor
- Topocastlines
- Map Index
- Waterlines
- ○ Land Use Zoning
- Parks
- Water
- Corner
- Section Center
- 1/16th Line
- Quarter Line
- D.C. Line
- Meander Line
- P.L.S. Section Line
- Historic Center for
- Historic Corridor 20'

Canby Area Parks and Recreation District



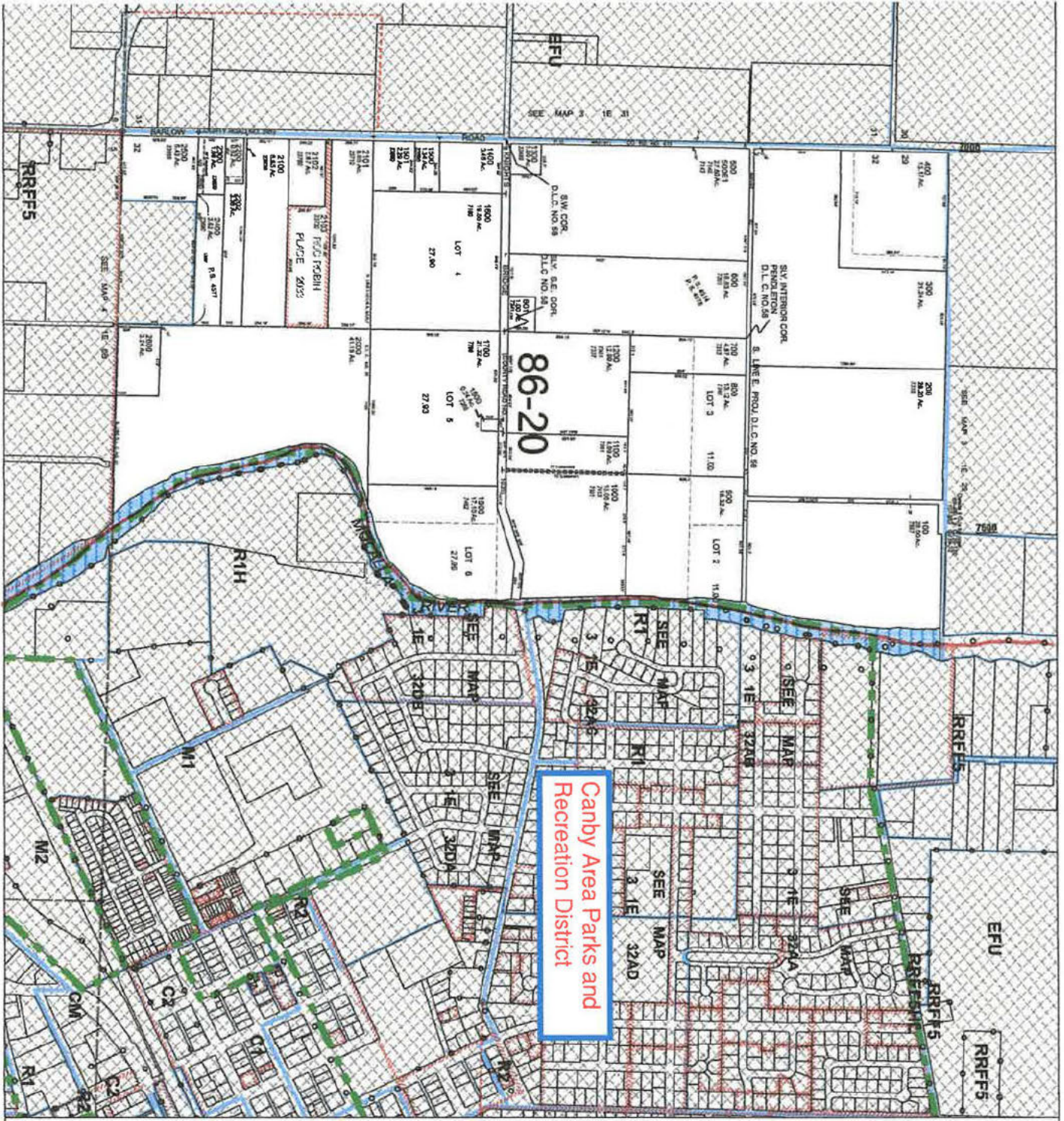
THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



