

CITY COMMISSION FINDINGS IN SUPPORT OF ORDINANCE 17- 1004

FILE NO.: AN-16-0003

DATE: March 8, 2017

APPLICATION TYPE: Annexation of Oregon City Golf Course

HEARING DATES: City Commission Approval: March 15, 2017
Continued from February 1st, 2017, November 16th, 2016
Planning Commission Approval: January 9th, 2017
Continued from October 24th, November 14th, 2016

APPLICANT: Brownstone Development, Inc., 47 South State St, Lake Oswego, OR 97934

OWNER(s): Herberger Fam Ltd Ptnrshp

REPRESENTATIVE: Tim Ramis, Jordan Ramis PC, 2 Centerpointe, 6th Floor, Lake Oswego OR 97035

REQUEST: Annexation of north portion of Oregon City Golf Course (63.82 acres) into Oregon City. The site is within the Oregon City Urban Growth Boundary and has a city Comprehensive Plan designation of FU - Future Urban, but that designation is not acknowledged. The property is within the area of the Beavercreek Road Concept Plan. No zone change is proposed at this time, and no changes in use are proposed or will be authorized by this application.

PLANNING COMMISSION RECOMMENDATION: On January 9th, 2017, the Planning Commission voted 3-2 to recommend approval of AN-16-0003 to the City Commission with the revisions to the Staff Report noted in the record. The Planning Commission also recommended that the City Commission consider the on-going litigation relating to SB 1573 in light of the City's Charter limitations, as part of its review.

LOCATION: No Situs Address, APN 3-2E-10D -03500 (63.82 ac)

STAFF REVIEWERS: Pete Walter, AICP, Planner

COMPREHENSIVE PLAN DESIGNATION: FU - Future Urban

CURRENT ZONING: Clackamas County TBR (Timber District)

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I. INTRODUCTION

GENERAL INFORMATION

This annexation was initiated by consent petitions of owners of 100% of the acreage (63.82 acres), 100% of the owners, and owners of 100% of the total assessed value of the annexing area (\$1,181,304.00). The petitions meet the requirement for initiation set forth in ORS 222.170 (2) (triple majority annexation law) and Metro Code 3.09.040 (a) (Metro's minimum requirements for a petition), as described in detail below.

Assessor Values List Report

APN	Addresses	Taxpayer	Zone	Acres	Land Mkt Value	Bldg Mkt Value	Net Mkt Value	Assessed Value	System Date
3-2E-10D003500	20124 S BEAVERCREEK RD	HERBERGER FAM LTD PTNRSHIP	County	63.82	\$1,236,571	\$0	\$1,236,571	\$1,181,304	1/15/15

The Planning Commission recommended that the City Commission consider the on-going litigation relating to SB 1573 in light of the City's Charter limitations, as part of its review. The City Commission reviewed the on-going litigation and the city attorney memorandum dated January 25, 2017 regarding same, which presented two options. The City Commission concludes that the best option is to follow SB 1573.

SUMMARY OF PROPOSAL

Brownstone Development, Inc. (applicant) and the property owners (petitioners) request annexation of four tax lots located on or near S. Beaver Creek Road. The subject properties are within the Beaver Creek Road Concept Plan (Concept Plan) area and Oregon City's urban growth boundary (UGB). No development or City zoning or Comprehensive Plan designation is being proposed concurrent with this annexation request. The annexation area is under private ownership while the adjacent right-of-way is under the ownership of Clackamas County.

There is not a proposal to develop this site at the present time. Until issues regarding transportation planning impacting the Hwy. 213 corridor are resolved through adoption of a refinement plan, which may include the adoption of alternative mobility standards, the City is unable to allow development that would substantially increase traffic on Hwy. 213. For this reason, the proposed annexation will bring the subject property into the city limits, but will leave the property with Clackamas County's Timber (TBR) zoning, which is a resource zone district that allows continued golf course use of the property. At such time as the traffic issues are resolved, a separate application to rezone the properties to an appropriate Oregon City residential and mixed use zoning will be filed. Zoning regulations to implement the Beaver Creek Road Concept Plan have not been developed at this time.

EXISTING CONDITIONS

The site is located in southeast Oregon City, on the east side of S. Beaver Creek Road in the southern portion of the Concept Plan area, and is 63.82 acres currently zoned TBR by Clackamas County. The site is occupied by the Oregon City Golf Club. The eastern edge of the proposed annexation area is within a natural resource area associated near Thimble Creek and is undeveloped. Aside from the

east edge, the topography is relatively flat, with slopes ranging from 1% to 8%.

Uses surrounding the site are described below.

North: Land uses to the north include a natural resource area associated with Thimble Creek and, further north, some low-density residential development. Although properties to the north are inside the city limits, no city plan or zoning designations have been applied to those properties. The area is zoned Timber (TBR) and Rural Residential Farm Forest (RRFF) by Clackamas County.

East: Land uses to the east include natural resource areas around Thimble Creek and, at the southeast corner, a residential subdivision. Lands to the east are zoned TBR, RRFF and Rural Residential 2- Acres (RA-2) by Clackamas County.

South: To the south, land is zoned FU-10 and RA-2 by Clackamas County and is comprised of the south portion of the golf course and then single-family homes.

West: Land to the west and north of the site is zoned RRFF and FU-10 and is largely undeveloped. There are two single-family homes and a private airport with associated runway strip and buildings. Land to the west and south of the site, across S. Beaver Creek Road, is developed with a residential subdivision.

Access to the site is from S. Beaver Creek Road via a private driveway that connects to the two homes and the golf club.

SITE HISTORY AND BEAVERCREEK ROAD CONCEPT PLAN

The proposed annexation site has long been planned for urban levels of development. The site was brought into the UGB in 2004. The entire site has been designated FU-Future Urban on the City's comprehensive plan map since 2006 although that map has not been acknowledged.

In 2007, the city began the concept planning effort for the Beaver Creek area; which resulted in adoption of the Beaver Creek Road Concept Plan (Concept Plan) in September 2008. Although approved by the City Commission in 2008 and accepted by Metro, the decision to adopt the Concept Plan was appealed to the Land Use Board of Appeals (LUBA), which remanded the decision back to the city to address industrial land designations not related to the proposed annexation site.

The adoption of the Concept Plan in 2007 was preceded by an annexation application for the Golf Course (AN-07-02). AN-07-02 was approved by the City Commission and later rejected by the voters.

After resolution of the industrial land issue, which was the basis for LUBA's decision, the City Commission unanimously re-adopted the Concept Plan in March 2016. LUBA affirmed that decision (LUBA #2016-044), and the petitioners appealed to the Court of Appeals, where it is currently pending.

II. APPLICABLE REGULATIONS AND APPROVAL CRITERIA

This section addresses the applicable regulations and criteria and finds that these standards are satisfied. The findings are based largely on the City's adopted and acknowledged infrastructure master plans, the Urban Growth Management Agreement, the comprehensive plan and map, and the Metro Functional Plan, all of which have designated this area for annexation and urban

development. The findings are also based on the testimony and evidence provided by project supporters, including a former mayor, who participated in the drafting and administration of a number of these plans and agreements and therefore, is well qualified to advise on how this annexation comports with them. Lastly, these findings are supported by expert testimony submitted by the applicant, which was reviewed by city staff, in support of this application.

In addition, the City Commission finds this annexation is consistent with the adopted Beavercreek Road Concept Plan under appeal. It considered the appeal and notes that LUBA upheld the city's decision (LUBA No. 2016-044, Affirmed 11/22/2016), however the petitioner appealed three issues to the Oregon Court of Appeals. The arguments presented to the Court of Appeals are not germane to the applicable annexation criteria discussed below.

Regarding stormwater, the appeal asserts the Concept Plan must satisfy the Oregon Dept. of Environmental Quality administrative rule OAR 340-041. On Metro Title 4, the appeal asserts that the Concept Plan may not rely on the revised Title 4 map of industrial lands. The appeal also challenges reliance on the acknowledged 2013 Transportation System Plan for compliance with the Transportation Planning Rule.

Finding: The City Commission reviewed these issues and the city code for annexation in OCMC 14.04. It interprets that code to mean that compliance with OAR 340-041, Metro Title 4, and the Transportation Planning Rule are not required for this annexation.

Appeal Petitioner Elizabeth Graser-Lindsey asserts that without a valid concept plan in place, the annexation criteria, which include evaluation of infrastructure, are not satisfied. The City Commission reviewed the annexation criteria, OCMC 14.04.060, and notes it requires the city to "consider" the enumerated "factors", as discussed in greater detail below.

Ms. Graser-Lindsey posits that the Metro Title 4 issue may affect future land use on the north portion (tax lot 3500) of the annexation and such an adverse decision could affect how utilities would be extended to serve this site.

Finding: The City Commission notes the annexation does not include tax lot 3500. Further, as a preliminary matter, no party has sought an order staying all further land use approvals for lands subject to BRCP and as a result, the city has an obligation to process this annexation application to a decision. Further, Metro determined that the subject land was suitable for urbanization and was suitable for residential development as part of its adoption of Ordinance No. 10-1244B, and this decision is beyond appeal. The City's existing adopted and acknowledged utility and service plans suggest that extensions necessary to serve urban-scaled development are feasible, as discussed in greater detail below. For these reasons, the Commission concludes that the applicable criteria for approving this annexation are satisfied, notwithstanding the pending appeal.

It further finds that the water, sewer and transportation master plans show that the residential uses proposed in the Concept Plan impose a greater demand on public services than industrial uses. Regarding stormwater, it finds that the Stormwater and Grading Design Standards (2015) apply to both industrial and residential lands, and that Alternatives A and D in the ECONorthwest report are adaptable to either residential or industrial. It further finds that stormwater for industrial lands is subject to more rigorous standards than residential lands, as specified in Sections 1.4.4, 5.12, 6.1.1, 6.1.4, 6.4.4, 6.5, 6.8.4, 6.9.2, 6.9.5, 6.10, 6.11 of the Stormwater and Grading Design Standards. The City Commission therefore concludes stormwater services are available and adequate for the annexation area regardless of whether the area ultimately is designated for industrial or residential

use. Lastly, the City Commission finds that because the City's decision was affirmed by LUBA, this argument is presented without probable cause to believe it is well founded in fact or in law.

The City Commission considered the testimony presented by city staff relating to the timing of annexation to other land use actions necessary before this land can be developed to urban densities and found that annexation, without any development, would not permit urban-scaled development until the necessary plans and infrastructure necessary to support development are in place. The City Commission reviewed the requirements in OCMC 14.04, and the other applicable approval criteria and found no requirement in the OCMC or the City / County UGMA that precludes annexation prior to the acknowledgement of a concept plan.

The City Commission also finds the stormwater, Title 4 and TSP issues raised in the current Concept Plan appeal are general in nature and do not explicitly pertain to the annexation criteria, and therefore finds that the ultimate resolution of the Concept Plan does not directly bear on the factors being considered in this decision. It considered Ms. Graser-Lindsey's assertion regarding a potential change in the "vision" of the Concept Plan and finds that because no development is being proposed at this time, a potential change in the vision does not justify denial of the annexation.

COMPLIANCE WITH METRO CODE 3.09 – LOCAL GOVERNMENT BOUNDARY CHANGES

Metro Code Section 3.09 establishes requirements for local government boundary changes. The criteria for a minor boundary change are found in Section 3.09.050.D and apply to this annexation, which is classified as an expedited decision pursuant to Metro code. Additional petition and notice requirements are also noted below.

3.09.030 Notice Requirements

B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.

Finding: The proposal satisfies this requirement. The City provided public notice to all property owners within 300 feet of the property on September 20, 2016. Notice was published in the Clackamas Review / Oregon City News on September 28, 2016. Notice was provided to affected agencies, utilities and affected parties, including all Oregon City Neighborhood Associations, the Hamlet of Beavercreek Community Planning Organization (CPO), the Holcomb-Outlook CPO and the Central Point / Leland Road / New Era CPO via email on September 20, 2016.

Due to a staff oversight, the Land Use Notice Sign was not posted on the property 21 days prior the public hearing. Subsequently staff requested a continuation of the publicly noticed October 24th, 2016 Public Hearing to the date certain of November 14th 2016 to allow for complete public notice.

3.09.040 Requirements for Petitions

A. A petition for a boundary change must contain the following information:

- 1. The jurisdiction of the reviewing entity to act on the petition;*

2. *A map and a legal description of the affected territory in the form prescribed by the reviewing entity;*
3. *For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and*
4. *For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.*

Finding: The proposal satisfies this requirement. Items 1-4 were submitted.

Metro Code 3.09.045(D)(1) Expedited Decisions

To approve a boundary change through an expedited process, the city shall: 1. Find that the change is consistent with expressly applicable provisions in:

- a. *Any applicable urban service agreement adopted pursuant to ORS 195.065;*

Finding: This criterion is not applicable. This criterion requires that annexations be consistent with applicable provision of annexation plans and/or agreements adopted pursuant to ORS 195. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. Because there are no applicable urban service agreements adopted for the area, this criterion is not applicable.

- b. *Any applicable annexation plan adopted pursuant to ORS 195.205;*

Finding: This criterion is not applicable. There is no annexation plan applicable to the subject site. Therefore, this criterion does not apply.

- c. *Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;*

Finding: The proposal is consistent with this requirement. The City and the County have an Urban Growth Management Agreement (UGMA) which applies to the annexing territory. The UGMA is in the record and is a part of the City's acknowledged Comprehensive Plan. If a necessary party¹ raises concerns prior to or at the City Commission's public hearing, the necessary party may appeal the annexation to the Metro Appeals Commission within 10 days of the date of the City Commission's decision. To date, no necessary party has raised concerns regarding the annexation.

