

Final Documents

For

Annexation to the
Clackamas County Service District #1

CL0303
Ord. #2003-90
DOR 3-1582-2003

Final to DOR: _____

Signature:

 _____

Date of
Mailing: 6/11/03

Final to Secretary of State: _____

Signature:

 _____

Date of
Mailing: 7/1/03

CL0303

Sent

Received

| | | |
|-------------|---------|---------|
| DOR: | 6/11/03 | 6/19/03 |
| Sec. State: | 7/1/03 | |
| Assessor: | 7/1/03 | |
| Elections: | 7/1/03 | |
| Mapped: | Yes | |

Assessor Information:

| | |
|--------------|--------------------------------|
| 22E01A 00300 | NO SITE ADDRESS |
| 22E01A 00301 | 12803 SE 162 ND AVE |
| 22E01A 00302 | NO SITE ADDRESS |
| 22E01A 00400 | 15651 SE MISTY DR |
| 22E01A 00600 | NO SITE ADDRESS |
| 22E01A 00700 | NO SITE ADDRESS |
| 22E01A 00800 | 12853 SE 162 ND AVE |

Notice to Taxing Districts

ORS 308.225



Cartographic Unit
PO Box 14380
Salem, OR 97309-5075
(503) 945-8297, fax 945-8737

Clackamas Co. Serv. Dist. 1
Budget Officer
9101 SE Sunnybrook, Suite 441
Clackamas, OR 97015

Description and Map Approved
June 19, 2003
As Per ORS 308.225

Description Map received from: METRO
On: 6/16/2003

This is to notify you that your boundary change in Clackamas County for

ANNEX TO CLACKAMAS CO. SERVICE DIST. #1

ORDER #2003-90 (CL-0303)

has been: Approved 6/19/2003
 Disapproved

Notes:

Re-sent to correct district name. Please disregard previous notification, DOR3-1582-2003.

Department of Revenue File Number: 3-1582-2003

Prepared by: Jennifer Dudley, 503-945-8666

Boundary: Change Proposed Change
The change is for:

- Formation of a new district
- Annexation of a territory to a district
- Withdrawal of a territory from a district
- Dissolution of a district
- Transfer
- Merge

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

In the Matter of Approving
Boundary Change Proposal
No. CL-0303

} ORDER NO. 2003-90

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 # 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

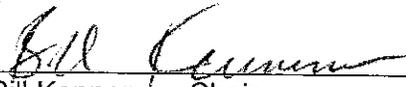
It further appearing that staff retained by the County have reviewed the proposed boundary change and issued a report which complies with the requirements of Metro Code 3.09.050(b); and

It further appearing that this matter came before the Board for public hearing on April 10, 2003 and that a decision of approval was made on April 10, 2003;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-0303 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 # 1.

ADOPTED this 10th day of April, 2003.

BOARD OF COUNTY COMMISSIONERS


Bill Kennemer, Chair


Millicent Morrison, Recording Secretary

TO: Board of County Commissioners

FROM: Ken Martin - Local Government Boundary Consultant

DATE: March 21, 2003

RE: Boundary Change Proposal No. CL-0303, Annexation to Clackamas County Service District #1 scheduled for **Hearing Date** of April 10, 2003

- 1. Recommendation/Action Requested: Approval
- 2. Background/Analysis: See Attached Staff Report
- 3. Financial Impact: None
- 4. Legal Issues: None
- 5. Controversial Issues: None
- 6. Link to Current County Policies: None (Its relationship to the Happy Valley Comprehensive Plan is covered in the attached staff report.)
- 7. Citizen Participation: Notice of this hearing invites testimony from any interested party. Notice consisted of: 1) Posting three notices near the territory and one notice in the County Courthouse 40 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.
- 8. Other Government Participation: As required by statute the Board of the District has endorsed the proposed annexation. The Director of the Dept. of Environment Services approved the proposal under authority granted by Co. Order 99-274. Also as required by statute the Happy Valley City Council has assented to inclusion of this City territory in the District.

