



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Second Reading and Adoption of Ordinance No. 01-2020
Amending County Code
Chapter 2.07, Compliance Hearings Officer

Stephen L. Madkour
County Counsel

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

Purpose/Outcomes	To amend County Code Chapter 2.07, to change the process for delivery of Citations and the Notice of Hearing to reduce costs and provide consistency in the process.
Dollar Amount and Fiscal Impact	Cost savings of approximately \$2,400 annually.
Funding Source	Not applicable.
Duration	Indefinite until amended
Previous Board Action	Chapter 2.07 was last amended in 2003. The matter was presented at Issues on December 3, 2019. 1 st Public Hearing was held on December 12, 2019.
Strategic Plan Alignment	Build Public Trust through Good Government
Contact Person	Jeffrey D. Munns, Assistant County Counsel x 5984

Background:

The Clackamas County Compliance Hearings Officer issues Orders in code enforcement matters. Code enforcement matters are typically addressed and attempted to be resolved by working with a property owner or tenant to comply with the County Code voluntarily. If the owner or tenant does not address the violations on their property the code enforcement process is initiated by the issuance of a Citation. If the owner or tenant, known as a Respondent, continues to be in violation, Clackamas County Code Enforcement will take the matter before the Compliance Hearings Officer. The Respondent may also request a hearing to challenge the Citation. For Clackamas County to initiate the hearing a Notice of Hearing is sent to the Respondent.

The proposed County Code changes concern how the Citation and the Notice of Hearing are delivered to a Respondent. The present Code requires that the Citation be sent via Certified Mail, and the Notice of Hearing be sent Registered Mail. Although these two methods are similar they are not the same. This leads to confusion, errors, and increased costs associated with mailing these important documents to Respondents. Further, approximately 80% of these

items mailed using Certified or Registered mail are not claimed or refused by the recipients. For a number of years the Code Enforcement Division has been mailing copies of the required Citations and Hearing Notices to Respondents via First Class Mail to ensure that they are received. These are infrequently returned due to problems such as, no mail receptacle, inability of the USPS to forward, etc.

Also, Certified Mail and Registered Mail are much more expensive than First Class Mail. A typical Certified Mail article that is to deliver a Citation will cost \$6.80 compared to a regular letter for \$0.55. Registered Mail is even more costly as the Hearings Notices a mailed with all documents for the hearing. A typical Hearing Notice mailed with Registered Mail costs over \$25.00, and a copy sent by First Class Mail only requires postage of about \$6.00. This will also result in a significant time savings for staff by eliminating the need to go to the post office for these mailings.

The Code Changes also incorporate methods of serving Respondents should mailing be ineffective. The option to personally serve the Respondent has been retained and then an option to post the Citation or Notice of Hearing has been added. This new method uses the same language as found in statutes concerning posting notices to terminate tenancies or to initiate evictions. This will be a familiar for process servers to complete and the due process for Respondents has already been tested in the courts in the context of eviction cases.

The changes incorporated into the revisions to these two sections are intended to reduce cost, simplify and make more consistent the service of these materials, and ensure that Respondents receive Citations and Hearings Notices.

Recommendation:

Staff respectfully recommends that the Board adopt the attached ordinance.

Respectfully submitted,



Jeffrey D. Munns
Assistant County Counsel

ORDINANCE NO. 01-2020

**An Ordinance Amending
Clackamas County Code Chapter 2.07, Compliance Hearings Officer**

Whereas, Chapter 2.07, Compliance Hearings Officer was adopted in 2000 and amended in 2003; and

Whereas, it has become apparent that procedural and substantive changes are necessary to more accurately address the operational needs and requirements of the Compliance Hearings Officer program; and

Whereas, to more efficiently deliver notice of Citations and Hearings to Respondents appearing before the Compliance Hearings Officer revisions to sections of Chapter 2.07 are necessary; and,

Whereas, it further appearing that this matter came before the Board for public hearing on December 12, 2019 and that a decision of approval was made on January 9, 2020;

**NOW, THEREFORE, THE CLACKAMAS COUNTY BOARD OF
COMMISSIONERS ORDAINS AS FOLLOWS:**

Section 1: Chapter 2.07.030 Process for Enforcement of Code, and 2.07.050 Notice of Hearing, are amended as depicted in Exhibit A, attached hereto and incorporated herein by this reference.

