CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

August 11, 2016

**Stephen L. Madkour**
County Counsel

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

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 |
| **Contact Person** | Ken Martin, Boundary Change Consultant - 503 222-0955<br>Chris Storey, Assistant County Counsel |
| **Contract No.** | Not Applicable |

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

Proposal No. CL 16-004 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 223.36 acres, five vacant single family dwellings and is valued at $10,938,790.

**REASON FOR ANNEXATION**

The property owners desire annexation to provide sewer service to facilitate development of a 600 unit planned unit development.

**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 party[1]; and

3. The proposed effective date of the boundary change.

Service availability is covered in the section 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 above.

To approve a boundary change, the reviewing entity [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 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.

Staff has reviewed the above criteria and provided draft findings as an exhibit to the proposed board order included herewith.

**RECOMMENDATION:**
Based on the attached Order and Findings, staff recommends approval of Proposal No. CL-16-004, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of Approving
Boundary Change Proposal
No. CL 16-004: Annexation into
Clackamas County Service
District No. 1

ORDER NO.

**WHEREAS**, this matter coming before the Board at this time, and it appearing that all of 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 August 11, 2016 and that a decision of approval was made on August 11, 2016;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 16-004 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 11, 2016.

ADOPTED this 11th day of August, 2016.

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 223.36 acres, five vacant single family dwellings and is valued at $10,938,790.

2. The property owners desire annexation to provide sewer service to facilitate development of a 600 unit planned unit development.

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 party[1]; and

   3. The proposed effective date of the boundary change.

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

   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 Findings 5 & 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. The City of Happy Valley has zoned the area R-20, R-15 and R-10. The proposed development is under review with the City.

7. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. There are no urban service agreements under ORS 195 relative to sewer service in this area of Clackamas County.

8. This area will be served to the east and south into the District's 12-inch line in SE 172nd Avenue.

9. The territory to be annexed is within the Sunrise Water Authority which has 6 and 18 inch lines in SE 147th to the west. Additional water lines are being constructed in the Pioneer Highlands subdivision to the north.

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 the County Service District for sanitary sewers.

12. The area to be annexed is within the North Clackamas County 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.

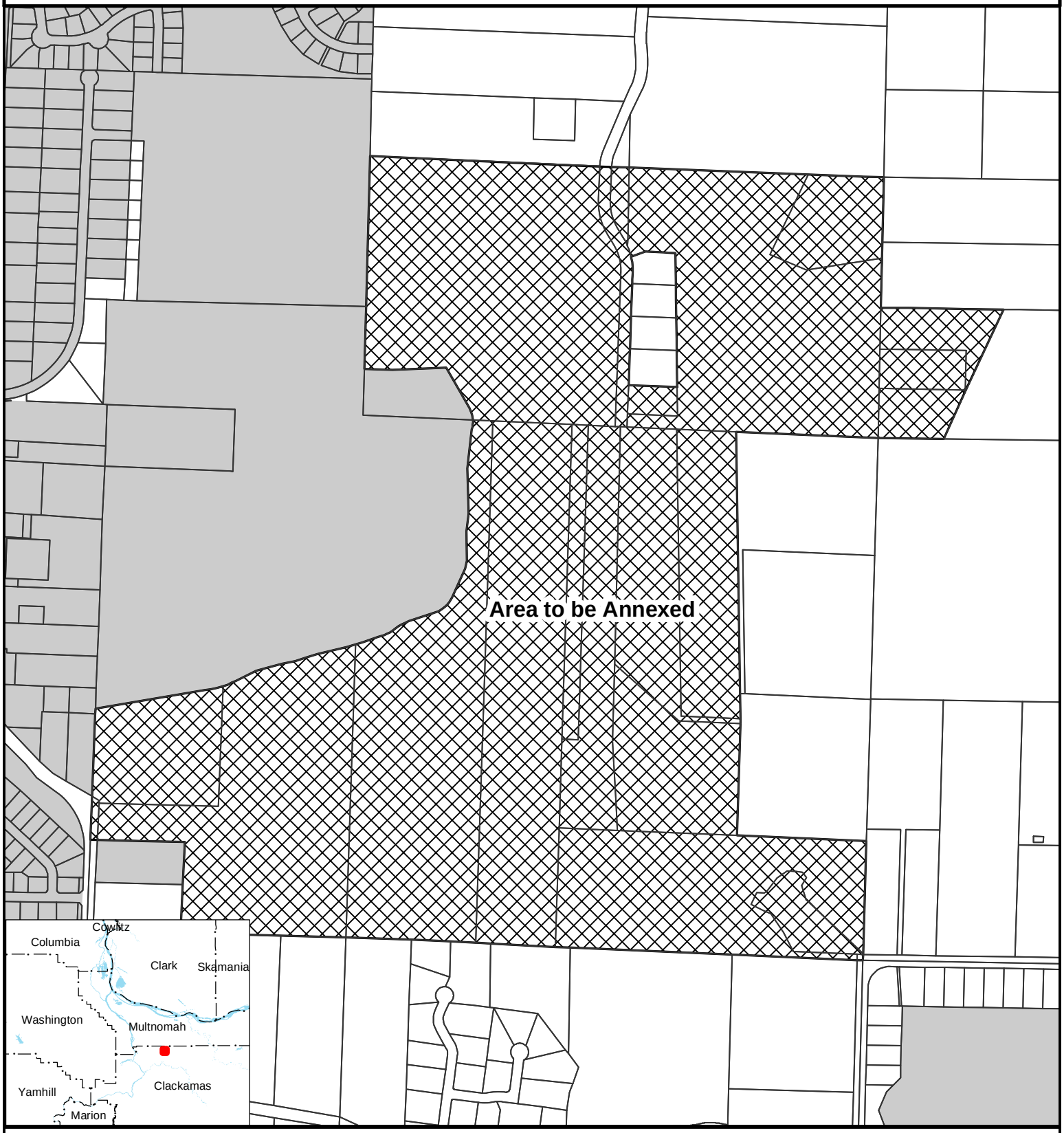
3. ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plans (Clackamas County's Comprehensive Plan and Happy Valley's Comprehensive Plan) and concludes this proposal complies with them. All other 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.

