



**FILE NO:** AN-16-0001

**APPLICATION TYPE:** Annexation and Zone Change

**HEARING DATES:** Planning Commission  
June 13<sup>th</sup>, 2016, 7:00 p.m.

City Commission  
July 6<sup>th</sup>, 2016, 7:00 p.m.

615 Center Street  
Oregon City, OR 97045

**APPLICANT:** Ron and Anastasia Wilson  
19358 S. Columbine Ct, Oregon City, OR 97045

**OWNERS:** Same as Applicant

**REQUEST:** Annexation and zone change of one property of approximately 0.5 acres into the City of Oregon City. The site is within the Oregon City Urban Growth Boundary and has a Comprehensive Plan designation of LR – Low Density Residential. The property is zoned Clackamas County FU-10. The applicant seeks to rezone the property to R-10.

**LOCATION:** The subject site is located at 19358 S. Columbine Ct and identified as Clackamas County APN 3-1E-12AC-03700

**REVIEWER:** Pete Walter, AICP, Associate Planner  
Matt Palmer, EIT, Development Services Division

**RECOMMENDATION:** Evaluate Annexation against Factors, and Adopt the Staff Report and Proposed Findings, Reasons for Decision, and Recommendations.

**PROCESS:** Pursuant to OCMC Chapter 14.04. *City Boundary Changes and Extension of Services*, the procedure for review of annexations is governed by State Law and Oregon City Code Chapter 14.04. The procedure for a zone change is set forth in Oregon City Code Chapter 17.50.

The public hearing process is governed by OCMC 14.04 and 17.50. The planning commission shall conduct a public hearing in the manner provided by OCMC Section 17.50.170(B) to evaluate the proposed annexation and zone change and make a recommendation to the city commission regarding how the proposal has or has not complied with the factors set forth in Section 14.04.060 and compliance with the zone change criteria contained in OCMC 17.68.020. The planning commission shall provide findings in support of its recommendation. Upon receipt of the planning commission's recommendation, the city commission shall hold a public hearing in the manner provided by OCMC Section 17.50.170(C).



The applicant and all documents submitted by or on behalf of the applicant are available for inspection at no cost at the Oregon City Planning Division, 221 Molalla Avenue, Oregon City, Oregon 97045, from 8:30am to 3:30pm Monday thru Friday. The staff report, with all the applicable approval criteria, will also be available for inspection 7 days prior to the hearing. Copies of these materials may be obtained for a reasonable cost in advance.

The Planning Commission shall make a recommendation to the City Commission as to whether the application has or has not complied with the factors set forth in section 14.04.060 and 17.68.020 of the Oregon City Municipal Code. The City Commission decision is appealable to LUBA within 14 days of issuance of the Notice of Decision.

## **PROPOSAL NO. AN-16-0001 - CITY OF OREGON CITY – Annexation and Zone Change**

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Property Owners / Voters: Ron and Anastasia Wilson

Applicant(s): Same as Owner

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Proposal No. AN-16-0001 is a single tax lot annexation initiated by consent petitions of a double majority of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 222.170 (2) (double majority annexation law) and Metro Code 3.09.040 (a) (Metro's minimum requirements for a petition).

Under the City's Code the Planning Commission reviews annexation proposals and makes a recommendation to the City Commission. If the City Commission decides the proposed annexation should be approved, the City Commission may approve this annexation by resolution.

If a necessary party raises concerns prior to or at the City Commission's public hearing, the necessary party may appeal the decision to the Land Use Board of Appeals.

The territory to be annexed is located generally in the South End area of the City near McLoughlin Elementary School. The territory in Proposal No. AN-16-0001 contains approximately 0.5 acres, has one single-family residence with a population of 2, and had a current estimated assessed value in 2015 of \$226,256.00.

### *Zoning*

The applicant wishes to receive the default R-10 zoning following annexation as permitted under OCMC 17.68. Under the proposed R-10 zone, one additional home could be constructed. The R-10 zoning designation will implement the existing Low Density Residential comprehensive plan designation currently in place. The applicant has submitted a transportation impact analysis to support the rezoning, therefore, the property will be rezoned upon recordation of the annexation with the Secretary of State as set forth in OCMC 17.06.030.

Further explanation of staff's recommendation for R-10 zoning is described later in this report under the heading "OREGON CITY ZONING" on page 15.

## **REASON FOR ANNEXATION**

The owner would be able to receive city services, including specifically, sanitary sewer connection, water system connection, and storm water services, as well as the full range of administrative and municipal services provided upon annexation to the City. The property

is within 300 feet of a city sanitary sewer system and by Oregon Revised Statute, it must be connected to the city sewer service if new development is proposed.