SECTION 32 T.3S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

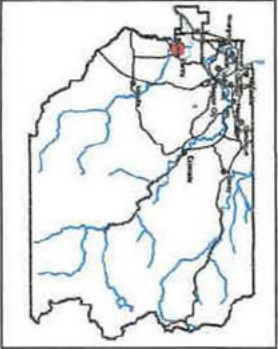
D.L.C.'S
C:PENDLETON NO. 58
LUCIUS A. SEELY NO 57 & 48

Clackamas TaxAss
100001
10001
10002
2001



Canby Area Parks and
Recreation District

- Private Road ROW
- National Boundary
- Section Centerline
- Tascod/Lines
- Map Index
- Waterlines
- Land Use Zoning
- WATER
- Center
- Section Center
- Vision Line
- Grid Lines
- D.C. Line
- Master Line
- Phase Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY.

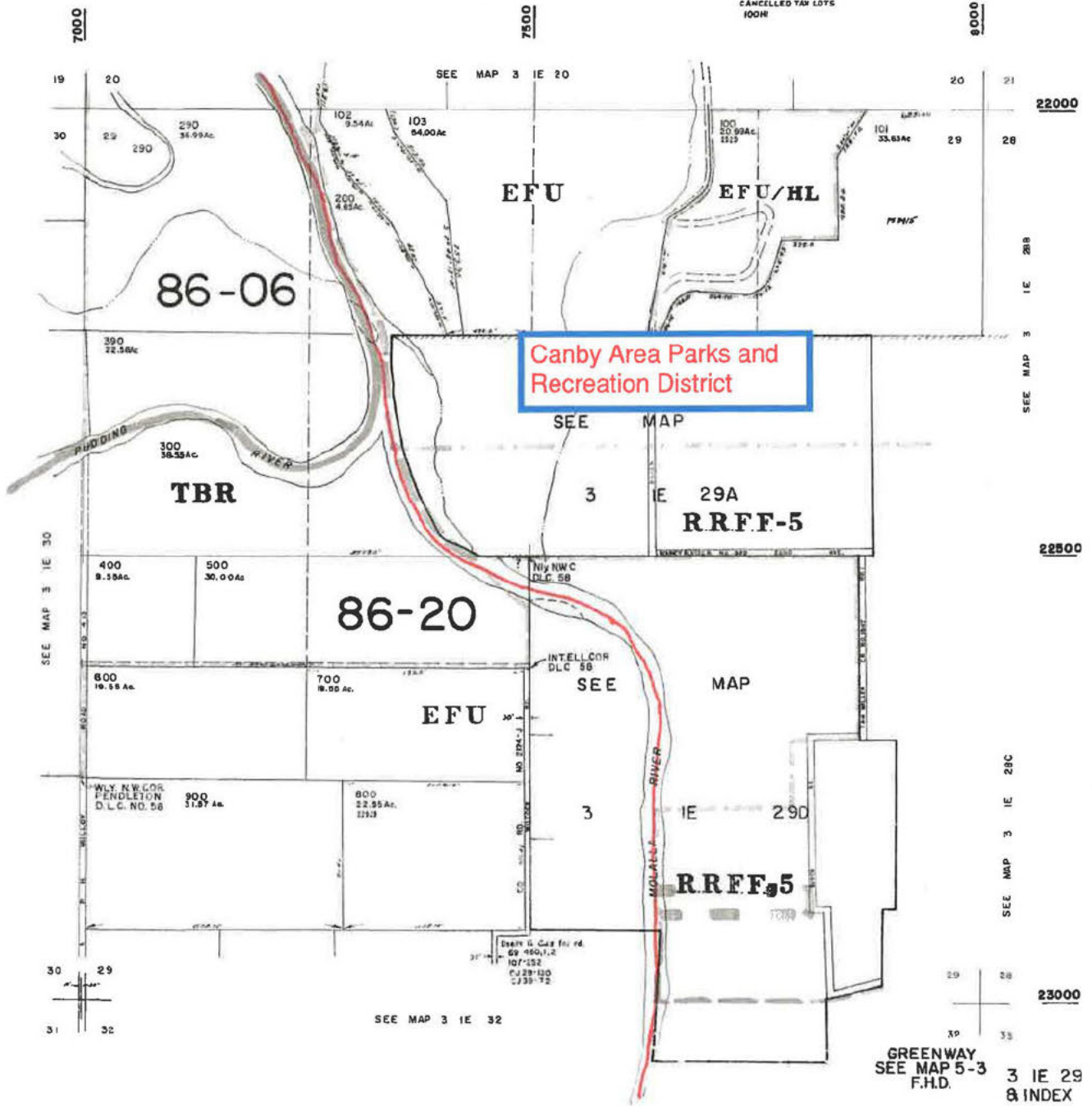


This map was prepared for assessment purpose only.

SECTION 29 T.3S. R.1E. W.M.
CLACKAMAS COUNTY
1"=400'

D.L.C.
C. PENDLETON NO. 58

3 IE 29
& INDEX

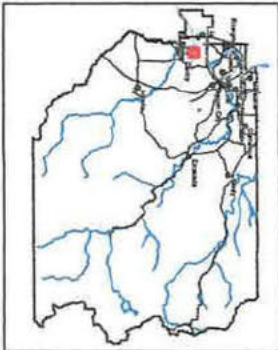


SECTION 20 T.3S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

REVISION DATE
3-25-2022

Classified Tracts
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215

- Parcel Boundary
- Private Road ROW
- National Boundary
- Historical Centerline
- Taxparcel Lines
- Map Index
- Water Lines
- Land Use Zoning
- Water
- Corner
- Section Center
- Section Line
- Cent. Lat. Line
- DLC Line
- Intersect Line
- FLSIS Station Lines
- Historic Center 40'
- Historic Center 20'