The annexing territory is within the Urban Growth Management Boundary (UGMB) of Oregon City and is subject to the agreement. The County agreed to adopt the City's Comprehensive Plan designations for this area, which currently is Future Urban. When property is annexed to Oregon

¹ Pursuant to Metro Code 3.09.020 Definitions: "J. "Necessary party" means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory." To clarify further, only a necessary party under this definition may appeal the annexation to Metro, not a private individual or citizen's group.

City, it will be zoned FU-10 and TBR until new zoning is designated.

In the UGMA, the city and county anticipate that all lands within the UGMB will ultimately annex to the City. It specifies that the city is responsible for the public facilities plan required by Oregon Administrative Rule Chapter 660, division 11. The Agreement goes on to say:

- City and County Notice and Coordination

The CITY shall provide notification to the COUNTY, and an opportunity to participate, review and comment, at least 20 days prior to the first public hearing on all proposed annexations . . .

5. City Annexations

A. CITY may undertake annexations in the manner provided for by law within the UGMB. CITY annexation proposals shall include adjacent road right-of-way to properties proposed for annexation. COUNTY shall not oppose such annexations.

B. Upon annexation, CITY shall assume jurisdiction of COUNTY roads and local access roads that are within the area annexed. As a condition of jurisdiction transfer for roads not built to CITY street standards on the date of the final decision on the annexation, COUNTY agrees to pay to CITY a sum of money equal to the cost of a two-inch asphaltic concrete overlay over the width of the then-existing pavement; however, if the width of pavement is less than 20 feet, the sum shall be calculated for an overlay 20 feet wide. The cost of asphaltic concrete overlay to be used in the calculation shall be the average of the most current asphaltic concrete overlay projects performed by each of CITY and COUNTY. Arterial roads will be considered for transfer on a case- by-case basis. Terms of transfer for arterial roads will be negotiated and agreed to by both jurisdictions.

The required notice was provided to Clackamas County at least 20 days before the Planning Commission hearing. The UGMA requires that adjacent road rights-of-way be included within annexations. The Beaver Creek Road right-of-way adjacent to the subject site is included in the initial legal description provided with this application. Since Beaver Creek Road is an arterial, transfer of jurisdiction to the city is subject to negotiation. The County consents to the annexation of the Beaver Creek Road Right-of-Way and has signed the Petition and Land Use application, but the transfer in ownership of the roadway is not proposed with this application.

Beaver Creek Road is included in the final legal description for annexation.

d. Public sewer and water shall be provided to lands within the UGMB in the manner provided in the public facility plan . . .

Finding: The proposal is consistent with these requirements.

The water and sewer master plans detail the extension of public water and sewer to the annexing properties, in Figure 5-4 of the Sanitary Sewer Master Plan and Figure ES-2 of the Water Master Plan.

e. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Finding: The proposal is consistent with these requirements. The proposed annexation is consistent with all adopted and acknowledged public facility plans, as described below.

Water: The city's 2012 *Water Distribution System Master Plan* identifies recommended improvements intended to serve the proposed annexation area and other nearby properties. Those projects include:

- Pipeline project no. F-CIP-4 – New 8-inch and 12-inch pipelines (total of 5,875 feet in length) that connects to the existing system along S. Beaver Creek Road and travel north through the proposed annexation area. The project description states it is “intended to supply future growth in the area and will likely be developer driven.” Total estimated cost is \$1,133,720.
- Pipeline project no. F-CIP-14 – A new 2 MG water storage facility and 10,750 feet of 16-inch pipeline extending from the storage facility on S. Wilson Road to the Fairway Downs Pump Station along S. Beaver Creek Road. This project is intended to create storage for a newly created pressure zone in the Fairway Downs areas. A siting study will be required prior to design. Total estimated cost is \$5,687,500.

More recently (May 2016), the city has provided an updated assessment of future water facilities to serve the annexing properties and the broader Concept Plan area. To serve areas above a ground elevation of 480 feet, which includes the subject annexation site, the city has identified the following future facilities: a reservoir, pump station, transmission main and main extensions to serve the Fairway Downs Pressure Zone. The city anticipates that a phasing plan for construction of these water facilities will be completed in the next two years (2016 – 2017).

Finding: The City Commission finds the annexing properties are subject to the acknowledged water master plan; that the plan demonstrates pipeline extensions and facilities to serve this area; that the applicant's testimony supports the master plan; and that these items are substantial evidence that the annexation is consistent with the water master plan.

Sewer: The acknowledged *Oregon City Sanitary Sewer Master Plan* (2014) (DLCD File #005-14) describes improvements intended to accommodate future demand in the proposed annexation area and nearby properties including Figure 5-4, Beaver Creek Road Concept Area Improvements. Those improvements consist of gravity sewer extensions throughout the annexation area connecting to an existing line in S. Beaver Creek Road, or alternatively connecting to an existing line in Glen Oak Road, as described in Appendix I – Glen Oak Road Analysis. The applicant's testimony evidences their intention to develop the property consistent with the sewer master plan.

Finding: The City Commission finds the annexing properties are subject to the acknowledged sewer master plan; that the plan demonstrates two feasible options for extending sanitary sewer to the site; that the applicant's testimony supports the master plan; and that these items are substantial evidence that the annexation is consistent with the sewer master plan.

Transportation: The acknowledged TSP (DLCD File #001-13) identifies the following planned improvements near the annexing area:

- Project D39 – A new roundabout at the intersection of S. Beaver Creek Road and Glen Oak Road.
- Project D47 – Extension of Meyers Road (planned minor arterial) through the Beaver Creek area, north of the proposed annexation site.
- Project D55 – Extension of Glen Oak Road through the annexation area from Beaver Creek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section, which

has three travel lanes, sidewalk/landscape strip on both sides, on-street parking and a 6-foot bike lane.

- Project D56 – New east-west collector (Timbersky Way extension) connecting Beaver Creek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section.
- Project D59 – New north-south collector (Holly Lane extension) through the annexation area, parallel to S. Beaver Creek Road. Street will be built to the Mixed-Use Collector cross section, which has three travel lanes, 10.5-foot sidewalks with tree wells on both sides, on-street parking and a 6-foot bike lane.
- Project D60 – new north-south collector (Meadow Lane extension) through the annexation area. Street will be built to the Mixed-Use Collector cross section.
- Project D82 – Planned street upgrade to S. Beaver Creek Road from Meyers Road south to the edge of the UGB. Beaver Creek will be improved to the Residential Major Arterial cross-section, which has five travel lanes, sidewalk/landscape strip on both sides, on-street parking, a median and a 6-foot bike lane. With the exception of the roundabout in Project D39, all improvements are designated as Likely to be Funded System Projects. The TSP also identifies a shared-use path extending throughout the annexation area and generally following the collector street alignments. That project is considered a Not Likely to be Funded System Project but it could be provided as development occurs.

The acknowledged TSP also identifies a new city street grid through the annexing properties, as shown on Figure 2, Planned Street Extensions; Figure 8, Multimodal Street System; Figure 10, Multimodal Connectivity Plan; Figure 16, Planned Intersection and Street Management Solutions; and Figure 17, Planned Street Extensions.

Finding: The City Commission finds that the annexing properties are subject to these elements of the acknowledged TSP. It also finds the applicant's testimony in support thereof is substantial evidence that the annexation is consistent with the TSP.

Stormwater: The City adopted a new Stormwater and Grading Design Standard Manual in 2015 with and Low Impact Development (LID) standards. When development is proposed for the subject site, the owner will be required to design a stormwater drainage plan that is consistent with these standards.

Police, Emergency and Fire Protection: The area to be annexed lies within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The combination of the county-wide service and the service provided through the Enhanced Law Enforcement CSD results in a total level of service of approximately 1 officer per 1000 population. According to ORS 222.120(5) the City may provide in its approval ordinance for the automatic withdrawal of the territory from the District upon annexation to the City. If the territory were withdrawn from the District, the District's levy would no longer apply to the property.

Upon annexation, the Oregon City Police Department will serve the subject site. Oregon City fields approximately 1.41 officers per 1,000 people. The Police Department has a goal of four-minute emergency response, 7 to 9 minute actual, and twenty-minute non-emergency response times. As no zone change or additional development is proposed as part of this annexation application, this annexation will have a minimal impact on police services. The Police Department indicated in

writing their ability to serve the annexed area adequately when the BRCP was re-adopted.

The proposed annexation area is currently, and will remain, within the Clackamas Fire District #1. The Clackamas Fire District provides all fire protection for Oregon City since the entire city was annexed into their district in 2007. As no zone change or additional development is proposed as part of this annexation application, this annexation will have no impact on fire protection services. Oregon Revised Statute 222.120(5) allows the City to specify that the territory be automatically withdrawn from the District upon approval of the annexation; however, based on the November 2007 fire district annexation approval, staff recommends that the properties remain within the fire district. The Fire District indicated in writing their ability to serve the annexed area adequately when the BRCP was re-adopted. Emergency Medical Services to the area are provided through American Medical Response (AMR) through a contract with Clackamas County. Oregon City and the unincorporated areas surrounding Oregon City are all part of the AMR contract service area. Clackamas Fire District#1 provides EMS service to all areas they serve include ALS (advanced life support) staffing. This means all fire apparatus are staffing with a minimum of one firefighter/paramedic; usually there are more than one. Additionally, Clackamas Fire does provide ambulance transport when an AMR unit is not readily available. Therefore EMS services are provided from Clackamas Fire #1 with AMR being dispatched as well.

e. Any applicable comprehensive plan;

Finding: The proposal is consistent with this requirement. The annexing properties are subject to the acknowledged comprehensive plan, including the acknowledged TSP, the acknowledged utility plans, and the UGMA. The Concept Plan will ultimately be the concept plan that will guide future development in the proposed annexation area, once acknowledged by DLCD following resolution of the current appeal. The Concept Plan has been adopted by the city as an ancillary document to the Comprehensive Plan, but is not yet effective and therefore does not provide any applicable approval criteria.

The Beaver Creek Road Concept Plan will later serve as the principal guiding land use document for urbanization of the area. Development of the plan area was incorporated into the legislative review and approval of four recent major public facilities master plan updates; the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015). The applicant has not applied for a comprehensive plan amendment or zone change at this time, but has relied upon and referenced the status of the Concept Plan and acknowledges its proposed land use designations for the subject properties. In the meantime, the current adopted Oregon City Comprehensive Plan for the area is addressed below:

Clackamas County Comprehensive Plan.

Finding: The annexation area zoning designation of FU-10 and TBR is consistent with Clackamas County's Comprehensive Plan. The Clackamas County Comprehensive Plan implements the Oregon City Comprehensive Plan for lands within the Urban Growth Boundary. The plan designation for these properties on the County's Urban Area Land Use Plan the properties as Urban. According to the County's Plan,

"Urban areas include all land inside urban growth boundaries. Urban areas are either developed or planned to be developed with adequate supportive public services provided by cities or by special districts. Urban areas have concentrations of people, jobs, housing, and commercial activity."

The Land Use section of the Clackamas County Comprehensive Plan, Chapter 4, further distinguishes Urban Areas into Immediate Urban Areas and Future Urban Areas.

Immediate Urban Areas: Immediate urban areas are lands that are within urban growth boundaries, are planned and zoned for urban uses, and meet at least one of the following conditions:

1. Served by public facilities, including sanitary sewage treatment, water, storm drainage, and transportation facilities;
2. Included within boundaries of cities or within special districts capable of providing public facilities and planned to be served in the near future; or
3. Substantially developed or surrounded by development at urban densities.

The County's plan and map 4-1 identifies the territory proposed for annexation as a future urban area, which is defined as:

"Future urbanizable areas are lands within the Urban Growth Boundaries but outside Immediate Urban areas. Future Urbanizable areas are planned to be served with public sewer, but are currently lacking a provider of sewer service. Future Urbanizable areas are substantially underdeveloped and will be retained in their current use to insure future availability for urban needs.

Section 4.A of the County's Plan includes several policies that address the conversion of Future Urbanizable lands to Immediate Urban lands to "Provide for an orderly and efficient transition to urban land use." and "Encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way."

Further, County Land Use Policy 4.A.1 requires that the County "Coordinate with Metro in designating urban areas within Metro's jurisdiction. Recognize the statutory role of Metro in maintenance of and amendments to the Portland Metropolitan Urban Growth Boundary." The City Commission finds that, consistent with the UGMA, the city and county have coordinated with Metro to designate the annexing area for urban development.

4.C. the County's Future Urban Policy 4.C.1. requires that the County control premature development (before services are available) by:

4.C.1.1. Applying a future urban zone with a 10-acre minimum lot size within the Portland Metropolitan UGB except those lands identified in Subsection 7.1.b.

The site is adjacent to the city limits. As demonstrated within this report, public facilities and urban services can be orderly and economically provided to the subject site. Nothing in the County Plan speaks directly to criteria for annexation of property from the County to the City, although the Urban Growth Management Agreement (UGMA) between the City and the County does address these requirements as discussed above.

f. Any applicable concept plan; and

Finding: The proposal is consistent with this requirement. The Beaver Creek Road Concept Plan will ultimately guide future development in the proposed annexation area. The BRCP was adopted

by the City Commission in Ordinance 15-1016, which delayed its effectiveness until after the adoption of implementing zoning. As a result, it is not applicable to this annexation request. The City Commission alternatively finds that in the event the BRCP is deemed to be applicable even though it is not yet in effect, this annexation is consistent with that concept plan, for the following reasons. The BRCP proposes future urban development of the annexing area. However, urban development is prohibited so long as the annexing properties remain outside the city. Therefore annexation is a condition precedent to implementation of the Concept Plan. The annexation is consistent with the plan because the plan promotes urban development of the site.

