

Materials Received in Compliance with  
Commission Record Instructions  
(AN-16-0003)

**From:** [Laura Terway](#)  
**To:** [Pete Walter](#); [Carrie Richter \(crichter@batemanseidel.com\)](mailto:crichter@batemanseidel.com); [Joseph Schaefer](#); [Tim Ramis](#)  
**Subject:** FW: Ore City Golf Course Annexation  
**Date:** Wednesday, February 08, 2017 12:48:51 PM

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### ShareFile Attachments

Expires August 07, 2017

2013_TSP_Fig3_.pdf	1.2 MB
2013_TSP_Fig4_.pdf	2.9 MB
an-16-0006_annexation_application_full.pdf	6.5 MB
TSP_goals.pdf	676.1 KB

[Download Attachments](#)

Laura Terway uses ShareFile to share documents securely. [Learn More.](#)

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**From:** Steve Callistini [mailto:steve@cascadejets.com]  
**Sent:** Wednesday, February 08, 2017 11:59 AM  
**To:** Laura Terway  
**Subject:** Ref: Ore City Golf Course Annexation

Feb 8, 2017

City of Oregon City  
Community Development Director  
625 Center Street  
Oregon City, OR 97045  
Attn: Laura Terway

Hi Laura,

In a recent email communication I sent to Dayna Webb,, she's asked if I would get with you on this following topic. With regard to the pending Oregon City Golf Course annexation proposal and with concerns for subsequent plans for re-zoning and a housing development on this property as previously stated by the developer, I wanted to bring a couple of issues to your concern.

In the attached Figure 3, Household and Employment Growth (2010 – 2035), the Ore City Concept Plan, shows growth for under 500 households signified by a small red dot, in this plan in the area adjacent to the Ore City high school, The plan does not indicate and account for any growth plans further east on Beavercreek Road to accommodate the one thousand twenty (1020) households planned by the golf course developer along this corridor. If it did their plan would indicate a “large” circle in the area of the golf course, which would dramatically change the metrics of planning of this area.

The developer has stated more than once in previous meetings and in his application (see Sec. D – Site History & Beavercreek Road Concept Plan of Applicants Annexation Proposal dated August 2016, attached) that their development is consistent within the guidelines of the previous Concept Plan, however I would argue that it is not, as the current 2013 projected growth plan states otherwise. Additionally, large scale development such as the ultimately proposed golf course development does not align with the “Outcome” and long term TSP Goals of the City as stated in the 2013 TSP Plan.

I feel it’s important that when commissioners are considering approvals for continued growth in this already congested high growth corridor (see attached fig. 4) that the commissioners are basing their decisions on goals and data that is accurate and already available.

Finally, and forgive me if this is not your jurisdiction, but I feel another consideration the commissioners might keep in mind for future developments of this corridor is that how the 20 mph speed limit on Beavercreek Road contributes to the traffic delays and current congestion along the Beavercreek Corridor. Nowhere could I find any in any traffic studies or road plans showing the fact that there is this speed restriction on Beavercreek Road and consequent adverse effect it has on current and future traffic flow of Beavercreek Road and consequently the OR213 intersection. I feel this needs to be brought to the attention of planning and the commissioners. As a daily user of Beavercreek Road and the OR213 intersection I can attest to the large amount of traffic delays and congestion that travelers and homeowners in this area already deal with on a daily basis.

Thank you for your time and consideration of the concerns I have regarding future Beavercreek Corridor Development. Feel free to contact me if you have any questions regarding these points.

Kind regards,  
Steve

Steve Callistini  
15588 S Saddle Lane  
Oregon City, OR 97045  
T: (971)223-2905

## the outcome

The Oregon City TSP employed a performance based approach, focusing on measurable outcomes of investments to the transportation system. The approach allows the City to measure the degree to which its investments support regional and City-wide priorities. In this manner, the City is able to track how its investment decisions impact a set of performance objectives through 2035. While the performance objectives do not represent the complete picture, they do offer a baseline against which to assess how the policies, investments and planning decisions made in this plan may affect the future.

### Tracking Performance of Transportation System Investments

Oregon City developed measures for safety, congestion, freight reliability, walking, biking, transit and non-single occupant vehicle (SOV), and climate change to help translate investment decisions to the community priorities of the TSP update. The performance measures included the following:



#### Safety

- Reduce fatalities and serious injuries by 50% from 2010 for drivers, walkers and bikers

#### Congestion

- Reduce vehicle hours of delay per person by 10% from 2010.
- Work towards meeting mobility targets for streets and intersections<sup>2</sup>

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<sup>2</sup> The Metro Regional Transportation Functional Plan includes Mid-day and PM peak mobility standards in the Regional Mobility Policy, Table 3.08-2

#### Freight Reliability

- Reduce vehicle hours of delay for truck trips by 10% from 2010.

#### Walking, Biking, Transit and Non-SOV

- Work toward achieving the non-SOV mode share targets of 45 to 55 percent for the Oregon City Regional Center and the 7th Street-Molalla Avenue Corridor and 40 to 45 percent for other areas of the City.
- Triple walking, biking and transit mode share from 2010.



## Climate Change

- Reduce vehicle miles traveled (VMT) per capita by 10 percent compared to 2010

## Putting the Plan to the Test

So how will investment decisions of the TSP, an estimated \$221 million worth, improve the performance of the transportation network in Oregon City? To answer this question, the plan's investment decisions were evaluated against the performance measures to identify long-term trends through 2035. The results are presented in the following sections.

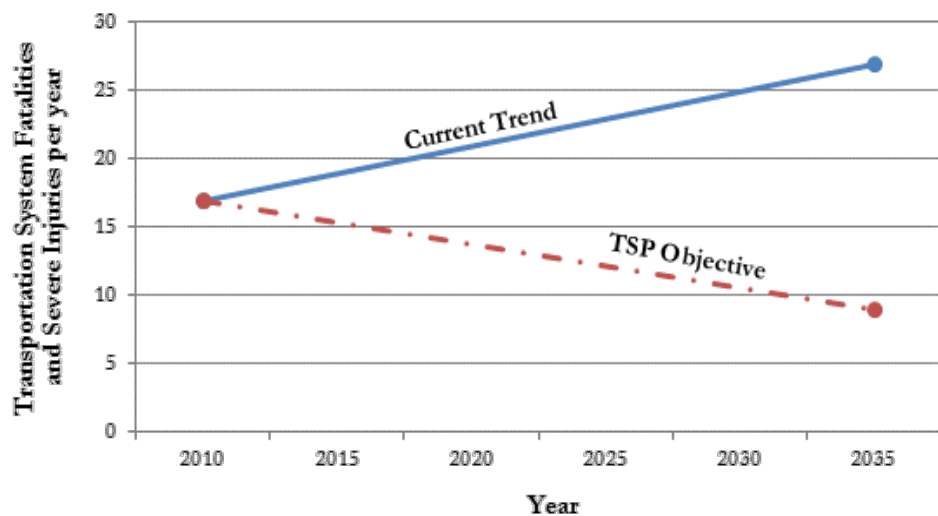
### Safety is expected to improve despite the Current Trend

The future trend for total fatalities and severe injuries resulting from collisions along the transportation system in Oregon City is expected to move in the right direction despite what recent collision data suggests.<sup>3</sup> Although we are unable to forecast future collisions along the transportation system, with

investments in improved street crossings, walking and biking facilities, and to high collision locations and congested intersections, the trend is expected to be more in line with the safety objective of the TSP (reducing fatalities and serious injuries by 50% from 2010).

Overall, there were two fatalities and 15 severe injuries in 2010. Pedestrians were involved in eight collisions, with two pedestrians sustaining severe injuries. While there were nine collisions involving a bicyclist in 2010, none of the cyclists sustained severe injuries. By 2035, Oregon City hopes to limit total fatalities and severe injuries to less than 10 in a year.

Figure 20: The Expected Trend for Safety



<sup>3</sup> The current trend was developed based on collision data between 2005 and 2010

## Progress is expected to be made towards meeting the Congestion Targets

To reduce congestion, Oregon City identified over \$161 million worth of projects to improve driving, and approximately \$60 million to enhance walking, biking and transit usage.

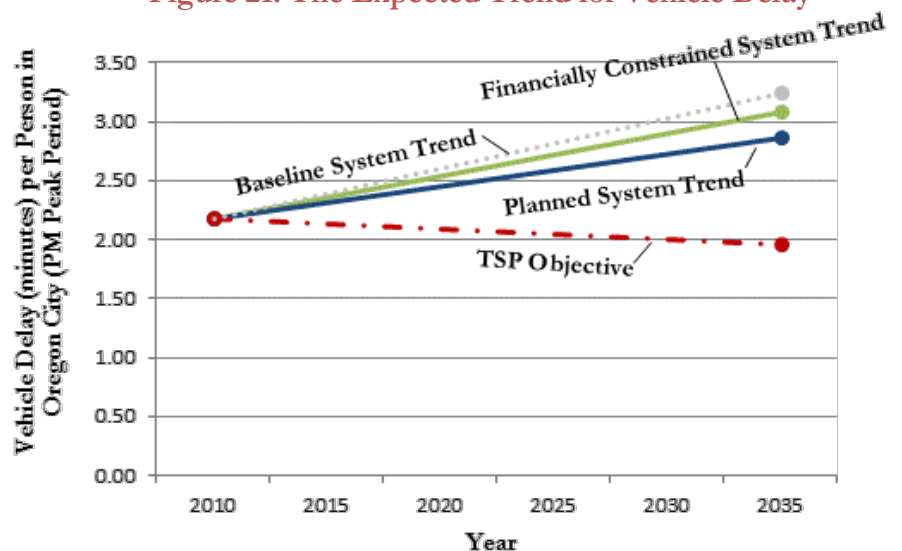
**Vehicle hours of Delay<sup>4</sup>:** The same dynamics that make Oregon City an attractive place to live and open a business- its access to major regional transportation routes including I-205, OR 213, OR 99E, and OR 43- poses a challenge for meeting this performance measure. The TSP objective envisions decreasing delay by approximately ten percent through 2035, to fewer than two minutes per person during the evening peak period. However, the future trend for delay along Oregon City streets during the evening peak period (after assuming the planned system investments) is expected to increase slightly through 2035, from about two minutes to just under three minutes per person. This is generally associated with increased delay along the regional routes (such as OR 99E and OR

213), a side effect of local and regional population and employment growth. Since these routes serve outlying communities such as Molalla and Canby, through trips (or drivers that have origins and destinations outside of Oregon City) would be expected to significantly contribute to the increased delay in Oregon City.

With delay trending away from the TSP objective even after nearly \$221 million worth of transportation system investments, the limitations of relying on infrastructure improvements as a means of meeting this objective are evident as the benefits are difficult to assess.

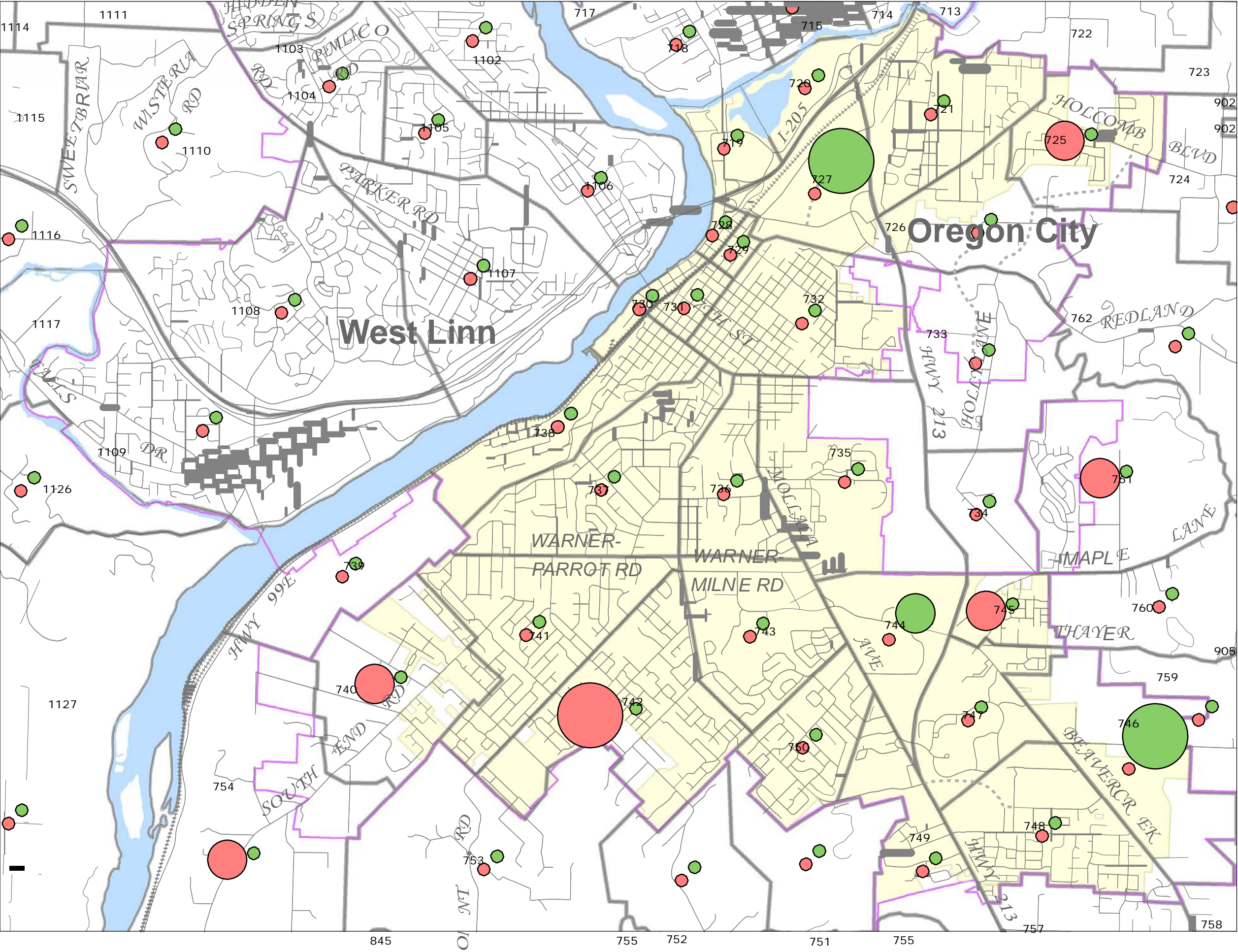
However, the City is working towards meeting this objective by decreasing delay nearly 15 percent from what would be expected without the \$221 million worth of transportation system investments (see the Baseline System Trend).

**Figure 21: The Expected Trend for Vehicle Delay**



<sup>4</sup> Delay is defined as the amount of time spent in congestion greater than 0.90 v/c, page 5-7, 2035 Metro RTP





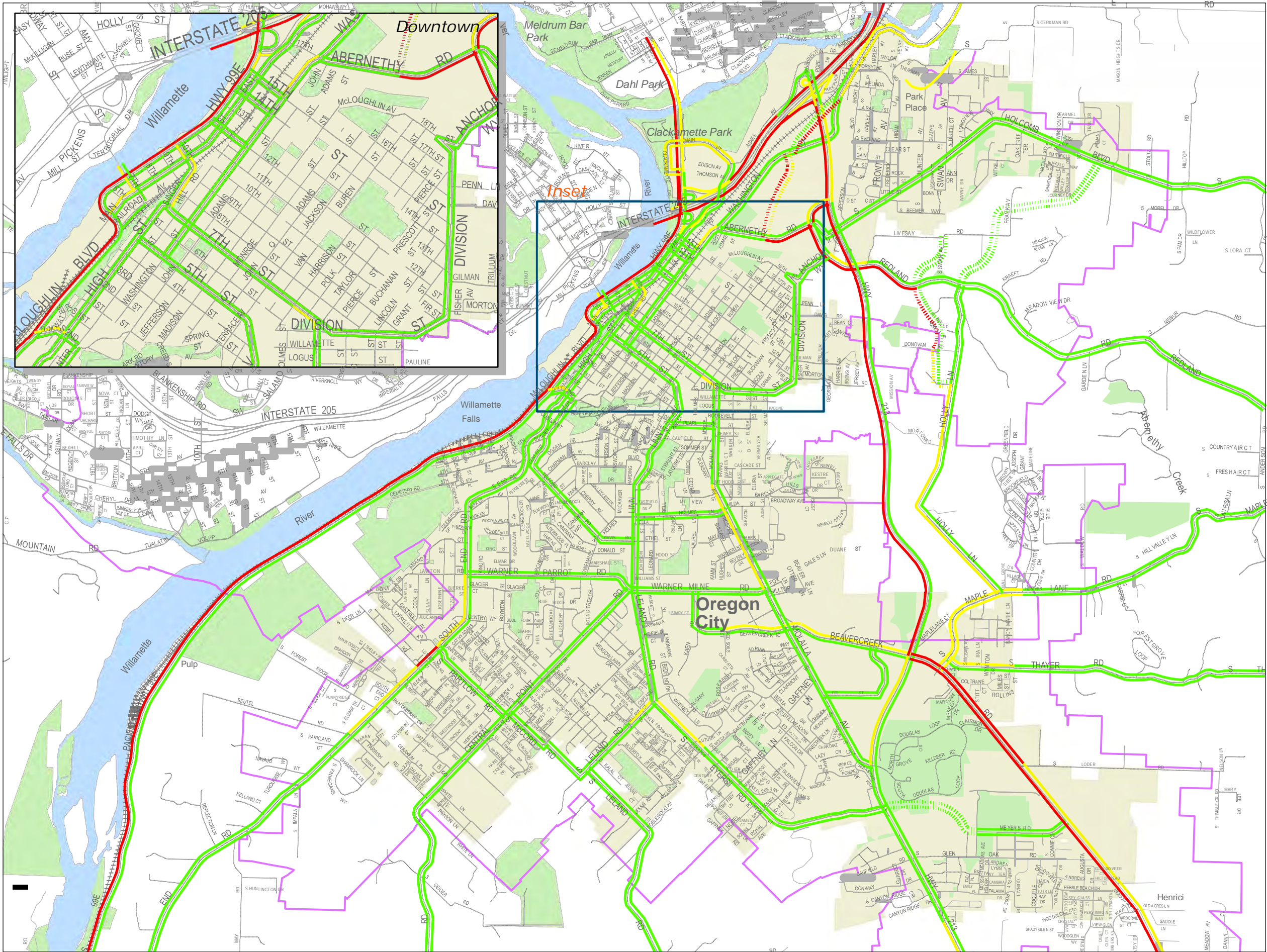
**FIGURE 3**

**Household and  
Employment Growth  
(2010 - 2035)**

- Legend**
- Household Growth between 2010 and 2035 (by Zone)*
- Increase of less than 500 households
  - Increase between 500 and 1,000 households
  - Increase of more than 1,000 households
- Job Growth between 2010 and 2035 (by Zone)*
- Increase of less than 500 jobs
  - Increase between 500 and 1,000 jobs
  - Increase of more than 1,000 jobs
- # Zone Number
- Zone
- River
- Planned Roadways
- ++++ Railroad
- Urban Growth Boundary

City Limit





**FIGURE 4**

**Motor Vehicle  
Travel Growth  
(P.M. Peak)**

- Legend**
- Roadway Traffic Volume Increase from 2010 to 2035*
- Highest Growth in Traffic Volumes (increase of more than 500 vehicles during the p.m. peak hour)
  - Moderate Growth in Traffic Volumes (increase between 250 and 500 vehicles during the p.m. peak hour)
  - Smallest Growth in Traffic Volumes (less than 250 additional vehicles during the p.m. peak hour)
- River
  - Parks and Open Spaces
  - Planned Roadways (Conceptual Alignment)
  - Railroad
  - City Limit
  - Urban Growth Boundary

Note: Motor vehicle volumes on the roadways in Oregon City generally peak during the evening between 3:25 p.m. and 5:10 p.m.





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File Number(s): \_\_\_\_\_

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Project Name: Oregon City Golf Course Number of Lots Proposed (If Applicable): \_\_\_\_\_

Physical Address of Site: 20124 South Beavercreek Road, Oregon City, OR 97045

Clackamas County Map and Tax Lot Number(s): Map 3 2E 15A TL 201

### Applicant(s):

Applicant(s) Signature: \_\_\_\_\_

Applicant(s) Name Printed: Randy Myers, Brownstone Development, Inc. Date: \_\_\_\_\_

Mailing Address: 47 South State Street, Lake Oswego, OR 97934

Phone: (503) 358-4460 Fax: \_\_\_\_\_ Email: randy@brownstonehomes.net

### Property Owner(s):

Property Owner(s) Signature: Tresa Edematta Co-Trustee

Property Owner(s) Name Printed: Herberber Family Trust Date: 8/3/2016

Mailing Address: 16112 W. Adams Street, Goodyear, AZ 85338

Phone: (623) 398-5994 Fax: \_\_\_\_\_ Email: TLEMATTA@J-BSALESCO.COM

### Representative(s):

Representative(s) Signature: [Signature]

Representative (s) Name Printed: Reed Stapleton, DOWL Date: 8-8-16

Mailing Address: 720 SW Washington Street, Suite 750, Portland, OR 97205

Phone: (971) 280-8641 Fax: \_\_\_\_\_ Email: rstapleton@dowl.com

*All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.*



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Applicant(s) Name Printed: Randy Myers, Brownstone Development, Inc. Date: \_\_\_\_\_

Mailing Address: 47 South State Street, Lake Oswego, OR 97934

Phone: (503) 358-4460 Fax: \_\_\_\_\_ Email: randy@brownstonehomes.net

### Property Owner(s):

Property Owner(s) Signature: Rosemary Holden and William F. Holden Jr.

