



OFFICE OF COUNTY COUNSEL

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

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

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to 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
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-003

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 21-003 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) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 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 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 9.76 acres, 1 vacant single-family dwelling and is valued at \$2,298,420.

REASON FOR ANNEXATION

The property owners desire sewer service to serve a development consisting of several new multi-family apartment buildings, a community center and new parking improvements.

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-21-003, annexation to Clackamas County Service District No. 1.

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

In the Matter of Approving a
Boundary Change Proposal No.
CL 21-003



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 Clackamas County Service District No. 1;

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 August 5, 2021 and that a decision of approval was made August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-003 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 August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwilliger, Clerk to the Board

FINDINGS

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

1. The territory to be annexed contains 9.76 acres, 1 vacant single-family dwelling and is valued at \$2,298,420.
2. The property owners desire sewer service to serve a development consisting of several new multi-family apartment buildings, a community center and new parking improvements.
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.

4. 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.

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

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 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 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 annexation to 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.

7. The territory is inside the City of Happy Valley and is zoned MUE, Mixed Use Employment which allows for the proposed use.
8. 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.
9. WES, as the service provider for the District, has sewer lines available at the west edge of the property in SE Stadium Way.
10. The Sunrise Water Authority can provide water service to the area from lines adjacent in SE Parklane and SE Stadium Way.
11. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff’s Department for service.
12. 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.

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 & 8 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 are 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. 9. 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"

January 6, 2021

Annexation

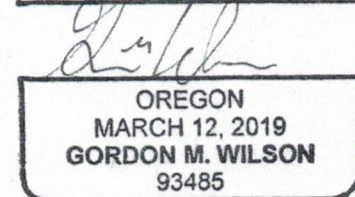
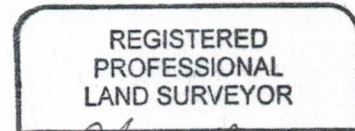
A tract of land, as shown on attached Exhibit "C", lying in the North One-Half of Section 7, Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, being a portion of that tract of land as described in a Statutory Warranty Deed to North Clackamas School District #12, recorded as Document No. 2015-050598, Clackamas County Deed Records, being further described as follows;

Commencing at a 3-1/4" bronze disc, being the One-Quarter corner common to said Section 7 and Section 6 of Township 2 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon, per USBT Page 2010-049, Clackamas County Survey Records; thence, S01°51'40"W, along the former west right of way line of SE 172nd Ave as shown on Partition Plat No. 2011-011, Clackamas County Survey Records, 277.86 feet to a point on the north line of said tract per Document No. 2015-050598; thence, N89°41'12"W, along said north line, 20.71 feet to its intersection with the west right of way line of SE 172nd Ave per Right of Way Document No. 2016-083739, Clackamas County Deed Records, being the **Point of Beginning**;

Thence, S03°08'29"W along the west right of way line of SE 172nd Ave per said Document No. 2016-083739, 277.61 feet to its intersection with the south line of said Document No. 2015-050598; thence, N89°47'35"W along said south line, 1531.75 feet to the southwest corner of said Document No. 2015-050598; thence, N00°59'34"E along the west line of said Document No. 2015-050598, 277.50 feet to the northwest corner thereof; thence, S89°52'44"E along the north line of said Document No. 2015-050598, 784.96 feet to an angle point; thence, S89°41'12"E, continuing along said north line, 757.20 feet to the **Point of Beginning**

The tract of land to which this description applies contains 9.81 acres, more or less.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System-North Zone. The south line of Document No. 2015-050598 was held to be S89°47'35"E.



