



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
 2051 KAEN ROAD OREGON CITY, OR 97045

Stephen L. Madkour
 County Counsel

March 28, 2019

Board of County Commissioners
 Clackamas County

Members of the Board:

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

Final Approval of Withdrawal from Clackamas County Service Dist. No. 1

Purpose/Outcomes	Approval of Board Order authorizing a withdrawal from Clackamas County Service District No. 1
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Safety Impact	Not Applicable
Duration	Permanent
Previous Board Action	Board Order 2017-147 adopted on 12/14/17; first hearing on November 22, 2017.
Contact Person	Ken Martin, Boundary Change Consultant – 503-222-0955 Amanda Keller, Assistant County Counsel
Contract No.	Not Applicable

BACKGROUND:

On December 14, 2017, the Board of County Commissioners adopted Board Order No. 2017-147, which was intended to be the final approval of Boundary Change Proposal No. CL-17-017 for withdrawal from Clackamas County Service District No. 1. The adopted Board Order No. 2017-147 mistakenly contained the words “preliminarily approved,” implying that a final approval was still to come. The property requesting the withdrawal needs a final approval before the withdrawal can be processed by the County Assessor. The attached Board Order makes it clear that the Board is providing final approval of the withdrawal.

Attached are the following documents:

- Corrected Board Order
- Previous staff report submitted for the December 14, 2017 hearing
- Previously adopted Board Order with attached findings

RECOMMENDATION:

Staff recommends approval of the board order providing final approval of withdrawal from Clackamas County Services District No. 1 pursuant to Proposal No. CL-17-017.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Amanda Keller", with a long horizontal flourish extending to the right.

Amanda Keller
Assistant County Counsel

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

In the Matter of Approving
Boundary Change Proposal CL-17-
0017



Resolution No. _____

Page 1 of 3

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matter coming before the Board at this time, and it appearing that the owner of all the land in the territory to be withdrawn has petitioned to withdraw the territory from Clackamas County Service District No. 1; and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 this matter came before the Board for public hearing on November 22, 2017 and December 14, 2017 and that a decision of final approval of Board Order 2017-147 was made on that day; and

Whereas, Board Order 2017-147 mistakenly contained the words “preliminarily approved”; and

Whereas, the Board must adopt a Board Order with language reflecting a final approval in order to complete the boundary change;

NOW THEREFORE, IT IS HEREBY ORDERED that the Boundary Change Proposal No. CL 17-017 as described in Exhibit A, page 7 and depicted on Exhibit A, Page 8 is approved for the reasons stated in Exhibit A, pages 3-6:

DATED this 28th day of March, 2019

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT A



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

December 14, 2017

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Shawn Lillegren
Jeffrey D. Munns
Assistants

Final Approval of Withdrawal from Clackamas County Service District No.1

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

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 17-017 is a proposed withdrawal from Clackamas County Service District No. 1 (the "District").

State statute and the Metro Code require the Board to hold a public hearing on the proposed withdrawal. 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 withdrawal.

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

In the Matter of Approving
Boundary Change Proposal
No. CL 17-0017

ORDER NO. 2017-147

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 withdrawn has petitioned to withdraw the territory from 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 November 22, 2017 and that a decision of approval was made on November 22, 2017; and

WHEREAS, it further appearing that the Board is required to hold a second hearing on this proposal and that at that hearing if sufficient signatures to cause an election on the matter are not filed, the Board may approve the proposed withdrawal; and

WHEREAS, it further appearing that the Board held such required second hearing on December 14th, 2017 and no valid remonstrance petition was filed with the Board;

NOW THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 17-017 as described in Exhibit B and depicted on Exhibit C is preliminarily approved for the reasons stated in attached Exhibit A.

ADOPTED this 14th day of December, 2017

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

Clackamas County Official Records
Sherry Hall, County Clerk
Commissioners' Journals
Agreements & Contracts

2017-2017

12/19/2017 8:40:30 AM

FINDINGS

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

1. Proposal No. CL 17-017 is a proposed withdrawal from Clackamas County Service District No. 1.

If the Board approves the proposal it must adopt an order setting a date for a final hearing not less than 20 or more than 50 days after the date of their order. The purpose of that hearing is to allow for the possible filing of a remonstrance petition by electors within the withdrawal area. Assuming no remonstrance petition is filed the Board would enter an order approving the withdrawal. Staff proposes the required second hearing take place on December 14, 2017.

