

Final Documents

For

Annexation to the
Clackamas Co. Service Dist. #1

CL0304
Order No. 2004-49
DOR 3-1617-2004
Sec. State: SD-2004-0021

Final to DOR: _____

Signature:

 _____

Date of
Mailing: 3/17/04 _____

Final to Secretary of State: _____

Signature:

 _____

Date of
Mailing: 3/25/04 _____

CL0304

Sent

Received

DOR: 3/17/04 3/24/04

Sec. State: 3/25/04 3/31/04

Assessor: 3/25/04

Elections: 3/25/04

Mapped: Yes

Posted to Web: 4/14/04

Assessor Information:

12E28BB13200	8321 SE Lindy St
12E28BB13300	8319 SE Lindy St
12E28BB14100	8302 SE Lindy St
12E28BB14200	8306 SE Lindy St
12E28BB14400	8336 SE Lindy St
12E28BB14500	8951 SE Fuller Rd

Proposal No. CL0304

1S2E29AC

Annexation to the Calckamas Co. Service Dist. #1

Clackamas Co.



R L I S
REGIONAL LAND INFORMATION SYSTEM



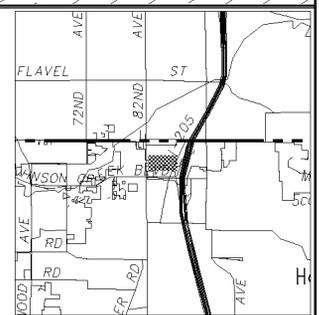
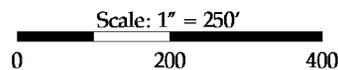
600 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1909
Email drc@metro-region.org

METRO

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- County lines
- Annexation boundary
- District

Proposal No. CL0304
CALCKAMAS CO. SERVICE DIST. #1
Figure 1





March 26, 2004

Metro
Robert Knight
600 NE Grand Ave
Portland, OR 97232-2736

Dear Mr. Knight:

Please be advised that we have received and filed on March 26, 2004 the following Annexation(s).

Ordinance(s):	Jurisdiction:	Our File Number(s):
ORD NO 2004-48	Clackamas County Service Dist #1	SD 2004-0019
ORD NO 2004-47	Clackamas County Service Dist #1	SD 2004-0020
ORD NO 2004-49	Clackamas County Service Dist #1	SD 2004-0021
ORD NO 4290	City of Beaverton	AN 2004-0074

Determination of the effective date for all the above Final Order and is subject to ORS199.461 and/or ORS 222.180 and/or ORS 222.750.

Our assigned file number(s) are included with the above information.

Sincerely,

Linda Bjornstad
Official Public Documents

cc: County Clerk
ODOT/Highway Dept
PSU/Population Research Ctr.
Revenue Cartography Section

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
March 24, 2004
As Per ORS 308.225

Description Map received from: METRO
 On: 3/19/2004

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

ANNEX TO CLACKAMAS CO. SERVICE DIST. #1

ORDER #2004-49

has been: Approved 3/24/2004
 Disapproved

Notes:

Department of Revenue File Number: 3-1617-2004

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-0304



ORDER NO. 2004-0001

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 March 11, 2004 and that a decision of approval was made on March 11, 2004;

NOW, THEREFORE, IT IS HEREBY ORDERED that Boundary Change Proposal No. CL-0304 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 11th day of March, 2004.

BOARD OF COUNTY COMMISSIONERS

Bill Kennemer, Chair

Millicent Morrison, Recording Secretary

FINDINGS

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

1. The territory to be annexed contains 5.8 acres, 56 single family units (mostly manufactured homes), a population of approximately 55-60 and has an assessed value of \$1,067,791.
2. The property owners desire sewer service to replace existing cesspools.
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 an urban service provider agreement or annexation plan adopted pursuant to ORS 195.065. [Urban service provider 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 or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party.
3. Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facility plans.
4. Consistency with specific directly applicable standards for boundary changes contained in the Regional Framework Plan or any functional plan.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and

services.

6. The territory lies within the Urban Growth Boundary.
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).

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.

5. The Clackamas County Comprehensive Plan covers this area. The site has plan designations of Medium Density Residential (Tax Lot 14500) and General Commercial (Tax Lots 13200, 13300, 14100, 14200 & 14400). Zoning on the General Commercial area is CC, Community Commercial and the Medium Density Residential area is zoned MR-1.