Renews: 06/30/ 2022

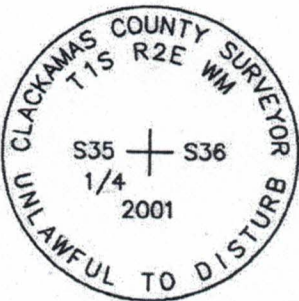


EXHIBIT "C" ANNEXATION EXHIBIT MAP

LOCATED IN THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER, AND THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M. CLACKAMAS COUNTY, OREGON

TRACT C
"NORTHVIEW AT HAPPY VALLEY HEIGHTS"

POINT OF BEGINNING ONE-QUARTER SECTION CORNER COMMON TO SECTIONS 35 AND 36, T1S, R2E, WM PER U.S.B.T. ENTRY 2001-101

DOCUMENT NUMBER 2001-074921

LOT 19 "CLAREMONT AT HAPPY VALLEY"

DOCUMENT NO. 2009-062196

S88°39'38"E 327.02'

KRAUSE LN

N02°10'40"E 668.87'

S02°11'14"W 669.76'

DOCUMENT NUMBER 2018-066901

1S2E36CB-05600, 05690
DOCUMENT NUMBERS 2015-008818 AND 97-086688
218,818 SQ. FT. OR 5.02 ACRES +/-

N88°30'20"W 326.89'

LOT 14 "TUSCAN HILLS"

SE TOSCANA PL

LOT 15 "TUSCAN HILLS"

LOT 16 "TUSCAN HILLS"

LOT 17 "TUSCAN HILLS"

SE VIOLA VINEYARD DR



SCALE 1" = 150'

REGISTERED PROFESSIONAL LAND SURVEYOR

John T. Campbell
OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60073

RENEWS: 12-31-2021

SEE ATTACHED LEGAL DESCRIPTION



Harper Houf Peterson Righellis Inc.

ENGINEERS • PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

MPP-09 TMW 11/16/2020 PAGE 1 OF 1



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Assistants

August 5, 2021

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to 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
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-004

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 21-004 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) Notice posted online (<https://www.clackamas.us/meetings/bcc/business/2021-08-05>); 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 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 1.64 acres, 1 vacant single-family dwelling and is valued at \$320,177.

REASON FOR ANNEXATION

The property owner desires sewer service to replace the existing septic system.

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-21-004, annexation to Clackamas County Service District No. 1.

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

In the Matter of Approving a
Boundary Change Proposal No.
CL 21-004



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 Clackamas County Service District No. 1;

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 August 5, 2021 and that a decision of approval was made August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-004 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 August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwilliger, Clerk to the Board

FINDINGS

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

1. The territory to be annexed contains 1.64 acres, 1 single-family dwelling, a population of 1 and is valued at \$320,177.
2. The property owner desires sewer service to replace the existing septic system.
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.

4. 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.

To approve a boundary change, the County Board must apply the following criteria:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to

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

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 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 annexation to 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.
7. The territory is inside the City of Happy Valley and is zoned IC, Industrial Campus. Current land use is one single-family dwelling.
8. 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.
9. WES, as the service provider for the District, has sewer lines available at the east edge of the property in SE 172nd Avenue.
10. The Sunrise Water Authority provides water service to the property.
11. The area receives police service from the City of Happy Valley which contracts with the Clackamas County Sheriff's Department for service.
12. 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.

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 & 8 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.