More specifically, the Concept Plan designates three basic areas within the annexing properties. The east edge is natural area for preservation, the largest area is designated East Mixed Use Neighborhood where medium density single family residential is planned, and the west portion is designated West Mixed Use Neighborhood, for high density residential. A small commercial node is planned for the area of the existing club house. The City Commission notes the applicant has vigorously supported the Concept Plan for ten years, and finds that the Concept Plan record and the record of this proceeding are replete with testimony and other evidence of support.

The City Commission notes that Ms. Graser-Lindsey argues that the north portion of the annexing area (tax lot 3500) may ultimately be designated as industrial use, different from the Concept Plan designations.

Finding: The City Commission is however unable to discern from the argument how a potential change in the final designation compels a denial or conditioning of this annexation application. It interprets OCMC 14.04 to not require completion of the Concept Plan prior to annexation, as discussed in greater detail above.

Metro Code 3.09.045(D)(2) Expedited Decisions

Consider whether the boundary change would:

a. Promote the timely, orderly and economic provision of public facilities and services;

Finding: The proposal satisfies this requirement. The City Commission considered that the proposed annexation site is inside the UGB, contiguous with the city limits, and directly adjacent to developed areas that currently receive public facilities and services. The City Commission considered whether public facilities (water, sewer and transportation) are available near the proposed annexation site and notes the city has adopted public facilities plans that provide for the timely extension of those facilities to and through the site to accommodate development when it occurs. This development will not occur until the City adopts a refinement plan to address transportation deficiencies, implements a zoning scheme with urban densities, and utilities and services necessary to support development are in place. However, annexation is just one step in the process of urbanization. Therefore, the City Commission finds the annexation will promote the timely, orderly and economic provision of public facilities and services to the annexing properties consistent with those public facilities plans.

The City Commission also considered the testimony and evidence presented by opponents who assert that public services and facilities cannot be provided in a timely, orderly and economic manner.

Finding: On timeliness, the City Commission notes the infrastructure master plans for water,

sanitary sewer and transportation are adopted, taking into account urban, BRCP planned development and identify appropriate funding methods to ensure that they are provided in a timely way. The Commission did not receive any objections with regard to police, fire and the school district. The City Commission finds that these departments and agencies are willing to provide services promptly upon development, and that development cannot occur until transportation issues are resolved. The City Commission weighed the contrary assertions, and finds they are not supported by substantial evidence from qualified professionals, such as a police chief, a fire chief, a public works director or a licensed transportation engineer, or land use planner, whether from Oregon City, another jurisdiction or the private sector.

On orderliness, some opponents assert the boundary change should not occur until after improvements are made to Hwy 213 to address safety and capacity deficiencies.

Finding: The City Commission considered this argument and finds that this annexation will have no impact on the orderly provision of transportation improvements because no urban-scaled development may occur until the capacity deficiencies identified in the TSP are resolved. Alternatively, the City Commission reviewed the Kittelson memo of December, 2016, and finds that the city is working to ensure development does not exceed state traffic requirements. It concludes that Transportation Planning Rule compliance and the acknowledged TSP for the annexing properties as shown in the TSP drawings in the record will ensure orderly development of transportation facilities. **Finding:** The City Commission finds that the sanitary sewer master plan prepared by Brown and Caldwell describes two alternatives for extending service to the annexing area: extending a main down Beaver Creek Road; or connecting to an existing main in Glen Oak Road and making improvements to that line; and that at least one of these options can be utilized to extend sewer service in an orderly manner. In addition, Figure 5-4 shows how sewer will be extended throughout the annexing area. The City Commission reviewed the record and finds no substantial evidence that the master plan is erroneous regarding the ability to serve the annexing area.

Finding: For water, the City Commission notes the water master plan includes detailed drawings of new pipes extending through the annexing area in Figure ES-2, and identifies the key engineering work that is required to ensure sufficient water supply and pressure in this area of the city as development occurs. The City Commission finds that this master plan and its more recent updates are substantial evidence the annexing area can be served with public water in an orderly manner. The City Commission reviewed the record and finds that it includes no substantial contrary evidence, such as a professional study by a civil engineer, and finds that the water master plan is the most persuasive evidence, and that water service can be provided in an orderly manner.

Finding: Regarding the economics, the City Commission reviewed the report from ECONorthwest, which described the financial impact of developing this area of the city. It reviewed Sections 7, H and I of the TSP, Table 5-9 of the Sanitary Sewer Master Plan, and Chapter 9 of the Water Master Plan, all of which describe financial impacts of these improvements. It also reviewed the city's SDC schedule for single family houses and townhouses, along with the estimate that the annexing area could eventually develop with 520 single family houses paying total SDCs of approximately \$13 million, and approximately 130 townhouses or condominiums paying approximately \$1.95 million, for a total of approximately \$15 million in SDC fees. The City Commission finds that ECONorthwest report and the master plans were prepared by leading professional firms on behalf of the city, and that they are substantial evidence that the services and facilities can be provided economically.

It reviewed the estimate of SDC revenues and finds it is consistent with the city's current SDC rate

schedule. It reviewed the estimated density of the annexing area which the applicant based on the Concept Plan and concludes that 650 dwellings is a reasonable estimate of future density. The City Commission reviewed the opposing testimony that the costs of extending facilities and services will be economically problematic, and finds that it is not supported by professional studies of any kind, such as a report from a municipal economist, a public works director, or a civil engineer with expertise in public infrastructure. Upon weighing the conflicting evidence, it finds that the ECONorthwest report, the financial sections of the master plans, and the SDC revenue estimate are the best evidence, and show the facilities and services can be provided economically.

b. Affect the quality and quantity of urban services; and

Finding: The proposal satisfies this requirement. The City Commission considered the quality and quantity of urban services currently provided in the southeast portion of the city and of the entire city, and how those could be affected by the annexation. In recent years the city updated its sewer, water and transportation facilities master plans, and adopted new standards for stormwater, to plan for future extension of those services into the proposed annexation area. These plans establish that utilities and services can be extended without compromising the quality and quantity of urban services provided to existing urban residents.

Finding: With regard to concerns that this annexation could impact existing water quality, as pointed out previously, this annexation will not alter the demand on existing city utilities and services in any way. No urban development is permitted as a result of this annexation.

Fire protection is provided by Clackamas Fire District #1 both inside and outside the city currently, and the fire district will continue to serve this area after annexation and has the capacity to adjust service levels as development occurs.

Parks and open spaces will be provided in accordance with the city's parks requirements, Section 5 of the Comprehensive Plan, and OCMC 17.49 will protect the riparian areas of Thimble Creek and the wooded slope leading up to the golf course, when development occurs.

Finding: The City Commission finds that the BRCP identifies a series of parks and open spaces which will provide for an interconnected system of green corridors, parks and natural areas which will be available for the use of BRCP residents when development occurs. It also notes the Concept Plan appeal does not involve parks or open space, and therefore that the plan provisions for an interconnected system of green corridors, parks, and natural areas will eventually be implemented. The Commission also finds that the maps of the Metro Goal 5 Inventory, Combined Goal 5 and Site Inventory, and Natural Resource Inventory Sites, and the applicant's geologic study of the annexing area in the record are substantial evidence that natural open spaces will be protected after annexation, and that there is no substantial contrary evidence in the record. It further finds that the Concept Plan provisions for parks will ensure the availability of public parks when the annexing properties develop.

Finding: TriMet Route 32 provides bus service on Beaver Creek Road as far south as Clackamas Community College, and development of this area will both add riders to the line, and incentivize TriMet to extend Route 32 further south. The City Commission finds that TriMet will benefit from the transit supportive density proposed for the annexing territory and that the eventual development of the area will improve transit service for existing residents and businesses.

Finding: The City Commission finds that the city and all other service providers were notified of the annexation and that none of the service providers expressed opposition to the annexation. It reviewed testimony regarding opposing views, and finds that the testimony is not supported by substantial evidence such as expert opinions from the involved agencies or other professionals with experience in providing services to growing cities. The City Commission notes that all of the major public facilities plans were recently updated, and that challenges to the ability of the city to serve the annexing territory are collateral attacks on the approved public facilities plans.

The City Commission also finds that opponents of this annexation have appealed the city's approval of other annexations on this same issue and lost at LUBA, as occurred with annexation of the adjacent property in LUBA No. 2007-171. It concludes that the opponents lack probable cause to believe their position is well-founded in law or on factually supported information.

c. Eliminate or avoid unnecessary duplication of facilities or services.

Finding: The proposal satisfies this requirement. The city notified all applicable service providers of this annexation request for their review and comment, and considered steps to prevent unnecessary duplication.

To avoid unnecessary duplication, upon annexation the properties will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement as allowed by statute since the City will provide police services upon annexation.

The City Commission finds that the property should not be withdrawn from the Clackamas Fire District #1 which provides fire service to both the subject properties and the city.

The City Commission finds that the property should be not be withdrawn from the Clackamas River Water District at this time and should remain in the District until such time as development provides city water main extensions and connections consistent with the Water Master Plan.

The City Commission reviewed the testimony of opponents and finds that it does not include substantial evidence of unnecessary duplication of services.

The Metro Code also contains a second set of ten factors that are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those ten factors are not applicable to this annexation because no necessary party has contested the proposed annexation.

SB 1573

2016 SB 1573 provides that annexation may occur without approval of the voters, notwithstanding city charter or local provisions to the contrary, where certain prerequisites are met. Although these prerequisites will be met by the time the annexation occurs, they are not approval criteria applicable to the subject annexation request. Rather, compliance with the applicable annexation criteria is a prerequisite to annexation under SB 1573, as set forth below.

Again, although not necessary to resolve the annexation application subject to review, the City Commission acknowledges the Benton County Circuit Court's decision in *City of Corvallis v. State of Oregon*, Case No 16CV17878, which held that SB 1573 did not violate local government charters or the Oregon Constitution. Therefore, the City Commission similarly concludes that compliance with SB 1573 does not violate the City Charter. Therefore, the City Commission is required by SB 1573

to annex the territory without submitting the proposal to the electors of the city if:

a. The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;

Finding: The territory is included within the City's UGB adopted by the City and Metro, as shown on the Comprehensive Plan Map and Metro Ordinance 04-1040B which are in the record.

b. The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;

Finding: The City Commission finds the annexing territory was added to the urban growth boundary by Metro Ordinance 04-1040B which is in the record, and was added to the Comprehensive Plan Map in late 2005 or early 2006 with the designation of FU – Future Urban, as shown on the list of map changes in the record. It notes that map change was not acknowledged, and that an acknowledged City Comprehensive Plan will apply to the annexing territory upon acknowledgement of that map change in a new post acknowledgement plan amendment or upon acknowledgement of the Beaver Creek Concept Plan following completion of the appeal.

c. At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and

Finding: The territory is contiguous to the city limits along the west boundary.

d. The proposal conforms to all other requirements of the city's ordinances.

Finding: As demonstrated within this report, the proposal meets all other requirements of the city's ordinances with the conditions of approval.

COMPLIANCE WITH OREGON CITY MUNICIPAL CODE Chapter 14.04

14.04.050 - Annexation Procedures

A. Application Filing Deadlines

Annexation elections shall be scheduled for March, May, September and November of each year. Each application shall first be approved by the city commission, which shall provide a valid ballot title in sufficient time for the matter to be submitted to the voters as provided by the election laws of the state of Oregon.

Finding: Not applicable. Annexation of these properties meets the requirements of SB 1573 as described in the ORS 222 section of these findings. Therefore annexation of the subject territory is not subject to an election, as per Section 2(2) of SB 1573.

B. Pre-Application Review

Prior to submitting an annexation application, the applicant shall confer in the manner provided by Section 17.50.050(A) with the representative of the planning division appointed by the city manager.

Finding: The proposal satisfies this requirement. The applicant and applicant's representative attended a pre-application review meeting with city staff on June 29, 2016. Pre-application meeting

notes are included with the application.

C. Neighborhood Contact

Prior to filing an annexation application, the applicant is encouraged to meet with the city-recognized neighborhood association or associations within which the property proposed to be annexed is located. If the city manager deems that more than one such association is affected, the applicant is encouraged to meet with each such association, as identified by the city manager. Unwillingness or unreasonable unavailability of a neighborhood association to meet shall not be deemed a negative factor in the evaluation of the annexation application.

Finding: The proposal satisfies this requirement. The applicant held a neighborhood meeting on Tuesday, June 28, 2016 at 7:00 pm to discuss the proposed annexation with surrounding neighbors. An invitation to the meeting was sent to a mailing list of approximately 2,000 households, including the Caufield Neighborhood Association mailing list and property owners surrounding the subject site. In addition to the mailing, representatives of the Caufield Neighborhood Association and the Hamlet of Beavercreek were notified about the meeting. The Hamlet of Beavercreek sent out a notice of the meeting to its members. Approximately 75 people attended the meeting. Exhibit C of the application contains a map of the mailing list and a copy of the meeting invitation that was mailed.