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The property gently slopes south at less than 5 percent. The applicant would be able to connect to the city sewer main system that passes along the south edge of the property with a service line. The site is a residential parcel with a few scattered trees around the existing house and outbuilding. The property is in the South End Drainage Basin.

### *REGIONAL PLANNING*

#### General Information

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

#### **Metro Boundary Change Criteria – Chapter 3.09**

The Legislature has directed Metro to establish criteria that must be used by all cities within the Metro boundary. The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans.
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. Consistency with other applicable criteria for the boundary change in question under state and local law.

Consistency with the County and urban service provider planning agreements along with the timely, orderly and economic provision of public services as required by the Metro Code are discussed in greater detail below.

The Metro Code also contains a second set of 10 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 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

### **REGIONAL FRAMEWORK PLAN**

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." The Growth Management Functional Plan was reviewed and found not to contain any criteria directly applicable to boundary changes. The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

### **CLACKAMAS COUNTY PLANNING**

The Metro Code states that the Commission's decision on this boundary change should be ". . . consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans, public facility plans, . . ."

The Clackamas County Comprehensive Plan is the currently applicable plan for this area. The plan designation for this site is Low Density Residential (LR) on the County's Oregon City Area Land Use Plan (Map IV-5).

The County Zoning on the property is FU-10. The FU-10 zone means a 10-acre minimum lot size. This is a holding zone to prevent the creation of small parcels in areas within the UGB to preserve the capacity of land to fully develop once a full range of urban services is available. Lands located outside areas having sanitary sewer service available were designated Future Urbanizable.

Clackamas County Zoning and Development Ordinance (ZDO) section 314.02 provides that the Future Urban 10-Acre District is applied to those areas designated as Future Urban by Chapter 4 of the Clackamas County Comprehensive Plan.

The *Land Use* section of the Plan, Chapter 4, identifies the territory proposed for annexation as *future urban*, which are defined as:

*"Future urban areas are lands within urban growth boundaries but outside immediate urban areas. Future urban areas are planned to be provided with public facilities, but*

*currently lack providers of those facilities. Future urban areas are substantially underdeveloped and will be retained in their current use to ensure future availability for urban needs. Future urban areas are planned for urban uses but zoned for large-lot, limited development.*

#### Urban Growth Management Agreement

The City and the County have an Urban Growth Management Agreement (UGMA), which is a part of their Comprehensive Plans. The territory to be annexed falls within the Urban Growth Management Boundary (UGMB) identified for Oregon City and is subject to the agreement. The County agreed to adopt the City's Comprehensive Plan designations for this area that is Low Density Residential. Consequently, when property is annexed to Oregon City, it may receive a City planning designation by default, which is R-10 single-family dwelling district.

The applicant wishes to receive R-10 zoning following annexation, however, staff recommends that the property maintain its existing County FU-10 zoning, requiring 10 acre minimum lots, which will serve to preclude any further development or land divisions on the subject property in advance of seeking a zone change. Further explanation of staff's recommendation in this regarding is provided below under the heading "OREGON CITY ZONING" on page 15.

The Agreement presumes that all the urban 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:

#### 4. City and County Notice and Coordination

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*D. 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 . . .*

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#### 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.*

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

\* \* \*

The required notice was provided to the County at least 20 days before the Planning Commission hearing. The agreement requires that adjacent road rights-of-way be included within annexations. South Columbine Court and Salmonberry Drive are currently within the jurisdiction of Clackamas County and will remain so after this annexation occurs.

### ***CLACKAMAS RIVER WATER***

Clackamas River Water (CRW) commented on this proposal in 2014. The tax lot in question is currently a CRW water customer. The existing waterline in S Columbine Ct is a CRW 6-inch ductile iron waterline and currently serves the property.

The City Engineer has recommended that the property continue to be served by CRW per the South End Cooperative Intergovernmental Agreement. CRW requests that the lot not be withdrawn from the CRW Service Boundary.

Pursuant to the South End Waterline IGA between the City and CRW (2000), page 5 of 8, Item 5, *Transfer of Jurisdiction and Operation and Maintenance Responsibility*:

- At such time as the City annexes over 75% of the frontage on both sides of the Salmonberry Drive waterline, then the jurisdiction, operation, and maintenance responsibility for the line shall be transferred from CRW to the City.
- The City shall notify CRW in writing of its intent to transfer jurisdiction of any waterline when the "75% rule" applies.

Salmonberry Drive is approximately 1,620 feet long from South End Road to Hazel Grove Dr. Per the agreement the City must annex over 75% of the frontage on both sides of the Salmonberry Drive waterline which is approximately 1,215 feet frontage on each side of the road. Currently the City has annexed approximately 885 feet on the southwest side and 511 feet on the northeast side.