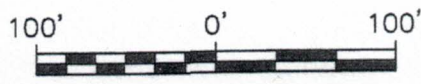
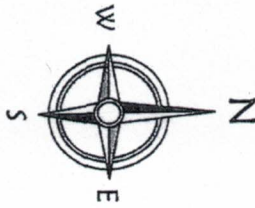
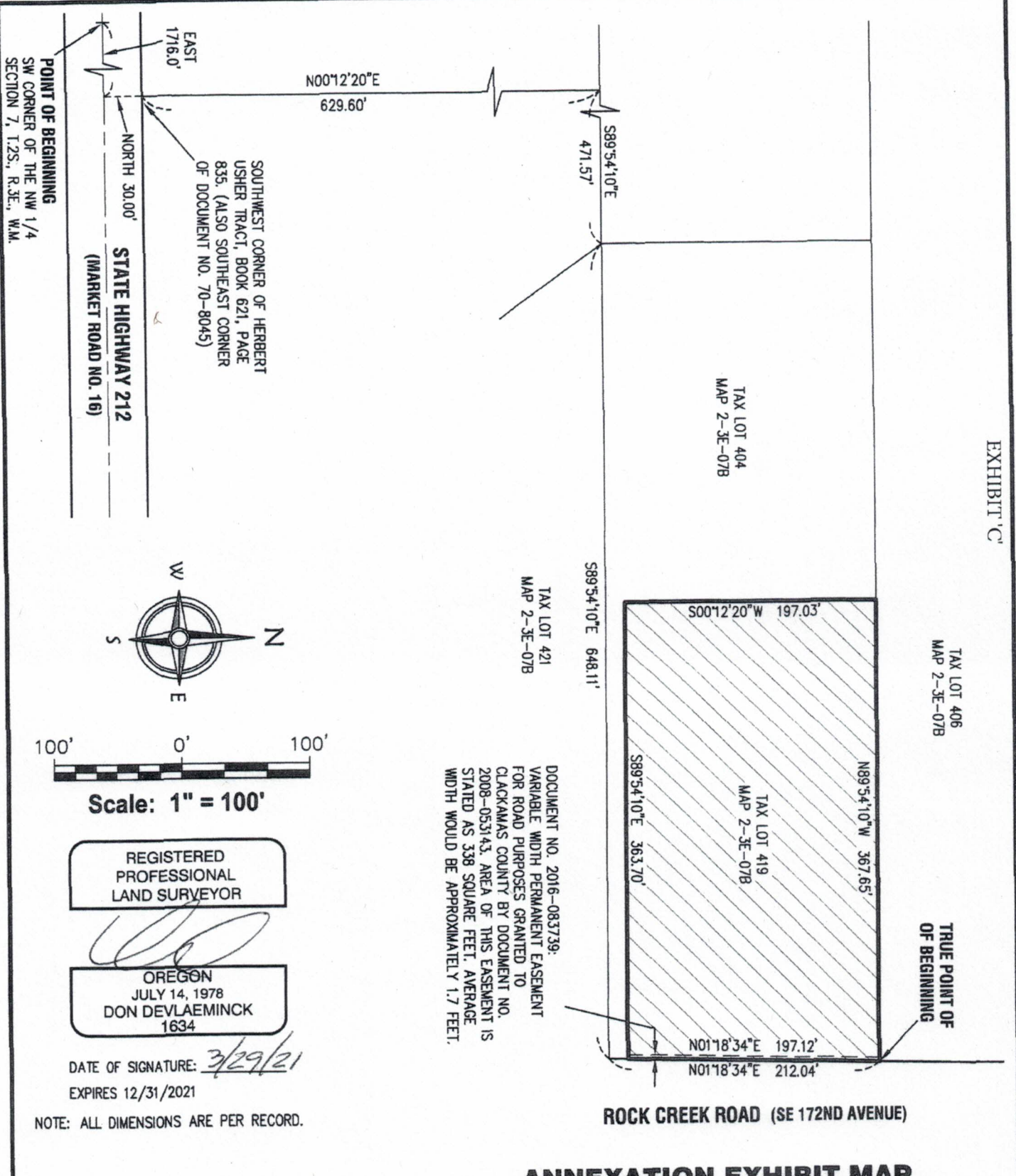
2. The Metro Code calls for consistency between the Board decision and any “applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services.” The Board notes the original public facility plan for this area does call for sewer service by the District.
3. 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 are 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. 9. 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"
LEGAL DESCRIPTION