April 10, 2003 Hearing

PROPOSAL NO. CL-0303 – CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 - Annexation

Petitioners Property Owners/Voters: Thomas & Christine Atterback and Richard &
Denise Gilbert

Proposal No. CL-0303 was initiated by a consent petition of the 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 and there are no objections from necessary parties, the boundary change will become effective immediately.

The territory to be annexed is located generally on the northeast edge of the District on the west side of SE 162nd Ave. and the north side of Sunnyside Road. The territory contains 72.9 acres, two single family units, two barns, a population of 4 and has an assessed value of \$4,152,505.

REASON FOR ANNEXATION

The property owners desire sewer service to facilitate eventual development in accordance with the Rock Creek Comprehensive Plan which calls for Mixed Use Commercial on the lower half and Hillside Residential on the upper half.

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."

A second set of criteria can be found in the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexation, which can only be done after all required 195 agreements are in place and which must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of *urban planning area agreements* between the annexing entity and a necessary party.

3. Consistency with directly applicable standards for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party.

LAND USE PLANNING

REGIONAL PLANNING

General Information

This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

Regional Framework Plan

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are actually now part of Metro's Regional Framework Plan. Another previously freestanding construct that is now an element of the Framework Plan is the 2040 Growth Concept.

Metro has adopted the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. Nothing in these two functional plans speaks to criteria for deciding on boundary changes for sanitary sewer districts.

The Regional Framework Plan contains chapters on citizen involvement, on policies, parks, housing, etc. All of these chapters of the Framework Plan have been examined and found not to contain any directly applicable standards and criteria for boundary changes.

CITY PLANNING

The territory is inside the City of Happy Valley and covered by the City's Rock Creek Area

Comprehensive Plan. This Plan designates the area as Mixed Use Commercial (lower half) and Hillside Residential (upper half). Zoning includes R-7 (Residential, 5 units per acre), MUR-S (Mixed Use Residential-Single Family), MUC (Mixed Use Commercial) and MUC Multifamily.

FACILITIES AND SERVICES

ORS 195 Agreements. 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 relative to sewer service in this area of Clackamas County.

Sewer. This large area will be served by a new line which will be extended east from SE 147th Avenue.

Water. The territory is within the Sunrise Water Authority. There are existing water lines in the area including an 18 inch line in Sunnyside and 6 & 12 inch lines in SE. 162nd.

Police Service. The area receives police service from the City of Happy Valley.

Fire. 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.

Parks and Recreation. The area to be annexed receives park & recreation service from the City of Happy Valley.