The City will not be transferring jurisdiction until the "75% rule" applies on Salmonberry Drive. Once the "75% rule" applies and transfers jurisdiction of Salmonberry Drive, then the City would also likely receive ownership of Columbine Court.

As such, until the surrounding property is entirely annexed to Oregon City the right-of-way of Salmonberry Court and Salmonberry Drive will remain under Clackamas County jurisdiction.

## **OREGON CITY COMPREHENSIVE PLAN**

This territory is designated by the Oregon City acknowledged Comprehensive Plan as LR – Low Density Residential. Portions of the City’s Comprehensive Plan have some applicability and these are covered here.

Section 2 of the Oregon City Comprehensive Plan is entitled *Land Use*. Several Goals and Policies in this section are pertinent to proposed annexations.

The *Public Facilities* Section of the Comprehensive Plan contains the following pertinent Goals and Policies.

### **Goal 11.1: Provision of Public Facilities**

***Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.***

#### **Policies**

*Policy 11.1.1 Ensure adequate public funding for the following urban facilities and services, if feasible:*

- a. Streets and other roads and paths*
- b. Wastewater collection*
- c. Storm water management services*
- d. Police protection*
- e. Fire protection*
- f. Parks and recreation*
- g. Water distribution*
- h. Planning, zoning and subdivision regulation*

#### *Streets and other roads and paths*

S. Columbine Court and Salmonberry Drive are County maintained roads. At some point in the future the City will assume jurisdiction of the streets adjacent to the subject parcel, however this will not occur with the annexation of subject parcel. Pursuant to the current UGMA the current arrangement regarding maintenance situation is satisfactory. Therefore, no additional public expenditures will be necessary to fund the streets, roads or paths.

#### *Wastewater collection*

Upon annexation, this one home will start paying the current stormwater utility fee. Therefore, no additional public funds will need to be spent.

#### *Police and Fire Protection*

This annexation will immediately add one home to the city’s police and fire protection coverage and withdraw the property from Clackamas County Enhanced Law Enforcement District. However, the Oregon City Police Department has confirmed that it already provides service to this area and it will continue to do so.



## *Water*

As discussed previously, the property is connected to the Clackamas River Water District (CRW) water system. CRW states that the annexation does not conflict with their interests. The following are CRW's general concerns and comments:

- The tax lot in question is currently a CRW water customer. The existing waterline line at S Columbine Ct is a CRW 6-inch ductile iron waterline and currently serves the property.
- CRW requests that the lot not be withdrawn from the CRW Service Boundary.
- CRW recommended that the property continue to be served by CRW per the South End Cooperative Intergovernmental Agreement.

Retaining CRW as the provider of water service will not increase the burden placed on South Fork Water Board or the City to provide service.

*Policy 11.1.1* above defines what is encompassed within the term “urban facilities and services” as it pertains to annexation. The City’s plan is more inclusive in its definition of what services are considered an “urban service” than is the Metro Code. The City’s Plan adds fire protection and planning, zoning and subdivision regulation to the list of urban services that are to be considered by the Metro Code. The adequacy of these facilities and services to serve the subject property, containing a single home, is discussed in greater detail below. The Metro Code also includes mass transit in addition to streets and roads.

*Policy 11.1.3* *Confine urban public facilities and services to the city limits except where allowed for safety and health reasons in accordance with state land use planning goals and regulations. Facilities that serve the general public will be centrally located and accessible, preferably by multiple modes of transportation.*

*Policy 11.1.4* *Support development on underdeveloped or vacant buildable land within the City where urban facilities and services are available or can be provided and where land use compatibility can be found relative to the environment, zoning, and comprehensive plan goals.*

*Policy 11.1.5* *Design the extension or improvement of any major urban facility and service to an area to complement other urban facilities and services at uniform levels.*

*Policy 11.1.3* and *Policy 11.1.4* encourage development on sites within the City where urban facilities and services are either already available or can be provided. This policy implies that lands that cannot be provided urban services should not be annexed. The City has capacity to provide urban services to this existing home.

*Policy 11.1.5* requires that the installation of a major urban facility or service should be coordinated with the provision of other urban facilities or services. No major urban facility or service is required here; rather, it requires normal extension of sanitary sewer from the existing sewer main that runs along the rear of the property to the site.

The owner has not proposed to further divide the existing parcel at this time, although this is a future possibility when the property is rezoned to R-10, since the property has sufficient net developable land to allow one additional lot

Read together, these policies suggest that when annexing lands, the City should consider whether a full range of urban facilities or services are available or can be made available to serve the territory to be annexed. Oregon City has implemented these policies with its Code provisions on processing annexations, which requires the City to consider adequacy of access and adequacy and availability of public facilities and services. Overall, it appears that the city can provide urban service capacity to this one home.