Part of the Northwest quarter of Section 7, Township 2 South, Range 3 East, Willamette Meridian, in the City of Happy Valley, County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at the Southwest corner of the Northwest quarter of Section 7, Township 2 South, Range 3 East, Willamette Meridian; thence Easterly along the center of Market Road No. 16, a distance of 1716.0 feet; thence Northerly 30.00 feet to the Southwesterly corner of the Herbert Usher property described in Book 621, Page 835, Deed Records, said point also being the Southeast corner of that property described in Film Jacket 70-8045, 46, Deed Records; thence continuing North 0° 12' 20" East along the West line of said Usher property, 629.6 feet to a 3/4 inch iron pipe at an angle point in said Usher property; thence South 89° 54' 10" East 471.57 feet; thence South 89° 54' 10" East 648.11 feet to an iron rod, said point being 21.0 feet, more or less, Westerly from the center of Rock Creek Road as traveled and paved; thence North 01° 18' 34" East along the Westerly edge of said road, 212.04 feet to an iron rod to the true point of beginning; thence North 89° 54' 10" West 367.65 feet; thence South 0° 12' 20" West 197.03 feet to a point; thence South 89° 54' 10" East, a distance of 363.70 feet to a point on the Westerly line of the aforementioned Rock Creek Road; thence North along the Westerly edge of said road, 197.12 feet to the point of beginning.

Excepting therefrom that portion described in acquisition to Clackamas County recorded December 5, 2016, recording No.2016-083739.



Scale: 1" = 100'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
 JULY 14, 1978
 DON DEVLAEINCK
 1634

DATE OF SIGNATURE: 3/29/21
 EXPIRES 12/31/2021

NOTE: ALL DIMENSIONS ARE PER RECORD.

DOCUMENT NO. 2016-083739-
 VARIABLE WIDTH PERMANENT EASEMENT
 FOR ROAD PURPOSES GRANTED TO
 CLACKAMAS COUNTY BY DOCUMENT NO.
 2008-053143. AREA OF THIS EASEMENT IS
 STATED AS 338 SQUARE FEET. AVERAGE
 WIDTH WOULD BE APPROXIMATELY 1.7 FEET.

ANNEXATION EXHIBIT MAP

8442 Annexation.dwg

COMPASS Land Surveyors
 4107 SE International Way, Suite 705
 Milwaukie, Oregon 97222 503-653-9093

NW 1/4 OF SECTION 7, T.2S., R.3E., W.M
 CLACKAMAS COUNTY, OREGON



OFFICE OF COUNTY COUNSEL

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

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

August 5, 2021

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
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
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503-222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-002

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 21-002 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/2021-08-05>); 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 .9 acres, 1 single family dwelling, a population of 2 and is valued at \$250,000.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single family dwelling lot.

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.

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 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-21-002, 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
CL 21-002



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 August 5, 2021 and that a decision of approval was made on August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-002 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 August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwiliger, Recording Secretary

FINDINGS

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

1. Proposal No. CL 21-002 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 .9 acres, 1 single family dwelling, a population of 2 and is valued at \$250,000.
4. The property owners desire sewer service to serve the existing single family dwelling.
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 date (immediately upon adoption) was noted in Finding No. 2.

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 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 21-1005 dated February 17, 2021. The property is developed with a single family dwelling. The property is zoned Campus Industrial but no change in use is currently proposed.
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 sewer line in Beaver Creek Road. 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.

70

EXHIBIT 'B'
Annexation Description Revised 5-21-21

Part of the Washington Williams and wife Donation Land Claim, in Section 9, Township 3 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, more particularly described as follows:

Beginning at a basalt stone 16 x 10 x 10 inches set at the Northeast corner of the Robert Caufield Donation Land Claim, in Section 9, Township 3 South, Range 2 East of the Willamette Meridian, which point is also a re-entrant corner of the Washington Williams Donation Land Claim; thence South 89° West along claim line 753.60 feet to a point in the center of the Oregon City-Beavercreek County Road; thence North 40° 50' West in the center of said road, 283.80 feet to the true point of beginning of th tract herein described; said point marks the Northwest corner of the Bond tract described in Book 328, Page 738, Deed Records; from said true point of beginning; thence North 40° 50' West along the center line of said road 130.20 feet; thence North 89° East, 477.30 feet to an iron pipe; thence South 0° 24' East, 100.00 feet to an iron pipe on the North boundary of the Moehnke tract described in Book 214, Page 398, Deed Records; thence South 89° West, 393.89 feet to the true point of beginning.