# Proposal No.CL16-004

1S2E36, 1S2E25, 1S3E30 | **Annexation to Clackamas County Service District #1** | Clackamas County




Metro

Research Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
http://www.oregonmetro.gov/drc

## Proposal No.CL16-004

Area to be annexed

Clackamas County Service District #1

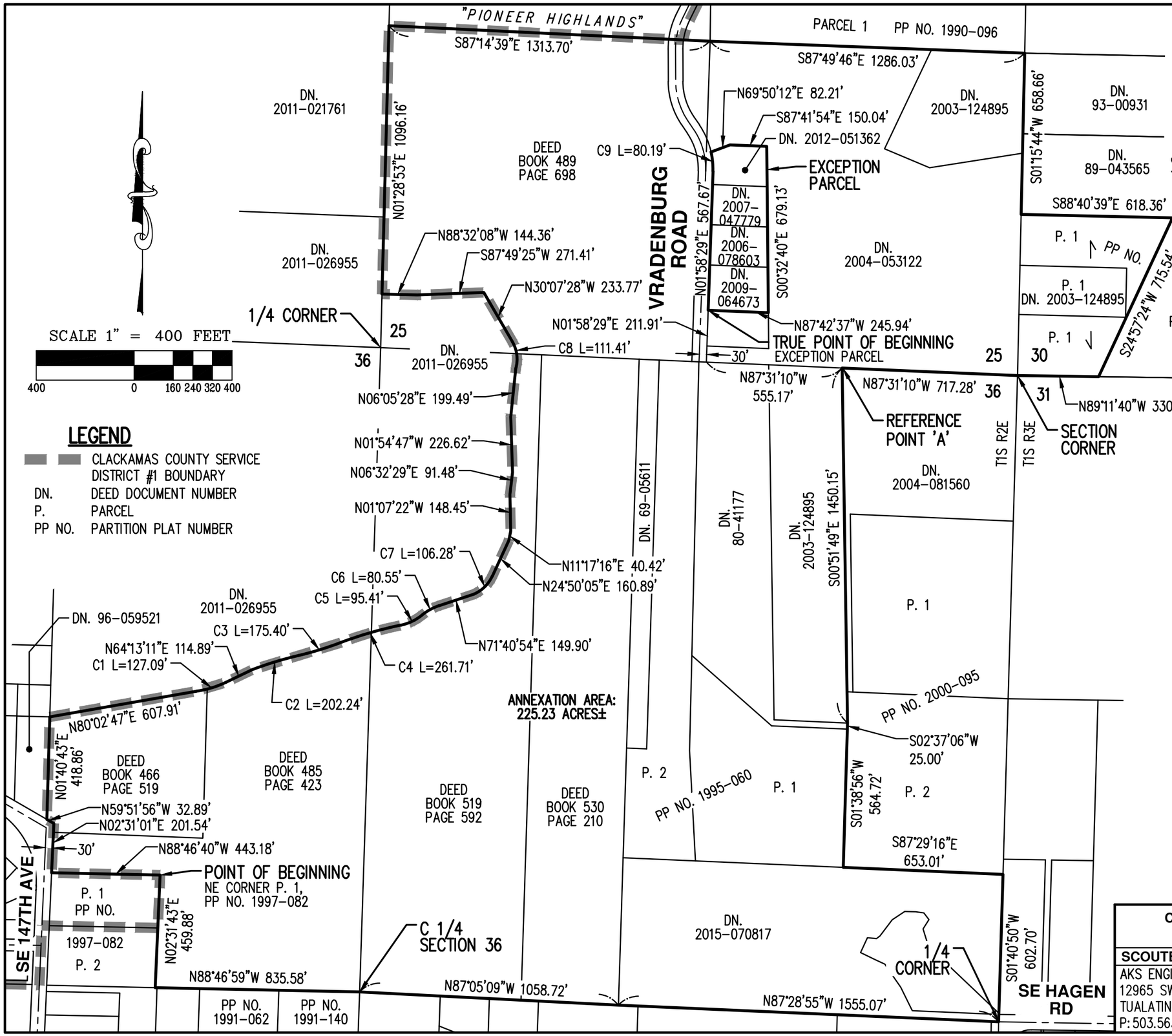
1:8,000

0 810 1,620 Feet

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

# EXHIBIT C

MAP OF ANNEXATION
LOCATED IN THE SE 1/4 OF SECTION 25, THE NE 1/4 AND THE NW 1/4 OF SECTION 36, T1S, R2E, AND IN THE SW 1/4 OF SEC. 30 T1S, R3E, W.M., CITY OF HAPPY VALLEY, CLACKAMAS COUNTY, OREGON




## LEGEND

- CLACKAMAS COUNTY SERVICE DISTRICT #1 BOUNDARY
- DN. DEED DOCUMENT NUMBER
- P. PARCEL
- PP NO. PARTITION PLAT NUMBER

06/14/2016

REGISTERED PROFESSIONAL LAND SURVEYOR

JANUARY 11, 2005
ROBERT D. RETTIG
60124LS
RENEWS: 12/31/16

## PREPARED FOR

SCOUTER'S MOUNTAIN, LLC
602 NW CULPEPPER TER.
PORTLAND, OR 97210

## CURVE TABLE

| CURVE | RADIUS | DELTA | LENGTH | CHORD |
|---|---|---|---|---|
| C1 | 402.17' | 18°06'20" | 127.09' | N73°16'21"E 126.56' |
| C2 | 1506.13' | 07°41'37" | 202.24' | N72°56'21"E 202.09' |
| C3 | 1336.04' | 07°31'19" | 175.40' | N73°01'30"E 175.27' |
| C4 | 1654.89' | 09°03'40" | 261.71' | N73°47'41"E 261.44' |