D. Signatures on Consent Form and Application.

The applicant shall sign the consent form and the application for annexation. If the applicant is not the owner of the property proposed for annexation, the owner shall sign the consent form and application in writing before the city manager may accept the same for review.

Finding: The proposal satisfies this requirement. The application submittal package includes the application form and consent form signed by the owners of the subject properties.

E. Contents of Application. An applicant seeking to annex land to the city shall file with the city the appropriate application form approved by the city manager. The application shall include the following:

- 1. Written consent form to the annexation signed by the requisite number of affected property owners, electors or both, provided by ORS 222, if applicable;*

Finding: The proposal satisfies this requirement. The written consent signed by the property owners or property owner representatives has been provided as part of the boundary change petition packet submitted with this application. Specifically, consistent with ORS 222.125, all of the owners of land and not less than 50 percent of the electors residing in the territory to be annexed have consented in writing to the annexation.

- 2. A legal description of the territory to be annexed, meeting the relevant requirements of the Metro Code and ORS Ch. 308. If such a description is not submitted, a boundary survey may be required. A lot and block description may be substituted for the metes and bounds description if the area is platted. If the legal description contains any deed or book and page references, legible copies of these shall be submitted with the legal description;*

Finding: The proposal satisfies this requirement. A legal description of the territory to be annexed was approved by the Clackamas County Assessor's office and was provided.

3. *A list of property owners within three hundred feet of the subject property and, if applicable, those property owners that will be "islanded" by the annexation proposal, on mailing labels acceptable to the city manager;*

Finding: The proposal satisfies this requirement. A list of property owners within 300 feet of the annexation property has been provided as part of the boundary change petition packet submitted with this application. The annexing properties comprise a complete polygon without islands of unannexed property within it, so that no property owners will be "islanded".

4. *Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined;*

Finding: The proposal satisfies this requirement. Two full quarter-section county tax assessor's maps have been provided as part of this application submittal package.

5. *A site plan, drawn to scale (not greater than one inch = fifty feet), indicating:*

a. *The location of existing structures (if any);*

b. *The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;*

c. *The location and direction of all water features on and abutting the subject property. Approximate location of areas subject to inundation, stormwater overflow or standing water. Base flood data showing elevations of all property subject to inundation in the event of one hundred year flood shall be shown;*

d. *Natural features, such as rock outcroppings, marshes or wetlands (as delineated by the Division of State Lands), wooded areas, identified habitat conservation areas, isolated preservable trees (trees with trunks over six inches in diameter—as measured four feet above ground), and significant areas of vegetation;*

e. *General land use plan indicating the types and intensities of the proposed, or potential development;*

Finding: The proposal satisfies this requirement. The required site plan is provided in Exhibit B of the application, and is drawn to scale, shows existing structures, streets and utilities, water features, and other natural features. This plan shows the golf course development which is proposed to remain until additional planning and code development is complete, at which time the property will then become eligible for urban development.

6. *If applicable, a double-majority worksheet, certification of ownership and voters. Certification of legal description and map, and boundary change data sheet on forms provided by the city.*

Finding: The proposal satisfies this requirement. The annexation petition is signed by the owners of all annexing properties, and therefore the double-majority worksheet is not applicable. See the findings under ORS Chapter 222 for additional information. The City Commission finds the application complies with all applicable annexation procedures.

OCMC 14.04.050(E)(7)(a) - (g) NARRATIVE STATEMENTS

The applicant's narrative statements respond to items (a) – (g) below as required, and findings that

follow provide substantial evidence there is a “positive balance of factors” required for approval of an annexation petition, as required under OCMC 14.04.060.

7. A narrative statement explaining the conditions surrounding the proposal and addressing the factors contained in the ordinance codified in this chapter, as relevant, including:

a. Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities;

Finding: The applicant’s statements sufficiently address this factor. At the outset, it is important to point out that the City Commission interprets Subsection (7) to require the submittal of evidence and explanation only and that these provisions are not approval criteria that must be independently satisfied in order for this annexation to be approved. Rather, Subsection (7) outlines evidence used by the Commission to determine if the annexation factors of OCMC 14.04.060 are satisfied.

The applicant narrative statements in the record show the land proposed for annexation is largely undeveloped and located within a future urban zone at the edge of urban/rural development. As such, public facilities are available near the area but will require further extension as planned by the city in its adopted capital facilities plans, as described elsewhere in this report and in further detail below. The following is a brief summary of existing facilities.

Water: Currently, there is a 16-inch public water service line available along S. Beaver Creek Road and a pump station (Fairway Downs) located near the intersection of S. Beaver Creek Road and Glen Oak Road. The city has identified several future capital improvement projects in the vicinity of the proposed annexation that are intended to serve future growth in the southeast area of the city. Sufficient capacity is demonstrated by the Water Master Plan. More detail about planned public facility improvements, specific to the approval criteria for an annexation request, is provided in subsequent sections of this narrative.

Sewer: Existing sanitary sewer service is available in the vicinity of the proposed annexation and consists of a 2,400-foot trunk sewer in S. Beaver Creek Road. The trunk sewer terminates near the Oregon City High School, approximately 0.5 miles north of the subject site. In addition, an existing sewer line in Glen Oak Road is available as an alternative location to connect to existing city sewer as described in Appendix I of the Sanitary Sewer Master Plan. The Oregon City Sanitary Sewer Master Plan (2014) identifies capacity issues and recommends future capital improvement projects to serve the Concept Plan area. More detail about planned public facility improvements, specific to the approval criteria for an annexation request, is provided in subsequent sections of this narrative.

Stormwater: The proposed annexation site slopes in several directions with two central drainages: Beaver Creek Road to the west and Thimble Creek to the east. There are no existing stormwater treatment facilities currently serving the site. Future stormwater facilities to serve anticipated development will be consistent with the city’s updated stormwater master plan and design standards and will be constructed concurrently with site development after the Concept Plan becomes effective and city zoning is applied to the annexed property.

Transportation: The available transportation network currently serving the proposed annexation area consists of Beaver Creek Road and a private driveway connecting to the Oregon City Golf Club and two residences on the property. Just north and west of the proposed annexation area is a private airport (Fairways Airport). The nearest available public transit (TriMet bus Route 32) is

located at the Clackamas County Community College transit center approximately 1.4 miles from the proposed annexation area. The Oregon City Transportation System Plan (2013) (TSP) identifies future collector streets serving the proposed annexation area consistent with the network recommended in the Concept Plan. Those collector streets are designated as “Likely to be Funded System Projects.” More detail about planned transportation improvements is provided in the applicant’s narrative and this report. Capacity is limited and is being studied in the current Hwy 213 and Beavercreek Road Refinement Plan project. That project is scheduled for completion in summer 2017, when TSP amendments will be adopted to reflect the project outcome.

Parks: There are currently no Oregon City parks in the vicinity of the proposed annexation area. The Commission notes that the nearby Oregon City High School features sports fields and other outdoor areas that are open for public use on a limited basis. The nearest city park is Hillendale Park, which is about 2.8 miles from the proposed annexation area. There is an existing community trail along Glen Oak Road, extending east from OR Highway 213. That trail currently does not connect with Beavercreek Road or the proposed annexation area. The Beavercreek Road Concept Plan has identified open space and park locations to serve the community. No specific park size, location or ownership is required to be identified at the time of annexation, however this will be required at the time an application for the development of the property is submitted.

The City Commission considered the assertions that because the Parks SDC methodology has not been revised since the adoption of the Concept Plan, the SDC is insufficient to ensure the adequate provision of parks in the annexing area.

Schools: Oregon City High School and Clackamas County Community College are both in the vicinity of the proposed annexation area. Oregon City School District received notice of the application and did not comment. The school district was involved with the initial development of the Beavercreek Road Concept Plan and also submitted testimony during the recent re-adoption process for the Concept Plan. The superintendent for Oregon City School District indicated at that time (November 17, 2015) that the district owns property adjacent to the Concept Plan and believes this is probably adequate for the near term. The District has some current capacity at the elementary school K-5 level and high school 9-12 level. The District is near capacity at the middle school 6-8 level. The School District indicated that even with existing school property adjacent to the Beavercreek Road Concept Plan, public financing support will be required to develop the additional capacity in the future. The District is embarking on a long-range facilities planning process to study existing and future capital needs.

b. Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time;

Finding: The applicant’s statements sufficiently address this factor. The applicant’s statement notes that no development is proposed at this time and that additional land use work is required following annexation before development can be approved. As discussed elsewhere in this report, all applicable public facilities and services to serve future development of the site have been or will be made available pursuant to the adopted Public Facilities plans that the City has adopted, which take future development within the Urban Growth Boundary into account based on estimates of growth capacity for the area in question. All utility and service improvements necessary to support this development, including road safety and capacity improvements or congestion limitations coming from the Highway 213 intersection related refinement plan, will be accomplished before any urban-scaled development can occur.

c. Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;

Finding: The applicant's statements sufficiently address this factor. The above item applies to development being proposed at this time and anticipates that no development may be proposed as part of an annexation application. No development is being proposed as part of this annexation application. Alternatively, the City Commission finds that the narrative statements and the evidence submitted by the representatives of the annexing properties demonstrate their intention to coordinate with the city to extend public services to the area consistent with the infrastructure master plans.

As discussed elsewhere in this report, all applicable public facilities and services to serve future development of the site have been or will be made available pursuant to the adopted public facilities plans, which take future development within the Urban Growth Boundary into account based on estimates of growth capacity for the area in question. Although not required for approval of the annexation, the City is required by law to assure that System Development Charges commensurate with the projected level of demand for public facilities are applicable and payable by new development. Development of the annexing area is addressed in the four recent major public facilities master plan updates which are part of the City's Capital Improvement Program; the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015). These facilities are mainly funded, part of the City's Capital Improvement Program, and the City is collecting System Development Charges.

d. Statement outlining method and source of financing required to provide additional facilities, if any;

Finding: The applicant's statements sufficiently address this factor. The applicant's narrative outlines the methods and sources required, including how the financing provisions in each of the City's recently adopted public facilities plans for Transportation, Sewer, and Water include a discussion of methods and sources of financing required to provide such facilities to the proposed annexation area. In addition the applicant has provided an estimate of SDC revenues. Specific funding mechanisms are not required to be identified until the time a development is proposed. Although not required for approval of the annexation, the City is required by law to assure that System Development Charges commensurate with the projected level of demand for public facilities are applicable and payable by new development. Development of the annexing area and its surrounding neighborhood was incorporated into the legislative review and approval of four recent major public facilities master plan updates which are part of the City's Capital Improvement Program; the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015). These facilities are mainly funded, part of the City's Capital Improvement Program, and the City is collecting System Development Charges that can be used for increasing capacity of public facilities in this growing area of the city.

e. Statement of overall development concept and methods by which the physical and related social environment of the site, surrounding area and community will be enhanced;

Finding: The applicant's statements sufficiently address this factor. The applicant's narrative describes how the future development of the site with mixed residential density accompanied by small scale commercial consistent with the Concept Plan will enhance this new area of the city, although no development is being proposed concurrent with this annexation application. The City

Commission believes that development of this area consistent with the BRCP plan policies will enhance the physical and social environment of the site. Annexation of this area is one step in bring the Beaver Creek Road Concept Plan to fruition. The application of urban zoning will further guide future development of the property.

Finding: The City Commission finds that the development concept is flexible and may be adapted as necessary in the event that the Concept Plan appeal results in changes to the planned land uses for the annexing area.

f. Statement of potential physical, aesthetic, and related social effects of the proposed, or potential development on the community as a whole and on the small subcommunity or neighborhood of which it will become a part; and proposed actions to mitigate such negative effects, if any;

Finding: The applicant's statements sufficiently address this factor. The applicant's narrative explains potential impacts of future development, although none is being proposed at this time. Ultimately, the proposed annexation area is anticipated to be developed as a residential mixed-use neighborhood once implementing zoning is applied to the property.

In terms of physical effects of potential development, the annexation area will eventually be developed with a mix of housing types and densities, and complementary, neighborhood-scale commercial uses. A new street network will be developed, along with trails, open spaces and parks. Public facilities will be extended to serve the site. The annexation site will be subject to existing city code requirements related to the impacts of new development, including protection of natural resources, street design, and buffering and landscaping.

Aesthetically, future development in the Beaver Creek Road area is intended to emphasize and protect existing natural resources and view corridors, and link them to green open spaces and active parks via a connected system of biking and walking trails. The east edge will remain a visually attractive natural area. Streets will be developed using green street designs with street trees, landscape strips and integrated stormwater treatment.

Socially, the proposed annexation site will ultimately be developed as a complete community that integrates a diverse mix of housing types, services, and public spaces to support the nearby employment center. Future development will provide a mix of housing types at a range of prices, with multi-modal connections within the site and to surrounding activity centers, including the Oregon City High School and Clackamas Community College. New streets and street improvements will be designed to maximize safety and convenience for all users, including pedestrians and cyclists. Natural resources at the eastern edge will be managed for optimum ecological health to help protect watersheds.

Overall, the annexation site will be developed in accordance with a carefully crafted vision identified in the Concept Plan that was the result of a vigorous public process and was adopted by the city to guide future growth in a way that will contribute to Oregon City as a whole.

Finding: The City Commission finds that any adverse effects of the future development of the annexing area will be mitigated by the application of city development regulations which are adopted to protect the health, safety and welfare of the general public.

g. Statement indicating the type and nature of any comprehensive plan text or map amendments, or zoning text or map amendments that may be required to complete the proposed development;

Finding: The applicant's statements sufficiently address this factor. The applicant's narrative explains the amendments necessary before development can commence, and the applicant is not requesting a comprehensive plan amendment or zoning for urban development. Ultimately, in order for the properties to develop, urban plan and zoning designations will need to be applied. It is anticipated that urban zoning designations consistent will be developed and applied to the site. However, until such time, existing County FU-10 and TBR zoning will continue apply.