ADOPTED this 9th day of January, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Code Sections Showing Changes:

2.07.030(D)(3) Process for Enforcement of Code

- (D)... 3. Citations may be served by **first class U.S. Mail**, by personal service on respondent, **or by attaching the citation in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.** ~~Citations may also be served by certified mail, return receipt requested through the United States Postal Service.~~

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.050 Notice of Hearing

- A. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.
- B. ~~The Compliance Hearings Officer~~ **County** shall cause notice of the hearing to be given to the respondent(s) **by:**
- i. ~~either First Class U.S. Mail; or,~~
 - ii. ~~Personally service; or,~~
 - iii. **Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.**
- ~~or by registered mail with return receipt requested.~~
- C. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- D. ~~The failure of any person to receive notice properly given shall not invalidate or otherwise affect the proceedings under this Chapter.~~ **The Compliance Hearings Officer shall disregard technical deficiencies in notice provided the Compliance Hearings Officer finds that the respondent received actual notice in advance of the hearing.**

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

Code Sections with Changes – Final Form:

2.07.030(D)(3) Process for Enforcement of Code

- (D)... 3. Citations may be served by first class U.S. Mail, by personal service on respondent, or by attaching the citation in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]

2.07.050 Notice of Hearing

- E. The notice shall contain a statement of the time, date, and place of the hearing. A copy of the Complaint and the Statement of Rights described in Section 2.07.060 shall be attached to the notice. Notice shall be mailed or delivered at least 15 days prior to the hearing date.
- F. The County shall cause notice of the hearing to be given to the respondent(s) by:
- i. First Class U.S. Mail; or,
 - ii. Personal service; or,
 - iii. Attaching the hearing notice in a secure manner to the main entrance to that portion of the premises of which the respondent has possession.
- G. Notice may be delivered to the property or to the mailing address of the owner of the property as listed on the County tax roll. Notice is considered complete on the date of personal delivery or upon deposit in the U.S. mail.
- H. The Compliance Hearings Officer shall disregard technical deficiencies in notice provided the Compliance Hearings Officer finds that the respondent received actual notice in advance of the hearing.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 4-2003, 3/13/03]



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January 9, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 19-006
Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	<i>Conduct Public Hearing/Approve Order</i>
Dollar Amount and Fiscal Impact	<i>None</i>
Funding Source	<i>Not Applicable</i>
Duration	<i>Permanent</i>
Previous Board Action	<i>None</i>
Strategic Plan Alignment	<i>Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries</i>
Contact Person	<i>Ken Martin, Boundary Change Consultant - 503 222-0955</i> <i>Nate Boderman, Assistant County Counsel</i>
Contract No.	<i>Not Applicable</i>

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, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 19-006 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed

notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 0.25 acres, is vacant and is valued at \$6,637.

REASON FOR ANNEXATION

The annexation is being sought to provide sewer service to an adjacent approved development within the City of Happy Valley.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-006, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal
No. CL 19-006



Order No. _____

Whereas, This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1; and

Whereas, It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, It further appearing that this matter came before the Board for public hearing on January 9, 2020 and that a decision of approval was made January 9, 2020.

NOW THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-006 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of January 9, 2020.

DATED this 9th day of January, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

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

1. The territory to be annexed contains 0.25 acres, is vacant and is valued at \$6,637.
2. The annexation is being sought to provide sewer service to an adjacent approved development within the City of Happy Valley.
3. Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption.

4. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in Finding No. 7 below. No concept plans cover this area.