| C5 | 196.38' | 27°50'13" | 95.41' | N64°24'24"E 94.47' |
| C6 | 217.76' | 21°11'36" | 80.55' | N61°05'06"E 80.09' |
| C7 | 145.66' | 41°48'16" | 106.28' | N45°44'13"E 103.94' |
| C8 | 140.08' | 45°34'05" | 111.41' | N07°20'26"W 108.49' |
| C9 | 316.44' | 14°31'07" | 80.19' | N05°17'04"W 79.97' |

CLACKAMAS COUNTY SERVICE DISTRICT NO. 1
ANNEXATION

SCOUTERS MOUNTAIN

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD, STE 100
TUALATIN, OR 97062
P: 503.563.6151 F: 503.563.6152 aks-eng.com

EXHIBIT C

DRWN: MSK
CHKD: RDR
AKS JOB: 3415

DWG: 3415 C2016 EXC B EXH B

CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

August 11, 2016

**Stephen L. Madkour**
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**Jeffrey D. Munns**
Assistants

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 |
| **Contact Person** | Ken Martin, Boundary Change Consultant - 503 222-0955<br>Chris Storey, Assistant County Counsel |
| **Contract No.** | Not Applicable |

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

Proposal No. CL 16-005 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 property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855(3) (double majority annexation law), 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 0.38 acres, one single family dwelling and a population of three.