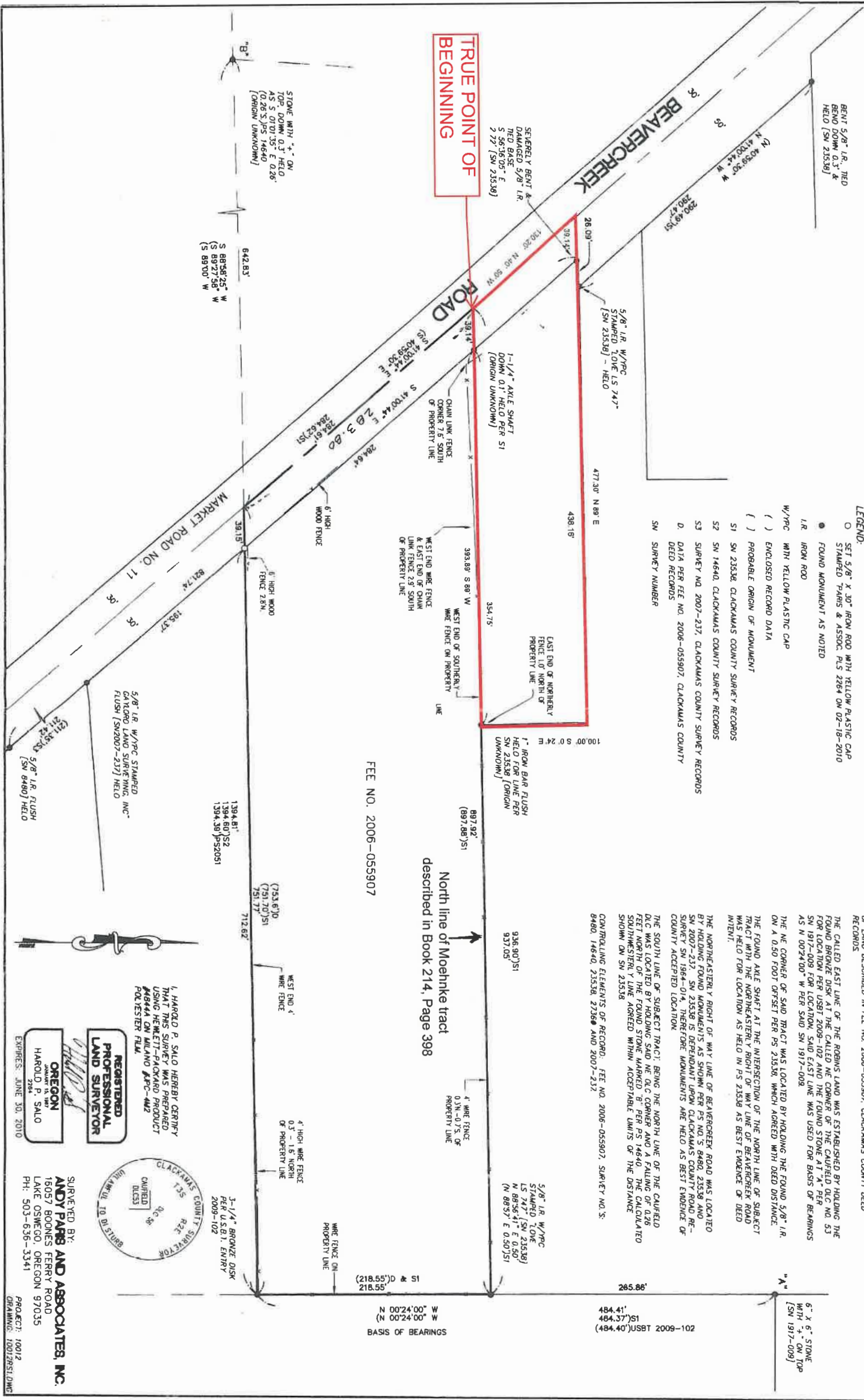
RECORD OF SURVEY
FOR:
FATCAT, LLC
IN THE NE 1/4 SECTION 9, T.3S., R.2E., W.1E.
CLACKAMAS COUNTY, OREGON
FEBRUARY 18, 2010 SCALE 1" = 60'