5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall ". . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says

"Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Happy Valley and has a zoning designation of MUR-A (Mixed Use - Residential). The adjacent properties are to be developed with attached and detached single family residential uses (29 lots).
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. WES, as the service provider for the District, has a sewer line in SE Creswell Cove which can be extended to serve the proposed development.
11. The Sunrise Water Authority has an 8-inch water line in SE Creswell Cove which can be extended to serve the proposed development.
12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.

14. The area to be annexed receives parks and recreation service from either the City of Happy Valley or North Clackamas Parks and Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.

January 9, 2020

TO: Board of County Commissioners
Clackamas County

FROM: Ken Martin, Boundary Change Consultant
Nate Boderman, Assistant County Counsel

Members of the Board:

After Notice of the Hearing on this proposal was given, staff was contacted by an adjoining neighbor with concerns that some of his property had been inadvertently included in the annexation. An examination of the issue by the staff and the applicant indicates the neighbor is correct. The north approximately 75 feet of the strip of land originally proposed to be annexed actually belongs to the neighbor to the north. The applicants do not wish to include that property in the annexation. Attached is a revised legal description and map which should be attached to the proposed order.



AKS ENGINEERING & FORESTRY, LLC
12965 SW Herman Road, Suite 100, Tualatin, OR 97062
P: (503) 563-6151 | www.aks-eng.com

AKS Job #4298

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

EXHIBIT B

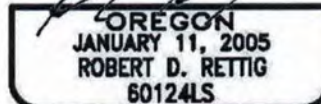
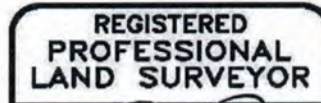
Clackamas County Service District No. 1 Annexation Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the southwest corner of Lot 1 of the plat "Creekside Terrace", Plat No. 4562, Clackamas County Plat Records, also being on the north right-of-way line of SE Creswell Cove (23.50 feet from centerline); thence along said north right-of-way line, South 89°58'16" West 20.00 feet to the southwest corner of Exhibit 'A' of Document Number 2019-048812, Clackamas County Deed Records; thence along the west line of said deed, North 00°05'18" East 476.56 feet to the northwest corner of said deed; thence along the north line of said deed, North 89°54'42" East 19.85 feet to northeast corner of said deed; thence along the east line of said deed, South 00°04'13" West 476.52 feet to the Point of Beginning.

The above described tract of land contains 9,495 square feet, more or less.

