



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
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June 23, 2022

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Tri-City County Service District

Purpose/Outcomes	Conduct Public Hearing/Approve Order CL 22-002
Dollar Amount and Fiscal Impact	None
Funding Source	Not Applicable
Duration	Permanent
Previous Board Action	None
Counsel Review	6/13/2022 Jeffrey Munns
Procurement Review	No. This matter is an Approval of an Annexation.
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 Jeffrey Munns, Assistant County Counsel – 503-723-5984
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 Tri-City County Service District is such a district.

Proposal No. CL 22-002 is a proposed annexation to Tri-City County Service District (“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) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2022-06-23>); 3) Published notice twice in the Clackamas County Review; 4) 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 Oregon City 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 198.857, 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 southern part of the District. The territory contains .96 acres, 1 single family dwelling, a population of 3 and is valued at \$243,422.

REASON FOR ANNEXATION

The property owners desire sewer service to facilitate additional housing development on the site.

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."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider sewage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 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 will receive sewerage treatment and transmission from WES under such agreement. Local sewerage collection will continue to be provided by the City.

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.

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.

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

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 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 (major transmission and treatment) by Water Environment Services pursuant to that certain ORS 190 Partnership entered into by the District with Clackamas County Service District # 1 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-22-002, annexation to Tri-City County Service District.

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

In the Matter of Approving a
Boundary Change Proposal No.
CL 22-002



Order No. _____

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 Tri-City County Service District;

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

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

It further appearing that this matter came before the Board for public hearing on June 23, 2022 and that a decision of approval was made on June 23, 2022;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 22-002 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 Tri-City County Service District as of June 23, 2022.

ADOPTED this 23rd day of June, 2022.

BOARD OF COUNTY COMMISSIONERS

Tootie Smith, Chair

Tony Mayernik, Clerk to the Board

FINDINGS

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

1. Proposal No. CL 22-002 is a proposed annexation to Tri-City County Service District ("District").
2. If the Board approves the proposal the boundary change will become effective immediately.
3. The territory to be annexed contains .96 acres, 1 single family dwelling, a population of 3 and is valued at \$143,422.
4. The property owners desire sewer service to facilitate additional development on the site.
5. 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."

Tri-City County Service District and the City of Oregon City do have an agreement calling for the District to be the provider of sewerage treatment and transmission for the City. The District has entered into an agreement with the Surface Water Management Agency of Clackamas County and Clackamas County Service District # 1 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 will receive sewerage treatment and transmission from 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

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

date (immediately upon adoption) was noted in Finding No. 2.

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 Plan as stated in Findings 7 and 8. 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.

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 property was annexed to the City of Oregon City via City Ordinance 19-1018. The property is developed with a single family dwelling. The property has been rezoned by the City to allow additional development.
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. The property can be served from City’s 8-inch sewer line in Clearwater Place adjacent to the property. WES, as the service provider for the District, will provide major transmission and treatment of sewerage.

11. The property is already served with water.
12. The area receives police service from the City of Oregon City.
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 the City of Oregon City.

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 5 & 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 City and the District have agreed which entity will provide which aspects of sewer service to the area.
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 Oregon City 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.



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AKS Job #3062

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

EXHIBIT B

Description

A portion of Lots 3 and 4, Block A, of the vacated plat "Westover Acres", Plat No. 396, Clackamas County Plat Records, and a portion of right-of-way, located in the Southeast One-Quarter of Section 4, Township 3 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at the northeast corner of said Lot 4, also being on the southeasterly right-of-way line of Mapelane Road (30.00 feet from centerline); thence along said southeasterly right-of-way line, South 67°23'14" West 133.63 feet to the east line of Document Number 2019-024687, Clackamas County Deed Records, and the Point of Beginning; thence along said east line, South 00°35'02" East 316.31 feet to the southeast corner of said deed, and the City of Oregon City city limits line; thence along the south line of said deed and said city limits line, South 89°26'22" West 147.68 feet to the southwest corner of said deed, and the east right-of-way line of Clearwater Place (variable width from centerline); thence along said east right-of-way line and said city limits line, North 00°35'02" West 256.50 feet to said southeasterly right-of-way line Mapelane Road; thence leaving said southeasterly right-of-way line along said city limits line, North 22°36'46" West 60.00 feet to the northwesterly right-of-way line of Mapelane Road (30.00 feet from centerline); thence leaving said city limits line along said northwesterly right-of-way line, North 67°23'14" East 159.31 feet; thence leaving said northwesterly right-of-way line, South 22°36'46" East 60.00 to the Point of Beginning.

The above described tract of land contains 1.19 acres, more or less.

The Basis of Bearings for this description is per Survey Number SN2020-020, Clackamas County Survey Records.