Property Owner(s) Name Printed: Rosemary Holden and William F. Holden Date: July 15, 2016

Mailing Address: 20130 South Beaver Creek Road, Oregon City, OR 97045

Phone: 503-807-8865 Fax: \_\_\_\_\_ Email: rose@ocgolfclub.com

### Representative(s):

Representative(s) Signature: Read Stapleton

Representative (s) Name Printed: Read Stapleton, DOWL Date: 8-8-16

Mailing Address: 720 SW Washington Street, Suite 750, Portland, OR 97205

Phone: (971) 280-8641 Fax: \_\_\_\_\_ Email: rstapleton@dowl.com

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**OREGON  
CITY**

**Community Development - Planning**

221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3780 | Fax (503) 722-3880

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**Project Name:** Oregon City Golf Course

**Number of Lots Proposed (if Applicable):** \_\_\_\_\_

**Physical Address of Site:** 20124 South Beavercreek Road, Oregon City, OR 97045

**Clackamas County Map and Tax Lot Number(s):** Map 3 2E 10D TL 3500 and Map 3 2E 15A TL 290

**Applicant(s):**

**Applicant(s) Signature:** \_\_\_\_\_

**Applicant(s) Name Printed:** Randy Myers, Brownstone Development, Inc.

**Date:** \_\_\_\_\_

**Mailing Address:** 47 South State Street, Lake Oswego, OR 97034

**Phone:** (503) 358-4460

**Fax:** \_\_\_\_\_

**Email:** randy@brownstonehomes.net

**Property Owner(s):**

**Property Owner(s) Signature:** [Signature]

**Property Owner(s) Name Printed:** Herberger Family Limited Partnership

**Date:** July 15, 2016

**Mailing Address:** 20124 S Beavercreek Rd Oregon City, OR 97045

**Phone:** 503 518 2846

**Fax:** \_\_\_\_\_

**Email:** rose@ocgolfclub.com

**Representative(s):**

**Representative(s) Signature:** [Signature]

**Representative(s) Name Printed:** Read Stapleton, DOWL

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[www.oregoncity.org/planning](http://www.oregoncity.org/planning)



# OREGON CITY

## Community Development - Planning

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Mailing Address: 47 South State Street, Lake Oswego, OR 97934

Phone: (503) 358-4460 Fax: \_\_\_\_\_ Email: randy@brownstonehomes.net

### Property Owner(s):

Property Owner(s) Signature: M. Rose Herberger Trustor/Trustee

Property Owner(s) Name Printed: Herberger Family Trust Date: 8-1-2016

Mailing Address: 20118 South Beaver Creek Road, Oregon City, OR 97045

Phone: (503) 518-2846 Fax: \_\_\_\_\_ Email: rose@ocgolfclub.com

### Representative(s):

Representative(s) Signature: [Signature]

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Mailing Address: 16112 W. Adams Street, Goodyear, AZ 85338

Phone: (623) 398-5994 Fax: \_\_\_\_\_ Email: TLEMATTA@J-BSALESCO.COM

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Email: randy@brownstonehomes.net

### Property Owner(s):

Property Owner(s) Signature: Rosemary Holden and Will F. Holden Jr.

Property Owner(s) Name Printed: Rosemary Holden and William F. Holden

Date:

July 15, 2016

Mailing Address: 20130 South Beavercreek Road, Oregon City, OR 97045

Phone: 503-807-8865

Fax:

Email: rose@ocgolfclub.com

### Representative(s):

Representative(s) Signature: [Signature]

Representative (s) Name Printed: Read Stapleton, DOWL

Date:

8-8-16

Mailing Address: 720 SW Washington Street, Suite 750, Portland, OR 97205

Phone: (971) 280-8641

Fax:

Email: rstapleton@dowl.com

All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.

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Community Development - Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045  
Ph (503) 722-3789 | Fax (503) 722-3680

## LAND USE APPLICATION FORM

**Type I (OCMC 17.50.030.A)**

- ☐ Compatibility Review
- ☐ Lot Line Adjustment
- ☐ Non-Conforming Use Review
- ☐ Natural Resource (NRD) Verification

**Type II (OCMC 17.50.030.B)**

- ☐ Extension
- ☐ Detailed Development Review
- ☐ Geotechnical Hazards
- ☐ Minor Partition (<4 lots)
- ☐ Minor Site Plan & Design Review
- ☐ Non-Conforming Use Review
- ☐ Site Plan and Design Review
- ☐ Subdivision (4+ lots)
- ☐ Minor Variance
- ☐ Natural Resource (NRD) Review

**Type III / IV (OCMC 17.50.030.C)**

- ☐ Annexation
- ☐ Code Interpretation / Similar Use
- ☐ Concept Development Plan
- ☐ Conditional Use
- ☐ Comprehensive Plan Amendment (Text/Map)
- ☐ Detailed Development Plan
- ☐ Historic Review
- ☐ Municipal Code Amendment
- ☐ Variance
- ☐ Zone Change

File Number(s):

AN-16-0003

Proposed Land Use or Activity: Annexation


Project Name: Oregon City Golf Course

Number of Lots Proposed (if Applicable):

Physical Address of Site: 20124 South Beavercreek Road, Oregon City, OR 97045

Clackamas County Map and Tax Lot Number(s): Map 3 2E 10D TL 3500 and Map 3 2E 15A TL 290

**Applicant(s):**

Applicant(s) Signature: 

Applicant(s) Name Printed: Randy Myers, Brownstone Development, Inc.

Date:

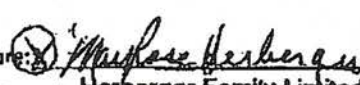
Mailing Address: 47 South State Street, Lake Oswego, OR 97034

Phone: (503) 358-4460

Fax:

Email: randy@brownstonehomes.net

**Property Owner(s):**

Property Owner(s) Signature: 

Property Owner(s) Name Printed: Herberger Family Limited Partnership

Date:

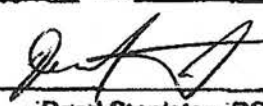
Mailing Address: 20124 S Beavercreek Rd Oregon City, OR 97045

Phone: 503 518 2846

Fax:

Email: rose@ocgolfclub.com

**Representative(s):**

Representative(s) Signature: 

Representative(s) Name Printed: Read Stapleton, DOWL

Date:

Mailing Address: 720 SW Washington Street, Suite 750, Portland, OR 97205

Phone: (971) 280-8641

Fax:

Email: rstapleton@dowl.com

All signatures represented must have the full legal capacity and hereby authorize the filing of this application and certify that the information and exhibits herewith are correct and indicate the parties willingness to comply with all code requirements.

[www.oregoncity.org/planning](http://www.oregoncity.org/planning)



# OREGON CITY GOLF COURSE

## OREGON CITY, OREGON

An Application For:

Annexation

Submitted August 2016

Applicant:  
**Brownstone Development, Inc.**  
47 South State Street  
Lake Oswego, OR 97934

Applicant's Representative:  
**DOWL**  
720 SW Washington Street, Suite 750  
Portland, OR 97205



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## **Exhibits**

- A. Pre-Application Conference Notes
- B. Site Plan
- C. Neighborhood Meeting Information

## **I. INTRODUCTION**

### **A. GENERAL INFORMATION**

<b>Applicant:</b>	<b>Brownstone Development, Inc.</b> 47 South State Street PO Box 2375 Lake Oswego, OR 97934 Contact: Randy Myers Phone: (503) 358-4460 Email: randy@brownstonehomes.net
<b>Applicant's Representative:</b>	<b>DOWL</b> 720 SW Washington Street, Suite 750 Portland, OR 97205 Contact: Read Stapleton, AICP Phone: (971) 280-8641 Email: rstapleton@dowl.com
<b>Tax Lot Information:</b>	Map 3 2E 10D, TL 03500 (66.0 acres) Map 3 2E 15A, TL 00201 (0.25 acres) Map 3 2E 15A, TL 00202 (0.28 acres) Map 3 2E 15A, TL 00290 (50.41 acres)
<b>Location:</b>	20124 South Beavercreek Road, Oregon City
<b>Zoning District:</b>	Clackamas County FU-10 and TBR
<b>Site Size:</b>	117 acres

## **B. SUMMARY OF PROPOSAL**

Brownstone Development, Inc. (applicant) is requesting annexation of four tax lots located on or near S. Beaver Creek Road. The subject properties are part of the Beaver Creek Road Concept Plan area and are within Oregon City's urban growth boundary (UGB). No development is being proposed concurrent with this annexation request as future application of zoning designations will be required before a formal development application can be submitted. All four properties are under the same ownership or ownership representatives. Properties proposed for annexation are shown in Figure 1.

## **C. EXISTING CONDITIONS**

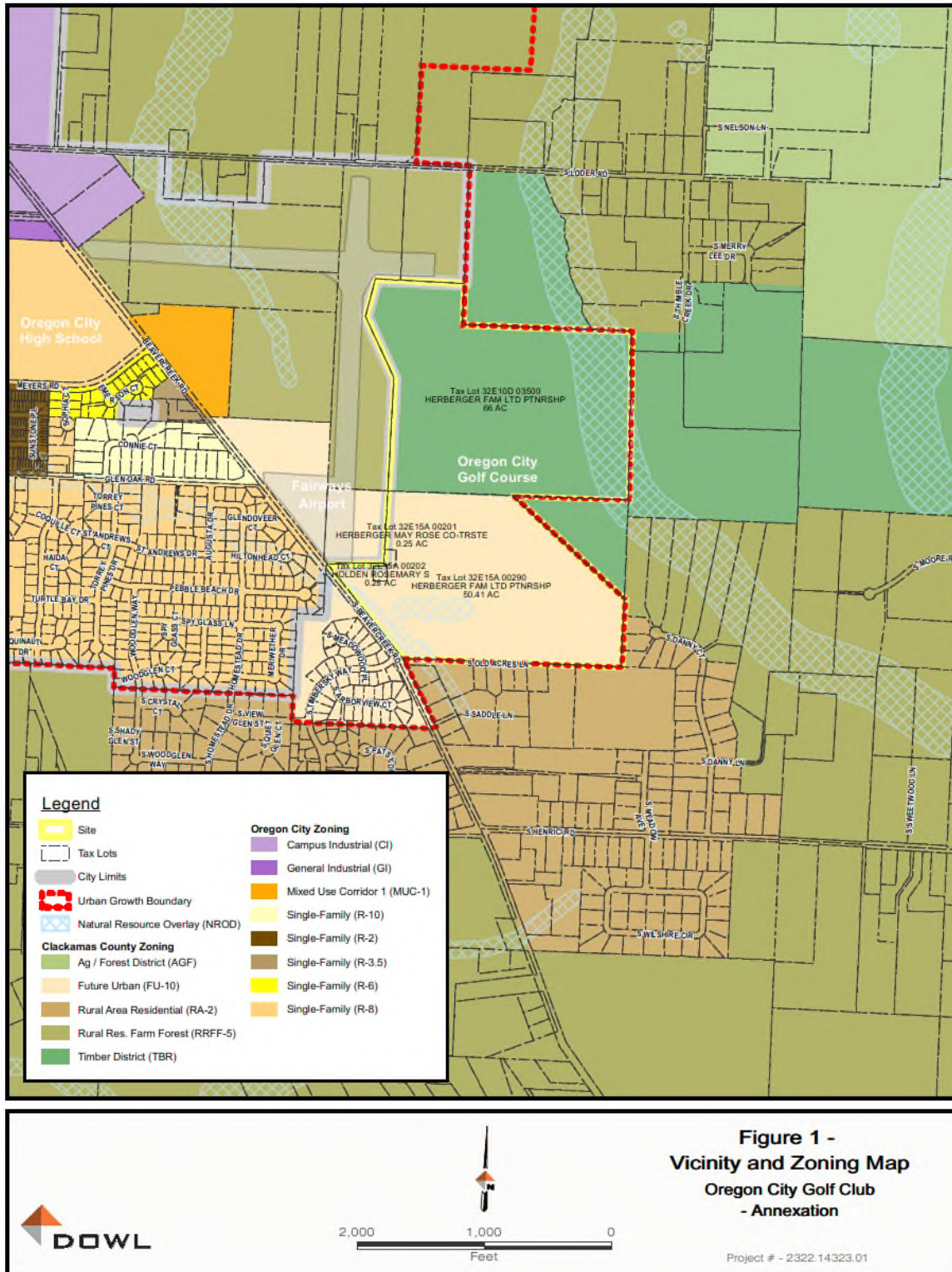
The site is located in east Oregon City, on the east side of S. Beaver Creek Road within the southern limits of the Beaver Creek Road Concept Plan area. The site is comprised of four tax lots that total approximately 117 acres. The entire area is currently zoned FU-10 and TBR by Clackamas County. The site is the current location of the Oregon City Golf Club, which includes a club house facility with associated parking area and an 18-hole golf course. Two single-family homes and a number of accessory buildings are also located on the site. The eastern edge of the proposed annexation area is within a natural resource area associated with Thimble Creek and is undeveloped. Much of the site is relatively flat, with slopes ranging from 1% to 8% (there are limited areas of up to 15% slope).

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 associated with 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 RA-2 by Clackamas County and is comprised of 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.

Figure 1: Zoning and Vicinity Map





#### **D. SITE HISTORY & BEAVERCREEK ROAD CONCEPT PLAN**

The proposed annexation site has long been planned for urban levels of development. The southern portion of the site was included in the original UGB boundary when it was established by Metro in 1979. The remainder of the site (along with rest of the Beaver Creek Road Concept Plan area) was brought into the UGB in two separate expansions, one in 2002 and another in 2004.

In 2007, the city began a concept planning effort for the Beaver Creek area; an effort which involved a significant amount of community engagement and ultimately resulted in adoption of the Beaver Creek Road Concept Plan (Concept Plan) in September 2008. The decision to adopt the Concept Plan was appealed to the Land Use Board of Appeals (LUBA) and LUBA remanded the decision back to the city to address an issue associated with industrial land designations (not related to the proposed annexation site). After resolution of the industrial land designation issue, the City Commission voted unanimously to re-adopt the Concept Plan in March 2016. That decision was again appealed and is currently under review at LUBA.

Although officially adopted by the city, the Concept Plan is not yet effective. By the terms of the ordinance that adopted the Concept Plan, the Concept Plan takes effect upon the "adoption and enactment of the zoning that implements the Beaver Creek Road Concept Plan." In the meantime, the adopted Concept Plan represents the city's vision for how the Beaver Creek area is expected to develop. That vision has not changed since the planning effort began a decade ago. In anticipation of Concept Plan implementation, the city has updated its water, sewer and transportation master plans to allow for extension of public facilities to the Beaver Creek area to accommodate the urban levels of development anticipated in the Concept Plan. Specific information regarding planned public facilities and services to the site is provided later in this narrative.

It's important to note that the proposed annexation area has been planned for development that is consistent with the vision established in the Concept Plan. That vision is the creation of a "complete and sustainable community" with a diverse mix of uses woven together by open space, trails and green streets. The Concept Plan emphasizes sustainable practices and transit-supportive levels of development. Within the planning area, distinct districts are identified for employment uses, a main street area, residential neighborhoods, and open space and natural areas.

The area within the proposed annexation site contains most of what will become the residential area for the Concept Plan. This residential area is intended to support the employment area within the Concept Plan and, when added to the Concept Plan's commercial and recreational elements, form the "complete community" envisioned by the plan. The Concept Plan provides for three districts within the annexation area:

- The West Mixed-Use Neighborhood (WMU) is intended to be a walkable, transit-oriented neighborhood with a mix of housing types, mixed-use buildings and a limited amount of neighborhood commercial uses. Residential densities in this neighborhood are expected to average about 22 units per acre, similar to the city's R-2 zoning designation. The WMU neighborhood is located, in part, in the southwest corner of the proposed annexation site, adjacent to S. Beaver Creek Road. The Concept Plan identifies a total of 22 acres of WMU neighborhood, approximately 13 of which are located within the proposed annexation area.
- The East Mixed-Use Neighborhood (EMU) is intended to be a lower-density (similar to the city's R-5 zone), walkable neighborhood with a variety of housing types and incorporation of green

development practices. The EMU neighborhood encompasses the bulk of the proposed annexation site. The Concept Plan identifies a total of 77 acres of EMU neighborhood, approximately 59 of which are located within the proposed annexation area.

- The western edge of the proposed annexation site is intended to remain largely undeveloped to protect the natural resource areas associated with Thimble Creek and its riparian buffer. That area will serve as a public open space and recreational area for the community and beyond. Approximately 18 acres of the proposed annexation site will be within this natural resource area.

The existing golf course club house is intended to remain and be repurposed as a community center for neighborhood gatherings and possibly some small-scale retail. It is identified as a “Neighborhood Focal Point” in the Concept Plan.

The Concept Plan also identifies a multi-modal transportation network for the proposed annexation area consisting of new north-south and east-west collector streets and a system of connected biking and walking trails linking the community with open spaces and natural areas. Streets within the Beavercreek area are intended to have green street designs, with integrated stormwater management and street trees. Block sizes are expected to be small to moderate to provide a high level of connectivity.

The applicant intends to develop the proposed annexation site in accordance with the guidance established in the Concept Plan and with the adopted capital facilities plans that implement Concept Plan urban levels of development. Approving this annexation request is an important first step to achieving the decade-long vision for growth in Oregon City.

## **II. APPLICABLE REGULATIONS & APPROVAL CRITERIA**

This section of the narrative provides responses to demonstrate that the proposed annexation is consistent with applicable approval criteria, as identified in the Pre-Application Conference Notes dated June 29, 2016 (see Exhibit A). Annexations in Oregon City are governed at both the local (city) and regional (Metro) level. Locally, annexations are regulated by Title 14 of the Oregon City Municipal Code, and by goals and policies in the adopted Comprehensive Plan. Regionally, annexations are regulated by Metro's Code Section 3.09, which establishes requirements for local government boundary changes. Subsection A below addresses applicable city regulations from Title 14, followed by Comprehensive Plan policies in Subsection B, and Metro Code requirements in Subsection C.

### **A. OREGON CITY MUNICIPAL CODE**

The applicable Oregon City Municipal Code provisions are set forth below along with findings demonstrating the project's consistency with these provisions.

#### ***Title 14 - ANNEXATIONS***

#### ***Chapter 14.04 - CITY BOUNDARY CHANGES AND EXTENSION OF SERVICES***

#### ***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.*

**Response:** Annexation of these properties will not be subject to vote and therefore, the annexation filing deadlines above do not apply.

- B. *Preapplication 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.*

**Response:** The applicant and applicant's representative attended a pre-application review meeting with city staff on June 29, 2016. Pre-application meeting notes are provided in Exhibit A.

- 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.*

**Response:** The applicant held a neighborhood meeting on Tuesday, June 28 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 Caulfield Neighborhood Association mailing list and property owners surrounding the subject site. In addition to the mailing, representatives of the Caulfield

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 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.*

**Response:** 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;*

**Response:** 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, under 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.

- D. 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;*

**Response:** A legal description of the territory to be annexed has been provided as part of the boundary change petition packet submitted with this application.

- E. 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;*

**Response:** 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. No property owners will be "islanded" by the proposed annexation.

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

**Response:** 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;*

**Response:** The required site plan is provided in Exhibit B.

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.*

**Response:** The double-majority worksheet is not applicable.

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;*

**Response:** Overall, 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 development as planned by the city in its adopted capital facilities plans. The following is a brief summary of existing facilities.

Water: Currently, there is a 16-inch public water service line 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 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.

Sewer: Existing sanitary sewer service in the vicinity of the proposed annexation 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. The *Oregon City Sanitary Sewer Master Plan* (2014) identifies a number of recommended future capital improvement projects intended 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 transportation network currently serving the proposed annexation area consists of S. 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 lines) 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 later in this narrative.

Parks and schools: Oregon City High School and Clackamas County Community College are both in the vicinity of the proposed annexation area. There are currently no Oregon City parks in the vicinity of the proposed annexation area. The nearest 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 Beaver Creek Road or the proposed annexation area.

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

**Response:** 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; therefore, the above item is not applicable.

- 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;*

**Response:** 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; therefore, the above item is not applicable.

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



**Response:** 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; therefore, the above item is not applicable.

- 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;*

**Response:** The above item applies to any development being proposed as part of the annexation application. No development is being proposed as part of this annexation application. It is expected that future development will occur consistent with the vision of the Concept Plan.

- 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;*

**Response:** As noted previously, no development is being proposed at this time and this application requirement anticipates that no development may be proposed as part of an annexation application. Ultimately, the proposed annexation area is intended to be developed according to the mixed-use neighborhood concepts established in the Concept Plan, but that development cannot occur until the Concept Plan is effective and the prescribed 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 possibly some 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 impacts of new development, including protection of natural resources, street design, and buffering and landscaping.

Aesthetically, future development in the Beavercreek 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. 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 to be part of a complete community, one that integrates a diverse mix of uses, including housing, services, and public spaces that are necessary to support a thriving 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 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 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.

- 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;*

**Response:** The applicant is not requesting a comprehensive plan text amendment or zone change for the proposed annexation properties at this time. Ultimately, in order for the properties to develop, land use plan and zoning designations will need to be applied. It is anticipated that zoning designations consistent with the Concept Plan will be developed and applied to the site. However, until such time, existing County FU-10 and TBR zoning will continue apply.

- 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;*

**Response:** The applicable application fee has been provided as part of this application submittal.

- 9. Paper and electronic copies of the complete application as required by the community development director.*

**Response:** Paper and electronic copies of this narrative have been included as part of this submittal package.

#### **14.04.060 - Annexation factors.**

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

- 1. Adequacy of access to the site;*

**Response:** The site currently has adequate access opportunities from S. Beaver Creek Road (a designated major arterial) in the form of a driveway from Beaver Creek Road that serves the two residences and the golf club. No zone change or additional development is proposed as part of this annexation application. The current access, then, will remain adequate for the existing development and existing zoning until new zoning is proposed for the property. Once the property is rezoned consistent with the Concept Plan and development consistent with the Concept Plan is proposed, a primary street network will be developed in accordance with the connectivity concept identified in Figure 14 of the Concept Plan and Figure 17 of the TSP. See Images 1-2 below. In the vicinity of the subject site, the Concept Plan 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 south golf club entrance. Additional local streets will supplement this street network. The specific design of the local street system is intentionally flexible and subject to additional master plan and subdivision review by the city.

The TSP has incorporated the street network from the Concept Plan that will serve the proposed annexation area. These improvements are designated as “Likely to be Funded System Projects.” More detail about TSP projects is provided in the discussion of public facilities in item (3) below.