1/2/2020

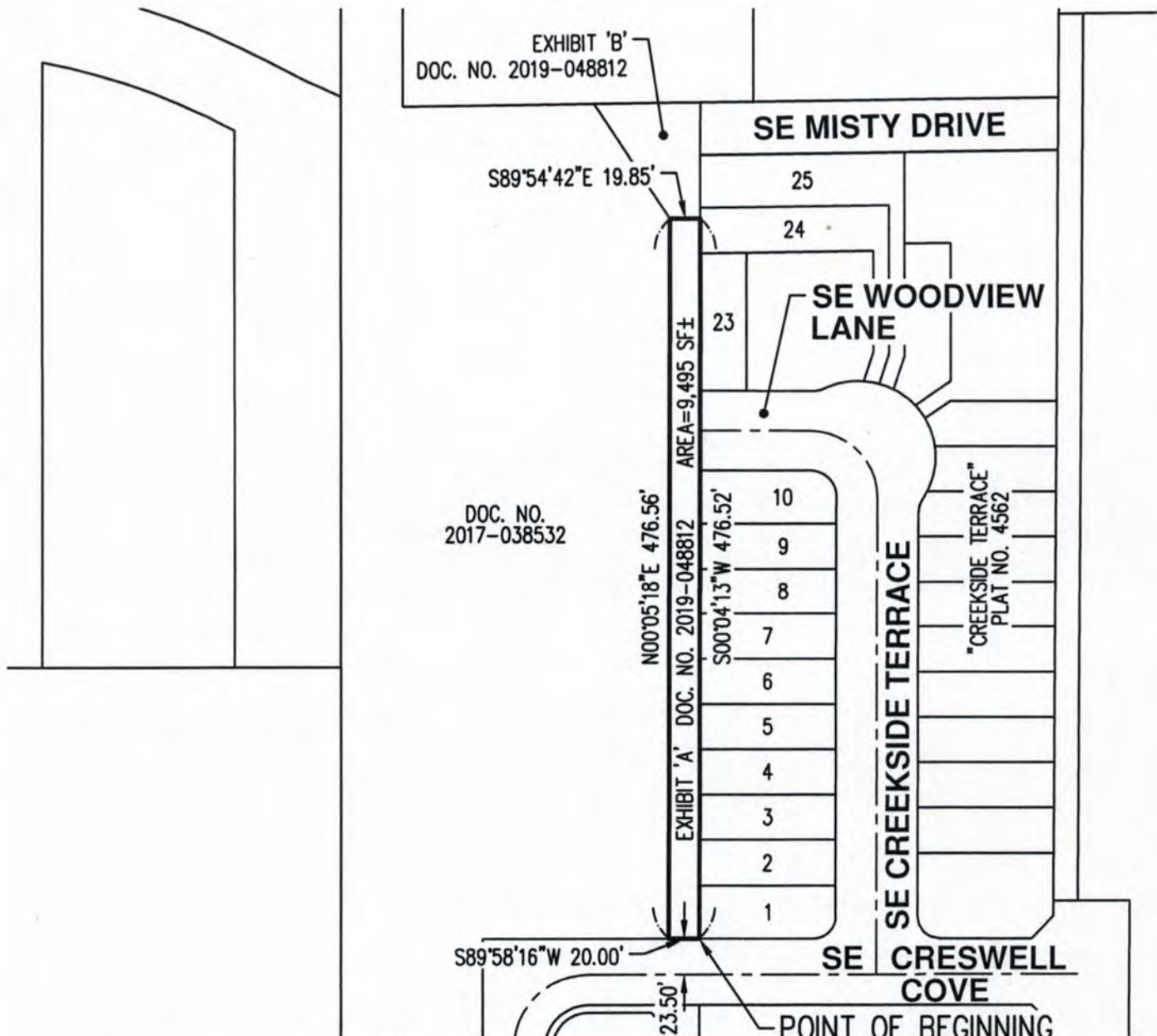


OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

RENEWS: 12/31/20

EXHIBIT C

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



PREPARED FOR

FOXWOOD HV HOLDINGS, LLC
8121 S VALE GARDEN ROAD
CANBY, OR 97013

SCALE: 1" = 100 FEET



1/2/2020

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Robert D. Rettig

OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

RENEWS: 12/31/20

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 (CCSD#1)
ANNEXATION MAP

EXHIBIT
C

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM

AKS

DRWN: WCB
CHKD: RDR
AKS JOB:
4298



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

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Andrew R. Naylor
Andrew Narus
Sarah Foreman
Assistants

January 9, 2020

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Board Order for Boundary Change Proposal CL 19-007
Annexation to Clackamas County Service District No. 1

Purpose/Outcomes	<i>Conduct Public Hearing/Approve Order</i>
Dollar Amount and Fiscal Impact	<i>None</i>
Funding Source	<i>Not Applicable</i>
Duration	<i>Permanent</i>
Previous Board Action	<i>None</i>
Strategic Plan Alignment	<i>Build Public Trust Through Good Government, hold transparent and clear public processes regarding jurisdictional boundaries</i>
Contact Person	<i>Ken Martin, Boundary Change Consultant - 503 222-0955</i> <i>Nate Boderman, Assistant County Counsel</i>
Contract No.	<i>Not Applicable</i>

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, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 19-007 is a proposed annexation to Clackamas County Service District No. 1 ("District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed

notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

As required by statute the Board of the District has endorsed the proposed annexation. Also as required by statute (ORS 198.720(1)) the City of Happy Valley has approved this petition.

This proposal was initiated by a consent petition of property owners. The petition meets the requirement for initiation set forth in ORS 198.855, ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040(a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change will become effective immediately.

The territory to be annexed is located generally in the eastern part of the District. The territory contains 5.85 acres, one single family dwelling, a church and is valued at \$1,176,248.

