

Final Documents
for
Annexation to
Clean Water Services District

WA4106
Ordinance: 07-50
Annexation:
DOR: 34-1860-2007
Secretary of State: SD 2007-0061



April 10, 2007

Metro
Carol Hall, Data Resource Center
600 NE Grand Ave.
Portland, OR 97232-2736

Re: Notice of Decision for Proposal WA-4106

Dear Ms. Hall,

On March 20, 2007, the Washington County Board of Commissioners approved with condition an annexation into Clean Water Services District (WA-4106). The Oregon Department of Revenue approved the final review on March 27, 2007. I enclosed the DOR Final Review, signed Resolution and Order, and Washington County Notice of Decision. A GIS map and legal description of the subject properties are included in the Resolution and Order, Exhibit B and C, respectively.

If you have any questions on this request please contact me at 503-846-3963 or via e-mail at laurie_harris@co.washington.or.us.

Sincerely,

Laurie Harris
Planning Assistant



April 20, 2007

Metro
Linda Martin
600 NE Grand Ave
Portland, Oregon 97232-2736

Dear Ms. Martin:

Please be advised that we have received and filed, as of April 19, 2007, the following records annexing territory to the following:

Ordinance/Resolution Number(s)	Our File Number
07-3792	AN 2007-0195
07-50	SD 2007-0061
2007-101	SD 2007-0062

For your records please verify the effective date through the application of ORS 199.519.

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

Sincerely,

Linda Bjornstad
Official Public Documents

cc: County Clerk(s)
Department of Revenue
ODOT
Population Research Center

Notice to Taxing Districts

ORS 308.225



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

Clean Water Services Dist.
 Support Services Manager
 155 N First Ave, Suite 270
 Hillsboro, OR 97124

Description and Map Approved
March 27, 2007
As Per ORS 308.225

Description Map received from: COUNTY
 On: 3/27/2007

This is to notify you that your boundary change in Washington County for
 ANNEX TO CLEAN WATER SERVICES DISTRICT (WA-4106)

RES. AND ORDER #07-50

has been: Approved 3/27/2007
 Disapproved

Notes:

Department of Revenue File Number: 34-1860-2007

Prepared by: Carolyn Sunderman, 503-945-8882

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



WASHINGTON COUNTY
DEPARTMENT OF LAND USE AND TRANSPORTATION
PLANNING DIVISION
ROOM 350-14
155 NORTH FIRST AVENUE
HILLSBORO, OREGON 97124
(503) 846-3519 fax: (503) 846-4412
www.co.washington.or.us

NOTICE OF DECISION

CPO: 14

Existing Land Use District: FD-10

Community Plan: Not applicable

Assessor Map No(s): 2N4 36

Tax Lot No(s): 1001, 1002

Site Size: 1.24 acres

Address: 515 S Main Street, Banks, OR 97106

Location: West side of S Main Street, across from NW
Trellis Way

Proposed Minor Boundary Change: Annexation to the
Clean Water Services District of 1.24 acres.

Applicant:

Greg Walters
515 S Main Street
Banks, OR 97106

Applicant's Representative:

Ireland at Law
PO Box 273
Banks, OR 97106

Contact Person: Robert Ireland

Petitioners/Owners:

Same as applicant

Notice is hereby given that the County Board of Commissioners conditionally approved the request for the above-stated proposed Minor Boundary Change at a meeting on **March 20, 2007**.

NOTICE MAILING DATE: March 26, 2007

THE APPROVED MINOR BOUNDARY CHANGE DOES NOT AUTHORIZE OR PREVENT ANY SPECIFIC USE OF LAND. CURRENT COUNTY PLANNING DESIGNATIONS WILL NOT BE AFFECTED BY THIS PROPOSED CHANGE.

NECESSARY PARTIES: THIS DECISION MAY BE CONTESTED BY A NECESSARY PARTY AND A PUBLIC HEARING HELD BY FILING A NOTICE OF APPEAL IN ACCORDANCE WITH METRO CODE CHAPTER 3.09.070 WITHIN 10 CALENDAR DAYS OF THE DATE THIS NOTICE WAS MAILED. A NECESSARY PARTY MAY NOT CONTEST A BOUNDARY CHANGE WHERE THE BOUNDARY CHANGE IS EXPLICITLY AUTHORIZED BY AN URBAN SERVICES AGREEMENT ADOPTED PURSUANT TO ORS 195.065.

NON-NECESSARY PARTIES: THIS DECISION MAY BE APPEALED TO THE LAND USE BOARD OF APPEALS (LUBA) BY FILING A NOTICE OF INTENT TO APPEAL WITH LUBA WITHIN 21 DAYS OF THE DATE THIS DECISION IS FINAL. CONTACT YOUR ATTORNEY IF YOU HAVE QUESTIONS REGARDING AN APPEAL TO LUBA.

THIS DECISION WILL BE FINAL IF NO CONTEST OR APPEAL IS FILED BY THEIR RESPECTIVE DUE DATES.

THE COMPLETE APPLICATION, REVIEW STANDARDS, RECORD OF PROCEEDINGS, FINDINGS FOR THE DECISION AND DECISION ARE AVAILABLE AT THE COUNTY FOR REVIEW.

FOR FURTHER INFORMATION, PLEASE CONTACT:

Paul Schaefer, Senior Planner
WASHINGTON COUNTY
DEPARTMENT OF LAND USE & TRANSPORTATION
(503) 846-3519.

(SEE REVERSE SIDE FOR SITE MAP)

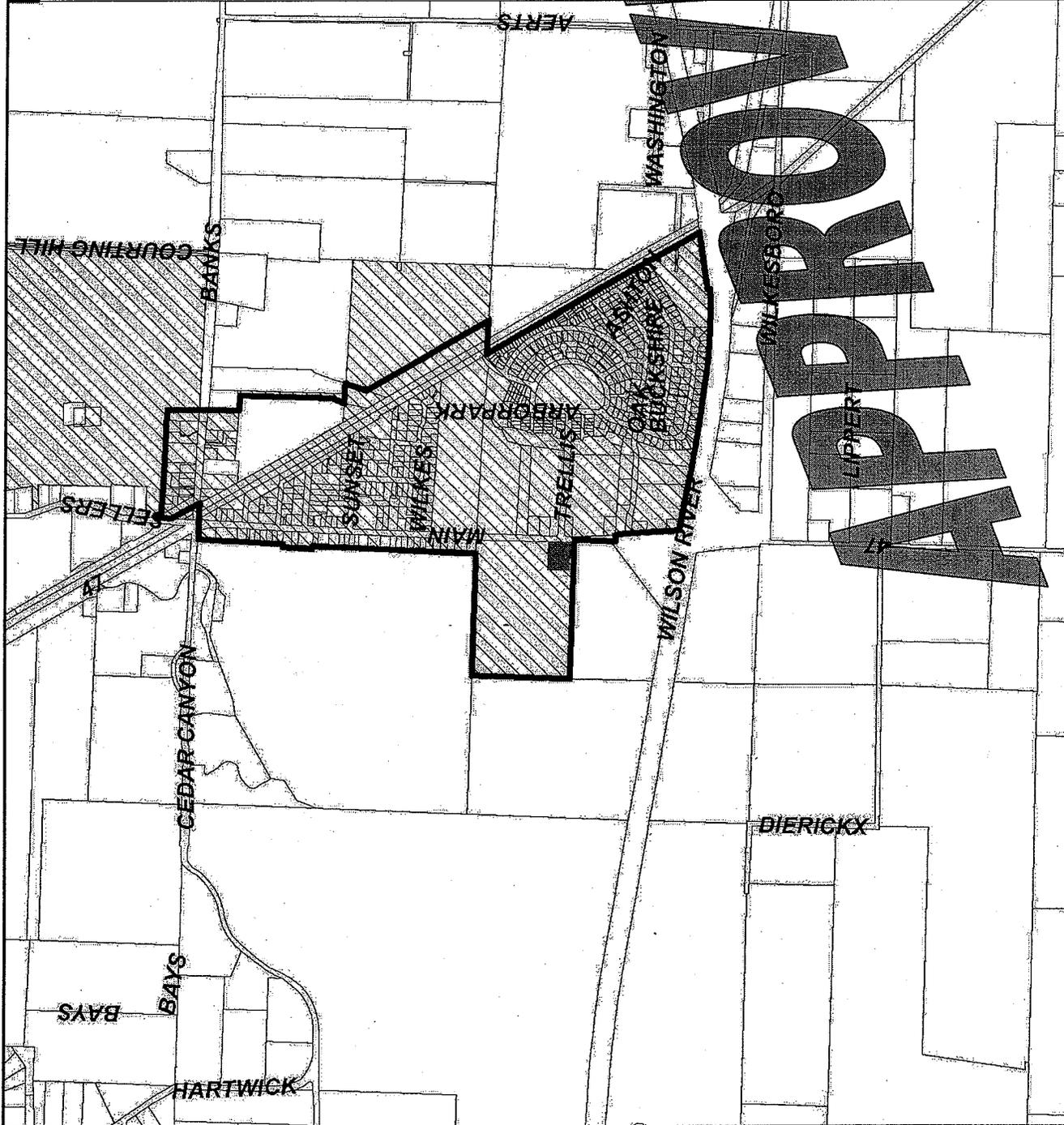
EXHIBIT B

WA-4106

Annexation to
Clean Water Services
(CWS)

Subject Taxlots

CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.

WASHINGTON COUNTY

Inter-Department Correspondence

March 20, 2007

TO: Recording Division

FROM: Barbara Hejtmanek

**SUBJECT: RESOLUTION & ORDER 07-50
CONSIDER THE ANNEXATION OF PROPERTY
ENCOMPASSING APPROXIMATELY 1.24 ACRES
TO CLEAN WATER SERVICES DISTRICT (WA-4106)
(CPO 14)**

At its regular meeting on March 20, 2007, the Board adopted a Resolution and Order approving this annexation with the condition that the owner sign a non-remonstrance to the benefit of the City of Banks.