RECOMMENDATION

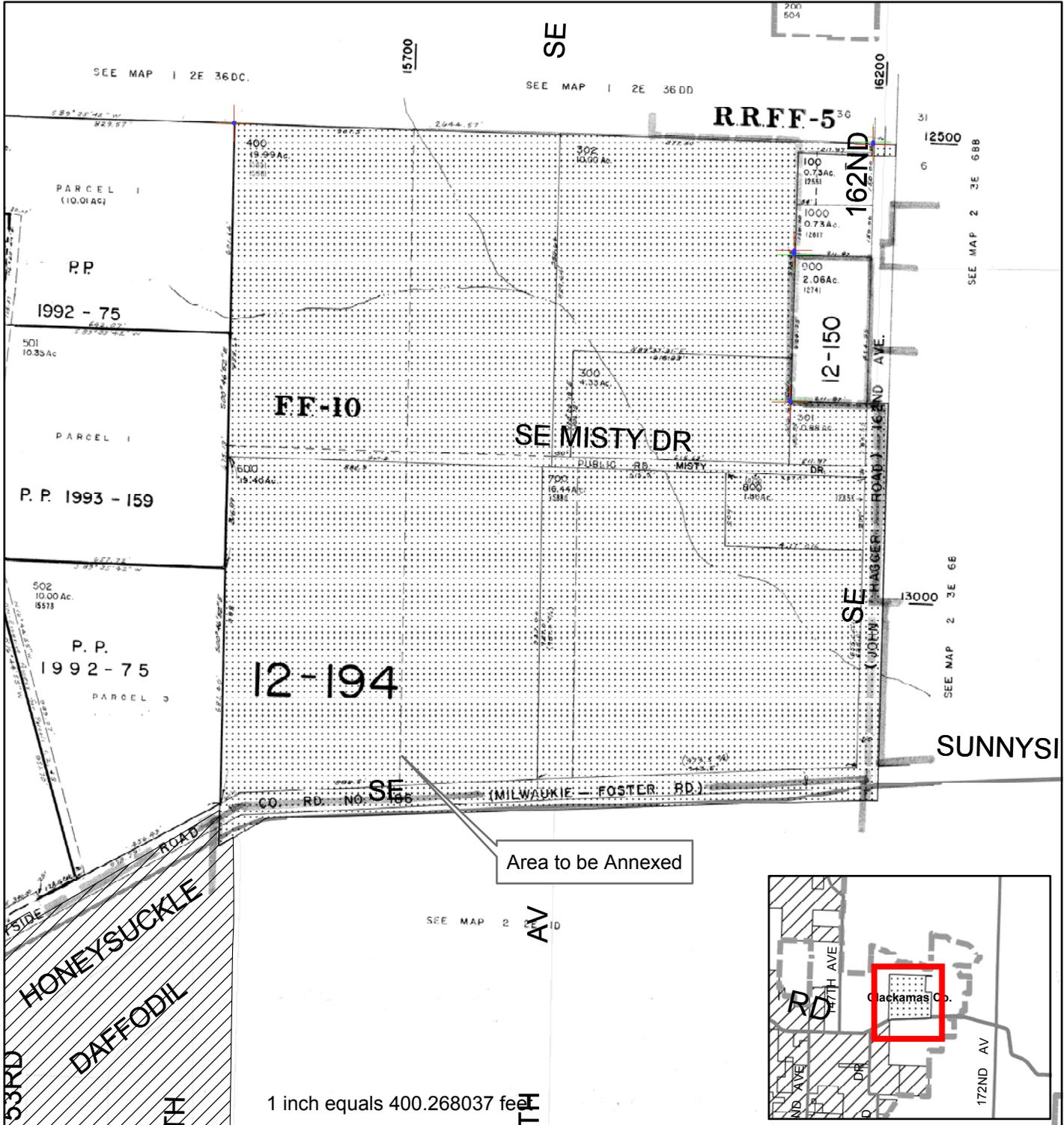
Based on the study and the Proposed Findings and Reasons for Decision attached in Exhibit A, the staff recommends Proposal No. CL-0303 be **approved**.

Proposal No. CL0303

K M C

Ken Martin Consulting
 P.O. Box 29079
 Portland, OR 97296-9079
 (503) 222-0955

Annexation to the Clackamas Co. Service Dst. #1
 Clackamas Co.
 2S2E01A



PROPOSAL No. CL0303
 Clackamas Co. Service Dist. #1
 Figure 2

**PETITION OF OWNERS OF MAJORITY OF LAND
AND PETITION OF A MAJORITY OF REGISTERED VOTERS
FOR A DISTRICT ANNEXATION**

To: R. Kent Squires, Director, Water Environment Services

PETITION FOR ANNEXATION TO: Clackamas County Service District No. 1

We, the undersigned property owners of and/or registered voters in the area described below, hereby petition for, and give our consent to, annexation of the area to Clackamas County Service District No. 1.

We further request your approval for annexation, acting on behalf of the governing body of Clackamas County Service District No. 1.

We further request that this petition be forwarded to the Board of County Commissioners for their consideration as authorized by ORS 798.850.

The property to be annexed is described as follows:

THE PARCEL OF PROPERTY IS LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 1, T2S, R2E, W.M., CITY OF HAPPY VALLEY, CLACKAMAS COUNTY AND THE STATE OF OREGON. THE PROPERTY BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the northeast corner of Section 01, being the TRUE POINT OF BEGINNING; thence west along the north line of Section 01 a distance of 1,785 feet more or less; thence south $00^{\circ}46'50''$ east a distance of 2,030 feet more or less to a point on the south line of Sunnyside Road (Right-of-way being 60 feet), Clackamas County Road No. 102; thence easterly along said south line a distance of 1,916 feet more or less to a point of intersection of the south line of Sunnyside Road and the extension of the east line of 162nd Avenue (Right-of-way being 60 feet), Clackamas County Road No.335; thence northerly along the extension of the east line of 162nd Avenue a distance of 1,140 feet more or less; thence westerly perpendicular to the east line of 162nd Avenue a distance of 60 feet more or less to a point of intersection with the northeast corner of a parcel of property and the west line of 162nd Avenue thence north $89^{\circ}37'31''$ west a distance of 211.87 feet more or less; thence north $00^{\circ}00'18''$ east a distance of 724.51 feet more or less; thence south $89^{\circ}37'31''$ east a distance of 271.87 feet more or less to a point on the east line of 162nd Avenue; thence north along the east line of said Avenue a distance of 25 feet more or less to a point on the south line of Section 31 ; thence west along said Section Line a distance of 30 feet more or less to the TRUE POINT OF BEGINNING.

FINDINGS

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

1. The territory to be annexed contains 72.9 acres, two single family units, two barns, a population of 4 and has an assessed value of \$4,152,505.
2. The property owners desire sewer service to facilitate eventual development in accordance with the Rock Creek Comprehensive Plan which calls for Mixed Use Commercial on the lower half and Hillside Residential on the upper half.
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."

A second set of criteria can be found in the Metro Code. That Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The findings and conclusions shall address seven minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexation, which can only be done after all required 195 agreements are in place and which must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of *urban planning area agreements* between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.

7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where no ORS 195 agreements have been adopted and the boundary change is being contested by a necessary party. This boundary change is not being contested by a necessary party.

4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).
5. The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include ". . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are actually now part of Metro's Regional Framework Plan. Another previously freestanding construct that is now an element of the Framework Plan is the 2040 Growth Concept.

Metro has adopted the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. Nothing in these two functional plans speaks to criteria for deciding on boundary changes for sanitary sewer districts.

The Regional Framework Plan contains chapters on citizen involvement, on policies, parks, housing, etc. All of these chapters of the Framework Plan have been examined and found not to contain any directly applicable standards and criteria for boundary changes.

6. The territory is inside the City of Happy Valley and covered by the City's Rock Creek Area Comprehensive Plan. This Plan designates the area as Mixed Use Commercial (lower half) and Hillside Residential (upper half). Zoning includes R-7 (Residential, 5 units per acre), MUR-S (Mixed Use Residential-Single Family), MUC (Mixed Use Commercial) and MUC Multifamily.
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 relative to sewer service in this area of Clackamas County.
8. This large area will be served by a new sewer line which will be extended east from SE 147th Avenue.

9. The territory is within the Sunrise Water Authority. There are existing water lines in the area including an 18 inch line in Sunnyside and 6 & 12 inch lines in SE. 162nd.
10. The area receives police service from the City of Happy Valley.
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 receives park & recreation service from the City of Happy Valley. 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 any urban service agreements under ORS 195. As noted in Finding No. 7 there are no ORS 195 agreements in place in this area. The Board concludes that its decision is not inconsistent with any such agreements.
2. The Metro Code calls for consistency with directly applicable provisions of urban planning area agreements between the annexing entity and any necessary party. The annexing entity (CCSD # 1) does not have an urban planning area agreement with any necessary party.
3. The Metro Code at 3.09.050 (d) (3) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans." ORS 198 requires consideration of the comprehensive plan and any service agreements affecting the area. The Board has reviewed the applicable comprehensive plan, which is Happy Valley's Rock Creek Area Comprehensive Plan and concludes this proposal complies with it. No directly applicable service agreements were found to exist.
4. The Metro Code at 3.09.050 (d) (4) calls for consistency between the Board decision and any "specific directly applicable standards or criteria for boundary changes

contained in the regional framework or any functional plans."

There are no directly applicable criteria in Metro's two adopted functional plans, the Urban Growth Management Functional Plan and the Regional Transportation Functional Plan. All elements of the Regional Framework Plan were examined and found not to contain any directly applicable standards and criteria for service district boundary changes.

5. Metro Code 3.09.050 (d) (5) states that another criteria to be addressed is: "Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services." Annexation is necessary to make this critical service available to service future development. The Board therefore concludes that annexation promotes the timely, orderly and economic provision of this service.