Image 1: Figure 14 from the Beavercreek Road Concept Plan

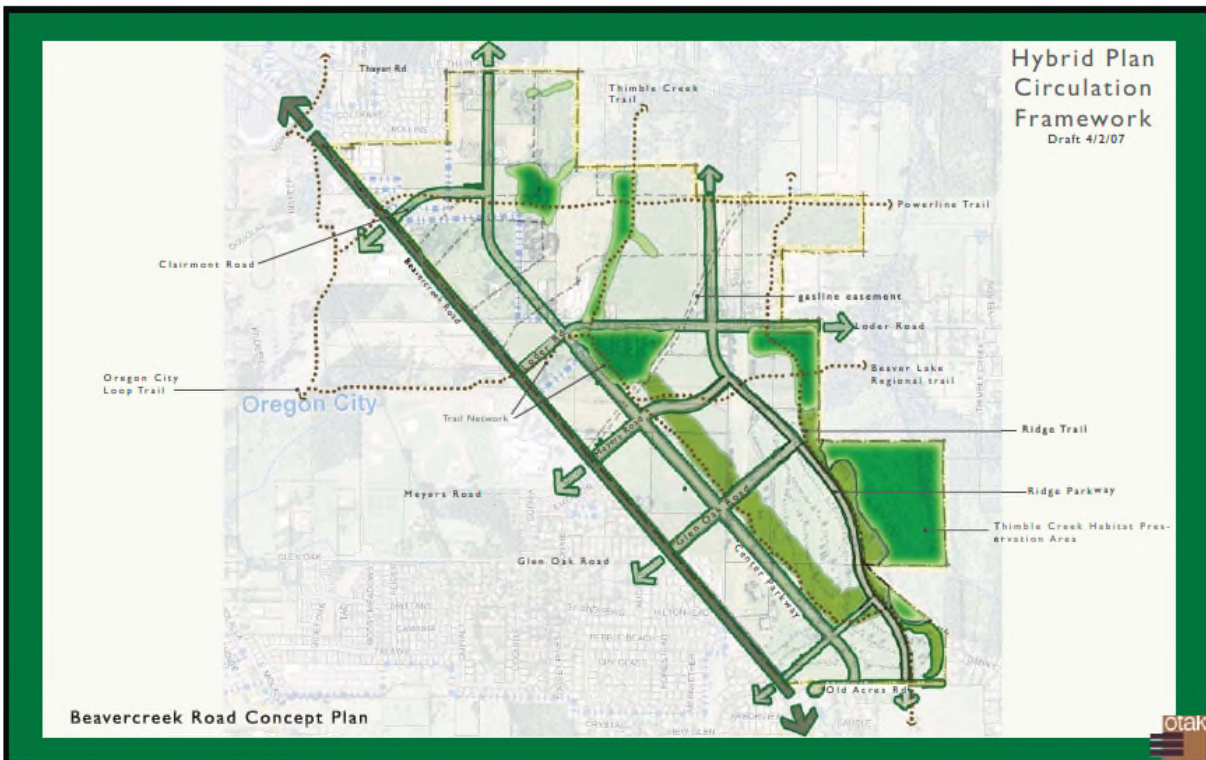
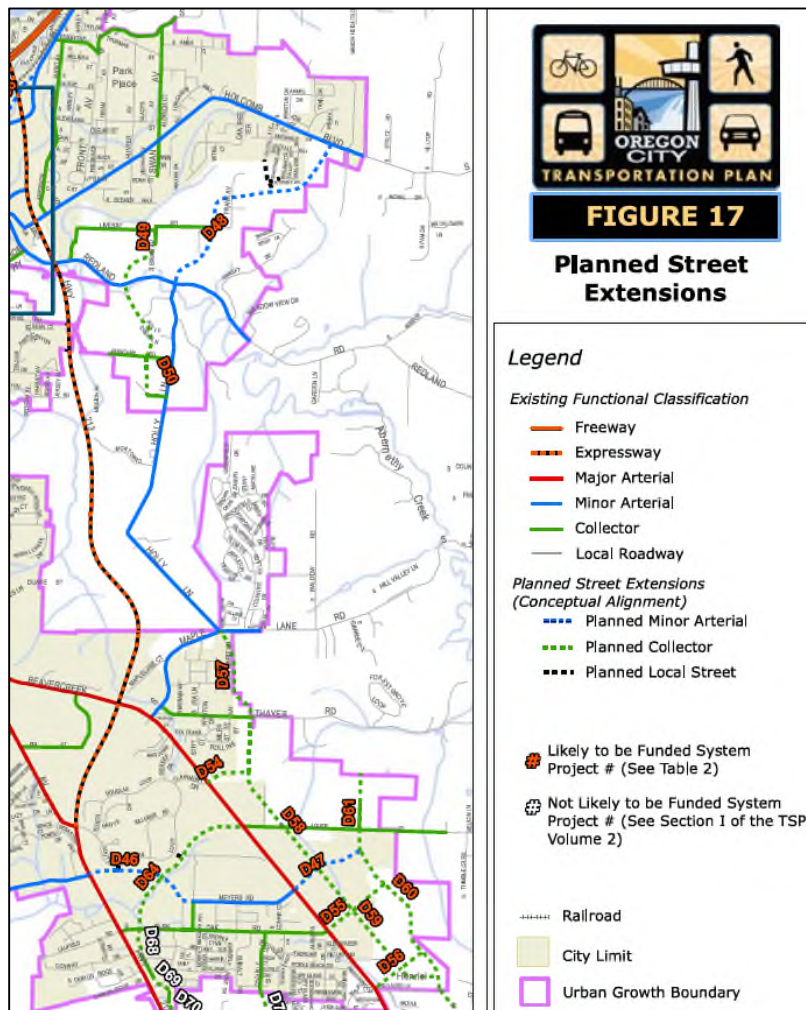


Figure 14 - Circulation Framework

Image 2: Figure 17 from the Oregon City Transportation System Plan



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

**Response:** Conformity of this proposal with applicable goals and policies in the city's comprehensive plan is addressed in Section II.B of this narrative.

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

**Response:** No zone change or additional development is proposed as part of this annexation application. The current public facilities and services, then, will remain adequate for the existing development and existing zoning until new zoning is proposed for the property. 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 employment and retail uses, and parks and pedestrian ways. Public facilities plans have been updated and adopted by the city to

anticipate and accommodate urban levels of development on the subject site upon the Concept Plan becoming effective. The following is a summary of how public facility improvements are being addressed to service potential development in the annexation area.

### Water

**Beavercreek Road Concept Plan:** According to the Concept Plan, a network of water supply pipelines will be created to serve as the “backbone” system. In addition, as individual parcels are developed, a local service network of water mains will be needed to serve individual lots. Figure 22 in the Concept 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.

**Adopted Public Facilities Plan:** Recommended future water service improvements identified in the 2012 *Water Distribution System Master Plan* implement the water supply network envisioned in the Concept Plan and 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. Beavercreek 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. Beavercreek 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, 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 prepared in the next two years (2016 – 2017).

### Sewer

**Beavercreek Road Concept Plan:** The Concept Plan notes that the majority of the southern half of the concept area (which includes the proposed annexation area) will be served by a gravity sanitary sewer system that will convey waste water to the existing 2,400- foot long trunk sewer in Beavercreek Road. This portion of the system can be built in the planned roadways and in the existing Beavercreek Road right-of-way. The Concept Plan also notes that, “The approximate elevation of 490 ft (MSL) is important in the southern half of the concept plan area relative to gravity sewer service. Roadways and development constructed above 490 ft will most likely allow for gravity sewer service. If land uses requiring sanitary sewer service (or roadways with sewer underneath) are located lower than 490 ft, individual pump stations and pressurized services may be required.”

**Adopted Public Facilities Plan:** The *Oregon City Sanitary Sewer Master Plan* (2014) implements the sanitary sewer network envisioned in the Concept Plan and identifies recommended improvements intended to accommodate future demand in the proposed annexation area. Those improvements consist of gravity sewer extensions throughout the annexation area connecting to the existing line in S. Beavercreek Road. Image 3 below provides additional detail.



Image 3: Figure 5-4 from the Oregon City Sanitary Sewer Master Plan

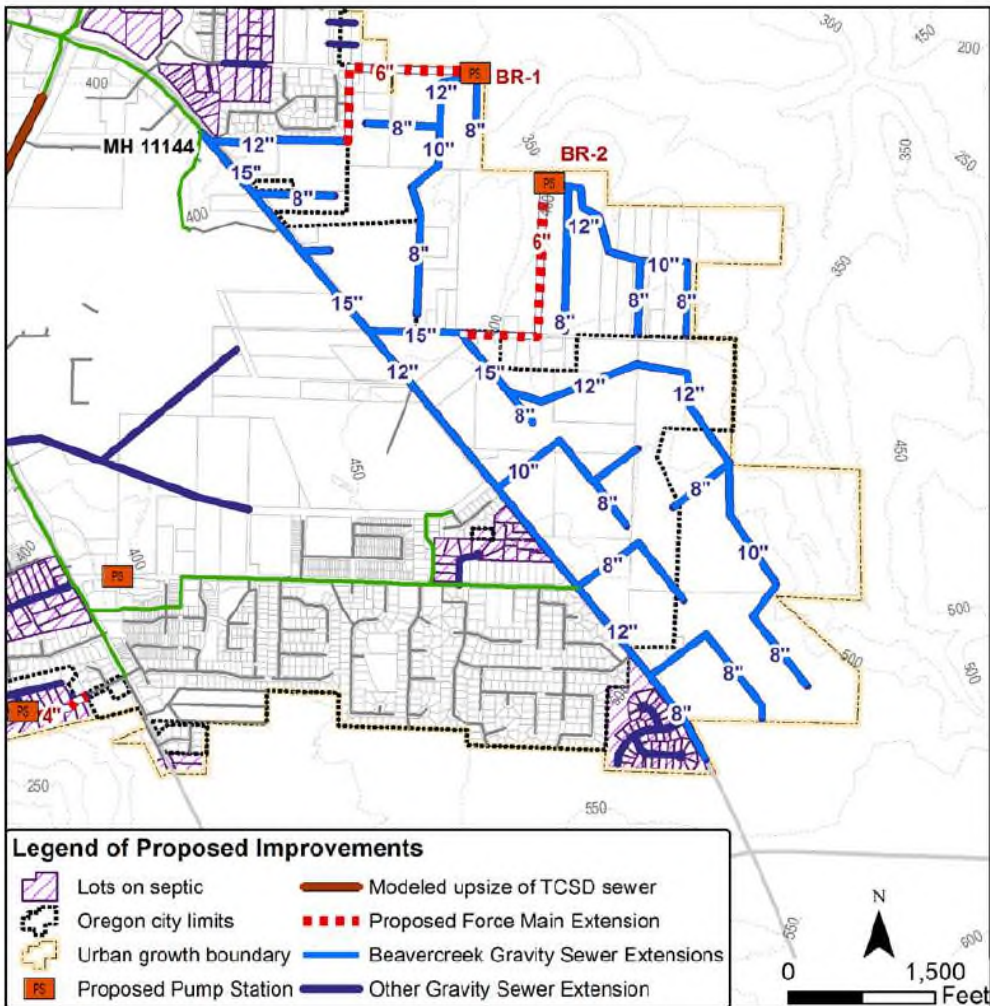


Figure 5-4. Beaver Creek Road Concept Area improvements

### Transportation

**Beaver Creek Road Concept Plan:** As noted previously (and shown in Image 1 above), the Concept Plan identifies recommended improvements to the street network intended to serve future development in the annexation area.

**Adopted Public Facilities Plan:** The TSP identifies future improvements to the street network serving the proposed annexation site and implements the transportation network envisioned in the Concept Plan. See Image 2 above for future street extensions. Specific projects are summarized as follows:

- 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 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.

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.”

### **Stormwater**

**Beavercreek Road Concept Plan:** 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.

**City Stormwater Management Requirements:** 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.

### **Schools and Parks**

Oregon City High School and Clackamas County Community College are both in the vicinity of the proposed annexation 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 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.

As no zone change or additional development is proposed as part of this annexation application, this annexation will have no impact on the provision of schools or parks.

### **Police and Fire Protection**

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 de minimis impact on police services.

The proposed annexation area is currently, and will remain, within the Clackamas Rural Fire Protection 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.

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

**Response:** ORS 222 requires the proposed annexation property be contiguous with the city and provides several options for annexing land into a city. As noted in 14.04.050(E)(1), this annexation relies on ORS 222.125, annexation by consent of all land owners and a majority of electors. The requirements of ORS 222, then, are met. Metro Section 3.09 is addressed separately in Section II.C of this narrative.

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

**Response:** The Concept Plan has identified water resource and steep slope areas that will require further investigation at time of development to demonstrate compliance with existing Oregon City Municipal Code's water resource protection and geologic hazards standards.

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 development



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.

*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;*

**Response:** 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 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

As 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.

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

**Response:** As 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. This narrative 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 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.

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. Any impacts on the community that result from approval of development permits are a direct consequence of a zone change, subdivision and development permit approval, not of the annexation. 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.

## **B. OREGON CITY COMPREHENSIVE PLAN**

Applicable goals and policies from the Comprehensive Plan were identified in the Pre-Application Conference Notes (Exhibit A). This section demonstrates how the proposed annexation is consistent with applicable goals and policies.

### ***Section 2 Land Use***

***Goal 2.6 Industrial Land Development*** *Ensure an adequate supply of land for major industrial employers with family wage jobs.*

**Response:** The proposed annexation site is part of the larger Beavercreek Road Concept Plan area, which has been planned for a complete mix of uses, including employment, industrial, commercial and residential. Per the Concept Plan, the lands north of the subject site will be designated for employment uses and are intended to provide a mix of industries, research and development facilities, large corporate headquarters, office and retail, and some civic uses. This northern area (called the North Employment Campus and Mixed Employment Village in the Concept Plan) has been determined to be the most appropriate location for major industrial employers with family wage jobs, while the southern part of the Concept Plan area (where the subject site is located) has been determined to be most appropriate for residential uses that support the nearby employment areas. As a whole, the Concept Plan area will support the goal of ensuring adequate supply of land for employment uses, but the territory subject to this annexation application has no impact on the city's supply of land for major industrial employers either before or after annexation.

***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.*

**Response:** As noted in the response above, the proposed annexation area is part of the larger Beavercreek 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. This employment area is intended to provide for 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 and is planned for mixed use residential neighborhoods that will support the nearby employment uses. Therefore, the territory subject to this annexation application has no impact on the city's ability to meet its employment goals under this policy either before or after annexation.

**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.*

**Response:** The Oregon City Comprehensive Plan Land-Use Map remains the long-range planning guide for development in the city. Ultimately, the Comprehensive Plan Map will be updated to apply land use designations to the proposed annexation area, consistent with land use designations identified in the Concept Plan. Therefore, this annexation application has no impact on this policy.

**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, Beavercreek Road, and Highway 99; Industrial areas; and for Inner and Outer Neighborhoods.*

**Response:** The proposed annexation area is within the boundaries of the Concept Plan which is consistent with the Metro 2040 Growth Concept.

#### **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.*

**Response:** This policy contains a requirement that the city plan for public services to lands within the urban growth boundary through concept plans and a related capital improvement program. This policy, then, is not directly applicable to this annexation request, because this annexation request has no impact on the city's ability to plan for such public services. In any event, the proposed annexation area is part of the Beavercreek Road Concept Plan, which has been adopted by the city (adopted originally 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. Beavercreek 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. Beavercreek 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.

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.”

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.

***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.***

**Response:** The proposed annexation site is inside the urban growth boundary and will ultimately be designated for residential uses consistent with the Comprehensive Plan designations for medium- and high-density residential land use categories. 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 (as described previously) have been updated to reflect those land use designations and associated densities. As noted earlier, no zone change or additional development is proposed as part of this annexation application. Until land use plan and zoning designations are applied to the site and future development approvals are obtained, uses on the affected property will remain as they are. Therefore, this annexation application will not hinder the city's ability to maximize new public facilities and services at maximum densities per the direction of the Concept Plan.

***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.*

**Response:** As noted previously, the city has updated its water, sewer and transportation master plans to plan for extension of services to the annexation area. The updated public facility master plans take into account 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 and residents in the city.

***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.*

**Response:** The proposed annexation does not involve formation of a new urban service or utility district.

***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.*

**Response:** 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.

***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.*

**Response:** This annexation application will be reviewed through a process that considers the effects on public services and benefits to the city. Consistency with the Comprehensive Plan and applicable city ordinances is required for annexation approval and has been demonstrated in this narrative 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 a minimis effect on public services.

***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.***

**Response:** This application supports this policy by proposing annexation of property that is within the city's urban growth boundary and is contiguous with the southeastern edge of existing city limits. This application does not propose long linear extensions such as cherry stems or flag lots.

***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.***

**Response:** 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. As part of the Concept Plan preparation and adoption process, associated city master plans have also been updated to include projects 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 and acknowledged by the State of Oregon. 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.

***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.*

**Response:** The proposed annexation will not create an unincorporated island within the city. As demonstrated in the Concept Plan and adopted public facility plans, public services can be efficiently and cost-effectively extended to serve the Beavercreek 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.

### **C. METRO CODE SECTION 3.09**

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 are applicable to this annexation request.

#### ***Section 3.09.050***

*D. 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;*

**Response:** There is no urban service agreement applicable to the subject site. Therefore, this criterion does not apply.

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

**Response:** 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;*

**Response:** Oregon City and Clackamas County have an Urban Growth Management Agreement (UGMA), which is a part of their adopted Comprehensive Plans. The territory proposed for annexation falls within the Urban Growth Management Boundary (UGMB) identified for Oregon City and is subject to the agreement. As prescribed by the UGMA, the County agreed to adopt the city's Comprehensive Plan designation for this area, which is Future Urban.

The UGMA presumes that all 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 UGMA goes on to say:

*4. City and County Notice and Coordination*

*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 . . .*

*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 city will provide the required notice to the County as specified. The agreement 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 legal description provided with this application. Since Beaver Creek Road is an arterial, transfer of jurisdiction to the city would fall under the case-by-case basis, subject to negotiation.

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

**Response:** The proposed annexation is consistent with adopted public facility plans, as described below.

Water: The city's 2012 *Water Distribution System Master Plan* identifies recommended improvement projects intended to serve the proposed annexation area. Those projects 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. 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).

Sewer: The *Oregon City Sanitary Sewer Master Plan* (2014) also identifies recommended improvements intended to accommodate future demand in the proposed annexation area. Those improvements consist of gravity sewer extensions throughout the annexation area connecting to an existing line in S. Beaver Creek 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.

*e. Any applicable comprehensive plan;*

**Response:** The Oregon City Comprehensive Plan contains goals and policies that are applicable to this annexation request. Consistency with those goals and policies is demonstrated in Section II.B of this narrative.

*f. Any applicable concept plan; and*

**Response:** The Beaver Creek Road Concept Plan will ultimately be the concept plan that will guide future development in the proposed annexation area. The Concept Plan has been adopted by the city but is not yet effective and therefore does not provide any applicable approval criteria.

*2. Consider whether the boundary change would:*

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

**Response:** 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. Public facilities (water, sewer and transportation) are available near the proposed annexation site and the city has adopted public facilities plans that provide for extension of those facilities to serve the site to accommodate future development.

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

**Response:** The city has updated its sewer, water and transportation facilities master plans to plan for future extension of those services into the proposed annexation area. Fire protection is provided by Clackamas Fire District #1; the fire district will continue to serve this area after annexation and will need to adjust service levels as development occurs. Parks and open spaces will be provided in accordance with the city's parks requirements and the guidance provided in the Concept Plan, which identifies an interconnected system of green corridors, parks, and natural areas. Transit service to the annexation area is currently not available; however, the Concept Plan anticipates transit-supportive levels of development for the Beavercreek area and anticipates eventual extension of transit service.

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

**Response:** The city will notify all applicable service providers of this annexation request for their review and comment. Annexation to, or withdrawal from, service provider districts will be done concurrent or subsequent to this proposed annexation.

#### **D. TRANSPORTATION PLANNING RULE (OAR 660-012-0060)**

Per the Pre-Application Conference held on June 29, 2016, 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."

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 in accordance with the Concept Plan. Therefore, the TPR test is met and no further analysis is necessary with this annexation request.

### **III. CONCLUSION**

This narrative and attached exhibits demonstrate how the proposed annexation meets applicable requirements and criteria for annexation of lands into Oregon City. The subject site was brought into the UGB over a decade ago to ultimately accommodate urban levels of development. The city developed and adopted the Beavercreek Road Concept Plan to establish a land use vision for the Beavercreek area and provide guidance for future development. Once annexation has occurred and city zoning has been applied to the site, the applicant intends to develop the site consistent with the Concept Plan. Approving this annexation request is a key step to realizing the vision set forth in the Concept Plan.

## **EXHIBIT A**

### **PRE-APPLICATION SUMMARY NOTES**



**PA-16-29: Pre-application Conference Notes**

**Date: June 29, 2016**

Prior Pre-application Conference: PA 15-12

Date: 5/6/2015

Annexation of the subject territory is required to show compliance with the Oregon City Comprehensive Plan. Comprehensive Plan designations have not been adopted for the subject site yet.

**Beavercreek Road Concept Plan**

City Commission readopted the BRCP in March 16. (Planning file LE-15-0003). LUBA Appeal No. 2016-044 was filed on June 3, 2016 by Elizabeth Graser-Lindsey, with Christine Kosinski and Paul Edgar as Co-Petitioners, and James Nicita as Intervenor-Petitioner. The petitioners have filed a record objection and the City will respond to the record objection and file a supplemental record by July 18.

**Zoning**

Staff will recommend that zoning designation of the property remain FU-10 until the City adopts new zoning designations for the BRCP through separate legislative process. Re-zoning is also subject to compliance with the Transportation Planning Rule, and the Mobility Standards of [OCMC 12.04.205](#). Currently, the intersection of I-205 / OR 213 exceeds the mobility standard and no-rezoning can occur until alternative mobility standards for the interchange are adopted and approved through the Oregon Transportation Commission.

The City will be working with ODOT and Clackamas County to adopt a refinement plan for the development of alternative mobility standards in order to comply with the Transportation Planning Rule.