2. The territory to be withdrawn contains 1.52 acres, is vacant and is valued at \$86,839.
3. The property owners desire sewer service for a proposed 8-lot subdivision. Due to topography Clackamas County Service District # 1 (CCSD # 1) through its sewer provider, Water Environment Services (WES), cannot efficiently serve the site but an adjacent unit of government, Oak Lodge Water Services District (OLWSD) can provide service. Withdrawing the property from CCSD#1 will allow for its subsequent annexation to OLWSD and acquisition of sewer service from that entity.
4. 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."

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 withdrawal will not cause the withdrawal of the affected territory from the boundary of any necessary party. The proposed effective date would be the date of the order adopted at the conclusion of the second hearing.

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;
 - (E) Any applicable comprehensive plan; and
 - (F) Any applicable concept plan.
- (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 Plan as stated in Finding No. 6 below. 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 withdrawal from the District.

5. 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.

6. 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.

The territory is planned for Low Density Residential use and is zoned R-7. The County has approved a replat of this property which will allow for development of an 8-lot subdivision.

7. 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.
8. This territory, if withdrawn from the District, will be need to be subsequently annexed to the Oak Lodge Water Services District. OLWSD has an 8-inch sewer line SE Garland Lane which can serve the site if annexed into such district.
9. The territory to be annexed is within the boundary of the former Oak Lodge Water District (now a part of Oak Lodge Water Services District for water purposes) but was outside the boundaries of the former Oak Lodge Sanitary District, and therefore was not included in the boundaries of the new district upon formation of the combined Oak Lodge district.
10. The area receives police service from the Clackamas County Sheriff's Department.

11. 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.
12. The area to be annexed is within the 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 3 & 7 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 plan (Clackamas Comprehensive Plan) and concludes this proposal complies with it. 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 Board notes that this withdrawal will allow for the extension of sewer service to the site from the unit of government which can best serve the site.
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 withdrawal.

EXHIBIT B

LEGAL DESCRIPTION

A tract of land situated in the SE ¼ SE ¼ Section 1, Township 2 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

PARCEL 3, PARTITION PLAT NO. 2017-038 IN THE COUNTY OF CLACKAMAS,
STATE OF OREGON.

EXHIBIT C

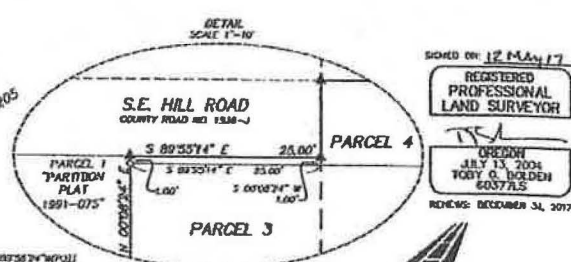
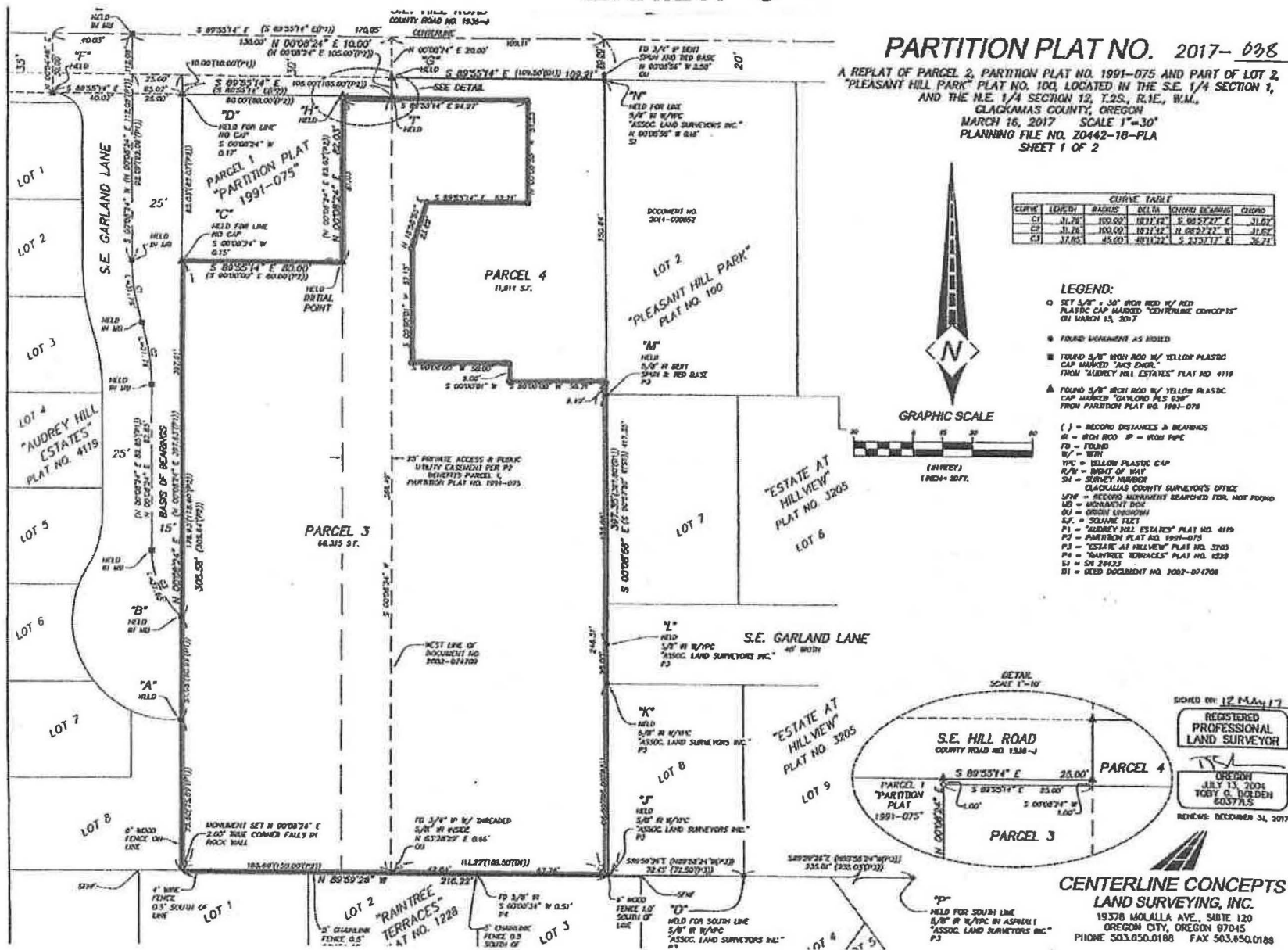
PARTITION PLAT NO. 2017-038