REASON FOR ANNEXATION

The property owners desire sewer service to serve a proposed multi-family development within the City of Happy Valley.

CRITERIA

Oregon Revised Statute 198 directs the Board to "consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district."

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership ("WES") as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the proposed findings. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date (immediately upon adoption) was noted above.

¹ A "necessary party" is another governmental entity which includes the same area or provides an urban service to the area.

To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

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 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in the findings attached in the proposed order. No concept plans cover this area.

Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District. A draft order with proposed findings is attached hereto for the Board's consideration. The territory, if annexed into the District, will be served by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with the Tri-City Service District and the Surface Water Management Agency of Clackamas County, as amended from time to time.

RECOMMENDATION

Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-19-007, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Nate Boderman
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal
No. CL 19-007



Order No. _____

Whereas, This matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be annexed has petitioned to annex the territory to Clackamas County Service District No. 1;

Whereas, It further appearing that this Board is charged with deciding this proposal for a boundary change pursuant to ORS Chapters 198 and Metro Code 3.09; and

Whereas, It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

Whereas, It further appearing that this matter came before the Board for public hearing on January 9, 2020 and that a decision of approval was made January 9, 2020;

NOW THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 19-007 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of January 9, 2020.

DATED this 9th day of January, 2020.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

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

1. The territory to be annexed contains 5.85 acres, one single family dwelling, a church and is valued at \$1,176,248.
2. The property owners desire sewer service to serve a proposed multi-family development within the City of Happy Valley.
3. Oregon Revised Statute 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

Clackamas County Service District No. 1 and the City of Happy Valley do have an agreement calling for the District to be the provider of sewers inside the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and the Tri-City Service District to create Water Environment Services, an ORS 190 partnership (“WES”) as a collective service provider for all three districts. If annexed into the District, the property would be served by WES under such agreement.

Additional criteria can be found in the Metro Code. The code requires a report which addresses the criteria listed below and which includes the following information:

1. The extent to which urban services are available to serve the affected territory, including any extraterritorial extensions of service;
2. Whether the proposed boundary change will result in the withdrawal of territory from the legal boundary of any necessary party¹; and
3. The proposed effective date of the boundary change.

Service availability is covered in the findings below. Staff has examined the statutes and determined that approval of this annexation will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date is immediately upon adoption of the order.

4. To approve a boundary change, the reviewing entity [the County Board] must apply the following criteria:

To approve a boundary change the County must:

¹ A “necessary party” is another governmental entity which includes the same area or provides an urban service to the area.

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan;
 - (F) Any applicable concept plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.

There are no cooperative agreements, urban service agreements or annexation plans specifically adopted pursuant to ORS 195 in effect in this area. The proposal is consistent with the Comprehensive Plans as stated in Findings 7 & 8 below. No concept plans cover this area.

5. Staff has reviewed both the ORS 198 criteria and the Metro Code requirements, and found that the subject property is eligible for annexation to the District.
6. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that Metro shall ". . . ensure that a boundary change is in compliance with the Metro regional framework plan as defined in ORS 197.015 and cooperative agreements and urban service agreements adopted pursuant to ORS chapter 195." ORS 197.015 says

"Metro regional framework plan means the regional framework plan required by the 1992 Metro Charter or its separate components." The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

There are two adopted regional functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Plan, which were examined and found not to contain any directly applicable standards and criteria for boundary changes.

7. The PUBLIC FACILITIES AND SERVICES Element of the Comprehensive Plan contains the following Goal:

POLICIES

Sanitary Sewage Disposal

* * *

- 6.0 Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.