### ***Goal 11.2: Wastewater***

***Seek the most efficient and economic means available for constructing, operating, and maintaining the City's wastewater collection system while protecting the environment and meeting state and federal standards for sanitary sewer systems.***

#### *Policies*

*Policy 11.2.2 Plan, operate and maintain the wastewater collection system for all current and anticipated city residents within the existing urban growth boundary. Strategically plan for future expansion areas.*

Since all new development on annexed land is required to connect to the sanitary sewer system, this policy suggests that a measure of the adequacy of the sanitary system should be whether it could serve the potential level of development provided for by the Comprehensive Plan and Zoning designations. The city's sanitary sewer is available to this property.

*Policy 11.2.3 Work with Tri-City Service District to provide enough capacity in its collection system to meet standards established by the Oregon Department of Environmental Quality (DEQ) to avoid discharging inadequately treated sewage to surface waters.*

The Tri-City Service District was provided notice of this annexation. The District did not respond to the notice. The District provides sewer collection to the Cities of West Linn, Oregon City and Gladstone. The property owner must initiate the Tri-City Service District annexation after annexation to the City. The City Commission should concur with Tri-City Service District's annexation of the subject property in the enacting ordinance.

### ***Goal 11.3: Water Distribution***

***Seek the most efficient and economic means available for constructing, operating, and maintaining the City's water distribution system while protecting the environment and meeting state and federal standards for potable water systems.***

#### *Policies*

*Policy 11.3.1 Plan, operate and maintain the water distribution system for all current and anticipated city residents within its existing urban growth boundary and strategically plan for future expansion areas.*

Since new development on annexed lands may connect to the city water distribution system, this policy suggests that a measure of the adequacy of the water distribution system should be whether it could serve the potential level of development provided for by the Comprehensive Plan and Zoning designations. The subject property is zoned FU-10, imposing a 10-acre minimum lot size, which serves to preclude any further land divisions until the land is rezoned to a City zoning designation.

As stated previously, the property is connected to the Clackamas River Water District (CRW) water system. CRW has states that the annexation does not conflict with their interests. The following are CRW's general concerns and comments:

- The tax lot in question is currently a CRW water customer. The existing waterline line at S Columbine Ct is a CRW 6-inch ductile iron waterline and currently serves the property.
- CRW requests that the lot not be withdrawn from the CRW Service Boundary.
- CRW recommended that the property continue to be served by CRW per the South End Cooperative Intergovernmental Agreement.

As the CRW comments explain, CRW can and will continue to serve the subject property containing a single home.

#### **Goal 11.4: Stormwater Management**

*Seek the most efficient and economical means available for constructing, operating, and maintaining the City's stormwater management system while protecting the environment and meeting regional, state, and federal standards for protection and restoration of water resources and fish and wildlife habitat.*

#### **Policies**

*Policy 11.4.1 Plan, operate, and maintain the stormwater management system for all current and anticipated city residents within Oregon City's existing urban growth boundary and strategically plan for future expansion areas.*

*Policy 11.4.4 Maintain existing drainageways in a natural state for maximum water quality, water resource preservation, and aesthetic benefits.*

Since new development on annexed lands may connect to the city stormwater management system, this policy suggests that a measure of the adequacy of the stormwater management system should be whether the city (or the county stormwater management system in the event that drainage goes to the county) could serve the potential level of development provided for by the Comprehensive Plan and Zoning designations. New development may also have opportunities to provide further protection to preserve water quality. This annexation will not result in any changes to the stormwater drainage. No future

development would be allowed under the existing FU-10 zoning designation. Improvement of the existing storm water connections leading to would be in conformance with city stormwater design standards.

**Goal 11.9: Fire Protection**

*Maintain a high level of fire suppression and emergency medical services capacity.*

**Policies**

*Policy 11.9.1 Ensure that all areas, including newly annexed areas, receive fire protection and emergency medical services.*

The property is already within Clackamas County Fire District #1. Fire protection and emergency services will be unaffected by this proposal. The annexation was transmitted to Clackamas County Sheriff's Department and Oregon City Police Department for comment. OCPD already responds to County emergency calls for the unincorporated area adjacent to Salmonberry Drive. Clackamas County Sheriff's Department was contacted and had no conflicts with the annexation. Upon annexation the area would be removed from the Clackamas County Enhanced Law Enforcement District.

Staff does not anticipate any police service problems due to the annexation of this one home.

The final section of this staff report addresses each urban service to determine whether the services are currently available or can be made available at an adequate level to serve the potential development of the property under the current planning designation and zoning that implements it.