**Items that are needed for Development Approval – Post-Concept Plan Acknowledgement**

- a. Public facilities discussions with Public Works.
- b. Re-Zoning
- c. At applicant's option - Master Plan – per OCMC 17.65. Allows for phasing, adjustment of development standards by Planning Commission.
- d. Subdivisions (for single family homes)





- e. Site Plan and Design Review (for commercial and non-single family portions of the site).

### **Annexation Approval Criteria to Address in Narrative:**

#### **1. City Code Chapter 14**

- Address 14.04.050 - Annexation procedures.
- Provide all items required in (E) Contents of Application.
- The required narrative shall include the following statements completely addressed:
  - (a) 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;
    - b. Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time;
    - 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;
    - d. Statement outlining method and source of financing required to provide additional facilities, if any;
    - 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;
    - 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;
    - 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;
- The narrative should also address [14.04.060 - Annexation factors](#) in detail.

#### **2. Metro Code 3.09.050.D.- (Minor Boundary Change Criteria) - Attached**

"Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.



D. 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;
  - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
  - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
  - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
  - e. Any applicable comprehensive plan;
  - f. Any applicable concept plan; and
2. Consider whether the boundary change would:
  - a. Promote the timely, orderly and economic provision of public facilities and services;
  - b. Affect the quality and quantity of urban services; and
  - c. Eliminate or avoid unnecessary duplication of facilities or services.

### **3. Oregon City Comprehensive Plan – Applicable Goals and Policies From Page 4 – “Implementing the Plan”.**

Applicant should address each goal and policy in detail.

*“Concept plans are land-use plans for areas of the city that have just been included in the Urban Growth Area. Before these areas can be zoned or subdivided, a concept plan must be completed and adopted by the City Commission and accepted by Metro. Concept plans require a detailed assessment of the area to determine the most appropriate intensity and type of land use, and when completed, are adopted as part of the comprehensive plan.”*

Take time to tell the story of the Beavercreek Road Concept Plan and its status. Acknowledge the plan is under current LUBA appeal and not yet in effect or acknowledged. Discuss the Vision, Goals and Policies of the BRCP and consistency with;

- West and East Mixed Use Village areas (WMV and EMV)
- The Center Parkway and Ridge Parkway transportation concepts and overall block patterns
- The Open Space areas identified in the concept plan
- The Trail System identified in the concept plan (and the TSP)
- Mixed Use concepts discussed in the plan

*Goal 2.6 - Industrial Land Development*

Ensure an adequate supply of land for major industrial employers with familywage jobs.

*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.

*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.

*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 7<sup>th</sup> Street, Molalla Avenue, Beaver Creek Road, and Highway 99; Industrial areas; and for Inner and Outer Neighborhoods.

*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.

*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.

*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.

*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.

*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.

*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.

*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.

*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.

*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.

**4. Transportation**

- **Traffic Impact Analysis is required.** Please contact the City's transportation consultant John Replinger for further information, and to determine whether a more detailed Transportation Planning Rule (TPR) analysis is required by ODOT. **Traffic Analysis is a**

significant portion of the application, which may impact the processing of the application and timing of the election.

- Development of the BRCP area must be shown to meet the Statewide Transportation Planning Rule.
- In 2013, the City adopted a new Transportation System Plan (TSP) that identifies transportation improvements necessary to accommodate existing and projected population and employment growth within the city limits along with urban growth areas through 2035. The TSP calculates transportation demand using a Metro model that divides land into Transportation Area Zones (TAZ.) In Metro's model, the TAZs represent the sources of vehicle trip generation within the region. Although each TAZ does not align perfectly with the city limits or urban growth boundary, they were subdivided to correspond with these boundaries. The land use plan designations within each TAZ were then used to determine the expected traffic generation. The result is a calculation within each TAZ that captures pass-by trips, additional development of vacant or underdeveloped properties under existing zoned densities within the city limits, coupled with concept planned areas within the urban growth boundary including the Beavercreek Concept Plan (BRCP), which is pending adoption on remand from LUBA.
- Taken together, the TSP concludes that existing and planned growth will result in congestion at the Highway 213 / Beavercreek intersection, as well as a number of other intersections. By 2035, that congestion will exceed the identified mobility standards. In this case, the relevant mobility standard is established in the Oregon Highway Plan (OHP) and is set at .99 v/c. Evidence indicates that, not only does this intersection fail over the 2035 planning horizon, current traffic volumes through this intersection exceed the .99 v/c threshold.
- If annexation while maintaining FU designation is requested, transportation analysis will be much simpler. Applicant will then be able to work with the City to complete transportation analysis through the legislative process.
- Scoping of the TIS for the annexation by the applicant should be conducted with guidance from Oregon City Public Works Director, City Attorney, Clackamas County Transportation Planning, ODOT, and the Oregon City Planning Division.
- We are available to discuss the Transportation Impact Analysis in further detail.

**NOTICE TO APPLICANT:** A property owner may apply for any permit they wish for their property. HOWEVER, THERE ARE NO GUARANTEES THAT ANY APPLICATION WILL BE APPROVED. No decisions are made until all reports and testimony have been submitted. The Pre-application Notes and Any Documentation submitted will be kept by the Community Development Department. A



# OREGON CITY

## **Community Development Department**

221 Molalla Ave. Suite 200 | Oregon City OR 97045

Ph (503) 722-3789 | Fax (503) 722-3880

copy will be given to the applicant. IF the applicant does not submit an application within six (6) months from the Pre-application Conference meeting date, a NEW Pre-Application Conference will be required, unless an extension is granted by the Community Development Director.



## DEVELOPMENT SERVICES

### PRE-APPLICATION MEETING NOTES

**Date:** 6-29-2016

*These are preliminary notes based on the application and documents submitted*

**Planning Project Number:** PA 16-29  
**Address:** 20124 S Beaver Creek Road, Oregon City, OR 97045  
**Map Number(s):** 3-2E-10D, 3-2E-15A  
**Tax Lot(s):** 3500 (Map # 3-2E-10D)  
201, 202, and 290 (Map # 3-2E-15A)  
**Project Name:** Oregon City Golf Course 117-Acre Annexation  
**Meeting Date:** June 29, 2016  
**Reviewer(s):** Matthew Palmer, EIT

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#### ENGINEERING - UTILITIES

##### Stormwater

1. The proposed annexation area, at the time of development, shall adhere to the requirements of the Stormwater and Grading Design Standards. The current Standards can be found online here:

**[http://www.orcity.org/sites/default/files/final\\_manual\\_0.pdf](http://www.orcity.org/sites/default/files/final_manual_0.pdf)**

2. Stormwater run-off generated from future development will generally flow in the northwesterly and northeasterly directions. These flows must be conveyed to natural drainage channels located north of the proposed annexation area.
3. Flow to the existing stormwater system located within Beaver Creek Road will not be permitted unless substantial upgrades to this system are made. The Beaver Creek Road frontage of the proposed annexation area currently has no existing stormwater system.

##### Water

1. The 2012 Water Distribution System Master Plan was adopted in February 2012. A PDF version of the adopted master plan is available on our City website located here:

**<http://www.orcity.org/publicworks/water-plans>**

2. Portions of the proposed annexation area which sit above the 480 foot elevation level currently have no available water pressure zone to take water flow from for future development. The City is currently in preliminary conceptual design phase of the required reservoir, pump station(s), and transmission pipelines needed to serve future development in this area. There is currently no projected date of completion for this water system

expansion. A more defined timeline will be determined during the next budget cycle (January through June 2017).

3. System Development Charge (SDC) credits will likely be available for this planned water system expansion. At this time, the SDC eligible percentage is unknown, but will be better defined once water modeling for this water system expansion is completed ( $\pm 6$  months).

### **Sanitary Sewer**

1. The 2014 Sanitary Sewer Master Plan Update was adopted in November 2014. A PDF version of the adopted master plan is available on our City website located here:

**<http://www.orcity.org/publicworks/sanitary-sewer-master-plan-0>**

2. There is currently inadequate capacity in the *Glen Oak Basin* sanitary sewer system (located to the west across Beavercreek Road) to take additional flows from future development.
3. As part of future development within the proposed annexation area, a sanitary sewer main (likely 12-inch diameter) will need to be extended to the southeast within Beavercreek Road. The City is currently in the planning/design phase to extend the existing Beavercreek Road sanitary sewer main from near Marjorie Lane to Loder Road. The exact extents and timing of this project are not currently known at this time.
4. System Development Charge (SDC) credits will be available for costs above and beyond the cost to extend the standard 8-inch diameter PVC sanitary sewer main (e.g. SDC credits equal to the cost difference between installing 8-inch versus 12-inch sanitary sewer main).
5. After a cursory review of the existing topography, there appears to be a mounded area in the center of the proposed annexation area. As part of future development, a design engineer shall provide a design which accounts for this mounded area and propose connection locations to the Beavercreek Road sanitary sewer system which will allow for sanitary sewer flows by gravity.

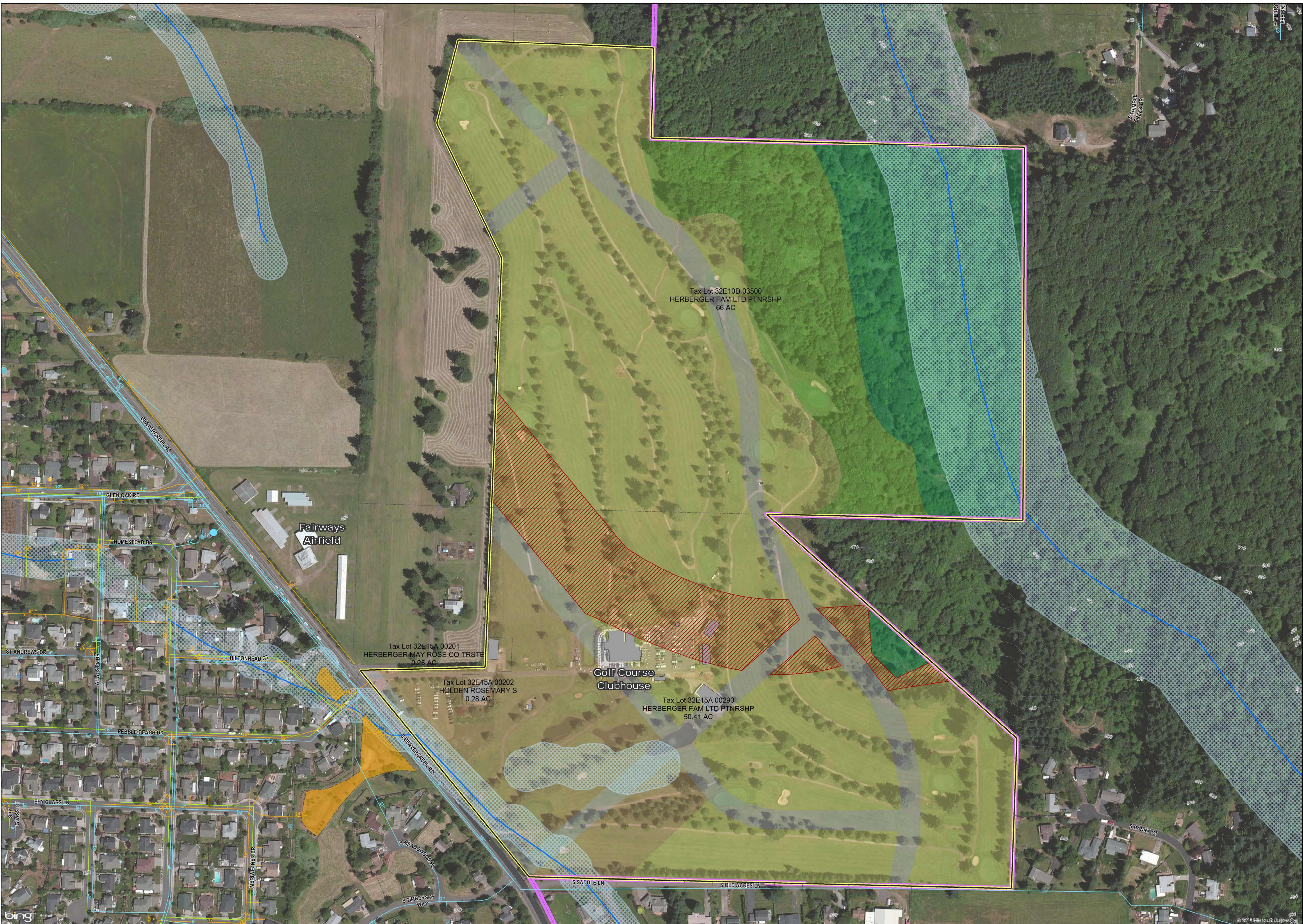
### **Other**

1. Portions of the proposed annexation area is within the Natural Resource Overlay District (NROD).
2. Portions of the proposed annexation area reside within the Geologic Hazard zone. Future proposed development will be subject to the City's Geologic Hazard code (OCMC 17.44).
3. The southwestern portion of the annexation area (along the Beavercreek Road frontage) is within the High Water Table area.

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**EXHIBIT B**  
**ANNEXATION SITE PLAN**





**Legend**

- Tax Lots
- Annexation Area
- Urban Growth Boundary
- Building Footprints
- Natural Resource Overlay (NROD)
- 10' Contours
- Streams and Water Bodies

**Utilities**

- Water Pump Station
- Water Pipes
- Sanitary Sewer Pipes
- Stormwater Conduits
- Storm Detention Basins

**Conceptual Land Use Plan\***

- Main Street
- North Employment Campus
- West Mixed Use Neighborhood
- East Mixed Used Neighborhood
- Mixed Employment Village
- Conservation and Low Impact Development
- Natural Area
- Right of Way
- South-Central Open Space Network

\* From the Beaver Creek Road Concept Plan, adopted March 2016, not yet effective.

# Oregon City Golf Course

Site Plan - Annexation

Clackamas County, Oregon



## **EXHIBIT C**

### **NEIGHBORHOOD MEETING INFORMATION**

*You're Invited*

# **Neighborhood Meeting**

Annexation of  
Oregon City Golf Club  
to Oregon City

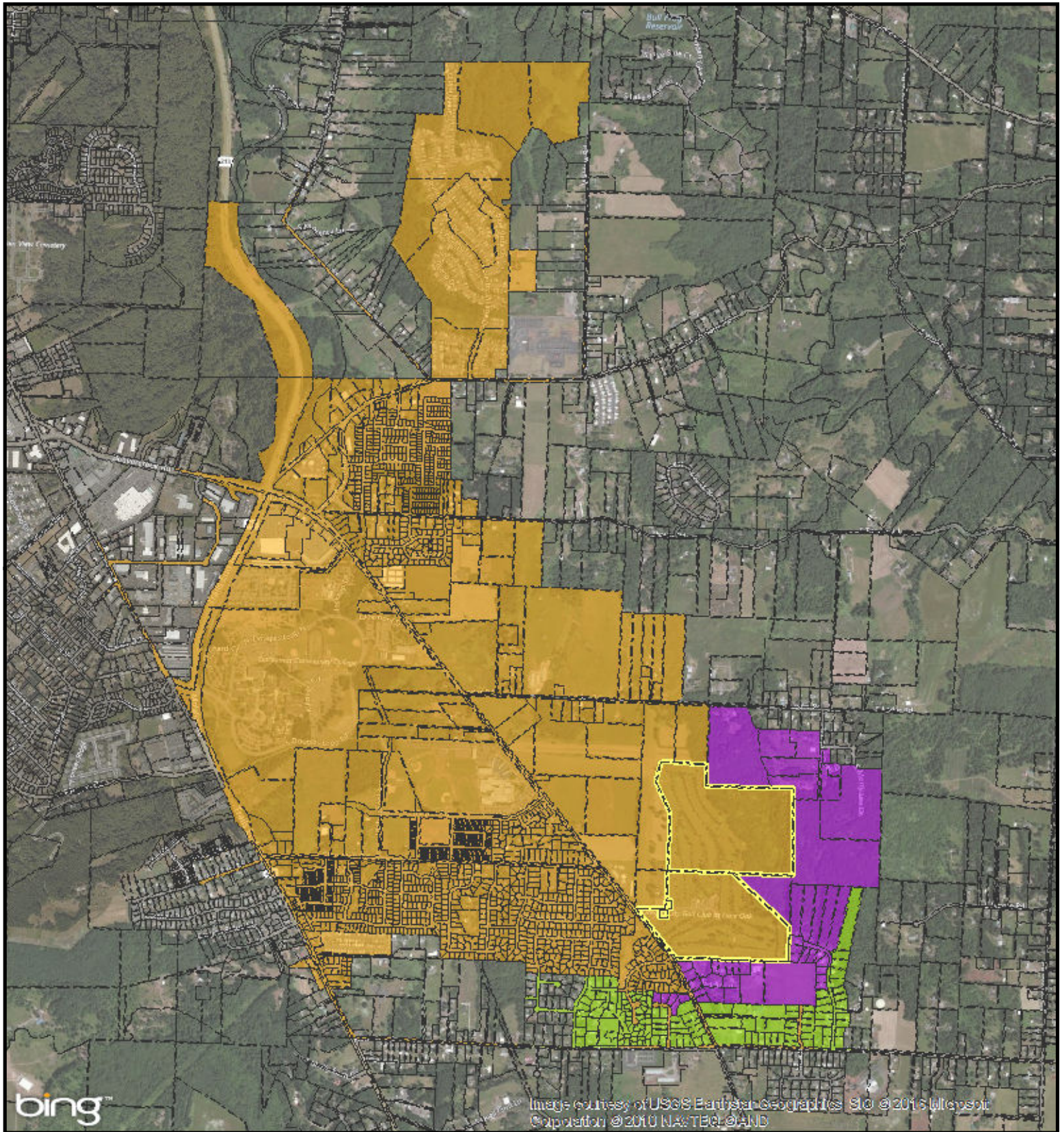
June 28, 2016

7 to 8:30 p.m.

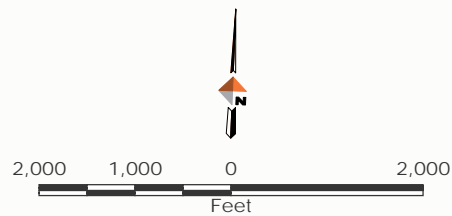
Oregon City Golf Club  
20124 S. Beaver Creek Road

*There will be a short presentation about the annexation petition,  
followed by an opportunity for you to ask questions  
and see renderings of the concept plan for this area*





- Caufield NA Lots
- 600-ft Radius Lots
- Additional Lots



**Oregon City Golf Course  
Annexation**  
Lots to be Notified





# CITY OF OREGON CITY

## ANNEXATION PETITION

By signing below I indicate my consent to and support of being annexed into the City of Oregon City, and my consent for having my signature (below) used for any application form required for the annexation, including but not limited to the City of Oregon City's Land Use Application Form.

NOTE: This petition may be signed by qualified persons even though they may not know their property description or precinct number.

SIGNATURE	PRINTED NAME	I AM A *			ADDRESS	PROPERTY DESCRIPTION				PRECINCT #	DATE
		PO	RV	OV		LOT #	1/4 SEC	TOWNSHIP	RANGE		
<i>Rosemary Holden</i>	Rosemary Holden			X	20130 S Beaver Creek	202	Map 3 2E 15A				July 15, 2016
<i>William F. Holden</i>	William F. Holden	X			6016 3rd St. OC	202	Map 3 2E 15A				July 15, 2016
<i>MayRose Herberger</i>	Herberger Family Trust (1)	X			2314E MONROE RD. #2	201	Map 3 2E 15A				7-15-16
<i>Keno E. Lematta</i>	Herberger Family Trust (2)	X			16112 W. ADAMS ST. GOODYEAR, AZ, 85338	201	Map 3 2E 15A				8-4-16
<i>MayRose Herberger</i>	Herberger Family LP	X			20124 S. Beaver Creek	290	Map 3 2E 15A				7-15-16
<i>MayRose Herberger</i>	Herberger Family LP	X			20124 S. Beaver Creek	3500	Map 3 2E 100				7-15-16
<i>Russel Spohn</i>	Russel Spohn		X		20130 S Beaver Creek						7-15-16
<i>Carolyn A. Herberger</i>	Carolyn A. Herberger		X		20118 S Beaver Creek						7/15/16
<i>Anthony Herberger</i>	Anthony Herberger		X		20118 S Beaver Creek						7/15/16
<i>John A. Herberger</i>	John A. Herberger		X		20118 S Beaver Creek						7/15/16
<i>Krystal E. Herberger</i>	Krystal E. Herberger		X		20118 S Beaver Creek						7/15/16
	(1) MayRose Herberger, Trustor/Trustee										
	(2) Tresa E. Lematta, Successor Co-Trustee										

\* PO = Property Owner  
RV = Registered Voter  
OV = Owner and Registered Voter

**CERTIFICATION OF PROPERTY OWNERSHIP OF**

**100% OF LAND AREA**

**(City 100% Ownership Method)**

I hereby certify that the attached petition for a proposed boundary change involving the territory described in the petition contains the names of the owners\* of 100% of the land area within the annexation area described in the petition, as shown on the last available complete assessment roll.

NAME Alice Tarachow  
TITLE Cartographer 2  
DEPARTMENT Assessment and Taxation  
COUNTY OF Clackamas  
DATE 8/10/16

- \* "Owner" means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.



**CERTIFICATION OF LEGAL DESCRIPTION AND MAP**

I hereby certify that the description of the property included within the attached petition (located on Assessor's Map 352E10D and 32SE15A 00201, 00202, 03500 00290) has been checked by me and it is a true and exact description of the property under consideration, and the description corresponds to the attached map indicating the property under consideration.