Finding: In summary on items (a) – (g), the City Commission finds the applicant's narratives describe these annexation issues in sufficient detail. It further finds that because development is not proposed at this time, and because the Concept Plan is not eligible for implementation until after the appeal is resolved, additional detail regarding future development would be speculative and is therefore not required. The City Commission considered the requests for more detailed information in the record, and concludes that if development such as a residential subdivision was proposed concurrently with the annexation the additional information would be required; however for an annexation alone, it is not.

It reviewed the prior LUBA decision on this issue (LUBA No. 2007-171) and finds the applicant's narrative, testimony and evidence exceed the level of detail required by OCMC 14.04.050(E)(7), and are sufficiently detailed and complete to satisfy what the city views as largely submittal requirements.

OCMC 14.04.050(E)(8) *The application fee for annexations established by resolution of the city commission and any fees required by metro. In addition to the application fees, the city manager shall require a deposit, which is adequate to cover any and all costs related to the election;*

Finding: The proposal satisfies this requirement. The applicable application was paid upon application submittal.

OCMC 14.04.050(E)(8) *Paper and electronic copies of the complete application as required by the community development director.*

Finding: The proposal satisfies this requirement. Paper and electronic copies of the complete application were provided and are available to the public.

COMPLIANCE WITH OCMC 14.04.060 – ANNEXATION FACTORS

A. When reviewing a proposed annexation, the commission shall consider the following factors, as relevant:

Finding: Before moving to the various factors, the City Commission points out that an annexation is to be evaluated based on the consideration of "factors," rather than approval criteria that must be individually satisfied. As a result, the Commission considered these as factors that, when considered together on balance, favored approving this annexation request.

1. Adequacy of access to the site;

Finding: The proposal satisfies this requirement. The City Commission considered adequacy of access, and finds the site currently has adequate access opportunities from S. Beavercreek Road (a designated major arterial in the Oregon City Transportation System Plan) in the form of a driveway from Beavercreek Road that serves the two residences and the golf club. No zone change or additional development is proposed as part of this annexation application.

Finding: The City Commission finds the current access will remain adequate for the existing development and existing zoning until new development is proposed for the property. Once the property is approved for development a primary street network will be developed in accordance with Figure 17 of the TSP. In the vicinity of the subject site, the acknowledged TSP identifies three parallel north-south routes (the existing Beaver Creek Road and two new parkways) connected by east-west extensions of Glen Oak Road, Old Acres Lane and the south golf club entrance. Additional local streets will supplement this street network as required by OCMC 12.04. The specific design of the local street system is subject to additional master plan and subdivision review by the city. Therefore, once these planned roadway extensions are in place, the site access will be adequate.

2. Conformity of the proposal with the city's comprehensive plan;

Finding: The proposal satisfies this requirement. The City Commission finds that the application of this factor necessarily means the annexing properties are subject to the acknowledged comprehensive plan and will continue to be subject to it upon annexation. It considered conformity with the applicable goals and policies in the City's Comprehensive Plan as addressed in the following section of this report and in Section II.B of the Applicant narrative.

Applicable goals and policies from the acknowledged Comprehensive Plan were identified in the Pre-Application Conference Notes and are addressed below. This section demonstrates how the proposed annexation conforms with the applicable goals and policies. The applicant has not requested comprehensive plan amendment with this request for annexation. Conditions ensure the subject site will not be eligible for urban development until Oregon City can provide urban services to the property.

Section 2 Land Use

Policy 2.6.8 *Require lands east of Clackamas Community College that are designated as Future Urban Holding to be the subject of concept plans, which if approved as an amendment to the Comprehensive Plan, would guide zoning designations. The majority of these lands should be designated in a manner that encourages family-wage jobs in order to generate new jobs and move towards meeting the city's employment goals.*

Finding: The proposal conforms with this policy. The proposed annexation area is part of the larger Beaver Creek Road Concept Plan area, which has been adopted by the city but is not yet acknowledged or effective. In accordance with this policy, the Concept Plan will ultimately guide zoning designations for the lands east of Clackamas Community College that are designated as Future Urban Holding, as well as for the larger plan area. Consistent with this policy, the majority of the lands east of Clackamas Community College that are designated as Future Urban Holding have been identified in the Concept Plan for employment uses with a mix of industries, research and development facilities, large corporate headquarters, office and retail, and some civic uses. The northern location of this employment area is important, because its proximity to Clackamas Community College and Oregon City High School is intended to foster connections and relationships among the employers that site in the employment area and these two educational institutions. The proposed annexation site is located in the southern portion of the Concept Plan area, furthest from the college, and is identified for mixed use residential neighborhoods that will support the nearby employment uses.

Finding: The annexing properties and neighboring lands are the subject of the Concept Plan, and the majority of the lands are designated for employment use. Therefore, the territory subject to

this annexation application will support the city's employment goals under this policy.

Goal 2.7 Oregon City Comprehensive Plan Land-Use Map *Maintain the Oregon City Comprehensive Plan Land-Use Map as the official long-range planning guide for land-use development of the city by type, density and location.*

Finding: The proposal conforms with this goal. The Oregon City Comprehensive Plan Land-Use Map remains the long-range planning guide for development in the city and designates the annexing territory as FU - Future Urban. Ultimately, the Comprehensive Plan Map will be revised to apply urban designations to the annexation area. Once the appeal of the Concept Plan is resolved, the designations will be derived from that plan. Therefore, this annexation application has no impact on this policy.

Finding: Alternatively, the City Commission finds that in the event that the Concept Plan appeal results in changes to the planned land uses for the annexing area, the ultimate designation of the annexing area will still be some type of urban, and that the current designation of FU-10 allows sufficient flexibility to adapt to the outcome of the appeal. It considered the testimony that the annexation cannot be approved until the Concept Plan appeal is resolved, and interprets OCMC 14.04 to mean that completion of a concept plan for an annexing area is not required prior to annexation.

Policy 2.7.3 *Recognize the design types of Metro's 2040 Growth Concept. Establish boundaries for the Regional Center in Downtown Oregon City; Corridors along 7th Street, Molalla Avenue, Beaver Creek Road, and Highway 99; Industrial areas; and for Inner and Outer Neighborhoods.*

Finding: The proposal conforms with this policy. The proposed annexation area is within the boundaries of the Concept Plan which is consistent with the Metro 2040 Growth Concept. The Concept Plan supports the corridor design along the Beaver Creek Road frontage of the annexing property. It finds the provision of a variety of housing types and income levels, creation of mixed use zones to encourage more employment and housing, consistent with Metro Design Types (Industrial and Employment). The revised Industrial and Other Employment Areas map adopted by Metro in 2010 by Ordinance 10-1244B, Exhibit D does not include the annexing properties. The remaining plan areas – the Mixed Employment Village, Main Street, and West and East Mixed Use Neighborhoods, are consistent with the Metro Outer Neighborhoods design type designation.

Section 14 Urbanization

Goal 14.3 Orderly Provision of Services to Growth Areas *Plan for public services to lands within the Urban Growth Boundary through adoption of a concept plan and related Capital Improvement Program, as amendments to the Comprehensive Plan.*

Finding: The proposal conforms with this goal. This goal requires plans for public services within the urban growth boundary through concept plans and a related capital improvement program. The City Commission finds that those four recent major public facilities master plan updates are part of the City's Capital Improvement Program, including the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015).

In any event, the proposed annexation area is part of the Concept Plan, which was adopted in 2008 and re-adopted in 2016. Since the 2008 adoption, the city has updated its water, sewer and

transportation master plans to include new projects intended to serve the Concept Plan area. Details regarding planned capital improvements to provide public services to the annexation site are below.

Water: Recommended future water service improvements identified in the 2012 *Water Distribution System Master Plan* include:

- Pipeline project no. F-CIP-4 – new 8-inch and 12-inch pipelines (total of 5,875 feet in length) that connect to the existing system along S. Beaver Creek Road and travel north through the proposed annexation area. The project description states it is “intended to supply future growth in the area and will likely be developer driven.” Total estimated cost is \$1,133,720.
- Pipeline project no. F-CIP-14 – a new 2 MG water storage facility and 10,750 feet of 16-inch pipeline extending from the storage facility on S. Wilson Road to the Fairway Downs Pump Station along S. Beaver Creek Road. This project is intended to create storage for a newly created pressure zone in the Fairway Downs areas. A siting study will be required prior to design. Total estimated cost is \$5,687,500.

More recently (May 2016), the city has provided an updated assessment of future water facilities that will be needed to serve the Concept Plan area. For the areas above a ground elevation of 480 feet, which includes the subject annexation site, the city has identified the following future facilities: a reservoir, pump station, transmission main and main extensions to serve the Fairway Downs Pressure Zone. The city anticipates that a phasing plan for construction of these water facilities will be identified in the next two years (2016 – 2017).

Sewer: The *Oregon City Sanitary Sewer Master Plan* (2014) identifies recommended improvements intended to accommodate future demand in the proposed annexation area. Those improvements consist of 8-inch, 10- inch and 12-inch gravity sewer line extensions throughout the annexation area connecting to an existing line in S. Beaver Creek Road. It also identifies, in Appendix I, an alternative connection for the annexing territory to the existing line in Glen Oak Road.

Transportation: The TSP identifies the following planned improvements intended to serve the Beaver Creek area:

- Project D39 – A new roundabout at the intersection of S. Beaver Creek Road and Glen Oak Road.
- Project D47 – Extension of Meyers Road (planned minor arterial) through the Beaver Creek area, north of the proposed annexation site.
- Project D55 – Extension of Glen Oak Road through the annexation area from Beaver Creek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section, which has three travel lanes, sidewalk/landscape strip on both sides, on-street parking and a 6- foot bike lane.
- Project D56 – New east-west collector (Timbersky Way extension) connecting Beaver Creek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section.
- Project D59 – New north-south collector (Holly Lane extension) through the annexation area, parallel to S. Beaver Creek Road. Street will be built to the Mixed-Use Collector cross section, which has three travel lanes, 10.5-foot sidewalks with tree wells on both sides, on-street parking and a 6-foot bike lane.

- Project D60 – New north-south collector (Meadow Lane extension) through the annexation area. Street will be built to the Mixed-Use Collector cross section.
- Project D82 – Planned street upgrade to S. Beaver Creek Road from Meyers Road south to the edge of the UGB. Beaver Creek will be improved to the Residential Major Arterial cross-section, which has five travel lanes, sidewalk/landscape strip on both sides, on-street parking, a median and a 6-foot bike lane.

With the exception of the roundabout in Project D39, all improvements are designated as Likely to be Funded System Projects. The TSP also identifies a shared-use path extending throughout the annexation area and generally following the collector street alignments. That project is considered a “Not Likely to be Funded System Project.”

Stormwater:

Finding: The City adopted a new Stormwater and Grading Design Standard Manual in 2015 with and Low Impact Development (LID) standards. When development is proposed for the subject site, the owner will be required to design a stormwater drainage plan that is consistent with these standards.

As evidenced above, the city has planned for public services to the lands within the urban growth boundary through the adoption of the Concept Plan and the amendment of its related public facilities plans that detail how those lands will be served. This annexation application does not affect that.

Following acknowledgement the Concept Plan will be the principal guiding land use document for annexation and urbanization of the area. Development of the annexing area is accounted for in the legislative review and approval of four recent major public facilities master plan updates which are part of the City’s Capital Improvement Program; the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015).

Further analysis of the adequacy of the public facilities to serve the site without diminishing service to existing customers will be required prior to any subsequent development proposal of the annexed property, including any zone changes, land divisions, or other development approvals required. Future development of the annexed properties will be required to construct or pay fee-in-lieu of construction of all necessary city public facilities to serve the subject site, as well as paying applicable System Development Charges.

Policy 14.3.1 Maximize new public facilities and services by encouraging new development within the Urban Growth Boundary at maximum densities allowed by the Comprehensive Plan.

Finding: The proposal conforms with this policy. The annexation site is inside the urban growth boundary and will ultimately be designated for medium and high density residential development. Those land use designations will be implemented by city zoning, consistent with the densities identified in the Concept Plan for the West (R-2 zoning) and East (R- 5 zoning) Mixed Use Neighborhoods. The city’s water, sewer and transportation master plans reflect those land use designations and associated densities. Therefore, the City Commission finds this annexation application will not hinder the city's ability to maximize new public facilities and services at the planned maximum densities.

Finding: The City Commission alternatively finds that in the event that portions of the annexing properties are ultimately designated for employment uses, it interprets the word “density” in this provision to mean residential density. Therefore, it concludes that this policy does not require maximum employment density, such as would be found in a high-rise office building.

Policy 14.3.2 Ensure that the extension of new services does not diminish the delivery of those same services to existing areas and residents in the city.

Finding: The proposal conforms with this policy. The updated water, sewer and transportation master plans describe extension of services to the annexation area and account for the demand for services from both existing and planned development in the city. The master plans identify future capital improvement projects intended to ensure that public services can be maintained and extended as needed to meet demand. Further, as no zone change or additional development is proposed as part of this annexation application, the proposed annexation does not affect the ability of the city to deliver services to existing areas, businesses and residents in the city. The service demand on city systems will be the same if the property develops under the existing FU-10 zone if annexed to the city as it would be if development occurred today when the land is in the county. Further analysis of the adequacy of the public facilities to serve the site without diminishing service to existing customers is required prior to any subsequent development proposal of the annexed property, including any zone changes, land divisions, or other development approvals. Future development of the annexed properties will be required to construct or pay fee-in-lieu of construction of all necessary city public facilities to serve the subject site, as well as paying applicable System Development Charges.