Section 14 of the Plan is entitled *Urbanization*. Several policies in this section are pertinent to proposed annexations. The following excerpts expand on the City's annexation philosophy and requirements.

The City is required to refer all proposed annexations to the voters. Rather than having voter approval of individual property owners' requests to annex, the City should prepare and implement an annexation plan and program. The City could then annex large blocks of properties (with voter approval) at one time, rather than in a piecemeal fashion. Annexation would be tied more directly to the City's ability to provide services efficiently, maintain regular city boundaries, and help the city meet Metro targets for housing and employment. The zoning of the property should be decided at the time the Planning Commission and City Commission review and approve the annexation request.

Applications for annexation, whether initiated by the City or by individuals, are based on specific criteria contained in the City's municipal code. Metro and state regulations promote the timely and orderly provision of urban services, with which inappropriate annexations can conflict. Therefore, an annexation plan that identifies where and when areas might be considered for annexation can control the expansion of the city limits and services to help avoid those conflicts and provide predictability for residents and

developers. Other considerations are consistency with the provisions of this comprehensive plan and the City's public facility plans, with any plans and agreements of urban service providers, and with regional annexation criteria.

The requirement for voter approval in section 14 of the Plan is taken from the Oregon City Charter, which requires voter approval for all annexations "unless mandated by law." SB 1573 mandates that, so long as a territory meets four criteria, the territory must be annexed by the City. Because this territory meets those criteria, no voter approval may be required by the city.

The City has not completed an annexation plan and program for this area. This annexation is still sufficiently tied directly to the City's ability to provide services efficiently with the logical extension of physical utility lines as it is adjacent to several city subdivisions, that have utilities and street improvements. The lot is dividable under R-10 zoning if annexed and a zone change is approved, since it is approximately 20,000 sf in size. This annexation could help the city meet Metro targets for housing.

The following Plan annexation policies are approval criteria for annexations under Criteria 3 of the Metro Code. They provide that the City's Comprehensive Plan designations will apply upon annexation, how zoning will be changed (either automatically or after annexation) and that annexations are to be processed according to quasi-judicial procedures.

**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.*

The city annexation process is set out in Chapter 14 of the Municipal Code. By requiring compliance with that code, the Metro code, and the statewide planning rules, the city is identifying the effects the full build-out of these annexed properties will have on public services and any benefits to the city as a whole.

**Policies**

**Policy 14.4.1** *In order to promote compact urban form to support efficient delivery of public services, lands to be annexed must be within the City's Urban Growth Boundary, and must be contiguous to the existing City limits. Long linear extensions, such as cherry stems and flag lots, shall not be considered contiguous to City limits.*

The proposed annexation is contiguous to the city limits along the side and rear property lines for approximately 500 feet. No long linear extensions are proposed. The annexation would not create any islands.

*Policy 14.4.2 Concept Plans and Sub-area Master Plans for unincorporated areas within the Urban Growth Boundary shall include an assessment of the fiscal impacts of providing public services to the area upon annexation, including the costs and benefits to the city as a whole.*

The property is within the area of the South End Concept Plan (SECP), which was adopted in 2014. The SECP includes an applicable assessment of fiscal impacts. This property is part of the pre-2002 UGB Expansion area, and was previously part of the city's existing Comprehensive Plan with a Low Density Residential land use designation. The subject property would remain largely unaffected by the SECP since the majority of infrastructure planning in the immediate area preceded the adoption of the concept plan.

*Policy 14.4.3 When an annexation is requested, the Commission may require that parcels adjacent to the proposed annexation be included to:*

- a) avoid creating unincorporated islands within the city;*
- b) enable public services to be efficiently and cost-effectively extended to the entire area;*
- or*
- c) implement a Concept Plan or Sub-area Master Plan that has been approved by the Commission.*

This proposed annexation does not create an unincorporated island within the city. There is no development proposed at this time. No additional parcels are anticipated to be annexed to enable more efficient public services at this time. The area is part of the South End Concept Plan, adopted in May 2014.

*Policy 14.4.4 The City may, as provided by state law, provide sewer service to adjacent unincorporated properties when a public health hazard is created by a failing septic tank sewage system; the Commission may expedite the annexation of the subject property into the city, subject to any voter approvals of annexations.*

This policy does not apply to this annexation because the proposal does not include a public health hazard due to a failing septic system. State law pre-empts this annexation from voter approval requirements.

## **LAND USE**

Section 2, of the City's Comprehensive Plan identifies land use types. This application has one residential land use type:

- 1. Low Density Residential [LR]: Areas in the LR category are primarily for single-family detached homes.*

The City/County urban growth management agreement specifies that the County's acknowledged Comprehensive Plan and implementing regulations shall apply until annexation and the City adopts subsequent plan amendments.