CLACKAMAS COUNTY SURVEYOR
RECEIVED: 3-23-10
ACCEPTED FOR FILING: 4-14-10
SURVEY NO. SN2010-059

- LEGEND:**
- SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED PAIRS & ASSOC. PLS 2264 ON 02-18-2010
 - FOUND MONUMENT AS NOTED
 - IRON ROD
 - W/YPC WITH YELLOW PLASTIC CAP
 - () ENCLOSED RECORD DATA
 - () PROBABLE ORIGIN OF MONUMENT
 - S1 SN 23538, CLACKAMAS COUNTY SURVEY RECORDS
 - S2 SN 14640, CLACKAMAS COUNTY SURVEY RECORDS
 - S3 SURVEY NO. 2007-237, CLACKAMAS COUNTY SURVEY RECORDS
 - D DATA PER FEE NO. 2006-055907, CLACKAMAS COUNTY DEED RECORDS
 - SN SURVEY NUMBER

NARRATIVE:
THE PURPOSE OF THIS SURVEY WAS TO LOCATE THE BOUNDARIES OF A TRACT OF LAND DESCRIBED IN FEE NO. 2006-055907, CLACKAMAS COUNTY DEED RECORDS.
THE CALLED EAST LINE OF THE ROBINS LAND WAS ESTABLISHED BY HOLDING THE FOUND BRONZE DISK AT THE CALLED NE CORNER OF THE CAUFIELD D/C NO. 53 FOR LOCATION PER USBT 2009-102 AND THE FOUND STONE AT "A" PER SN 1917-009 FOR LOCATION. SAID EAST LINE WAS USED FOR BASIS OF BEGINNINGS AS N 00°24'00" W PER SAID SN 1917-009.
THE NE CORNER OF SAID TRACT WAS LOCATED BY HOLDING THE FOUND 5/8" I.R. ON A 0.50 FOOT OFFSET PER PS 23538, WHICH AGREED WITH DEED DISTANCE.
THE FOUND AXLE SHAFT AT THE INTERSECTION OF THE NORTH LINE OF SUBJECT TRACT WITH THE NORTHEASTERLY RIGHT OF WAY LINE OF BEAVERCREEK ROAD WAS HELD FOR LOCATION AS HELD IN PS 23538 AS BEST EVIDENCE OF DEED INTENT.
THE NORTHEASTERLY RIGHT OF WAY LINE OF BEAVERCREEK ROAD WAS LOCATED BY HOLDING FOUND MONUMENTS AS SHOWN PER PS NO. S 8480, 23538 AND 2007-237. SAID 23538 IS DEPENDANT UPON CLACKAMAS COUNTY ROAD RE-SURF SN 1964-012. THE FOUND MONUMENTS ARE HELD AS BEST EVIDENCE OF COUNTY ACCEPTED LOCATION.
THE SOUTH LINE OF SUBJECT TRACT, BEING THE NORTH LINE OF THE CAUFIELD D/C WAS LOCATED BY HOLDING SAID NE D/C CORNER AND A FALLING OF 0.26 FEET NORTH OF THE FOUND STONE MARKED "B" PER PS 14640. THE CALCULATED SOUTHWESTERLY LINE AGREED WITHIN ACCEPTABLE LIMITS OF THE DISTANCE SHOWN ON SN 23538.
CONTROLLING ELEMENTS OF RECORD: FEE NO. 2006-055907, SURVEY NO. S. 8480, 14640, 23538, 27368 AND 2007-2372.

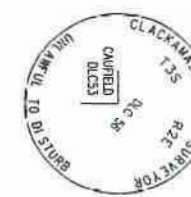
TRUE POINT OF BEGINNING



FEE NO. 2006-055907

North line of Moehke tract
described in Book 214, Page 398

I, HAROLD P. SALO HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED USING HELMERT-PAQUARD PRODUCT #4644 ON WILLANO APC-442 POLYESTER FILM.



REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
 HAROLD P. SALO
 EXPIRES: JUNE 30, 2010

SURVEYED BY:
ANDY PARR AND ASSOCIATES, INC.
 16057 BOONES FERRY ROAD
 LAKE OSWEGO, OREGON 97035
 PH: 503-636-3341

PROJECT: 10012
 DRAWING: 10012RST.DWG



OFFICE OF COUNTY COUNSEL

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

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

August 5, 2021

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
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
Counsel Review	7/20/2021, JM
Procurement Review	N/A, Item is a Boundary Change not subject to Procurement Review.
Contact Person	Ken Martin, Boundary Change Consultant - 503 222-0955 Jeffrey D. Munns, Assistant County Counsel
Proposal No.	CL 21-005

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 21-005 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/2021-08-05>); 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 .494 acres, 1 single family dwelling, a population of 2 and is valued at \$249,798.

REASON FOR ANNEXATION

The property owners desire sewer service to serve the existing single family dwelling.

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

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

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 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-21-005, 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 21-005



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 August 5, 2021 and that a decision of approval was made on August 5, 2021;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 21-005 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 August 5, 2021.

DATED this 5th day of August, 2021.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Tootie Smith, Chair

Christina Terwiliger, Recording Secretary

FINDINGS

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

1. Proposal No. CL 21-005 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 .494 acres, 1 single family dwelling, a population of 2 and is valued at \$249,798.
4. The property owners desire sewer service to serve the existing single-family dwelling.
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 date (immediately upon adoption) was noted in Finding No. 2.

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 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 21-1008 dated April 21, 2021. The property is developed with a single-family dwelling. The property is zoned Residential and is fully developed.
 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 the City’s sewer line at the intersection of S. Forest Ridge Road and Merchant Place. WES, as the service provider for the District, will provide major transmission and treatment of the 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.



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

AKS Job #3062

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

EXHIBIT B

Description

Lot 4 of the plat "Sunnyridge Acres No. 2", Plat No. 1653, Clackamas County Plat Records, and a portion of right-of-way, located in the Northwest One-Quarter of Section 12, Township 3 South, Range 1 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the south corner of said Lot 4; thence along the southwesterly line of said Lot 4 and the northwesterly extension thereof, North 59°45'00" West 170.00 feet to the centerline of Sunnyridge Court; thence along said centerline, North 30°15'00" East 158.10 feet to the centerline of Forest Ridge Lane; thence along said centerline, South 59°45'00" East 109.32 feet to the City of Oregon City city limits line; thence continuing along said centerline and said city limits line, South 59°45'00" East 60.68 feet to the northeasterly extension of the southeasterly line of said Lot 4; thence leaving said city limits line along said northeasterly extension and the southeasterly line of said Lot 4, South 30°15'00" West 158.10 feet to the Point of Beginning.

The above described tract of land contains 26,877 square feet, more or less.

The Basis of Bearings for this description is per said plat of "Sunnyridge Acres No. 2".