RO 07-50

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Department of Land Use & Transportation (CPO 14)

Agenda Title: **CONSIDER THE ANNEXATION OF PROPERTY ENCOMPASSING APPROXIMATELY 1.24 ACRES TO CLEAN WATER SERVICES DISTRICT (WA-4106)**

Presented by: Brent Curtis, Planning Division Manager

SUMMARY:

The County has received a request to annex property to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks.

The purpose of the annexation is to allow the property owner to connect the existing single family residence and, if approved by the County, a manufactured dwelling unit placed on the property under the health hardship provisions of the Community Development Code. According to the applicant's representative, the existing septic system is failing. However pursuant to OAR 340-071-0160 the failing system can not be repaired and extension of sanitary sewer to the property requires annexation into the District.

(continued)

Notice of today's hearing has been made in accordance with the state law requirements. Staff will be available to answer any questions. A Resolution and Order denying the annexation is attached to the agenda.

Attachments: Resolution and Order which includes:

1. Findings (Exhibit A)
2. Site Map (Exhibit B)
3. Legal Description (Exhibit C)

DEPARTMENT'S REQUESTED ACTION:

Hold a public hearing to consider the annexation of this property into the Clean Water Services District. Adopt a Resolution and Order denying the annexation.

COUNTY ADMINISTRATOR'S RECOMMENDATION: I concur with the requested action.

Agenda Item No.	<u>4.a.</u>
Date:	<u>3-20-07</u>

CONSIDER THE ANNEXATION OF 1.24 ACRES
TO THE CLEAN WATER SERVICES DISTRICT

March 20, 2007

Page 2

On December 5, 2006, the Board opened the public hearing on this request and received public testimony. Staff recommended the Board deny the request on the basis the proposed minor boundary change was not consistent with Policy 15 of the Comprehensive Framework Plan for the Urban Area. Staff's recommendation is consistent with the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district. The Board's direction is also consistent with Policy 15.

On December 5th, the Board continued the public hearing to January 9, 2007 in order for staff to provide additional information about the requirements governing repairs of failing septic systems and time to prepare a response to a letter faxed to the County by the applicant's representative after the Board work session and before the hearing. The addendum staff report prepared for the January 9th hearing contained staff's response and was provided to the Board prior to the hearing.

On January 9, 2007, the Board opened the hearing and received public testimony as well as the staff report. Staff continued to recommend the Board deny the request. After discussions with the applicant's representative, the Board voted to continue the hearing to March 6, 2007 in order to provide the applicant with time to pursue annexation of the property into the City. However, in a letter dated January 17, 2007 the applicant's representative stated that the applicant decided not to annex into the City of Banks. No specific reasons were given in the letter for declining annexation. For this reason, staff recommends that the Board deny the proposed minor boundary change.

On March 6, 2007, the Board opened the hearing. Chairman Brian and Commissioner Rogers were not in attendance as they were away on County business. For this reason, the Board voted to continue the hearing to March 20, 2007 to provide them with an opportunity to discuss the issues surrounding the proposed minor boundary change.

WASHINGTON COUNTY

Inter-Office Memorandum

March 21, 2007

To: Barbara Hejtmanek, Sr. Administrative Specialist

From: Laurie Harris, Planning Assistant

Re: **Signed Resolution & Order for WA-4106**

Attached is a revised Resolution and Order pertaining to agenda item 4.a of the Board of Commissioners Agenda for March 20, 2007. Please present to Chair Tom Brian for a signature.

On March 20, 2007, the Washington County Board of Commissioners approved with condition the minor boundary change proposal no. WA-4106, an annexation of two tax lots into Clean Water Services District. Subsequently, the resolution and order was revised to reflect the condition of approval that requires the property owner to annex the two tax lots into the City of Banks before the annexation into Clean Water Services District becomes effective.

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4 IN THE BOARD OF COUNTY COMMISSIONERS
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6 FOR WASHINGTON COUNTY, OREGON
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9 In the Matter of Approving Boundary) RESOLUTION AND ORDER
10 Change Proposal No. WA-4106) No. 07-50
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14 The above-entitled matter (WA-4106) came before the Board at its
15 regular meeting on March 20, 2007; and

16 It appearing to the Board that this proposal involves the annexation of
17 an island of unincorporated Washington County land (designated FD-10)
18 surrounded by the City of Banks to the Clean Water Services District (District);
19 and

20 It appearing to the Board that the property is also within the City of
21 Bank's urban planning area, located on the west side of South Main Street
22 across from NW Trellis Way, and further identified as tax map and lot
23 numbers 2N4 36 / 1001 and 1002; and

24 It appearing to the Board that WA-4106 was initiated by a consent
25 petition of all property owners and meets the requirement for initiation set forth
26 in ORS 198.855 (3) and ORS 198.750; and

27 It appearing to the Board that the Board is charged with deciding
28 petitions for boundary changes pursuant to ORS Chapter 198; and

29 It appearing to the Board that notice of the meeting was provided
30 pursuant to ORS 198.730 and ORS 197.763; and

31 It appearing to the Board that the District Board of Directors endorsed
32 the proposed minor boundary change based on the condition that the

1 petitioner sign and record a non-remonstrance waiver to annex tax map and
2 lot numbers 2N4 36 / 1001 and 1002 into the City of Banks; and

3 It appearing to the Board that the proposed minor boundary change
4 should be approved subject to the condition that the petitioner sign and record
5 a non-remonstrance waiver to annex tax map and lot numbers 2N4 36 / 1001
6 and 1002 into the City of Banks; and

7 It appearing to the Board that the Board has reviewed whatever written
8 and oral testimony has been provided regarding this proposal; now, therefore
9 it is

10 RESOLVED AND ORDERED that the property depicted in Exhibit B
11 and legally described in Exhibit C is hereby conditionally annexed to the
12 District; and it is further

13 RESOLVED AND ORDERED that Boundary Change Proposal No. WA-
14 4106, as described in the staff report, which is incorporated herein by
15 reference, and in Exhibit A is hereby approved on the condition that the
16 petitioner sign and record an agreement with the City of Banks providing an
17 irrevocable consent to annexation of tax map and lot numbers 2N4 36 / 1001
18 and 1002; and it is further

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RESOLVED AND ORDERED that the approval of Boundary Change Proposal No. WA-4106 shall become effective upon recordation of the signed consent agreement to annex tax map and lot numbers 2N4 36 / 1001 and 1002 into the City of Banks.

DATED this 20th day of March, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON



CHAIRMAN

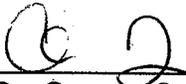
	AYE	NAY	ABSENT
BRIAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHOUTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STRADER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DUYCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



RECORDING SECRETARY

Date Signed: 3-22-07

Approved as to form:



Sr. County Counsel for
Washington County, Oregon

FINDINGS

Based on the study and the public hearing, the Board of County Commissioners (Board) finds:

1. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition). At the time of writing, a necessary party is not contesting this boundary change.
2. The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.
3. The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property). Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).
4. Oregon Revised Statute 198.852 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. The criteria in the Metro Code do not apply outside Metro's jurisdictional boundary.
5. The property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined. Policy 14 of the Comprehensive Framework Plan for the Urban Area (CFP) addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

The proposed minor boundary change is also subject to CFP Policy 15, Roles and Responsibilities for Serving Growth, which reads as follows:

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

The extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services and therefore is not consistent with Policy 15. However, the Board's direction that the petitioner sign and record a non-remonstrance waiver to annex to the City of Banks as a condition of approval for the proposed minor boundary change addresses this deficiency. Subsequent annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.

6. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.
7. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.
8. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
9. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.
10. The District Board of Directors endorsed the proposed minor boundary change based on the condition that the petitioner sign and record a non-remonstrance waiver to annex tax map and lot numbers 2N4 36 / 1001 and 1002 into the City of Banks.
11. The City of Banks currently provides domestic water service to the property.

12. Banks Rural Fire Protection District is the current provider of emergency protection to the property. The City of Banks is also served by the Banks Rural Fire Protection District.
13. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary).
14. Access to this property is from South Main Street.
15. Clean Water Services has responsibility for surface water management within urban Washington County.
16. The property is not located within the Washington County Service District for Urban Road Maintenance (URMD), which provides financing for maintenance of local streets.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Commission concludes:

1. ORS 198 call for consistency between the Board decision and any *"specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ."* The Board has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan. Policy 14 of the Comprehensive Framework Plan for the Urban Area does however address the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, **sanitary sewers**, fire protection, **storm drainage** and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

The proposed minor boundary change is also subject to CFP Policy 15, Roles and Responsibilities for Serving Growth. The extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services and therefore is not consistent with Policy 15. However, a requirement that the petitioner sign and record an agreement to consent to annex to the City of Banks as a condition of approval for the proposed minor boundary change addresses this deficiency. Therefore, the proposed minor boundary change is approved on the condition that the petitioner sign and record a agreement with the City of Banks consenting to annexation of the property. Furthermore, the approval of

EXHIBIT A

Proposal No. WA-4106

Page 4 of 4

proposed minor boundary change shall become effective upon recordation of the signed consent agreement.

2. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
3. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

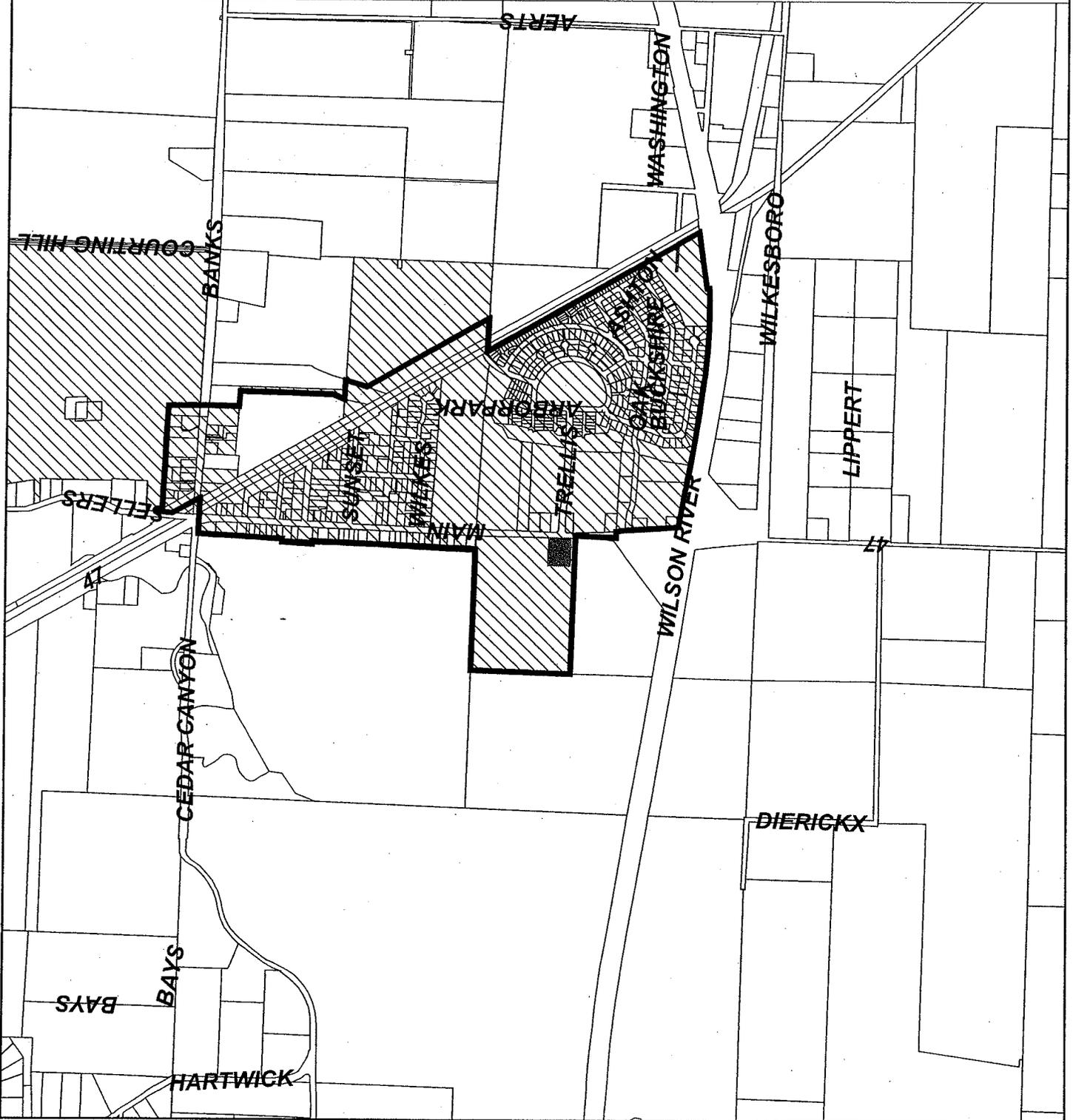
EXHIBIT B

WA-4106

Annexation to
Clean Water Services
(CWS)

Subject Taxlots

CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.

The South one-half of the following described real property, in the City of Banks, County of Washington and State of Oregon:

Beginning at a point on the West line of the Southwest one-quarter of Section 31, Township 2 North, Range 3 West of the Willamette Meridian, this point being 469.0 feet South of the Northwest corner of said one-quarter section, and from which point an iron pipe bears East 30.0 feet; from this point of beginning run South along the section line a distance of 208.7 feet; thence East at an angle of 90° to the section line a distance of 208.7 feet; thence North a distance of 208.7 feet; thence West a distance of 208.7 feet to the place of beginning.

LUT
Plan

WASHINGTON COUNTY

Inter-Department Correspondence

March 6, 2007

TO: Recording Division
FROM: Barbara Hejtmanek
SUBJECT: MINUTE ORDER 07-77
CONSIDER THE ANNEXATION OF PROPERTY
ENCOMPASSING APPROXIMATELY 1.24 ACRES
TO CLEAN WATER SERVICES DISTRICT (WA-4106)

At its regular meeting on March 6, 2007, the Board continued this public hearing to March 20, 2007.

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS
MINUTE ORDER # 07-77
DATE 3-6-07
BY *Barbara Hejtmanek*
CLERK OF THE BOARD

AGENDA

Plan

WASHINGTON COUNTY BOARD OF COMMISSIONERS**Agenda Category:** Public Hearing – Department of Land Use & Transportation (CPO 14)**Agenda Title:** **CONSIDER THE ANNEXATION OF PROPERTY ENCOMPASSING APPROXIMATELY 1.24 ACRES TO CLEAN WATER SERVICES DISTRICT (WA-4106)****Presented by:** Brent Curtis, Planning Division Manager**SUMMARY:**

The County has received a request to annex property to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks.

The purpose of the annexation is to allow the property owner to connect the existing single family residence and, if approved by the County, a manufactured dwelling unit placed on the property under the health hardship provisions of the Community Development Code. According to the applicant's representative, the existing septic system is failing. However pursuant to OAR 340-071-0160 the failing system can not be repaired and extension of sanitary sewer to the property requires annexation into the District.

(continued)

Notice of today's hearing has been made in accordance with the state law requirements. An addendum staff report (File Number: WA-4106) will be provided to you under separate cover and will also be available at the clerk's desk. Staff will be available to answer any questions. A Resolution and Order denying the annexation is attached to the agenda.

Attachments: Resolution and Order which includes:

1. Findings (Exhibit A)
2. Site Map (Exhibit B)
3. Legal Description (Exhibit C)

DEPARTMENT'S REQUESTED ACTION:

Hold a public hearing to consider the annexation of this property into the Clean Water Services District. Adopt a Resolution and Order denying the annexation.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

Agenda Item No.	<u>4.a.</u>
Date:	3/6/07

CONSIDER THE ANNEXATION OF 1.24 ACRES
TO THE CLEAN WATER SERVICES DISTRICT

March 6, 2007

Page 2

On December 5, 2006, the Board opened the public hearing on this request and received public testimony. Staff recommended that the Board deny the request on the basis that the proposed minor boundary change was not consistent with Policy 15 of the Comprehensive Framework Plan for the Urban Area. Staff's recommendation is consistent with the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district. The Board's direction is also consistent with Policy 15.

On December 5th, the Board continued the public hearing to January 9, 2007 in order for staff to provide additional information about the requirements governing repairs of failing septic systems and time to prepare a response to a letter faxed to the County by the applicant's representative after the Board work session and before the hearing. The addendum staff report prepared for the January 9th hearing contained staff's response and was provided to the Board prior to the hearing.

On January 9, 2007, the Board opened the hearing and received public testimony as well as the staff report. Staff continued to recommend that the Board deny the request. After discussions with the applicant's representative, the Board voted to continue the hearing to March 6, 2007 in order to provide the applicant with time to pursue annexation of the property into the City. However, in a letter dated January 17, 2007 the applicant's representative stated that the applicant decided not to annex into the City of Banks. No specific reasons were given in the letter for declining annexation. For this reason, staff recommends that the Board deny the proposed minor boundary change.

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IN THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Denying Boundary) RESOLUTION AND ORDER
Change Proposal No. WA-4106) No. _____

The above-entitled matter (WA-4106) came before the Board at its regular meeting on March 6, 2007; and

It appearing to the Board that this proposal involves the annexation of an island of unincorporated Washington County land (designated FD-10) surrounded by the City of Banks to the Clean Water Services District; and

It appearing to the Board that the property is also within the City of Bank's urban planning area, located on the west side of South Main Street across from NW Trellis Way, and further identified as tax map and lot numbers 2N4 36 / 1001 and 1002; and

It appearing to the Board that WA-4106 was initiated by a consent petition of all property owners and meets the requirement for initiation set forth in ORS 198.855 (3) and ORS 198.750; and

It appearing to the Board that the Board is charged with deciding petitions for boundary changes pursuant to ORS Chapter 198; and

It appearing to the Board that notice of the meeting was provided pursuant to ORS 198.730 and ORS 197.763; and

It appearing to the Board that County staff have reviewed the proposed boundary change and determined that it does not comply with Policy 15 of the Comprehensive Framework Plan for the Urban Area; and

1 It appearing that the property is outside of the City of Banks, yet is
2 surrounded by lands within the City of Banks. Therefore, the request is also
3 not consistent with the Board's direction that properties, such as the subject
4 property, should annex into cities prior to annexing into a service district; and

5 It appearing to the Board that the Board has reviewed whatever written
6 and oral testimony has been provided regarding this proposal; now, therefore
7 it is

8 RESOLVED AND ORDERED that Boundary Change Proposal No. WA-
9 4106, as described in the staff report, is hereby denied, based on the analysis,
10 findings and conclusions set forth in Exhibit A, incorporated herein by
11 reference.

12 DATED this 6th day of March, 2007.

13 BOARD OF COUNTY COMMISSIONERS
14 FOR WASHINGTON COUNTY, OREGON
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20 _____
21 CHAIRMAN
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27 _____
28 RECORDING SECRETARY
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31 Date Signed: _____
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33 Approved as to form:
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35 _____
36 Sr. County Counsel for
37 Washington County, Oregon
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FINDINGS

Based on the study and the public hearing, the Board of County Commissioners (Board) finds:

1. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition). At the time of writing, a necessary party is not contesting this boundary change.
2. The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.
3. The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property). Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).
4. Oregon Revised Statute 198.852 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. The criteria in the Metro Code do not apply outside Metro's jurisdictional boundary.
5. The property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined. Policy 14 of the Comprehensive Framework Plan for the Urban Area (CFP) addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

The proposed minor boundary change is also subject to CFP Policy 15, Roles and Responsibilities for Serving Growth, which reads as follows:

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

The extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services and therefore is not consistent with Policy 15. Consequently, the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district is consistent with Policy 15. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. It is important to note that CFP Policy 15 implements Goal 11 (Public Facilities and Services) of the Statewide Planning Goals. Under Goal 11, local governments are "to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

6. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.
7. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.
8. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
9. The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Consequently, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.

10. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.
11. The City of Banks currently provides domestic water service to the property.
12. Banks Rural Fire Protection District is the current provider of emergency protection to the property. The City of Banks is also served by the Banks Rural Fire Protection District.
13. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary).
14. Access to this property is from South Main Street.
15. Clean Water Services has responsibility for surface water management within urban Washington County.
16. The property is not located within the Washington County Service District for Urban Road Maintenance (URMD), which provides financing for maintenance of local streets.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Commission concludes:

1. ORS 198 call for consistency between the Board decision and any *"specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ."* The Board has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan. Policy 14 of the Comprehensive Framework Plan for the Urban Area does however address the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, **sanitary sewers**, fire protection, **storm drainage** and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

2. The extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services and therefore is not consistent with Policy 15. Consequently, the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district is consistent with Policy 15. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks.
3. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks). The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks.
4. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

EXHIBIT B

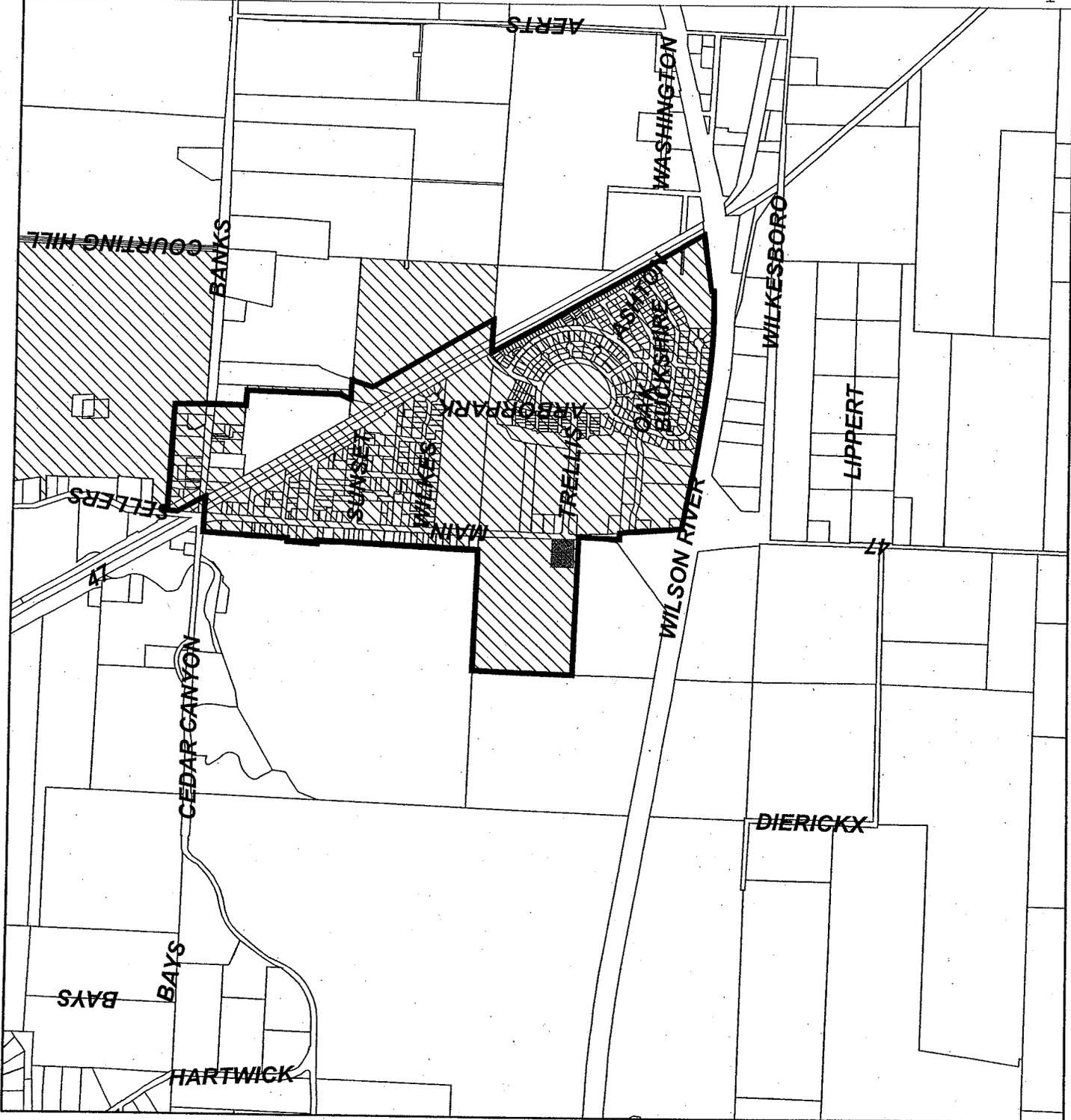
WA-4106

Annexation to
Clean Water Services
(CWS)

Subject Taxlots
CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.



The South one-half of the following described real property, in the City of Banks, County of Washington and State of Oregon:

Beginning at a point on the West line of the Southwest one-quarter of Section 31, Township 2 North, Range 3 West of the Willamette Meridian, this point being 469.0 feet South of the Northwest corner of said one-quarter section, and from which point an iron pipe bears East 30.0 feet; from this point of beginning run South along the section line a distance of 208.7 feet; thence East at an angle of 90° to the section line a distance of 208.7 feet; thence North a distance of 208.7 feet; thence West a distance of 208.7 feet to the place of beginning.

CLEAN WATER SERVICES DISTRICT ANNEXATION

Boundary Change Proposal No. WA-4106

Addendum Staff Report

**For the March 6, 2007
Board of Commissioners' Hearing**



February 16, 2007

To: Board of County Commissioners

From: Brent Curtis, Planning Manager *ABC*
Department of Land Use & Transportation

**Subject: MINOR BOUNDARY CHANGE PROPOSAL NO. WA-4106 – ANNEXATION TO
THE CLEAN WATER SERVICES DISTRICT**

ADDENDUM STAFF REPORT
For the March 6, 2007 Board of Commissioners Hearing

I. STAFF RECOMMENDATION

Conduct the public hearing for Minor Boundary Change WA-4106. After taking testimony, close the public hearing and deny Minor Boundary Change WA-4106.

II. BACKGROUND

The County has received a request to annex property to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks. The purpose of the annexation is to allow the property owner to connect the existing single family residence and, if subsequently approved by the County, a manufactured dwelling unit placed on the property under the health hardship provisions of Section 430-135.2 A. of the Community Development Code. According to the applicant's representative, the existing septic system is failing and in need of repair but regulations prohibit such repair. Furthermore, in order to receive sanitary sewer from the District, the property needs to first annex into the District.

On December 5, 2006, the Board opened the public hearing on this request and received public testimony. Staff recommended that the Board deny the request on the basis that the proposed minor boundary change was not consistent with Policy 15 of the Comprehensive Framework Plan for the Urban Area. Staff's recommendation is consistent with the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district. The Board's direction is also consistent with Policy 15. The requested service district annexation should be denied until such time as the property is annexed into the City of Banks. On the 5th, the Board continued the public hearing to January 9, 2007 in order to provide the Board with more time to consider the request along with a letter faxed to the County (after the work session and before the public hearing) and to provide staff time to review the letter and to provide information on the regulations governing repairs of failing existing septic system.

On the January 9, 2007, the Board opened the hearing and received public testimony as well as the staff report. Staff continued to recommend that the Board deny the request. After

discussions with the applicant's representative, the Board voted to continue the hearing to March 6, 2007 in order to provide the applicant with time to pursue annexation of the property into the City. However, in a letter dated January 17, 2007 the applicant's representative stated that the applicant decided not to annex into the City of Banks. No specific reasons for declining to pursue city annexation were given in the letter. For this reason, staff recommends that the Board deny the proposed minor boundary change.

WASHINGTON COUNTY

Inter-Department Correspondence

January 9, 2007

TO: Recording Division

FROM: Barbara Hejtmanek

SUBJECT: **MINUTE ORDER 07-12**
CONSIDER THE ANNEXATION OF PROPERTY
ENCOMPASSING APPROXIMATELY 1.24 ACRES
TO CLEAN WATER SERVICES DISTRICT (WA-4106)
(CPO 14)

At its regular meeting on January 9, 2007, the Board continued this public hearing to March 6, 2007.

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS
MINUTE ORDER # 07-12
DATE 1-9-07
BY Barbara Hejtmanek
CLERK OF THE BOARD

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Department of Land Use & Transportation (CPO 14)

Agenda Title: **CONSIDER THE ANNEXATION OF PROPERTY ENCOMPASSING APPROXIMATELY 1.24 ACRES TO CLEAN WATER SERVICES DISTRICT (WA-4106)**

Presented by: Brent Curtis, Planning Division Manager

SUMMARY:

The County has received a request to annex property to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks.

The purpose of the annexation is to allow the property owner to connect the existing single family residence and, if approved by the County, a manufactured dwelling unit placed on the property under the health hardship provisions of the Community Development Code. According to the applicant's representative, the existing septic system is failing. However pursuant to OAR 340-071-0160 the failing system can not be repaired and extension of sanitary sewer to the property requires annexation into the District.

(continued)

Notice of today's hearing has been made in accordance with the state law requirements. An addendum staff report (File Number: WA-4106) will be provided to you under separate cover and will also be available at the clerk's desk. Staff will be available to answer any questions. A Resolution and Order denying the annexation is attached to the agenda.

Attachments: Resolution and Order which includes:

1. Findings (Exhibit A)
2. Site Map (Exhibit B)
3. Legal Description (Exhibit C)

DEPARTMENT'S REQUESTED ACTION:

Hold a public hearing to consider the annexation of this property into the Clean Water Services District. Adopt a Resolution and Order denying the annexation.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

Agenda Item No.	<u>5.a.</u>
Date:	<u>1/9/07</u>

CONSIDER THE ANNEXATION OF 1.24 ACRES
TO THE CLEAN WATER SERVICES DISTRICT

January 9, 2007

Page 2

On December 5, 2006, the Board opened the public hearing on this request and received public testimony. Staff recommended that the Board deny the request on the basis that the proposed minor boundary change was not consistent with Policy 15 of the Comprehensive Framework Plan for the Urban Area. Staff's recommendation is consistent with the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district. The Board's direction is also consistent with Policy 15.