8. The territory is inside the City of Happy Valley and has zoning designations of MCC (Mixed Commercial Center) and MUR-M2 (Multi-Family, Medium Density). The proposed apartment development is compatible with these designations.
9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
10. WES, as the service provider for the District, has a sewer line in SE 169th Avenue which can be extended onto the site.
11. The Sunrise Water Authority has a water line in SE 169th and SE 172nd Avenue which will be available to serve the property.
12. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
13. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to the County Service District for sanitary sewers.
14. The area to be annexed receives parks and recreation service from either the City of

Happy Valley or North Clackamas Parks and Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 4 & 9 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County Comprehensive Plan and the Happy Valley Comprehensive Plan) and concludes this proposal complies with them. All other necessary urban services can be made available.
4. The Board considered the timing & phasing of public facilities to this area, the quantity and quality of services available and the potential for duplication of services. The District, through Water Environment Services, has service available to the area to be annexed as noted in Finding No. 10. The Board concludes this annexation is timely, the District has an adequate quantity and quality of services available and that the services are not duplicative.
5. The Metro Code at 3.09.050 (B) (2) requires a determination of whether the boundary change will cause withdrawal of the territory from the boundary of any necessary party. An examination of this issue found that no such withdrawals would be caused by approval of this annexation.



EXHIBIT B

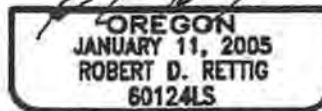
Clackamas County Service District No. 1 Annexation Description

A tract of land located in the Northwest One-Quarter of Section 6, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the southeast corner of Parcel 1 of Partition Plat 1996-062, Clackamas County Plat Records, also being the southwesterly corner of Exhibit 'A' of Document Number 2015-070466, Clackamas County Deed Records; thence along the southerly line of said Exhibit 'A', South $76^{\circ}08'31''$ East 206.30 feet to the southeasterly corner of said Exhibit 'A'; thence along the east line of said Exhibit 'A', North $01^{\circ}08'14''$ East 174.31 feet to the southerly right-of-way line of SE Sunnyside Road (55.94 feet from centerline); thence along said southerly right-of-way line, South $76^{\circ}07'27''$ East 132.43 feet; thence continuing along said southerly right-of-way line (variable width from centerline), South $37^{\circ}34'32''$ East 40.83 feet to the westerly right-of-way line of SE 172nd Avenue (50.00 feet from centerline); thence along said westerly right-of-way line, South $01^{\circ}05'29''$ West 305.82 feet to the north line of Book 208, Page 619, Clackamas County Deed Records; thence along said north line, North $89^{\circ}39'37''$ West 143.77 feet to the northwest corner of said deed; thence along the west line of said deed, South $01^{\circ}08'14''$ West 75.00 feet to the southwest corner of said deed, also being on the northerly right-of-way line of SE Stoneybrook Court (variable width from centerline); thence along said northerly right-of-way line, South $00^{\circ}21'51''$ West 9.95 feet; thence continuing along said northerly right-of-way line, North $89^{\circ}38'16''$ West 146.15 feet; thence continuing along said northerly right-of-way line, South $00^{\circ}21'51''$ West 26.02 feet to the northeast corner of Document Number 76 41477, Clackamas County Deed Records; thence along the north line of said deed, North $89^{\circ}29'35''$ West 445.74 feet to the southeast corner of Parcel 2 of said Partition Plat 1996-062; thence along the easterly line of said Parcel 2, North $02^{\circ}17'15''$ West 350.12 feet to the northwesterly corner of Exhibit 'B' of said Document Number 2015-070466; thence along the northerly line of said Exhibit 'B', North $89^{\circ}56'21''$ East 399.93 feet to the Point of Beginning.

The above described tract of land contains 5.85 acres, more or less.