Finding: For the reasons set forth above, the City Commission finds that the extension of new services to the annexing area will not diminish the delivery of those same services to existing areas and residents.

Policy 14.3.3 Oppose the formation of new urban services districts and oppose the formation of new utility districts that may conflict with efficient delivery of city utilities within the Urban Growth Boundary.

Finding: This policy is not applicable. The proposed annexation does not involve formation of a new urban service or utility district, and therefore is not applicable.

Policy 14.3.4 Ensure the cost of providing new public services and improvements to existing public services resulting from new development are borne by the entity responsible for the new development to the maximum extent allowed under state law for Systems Development Charges.

Finding: The proposal conforms with this policy. As noted previously, the city’s water, sewer and transportation master plans have been updated to plan for extension of those services to the proposed annexation area. Capital improvement projects needed to provide those services are identified in the master plans and the city’s system development charges (SDCs) have been updated accordingly. The updated SDCs will ensure that new development in the annexation area will fund those public improvements to the maximum extent allowed under state law.

The City Commission considered the assertions that because the Parks SDC methodology has not been revised since the adoption of the Concept Plan, the SDC is insufficient to ensure the adequate provision of parks in the annexing area.

Finding: The City Commission finds that, consistent with the precedent established by prior annexations, detailed financial analysis of funding of new parks is not required at the time of annexation, and therefore that those assertions do not justify denial of the annexation. The City Commission also finds that the Parks SDC was properly adopted and the time for appealing its adoption has long expired, and that its application to new development in the annexing area will generate substantial revenue for capital improvements to the city's parks.

Goal 14.4 Annexation of Lands to the City *Annex lands to the city through a process that considers the effects on public services and the benefits to the city as a whole and ensures that development within the annexed area is consistent with the Oregon City Comprehensive Plan, City ordinances, and the City Charter.*

Finding: The proposal conforms with this goal. This annexation was reviewed through a process that considers the effects on public services and benefits to the city. Consistency with the Comprehensive Plan, the BRCP, and applicable city ordinances demonstrated in these findings and in the supporting materials provided with the application package. Further, as no zone change or additional development is proposed as part of this annexation application, the proposed annexation will have no greater effect on public services that it currently does with the lands located outside city boundaries but within the UGB. By approving this annexation, the city takes the next step in urbanizing this area, in conformance with the UGMA, the adopted master plans, and the adopted Concept Plan.

Policy 14.4.1 *Promote compact urban form and support efficient delivery of public services by ensuring that lands to be annexed are within the City's Urban Growth Boundary, and contiguous with the city limits. Do not consider long linear extensions, such as cherry stems and flag lots, to be contiguous with the city limits.*

Finding: The proposal conforms with this policy. This application conforms with this policy by annexing property within the city's urban growth boundary and contiguous with the southeastern edge of existing city limits. This application does not propose a long linear extension such as a cherry stems or flag lot.

Policy 14.4.2 *Include an assessment of the fiscal impacts of providing public services to unincorporated areas upon annexation, including the costs and benefits to the city as a whole as a requirement for concept plans.*

Finding: The proposal conforms with this policy. This policy contains a requirement that the city include a fiscal impact assessment as part of the preparation of concept plans. This policy, then, is not directly applicable to this annexation request, because this annexation request is not a concept plan. In any event, the Concept Plan does provide the required assessment of the fiscal impacts of providing public services to the proposed annexation area when it develops, including potential costs and benefits to the city. Public facility master plans have also been updated to include accommodate future development identified in the Concept Plan. Those plans include the Transportation System Plan (2013), Water System Master Plan (2012) and Sanitary Sewer Master Plan (2014) – all of which have been adopted by the city. The infrastructure requirements and cost estimates contained in those master plans were used to update the city's system development charges and have been included as part of the city's capital improvement program.

Finding: The City Commission finds these infrastructure master plans assess the fiscal impacts of developing all the land within the Concept Plan area, including the costs and benefits to the city as a

whole.

Policy 14.4.3 *Evaluate and in some instances require that parcels adjacent to proposed annexations be included to:*

- *avoid creating unincorporated islands within the city;*
- *enable public services to be efficiently and cost-effectively extended to the entire area; or*
- *implement a concept plan or sub-area master plan that has been approved by the Planning and City Commissions.*

Finding: The proposal conforms with this policy. The proposed annexation will not create an unincorporated island within the city because it is adjacent to existing city boundaries. As demonstrated in the Concept Plan and adopted public facility plans, public services can be efficiently and cost-effectively extended to serve the Beaver Creek area without including additional parcels with this annexation. This proposed annexation will facilitate implementation of the Concept Plan, which has been adopted by the city.

OCMC 14.04.060.3. *Adequacy and availability of public facilities and services to service potential development;*

Finding: The proposal satisfies this requirement. The City Commission considered the adequacy and availability of public facilities and services to service the potential development of the property. No development is currently proposed and therefore in the near term the current public facilities and services, which have successfully served the site for decades, will remain in place.

Finding: The City Commission finds that these facilities are adequate for the existing development and existing zoning until new zoning is proposed for the property.

Alternatively, the City Commission notes the Concept Plan identifies this area as a future location for mixed-use neighborhoods that include a variety of residential types (at densities similar to the city's R-2 and R-5 zones), smaller-scale commercial uses, and parks and pedestrian ways.

Finding: The City Commission finds that public facilities plans have been updated and adopted by the city to anticipate and accommodate urban levels of development on the subject site and the surrounding neighborhood. The following is a summary of how public facility improvements will service potential development in the annexation area.

Water

The 2012 Water Distribution System Master Plan depicts a network of water supply pipelines to serve as the "backbone" system. In addition, as individual parcels are developed, a local service network of water mains will be installed by the developer as needed to serve individual lots. Figure ES-2 in the Water Master Plan identifies this "backbone" system comprised of 8- and 12-inch pipelines along the proposed new north-south collector streets, and connected by east-west pipelines at the north and south ends of the annexation area.

Recommended future water service improvements identified in the 2012 *Water Distribution System Master Plan* include:

- Pipeline project no. F-CIP-4 – new 8-inch and 12-inch pipelines (total of 5,875 feet in length) that connect to the existing system along S. Beaver Creek Road and travel north through the proposed annexation area. The project description states it is “intended to supply future growth in the area and will likely be developer driven.”
- Pipeline project no. F-CIP-14 – a new 2 MG water storage facility and 10,750 feet of 16-inch pipeline extending from the storage facility on S. Wilson Road to the Fairway Downs Pump Station along S. Beaver Creek Road. This project is intended to create storage for a newly created pressure zone in the Fairway Downs areas. A siting study will be required prior to design.

More recently (May 2016), the city has provided an updated assessment of future water facilities that will be needed to serve the Concept Plan area. For the areas above a ground elevation of 480 feet, which includes the subject annexation site, a reservoir, pump station, transmission main and main extensions will serve the Fairway Downs Pressure Zone. The city anticipates that a phasing plan for construction of these water facilities will be prepared in the next two years (2016 – 2017).

The City Commission reviewed Ms. Graser-Lindsey’s assertions about inadequate water pressure and inadequate funding for a reservoir to provide additional pressure, and that “there is nothing to suggest that these situations would change”. The City Commission notes that Ms. Graser-Lindsey does not address the May, 2016 update that details the improvements that will ensure water supply and pressure for the annexing area.

Finding: The City Commission reviewed the water master plan and the May 2016 update and finds that they do describe the improvements that will ensure adequate and available water supply and pressure for the annexing area.

Sanitary Sewer

The *Oregon City Sanitary Sewer Master Plan* (2014) identifies recommended improvements to accommodate future demand in the proposed annexation area as shown in Figure 5-4. Those improvements consist of gravity sewer extensions throughout the annexation area connecting to the existing line in S. Beaver Creek Road, or alternatively, as described in Exhibit I to the master plan, the annexation may connect to the existing line in Glen Oak Road.

The City Commission reviewed the testimony from Ms. Graser-Lindsey regarding lack of sanitary sewer capacity at the Tri-City treatment plant, and the assertion that there is no evidence “adequate capacity will ever accommodate this annexation.” The City Commission notes that the city’s Legislation Text for File # 16-702 prepared by city staff reports: “WES is currently designing improvements for the Tri-City plant...” The City Commission also reviewed Appendix L of the *Oregon City Sanitary Sewer Master Plan* which includes the agreements with TCSD whereby the district agrees to provide sewer services for areas “within the city”.

Finding: The City Commission finds that substantial engineering plans for extension of sanitary sewer trunk lines in the master plan are substantial evidence that sewer service will be adequate and available for the annexing area. It also finds that the WES plans for expansion of the Tri-City plant are substantial evidence that its capacity will be adequate and available for future development of the annexing properties. Furthermore, the City Commission finds that TCSD has agreed to provide services for all areas within the city, and that it has done so and kept pace with the growth of the city, and finds that it has the ability to continue doing so. It finds there is not substantial evidence that TCSD will be unable to expand its facilities as needed to accommodate

future residential and business growth in the annexation area, and concludes there is adequate and available sewer service.

Transportation

The acknowledged TSP identifies future improvements to the street network serving the proposed annexation site as shown in Figures 2, 8, 10 and 17. Specific projects are summarized as follows:

- **Project D39** – A new roundabout at the intersection of S. Beavercreek Road and Glen Oak Road.
- **Project D47** – Extension of Meyers Road (planned minor arterial) through the Beavercreek area, north of the proposed annexation site.
- **Project D39** – A new roundabout at the intersection of S. Beavercreek Road and Glen Oak Road.
- **Project D47** – Extension of Meyers Road (planned minor arterial) through the Beavercreek area, north of the proposed annexation site.
- **Project D55** – Extension of Glen Oak Road through the annexation area from Beavercreek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section, which has three travel lanes, sidewalk/landscape strip on both sides, on-street parking and a 6- foot bike lane.
- **Project D56** – New east-west collector (Timbersky Way extension) connecting Beavercreek Road to the Meadow Lane extension. Street will be built to the Residential Collector cross section.
- **Project D59** – New north-south collector (Holly Lane extension) through the annexation area, parallel to S. Beavercreek Road. Street will be built to the Mixed-Use Collector cross section, which has three travel lanes, 10.5-foot sidewalks with tree wells on both sides, on-street parking and a 6-foot bike lane.
- **Project D60** – New north-south collector (Meadow Lane extension) through the annexation area. Street will be built to the Mixed-Use Collector cross section.
- **Project D82** – Planned Street upgrade to S. Beavercreek Road from Meyers Road south to the edge of the UGB. Beavercreek will be improved to the Residential Major Arterial cross-section, which has five travel lanes, sidewalk/landscape strip on both sides, on-street parking, a median and a 6-foot bike lane. The roadway section in the Beavercreek Road Concept Plan calls for a 3-lane section in this location with flaring and turn lanes where needed, in order to minimize ROW impacts to adjacent properties.

With the exception of Project D39, all improvements are designated as “Likely to be Funded System Projects.” The TSP also identifies a shared-use path extending throughout the annexation area and generally following the collector street alignments. That project is considered a “Not likely to be Funded System Project.”

Please note that projects listed as “Not Likely to be Funded” still qualify as meeting the requirements for adequate Transportation Facilities planning under in compliance with OAR 660-012-0060(4)(b)(A).

Full build out of the Concept Plan area is presumed in the four recent major public facilities master

plan updates which are part of the City's Capital Improvement Program; the Water System Master Plan (2012), the Sanitary Sewer Master Plan (2014), the Transportation System Plan (2014), and the Stormwater and Grading Design Standards (2015).

Further analysis of the adequacy of the transportation system is required prior to any subsequent development proposal of the annexed property, including any zone changes, or other development approvals that will generate a significant number of additional vehicle trips. Future development of the annexed properties will be required to construct or pay fee-in-lieu of construction of all necessary city public facilities to serve the subject site, as well as paying applicable System Development Charges.

The City Commission notes the testimony of opponents that the intersection of Hwy 213 and Beaver Creek Road, Hwy 213, and the intersection of Hwy 213 and I-205 lack capacity. It notes the current transportation study of these facilities which is analyzing capacity improvements in addition to alternative mobility standards, as described in the Kittelson memo of December 6, 2016 in the record.

Finding: The City Commission Finds that ODOT and the city are working cooperatively on solutions to traffic congestion north of the annexing area. It interprets OCMC 14.04.060.3 to mean that transportation services are available and adequate so long as the properties at issue demonstrate compliance with the Transportation Planning Rule (TPR), which was accomplished with the City's acknowledgment of its 2013 Transportation System Plan. More importantly, as described below, that TPR compliance is not required for this application because it will not significantly affect Hwy 213, as no re-zoning or development is proposed. It therefore concludes that transportation services are adequate and available for the annexing area.

Stormwater

Finding: New development on the annexation site will be required to meet the city's *Stormwater and Grading Design Standards* (2015). Those standards are intended to meet federal and state requirements, reduce stormwater runoff volumes, maintain pre-development characteristics to protect drainage-ways, and encourage the use of low-impact development practices. Per the standards, post-development runoff rates must match pre-development rates at existing discharge locations. According to the Concept Plan, there are several small discharge locations to Thimble Creek and flow control may not be feasible at all locations. In that case, over-detention will be required in order to meet the city's standards.