**REASON FOR ANNEXATION**

The property owners desire annexation to provide sewer service to the existing 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."

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 party[1]; and

3. The proposed effective date of the boundary change.

Service availability is covered in the section 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 above.

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

To approve a boundary change the County must:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

[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.

Staff has reviewed the above criteria and provided draft findings as an exhibit to the proposed board order included herewith.

**RECOMMENDATION:**
Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-16-005, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of Approving
Boundary Change Proposal
No. CL 16-005: Annexation into
Clackamas County Service
District No. 1

ORDER NO.

**WHEREAS**, this matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half 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 August 11, 2016 and that a decision of approval was made on August 11, 2016;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 16-005 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 August 11, 2016.

ADOPTED this 11th day of August, 2016.

BOARD OF COUNTY COMMISSIONERS

_____
Chair

_____
Recording Secretary

**FINDINGS**

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

1. The territory to be annexed contains 0.38 acres, one single family dwelling and a population of three.

2. The property owners desire annexation to provide sewer service to the existing dwelling.

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 party[1]; 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;

   (B) Any applicable annexation plan adopted pursuant to ORS

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

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 noted in the findings 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. The property is already fully developed as a single family residence within the City of Happy Valley.

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 a 12 inch sewer line in SE 172nd available to serve this lot.

9. The territory to be annexed is within the Sunrise Water Authority and receives water service from that district.

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 the County Service District for sanitary sewers.

12. The area to be annexed is within the North Clackamas County 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.

# EXHIBIT B

Proposal No. CL-16-005

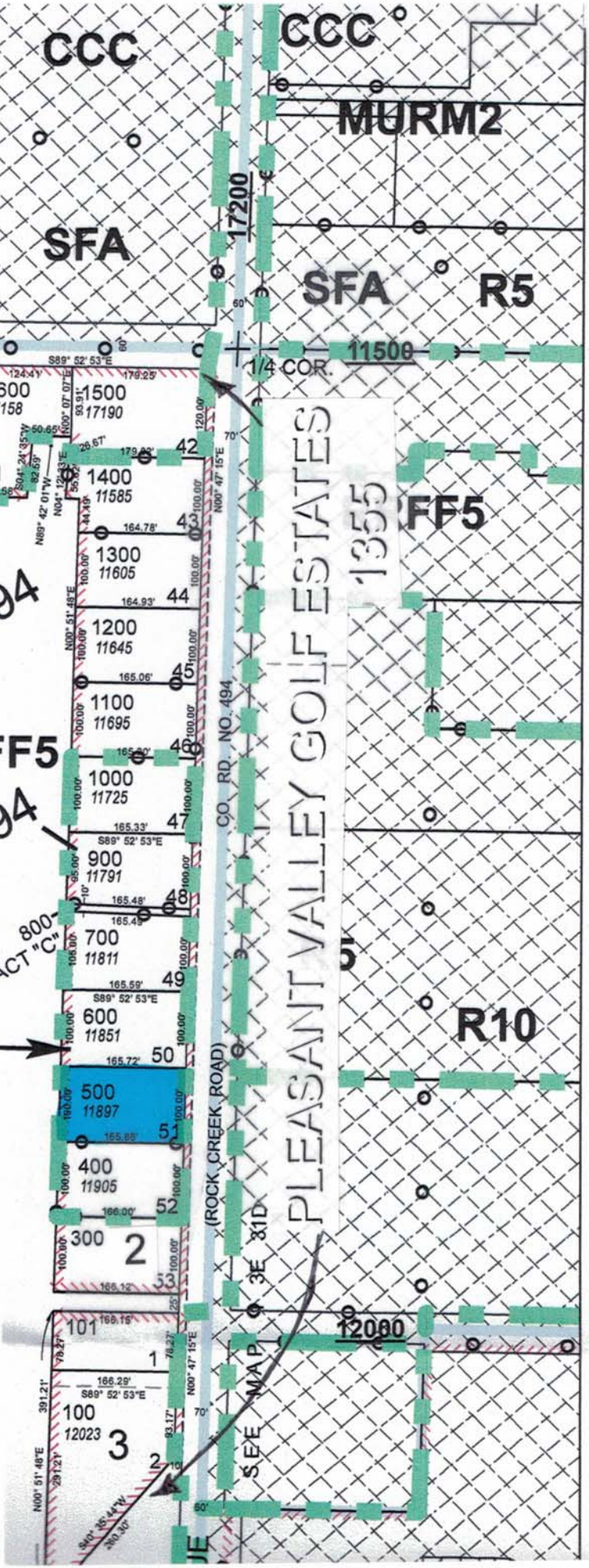
A tract of land situated in Section 31, Township 1 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

Lot 51, Block 2, Pleasant Valley Golf Estates Replat # 1355 (commonly known as tax lot 13E31C00500).