## OREGON CITY ZONING

The Oregon City Code requires the City Planning Department to review the final zoning designation within sixty days of annexation, utilizing the chart below and some guidelines laid out in Section 17.06.030.

### CITY LAND USE CLASSIFICATION

<u>Residential Type</u>	<u>City Zone</u>
Low-density residential	R-10, R-8, R-6
Medium-density residential	R-3.5, R-5
High-density residential	R-2

That section goes on to say:

“In cases where only a single city zoning designation corresponds to the comprehensive plan designation . . . Section 17.68.025 shall control.”

Section 17.68.025, Zoning changes for land annexed into the city, says:

“Notwithstanding any other section of this chapter, when property is annexed into the city from the city/county dual interest area with any of the following comprehensive plan designations, the property shall be zoned upon annexation to the corresponding city zoning designations as follows:”

<u>Plan Designation</u>	<u>Zone</u>
Low-density residential	R-10
Medium-density residential	R-3.5
High-density residential	R-2

The subject property is designated Low-density residential on the City’s Comprehensive Plan, and the owner has indicated a request to rezone the land to R-10. A concurrent requirement for rezoning is to show compliance with the Statewide Transportation Planning Rule (TPR). The applicant has included a Traffic Analysis Letter that also provides an analysis of the impact of the proposed rezoning for compliance with the Transportation Planning Rule (TPR). The City’s Transportation Consultant has reviewed the applicant’s analysis and concurs with his conclusion, recommending that that the city find the application to be in compliance with the TPR. .

The City’s Code contains provisions on annexation processing. Section 6 of Chapter 14 requires the City Commission “to consider the following factors, as relevant”:

*1. Adequacy of access to the site;*

The site access is discussed below in the Facilities and Services section. Any future development of the property will need to include half-street/full street improvements to new interior streets, as appropriate.

2. *Conformity of the proposal with the City's Comprehensive Plan;*

As demonstrated in this section of the staff report, the City's Comprehensive Plan is satisfied.

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

The Facilities and Services discussion of this report demonstrates that public facilities and services are available and are adequate to serve the potential development that could occur under the existing low density plan designation.

4. *Compliance with applicable sections of Oregon Revised Statutes Chapter 222, and Metro Code 3.09;*

The only applicable criterion in ORS 222 is that annexed lands be contiguous to the City. The site is contiguous at its border with city property for about 500 feet along the property boundary. The Metro Code criteria are set out on page 2 of this report. This report considers each factor and the Conclusions and Reasons in the Findings and Reasons demonstrate that these criteria are satisfied.

5. *Natural hazards identified by the City, such as wetlands, floodplains, and steep slopes;*

No natural hazards are identified on the property.

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

No such designated areas or resources are identified for the property, and no significant adverse effects have been indicated.

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

No significant adverse effects have been identified by any necessary party.

The Commission interprets the "community" as including the City of Oregon City and the lands within its urban service area. The City will obtain a small increase in property tax revenues from adding additional 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 City delivers police service to the unincorporated area in the course of patrolling to deliver service to the incorporated area. The increases in service responsibilities to the area that result from the annexation are insignificant.



Once annexed, the property owner could apply to the City for land use permits. Any impacts on the community that result from approval of development permits are a direct consequence of the permit approval, not of the annexation. Before any urban development can occur, the property needs to be rezoned, and the territory must also be annexed to the Tri-City Service District. The City Commission must concur with Tri-City Service District's annexation of the subject property in the enacting ordinance.

As noted above, SB 1573 requires the city to annex property that meet the four requirements of that act. Because this territory does so, the city is precluded from setting this matter for election even though it is otherwise consistent with a positive balance of the factors in section 6.

### ***ZONE CHANGE***

In addition to the requirements for zoning of annexed areas in OCMC 17.06.030 and 17.68.025, the following findings for compliance with the zone change criteria of OCMC 17.68.020 are provided:

*A. The proposal shall be consistent with the goals and policies of the comprehensive plan.*

As discussed on above under Oregon City Comprehensive Plan on pages 5 through 11, the proposed annexation is consistent with the applicable public facilities goals 11.1, 11.2, 11.3, 11.4 and applicable policies, and Goal 14.4 and applicable policies regarding annexation of lands to the City.

*B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.*

The Facilities and Services discussion of this report demonstrates that public facilities and services are available and are adequate to serve the potential development that could occur under the existing low density plan designation. All necessary public facilities required to service the annexed area are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy for any new development.