3/16/2021

REGISTERED
PROFESSIONAL
LAND SURVEYOR

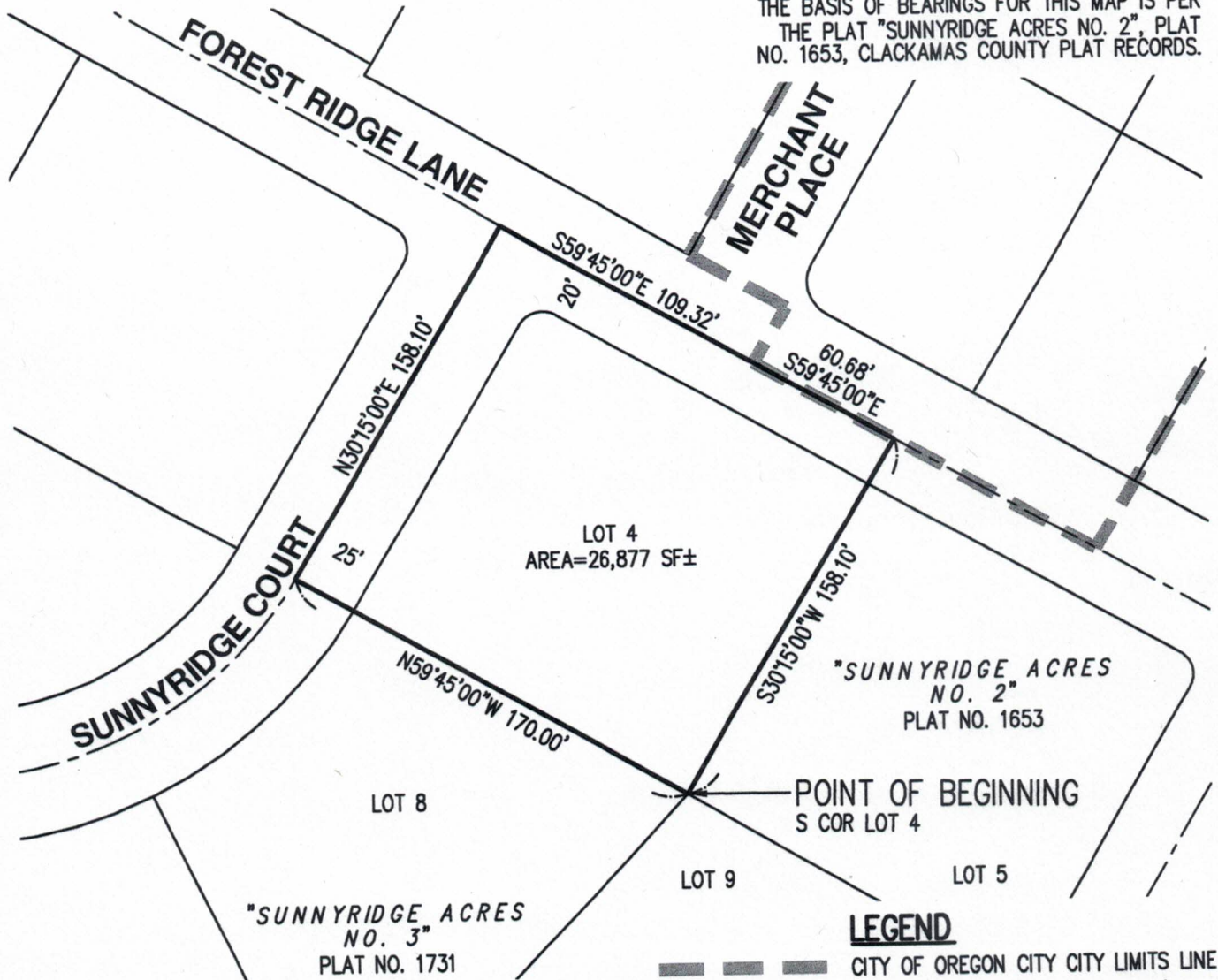
OREGON
JANUARY 9, 2007
NICK WHITE
70652LS

RENEWS: 6/30/22

EXHIBIT C

LOT 4 OF THE PLAT "SUNNYRIDGE ACRES NO. 2" AND
 A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 12,
 TOWNSHIP 3 SOUTH, RANGE 1 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON

THE BASIS OF BEARINGS FOR THIS MAP IS PER
 THE PLAT "SUNNYRIDGE ACRES NO. 2", PLAT
 NO. 1653, CLACKAMAS COUNTY PLAT RECORDS.



3/16/2021

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

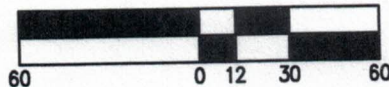
Nick White
 OREGON
 JANUARY 9, 2007
 NICK WHITE
 70652LS

RENEWS: 6/30/22

PREPARED FOR

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

SCALE: 1" = 60 FEET



DESCRIPTION MAP		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: NSW AKS JOB: 3062