The City Commission notes that the Concept Plan identifies a stormwater infrastructure plan that emphasizes the use of low impact development (LID) practices throughout the proposed annexation area. The Plan organizes stormwater facilities into three tiers, which are summarized below:

- **Tier 1 site-specific facilities** – Each property within the annexation area will need to utilize on-site best management practices to control and treat runoff. The Plan recommends the use of low impact facilities such as rain gardens, swales and pervious surface treatments over structural solutions such as underground tanks and filtration systems.
- **Tier 2 green street facilities** – Green street designs are recommended for the entire annexation area to collect and convey stormwater runoff to regional facilities.

- **Tier 3 regional facilities** – Seven regional facilities are identified for the Beavercreek plan area, including one regional detention pond located within the proposed annexation site.

Schools

Oregon City High School and Clackamas County Community College are both in the vicinity of the proposed annexation area. The Oregon City School District provides K-12 schools for the city.

Finding: The City Commission considered the ability of the school district to provide public education services for the city's growing population, and finds that the district has demonstrated its ability to accommodate the growing student population over many years, including the construction of the high school nearby the annexation site. It concludes that public school education is adequate and available.

Clackamas Community College features a large campus with several underdeveloped tracts of land, and the City Commission finds that it likewise has demonstrated the ability to serve a growing student population, including the increase that would result from the full build out of the annexing area.

Finding: The City Commission finds that post-secondary education is adequate and available.

Parks and Open Space

The City Commission considered the parks and open space provisions in the Concept Plan, and finds that those provisions are not included in the appeal. It therefore concludes those provisions are the best evidence of the likely future parks and open space in the annexing area. The Concept Plan provides a conceptual open space network including parks, trails, open spaces and natural areas that link together and connect with the environmentally sensitive resource areas in the east portion of the annexing area. In the vicinity of the proposed annexation area, the Concept Plan identifies the following:

- A linear open space park linking the neighborhoods south of Loder Road, consistent with Metro's Goal 5 mapping efforts.
- Thimble Creek conservation and habitat preservation areas.
- South Ridge Overlook habitat preservation area.

The Plan also notes that park space will need to be provided consistent with the city's parks standard of 6 to 10 acres per 1,000 people. This requirement is applied during master planning and/or other land use process, such as a subdivision, to approve future development.

Finding: The City Commission finds that the annexing area can be served with parks and open space amenities, which are available and adequate for the annexing area.

The City Commission considered the assertions that because the Parks SDC methodology has not been revised since the adoption of the Concept Plan, the SDC is insufficient to ensure the adequate provision of parks in the annexing area.

Finding: The City Commission finds that, consistent with the precedent established by prior annexations, detailed financial analysis of funding of new parks is not required at the time of

annexation, and therefore that those assertions do not justify denial of the annexation. The City Commission also finds that the Parks SDC was properly adopted and the time for appealing its adoption has long expired, and that its application to new development in the annexing area will generate substantial revenue for capital improvements to the city's parks. It concludes there are adequate and available parks and open spaces.

Police, Emergency and Fire Protection:

The area to be annexed lies within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The combination of the county-wide service and the service provided through the Enhanced Law Enforcement CSD results in a total level of service of approximately 1 officer per 1000 population. According to ORS 222.120 (5), the City may provide in its approval ordinance for the automatic withdrawal of the territory from the District upon annexation to the City. If the territory were withdrawn from the District, the District's levy would no longer apply to the property.

Upon annexation, the Oregon City Police Department will serve the subject site. Oregon City fields approximately 1.33 officers per 1,000 people. The Police Department has a goal of four-minute emergency response, 7 to 9 minute actual, and twenty-minute non-emergency response times. As no zone change or additional development is proposed as part of this annexation application, this annexation will have a minimal impact on police services.

The proposed annexation area is currently, and will remain, within the Clackamas Fire District #1. The Clackamas Fire District provides all fire protection for Oregon City since the entire city was annexed into their district in 2007. As no zone change or additional development is proposed as part of this annexation application, this annexation will have no impact on fire protection services. Oregon Revised Statute 222.120 (5) allows the City to specify that the territory be automatically withdrawn from the District upon approval of the annexation; however, based on the November 2007 fire district annexation approval, staff recommends that the properties remain within the fire district.

Emergency Medical Services to the area are provided through American Medical Response (AMR) through a contract with Clackamas County. Oregon City and the unincorporated areas surrounding Oregon City are all part of the AMR contract service area. Clackamas Fire District#1 provides EMS service to all areas they serve include ALS (advanced life support) staffing. This means all fire apparatus are staffing with a minimum of one firefighter/paramedic; usually there are more than one. Additionally, Clackamas Fire does provide ambulance transport when an AMR unit is not readily available. Therefore EMS services are provided from Clackamas Fire #1 with AMR being dispatched as well.

Finding: For the aforementioned reasons, the City Commission finds that emergency services are available and adequate for the annexing area.

14.04.60.4 *Compliance with applicable sections of ORS Ch. 222, and Metro Code Section 3.09;*

Finding: The proposal satisfies this requirement. The City Commission considered ORS Ch. 222, and Metro Code Section 3.09 elsewhere in these findings, and concludes this annexation complies with their requirements.

OCMC 14.04.060.5 *Natural hazards identified by the city, such as wetlands, floodplains and steep slopes;*

Finding: The proposal satisfies this requirement. The City Commission considered natural hazards identified by the city in the course of preparing the Concept Plan. The hazards include water resource and steep slope areas that will require further investigation at time of development to demonstrate compliance with Oregon City's overlay district zoning; OCMC Chapter 17.49 regulating water resource and habitat protection; OCMC Chapter 17.44 regulating development in and near geologic hazards and steep slopes; and the city's acknowledged Geologic Hazards Map.

The City Commission also considered the applicant's geologic study which examines the site, especially the eastern slope leading down to Thimble Creek, and identifies areas of potential hazard that are not suitable for buildings.

Finding: It finds this report is consistent with the Geologic Hazards Map, and comprises substantial evidence that portions of the eastern slope are hazardous and unsuitable for development of buildings. Future development of the site will be required to meet all applicable city, state and federal requirements, which will be addressed through the land development processes (site plan and design review, land divisions, etc.). As no zone change or additional development is proposed as part of this annexation application, this annexation will have no impact on identified natural hazards to any greater degree than development that is currently permitted.

Finding: The City Commission finds there is no substantial evidence in the record from a qualified expert that conflicts with the applicant's geology report, and concludes the applicant's report is the best evidence of the hazard present in the annexing area. It finds that the presence of this hazard does not compel denial of the annexation; rather that upon future development, the hazard should be addressed and avoided as necessary.

The City Commission considered the testimony in the record regarding the landslide hazard of Holly Lane, and finds that Holly Lane is approximately one mile north of the area being annexed. The testimony asserted that Holly Lane was not suitable for the additional traffic that would result from annexation of the area, and therefore the annexation should be denied.

Finding: The City Commission finds that a potential landslide hazard one mile from the annexing property is too remote from the site to justify a denial of the annexation, and that denial would conflict with the UGMA and other plans that support urban development of the site. The City Commission also finds that this testimony challenges the adopted and acknowledged Transportation System Plan, which is the document that directly affects Holly Lane, and therefore is a collateral attack on a final land use decision; that is, on the adoption of the TSP.

The City Commission notes that the TSP is acknowledged, finds that it is a final land use decision, and concludes that attempts to challenge it are presented without probable cause to believe they are well-founded in law or on factually supported information.

OCMC 14.04.060.6 *Any significant adverse effects on specially designated open space, scenic, historic or natural resource areas by urbanization of the subject property at time of annexation;*

Finding: The proposal satisfies this requirement. The City Commission considered these Goal 5 resources within the Concept Plan process, and finds they were addressed in detail in the Natural

Resource Inventory which was part of the existing conditions analysis required by Metro Title 11, including the Combined Goal 5 & Site Inventory, the Metro Goal 5 Inventory, and the Natural Resource Inventory Sites. A detailed review of the Goal 5 resources within the study area was conducted, including wetlands, streams, riparian area, wildlife habitat and historic and cultural resources. The inventory consisted of two parts: 1) An examination of existing resource information for the Plan area; and 2) A field study to verify the location and evaluate resource habitat quality.

Finding: The Commission finds these reports are the best evidence of the Goal 5 resources present on the annexing properties, and that there is no evidence in the record of sites not identified in those reports. The City Commission finds that the ongoing appeal of the Concept Plan does not include Goal 5 issues, and therefore that the Goal 5 provisions in the Concept Plan are substantial evidence of the Goal 5 protections that will be in place prior to urban development.

Once the land is annexed, OCMC 17.49 (and the Concept Plan when acknowledged) will protect Goal 5 natural resource areas by guiding the designation of Natural Resource Overlay District areas and the restriction of development in those areas. The City's adopted code and mapping for the Natural Resource Overlay District extend to the Urban Growth Boundary, and comply with Metro Title 3, Water Quality and Flood Management, and Metro Title 13, Nature in Neighborhoods. The Natural Resource Overlay District designation provides a framework for protection of Metro Titles 3 and 13 lands, and Statewide Planning Goal 5 resources within Oregon City. The Natural Resource Overlay District (NROD) implements the Oregon City Comprehensive Plan Natural Resource Goals and Policies, as well as Federal Clean Water Act requirements for shading of streams and reduction of water temperatures, and the recommendations of the Metro ESEE Analysis. It is intended to resolve conflicts between development and conservation of habitat, stream corridors, wetlands, and floodplains identified in the city's maps. The NROD contributes to the protection of functional values and ecological functions of inventoried habitat and water quality areas for integration with existing neighborhoods and new residential and commercial developments. The code requires that further on-site analysis be conducted to determine the current extent of the protected resources which initially was done with the Concept Plan. More detailed, site specific delineations of the resources and the required associated vegetated corridors is required prior to development, along with impact analysis and mitigation for impacts. These existing restrictions will adequately protect natural resource areas and to the extent necessary serve as a natural resource protection plan.

A Goal 5 resource inventory that was conducted with the plan included a review of cultural and historic resources on any known state, county or local lists which, if found, would potentially be protected and included in the City's inventory and regulated under Chapter 17.40 of the City Municipal Code, when properties are annexed to the City.

No inventoried historic resources are located within the annexing properties. Staff confirmed this through communication with County planning staff. If property owners seek designation for any eligible historic resources, or if any inventory reveals eligible landmarks in the future, those landmarks could potentially be protected and included in the City's inventory and regulated through the designation process described in Chapter 17.40 of the Oregon City Municipal Code, when properties are annexed to the City.

Open Space:

The Beaver Creek Road Open Space Framework plan provides a network of green spaces that are intended to provide a system of connected parks, open spaces and natural areas, provide access to

nature, preserve existing natural resources and provide green spaces near the system of trails and pedestrian connections. The extent and location of the park is conceptual and flexible, and the costs associated with acquisition and development will need to be determined through more detailed parks master planning processes, similar to the Glen Oak Road park site and the Hazel Grove parks site master planning that was conducted in 2014. The parks master planning process will refine the locations and costs of parks infrastructure in the annexing area. A park is proposed to extend through the central and southern areas of the Concept Plan. The location and linearity of the park was first indicated by Metro's Goal 5 mapping. This open space feature is intended as a continuous green space that links the districts and neighborhoods south of Loder Road.

The City Commission considered the assertions that because the Parks SDC methodology has not been revised since the adoption of the Concept Plan, the SDC is insufficient to ensure the adequate provision of parks in the annexing area.

Finding: The City Commission finds that, consistent with the precedent established by prior annexations, detailed financial analysis of funding of new parks is not required by this code section at the time of annexation, and therefore that those assertions do not justify denial of the annexation. The City Commission also finds that the Parks SDC was properly adopted, that the time for appealing its adoption has long expired, and that its application to new development in the annexing area will generate substantial revenue for capital improvements to the city's parks.

The open space plan envisions establishing a publicly accessible resource area as the eastern edge of the community that is free from development, and accessible by low impact trails, known as the East Ridge. This vantage point is located at 490' elevation with views to the east into the Thimble Creek area (See pages 22- 23). The plan provides very specific measures to preserve the East Ridge open space and conservation area, and the applicant's geologic report indicates that the area is not suitable for building. The code will allow flexibility in the width, shape and acreage of the open space, provided there remains a clearly identifiable and continuous open space. The buildable lands identified 292 acres of Tier A or 'unconstrained' lands, 28 acres of Tier B or "Low Impact Development Allowed with Review" and 131 acres of Tier C or "Constrained". The Low Impact area was later evaluated and recommended for conservation under an Environmentally Sensitive and Resource Area designation on the Concept Plan. New development will be required to comply with the City's Natural Resources Overlay District in compliance with this goal.

The proposed annexation area is in the Newell and Thimble drainage basins according to the Drainage Master Plan. The Concept Plan has identified natural and water resources, as well as geologic and steep slope areas that will require further investigation. Prior to development, an applicant would be required to study and delineate these resource areas to ensure compliance with Oregon City Municipal Code requirements and standards, including:

- Chapter 16.08 Subdivision Standards
- Chapter 17.40 Historic Overlay District
- Chapter 17.41 Tree Protection Standards
- Chapter 17.42 Flood Management Overlay District
- Chapter 17.44 Geologic Hazards

- Chapter 17.47 Erosion and Sediment Control
- Chapter 17.49 Natural Resource Overlay District

Finding: The City Commission finds that because no zone change or additional development is proposed as part of this annexation application, this annexation will have no significant adverse effect on any specially designated open space, scenic, historic or natural resource areas. The City Commission finds that the ongoing appeal of the Concept Plan does not include open space issues, and therefore concludes that the open space provisions in the Concept Plan are substantial evidence of the open space requirements that will be in place prior to urban development.