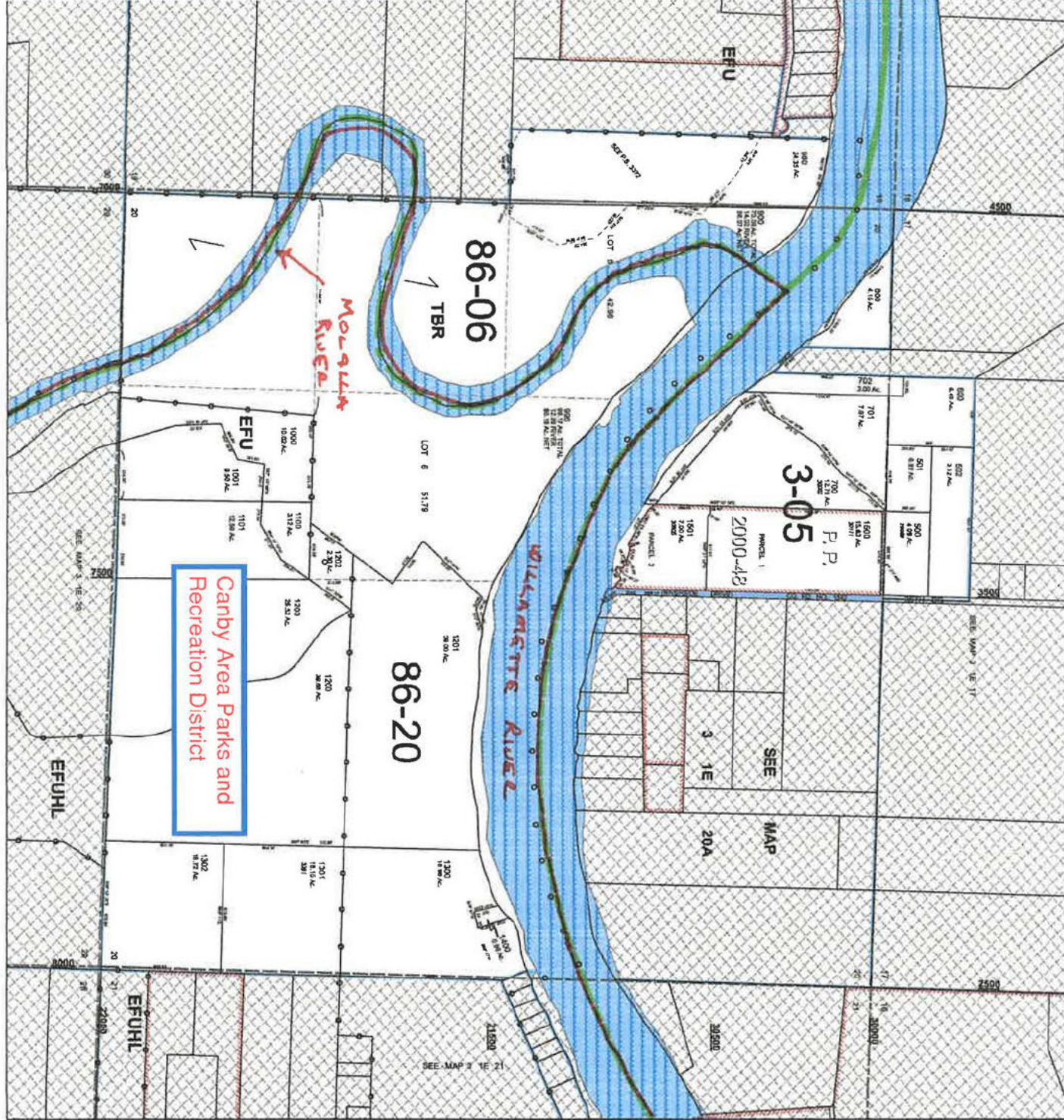


THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



4/16/2019

3 1 E 20



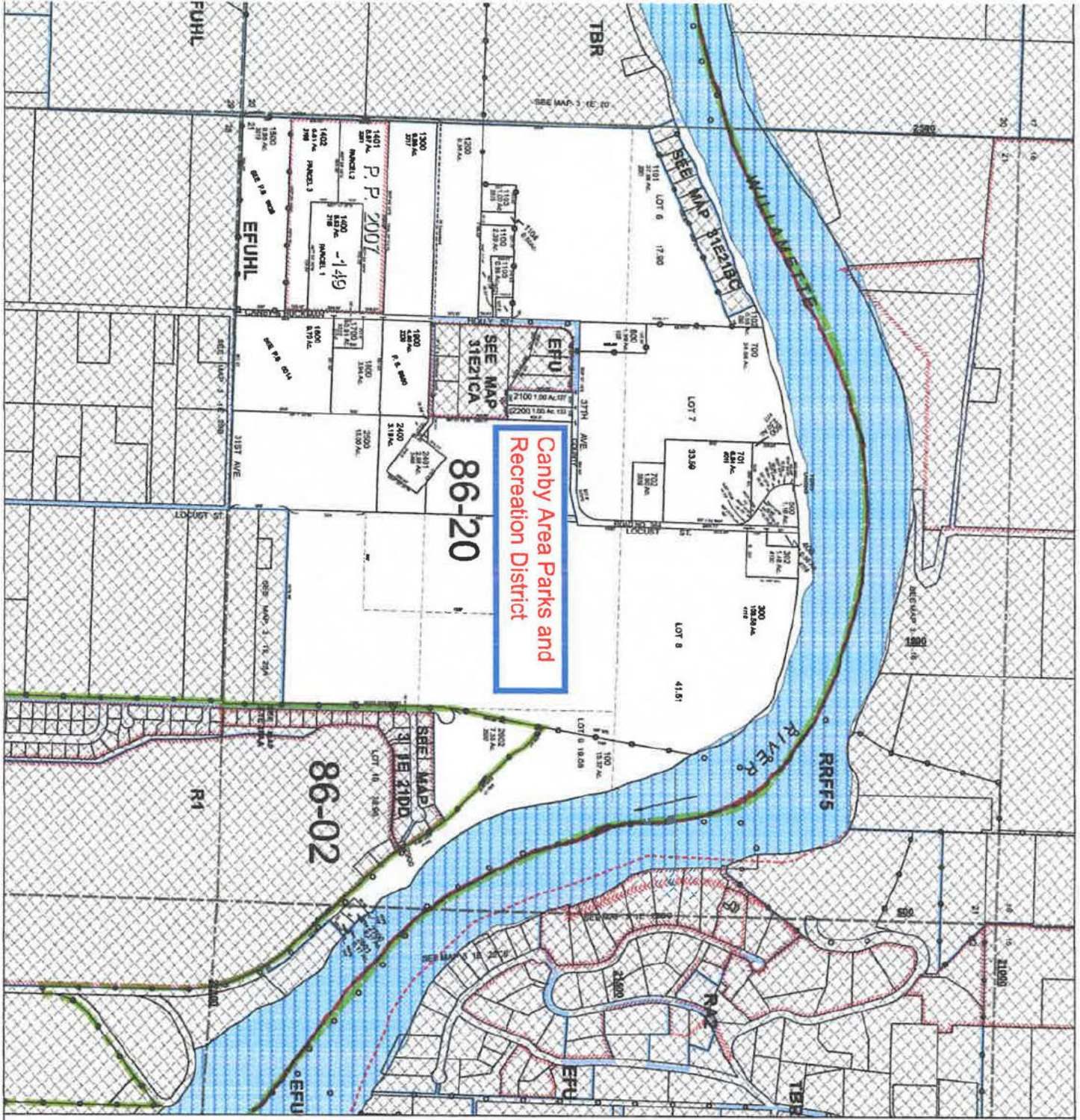
Contour Interval

200
250
300
350
400
450
500
550
600
650
700
750
800
850
900
950
1000

- Private Road ROW
- Historical Boundary
- Railroad Corridor
- Tax/Code Line
- Map Index
- O Land Use Zoning
- Water
- Prms
- Corner
- Section Center
- 1718th Line
- Govt Lot Line
- D.C. Line
- Meander Line
- P.L. 513 Section Line
- Historic Center 1/2"
- Historic Center 20"



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



All that part of the Canby Area Parks and Recreation District is to be withdrawn EXCEPT the following described area;