The Board continued the public hearing to January 9, 2007 in order for staff to provide additional information about the requirements governing repairs of failing septic systems and time to prepare a response to a letter faxed to the County by the applicant's representative after the Board work session and before the hearing. The addendum staff report contains staff's response. The staff report will be provided prior to the hearing.

Staff continues to recommend that the Board deny the requested minor boundary change.

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IN THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of Denying Boundary) RESOLUTION AND ORDER
Change Proposal No. WA-4106) No. _____

The above-entitled matter (WA-4106) came before the Board at its regular meeting on January 9, 2007; and

It appearing to the Board that this proposal involves the annexation of an island of unincorporated Washington County land (designated FD-10) surrounded by the City of Banks to the Clean Water Services District; and

It appearing to the Board that the property is also within the City of Bank's urban planning area, located on the west side of South Main Street across from NW Trellis Way, and further identified as tax map and lot numbers 2N4 36 / 1001 and 1002; and

It appearing to the Board that WA-4106 was initiated by a consent petition of all property owners and meets the requirement for initiation set forth in ORS 198.855 (3) and ORS 198.750; and

It appearing to the Board that the Board is charged with deciding petitions for boundary changes pursuant to ORS Chapter 198; and

It appearing to the Board that notice of the meeting was provided pursuant to ORS 198.730 and ORS 197.763; and

It appearing to the Board that County staff have reviewed the proposed boundary change and determined that though it complies with the applicable procedural standards and most substantive requirements, it does not comply with Policy 15 of the Comprehensive Framework Plan for the Urban Area; and

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It appearing that the property is outside of the City of Banks, yet is surrounded by lands within the City of Banks. Therefore, the request is also not consistent with the Board's direction that properties, such as the subject property, should annex into cities prior to annexing into a service district; and

It appearing to the Board that the Board has reviewed whatever written and oral testimony has been provided regarding this proposal; now, therefore it is

RESOLVED AND ORDERED that Boundary Change Proposal No. WA-4106, as described in the staff report, is hereby denied, based on the analysis, findings and conclusions set forth in Exhibit A, incorporated herein by reference.

DATED this 9th day of January, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

CHAIRMAN

RECORDING SECRETARY

Date Signed: _____

Approved as to form:

Assistant County Counsel for
Washington County, Oregon

FINDINGS

Based on the study and the public hearing, the Board of County Commissioners (Board) finds:

1. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition). At the time of writing, a necessary party is not contesting this boundary change.
2. The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.
3. The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property). Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).
4. Oregon Revised Statute 198.852 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. The criteria in the Metro Code do not apply outside Metro's jurisdictional boundary.
5. The property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined. Policy 14 of the Comprehensive Framework Plan for the Urban Area addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

EXHIBIT A

Proposal No. WA-4106

Page 2 of 3

6. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.
7. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.
8. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
9. The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Consequently, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.
10. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.
11. The City of Banks currently provides domestic water service to the property.
12. Banks Rural Fire Protection District is the current provider of emergency protection to the property. The City of Banks is also served by the Banks Rural Fire Protection District.
13. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary).
14. Access to this property is from South Main Street.

15. Clean Water Services has responsibility for surface water management within urban Washington County.
16. The property is not located within the Washington County Service District for Urban Road Maintenance (URMD), which provides financing for maintenance of local streets.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Commission concludes:

1. ORS 198 call for consistency between the Board decision and any *"specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ."* The Board has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan. Policy 14 of the Comprehensive Framework Plan for the Urban Area does however address the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, **sanitary sewers**, fire protection, **storm drainage** and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.
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3. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

EXHIBIT B

WA-4106

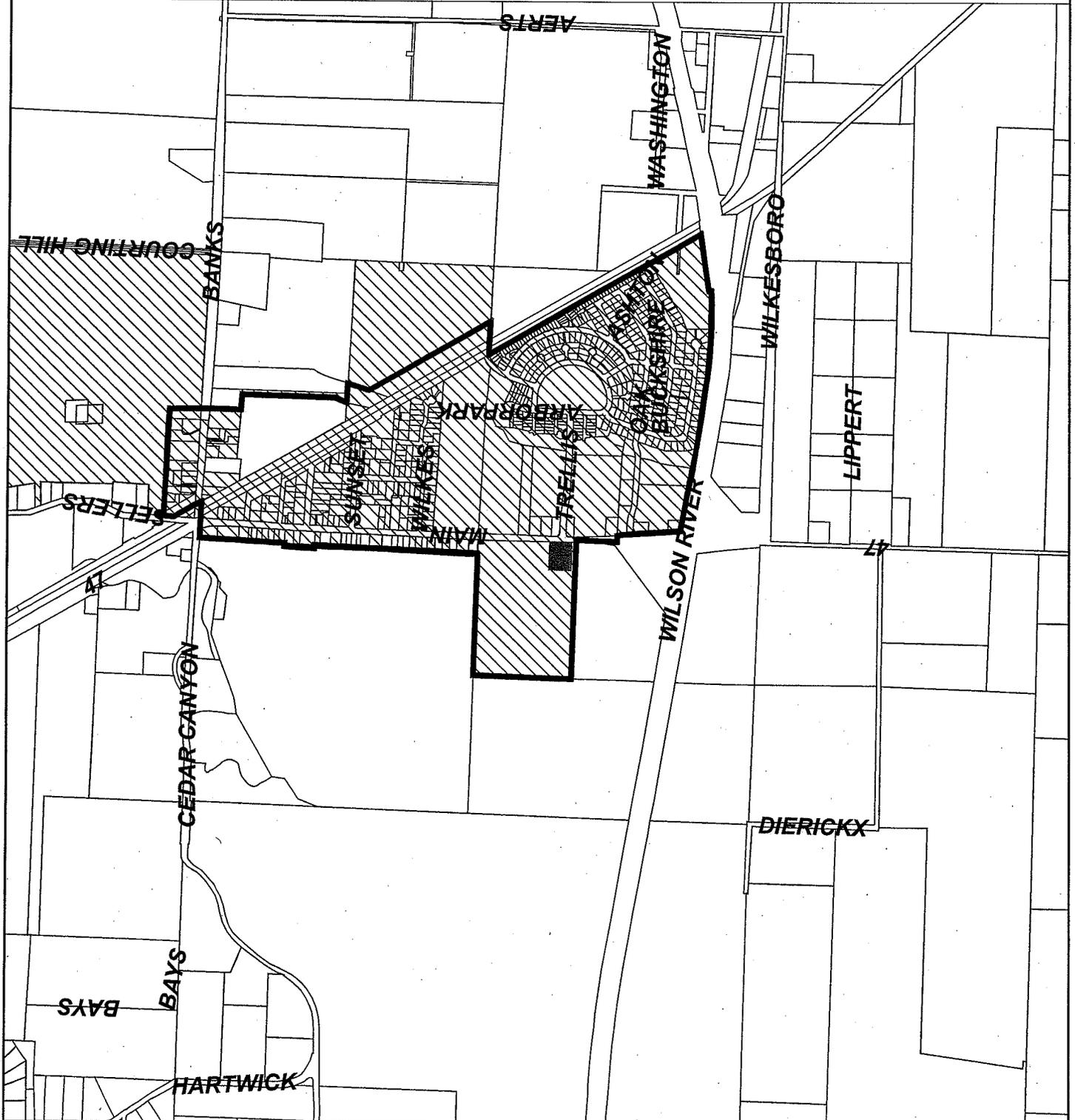
Annexation to
Clean Water Services
(CWS)

Subject Taxlots

CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.



The South one-half of the following described real property, in the City of Banks, County of Washington and State of Oregon:

Beginning at a point on the West line of the Southwest one-quarter of Section 31, Township 2 North, Range 3 West of the Willamette Meridian, this point being 469.0 feet South of the Northwest corner of said one-quarter section, and from which point an iron pipe bears East 30.0 feet; from this point of beginning run South along the section line a distance of 208.7 feet; thence East at an angle of 90° to the section line a distance of 208.7 feet; thence North a distance of 208.7 feet; thence West a distance of 208.7 feet to the place of beginning.

**CLEAN WATER SERVICES DISTRICT
ANNEXATION**

Boundary Change Proposal No. WA-4106

Addendum Staff Report

**For the January 9, 2007
Board of Commissioners' Hearing**



December 26, 2006

To: Board of County Commissioners

From: Brent Curtis, Planning Manager *ABC*
Department of Land Use & Transportation

Subject: **MINOR BOUNDARY CHANGE PROPOSAL NO. WA-4106 – ANNEXATION TO THE CLEAN WATER SERVICES DISTRICT**

ADDENDUM STAFF REPORT
For the January 9, 2006 Board of Commissioners Hearing

I. STAFF RECOMMENDATION

Conduct the public hearing for Minor Boundary Change WA-4106. After taking testimony, close the public hearing and deny Minor Boundary Change WA-4106.

II. BACKGROUND

The County has received a request to annex property to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks. The purpose of the annexation is to allow the property owner to connect the existing single family residence and, if subsequently approved by the County, a manufactured dwelling unit placed on the property under the health hardship provisions of Section 430-135.2 A. of the Community Development Code. According to the applicant's representative, the existing septic system is failing and in need of repair but regulations prohibit such repair. Furthermore, in order to receive sanitary sewer from the District, the property needs to first annex into the District.

On December 5, 2006, the Board opened the public hearing on this request and received public testimony. Staff recommended that the Board deny the request on the basis that the proposed minor boundary change was not consistent with Policy 15 of the Comprehensive Framework Plan for the Urban Area. Staff's recommendation is consistent with the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district. The Board's direction is also consistent with Policy 15. The requested service district annexation should be denied until such time as the property is annexed into the City of Banks.

On the 5th, the Board continued the public hearing to January 9, 2007 in order to provide the Board with more time to consider the request along with a letter faxed to the County (after the work session and before the public hearing) and to provide staff time to review the letter and to provide information on the regulations governing repairs of failing existing septic system.