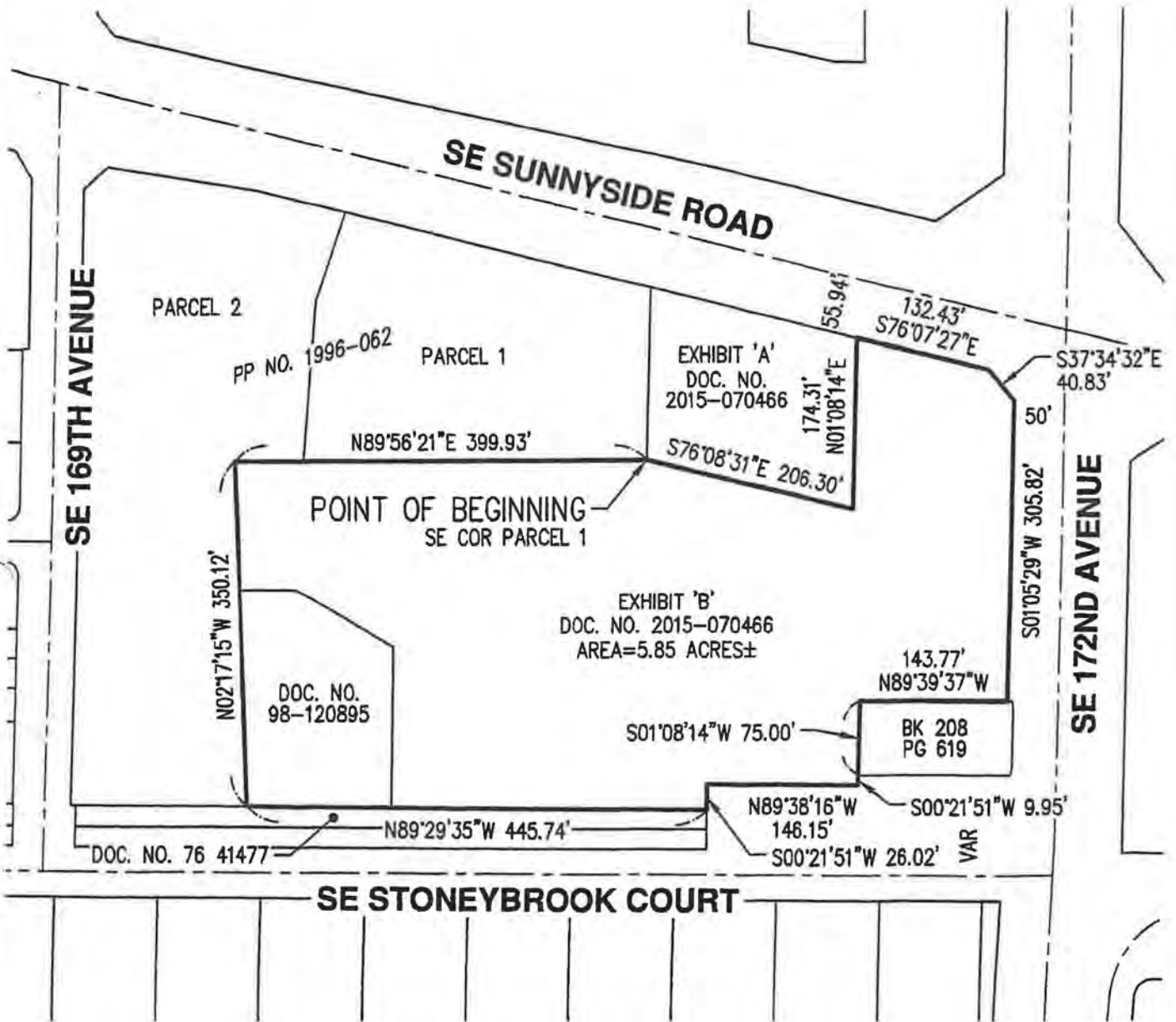
9/27/2019



RENEWS: 12/31/20

EXHIBIT C

A TRACT OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN,
CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON



9/27/2019

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

Robert D. Rettig

OREGON
JANUARY 11, 2005
ROBERT D. RETTIG
60124LS

RENEWS: 12/31/20

PREPARED FOR

GEO DEVELOPMENT
12042 SE SUNNYSIDE ROAD, SUITE 706
CLACKAMAS, OR 97015

SCALE: 1" = 150 FEET



**CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
ANNEXATION MAP**

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
503.563.6151 WWW.AKS-ENG.COM



EXHIBIT
C

DRWN: WCE
CHKD: RDF
AKS JOB:
6489