NAME Alice Tarachow  
TITLE Cartographer 2  
DEPARTMENT Assessment & Taxation  
COUNTY OF Clackamas  
DATE 8/10/16





## Herberger Property Description

Part of the South  $\frac{1}{2}$  of Section 10 and of the North  $\frac{1}{2}$  of Section 15 Township 3 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, and further described as follows:

Beginning at the most northwesterly corner of the duly recorded plat of Saddle Hill Estates at Beaver Creek (County Plat No. 3149), thence East along portions of the North line of said Saddle Hill Estates at Beaver Creek and being the Urban Growth Boundary line 1740 Feet more or less to a point being 1320 feet North and 1320 feet West of the one-quarter corner between sections 14 and 15, Township 3 South, Range 2 East of the Willamette Meridian;

Thence North  $0^{\circ} 30'$  West tracing the Urban Growth Boundary Line 540 feet more or less, to a point of deflection of the Urban Growth Boundary line;

Thence Northwesterly, tracing the Urban Growth Boundary Line, a distance of 1110 feet, more or less, to a point on the Southerly boundary of Section 10, Township 3 South, Range 2 East of the Willamette Meridian;

Thence East, tracing the Southerly boundary line of said Section 10 and the Urban Growth Boundary line a distance of 840 feet more or less to a point in the east line of the parcel described in Deed Book 564, pages 638-640, Clackamas County Deed Records and the West boundary of that parcel of land described in Clackamas County Recorder's Fee No. 78-18499;

Thence North  $0^{\circ} 30'$  West 1320 feet along said line and the Urban Growth Boundary to the Southeast corner of Government Lot 2 in Section 10 of Township 3, Range 2 East of the Willamette Meridian;

Thence West following the South boundary of said Lot 2 and the Urban Growth Boundary to the Southwest corner of said Lot 2, a distance of 1330.56 feet;

Thence North  $0^{\circ} 13'$  East 378 feet along the West line of said Lot 2 and the Urban Growth Boundary to a  $\frac{5}{8}$  inch rod set in a mound of stone at the North most Southeast corner of Parcel of land conveyed to Wayne C Hall and Helen E Hall and recorded in Clackamas County Deed Records in Book 546, page 288;

Thence N  $89^{\circ} 13' 00''$  W, 500.04 feet to  $\frac{5}{8}''$  iron rod;

Thence N  $89^{\circ} 13' 00''$  W, 197.71 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $12^{\circ} 49' 21''$  W, 306.64 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $27^{\circ} 12' 06''$  E, 533.04 feet to  $\frac{1}{2}''$  iron rod;

Thence S  $0^{\circ} 46' 57''$  W, 480.44 feet to a  $\frac{5}{8}''$  iron rod;

Thence S  $0^{\circ} 46' 16''$  W, 410.31 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $0^{\circ} 46' 16''$  W, 570.00 feet to a  $\frac{5}{8}''$  iron rod set at the South most Southeast corner of said Hall tract;



# CITY OF OREGON CITY

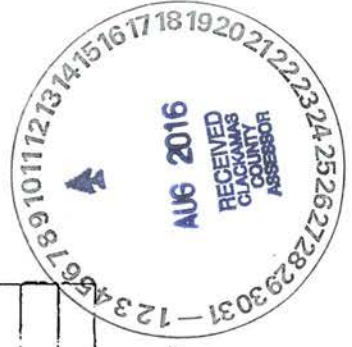
## ANNEXATION PETITION

By signing below, I indicate my consent to and support of being annexed into the City of Oregon City, and my consent for having my signature (below) used for any application form required for the annexation, including but not limited to the City of Oregon City's Land Use Application Form.

NOTE: This petition may be signed by qualified persons even though they may not know their property description or precinct number.

SIGNATURE	PRINTED NAME	I AM A *		ADDRESS	LOT #	PROPERTY DESCRIPTION		PRECINCT #	DATE
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<i>William F. Holden</i>	William F. Holden	X		1616 3rd St. DC	202	Map 3 2E 15A			July 15, 2016
<i>Herberger Family Trust (1)</i>	Herberger Family Trust (1)	X		2314E WOODDAVE RD. #201	201	Map 3 2E 15A			7-15-16
<i>Herberger Family Trust (2)</i>	Herberger Family Trust (2)	X		16112 W ADAMS ST. GOODYEAR, AZ. 85338	201	Map 3 2E 15A			8-4-16
<i>Herberger Family LP</i>	Herberger Family LP	X		20124 S. Beaver Creek	290	Map 3 2E 15A			7-15-16
<i>Herberger Family LP</i>	Herberger Family LP	X		20124 S. Beaver Creek	3500	Map 3 2E 10B			7-15-16
<i>Russel Spohn</i>	Russel Spohn		X	20130 S Beaver Creek					7-15-16
<i>Carolyn A. Herberger</i>	Carolyn A. Herberger		X	20118 S Beaver Creek					7-15-16
<i>Anthony Herberger</i>	Anthony Herberger		X	20118 S Beaver Creek					7-15-16
<i>John A. Herberger</i>	John A. Herberger		X	20118 S Beaver Creek					7-15-16
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(1) MayRose Herberger, Trustor/Trustee									
(2) Tresa E. Lematta, Successor Co-Trustee									

PO = Property Owner  
RV = Registered Voter  
OV = Owner and Registered Voter





## BOUNDARY CHANGE INFORMATION SHEET

### I. EXISTING CONDITIONS IN AREA TO BE ANNEXED

- A. General location East of South Beaver Creek Rd., east and south of city limits
- B. Land Area: Acres 117 or Square Miles \_\_\_\_\_
- C. General description of territory. (Include topographic features such as slopes, vegetation, drainage basins, floodplain areas, which are pertinent to this proposal).  
Slopes ranging from 1-8%, some areas of steeper slopes (15%)  
Natural resource areas associated with Thimble exist along the eastern portion of subject site
- D. Describe land uses on surrounding parcels. Use tax lots as reference points.  
North: Natural resource areas, Thimble Creek, some single-family dwellings  
East: Natural resource areas, Thimble Creek, residential subdivision  
South: Single-family dwellings  
West: Mostly undeveloped, two dwellings, private airport
- E. Existing Land Use:  
Number of single-family units 2 Number of multi-family units 0  
Number commercial structures 0 Number industrial structures 0  
Public facilities or other uses Club house  
What is the current use of the land proposed to be annexed: two dwellings and  
the Oregon City Golf Course, club house and 18-hole golf course
- F. Total current year Assessed Valuation \$ \$ 3,387,749.00
- G. Total existing population 6

### III. LAND USE AND PLANNING

- A. What is the applicable County Planning Designation? FU-10 and TBR  
What City Planning Designation is being sought? None at this time

- B. What is the zoning on the territory to be served?  
County FU-10 and TBR  
What zoning designation is being sought? None at this time

- C. Is the subject territory to be developed at this time? No

- D. Generally describe the anticipated development (building types, facilities, number of units).  
Property will ultimately be developed with a mix of housing types consistent  
with the Beaver Creek Road Concept Plan. No development proposed at this time.

- E. Can the proposed development be accomplished under current county zoning?  
☐ Yes ☒ No

If No,---has a zone change been sought from the county either formally or informally.

☐ Yes ☒ No

Please describe outcome of zone change request if answer to previous questions was Yes. \_\_\_\_\_

- F. Is the proposed development compatible with the city's comprehensive land use plan for the area?

☒ Yes ☐ No ☐ City has no Plan for the area.

Has the proposed development been discussed either formally or informally with any of the following? (Please indicate)

☐ City Planning Commission ☒ City Planning Staff  
☐ City Council ☐ City Manager

Please describe the reaction to the proposed development from the persons or agencies indicated above.

Held a pre-application conference with planning staff on June 29, 2016

- G. Please indicate all permits and/or approvals from a City, County, or Regional Government which will be needed for the proposed development. If already granted, please indicate date of approval and identifying number:

APPROVAL	PROJECT FILE #	DATE OF APPROVAL	FUTURE REQUIREMENT
Metro UGB Amendment			
City or County Plan Amendment			
Pre-Application Hearing (City or County)	City	June 29, 2016	
Preliminary Subdivision Approval			
Final Plat Approval			
Land Partition			
Conditional Use			
Variance			
Sub-Surface Sewage Disposal			
Building Permit			

Please submit copies of proceedings relating to any of the above permits or approvals which are pertinent to the annexation.

- H. Does the proposed development comply with applicable regional, county or city comprehensive plans? Please describe.

See the annexation request narrative included with this submittal.

- I. If a city and/or county-sanctioned citizens' group exists in the area of the annexation, please list its name and address of a contact person.

Caufield Neighborhood Association, Mike Mermelstein Co-Chair, email: mike1376@aol.com

Hamlet of Beaver Creek, Tammy Stevens Chair, P.O. Box 587, Beaver Creek, Oregon 97004

#### IV. SERVICES AND UTILITIES

- A. Please indicate the following:

1. Location and size of nearest water line which can serve the subject area.

16-inch public water line in South Beaver Creek Road

2. Location and size of nearest sewer line which can serve the subject area.

2,400-foot trunk sewer line in South Beaver Creek Road, north of subject site.

3. Proximity of other facilities (storm drains, fire engine companies, etc.) which can serve the subject area \_\_\_\_\_

A storm detention basin is located west of the subject site, across S. Beaver Creek Rd.

4. The time at which services can be reasonably provided by the city or district.  
Public facilities plans have been updated to plan for service to subject area.

5. The estimated cost of extending such facilities and/or services and what is to be the method of financing. (Attach any supporting documents.)

Cost estimates are provided in the public facilities plans adopted by the city.

SDCs have been updated to reflect improvements needed to serve subject area.

6. Availability of the desired service from any other unit of local government.  
(Please indicate the government.)

- B. If the territory described in the proposal is presently included within the boundaries of or being served extraterritorially or contractually by, any of the following types of governmental units, please so indicate by stating the name or names of the governmental units involved.

City \_\_\_\_\_

Rural Fire Dist. Clackamas Fire District #1

County Service Dist. \_\_\_\_\_

Sanitary District \_\_\_\_\_

Hwy. Lighting Dist. \_\_\_\_\_

Water District Clackamas River Water Dist.

Grade School Dist. Oregon City

Drainage District \_\_\_\_\_

High School Dist. Oregon City

Diking District \_\_\_\_\_

Library Dist. Oregon City

Park & Rec. Dist. \_\_\_\_\_

Special Road Dist. \_\_\_\_\_

Other Dist. Supplying Water Service \_\_\_\_\_

- C. If the territory is proposed to be served by any of the above units or any other units of government please note.

- D. If any of the above units are presently servicing the territory (for instance, are

residents in the territory hooked up to a public sewer or water system), please so describe.

Clackamas River WD currently provides water to site.

APPLICANT'S NAME Brownstone Development, Inc.

MAILING ADDRESS 47 South State Street

PO Box 2375

Lake Oswego, OR 97934

TELEPHONE NUMBER (503) 358-4460 (Work)

(Res.)

REPRESENTING

DATE:



# Herberger Property Description

Part of the South  $\frac{1}{2}$  of Section 10 and of the North  $\frac{1}{2}$  of Section 15 Township 3 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, and further described as follows:

Beginning at the most northwesterly corner of the duly recorded plat of Saddle Hill Estates at Beavercreek (County Plat No. 3149), thence East along portions of the North line of said Saddle Hill Estates at Beavercreek and being the Urban Growth Boundary line 1740 Feet more or less to a point being 1320 feet North and 1320 feet West of the one-quarter corner between sections 14 and 15, Township 3 South, Range 2 East of the Willamette Meridian;

Thence North  $0^{\circ} 30'$  West tracing the Urban Growth Boundary Line 540 feet more or less, to a point of deflection of the Urban Growth Boundary line;

Thence Northwesterly, tracing the Urban Growth Boundary Line, a distance of 1110 feet, more or less, to a point on the Southerly boundary of Section 10, Township 3 South, Range 2 East of the Willamette Meridian;

Thence East, tracing the Southerly boundary line of said Section 10 and the Urban Growth Boundary line a distance of 840 feet more or less to a point in the east line of the parcel described in Deed Book 564, pages 638-640, Clackamas County Deed Records and the West boundary of that parcel of land described in Clackamas County Recorder's Fee No. 78-18499;

Thence North  $0^{\circ} 30'$  West 1320 feet along said line and the Urban Growth Boundary to the Southeast corner of Government Lot 2 in Section 10 of Township 3, Range 2 East of the Willamette Meridian;

Thence West following the South boundary of said Lot 2 and the Urban Growth Boundary to the Southwest corner of said Lot 2, a distance of 1330.56 feet;

Thence North  $0^{\circ} 13'$  East 378 feet along the West line of said Lot 2 and the Urban Growth Boundary to a  $\frac{5}{8}$  inch rod set in a mound of stone at the North most Southeast corner of Parcel of land conveyed to Wayne C Hall and Helen E Hall and recorded in Clackamas County Deed Records in Book 546, page 288;

Thence N  $89^{\circ} 13' 00''$  W, 500.04 feet to  $\frac{5}{8}''$  iron rod;

Thence N  $89^{\circ} 13' 00''$  W, 197.71 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $12^{\circ} 49' 21''$  W, 306.64 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $27^{\circ} 12' 06''$  E, 533.04 feet to  $\frac{1}{2}''$  iron rod;

Thence S  $0^{\circ} 46' 57''$  W, 480.44 feet to a  $\frac{5}{8}''$  iron rod;

Thence S  $0^{\circ} 46' 16''$  W, 410.31 feet to  $\frac{5}{8}''$  iron rod;

Thence S  $0^{\circ} 46' 16''$  W, 570.00 feet to a  $\frac{5}{8}''$  iron rod set at the South most Southeast corner of said Hall tract;



Thence S 87° 11' 21" W along the South line of said Hall tract, 445.92 feet to the South most Southwest corner of said Hall tract; and being on the Easterly right-of-way line of Beaver creek Road;

Thence South 40° 37' East along the Easterly right-of-way of said Beaver creek Road 70 feet, more or less, to a point which bears Northeasterly from the most Northerly corner of Tract "G" of the duly recorded plat of Three Mountains-Randall (County Plat No. 2482);

Thence Southwesterly, crossing said Beaver creek Road at right angles, a distance of 60 feet to the Southwesterly right-of-way of said Beaver creek Road;

Thence following said Southwesterly right-of-way of said road South 40° 37' East 810 feet, more or less, to a point on the Westerly extension of the Northerly line of the duly recorded plat of Saddle Hill Estates at Beaver creek (County Plat No. 3149);

thence Easterly along the said Westerly extension of Northerly line of said Saddle Hill Estates at Beaver creek and crossing Beaver creek Road to the point of beginning.



**From:** [Laura Terway](#)  
**To:** [Pete Walter](#); [Carrie Richter \(crichter@batemanseidel.com\)](mailto:crichter@batemanseidel.com); [Joseph Schaefer](#)  
**Subject:** FW: Oregon City Golf Course Annexation  
**Date:** Friday, February 03, 2017 1:21:13 PM

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**From:** jeanbob06@comcast.net [mailto:jeanbob06@comcast.net]  
**Sent:** Friday, February 03, 2017 1:20 PM  
**To:** Laura Terway  
**Subject:** Oregon City Golf Course Annexation

Hello Laura;

I would like the following information entered into the record for this annexation: Chapter 14.04.060.A.3 of the Oregon City Municipal Code states "When reviewing a proposed annexation, the Commission shall consider the following factors as relevant:

3. Adequacy and availability of public facilities and service to service POTENTIAL development".

As near as I could I figured there could be 348 R-10 lots on that property. This would generate approximately 278 primary school students and 3,480 daily driving trips. Can the local school handle that many additional children and can Beavercreek Road handle that much more traffic? Also the intersection of Hwy 213 and Beavercreek Road has already failed. Should those issues be considered before annexation?

Most Respectfully;  
Bob La Salle

**From:** [Laura Terway](#)  
**To:** [Doug Neeley](#)  
**Cc:** [Pete Walter](#)  
**Subject:** Re: Testimony on Oregon City annexation request by Oregon City Golf Course  
**Date:** Sunday, February 05, 2017 4:20:40 PM

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Thank you, your testimony has been added to the record.

-Laura Terway

On Feb 5, 2017, at 2:16 PM, Doug Neeley <[intstats@sbcglobal.net](mailto:intstats@sbcglobal.net)> wrote:

## Annexation of Oregon City Golf Course

Testimony

Doug Neeley

Resident of Oregon City

My comments are as to whether to follow State statute or the Oregon City Charter requirement for a voter-approved annexation. Arguments presented at the February 1 2017 meeting of the Oregon City Commission seemed to center around whether the City should follow State mandates. I think that should not be the issue.

The issue should be weighing the rights of the majority against the rights of the individual. Property owners' rights should not be denied their lawful rights by a vote of a majority decision of the public. If property owners are within the Urban Growth Boundary and wish to annex their property, then it should be the decision of the governing body to see if that annexation meets the code requirements of the City. The majority of voters should not be able to dictate what the property owner can or cannot do.



# City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

## Comprehensive Plan Map - Proposed Changes

as of June 3, 2009

### COMPREHENSIVE PLAN DESIGNATIONS

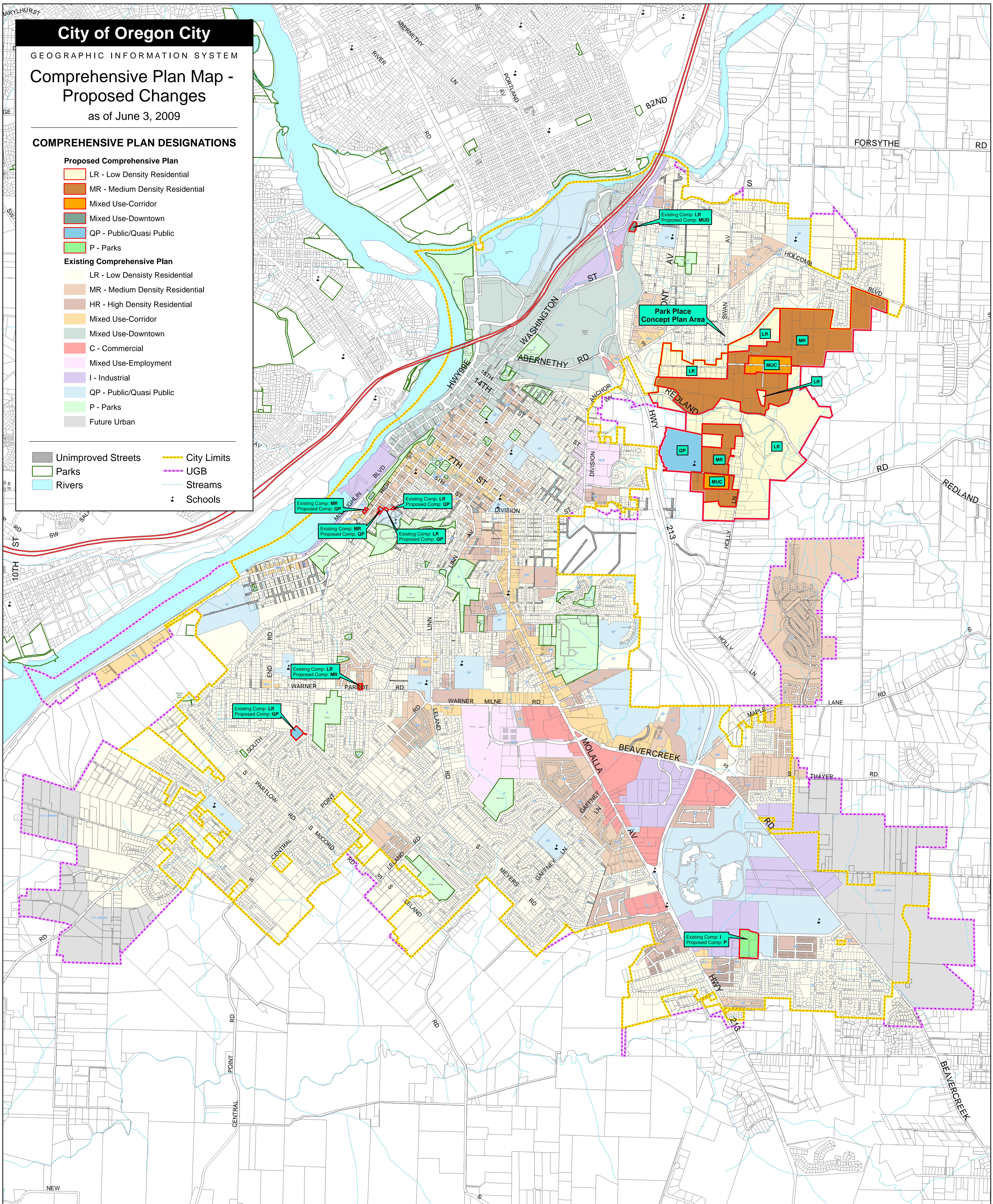
#### Proposed Comprehensive Plan

- LR - Low Density Residential
- MR - Medium Density Residential
- Mixed Use-Corridor
- Mixed Use-Downtown
- QP - Public/Quasi Public
- P - Parks

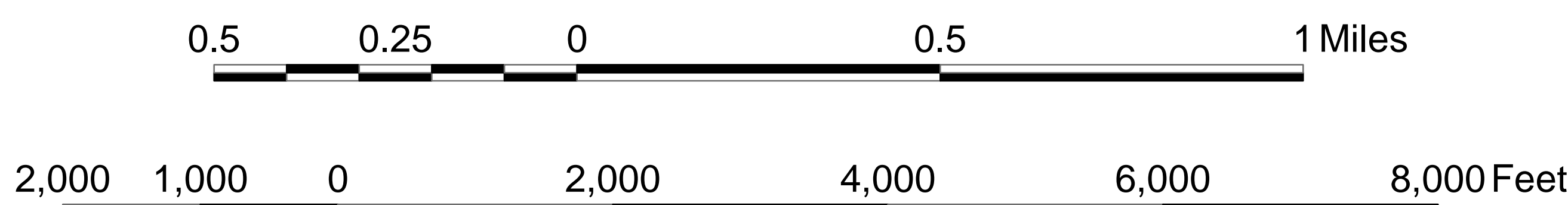
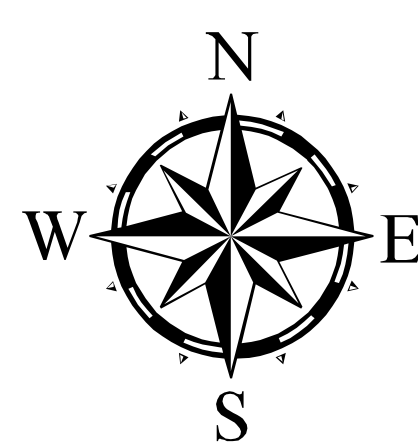
#### Existing Comprehensive Plan

- LR - Low Density Residential
- MR - Medium Density Residential
- HR - High Density Residential
- Mixed Use-Corridor
- Mixed Use-Downtown
- C - Commercial
- Mixed Use-Employment
- I - Industrial
- QP - Public/Quasi Public
- P - Parks
- Future Urban

- Unimproved Streets
- Parks
- Rivers
- City Limits
- UGB
- Streams
- Schools



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



City of Oregon City  
P.O. Box 3040  
320 Warner Milne Rd.  
Oregon City, OR 97045  
503-657-0891 phone  
503-657-6629 fax  
[www.ci.oregon-city.or.us](http://www.ci.oregon-city.or.us)



Plot date: June 3, 2009  
Plot name: Comprehensive Map with Proposed Changes - 36x48P - 20090603.pdf  
Map name: Comprehensive Map with Proposed Changes - 36x48P.mxd

Please recycle with colored office grade paper.





# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: December 02, 2016  
Jurisdiction: City of Oregon City  
Local file no.: CP-14-04,ZC-14-03,PZ  
DLCD file no.: 006-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/01/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**

File No.: 006-14 {22399}

Received: 12/1/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Oregon City

Local file no.: **CP 14-02, ZC 14-03 PZ 14-01**Date of adoption: 11/12/2014      Date sent: 11/17/2014 initially sent but not received by DLCD, 12/1/2016  
resent

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 8/6/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No  
If yes, describe how the adoption differs from the proposal:

**The proposal is substantially the same. However, additional permitted and conditional uses were added to the Willamette Falls Downtown District, and parking review was waived for change in used in this zone**

Local contact (name and title): Christina Robertson-Gardiner

Phone: 503.496.1564

E-mail: [crobertson@orc.org](mailto:crobertson@orc.org)

Street address: PO Box 3040

City: Oregon City

Zip: 97045-

**PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY****For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Amending the Parks/Trails Master Plan and the Transportation System Plan to include future projects for the riverwalk/open space and bridge over 99E from the Promenade to the site.

**For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from I	to MUD	22 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 2-2E-31BD-00300, 500, 600, 390

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

17.06.020 Zoning District Classifications, Official Zoning Map  
17.35 Willamette Falls Downtown District  
17.48.110 Willamette River Greenway, Prohibited Activities  
17.52.020 Off Street Parking and Loading, Number of Auto Spaces Required

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from GI	to WFDD	Acres: 22
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

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List affected state or federal agencies, local governments and special districts: Oregon City, ODOT, DLCD

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Attached are the implementing ORDs and attachments for the land use file



# City of Oregon City

GEOGRAPHIC INFORMATION SYSTEM

## Comprehensive Plan Map

Ordinance No. 08-1014

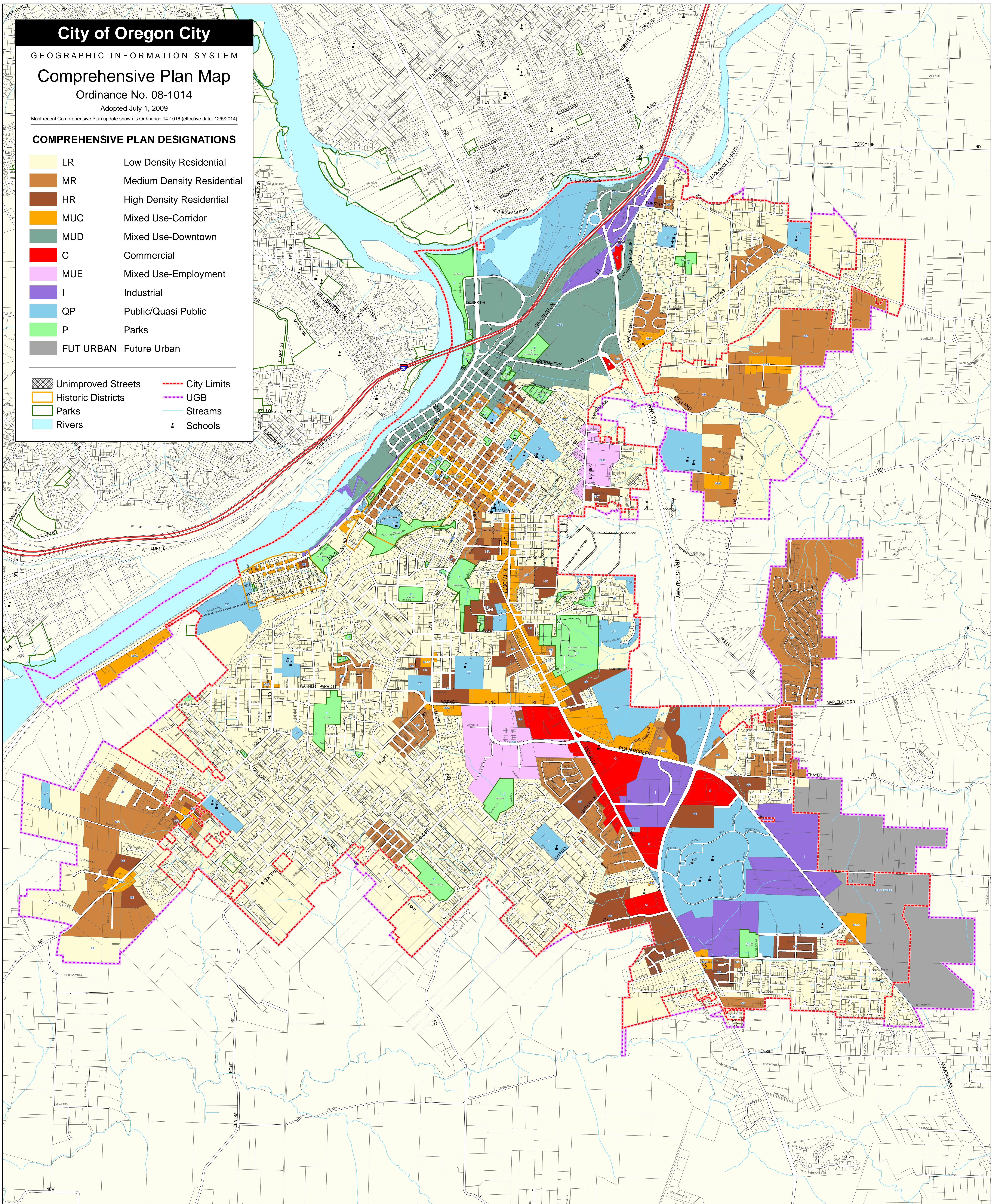
Adopted July 1, 2009

Most recent Comprehensive Plan update shown is Ordinance 14-1016 (effective date: 12/5/2014)

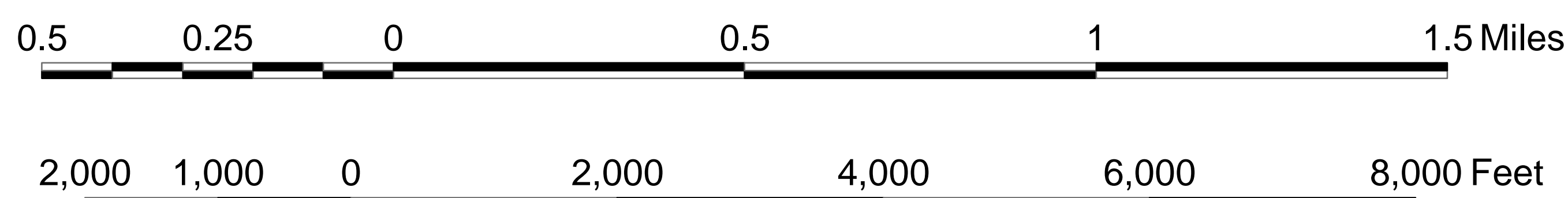
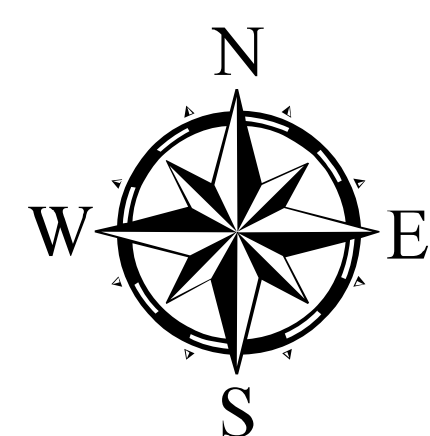
### COMPREHENSIVE PLAN DESIGNATIONS

LR	Low Density Residential
MR	Medium Density Residential
HR	High Density Residential
MUC	Mixed Use-Corridor
MUD	Mixed Use-Downtown
C	Commercial
MUE	Mixed Use-Employment
I	Industrial
QP	Public/Quasi Public
P	Parks
FUT URBAN	Future Urban

Unimproved Streets	City Limits
Historic Districts	UGB
Parks	Streams
Rivers	Schools



The City of Oregon City makes no representations, express or implied, as to the accuracy, completeness and timeliness of the information displayed. This map is not suitable for legal, engineering, or surveying purposes. Notification of any errors is appreciated.



City of Oregon City  
P.O. Box 3040  
625 Center Street  
Oregon City, OR 97045  
503-657-0891 phone  
503-657-7892 fax  
[www.orcity.org](http://www.orcity.org)



Plot date: December 5, 2014  
Plot name: Comprehensive - 36x48P - No Addresses - 20141205.pdf  
Map name: Comprehensive Map - 36x48P.mxd

Please recycle with colored office grade paper.





# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: December 02, 2016  
Jurisdiction: City of Oregon City  
Local file no.: CP-14-04,ZC-14-03,PZ  
DLCD file no.: 006-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/01/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)





# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 15

Salem, Oregon 97301-254

Phone: (503) 373-005

Main/Coastal Fax: (503) 378-603

Director's/Rural Fax: (503) 378-551

TGM/Urban Fax: (503) 378-268

Web Address: <http://www.lcd.state.or.us>

### NOTICE OF ADOPTED AMENDMENT

November 24, 2004



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Larry French, Plan Amendment Program Specialist

SUBJECT: City of Oregon City Plan Amendment  
DLCD File Number 003-04

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 9, 2004

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Community Services Specialist  
Meg Fernekees, DLCD Regional Representative  
Tony Konkol, City of Oregon City Senior Planner

<paa> ya/

RM 2

## DLCD NOTICE OF ADOPTION

This form must be mailed to DLCD within 5 working days after the final decision  
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF  
NOV 19 2004  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: City of Oregon City Local File No.: L 03-01  
(If no number, use none)

Date of Adoption: 11/17/04 Date Mailed: 11/18/04  
(Must be filed in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 7/8/04

☒ Comprehensive Plan Text Amendment ☒ Comprehensive Plan Map Amendment  
☒ Land Use Regulation Amendment ☒ Zoning Map Amendment  
☒ New Land Use Regulation ☐ Other: \_\_\_\_\_  
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Amendments to the Oregon City Comp. Plan, Plan map, Zoning Ordinances and Zoning Map. Chapters 2  
of the Comp. Plan were updated. Zoning updates include: Definitions, Zoning District classifications, R-10, R-1  
R-3.5, R-2, Limited Office, Neighborhood Commercial, MUC, Tourist Commercial, MUE, Unstable soils, Admin.  
Procedures, Supplemental Zoning, CLP, Variances, Site Plan, Zoning Changes and Communication Facilities.  
Split zones were removed from the Comp Plan + Zoning map. Islands of R-10 were changed to R-8 and F-10 properties.  
Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same."  
"Same." If you did not give notice for the proposed amendment, write "N/A." Industrial

The changes were driven by comments received during the public hearing process. No  
changes were initially proposed.

Plan Map Changed from: \_\_\_\_\_ to See attached

Zone Map Changed from: \_\_\_\_\_ to See attached

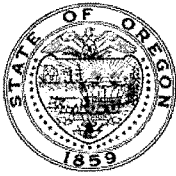
Location: City Wide Acres Involved: \_\_\_\_\_

Specify Density: Previous: R-10 (4.4 unit/Acre) New: R-8 (5.5 unit/Acre)

Applicable Statewide Planning Goals: \_\_\_\_\_

Was an Exception Adopted? Yes: \_\_\_\_\_ No: ☒

DLCD File No.: 003-04(13750)



# Oregon

Theodore R. Kubangski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

07/26/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Oregon City Plan Amendment  
DLCD File Number 001-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, August 09, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: John Lewis, City of Oregon City  
Gordon Howard, DLCD Urban Planning Specialist  
Jennifer Donnelly, DLCD Regional Representative  
Gary Fish, DLCD Transportation Planner

<paa> YA



FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DEPT OF

JUL 22 2013

LAND USE DIVISION  
For Official Use Only

Jurisdiction: **City of Oregon City**

Local file number: **L 13-01 and L 13-02**

Date of Adoption: **7/17/2013**

Date Mailed: **7/18/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☒ Other: **Updated TSP and Code**

**Amendment**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The City of Oregon City adopted an updated Transportation System Plan (TSP) as well as associated amendments to the Oreogn City Municipal Code to implement the TSP.

Does the Adoption differ from proposal? Yes, Please explain below:

There were mionr changes made to the TSP projects and code amendments during review by the Planning and City Commission.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **City of Oregon City**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

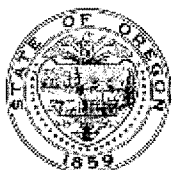
☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



### NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: 10/10/2014  
Jurisdiction: City of Oregon City  
Local file no.: L 14-02  
DLCD file no.: 005-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 10/06/2014. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 47 days prior to the first evidentiary hearing.

#### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

#### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)





# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 005-14 {22378}

Received: 10/6/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Oregon City

Local file no.: **LE 14-02: Sanitary Sewer Master Plan (SSMP)**

Date of adoption: (SSM10/01/2014

Date sent: 10/06/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 07/23/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes ☐ No ☒

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Pete Walter, AICP, Associate Planner

Phone: (503) 496-1568

E-mail: pwalter@orc.org

Street address: 221 Molalla Ave, Ste. 200

City: Oregon City

Zip: 97045-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Amends the 2003 Comprehensive Plan. SSMP analyses existing sanitary sewer facilities and provides direction for future development, funding and needs. SSMP is also corrective program remedy to current Sewer Moratorium. Statewide Goals implemented: 1, 2, 5, 6, 7, 9, 11, 13, 14.

### For a change to a comprehensive plan map: **NA**

Identify the former and new map designations and the area affected:

Change from

to

acres.

A goal exception was required for this change.

Change from  
change.

to

acres.

A goal exception was required for this

Change from  
change.

to

acres.

A goal exception was required for this

Change from

to

acres.

A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):



# City of Oregon City

625 Center Street  
Oregon City, OR 97045  
503-657-0891

## Staff Report

File Number: PC 16-084

**Agenda Date:** 8/17/2016

**Status:** Public Hearing

**To:** City Commission

**Agenda #:** 6a.

**From:** Community Development Director Laura Terway

**File Type:** Planning

### **SUBJECT:**

Request to Continue: Annexation Request of Approximately 0.46 Acres of Property Located at 19358 S. Columbine Court into the City (Annexation File AN-16-0001)

### **RECOMMENDED ACTION (Motion):**

Staff recommends that the City Commission open the public hearing, take testimony from any person present who wishes to testify, then continue the public hearing for AN-16-0001 to September 7, 2016.

### **BACKGROUND:**

The applicant is in the process of preparing a memorandum that responds to the Transportation Planning Rule requirement for re-zoning the property to R-10, but has not submitted the requested report as of the date of the agenda preparation. Staff therefore requests this continuance in order to allow additional time to submit this item into the record, and also to prepare a memorandum that addresses the Planning Commission's concern related to rezoning properties in conjunction with annexation requests. The Planning Commission recommended approval of Planning File AN-16-0001 on July 11, 2016 by a vote of 4-1-1.

Annexation File AN-16-0001 was submitted by Ron and Anastasia Wilson, who are petitioning to annex approximately 0.46 acres of property to the City. The property is located at 19358 S. Columbine Ct, Oregon City, OR 97045 and identified as Clackamas County APN 3-1E-12AC-03700.





# City of Oregon City

625 Center Street  
Oregon City, OR 97045  
503-657-0891

## Staff Report

File Number: PC 16-076

**Agenda Date:** 7/20/2016

**Status:** Public Hearing

**To:** City Commission

**Agenda #:** 6a.

**From:** Community Development Director Laura Terway

**File Type:** Planning

### **SUBJECT:**

Request to Continue Annexation File AN-16-0001 for the 0.46 Acre Property Located at 19358 S. Columbine Court to August 17, 2016

### **RECOMMENDED ACTION (Motion):**

Staff recommends that the City Commission open the public hearing, take testimony from any person present who wishes to testify, then continue the public hearing for AN-16-0001 to August 17, 2016.

### **BACKGROUND:**

Staff is requesting this continuance in order to allow additional time to prepare a memorandum that addresses the Planning Commission concern related to rezoning properties in conjunction with annexation requests. The Planning Commission recommended approval of Planning File AN-16-0001 on July 11, 2016 by a vote of 4-1-1. However, with the recommendation, the Planning Commission requested that staff clarify the requirements for when zoning applies to properties upon annexation and the associated effects.

Annexation File AN-16-0001 was submitted by Ron and Anastasia Wilson, who are petitioning to annex approximately 0.46 acres of property to the City. The property is located at 19358 S. Columbine Ct, Oregon City, OR 97045 and identified as Clackamas County APN 3-1E-12AC-03700.



# City of Oregon City

625 Center Street  
Oregon City, OR 97045  
503-657-0891

## Staff Report

File Number: PC 16-066

**Agenda Date:**

**Status:** Agenda Ready

**To:** Planning Commission

**Agenda #:** 3b.

**From:** Pete Walter

**File Type:** Planning Item

### **SUBJECT:**

Request to Continue Annexation file AN-16-0001 for the property located at 19358 S. Columbine Court to July 11, 2016.

### **RECOMMENDED ACTION (Motion):**

Staff recommends that the Planning Commission open the public hearing, take testimony from any person present who wishes to testify, then continue the public hearing for AN-16-0001 to July 11, 2016.

### **BACKGROUND:**

Annexation File AN-16-0001 was submitted by Ron and Anastasia Wilson, who are petitioning to annex approximately 0.46 acres of property to the City. The property is located at 19358 S. Columbine Ct, Oregon City, OR 97045 and identified as Clackamas County APN 3-1E-12AC-03700. The property has a Comprehensive Plan designation of LR Low Density Residential.

Staff requests a continuance of the public hearing in order to provide correct additional notice for AN-16-0001. Staff provided newspaper notice of the public hearing, mailed public notice of the application on May 16, 2016, and the applicant posted the property with the land use notice sign, however, staff neglected to provide adequate notice to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, and any affected recognized neighborhood associations and any party who has requested in writing such notice as required by OCMC 17.50.090(C).





# City of Oregon City

625 Center Street  
Oregon City, OR 97045  
503-657-0891

## Staff Report

File Number: PC 16-090

**Agenda Date:** 9/7/2016

**Status:** ATS Review

**To:** City Commission

**Agenda #:** 6a.

**From:** Community Development Director Laura Terway

**File Type:** Planning

### **SUBJECT:**

First Reading of Ordinance No. 16-1009: Annexation of Approximately 0.46 Acres of Property Located at 19358 S. Columbine Court into the City (Annexation File AN-16-0001)

### **RECOMMENDED ACTION (Motion):**

Staff recommends that the City Commission approve the first reading of Ordinance No. 16-1009.

### **BACKGROUND:**

The Planning Commission recommended approval of Planning File AN-16-0001 on July 11, 2016 by a vote of 4-1-1.

The applicant has prepared a memorandum that responds to the Transportation Planning Rule requirement for re-zoning the property to R-10. Staff has included revised findings to support the re-zoning for the subject property to R-10 Single-Family Residential following approval of the annexation.

Annexation File AN-16-0001 was submitted by Ron and Anastasia Wilson, who are petitioning to annex approximately 0.46 acres of property to the City. The property is located at 19358 S. Columbine Ct, Oregon City, OR 97045 and identified as Clackamas County APN 3-1E-12AC-03700.

**ORDINANCE NO. 16-1009**

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**AN ORDINANCE OF THE CITY OF OREGON CITY  
APPROVING ANNEXATION PROPOSAL NO. AN-16-0001 AND APPROVING THE  
ANNEXATION OF CERTAIN PROPERTY LOCATED AT 19358 S. COLUMBINE COURT TO THE  
CITY OF OREGON CITY**

**WHEREAS**, the owners of certain real property adjacent to the City of Oregon City, Ron and Anastasia Wilson, proposed in Annexation Proposal No. AN-16-0001 that their 0.46 acre property located at 19358 S. Columbine Court, Clackamas County map 3S-1E-12AC tax lot 3700, more fully identified in Exhibit 'A' to this Ordinance, be annexed to the City; and

**WHEREAS**, the City finds that the proposal complies with all applicable legal requirements, as detailed in the findings attached hereto and made a part of this ordinance as Exhibit 'B'; and

**WHEREAS**, Senate Bill 1573, adopted in 2016, requires annexation of territory without a vote by the people, notwithstanding city charter and regulations to the contrary, and the City finds that the annexed area is within the urban growth boundary, will be subject to an acknowledged comprehensive plan, is contiguous to the city limits and conforms with all other city requirements; and

**WHEREAS**, 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; and

**WHEREAS**, the identified property is currently in Clackamas Fire District # 1 (CFD#1); and CFD#1 will continue to provide fire protection service to the identified property when annexed; and

**WHEREAS**, the identified property is currently within the Clackamas County Service District for Enhanced Law Enforcement; and the Oregon City Police Department will be responsible for police services to the identified property when annexed; and

**WHEREAS**, the identified property is currently within and served by the Clackamas River Water (CRW) District service area; and the property will continue to be served by CRW per the South End Cooperative Intergovernmental Agreement when annexed; and

**WHEREAS**, the identified property is not currently within the Tri-City Service District and must petition for annexation into said District with the concurrence of the City; and

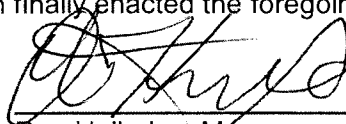
**WHEREAS**, the City Commission concurs that the Tri-City Service District can annex the identified properties into their sewer district.



**NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:**

- Section 1. That the area further identified in the legal description attached hereto as Exhibit "A", is hereby annexed to and made a part of the City of Oregon City.
- Section 2. That the territory identified in Exhibit "A" shall hereby remain within Clackamas County Fire District # 1.
- Section 3. That the territory identified in Exhibit "A" is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement, and henceforth, the Oregon City Police Department will be responsible for police services to the identified property.
- Section 4. That the territory identified in Exhibit "A" shall remain within Clackamas River Water District pursuant to the South End Cooperative Intergovernmental Agreement.
- Section 5. The City hereby concurs with and approves the annexing of the territory identified in Exhibit "A" into the Tri-City Service District by the Clackamas County Board of Commissioners, to the extent allowed by law.
- Section 6. That the territory identified in Exhibit "A" will be rezoned to Oregon City R-10 from County FU-10 within 60-days of annexation pursuant to OCMC 17.06.030.
- Section 7. That the effective date for this annexation is the date this ordinance is submitted to the Secretary of State, as provided in ORS 222.180.

Read for the first time at a regular meeting of the City Commission held on the 7<sup>th</sup> day of September, 2016, and the City Commission finally enacted the foregoing Ordinance this 21<sup>st</sup> day of September, 2016.

  
\_\_\_\_\_  
Dan Holladay, Mayor

Attested to this 21<sup>st</sup> day of September 2016:

  
\_\_\_\_\_  
Kattie Riggs, City Recorder

Approved as to legal sufficiency:

  
\_\_\_\_\_  
City Attorney

Exhibit A – Map and Legal Description of Proposed Annexation  
Exhibit B – Proposed Findings, Reasons for Decision and Conclusions



**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).





# OREGON CITY

## Community Development – Planning

221 Molalla Ave. Suite 200 | Oregon City OR 97045

Ph (503) 722-3789 | Fax (503) 722-3880

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 regard 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

\*\*\*

*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...*

\*\*\*

#### 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.



*Ref To Ordinance No. 95-1220*

CLACKAMAS COUNTY - CITY OF OREGON CITY  
URBAN GROWTH MANAGEMENT AGREEMENT

This Agreement, made and entered into this 25 day of October, 1990, by and between the CITY OF OREGON CITY (CITY), a municipal corporation of the State of Oregon, and CLACKAMAS COUNTY (COUNTY), a political subdivision of the State of Oregon.

WHEREAS, ORS 190.003 to 190.030 allows units of local government to enter into agreements for performance of any or all functions and activities which such units have authority to perform; and

WHEREAS, Statewide Planning Goal 2, Land Use Planning, requires that City, County, State and Federal agency and special district plans and actions shall be consistent with the comprehensive plans of the cities and counties and regional plans adopted under ORS Chapter 197; and

WHEREAS, the Oregon Land Conservation and Development Commission (LCDC) requires each jurisdiction requesting acknowledgment of compliance to submit an agreement setting forth the means by which comprehensive planning coordination within the Regional Urban Growth Boundary will be implemented; and

WHEREAS, OAR 660-11-015 requires the responsibility for the preparation, adoption and amendment of the public facility plan to be specified within an urban growth management agreement; and

WHEREAS, CITY and COUNTY have a mutual interest in coordinated comprehensive plans, compatible land uses and coordinated planning of urban services and facilities; and

WHEREAS, CITY and COUNTY, to ensure coordination and consistent comprehensive plans, consider it mutually advantageous to establish:

1. A site-specific Urban Growth Management Boundary (UGMB) within the Regional Urban Growth Boundary (UGB) within which both CITY and COUNTY maintain an interest in comprehensive planning and development; and
2. A process for coordinating land use planning and development within the UGMB; and
3. Policies regarding comprehensive planning and development proposals within the UGMB; and
4. A process for amending the Urban Growth Management Agreement; and

WHEREAS, it is anticipated that presently unincorporated areas within the UGMB will, in the future, be annexed to CITY, and CITY and COUNTY both desire that such annexations not result in any nonconforming uses or structures.

NOW, THEREFORE, CITY AND COUNTY AGREE AS FOLLOWS:

1. Boundary

A. The Urban Growth Management Boundary (UGMB) shall include unincorporated land within the Urban Growth Boundary (UGB) and adjacent to the CITY as shown on map Attachment "A" to this Agreement. Any amendments to the Metro UGB in the area south of the Clackamas River and east of the Willamette River will automatically be reflected in the UGMB. Any such changes shall be coordinated with existing service providers.

2. Comprehensive Planning, Plan Amendments and Public Facilities Planning

A. The development of a comprehensive plan and comprehensive plan changes for the area within the UGMB shall be a coordinated CITY-COUNTY planning effort. CITY shall be responsible for preparing all legislative comprehensive plan amendments in the UGMB. COUNTY shall adopt CITY land use plan designations for all unincorporated lands within the UGMB. All quasi-judicial comprehensive plan amendments for lands zoned FU-10 within the unincorporated UGMB shall be approved by CITY prior to COUNTY adoption.

B. CITY shall be responsible for the preparation, adoption, and amendment of the public facility plan within the UGMB required by OAR Chapter 660, Division 11, Public Facilities Planning. Preparation and amendment of such public facility plan shall provide for coordination with and participation by COUNTY, County service and other special districts within the UGMB.

3. Development Proposals in Unincorporated Area

A. COUNTY's zoning shall apply to all unincorporated lands within the UGMB. COUNTY shall zone all unincorporated lands within the UGMB as Future Urbanizable (FU-10), except as otherwise provided in the Country Village Addendum attached to and made part of this Agreement. Subject to the terms of this Agreement, COUNTY shall retain responsibility and authority for all implementing regulations and land use actions on all unincorporated lands within the UGMB.

B. The provision of public facilities and services shall be consistent with the adopted public facility plan for the unincorporated UGMB. For areas zoned FU-10 within the UGMB, COUNTY shall issue no permits or otherwise authorize extension or connection of public facilities and services in violation of the FU-10 zone. Any proposed amendment to the FU-10 zone within the UGMB shall be approved by CITY prior to COUNTY adoption.

C. COUNTY shall not form any new County service districts or support the annexation of land within the unincorporated UGMB to such districts or to other service districts without CITY approval.

4. City and County Notice and Coordination

A. The COUNTY shall provide notification to the CITY, and an opportunity to participate, review and comment, within 35 days prior to the first scheduled public hearing on all land use actions, quasi-judicial actions, proposed legislative changes to the COUNTY comprehensive plan or its implementing ordinances affecting land within the UGMB.

B. The COUNTY shall provide notification to the CITY, and an opportunity to participate, review and comment, at least 15 days prior to staff decision on applications for administrative actions as provided in the COUNTY's Zoning and Development Ordinance for applications within the UGMB.

C. The COUNTY shall notify and invite CITY staff to participate and comment in pre-application meetings on conditional use proposals or Design Review Committee meetings on development proposals within the unincorporated areas of the UGMB. These meetings shall be scheduled by the COUNTY after consultation with CITY staff. If CITY chooses to attend a pre-application meeting, the meeting shall occur at a mutually agreeable time within 10 working days following notification to CITY. In the event that a mutually agreeable time cannot be achieved, or in the event CITY informs COUNTY that it does not wish to attend a pre-application meeting, such meeting shall occur at COUNTY's convenience.

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, capital improvement plans or extraterritorial service extensions into unincorporated areas.

E. 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 land use actions, proposed legislative changes to the CITY comprehensive plan or quasi-judicial actions adjacent to or in close proximity to unincorporated areas.

F. Any amendments proposed by the COUNTY or CITY to the UGMB as shown on Attachment "A" shall be reviewed by CITY and COUNTY prior to submission to METRO. If and when CITY and COUNTY find it necessary to undertake a change of the UGB, the parties shall follow the procedures and requirements set forth in state statutes and Oregon administrative rules.

G. The COUNTY shall enter all written comments of the CITY into the public record and shall consider the same in the exercise of its planning and plan implementation responsibilities. The CITY shall enter all written comments of the COUNTY into the public record and shall consider the same in its exercise of its planning and plan implementation responsibilities.

#### 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. In the event the appropriate authority determines a health hazard exists within the unincorporated UGMB, needed services shall be provided to health hazard areas by service districts if determined by the Health Division that annexation to and service by CITY is not feasible.

6. Amendments to the Urban Growth Management Agreement

A. The terms of this Agreement may be amended or supplemented by mutual agreement of the parties. Any amendments or supplements shall be in writing, shall refer specifically to this Agreement, and shall be executed by the parties. The parties shall review this Agreement at each periodic review and make any necessary amendments.

7. Concurrent Adoption

A. The adoption of this Agreement shall occur concurrently with the adoption of the public facility plan referred to in Paragraph 2(B) of this Agreement and the amendments to the FU-10 zone agreed to by the parties.

IN WITNESS WHEREOF, the parties have executed this Urban Growth Management Agreement, including the Country Village Addendum attached hereto, on the date set opposite their signatures.

CITY OF OREGON CITY

By David R. Spear Date 11-7-90  
Mayor  
Attest: Stan K. Elliott Date 11-7-90

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

By Darlene Hooley Date 10-25-90  
Chair  
By Edith H. Haggard Date 10-25-90  
Commissioner  
By Jude Hammestad Date 10-25-90  
Commissioner

Scott A. Haggard  
County Clerk

APPROVED:

Winston W. Kuntz  
Director, Department of  
Transportation & Development

CLACKAMAS COUNTY - CITY OF OREGON CITY  
URBAN GROWTH MANAGEMENT AGREEMENT  
COUNTRY VILLAGE ADDENDUM

This Addendum, known as the Country Village Addendum, shall be and is hereby made a part of the Clackamas County - City of Oregon City Urban Growth Management Agreement. All provisions of that Agreement that are not inconsistent with the terms of this Addendum shall apply with equal force to the property which is the subject of this Addendum.

WHEREAS, CITY and COUNTY have previously entered into urban growth management agreements and amendments to coordinate land use planning for the unincorporated area adjacent to the CITY and inside the Metropolitan Service District's urban growth boundary; and

WHEREAS, in 1987, COUNTY approved a 600-unit mobile home development on the Country Village property, portions of which have been developed; and

WHEREAS, in 1988, CITY initiated annexation of Country Village, which was approved by the Portland Metropolitan Area Local Government Boundary Commission but overturned following remonstrations by the resident electors; and

WHEREAS, in response to the vote against annexation to Oregon City, CITY, in keeping with its responsibilities under CITY's Public Facilities Plan, desires to clarify the provision of public facilities and services to the Country Village property; and

WHEREAS, CITY and COUNTY wish to resolve this issue in a cooperative manner.

NOW, THEREFORE, CITY AND COUNTY AGREE AS FOLLOWS:

1. Comprehensive Planning, Zoning, and Plan and Zoning Amendments.

A. The existing COUNTY zoning designations applied to the Country Village property shall continue. Any legislative or quasi-judicial zone change amendments for the Country Village property shall be approved by CITY prior to COUNTY adoption.

2. Development Proposals for the Country Village Property.

A. Subject to the terms of the COUNTY-CITY Urban Growth Management Agreement and this Addendum, COUNTY shall retain



responsibility and authority for development permitted within the Country Village property prior to its annexation to CITY.

B. Any major modification (as defined by the Clackamas County Zoning and Development Ordinance) of the development approval granted by COUNTY for provision of up to 600 mobile home units on the Country Village property, shall be approved by CITY prior to COUNTY adoption.

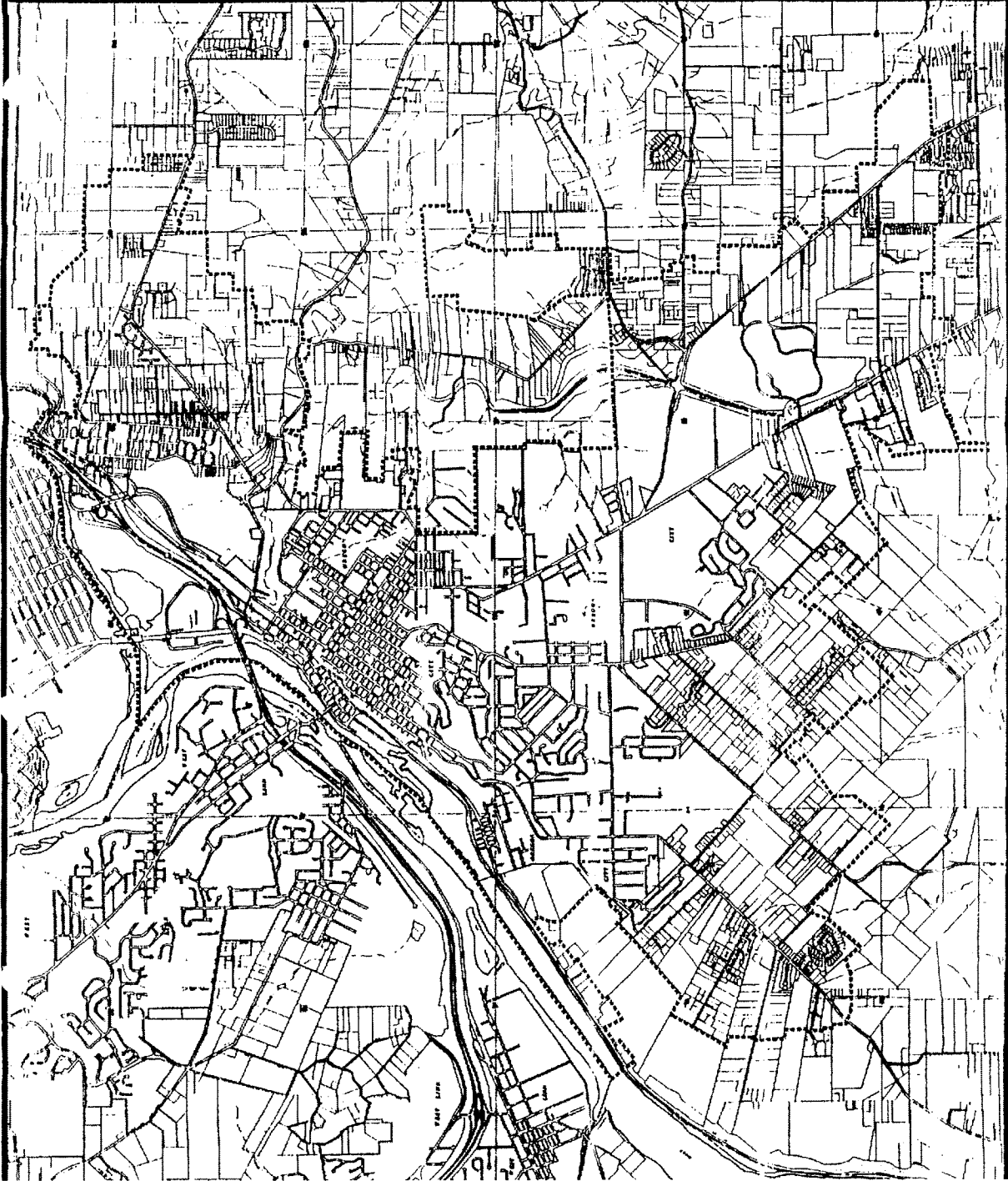
3. Annexation and Extraterritorial Extension of Services.

A. COUNTY and CITY agree that CITY shall be the ultimate provider of public facilities and services to the Country Village property. COUNTY shall not oppose annexation or the extraterritorial extension of services by CITY to the Country Village property.

CITY OF  
OREGON CITY  
URBAN GROWTH  
MANAGEMENT AREA

----- U.G.M.B.

EXHIBIT "A"



**From:** [Elizabeth Graser-Lindsey](#)  
**To:** [Pete Walter](#); [Laura Terway](#)  
**Subject:** Annexation Record  
**Date:** Wednesday, February 08, 2017 9:37:03 PM

---

Pete/Laura,

I don't know why, but I did not receive notice from the city of the annexation hearing before the city which I was told today took place last week. Aren't I on the public notice list?

I would like the City Commission to have in their record the request from South End Neighborhood Association that they be allowed to vote on annexations.

Elizabeth



**From:** [Elizabeth Graser-Lindsey](#)  
**To:** [Pete Walter](#)  
**Subject:** Fwd: SENA paper  
**Date:** Thursday, February 09, 2017 4:34:12 PM  
**Attachments:** [SENA Annexation complaint to City Commission.pdf](#)

---

Pete,

I would like the attached Statement on Voter Approved Annexation from the South End Neighborhood Association in Jan. 2017 to be added to the record of the Golf Course Annexation currently before the City Commission.

Elizabeth

This document was provided by John Williams, member of the SENA and former mayor of Oregon City.

**From:** Pete Walter  
**To:** ["Elizabeth Graser-Lindsey"; Laura Terway](#)  
**Bcc:** [Carrie Richter \(crichter@batemanseidel.com\)](mailto:crichter@batemanseidel.com)  
**Subject:** RE: Annexation Record  
**Date:** Thursday, February 09, 2017 10:42:00 AM  
**Attachments:** [AN 16-03 CC Evidence Deadlines.pdf](#)

---

Good morning Elizabeth,

I was on vacation Jan 23 – Feb 1 and it may be that you did not get forwarded the CC Agenda from the City Recorder's office. There have been several continuances since you originally received notice.

Anyway, it is not too late to submit evidence if it relates to a voter approval issue. It would likely respond to evidence submitted in the record before yesterday's deadline, so it would be appropriate to include the SENA comments in the record.

The record is open to new evidence that responds to evidence presented before yesterday's deadline which includes SB 1573 and voter-approved annexation, along utility adequacy issues raised by Mr. LaSalle and Mr. Callistini. The record will close next Wednesday, Feb. 15 at 3:30.

I am updating the project website to include the schedule for evidence submittals as well as the items submitted to date.

Pete

**From:** Elizabeth Graser-Lindsey [mailto:[egraserlindsey@gmail.com](mailto:egraserlindsey@gmail.com)]  
**Sent:** Wednesday, February 08, 2017 9:37 PM  
**To:** Pete Walter <[pwalter@orccity.org](mailto:pwalter@orccity.org)>; Laura Terway <[lterway@orccity.org](mailto:lterway@orccity.org)>  
**Subject:** Annexation Record

Pete/Laura,

I don't know why, but I did not receive notice from the city of the annexation hearing before the city which I was told today took place last week. Aren't I on the public notice list?

I would like the City Commission to have in their record the request from South End Neighborhood Association that they be allowed to vote on annexations.

Elizabeth

**From:** [Elizabeth Graser-Lindsey](#)  
**To:** [Pete Walter](#)  
**Subject:** Fwd: Neighborhood Association  
**Date:** Wednesday, February 15, 2017 2:14:53 PM

---

Pete,

I would like these emails entered into the Oregon City Golf course annexation record.

Not getting notice of the public hearing has left me with insufficient time to track down the South End NA minutes before the record closes.

When will the decision be made? When is the record closed?

Elizabeth

----- Forwarded message -----

**From:** **Katie Durfee** <[kdurfee@orccity.org](mailto:kdurfee@orccity.org)>  
**Date:** Tue, Feb 14, 2017 at 4:07 PM  
**Subject:** RE: Neighborhood Association  
**To:** Elizabeth Graser-Lindsey <[egraserlindsey@gmail.com](mailto:egraserlindsey@gmail.com)>  
**Cc:** Kattie Riggs <[kriggs@orccity.org](mailto:kriggs@orccity.org)>, "[sena97045@gmail.com](mailto:sena97045@gmail.com)" <[sena97045@gmail.com](mailto:sena97045@gmail.com)>, Pete Walter <[pwalter@orccity.org](mailto:pwalter@orccity.org)>

Elizabeth,

In review of your request, the minutes of January 2016 would need to be obtained from Bill McConnel, the South End Neighborhood Association Chair via email at [sena97045@gmail.com](mailto:sena97045@gmail.com). I am not in receipt of the minutes and am unaware of any minutes for February 2016, as the neighborhood association typically holds their general meetings in the months of January and March.

If you need anything further, please feel free to contact me.

Best,

Katie

---





**Kathryn Durfee**

**Executive Assistant**

[kdurfee@orcity.org](mailto:kdurfee@orcity.org)

City of Oregon City

PO Box 3040

625 Center Street

Oregon City, Oregon 97045

[503-496-1582](tel:503-496-1582) Direct phone

[503-657-0891](tel:503-657-0891) City phone

[503-657-7026](tel:503-657-7026) fax

**Website:** [www.orcity.org](http://www.orcity.org) | [Facebook!](#) | [Twitter](#)

*PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the*

*State Retention Schedule and may be made available to the public.*

---

**From:** Kattie Riggs

**Sent:** Friday, February 10, 2017 5:26 PM

**To:** Elizabeth Graser-Lindsey <[egraserlindsey@gmail.com](mailto:egraserlindsey@gmail.com)>

**Cc:** Katie Durfee <[kdurfee@orcity.org](mailto:kdurfee@orcity.org)>

**Subject:** RE: Neighborhood Association

Elizabeth,

Thank you for your e-mail.

Katie Durfee is the staff person that assists with posting Neighborhood Association meeting minutes to our website once she has received them. Prior to the City receiving the minutes, you would need to contact the chair of the Neighborhood Association to access a copy.

Are you requesting a copy of the January and February 2016 South End Neighborhood Association meeting minutes?

I have cc'd Katie Durfee on this e-mail, in case she can assist us.

Thank you,

Kattie



**Kattie Riggs**

**City Recorder**

[kriggs@orccity.org](mailto:kriggs@orccity.org)  
City of Oregon City  
PO Box 3040  
625 Center Street  
Oregon City, Oregon 97045  
[503-496-1505](tel:503-496-1505) Direct phone  
[503-657-0891](tel:503-657-0891) City phone  
[503-657-7026](tel:503-657-7026) fax

**Website:** [www.orccity.org](http://www.orccity.org) | [Recorder Page](#) | [Facebook!](#) | [Twitter](#)

*PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the  
State Retention Schedule and may be made available to the public.*

**From:** Elizabeth Graser-Lindsey [<mailto:egraserlindsey@gmail.com>]

**Sent:** Friday, February 10, 2017 5:17 PM

**To:** Kattie Riggs <[kriggs@orccity.org](mailto:kriggs@orccity.org)>

**Subject:** Neighborhood Association

Kattie,

I would like to see the minutes for the Jan. and Feb. meetings of the South End Neighborhood Association. How do I see them? I would like to see them by Mon or Tues.

