



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

September 24, 2015

Board of County Commissioners
Clackamas County

Members of the Board:

Stephen L. Madkour
County Counsel

Kimberley Ybarra
Kathleen Rastetter
Chris Storey
Scott C. Ciecko
Alexander Gordon
Amanda Keller
Nathan K. Boderman
Christina Thacker
Assistants

Consideration of Boundary Change Proposal No. CL-15-005,
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
Safety Impact	Not Applicable
Duration	Perpetual
Previous Board Action	None
Contact Person	Chris Storey, Assistant County Counsel Ken Martin, Boundary Change Consultant - 503 222-0955
Contract No.	Not Applicable

BACKGROUND:

The County Board is charged with making boundary change decisions (annexations, withdrawals, etc.) for many types of special districts (water, sanitary sewer, rural fire protection, etc.) within the County. One type of special district over which the Board has jurisdiction is a county service district and Clackamas County Service District No. 1 is such a district.

Proposal No. CL 15-005 is a proposed annexation to Clackamas County Service District No. 1.

State statute and the Metro Code require the Board to hold a public hearing on the proposed annexation. Notice of this hearing invited testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice near the County hearing room 20 days prior to the hearing; 2) Published notice twice in the Clackamas County Review; 3) Mailed notice sent to affected local governments and all property owners within 100 feet of the area to be annexed.

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

This proposal was initiated by a consent petition of the owners of all of the property to be annexed. 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 on the eastern edge of the District within the City of Happy Valley. The territory contains 34.48 acres, four vacant single family dwellings and is valued at \$1,917,593.

REASON FOR ANNEXATION:

The property owners desire annexation to provide sewer service to facilitate development of three single family subdivisions totaling 150 units.

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.

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.

HAPPY VALLEY PLANNING

Following Comprehensive Plan amendments, zone changes and Environmental Permit approvals the City of Happy Valley has zoned the area Mixed Use Residential – single Family (TL's 700, 2400, 2000, 2002 & 2003) and R-5 and R-7 residential (TL 300, 301). The proposed development can be accomplished under these designations.

RECOMMENDATION:

Based on the attached Order and proposed Findings, Staff recommends approval of Proposal No. CL-15-005, annexation to Clackamas County Service District No. 1.

Respectfully submitted,



Chris Storey

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

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

In the Matter of Approving
Boundary Change Proposal
No. CL 15-005



ORDER NO.

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

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

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

WHEREAS, it further appearing that this matter came before the Board for public hearing on September 24, 2015 and that a decision of approval was made on September 24, 2015;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL 15-005 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 Clackamas County Service District No. 1 as of September 24, 2015.

DATED this 24th day of September, 2015.

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

FINDINGS

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

1. The territory to be annexed contains 34.48 acres, four vacant single family dwellings and is valued at \$1,917,593.
2. The property owners desire annexation to provide sewer service to facilitate development of three single family subdivisions totaling 150 units.
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:

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:

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;

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

- (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 original public facility plan for this area does call for service by the District. The proposal is consistent with the Comprehensive Plan as stated in Finding 6 below. No concept plans cover this area.

4. 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.

5. 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.
6. Following Comprehensive Plan amendments, zone changes and Environmental Permit approvals the City of Happy Valley has zoned the area Mixed Use Residential – single Family (TL's 700, 2400, 2000, 2002 & 2003) and R-5 and R-7 residential (TL 300, 301). The proposed development can be accomplished under these designations:
 7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.
 8. The District has an 8 inch sewer line available to serve the area in SE 172nd Avenue.
 9. The bulk of the territory to be annexed is adjacent to the Sunrise Water Authority and a separate annexation to that entity is being pursued. One tax lot (300) is already within the Sunrise Water Authority. The Authority has an 8 inch water line in S.E. 172nd Avenue which can serve the site.
 10. The area receives police service from City of Happy Valley which contracts with the Clackamas County Sheriff's Department.
 11. The territory is within the Clackamas County R.F.P.D. #1. This service will not be affected by annexation to CCSD#1 for sanitary sewer service.
 12. The area to be annexed is within the North Clackamas Parks & Recreation District.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Board determined:

1. The Metro Code requires the boundary change decision to be consistent with expressly applicable provisions in any urban service provider agreements, cooperative agreements and annexation plans adopted pursuant to ORS 195. As noted in Findings 3 & 7 there are no such agreements or plans in place in this area. The Board concludes that its decision is not inconsistent with any such agreements and plans.
2. The Metro Code calls for consistency between the Board decision and any "applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services." The Board notes the original public facility plan for this area does call for sewer service by the District.
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County's Comprehensive Plan and Happy Valley's 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 has service available to the area to be annexed as noted in Finding No. 8. 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 F: (503) 563-6152