Finding: The City Commission reviewed the record evidence and finds there will not be significant adverse effects on specially designated open space, scenic, historic or natural resource areas by urbanization of the subject property at time of annexation, because the primary open space feature is the Oregon City Golf Course which is not a designated resource, because there are no other specially designated resources that will be impacted by development of the golf course, and because the eastern slope which is not part of the golf course will be protected from development by the aforementioned city code provisions.

OCMC 14.04.060.7 *Lack of any significant adverse effects on the economic, social and physical environment of the community by the overall impact of the annexation.*

Finding: The proposal satisfies this requirement. The City Commission considered potential adverse effects on the economic, social and physical environment from the annexation, and finds that because no zone change or additional development is proposed as part of this annexation application, this annexation will have no significant adverse effects on the economic, social or physical environment of the community. The City Commission interprets the “community” as including the City of Oregon City and the lands within its urban service area. The city will obtain an economic benefit in the form of a small increase in property tax revenues from adding assessed value to its tax roll as a result of annexing the territory. The city will also obtain land use jurisdiction over the territory. Finally, it will have service responsibilities including fire, police, and general administration. The increases in service responsibilities to the area that result from the annexation will be insignificant, because the two existing residences and the club house have been served without difficulty for many years.

The Commission heard testimony of adverse effects, particularly with regard to, traffic and utility infrastructure, and to a lesser extent assertions of increased crime and decreased property values associated with higher density and the loss of the adjacent airstrip due to development. The City Commission finds that this evidence was largely circumstantial, non-expert testimony, based on existing conditions without taking improvements identified in the acknowledged utility plans into account. The adjacent airstrip is not within the annexation area and there will be no impact on the airstrip as a result of the annexation. Development, coupled with improvements identified in the master plans along with the Highway 213 refinement plan, will benefit the community. Annexation will move this property one step closer to realizing the development at urban densities envisioned for the BRCP.

The proposed annexation area has not been subdivided or partitioned and the zoning must be changed before development at any density other than FU-10 can be approved. Further, conditions of approval prohibit urban development until the zone change occurs. The Metro Functional Plan,

the Comprehensive Plan, the UGMA and the Concept Plan all plan for urbanization of the annexing area.

Finding: The City Commission finds no evidence in the record, of these or other adopted plans, that there will be adverse effects on the economic, social and physical environment of the community caused by urbanization of the annexing properties.

Before any urban development can occur, the applicant must show compliance with the State's Transportation Planning Rule for the desired re-zoning, and the territory must also be annexed to the Tri-City Service District.

Finding: In addition, the City Commission finds that the effects of the eventual development on the economics of the city will be positive. The future housing is needed to accommodate the city's growing population and in particular to serve the employees of the large industrial employment area in the northern portion of the Concept Plan Area. The additional households will contribute new infrastructure to the city's capital facilities, and pay substantial SDCs and property taxes directly to the city. These households will support existing and future businesses in the city by providing a large increase in purchasing power on this southeast portion of the city.

Finding: The City Commission finds that the annexation and future development will have positive social effects as well, because the current housing shortage discourages family formation and the creation of new households, and the new housing on the annexing properties will alleviate that shortage and the social ills resulting therefrom.

Finding: The City Commission finds that the effects on the physical environment will benefit the city, because the valuable open space and natural resources which are currently enjoyed by golfers alone will become available to innumerable citizens and visitors when the area is developed and the planned trail system is in place.

COMPLIANCE WITH APPLICABLE PROVISIONS OF ORS 222

Finding: The proposal satisfies this requirement. ORS 222 requires the annexation territory to be contiguous with the city limits and provides several options for annexing land into a city. As noted in the finding for OCMC 14.04.050(E)(1), this annexation relies on ORS 222.125, annexation by consent of all land owners and a majority of electors.

Assessor Values List Report

APN	Addresses	Taxpayer	Zone	Acres	Land Mkt Value	Bldg Mkt Value	Net Mkt Value	Assessed Value	System Date
3-2E-10D003500	20124 S BEAVERCREEK RD	HERBERGER FAM LTD PTNRSH	County	63.82	\$1,236,571	\$0	\$1,236,571	\$1,181,304	1/15/15

The annexing area lies within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The combination of the county-wide service and the service provided through the Enhanced Law Enforcement CSD results in a total level of service of approximately 1 officer per 1000 population. According to ORS 222.120(5) the City may provide in its approval ordinance for the automatic withdrawal of the territory from the District upon annexation to the City. If the territory were withdrawn from the District, the District's levy would no longer apply to the property.

TRANSPORTATION PLANNING RULE (OAR 660-012-0060)

Finding: The proposal satisfies this requirement. The city requires a transportation discussion to determine whether or not the proposed annexation complies with the Transportation Planning Rule (TPR). The primary “test” of the TPR is to determine if an amendment to a functional plan, acknowledged comprehensive plan, or a land use regulation will significantly affect an existing or planned transportation facility. Per an email from John Replinger, the city’s traffic engineer, dated July 6, 2016:

“As long as no zone change is being requested in connection with the annexation, you can delay the need to address compliance with the Transportation Planning Rule (specifically, OAR 660-12-0060). You may state in your application that the annexation has no significant transportation impact and that the compliance with the TPR will be addressed by a traffic engineer in connection with a transportation analysis at the time of a zone change and/or a specific development proposal.”

The City Commission also reviewed ODOT’s comment letter of January 19, 2017 which states: “No comprehensive plan or zone changes are proposed at this time and ODOT agrees that Transportation Planning Rule (TPR), OAR 660-012-0060 findings are not required.”

Finding: The City Commission finds that because no changes to plan or zoning designations are being requested at this time, no significant impacts to the surrounding transportation system will occur as a result of the proposed annexation. Further, the City’s acknowledged TSP includes the area to be annexed and contemplates full build-out of the area. Therefore, the TPR does not require further analysis with this annexation request.

The City Commission considered testimony urging the city to deny the annexation because of traffic congestion. The City Commission recognizes the traffic concerns, however it interprets OCMC 14.04, OAR 660-012-0060, and ODOT’s comment letter to mean that detailed study and review of traffic is not required for this annexation decision. The City Commission finds that this argument has been made previously in other cases and rejected by the City Commission and LUBA, and concludes that this argument was repeated without probable cause to believe the position was well founded in law or on factually supported information.

III. SUMMARY OF FINDINGS AND DECISION

Based on the Findings provided above, the Commission determines:

1. The Metro Code calls for consistency of the annexation with the Regional Framework Plan or any functional plan. The Commission concludes the annexation is consistent with the Regional Framework Plan because there were no directly applicable criteria for boundary changes found in the Regional Framework Plan, the Urban Growth Management Function Plan, or the Regional Transportation Plan.
2. Metro Code 3.09.050(d)(1) requires the Commission’s findings to address consistency with applicable provisions of urban service agreements or annexation plans adopted pursuant to ORS 195. As noted in the Findings, there are no such plans or agreements in place. Therefore the Commission finds that this is not applicable.
3. The Metro Code, at 3.09.050(d)(3), requires the City’s decision to be consistent with any

"directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans." The County Plan also states that conversion of future urban lands to immediate urban lands "Provide for an orderly and efficient transition to urban land use" and "encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way." The adopted public facility plans and applicant information demonstrate that the City can provide all necessary urban services in an orderly and efficient manner. Therefore the Commission finds this proposal is consistent with the applicable plan as required Metro Code 3.09.050 (d)(3).

4. The Commission concludes that the annexation is consistent with the acknowledged Comprehensive Plan which applies to the annexing area and plans for a full range of urban services to be available to accommodate new development as noted in the Findings above. The City operates and provides a full range of urban services. Specifically with regard to water and sewer service, the City has both of these services available to serve some of the area from existing improvements in Glen Oak Road, and Beaver Creek Road improvements from Carrington Place and Fairway Downs subdivisions.

5. Water service is available in large water mains in both Beaver Creek and Glen Oak Roads; the existing homes will continue to be serviced by Clackamas River Water (CRW) or wells until such time as the City and CRW confer on the issue or development provides water main extensions and connections.

6. With regard to storm drainage to the Newell and Thimble Basins, the City has the service available in the form of regulations to protect and control stormwater management. The specifics of applying these will be a part of the development review process.

7. The Commission notes that the Metro Code also calls for consistency of the annexation with urban planning area agreements. As stated in the Findings, the Oregon City-Clackamas County Urban Growth Management Agreement specifically provides for annexations by the City.

8. Metro Code 3.09.050(d)(5) states that another criterion to be addressed is "Whether the proposed change will promote or not interfere with the timely, orderly, and economic provision of public facilities and services." Based on the evidence in the Findings, the Commission concludes that the annexation will not interfere with the timely, orderly, and economic provision of services.

9. The Oregon City Code Chapters 14 and 17 contains provisions on annexation processing. Section 6 of the ordinance requires that the City Commission consider seven factors if they are relevant. These factors are addressed in the Findings and on balance the Commission finds they support approval of this annexation. The City Commission further finds that the factors are not mandatory criteria for an annexation (with the exception of compliance with Metro Code 3.09 and ORS 222), and that none of the factors requires completed civil engineering designs, detailed development plans or financial agreements for construction of public or private facilities to serve the annexing area.

10. The City Commission concurs with Tri-City Service District's annexation of the subject property in the enacting City ordinance approving the annexation.

11. The City Commission determines that the property should be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement as allowed by statute since the City will provide police services upon annexation.

12. The City Commission determines that the property should not be withdrawn from the Clackamas Fire District #1 as allowed by statute.
13. The City Commission determines that the property should be not be withdrawn from the Clackamas River Water District at this time and remain in the District until such time as the City and CRW confer on the issue or development provides water main extensions and connections.
14. The City Commission recommends that the properties remain zoned Clackamas County TBR until such time as a city zoning designation is applied to the properties and that the City apply and administer the zones.
15. The City Commission recognizes that the applicant has not applied for a zone change or amendment to the Oregon City comprehensive plan map at this time.
16. The City Commission considered the testimony that the extension of public services to the annexing property is not sufficiently funded. It finds the weight of evidence in the record, including without limitation the ECONorthwest report, the financial sections for the infrastructure master plans, and the SDC revenue estimates are substantial evidence that funding for all necessary public infrastructure improvements will be in place at the time of development, and further finds there is no requirement for financial certainty, such as a performance bond, at the time of annexation. The City Commission finds that this argument has been made previously in other cases and rejected by the City Commission and LUBA, and concludes that this argument is repeated without probable cause to believe the position was well-founded in law or on factually supported information.
17. The City Commission considered the testimony that landslide hazards in the Holly Lane area – well north of the annexing territory – means that the street network serving the annexing area is not sufficient. It finds the weight of substantial evidence in the record, including without limitation the acknowledged TSP and the transportation elements of the Concept Plan (that are not challenged in the current appeal), and the Kittelson memo of December 6, 2016 demonstrate the annexing area can be served with a sufficient street network notwithstanding the geologic issues with Holly Lane. The City Commission finds that this argument has been made previously in other cases and rejected by the City Commission and LUBA, and concludes that this argument is repeated without probable cause to believe the position was well-founded in law or on factually supported information.
18. The City Commission also considered the testimony that landslide hazards on the annexing properties make them unsuitable for annexation. It finds the weight of substantial evidence in the record, including without limitation the applicant's geologic study and the city's Geologic Hazards Map, demonstrate the majority of the annexing area is suitable for urban development. The City Commission finds that this testimony has been made previously in other cases and rejected by the City Commission and LUBA, and concludes that this argument is repeated without probable cause to believe the position was well-founded in law or on factually supported information.
19. The City Commission considered the testimony that traffic from future development of the annexing area will exceed city and ODOT standards for intersections and the state highway north of the annexing territory. The City Commission finds that no urban development is proposed with the annexation, that the annexation will not significantly affect the surrounding streets or Hwy 213, and therefore the Transportation Planning Rule (OAR 660-012-0060) does not apply to this application. Alternatively, it finds the weight of substantial evidence in the record, including without limitation the acknowledged TSP and the transportation elements of the Concept Plan (that are not challenged in the current appeal), and the Kittelson memo of December 6, 2016 demonstrate the annexing area

can be served with a sufficient street network. In addition, it finds that opponent criticisms of the adopted and acknowledged TSP are collateral attacks on a final land use decision. It notes that some opponents have made this same argument to LUBA in prior cases without success, and concludes that this argument is repeated without probable cause to believe the position was well-founded in law or on factually supported information.

20. The City Commission finds that the annexation factors in OCMC 14.04.060 have been thoroughly considered in these findings. The City Commission weighed the various arguments that the annexation must be denied based on one or more of the factors. It finds that some opponents have previously made this argument in other cases which was rejected by the City Commission and LUBA, and concludes that this argument is repeated without probable cause to believe the position was well-founded in law or on factually supported information.

21. The City Commission finds the annexing area has been designated for urban development for more than twelve years, and that efforts to oppose this annexation are in several instances based on arguments that have previously failed at LUBA, which are repeated in this application without probable cause to believe the positions are well-founded in law or on factually supported information.