A REPLAT OF PARCEL 2, PARTITION PLAT NO. 1991-075 AND PART OF LOT 2, "PLEASANT HILL PARK" PLAT NO. 100, LOCATED IN THE S.E. 1/4 SECTION 1, AND THE N.E. 1/4 SECTION 12, T.2S., R.1E., W.M., CLATSOP COUNTY, OREGON
 MARCH 16, 2017 SCALE 1"=30'
 PLANNING FILE NO. ZD442-18-PLA
 SHEET 1 OF 2

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	31.28'	100.00'	183.74°	S 88°27'27" E	31.67'
C2	31.28'	100.00'	183.74°	N 88°27'27" W	31.67'
C3	37.60'	48.00'	101.122°	S 137°17' E	36.71'

LEGEND:

- SET 5/8" x 30" IRON ROD W/ RED PLASTIC CAP MARKED "CENTERLINE CONCEPTS" ON MARCH 15, 2017
- FOUND WORKMENT AS NOTED
- FOUND 3/8" IRON ROD W/ YELLOW PLASTIC CAP MARKED "S&S" FROM "SURREY HILL ESTATES" PLAT NO. 4119
- ▲ FOUND 5/8" IRON ROD W/ YELLOW PLASTIC CAP MARKED "GAYLORD PLS 639" FROM PARTITION PLAT NO. 1991-075
- () = RECORD DISTANCES & BEARINGS
- RI = IRON ROD IP = IRON PIPE
- FD = FOUND
- W/ = WITH
- YPC = YELLOW PLASTIC CAP
- R/W = RIGHT OF WAY
- SI = SURVEY MARKER
- CLATSOP COUNTY SURVEYOR'S OFFICE
- SFR = RECORD WORKMENT SEARCHED FOR, NOT FOUND
- LD = MONUMENT DONE
- GU = GROUND UNTOUCHED
- S.F. = SQUARE FEET
- P1 = "SURREY HILL ESTATES" PLAT NO. 4119
- P2 = PARTITION PLAT NO. 1991-075
- P3 = "ESTATE AT HILLVIEW" PLAT NO. 3205
- P4 = "SURREY TERRACES" PLAT NO. 1228
- SI = ON 20022
- DI = DEED DOCUMENT NO. 1002-07109



SIGNED ON 12 MAR 17
 REGISTERED PROFESSIONAL LAND SURVEYOR
 OREGON
 JULY 15, 2004
 TROY G. BOLDEN
 6037735
 REVISION: DECEMBER 31, 2017

CENTERLINE CONCEPTS
 LAND SURVEYING, INC.
 19376 MOLALLA AVE. SUITE 120
 OREGON CITY, OREGON 97145
 PHONE 503.850.0188 FAX 503.850.0188