# EXHIBIT C

Proposal No. CL-16-005

## S.W.1/4 SEC.31 T.1S. R.3E. W.M.
## CLACKAMAS COUNTY
1" = 200'




*Cancelled Tax*
200
301E
5900

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'

CLACKAMAS COUNTY

OFFICE OF COUNTY COUNSEL
PUBLIC SERVICES BUILDING
2051 KAEN ROAD OREGON CITY, OR 97045

August 11, 2016

**Stephen L. Madkour**
County Counsel

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Board of County Commissioners
Clackamas County

Members of the Board:

Approval of Annexation to Clackamas County Service District No. 1

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

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

Proposal No. CL 16-006 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 property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855(3) (double majority annexation law), 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 11.2 acres, and is valued at $272,299.

**REASON FOR ANNEXATION**

The property owners desire annexation to provide sewer service to facilitate eventual development with residential and mixed use projects.

**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 party[1]; and

3. The proposed effective date of the boundary change.

Service availability is covered in the section 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 above.

To approve a boundary change, the reviewing entity [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 ORS 195.205;

(B) Any applicable annexation plan 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.

(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.

Staff has reviewed the above criteria and provided draft findings as an exhibit to the proposed board order included herewith.

**RECOMMENDATION:**
Based on the attached Order and Findings, Staff recommends approval of Proposal No. CL-15-006, annexation to Clackamas County Service District No. 1.

Respectfully submitted,

Chris Storey
Assistant County Counsel

In the Matter of Approving
Boundary Change Proposal
No. CL 16-006: Annexation into
Clackamas County Service
District No. 1

ORDER NO.

**WHEREAS**, this matter coming before the Board at this time, and it appearing that more than half the electors and owners of more than half 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 August 11, 2016 and that a decision of approval was made on August 11, 2016;

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Boundary Change Proposal No. CL 16-006 is approved for the reasons stated in attached Exhibit A and the territory described in Exhibit B and depicted on Exhibit C is annexed to Clackamas County Service District No. 1 as of August 11, 2016.

ADOPTED this 11th day of August, 2016.

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 11.2 acres, and is valued at $272,299.

2. The property owners desire annexation to provide sewer service to facilitate eventual development with residential and mixed use projects.

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 party[1]; 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;

   (B) Any applicable annexation plan adopted pursuant to ORS

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

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 the findings 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. The City of Happy Valley Comprehensive Plan identifies the area as CCC (Community Commercial Center) and MUR (Mixed Use Residential).

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's Rock Creek Interceptor is located just to the southwest of this property and would serve it.

9. The territory to be annexed is within the Sunrise Water Authority 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 the County Service District for sanitary sewers.