The LAND USE Element of the Comprehensive Plan contains the following Policy:

Develop all Medium Density Residential areas with public sewer, public water, curbs, drainage controls, pedestrian/bikeway facilities, underground utilities and street lighting.

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 territory is within the City of Milwaukie Urban Growth Boundary Management Area as designated on the City/County Urban Growth Management Agreement. The Urban Growth Boundary Management Area is an area in which the city and county have an interest in coordinating effective and efficient service delivery. Annexation to the City is not required by the Agreement in this part of the City's area of interest. The Agreement does require notice of actions such as annexations to be provided to the City and that notice was given.
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 property will be served by an extension from the District's 8-inch sanitary sewer line in Lindy St. at SE 82nd.

A property owner in the vicinity of this annexation has written a letter objecting to the proposal (See Exhibit A). This property owner would like his properties to be annexed and served by the District. The District has informed this owner that service to his properties (located on the northwest corner of the Fuller Road-Hinkley Avenue intersection) would not come via the line being extended down Lindy as a result of the current annexation. Rather, according to the District Master Plan service will come to his properties via a future line which would come east along Hinkley Avenue and then north on Fuller Road.
9. The territory is within Clackamas River Water and already has water service from the District.

10. The area receives police service from the Clackamas County and the Clackamas County Enhanced Law Enforcement County Service District.
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 Service District for Parks & Recreation.
13. The staff also received a call from a property owner along Garden Lane to the north of the area to be annexed. This owner and some of his neighbors were wondering why the annexation did not include them. Interest was expressed in possibly annexing in advance of service being available until the owner realized annexation would obligate payment of the monthly storm water charge regardless of sanitary sewer availability.

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 directly applicable provisions in any urban service provider agreements. As noted in Finding No. 7 there are no urban service provider 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 the County's 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 Plan or any functional plan."

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 avoid future potential health problems. The Board therefore concludes that annexation promotes the timely, orderly and economic provision of this service.
6. Metro Code 3.09.050 (d) (6) establishes as a major criteria whether the affected territory lies within the Urban Growth Boundary. The territory in this proposed annexation does lie within the Urban Growth Boundary.

EXHIBIT B

Proposal No. CL-0304

Legal Description

See EXHIBIT "A" for the area map.

References:

Garden Gate Village, a Clackamas County Recorded Plat No. 684
Clackamas County Private Survey PS-3057
Clackamas County Private Survey PS-24277
Clackamas County Tax Assessor Map 12E28BB (tax lots 14500, 13200, 13300, 14100, 14200, 14400)



Parcel of property located in Township 1 South, Range 2 East, of the Willamette Meridian, in the northwest ¼ of the northwest ¼ of Section 28, within Clackamas County and the State of Oregon, more particularly described:

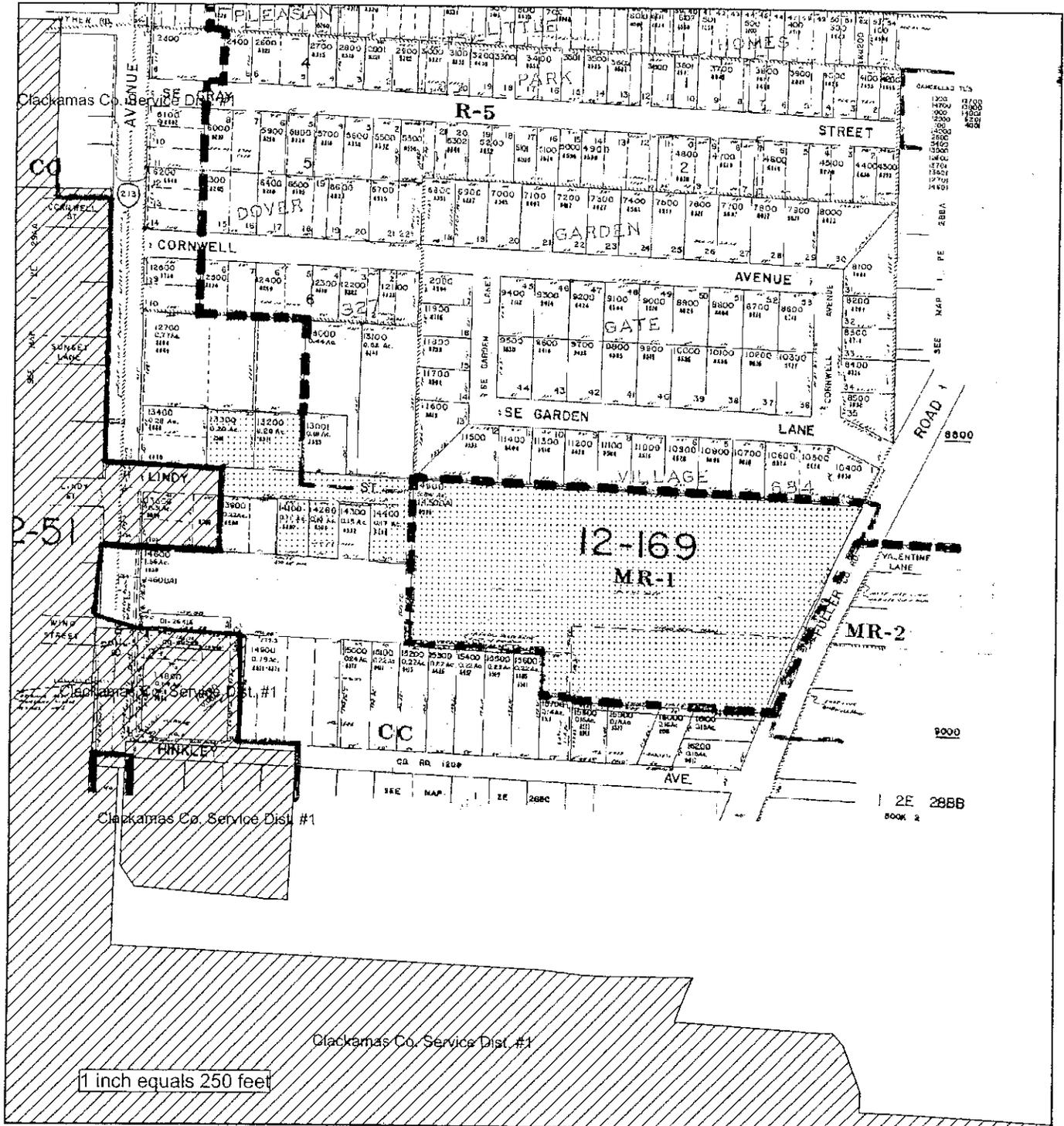
Beginning at the most southerly and easterly corner of Lot 1, in "Garden Gate Village" a Clackamas County Surveyor's plat record number 684, and said point being TRUE POINT OF BEGINNING; thence north 88°53'30" west along the south line of said Plat a distance of 793.13 feet more or less to the southwest corner of Lot 12; thence continuing along said westerly bearing a distance of 200 feet more or less; thence north 00°29'30" east 100 feet more or less; thence north 88°53'30" west a distance of 170 feet more or less; thence south 00°29'30" west 100 feet more or less to a point on the north line of Clackamas County Road No. 2565, "Lindy Street"; thence easterly along the north line of said street and also said line being existing boundary edge of Clackamas County Service District No. 1 30 feet more or less to a point of intersection with the north line of Lindy Street and the extension of the east line of deed 91-14434 if extended northerly 50', thence south 00°29'30" west 50 feet more or less to a point on the south line of said County Road, also being the northeast corner of land sold to Raymond V. Monsrud and Hazel L. Monsrud by deed 91-14434; thence easterly along the south line of said road 100 feet more or less; thence south 00°29'30" west 100 feet more or less; thence south 88°53'30" east 109 feet more or less; thence north 00°29'30" east 100 feet more or less; thence south 88°53'30" east 56.08 feet more or less; thence south 00°29'30" west 100 feet more or less; thence south 88°53'30" east 75 feet more or less; thence south 00°10' west a distance of 149.70 feet more or less; thence north 89°08' east a distance of 235.81 feet more or less; thence south 00°10' west a distance of 80 feet more or less; thence north 89°08' east a distance of 50 feet more or less; thence south 00°10' west a distance of 5.71 feet more or less; thence north 89°08' east a distance of 341.37 feet more or less to a point of intersection with the west line of Fuller Road, Clackamas County Road No. 53; thence northwesterly along the west line of Fuller Road a distance of 416 feet more or less to most southerly and easterly corner of Lot 1, in "Garden Gate Village" a Clackamas County Surveyor's plat record number 684, also being the TRUE POINT OF BEGINNING.

Proposal No. CL0304

K M C

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

Annexation to Clackamas Co. Service Dist. #1
Clackamas Co.
1S2E28BB



PROPOSAL No. CL0304
Clackamas Co. Service Dist. #1
Figure 2