III. ANALYSIS

Staff's response to the letter as well as information regarding repairs to failing septic systems is provided below.

Written testimony:

According to the applicant's representative, the requirement that the applicant annex into the City of Banks in order to connect to the existing sanitary sewer, which would be only after having been annexed into the District, constitutes a taking [of the property]. The taking results from having to pay higher [city] taxes and a loss of law enforcement service. Additionally, the applicant contends that annexation into the city will result in 'less freedom' to enjoy the property. According to the letter, the applicant purchased the property because it was located in unincorporated Washington County and prefers to remain in the unincorporated Washington County and not in the City.

City taxes are often higher than those of the County. However, higher taxes that may result from being annexed into the City of Banks do not constitute a taking of the property. The tax rate imposed on the property, whether under the County or the City, does not limit or otherwise restrict the use of private property. The property owner could develop the property with any of the uses allowed by the City of Banks development regulations and zoning code. The property is currently designated FD-10 (Future Development 10-acre minimum) and at such time that is annexed into the City would most likely be zoned R5 single family residential zoning. Annexation of the property into the City does not prohibit all use of the property. However, the City's Zoning Ordinance does not have a provision allowing manufactured dwellings as temporary uses for a temporary health hardship or otherwise on the same lot as an existing detached house (in the R5 Zoning District).

Annexation of the property will not result in a reduced level of law enforcement as the applicant's representative contends. Annexation into the City will instead provide a higher level of law enforcement because of the recent approval of the City's local option levy. Prior to the approval of the levy, the City received rural protection services, which means that the Sheriff's office response is limited to serious or life-threatening events. The property owner would not be entitled to the level of police service provided under the local option levy if the property were not annexed into the City, because though the property is urban – and not rural – it is not located within the County's Enhanced Sheriff Patrol District. So absent annexation into the City, the property would receive police protection services afforded properties in rural unincorporated Washington County.

The owner of the property purchased the property on December 29, 2005. As stated previously, the property is not located within the city limits of Banks, but is surrounded by lands that are within the City. As such the property is an island of unincorporated Washington County. It is worth noting that the property is currently located within the City's urban planning area and was in the City's urban planning area prior to December 29, 2005. In fact, the property was included in the City's urban planning area in the original Banks-Washington County Urban Planning Area Agreement adopted in 1979. The urban planning area boundary presumes that the property will one day annex into the City.

The property's current FD-10 plan designation is an indicator that the County ultimately presumes that it will annex into the City. The FD-10 District was applied to the unincorporated portions of some city active planning areas for cities that are the only available source of urban services. The FD-10 District is intended to protect and retain for future urban density development those lands within adopted city urban growth boundaries which are predominantly in limited agricultural, forest, or residential use, and recognizes the desirability of encouraging and retaining such limited interim uses until such lands are annexed to the City for urban level development.

The applicant's representative further contends that the proposed annexation into the city is consistent with the applicable County plan policies and that annexation into the District will not affect any of the other services provided to the property by either the County or the city. Annexation into the District may not adversely affect other County or City services independently. However, staff continues to maintain that the extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of services and therefore is not consistent with Policy 15.

Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services to the property. It is not cost effective to have both the County and the City provide urban services. The City is in the optimal position for providing urban services since the property is essentially within the City – just not within the city limits of Banks.

Septic System Discussion:

According to the applicant's representative the existing septic system is not operating properly and is in need of repair. However, the representative stated that current regulations prohibit the property owner from repairing the existing septic system due to the proximity of the existing sanitary sewer line (east of the property along Main Street). To date no documentation has been submitted verifying the assertion that the septic system is in need of repair.

In the event that the septic system was failing and needing repair, the applicant would not be able to repair the failing system if the property was within 300-feet of a sanitary sewer system that is both physically and legally available (OAR 340-071-0160 (4)(f)). The sanitary sewer system located to the east of the property is within 300-feet of the property and staff is unaware of any physical constraints that would preclude extension of sanitary sewer to the property. Therefore, it appears that sanitary sewer is physically available. However, it is unclear if the sanitary sewer is legally available.

Notwithstanding, in the event that the septic system was not failing, under the County development regulations, an approved temporary health hardship manufactured dwelling could be served by the system – if the existing system had the capacity to adequately accommodate the temporary manufactured dwelling.

WASHINGTON COUNTY

Inter-Department Correspondence

December 5, 2006

TO: Recording Division

FROM: Barbara Hejtmanek

SUBJECT: **MINUTE ORDER 06-387
CONSIDER THE ANNEXATION OF PROPERTY
ENCOMPASSING APPROXIMATELY 1.24 ACRES
TO CLEAN WATER SERVICES DISTRICT (WA-4106)**

At its regular meeting on December 5, 2006, the Board continued this item to January 9, 2007.

APPROVED WASHINGTON COUNTY
BOARD OF COMMISSIONERS

MINUTE ORDER # 06-387

DATE 12-5-06

BY Barbara Hejtmanek
CLERK OF THE BOARD

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Department of Land Use & Transportation (CPO 14)

Agenda Title: **CONSIDER THE ANNEXATION OF PROPERTY
ENCOMPASSING APPROXIMATELY 1.24 ACRES TO CLEAN
WATER SERVICES DISTRICT (WA-4106)**

Presented by: Brent Curtis, Planning Division Manager

SUMMARY:

The County has received a request to annex two parcels to the Clean Water Services District (District). The property constitutes an island of unincorporated Washington County land surrounded by the City of Banks. The property is also within the city's urban planning area. The property (designated FD-10) is located on the west side of South Main Street across from NW Trellis Way and is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.

In order for the property to receive the necessary sanitary and storm sewer service from the District, it must be annexed to the District. However, the Board's current direction is that properties, such as the subject property, annex into cities prior to annexing into a service district. Consequently, staff is recommending that the requested service district annexation be denied until such time as the property is annexed into the City of Banks.

Notice of today's hearing has been made in accordance with the state law requirements. The staff report (File Number: WA-4106) will be provided to you under separate cover and will also be available at the clerk's desk. Staff will be available to answer any questions. A Resolution and Order denying the annexation is attached to the agenda.

Attachments: Resolution and Order which includes:

1. Findings (Exhibit A)
2. Site Map (Exhibit B)
3. Legal Description (Exhibit C)

DEPARTMENT'S REQUESTED ACTION:

Hold a public hearing to consider the annexation of this property into the Clean Water Services District. Adopt a Resolution and Order denying the annexation.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

Agenda Item No. 4.a.

Date: 12/5/06

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3 IN THE BOARD OF COUNTY COMMISSIONERS
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5 FOR WASHINGTON COUNTY, OREGON
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8 In the Matter of Denying Boundary) RESOLUTION AND ORDER
9 Change Proposal No. WA-4106) No. _____
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13 The above-entitled matter (WA-4106) came before the Board at its
14 regular meeting on December 5, 2006; and

15 It appearing to the Board that this proposal involves the annexation of
16 an island of unincorporated Washington County land (designated FD-10)
17 surrounded by the City of Banks to the Clean Water Services District; and

18 It appearing to the Board that the property is also within the City of
19 Bank's urban planning area, located on the west side of South Main Street
20 across from NW Trellis Way, and further identified as tax map and lot
21 numbers 2N4 36 / 1001 and 1002; and

22 It appearing to the Board that WA-4106 was initiated by a consent
23 petition of all property owners and meets the requirement for initiation set forth
24 in ORS 198.855 (3) and ORS 198.750; and

25 It appearing to the Board that the Board is charged with deciding
26 petitions for boundary changes pursuant to ORS Chapter 198; and

27 It appearing to the Board that notice of the meeting was provided
28 pursuant to ORS 198.730 and ORS 197.763; and

29 It appearing to the Board that County staff have reviewed the proposed
30 boundary change and determined that it complies with the applicable
31 procedural and substantive standards. However, the proposed boundary
32 change is not consistent with the Board's current direction that properties,

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such as the subject property, should annex into cities prior to annexing into a service district. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks; and

It appearing to the Board that the Board has reviewed whatever written and oral testimony has been provided regarding this proposal; now, therefore it is

RESOLVED AND ORDERED that Boundary Change Proposal No. WA-4106, as described in the staff report, is hereby denied, based on the analysis, findings and conclusions set forth in Exhibit A, incorporated herein by reference.

DATED this 5th day of December, 2006.

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

CHAIRMAN

RECORDING SECRETARY

Date Signed: _____

Approved as to form:

Assistant County Counsel for
Washington County, Oregon

FINDINGS

Based on the study and the public hearing, the Board of County Commissioners (Board) finds:

1. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition). At the time of writing, a necessary party is not contesting this boundary change.
2. The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.
3. The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property). Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).
4. Oregon Revised Statute 198.852 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. The criteria in the Metro Code do not apply outside Metro's jurisdictional boundary.
5. The property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined. Policy 14 of the Comprehensive Framework Plan for the Urban Area addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

6. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.
7. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.
8. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
9. The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Consequently, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.
10. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.
11. The City of Banks currently provides domestic water service to the property.
12. Banks Rural Fire Protection District is the current provider of emergency protection to the property. The City of Banks is also served by the Banks Rural Fire Protection District.
13. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary).
14. Access to this property is from South Main Street.
15. Clean Water Services has responsibility for surface water management within urban Washington

County.