*C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.*

As discussed below under *Transportation*, the annexation, if approved, would not create any impact on the transportation system. No impact would occur unless or until the property proposed to be annexed was developed in the future to include one additional residential home. The applicant included a Traffic Analysis Letter and also an analysis of compliance with the State Transportation Planning Rule. The transportation impacts attributable to the proposed annexation, zone change and subsequent development of the

subject property are anticipated to be nominal and are not expected to cause any significant operational or safety issues on the nearby transportation facilities.

*D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.*

All applicable goals and policies controlling the zone change are addressed by specific policies of the Comprehensive Plan as shown earlier in this report.

### ***FACILITIES AND SERVICES***

**ORS 195 Agreements.** ORS 195 requires agreements among providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

**Sanitary Sewers.** The City of Oregon City provides sanitary sewer service. A public 10-inch sewer line runs along the rear of the property. The individual home connection in the area required the line be extended to serve the requested area.

The Tri-City Service District provides sewage transmission and treatment services to the cities of Oregon City, West Linn and Gladstone. Each city owns and maintains its own local sewage collection system. The District owns and maintains the sewage treatment plant and interceptor system. The three cities are in the District and as provided in the intergovernmental agreement between the District and the City, the District does not serve territories outside Oregon City, with one exception.

Before January 1, 1999, state statute (ORS 199) provided that when territory was annexed to a city that was wholly within a district, the territory was automatically annexed to the district as well. That statute no longer applies in this area. Therefore, each annexation to Oregon City needs to be followed by a separate annexation of the territory to the Tri-City Service District. The City Commission must concur with Tri-City Service District's annexation of the subject property in the enacting ordinance.

The Tri-City Service District plant is along Interstate 205 in Oregon City just east of the junction of the Willamette and the Clackamas Rivers. The plant has an average flow capacity of 11 million gallons per day (mgd) and a design peak flow capacity of 50 mgd. The available average capacity is 4.4 mgd. The plant was designed to serve a population of 66,500 in the year 2001; however, the facility was recently expanded to increase the available average dry weather capacity to 11.9 mgd.

**Water.** The water service provider for this territory is Clackamas River Water.

The annexation proposal does not conflict with CRW's interests. CRW is a domestic water supply district organized under ORS Chapter 264 and is therefore a necessary party to this proceeding. The following are CRW's general concerns and comments:

- The tax lot in question is currently a CRW water customer. The existing waterline is a CRW 6-inch ductile iron waterline and currently serves the property.
- CRW requests that the lot not be withdrawn from the CRW Service Boundary.
- It is recommended that the property continue to be served by CRW per the South End Cooperative Intergovernmental Agreement. The City Engineer concurs.

**Stormwater.** No additional development has been proposed. On-site stormwater drainage or discharge to a city or county facility will be required upon future development. Any future development would have to convey site stormwater runoff to the appropriate stormwater system in the area.

**Fire Protection.** This territory is currently within Clackamas County Fire District #1 which serves portions of Clackamas County as well as Oregon City. 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. Staff recommends that the territory not be withdrawn from CCFD#1.

**Police Protection.** The Clackamas County Sheriff's Department currently serves the territory. The proposed annexation was forwarded for comment to the Sheriff's Department as well as Oregon City Police Department. Neither entity indicated that there is inadequate capacity to serve the property.

The area to be annexed lies within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. Due to the location being surrounded by Oregon City, Oregon City Police Department already responds to County emergency calls for the unincorporated area adjacent to Salmonberry Drive. The impact to police services upon annexation will be negligible. Clackamas County Sheriff's Department was contacted and had no conflicts with the annexation.

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 officially serve the property.

**Parks, Open Space and Recreation.** The site's nearest developed park is Chapin Park about  $\frac{3}{4}$  miles from the proposed annexation area. The undeveloped Filbert Run park is about 500 feet from the site. If development is proposed following annexation of the property the applicant is responsible for paying Parks System Development Charges.

### **Transportation.**

#### *Availability and Access*

Safe access to the site is available on two frontages, from Salmonberry Court and Salmonberry Drive, and from S. Hazelnut Court. Future access to a newly-created lot could

be taken via either street. The subject property is equal distance from South End Road and Central Point Road, streets which are under Oregon City jurisdiction.

#### *Capacity*

The annexation, if approved, would not create any impact on the transportation system. No impact would occur unless or until the property proposed to be annexed was developed in the future to include one additional residential home.

#### *Re-Zoning and the Transportation Planning Rule*

Per OCMC 17.68.025(A), annexed properties receive a default City zoning designation as a single process. This procedure has historically served the city well for annexing county land.

The applicant has submitted a traffic impact analysis (TIA) study that indicates compliance with the Transportation Planning Rule. The applicant seeks to annex to the City now and receive the default zoning of R-10 for the subject property.