3/3/2020

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 9, 2007
NICK WHITE
70652LS
RENEWS: 6/30/20

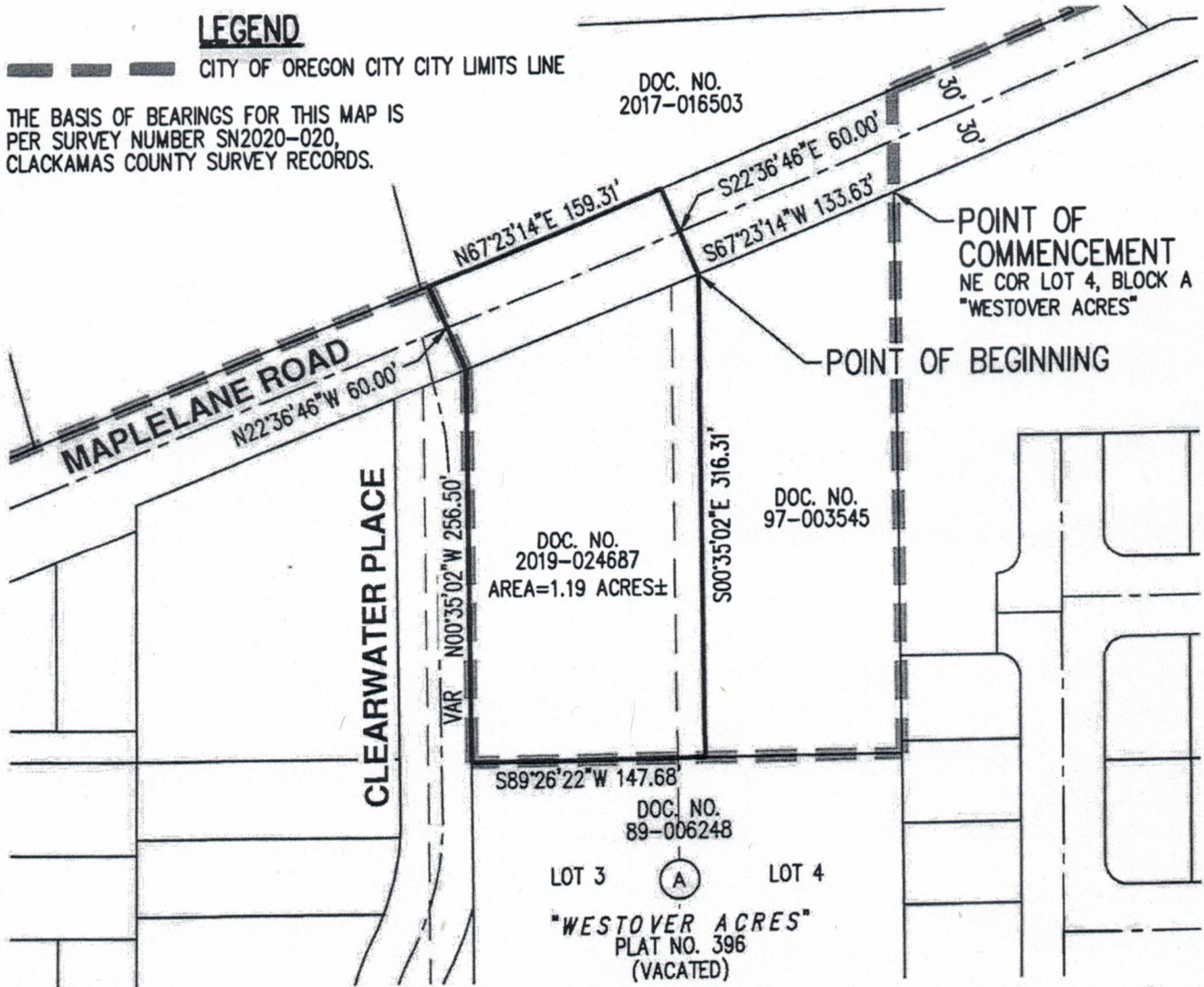
EXHIBIT C

A PORTION OF LOTS 3 & 4, BLOCK A, OF THE VACATED PLAT "WESTOVER ACRES",
 AND A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE SOUTHEAST 1/4 OF SECTION 4,
 TOWNSHIP 3 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON

LEGEND

--- CITY OF OREGON CITY LIMITS LINE

THE BASIS OF BEARINGS FOR THIS MAP IS
 PER SURVEY NUMBER SN2020-020,
 CLACKAMAS COUNTY SURVEY RECORDS.



3/3/2020

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

Nick White

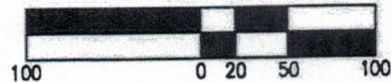
OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/20

PREPARED FOR

CITY OF OREGON CITY
 221 MOLALLA AVENUE, SUITE 200
 OREGON CITY, OR 97045

SCALE: 1" = 100 FEET



DESCRIPTION MAP

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



EXHIBIT
 A

DRWN: WCB
 CHKD: NSW
 AKS JOB:
 3062