12. The area to be annexed is within the North Clackamas County 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.

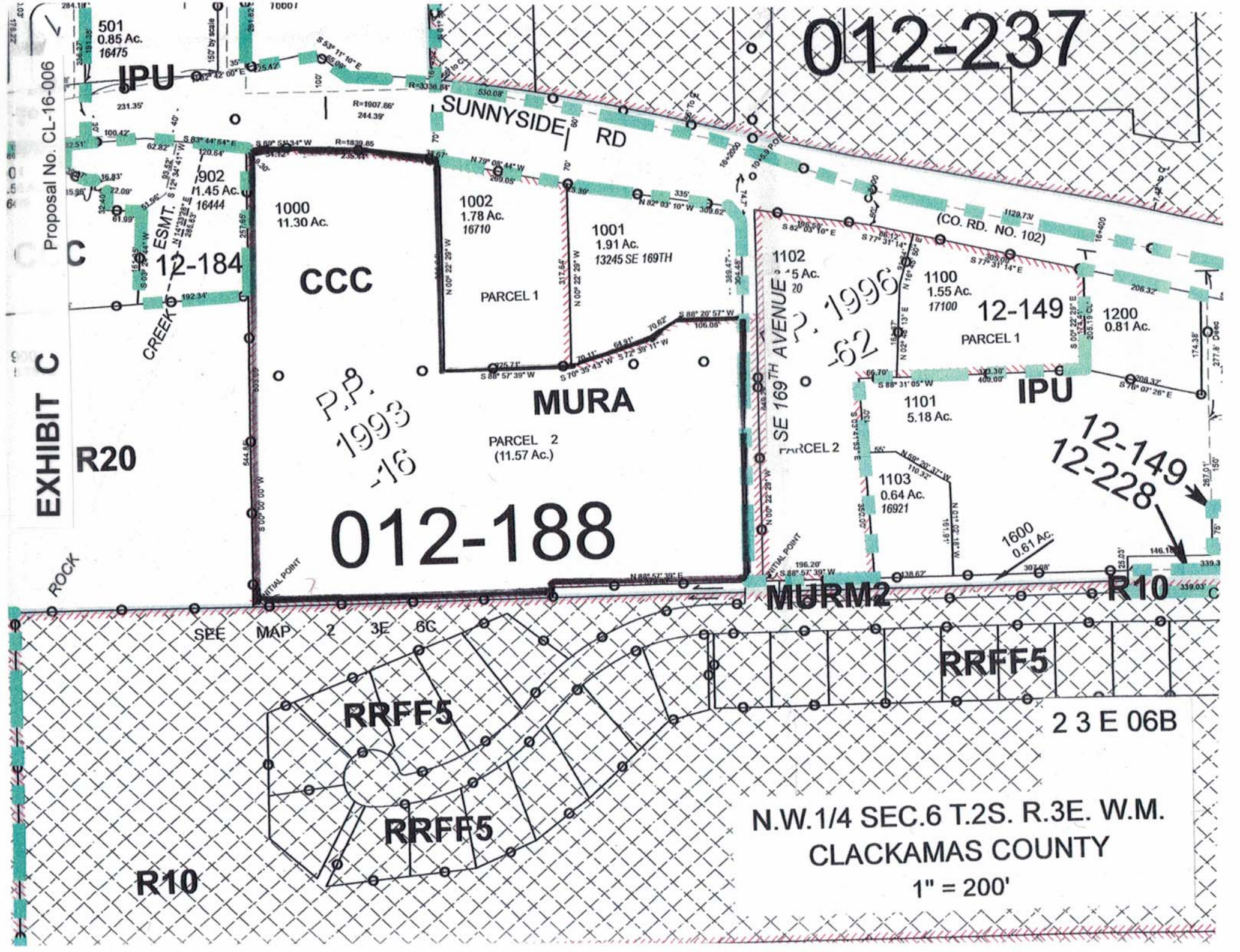
EXHIBIT B

LEGAL DESCRIPTION

A tract of land situated in the NW ¼ Section 6, Township 2 South, Range 3 East, Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

PARCEL 2, PARTITION PLAT NO. 1993-016 IN THE CITY OF HAPPY VALLEY, COUNTY OF CLACKAMAS, STATE OF OREGON.

EXCEPT THE WEST 25 FEET OF R-O-W OF SE 169$^{TH}$ AVENUE.


012-237
501
0.85 Ac.
16475
IPU
SUNNYSIDE RD
902
1.45 Ac.
16444
1000
11.30 Ac.
1002
1.78 Ac.
16710
1001
1.91 Ac.
13245 SE 169TH
PARCEL 1
CCC
Proposal No. CL-16-006
12-184
ESMT.
CREEK
EXHIBIT C
R20
P.P. 1993-16
MURA
PARCEL 2
(11.57 Ac.)
012-188
(CO. RD. NO. 102)
1102
1100
1.55 Ac.
17100
12-149
PARCEL 1
1200
0.81 Ac.
SE 169TH AVENUE
P.P. 1996-62
1101
5.18 Ac.
IPU
PARCEL 2
1103
0.64 Ac.
16921
12-149
12-228
1600
0.61 Ac.
MURM2
R10
ROCK
SEE MAP 2 3E 6C
RRFF5
RRFF5
RRFF5
R10
2 3 E 06B
N.W.1/4 SEC.6 T.2S. R.3E. W.M.
CLACKAMAS COUNTY
1" = 200'