AKS Job #4004

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

EXHIBIT B

Sections 30 and 31 Annexation Description

A tract of land located in the Southwest One-Quarter and the Southeast One-Quarter of Section 30 and in the Northwest One-Quarter and the Northeast One-Quarter off Section 31, Township 1 South, Range 3 East, Willamette Meridian, City of Happy Valley, Clackamas County, Oregon and being more particularly described as follows:

COMMENCING at the One-Quarter corner common to said Sections 30 and 31, being a point on the centerline of SE 172nd Avenue, thence along the south line of said Section 30, North 89°09'59" West 30.00 feet to a point on the westerly right-of-way line of SE 172nd Avenue (30.00 feet perpendicular to said centerline), said point being the **Point of Beginning of the Herein-Described Annexation Tract;**

Thence along said westerly right-of-way line North 01°23'14" East 439.55 feet to a point on the south line of Deed Document Number 2014-052446; thence along said south line North 89°11'01" West 991.27 feet to the southwest corner of said Deed; thence along the west line of said Deed North 01°23'14" East 280.49 feet to the northwest corner of said Deed; thence along the north line of said Deed South 89°12'44" East 991.28 feet to a point on said westerly right-of-way line of SE 172nd Avenue (30.00 feet perpendicular to said centerline); thence along said westerly right-of-way line North 01°23'14" East 305.86 to the intersection of said westerly Right-of-Way line and the south line of Deed Document Number 92-73809; thence along the southerly line of said Deed North 83°53'46" West 697.40 feet; thence continuing along said south line South 87°40'37" West 343.10 feet; thence continuing along said south line North 88°21'54" West 305.16 feet to the southwest corner of said Deed; thence along the west line of said Deed North 01°06'43" East 553.62 feet to the northwest corner of said Deed; thence along the north line of said Deed and the easterly extension thereof South 89°42'14" East 1405.49 feet a point on the easterly right-of-way line of SE 172nd Avenue (30.00 feet perpendicular to said centerline); thence along said easterly right-of-way line South 01°23'14" West 25.22 feet to a point on the easterly extension of the north line of Deed Document Number 2009-062184; thence along said easterly extension and the north line of said Deed North 89°42'14" West 352.35 feet to the northwest corner of said Deed; thence along the west line of said Deed South 01°23'14" West 296.90 feet to the southwest corner of said Deed; thence along the south line of said Deed and the easterly extension thereof South 89°35'58" East 352.34 feet to a point on the easterly right-of-way line of SE 172nd Avenue (30.00 feet perpendicular to said centerline); thence along said easterly right-of-way line South 01°23'14" West 1320.01 feet to a point on the centerline of SE Hemrick Road, said point bearing South 88°57'05" East 30.00 feet from said One-Quarter Corner common to Sections 30 and 31; thence continuing along said easterly right-of-way line South 01°35'53" West 661.41 feet to a point on the easterly extension of the south line of Deed Document Number 2014-050385; thence along said easterly extension and the south line of said Deed North 89°09'05" West 1350.08 feet to the southwest corner of said Deed; thence along the west line of said Deed North 01°33'47" East 330.49 feet to the northwest corner of said Deed; thence along the north line of said Deed South 89°09'44" East 1290.28 feet to a point on the

westerly right-of-way line of SE 172nd Avenue (30.00 feet perpendicular to said centerline);
thence along said westerly right-of-way line North 01°35'53" East 330.77 feet to the **Point of
Beginning of the Herein-Described Annexation Tract.**

The above described Annexation Tract of land contains 34.48 acres, more or less.