16. The property is not located within the Washington County Service District for Urban Road Maintenance (URMD), which provides financing for maintenance of local streets.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Commission concludes:

1. ORS 198 call for consistency between the Board decision and any *"specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ."* The Board has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan. Policy 14 of the Comprehensive Framework Plan for the Urban Area does however address the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, **sanitary sewers**, fire protection, **storm drainage** and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.
2. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks). The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.
3. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

EXHIBIT B

WA-4106

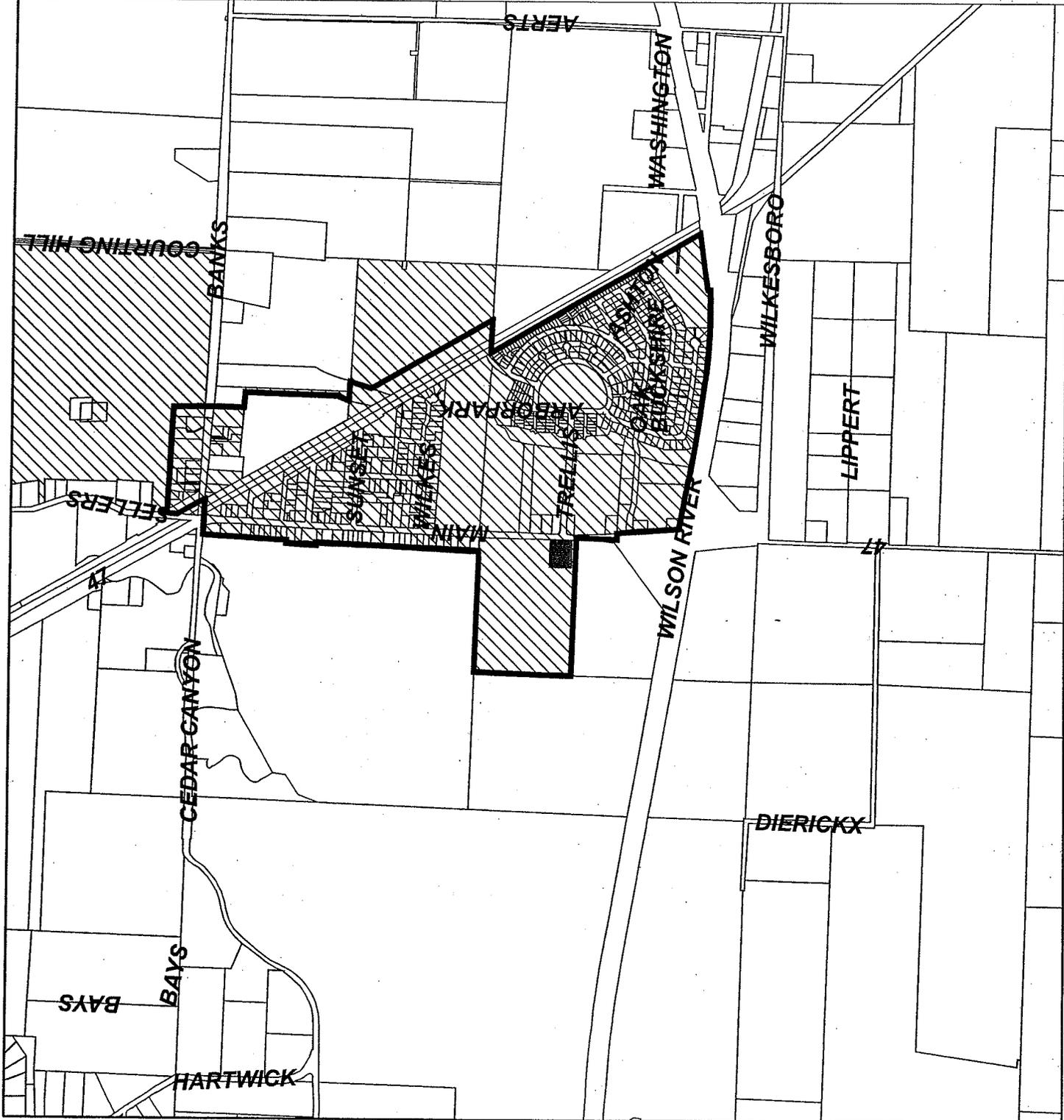
Annexation to
Clean Water Services
(CWS)

Subject Taxlots

CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.



The South one-half of the following described real property, in the City of Banks, County of Washington and State of Oregon:

Beginning at a point on the West line of the Southwest one-quarter of Section 31, Township 2 North, Range 3 West of the Willamette Meridian, this point being 469.0 feet South of the Northwest corner of said one-quarter section, and from which point an iron pipe bears East 30.0 feet; from this point of beginning run South along the section line a distance of 208.7 feet; thence East at an angle of 90° to the section line a distance of 208.7 feet; thence North a distance of 208.7 feet; thence West a distance of 208.7 feet to the place of beginning.

**CLEAN WATER SERVICES DISTRICT
ANNEXATION**

Boundary Change Proposal No. WA-4106

Staff Report

**For the December 5, 2006
Board of Commissioners' Hearing**



WASHINGTON COUNTY OREGON

November 21, 2006

To: Board of County Commissioners
From: Brent Curtis, Planning Manager *BC*
Subject: **MINOR BOUNDARY CHANGE PROPOSAL NO. WA-4106 - ANNEXATION
TO THE CLEAN WATER SERVICES DISTRICT**

STAFF REPORT
For the December 5, 2006 Board of Commissioners Hearing
(The public hearing will begin no sooner than 10:00 AM)

STAFF RECOMMENDATION

Based on the analysis in this staff report and in the attached Findings and Conclusions (Exhibit A), staff recommends that the Board **DENY** Minor Boundary Change WA-4106.

REQUESTED ACTION

The applicant requests that approximately 1.24 acres be annexed to the Clean Water Services District in order to facilitate the future placement of a temporary manufactured dwelling unit on the property.

Petitioners/Applicant: Greg Walters

Applicant's Representative: Ireland at Law / Contact: Robert Ireland

ENDORSEMENTS

The District must endorse the proposed annexation to its boundary as required by statute. The Board of County Commissioners (Board) will consider this request as the Board of Directors of Clean Water Services District prior to the scheduled public hearing on the proposed minor boundary change.

CITIZEN PARTICIPATION

Notice of this hearing inviting testimony from interested parties was provided as required by statute. Notice consisted of: 1) Posting notices near the property and in the Public Services Building at least 40 days prior to the hearing; 2) Publishing notice twice in The Argus; 3) Mailing notices to all property owners within 100 feet of the area to be annexed and to the CPO in which the property is located (CPO 14). At time of writing, no comments were received.

FINANCIAL IMPACT

There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

LEGAL ISSUES

The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).

The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.

BACKGROUND

Proposal No. WA-4106 was initiated by a consent petition of the property owner. In fact, the petition was signed by 100-percent of the property owners. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition).

The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002 (see Exhibit B).

REASON FOR ANNEXATION

The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property).

Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and

is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).

CRITERIA

Oregon Revised Statute 198.852 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 (see findings under *County Planning* below). The criteria in the Metro Code (Section 3.09.050) do not apply outside of the jurisdictional boundary of Metro.

LAND USE PLANNING

SITE CHARACTERISTICS

The property encompasses 1.24 acres. Tax lot 1002 is an interior lot, while tax lot 1001 maintains street frontage along South Main Street in unincorporated Washington County and within the City of Banks urban planning area. The property is generally level. As stated previously, an existing detached single family residence is located on tax lot 1001. There are no known significant natural or historical resources present on the property.

REGIONAL PLANNING

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

COUNTY PLANNING

The property consists of two separate tax lots located in unincorporated Washington County and within the urban planning area for the City of Banks. In fact, the property is surrounded by land within the city limits of Banks. Consequently, the property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined.

Policy 14 of the Comprehensive Framework Plan for the Urban Area addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of

services to be provided by the service districts.

As stated previously, however, the Board's direction is that properties desiring annexation into a service district first annex into a city. The property has not yet been annexed into the City of Banks. Therefore, the proposed minor boundary change should be denied until such time as the property is annexed into the city.

URBAN PLANNING AREA AGREEMENTS (UPAA)

The property is within Banks urban planning area identified in the Banks Urban Planning Area Agreement. The Banks-Washington County UPAA does not contain any provisions directly addressing service district annexations, such as being proposed by the applicant.

FACILITIES AND SERVICES

ORS 195 Urban Service Agreements. ORS 195 requires agreements between providers of urban services, such as sanitary sewers, water, fire protection, parks, open space, recreation and streets. 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 development of these agreements. This statute was enacted in 1993. Cooperative agreements and urban service agreements are ORS 195 agreements. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.

Sewer. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.

Water. The City of Banks currently provides domestic water service to the property. Annexation to the District would not affect that fact.

Fire. Banks Rural Fire Protection District is the current provider of emergency protection to the property. Annexation to the District would not affect that fact.

Police. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary). Annexation to the District would not affect that fact.

Transportation. Annexation to the District will not affect transportation through the City of Banks or unincorporated Washington County.

Schools. The property is located within the Banks School District #13. Annexation to the District would not affect that fact.

FINDINGS

Based on the study and the public hearing, the Board of County Commissioners (Board) finds:

1. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law) and ORS 198.750 (section of statute which specifies contents of petition). At the time of writing, a necessary party is not contesting this boundary change.
2. The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres. The property is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. In fact, the property is surrounded by lands within the city limits of Banks. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002.
3. The property currently supports an existing detached single family residence, which is served by a private septic system. According to the application, the existing septic system is not working properly. The applicant proposes to apply to the County for approval to site a manufactured dwelling on the property (as a temporary use). Manufactured dwellings are permitted in the FD-10 District as a temporary use subject to the Type II Procedure and the special use standards of CDC Section 430-135.2 A. At time of writing the applicant has not filed a Type II land use application with the County for temporary approval of a manufactured dwelling (on the property). Notwithstanding, the property is located within 100-feet of existing sanitary sewer facilities and is required pursuant to CDC Section 501-8 to hook up to the existing system in order to serve the temporary manufactured dwelling – should the application be filed and subsequently approved. However, in order to connect to the existing sanitary sewer line, the property must first be brought into the Clean Water Services District (District).
4. Oregon Revised Statute 198.852 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. The criteria in the Metro Code do not apply outside Metro's jurisdictional boundary.
5. The property is subject to the County's Comprehensive Plan until it is annexed into the City of Banks. The Comprehensive Plan is made up of the following documents: the Resource Document, the Comprehensive Framework Plan for the Urban Area, the Rural / Natural Resource Plan, the Community Development Code, the Transportation Plan, the Community Plans and Background Documents, and the Unified Capital Improvements Program. The individual elements of the Comprehensive Plan were examined. Policy 14 of the Comprehensive Framework Plan for the Urban Area addresses the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, sanitary sewers, fire protection, storm drainage and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.