BEGINNING AT THE INTERSECTION OF THE LINE OF ORDINARY LOW WATER OF THE SOUTHERLY BANK OF THE WILLAMETTE RIVER WITH THE EASTERN BOUNDARY OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 01 EAST, WILLAMETTE PRINCIPAL MERIDIAN;

THENCE SOUTH ALONG THE EASTERN BOUNDARY OF SECTIONS 27 AND 34 OF TOWNSHIP 3 SOUTH, RANGE 01 EAST, WILLAMETTE PRINCIPAL MERIDIAN TO THE SOUTHEAST CORNER OF SECTION 34;

THENCE CONTINUING SOUTH ALONG THE EASTERN BOUNDARY OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 01 EAST TO ITS INTERSECTION WITH THE CENTERLINE OF SE 13TH STREET;

THENCE WESTERLY ALONG THE CENTERLINE OF SE 13TH STREET TO ITS INTERSECTION WITH THE WESTERN BOUNDARY OF THE EAST ONE-HALF OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 01 EAST;

THENCE SOUTH ALONG THE WESTERN BOUNDARY OF THE EAST ONE-HALF OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 01 EAST TO THE SOUTH BOUNDARY OF SECTION 3;

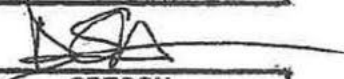
THENCE WEST ALONG THE SOUTH BOUNDARY OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 01 EAST TO ITS INTERSECTION WITH THE LINE OF ORDINARY LOW WATER OF THE MOLALLA RIVER;

THENCE WESTERLY AND NORTHERLY ALONG THE LINE OF ORDINARY LOW WATER OF THE MOLALLA RIVER TO ITS INTERSECTION WITH THE LINE OF ORDINARY LOW WATER OF THE WILLAMETTE RIVER;

THENCE EASTERLY ALONG SAID LINE OF ORDINARY LOW WATER OF THE WILLAMETTE RIVER TO THE POINT OF BEGINNING.

Revision date: March 25, 2022

REGISTERED
PROFESSIONAL
LAND SURVEYOR


OREGON
JANUARY 11, 2005
DARREN S. HARR
58181

EXPIRATION DATE: 6/30/23