The applicant's Traffic Engineer concluded that the proposed annexation and zone change is projected to result in a maximum of 1 additional peak hour trip and 10 additional daily trips on area roadways and intersections. The proposed zone change will not have a significant effect on the surrounding transportation system as defined under the Transportation Planning Rule. The transportation impacts attributable to the proposed annexation, zone change and subsequent development of the subject property are anticipated to be nominal and are not expected to cause any significant operational or safety issues on the nearby transportation facilities. Accordingly, the applicant's Traffic Engineer recommends no mitigation in association with the proposed zone change to R-10.

The new TPR regulations in Section 9 provide that under OAR 660-012-0060

#### *Plan and Land Use Regulation Amendments;*

*(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.*

*(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the*

*amendment does not change the comprehensive plan map;*

The existing City of Oregon City comprehensive plan map shows the subject property is designated "LR". The proposed zoning is R-10 and is one of the City's zoning districts that is consistent with the low-density comprehensive plan designation. This criterion is satisfied.

*(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and*

The City of Oregon City's current TSP is adopted and acknowledged. The parcel's frontage on S Hazelnut Court appears to be fully developed and appears to be developed in accordance with city standards and is consistent with the policies, planned projects, and standards in the TSP. The parcel's frontage on Columbine Court appears to lack sidewalks, but otherwise appears consistent with city standards and the TSP. In connection with the annexation and rezoning or the development of the parcel, the frontage of both parcels can be brought into compliance with city standards for a local street...

*(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.*

There were no special exemptions or other provisions made affecting this property at the time of inclusion within the Urban Growth Boundary. This criterion is satisfied.

TPR Conditions (a), (b) , and (c) above are all met for the annexation proposal.

The City's Transportation Engineer, Replinger and Associates, has reviewed the applicant's TAL and TPR analysis and concurs with the applicants conclusions (Exhibit \_). Based on this analysis, the property may be automatically rezoned to R-10 upon annexation.

**Other Services.** Planning, building inspection, permits, and other municipal services will be available to the territory from the City upon annexation.

### **STAFF RECOMMENDATION**

Based on the findings made in this report and the applicant's petition, staff recommends that the City Commission approve Planning File AN-16-0001, and adopt as its own this Staff Report and Exhibits. Staff makes the following recommendations, which have been included in the attached findings, reasons for decision and recommendations attached hereto.

- As required by State Statute, The City Commission should find that this annexation is consistent with a positive balance of the factors set forth in OCMC Section [14.04.060](#) and complies with ORS 222.170(2).
- Recommend withdrawing the territory from the County Service District for Enhanced Law Enforcement as allowed by statute.
- Recommend that the City Commission concur with Tri-City Service District's annexation of the subject property in the enacting ordinance.
- Concur with the re-zoning to R-10 based on compliance with adopted applicable city and state requirements, plans, codes and policies, including but not limited to, Oregon City Municipal Code 17.68.020, the Oregon City Comprehensive Plan, and the Statewide Transportation Planning Rule.

### **EXHIBITS (On File)**

1. Annexation - Vicinity Map – Sewer and Water Map
2. Annexation Application
3. Public Notices

4. CRW Comments
5. Replinger and Associates Comments
6. Approved South End Water Line IGA, 2000

The complete record and application is available for inspection at the Planning Division.

## PROPOSED FINDINGS, REASONS FOR DECISION, AND RECOMMENDATIONS

Based on the Findings, the Commission determines the following:

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 this criterion 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 there are no inconsistencies between these plans/agreements and this annexation.
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 identifies the property as *Immediate Urban* lands, which should ensure the "orderly, economic provision of public facilities and services." The property owner has demonstrated that the City can provide all necessary urban services. Nothing in the County Plan speaks directly to criteria for annexation. 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 City Comprehensive Plan that calls 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 the area from existing improvements in Salmonberry Drive and via the gravity sewer line that runs along the rear of the property. The existing home will continue to be serviced by Clackamas River Water.

With regard to storm drainage to the South End Basin, the city has the service available in the form of regulations to protect and control stormwater management.

5. 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.
6. 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.

7. The Oregon City Code 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 covered in the Findings and the Commission finds that this proposal is consistent with a positive balance of those factors.
8. The City Commission concurs with Tri-City Service District's annexation of the subject property in the enacting City ordinance.
9. The 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.
10. The Commission determines that the property should not be withdrawn from the Clackamas County Fire District #1.
11. The City finds that applicant's proposal for rezoning the property from Clackamas County Future Urban – 10 (FU-10) to Oregon City R-10 Single-Family Residential is consistent with OCMC 17.06.030 Zoning of Annexed Areas, with the Oregon City Transportation System Plan, and has satisfactorily demonstrated compliance with the Statewide Transportation Planning Rule to support such rezoning.