6. A cooperative agreement for sanitary sewer service provision by the District with cities, including the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Hillsboro, King City, Sherwood, Tigard, and Tualatin and Washington County has been adopted. The District would be the provider of sanitary as well as storm sewer service to the property, as they provide sanitary and storm sewer service to other urban lands within the City of Banks. However, an urban service agreement that addresses the District's designated long-term service area has not been adopted for this area.
7. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.
8. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks).
9. The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Consequently, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.
10. The property is currently served by a private septic system. A public sanitary sewer line is in place to the east (across South Main Street) of the property (tax lot 1001). The District provides sewage treatment and transmission of effluent to the regional treatment plant through major trunks and interceptors. Annexation into the District must occur in order for sanitary sewer service to be extended to the property.
11. The City of Banks currently provides domestic water service to the property.
12. Banks Rural Fire Protection District is the current provider of emergency protection to the property. The City of Banks is also served by the Banks Rural Fire Protection District.
13. The Washington County Sheriff's office serves the property and also the City of Banks. However, the property is not located within the Enhanced Sheriff Patrol District (ESPD), which provides an augmented level of service, which would approach the recommended minimum level of service of approximately one sworn officer per one thousand population. ESPD provides services for Washington County residents living in the unincorporated area, outside city limits, but within the County's adopted Urban Growth Boundary (Banks maintains its own urban growth boundary).
14. Access to this property is from South Main Street.

15. Clean Water Services has responsibility for surface water management within urban Washington County.
16. The property is not located within the Washington County Service District for Urban Road Maintenance (URMD), which provides financing for maintenance of local streets.

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, the Commission concludes:

1. ORS 198 call for consistency between the Board decision and any *"specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans . . ."* The Board has reviewed the applicable comprehensive plan which is the Washington County Comprehensive Plan. Policy 14 of the Comprehensive Framework Plan for the Urban Area does however address the issue of sanitary sewer service but not in the context of minor boundary changes. Policy 14 identifies sanitary sewer service as a critical service. Policy 14 also requires that urban development be provided with adequate level of critical services (i.e., public water, **sanitary sewers**, fire protection, **storm drainage** and access). The County's growth management policies require that urban development be accompanied by adequate level of services. To wit, all urban development applications that are subject to Article V, Public Facilities and Services, of the Community Development Code are required to submit an adequate service provider from the governing provider of critical services. Policy 14 further states that the standards developed by the respective service districts will be the measurement of adequate (i.e., acceptable) level of services to be provided by the service districts.
2. The property is completely surrounded by lands within the city limit of Banks and as a result the city provides many of the critical facilities and services to the property, such as water and fire. The County, however, provides essential services, such as police protection, to the property because the property is an unincorporated island of County land (and not within the city limits of Banks). The extension of County services, such as police protection, to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services. Consequently, the Board's direction is that property, such as the subject property, annex into cities prior to annexing into a service district. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property.
3. There are no known financial impacts associated with this minor boundary change and the extension of sanitary sewer service that would occur if the request were approved. Costs for extending the sanitary and storm sewer service to the property will be borne by the applicant.

EXHIBIT B

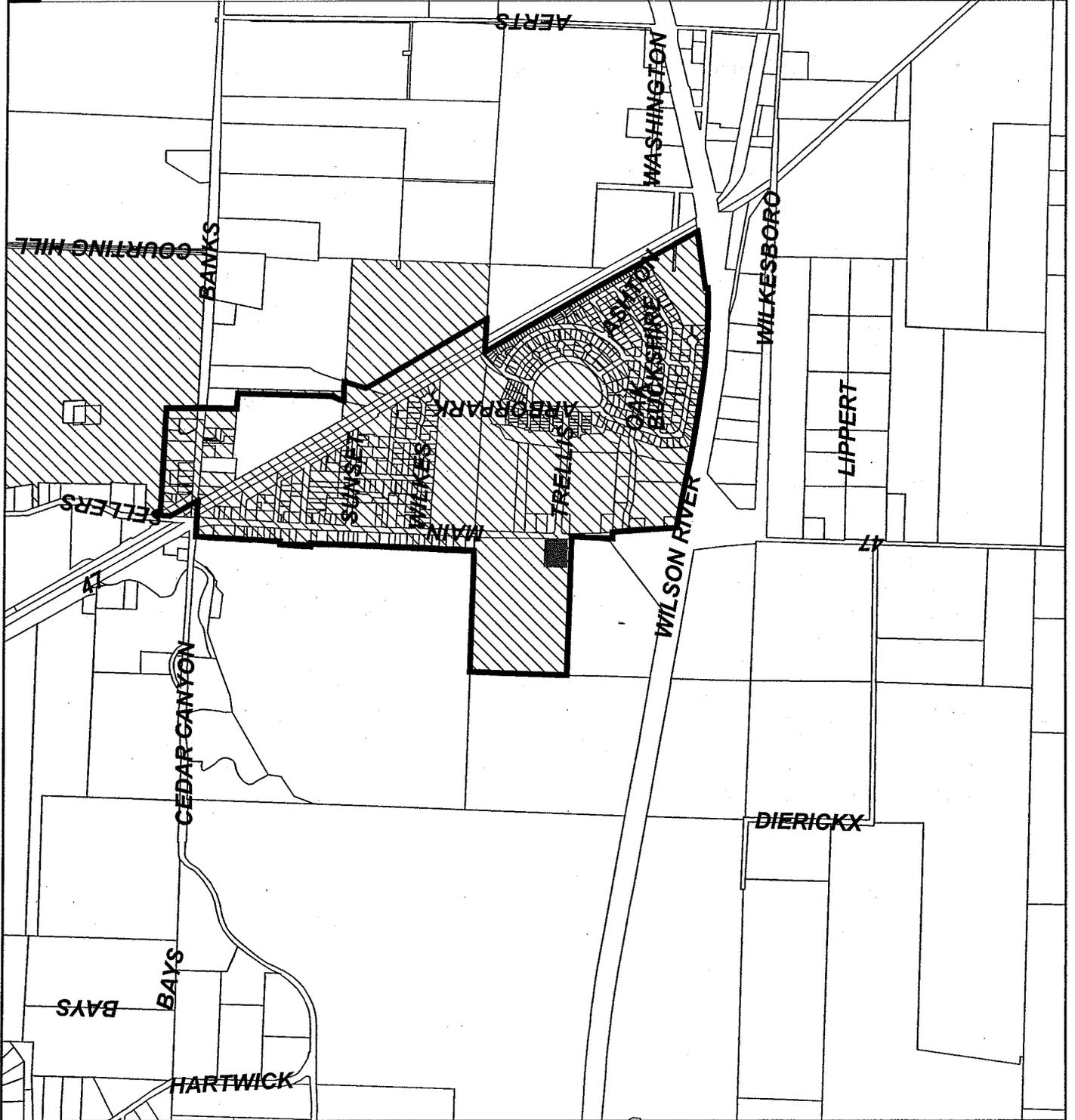
WA-4106

Annexation to
Clean Water Services
(CWS)

Subject Taxlots
CWS



This map was derived from several databases. The County cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, notification of errors would be appreciated.





November 29, 2006

To: Board of County Commissioners

From: Brent Curtis, Planning Manager *BC*
Department of Land Use & Transportation

Subject: **MINOR BOUNDARY CHANGE PROPOSAL NO. WA-4106 – ANNEXATION TO
THE CLEAN WATER SERVICES DISTRICT**

**ADDENDUM STAFF REPORT
For the December 5, 2006 Board of Commissioners Hearing**

I. STAFF RECOMMENDATION

Conduct the public hearing for Minor Boundary Change WA-4106. After taking testimony, close the public hearing and DENY Minor Boundary Change WA-4106.

II. REQUESTED ACTION

The applicant requests that approximately 1.24 acres be annexed to the Clean Water Services District in order to facilitate the future placement of a temporary manufactured dwelling unit on the property.

Property Location: The property to be annexed consists of two parcels designated FD-10 that encompass approximately 1.24 acres and is located on the west side of South Main Street in unincorporated Washington County and within the City of Banks urban planning area. The property is further identified as tax map and lot numbers 2N4 36 / 1001 and 1002 (see Exhibit B).

III. BACKGROUND

As stated in the staff report dated November 21, 2006, the proposed minor boundary change is subject to the County's Comprehensive Plan (Plan). Upon a review of the *Comprehensive Framework Plan for the Urban Area* (CFP) Element of the Plan, staff identified Policy 14, Managing Growth, as being applicable to the request. Staff determined that the proposed minor boundary change is consistent with Policy 14 of the Plan.

However, staff noted that the proposed minor boundary change is not consistent with the Board's direction that properties desiring annexation into a service district first annex into a city. The property has not yet been annexed into the City of Banks. Therefore, staff recommended that the proposed minor boundary change be denied until such time as the property is annexed into the city.

IV. COMPREHENSIVE PLAN REQUIREMENTS

In addition, to Policy 14 of the CFP, the proposed minor boundary change is also subject to Policy 15, Roles and Responsibilities for Serving Growth. Findings addressing Policy 15 were not provided in the original staff report, but are provided below in support of staff's recommendation. Policy 15 reads as follows:

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

The extension of County services to unincorporated islands within city boundaries does not constitute an efficient and economical provision of County services and therefore is not consistent with Policy 15. Consequently, the Board's direction that property, such as the subject property, annex into cities prior to annexing into a service district is consistent with Policy 15. Annexation of the property into the city will ensure a consolidated, efficient and economical provision of urban services, including sanitary sewer, to the property. Therefore, the requested service district annexation should be denied until such time as the property is annexed into the City of Banks.

It is important to note that Policy 15 implements Goal 11 (Public Facilities and Services) of the Statewide Planning Goals. Under Goal 11, local governments are *"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

V. CONCLUSION

Staff recommendation for denial is consistent with Policy 15 of the County's adopted and acknowledged CFP. Therefore, staff recommends that the Board deny proposed minor boundary change WA-4106.

EXHIBIT B

WA-4106

Annexation to
Clean Water Services
(CWS)

Subject Taxlots

CWS



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