09/15/2015

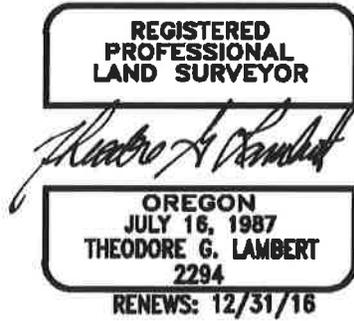
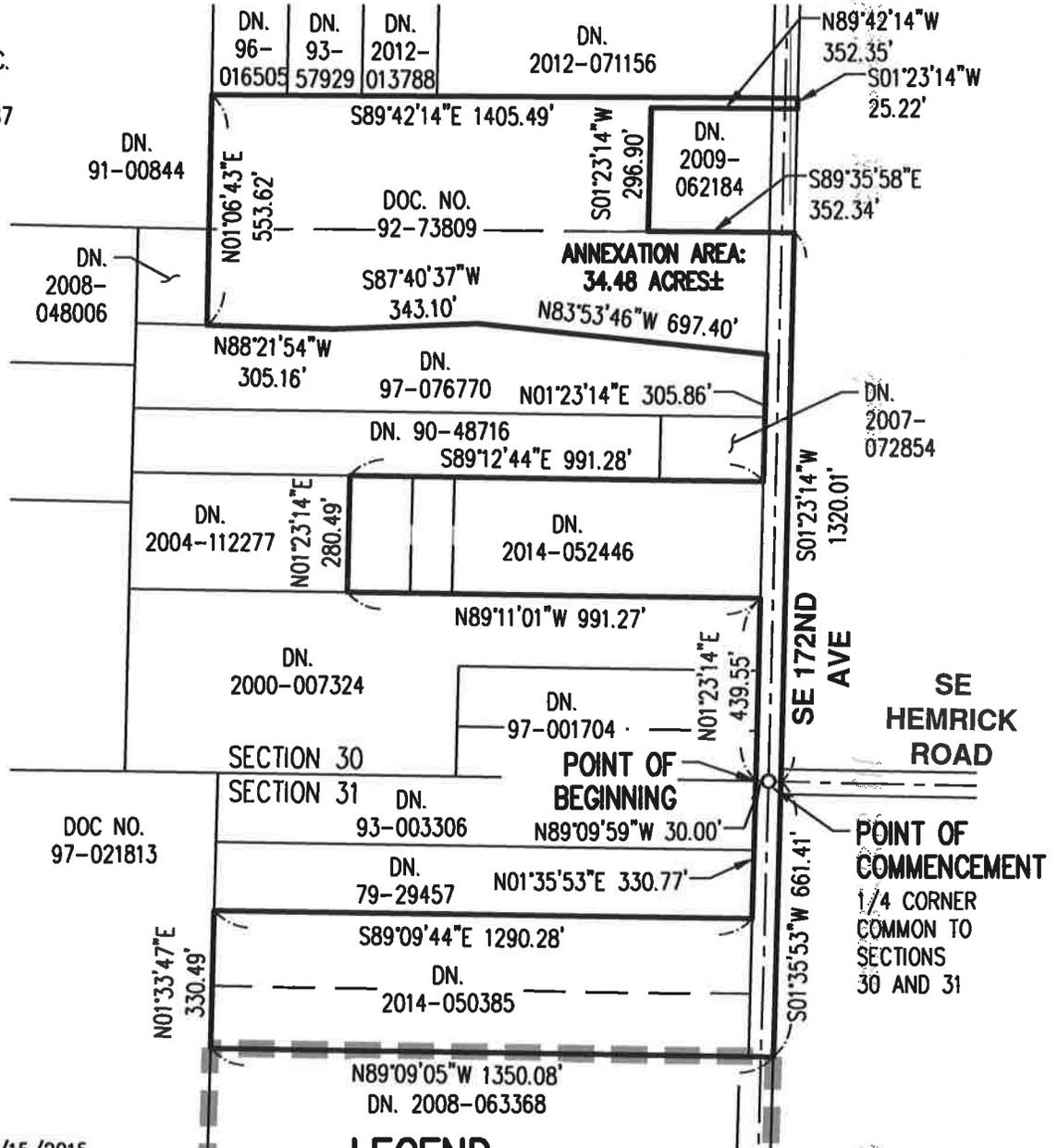


EXHIBIT C

MAP OF ANNEXATION

LOCATED IN THE SW 1/4 AND THE SE 1/4 OF SEC. 30 AND
THE NW 1/4 AND NE 1/4 OF SEC. 31 T1S, R3E, W.M.,
CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON

PREPARED FOR
THE HOLT GROUP, INC.
PO BOX 87970
VANCOUVER, WA 98687



09/15/2015

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Theodore G. Lambert

OREGON
JULY 16, 1987
THEODORE G. LAMBERT
2294

RENEWS: 12/31/16

LEGEND

-  CLACKAMAS COUNTY SERVICE DISTRICT #1 BOUNDARY
- DN DEED DOCUMENT NUMBER

SCALE 1" = 400 FEET



SE 172ND AVENUE CLACKAMAS COUNTY SERVICE DISTRICT NO. 1		EXHIBIT C
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD SUITE 100 TUALATIN, OR 97062 www.aks-eng.com PHONE: 503.563.6151 FAX: 503.563.6152		DRWN: MSK CHKD: TGL AKS JOB: 4008