Elizabeth





**From:** [Elizabeth Graser-Lindsey](#)  
**To:** [Pete Walter](#)  
**Subject:** Fwd: Update to SENA Request for Minutes  
**Date:** Wednesday, February 15, 2017 2:18:09 PM

---

For the Golf Course annexation record.

----- Forwarded message -----

**From:** **Katie Durfee** <[kdurfee@orccity.org](mailto:kdurfee@orccity.org)>  
**Date:** Tue, Feb 14, 2017 at 4:43 PM  
**Subject:** RE: Update to SENA Request for Minutes  
**To:** Elizabeth Graser-Lindsey <[egraserlindsey@gmail.com](mailto:egraserlindsey@gmail.com)>  
**Cc:** Kattie Riggs <[kriggs@orccity.org](mailto:kriggs@orccity.org)>, "[sena97045@gmail.com](mailto:sena97045@gmail.com)" <[sena97045@gmail.com](mailto:sena97045@gmail.com)>, Pete Walter <[pwalter@orccity.org](mailto:pwalter@orccity.org)>

Elizabeth,

Please be advised that South End NA Chair, Bill McConnel, is out of town this week and does not have access to the meeting minutes requested. He will provide a response upon return next week and we will promptly send you a copy once these are made available.

If you have any further questions, please feel free to contact me.

Best,

Katie



***Kathryn Durfee***

**Executive Assistant**

[kdurfee@orccity.org](mailto:kdurfee@orccity.org)

City of Oregon City

PO Box 3040

625 Center Street

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*PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the  
State Retention Schedule and may be made available to the public.*

To: The Oregon City Commission  
From: South End Neighborhood Association  
Subject: Annexation policy

1. The South End Neighborhood Association, at its meeting of January 19<sup>th</sup>, discussed at length, the ramification of actions by the Oregon State Legislature in “nullifying” the ordinances and charter amendments of Oregon cities proscribing elections on annexations of land for any purpose, including residential building.
2. The discussion considered possible negative effects of future annexations on public services, including water and sewer, the impact on public safety providers, and traffic flow, and the possible positive impacts on increased property tax income.
3. The conclusion reached: The issues considered are of such importance they should be discussed by all the voters of Oregon City by placement of the ballot, providing a platform for full discussion.
4. The attending members also understand the **League of Oregon Cities**, which represents all the cities in Oregon, is preparing to take legal action against the legislation as unconstitutional.

THEREFORE: THE SENA RECOMMENDS THE OREGON CITY COMMISSION FOLLOW THE VOTER APPROVED CHARTER REQUIREMENT AND CONTINUE TO SUBMIT TO THE VOTERS ANY FUTURE ANNEXATION TO THE CITY.



## Clackamas Fire District #1 — Fire Prevention Division



October 31, 2016

City of Oregon City, Community Development Department  
Pete Walter, Planner  
221 Molalla Avenue  
Oregon City, OR 97045

Re: Oregon City Annexation AN-16-0003

Mr. Walter:

Clackamas Fire District #1 appreciates the opportunity to comment on proposed annexations. The area proposed to be annexed, within document AN-16-003, is within Clackamas Fire District #1 service area. The Fire District provides fire and ALS (advanced life support) services to all areas it protects.

The area is primarily served by Hilltop Fire Station #16, which is located at 19340 Molalla Avenue in Oregon City. Based on our Standards of Cover document, the total response time to this area is approximately 8 minutes. Additionally, this area is served by Beavercreek Fire Station #10 located at 22310 S. Beavercreek Rd.

Clackamas Fire District #1 currently does not have any problems serving that area with fire and ALS services. The Fire District will not have any service delivery issues as future development occurs as well. We anticipate that as urbanization occurs, our response times will remain within acceptable industry standards. Clackamas Fire District #1 works closely with our Cities to review new development applications to assure continued fire and life safety.

Sincerely,

Doug Whiteley  
Division Chief - Fire Marshal

**Lake Oswego**

Two Centerpointe Dr., 6th Floor  
Lake Oswego, OR 97035  
503-598-7070  
[www.jordanramis.com](http://www.jordanramis.com)

**Vancouver**

1499 SE Tech Center Pl., #380  
Vancouver, WA 98683  
360-567-3900

**Bend**

360 SW Bond St., Suite 510  
Bend, OR 97702  
541-550-7900

VIA E-MAIL

February 22, 2017

City of Oregon City Commission  
625 Center Street  
Oregon City, OR 97045

Re: AN 16-0003; Oregon City Golf Course Annexation

Dear Mayor Holladay and Commissioners:

Thank you for taking the time to consider the annexation petition of the Herberger Family Limited Partnership, which is working in coordination with the prospective purchaser of their properties, applicant Brownstone Development, Inc. The petitioner and the applicant look forward to providing new housing with mixed commercial uses for the city as soon as possible. This letter is provided for the record as the final argument under the schedule announced at the February 1, 2016 City Commission hearing.

**Request For Two Separate Orders For The Northern and Southern Parts Of This Property**

Recently a new staff report was published, post dated February 1, 2017, and the City Attorney provided a legal memorandum dated January 25, 2017. That memorandum recommended postponement of the filing of the annexation with the Secretary of State until the Beavercreek Road Concept Plan is acknowledged. Subsequently, the City Attorney and staff reviewed the evidence in the record and concluded that the southern half of the annexing area (tax lots 201, 202 and 290) has been acknowledged at least since 2004 when the comprehensive plan text and map were updated. Therefore we request that the annexation of the southern tax lots 201, 202 and 290, be approved and filed with the Secretary of State promptly. To accomplish this, a separate order for the southern parcels would be appropriate.

With respect to the northern parcels, we concur with the staff recommendation for a condition that postpones filing the annexation with the Secretary of State until acknowledgment is completed. The City Attorney and staff reviewed the status of the north half of the annexing area (tax lot 3500) and concluded that it is not yet subject to the comprehensive plan. Tax lot 3500 was added to the UGB in 2004 by Metro. It was then designated as FU - Future Urban on the City's official comprehensive plan map shortly thereafter, according to city GIS records. However, the City and DLCD acknowledgement records are not clear that this map change was acknowledged, and thus to ensure compliance with SB 1573, delayed filing with the Secretary of State is required.

There are two options for completing the acknowledgment of tax lot 3500. The first is to await the acknowledgement of the Beavercreek Road Concept Plan, as previously recommended by staff and the City Attorney. The second is to acknowledge the current comprehensive plan map in a separate process. Either approach can satisfy SB 1573.

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### Other Procedural Matters

The City Attorney memo indicates the City Commission has the option to “[n]ot follow SB 1573.” We understand from the February 1, 2017 hearing that the City Commission does not intend to pursue that option, and urge the City Commission to continue to comply with that statute, as occurred with AN-16-0001.

Another important procedural question is the standard the City Commission applies for the sufficiency of evidence in the record regarding the availability of public services. This issue has been previously resolved by the City and LUBA. In a prior annexation, the same parties objecting to this annexation asked LUBA to require that detailed development plans for the property be submitted and analyzed. LUBA noted that: “[t]he City also interprets OCMC 14.04.060(A) not to require that public facilities exist or that plans for public facilities to support the ultimate urban development that will be allowed under future plan and zoning amendments be in place at the time of annexation. Rather, the City interprets OCMC 14.04.060(A) to require that the City “consider” the ultimate comprehensive planning for the annexed area and to “consider” the adequacy and availability of public services and facilities to serve that urban development as “relevant factors.” *Graser-Lindsey v City of Oregon City*, 56 Or LUBA 504 (2008).

LUBA upheld that interpretation, and to our knowledge, that remains the policy of the City. Nevertheless, since 2008, the key facility plans were updated in detail to show how public services including water, sanitary sewer, stormwater and transportation will be extended to and through the proposed annexation area. The City Commission should rely on its own adopted public facility plans and conclude that all necessary public services can be provided to this annexation area.

Project opponents also argue the annexation cannot be approved until after the completion of other land use procedures. This argument misconstrues a slide presented in the staff report. The third slide of the staff PowerPoint, titled *Typical Development Process Within the Beaver Creek Road Concept Plan*. That slide indicates that annexation follows the adoption of alternate mobility standards, and the adoption of zoning code and map designations. However, that sequence is often not followed. A quick glance at the current comprehensive plan map shows that approximately nine tax lots within the Concept Plan area were annexed before the alternative mobility standards or zoning code and map designations were adopted. This demonstrates that the “typical” sequence shown on the slide is not a City code requirement or even a standard procedure. The slide identifies several steps preceding land development, but does not impose a particular sequence. In summary, the annexations can be approved now, and there is no requirement that they must or even should be postponed until the completion of other land use procedures identified on the slide.

You may recall from the hearing that we discussed drafting of the findings, and to that end we have enclosed findings for your approval. These findings are more extensive than those in the prior staff report, because our drafts specifically address the concerns raised by the opponents. As you are well aware, the project opponents commonly appeal to LUBA, which carefully examines the findings and, for city decisions where the findings do not address an issue raised by an opponent, LUBA sometimes remands the decision to the city, causing long and costly delays. In addition, the Beaver Creek Road Concept Plan remains under appeal on three issues, and therefore our findings do not rely on compliance with that plan, so that in the event it is altered in the appellate process, the alterations will



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not preclude completion of the annexation. For these reasons, our proposed findings will increase the likelihood that the City's decision will be affirmed on appeal to LUBA, and we ask that they be adopted along with your decision.

We have made every effort to align the findings with our understanding of the preferences of the City Commission and staff. The City staff and the City Attorney will likely desire to revise these findings to reflect their own perspective on the various issues, and we welcome their input in the form of additional findings to support the decision. We do ask that all of our proposed findings be retained, so as to limit the likelihood of a remand from LUBA.

Similarly, we have attached proposed ordinances for approving the annexations, which carefully track the ordinance that approved AN-16-0001. Because the annexation is separated into two parts, separate legal descriptions were provided to and approved by the county assessor, which will serve as the exhibits for the ordinances.

Thank you for affording us the opportunity to explain these issues, and we look forward to providing new housing and business opportunities for the future of Oregon City.

Sincerely,

JORDAN RAMIS PC



Timothy V. Ramis  
*Admitted in Oregon*  
tim.ramis@jordanramis.com  
OR Direct Dial (503) 598-5573

cc: Rose H. Holden

Enclosure

**CITY COMMISSION FINDINGS**

**FILE NO.:** AN-16-0003

**DATE:** March 8, 2017

**APPLICATION TYPE:** Annexation of Oregon City Golf Course

**HEARING DATES:** *City Commission*  
7:00 p.m., Wednesday, February 1, 2011 (Continued from November 16, 2016)  
  
*Planning Commission Recommendation for Approval* 7:00 p.m., Monday, January 9<sup>th</sup>, 2017 (Continued from October 24<sup>th</sup> and November 14<sup>th</sup>, 2016)

**HEARING LOCATION:** Oregon City City Hall, 625 Center Street, Oregon City, OR 97045

**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, 6<sup>th</sup> 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. 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 9<sup>th</sup>, 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)

**PROCESS:**

The petitions, applications 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 8:30 am to 3:30 pm Monday thru Friday. The staff report, with all the applicable approval criteria, will also be available for inspection 7 days prior to the hearings. Copies of these materials may be obtained for a reasonable cost in advance.

Please be advised that any issue that is intended to provide a basis for appeal must be raised before the close of the City Commission hearing, in person or by letter, with sufficient specificity to afford the City Commission and the parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity will preclude any appeal on that issue. The City Commission will make a determination as to whether the application has or has not complied with the factors set forth in section 14.04.060 of the Oregon City Municipal Code.



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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 and instructs staff to file the necessary documentation with the Oregon Secretary of State to annex the territory.

### 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. Properties proposed for annexation are shown in Figure 1.

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 alternative mobility standards, the City is unable to approve zone changes that would allow for 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 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, 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 the proposed annexation satisfies them. 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 former mayors who participated in the drafting and administration of aforementioned plans and agreements and therefore are well qualified to advise on how this annexation comports with them. Lastly, the applicant and the petitioners submitted extensive testimony and evidence which supports findings in favor of the application.

In addition, the City Commission finds this annexation is consistent with the adopted Concept Plan under appeal. It considered the appeal and notes that LUBA upheld the city's decision, however the petitioner appealed three issues to the court of appeals.

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 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.

Ms. 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 OCMC 14.04.060 and notes it requires the city to "consider" the enumerated "factors". The City Commission interprets this code to mean that the factors are not mandatory approval criteria.

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. **Finding:** The City Commission notes the annexation does not include designation of tax lot 3500 for a particular use and finds that regardless of the outcome of the appeal, the annexing area will be designated for urban use, whether residential or industrial. It further finds that the water, sewer and transportation master plans show that the residential uses proposed in the Concept Plan require more of these 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 staff testimony regarding annexation in relation to other land use actions required for development of vacant land. It notes that annexation may occur so long as land is within the UGB. **Finding:** The City Commission reviewed the requirements in OCMC 14.04

and interprets it to mean that there is no requirement in the OCMC or the UGMA that precludes annexation prior to the acknowledgement of a concept plan.

**Finding:** 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 24<sup>th</sup>, 2016 Public Hearing to the date certain of November 14<sup>th</sup> 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 party<sup>1</sup> 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 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.*

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<sup>1</sup> 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.



*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 acknowledge 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).

**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. **Finding:** On-site or sub-regional stormwater drainage, water quality, and detention facilities will be required at the time of development. The City Commission finds the alternative storm systems A and D are consistent with the annexation.

**Finding:** The City Commission also finds that the Stormwater and Grading Design Standards 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.

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 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.

*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 Sanitary Sewer Master Plan, 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 Concept Plan will ultimately be the concept plan that will guide future development in the proposed annexation area. The Concept Plan was adopted by the city and approved by Metro and LUBA however it is currently being appealed to the court of appeals, and therefore is not yet effective and cannot be applied to this annexation application. There are no other concept plans for the annexation territory, and therefore this criterion is not applicable.

The City Commission alternatively finds that in the event the Concept Plan is deemed to be applicable even though it is not yet finalized, this annexation is consistent with that concept plan, for the following reasons. The Concept Plan 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.

### **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 extension of those facilities to and through the site to accommodate future development. **Finding:** 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. On timeliness, the City Commission notes the infrastructure master plans for water, sanitary sewer and transportation are adopted, and that there are no objections raised by other service providers such as police, fire and the school district. **Finding:** 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 transportation planner, whether from Oregon City, another jurisdiction or the private sector.

On orderliness, some opponents assert the boundary change should not occur until after the Hwy 213 planning process is complete and additional capacity improvements are built. **Finding:** The City Commission considered that argument and 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.

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. **Finding:** 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.

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.

**Finding:** The City Commission reviewed and considered the stormwater issue and interprets this OCMC provision to mean that it is not required that this annexation application demonstrate compliance with Statewide Planning Goal 6 or with the state water quality standards in OAR Chapter 340, Division 41. Alternatively, the City Commission did review the adoption of

Stormwater and Grading Design Standards (2015), and implementation since adoption, and finds that the plan complies with Goal 6 and OAR Chapter 340, Division 41. It reviewed the record and discovered no credible evidence to the contrary.

**Finding:** The City Commission also finds that the Stormwater and Grading Design Standards apply to both industrial and residential lands, and that Alternatives A and D in the ECONorthwest 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.

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 which will protect the riparian areas of Thimble Creek and the wooded slope leading up to the golf course. **Finding:** The City Commission finds that 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. It 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.

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. **Finding:** 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 land use decisions that approved the public facilities plan.

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**

If the City Commission decides the proposed annexations should be approved, 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 the acknowledged 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 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. The City Commission considered the testimony that the city charter precludes approval of the annexation under SB 1573. Section 3 – Boundaries of the charter states: "[u]nless mandated by law, the city shall include all territory encompassed by is boundaries as they now exist or hereafter are modified by the voters." The City Commission finds that SB 1573 is a valid state law, and that the phrase "[u]nless mandated by state law" means the City must follow SB 1573 and not require a vote of the annexation. It concludes that SB 1573 mandates approval of this annexation without a vote. Therefore, the City Commission finds that Section 3 of the charter does not apply to this annexation.

## 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 Beaver Creek were notified about the meeting. The Hamlet of Beaver Creek 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 prosed 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.** 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. This large site has available natural areas with capacity for storm drainage facilities consistent with the adopted stormwater and drainage standards and alternatives A and D of the ECONorthwest Report. 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. The Stormwater and Grading Design Standards 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. Stormwater services are available and adequate for the

annexation area regardless of whether the area ultimately is designated for industrial or residential use.

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 Beaver Creek Road Alternative Mobility Targets 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 Beaver Creek Road or the proposed annexation area. The Beaver Creek 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. **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.

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 Beaver Creek 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 Beaver Creek 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.

*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 application of urban zoning will 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 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 city 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:*

*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. Beaver Creek Road (a designated major arterial in the Oregon City Transportation System Plan) in the form of a driveway from Beaver Creek 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.

*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 code standard 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 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. This section demonstrates how the proposed annexation conforms with 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 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, Beavercreek 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 Beavercreek 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 Commission also finds that the Stormwater and Grading Design Standards 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.

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 is 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 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.

**Finding:** The City Commission finds that the voting requirement in Section 3 of the charter is prefaced by the phrase “[u]nless mandated by law”. It finds that SB 1573 is a valid state law, and interprets the preface of Section 3 to mean the voting requirement does not apply to this annexation because of SB 1573. The Commission further finds that future development of the annexation area is consistent with the Oregon City Comprehensive Plan, City ordinances, and the City Charter.

**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. 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 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. The roadway section in the Beaver Creek 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 TPR. It further finds, as described below, that TPR compliance is not required for this application because it will not significantly affect Hwy 213, as no development is proposed. It therefore concludes that transportation services are adequate and available for the annexing area.

### **Stormwater**

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.

**Finding:** The City Commission also finds that the Stormwater and Grading Design Standards 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.



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.

**Finding:** The stormwater provisions of the Concept Plan are currently under appeal, and the City Commission finds that they cannot be applied as necessary criteria to this annexation application. In addition, the City Commission finds that stormwater services are available and adequate to serve the annexing areas as shown in Alternatives A and D in the ECONorthwest report.

### **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 annexation opponents have previously appealed the TSP to LUBA without success, and concludes that further attempts to challenge it are without probable cause to believe the position is 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 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, opens 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 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 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 PTNRSHIP	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 requests, including the request of the South End Neighborhood Association, to require voter approval of the annexation. The City Commission notes that the voting requirement in Section 3 of the charter is prefaced by the phrase "[u]nless mandated by law". It finds that SB 1573 is a valid state law, and interprets the charter to mean that the voting requirement in Section 3 does not apply to this annexation. The City Commission directs staff to file the annexation with the Oregon Secretary of State promptly upon resolution of the Concept Plan appeal or upon other acknowledgement of the comprehensive plan map.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.



## **CITY COMMISSION FINDINGS**

**FILE NO.:** AN-16-0003

**DATE:** March 8, 2017

**APPLICATION TYPE:** Annexation of Oregon City Golf Course and Abutting Right-of-Way

**HEARING DATES:** *City Commission*  
7:00 p.m., Wednesday, February 1, 2011 (Continued from November 16, 2016)

*Planning Commission Recommendation for Approval* 7:00 p.m., Monday, January 9<sup>th</sup>, 2017 (Continued from October 24<sup>th</sup> and November 14<sup>th</sup>, 2016)

**HEARING LOCATION:** Oregon City City Hall, 625 Center Street, Oregon City, OR 97045

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

**OWNER(s):** Multiple (See petition for all Owners).  
Herberger Fam Ltd Ptnrshp / Herberger May Rose Co-Trste / Rosemary S Holden

**REPRESENTATIVE:** Tim Ramis, Jordan Ramis PC, 2 Centerpointe, 6<sup>th</sup> Floor, Lake Oswego OR 97035

**REQUEST:** Annexation of south portion of Oregon City Golf Course (51.41 acres) and approximately 2000 square feet of abutting Beaver Creek Road Right-of-Way into Oregon City. The site is within the Oregon City Urban Growth Boundary and has a city Comprehensive Plan designation of FU - Future Urban. The property is within the area of the Beaver Creek 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 9<sup>th</sup>, 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:** 20124 S Beaver creek Rd, APN 3-2E-15A -00290 (50.87 ac);  
20118 S Beaver creek Rd, APN 3-2E-15A -00201 (0.25 ac);  
and 20130 S Beaver creek Rd, APN 3-2E-15A -00202 (0.29 ac).

**STAFF REVIEWERS:** Pete Walter, AICP, Planner

**COMPREHENSIVE  
PLAN DESIGNATION:** FU - Future Urban

**CURRENT ZONING:** Clackamas County FU-10 (Future Urban - 10 Acre)

**PROCESS:** The petitions, applications 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 8:30 am to 3:30 pm Monday thru Friday. The staff report, with all the applicable approval criteria, will also be available for inspection 7 days prior to the hearings. Copies of these materials may be obtained for a reasonable cost in advance.

Please be advised that any issue that is intended to provide a basis for appeal must be raised before the close of the City Commission hearing, in person or by letter, with sufficient specificity to afford the City Commission and the parties an opportunity to respond to the issue. Failure to raise an issue with sufficient specificity will preclude any appeal on that issue. The City Commission will make a determination as to whether the application has or has not complied with the factors set forth in section 14.04.060 of the Oregon City Municipal Code.

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## I. INTRODUCTION

### GENERAL INFORMATION

This annexation was initiated by consent petitions of owners of 100% of the acreage (51.41 acres), 100% of the owners, and owners of 100% of the total assessed value of the annexing area (\$2,206,445.00). 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-15A-00201	20118 S BEAVERCREEK RD	HERBERGER MAY ROSE CO-TRSTE	County	0.25	\$111,243	\$143,770	\$255,013	\$210,779	1/5/16
3-2E-15A-00202	20130 S BEAVERCREEK RD	ROSEMARY S HOLDEN	County	0.29	\$111,243	\$287,220	\$398,463	\$381,097	1/5/16
3-3E-15A-00290	20124 S BEAVERCREEK RD	HERBERGER FAM LTD PTNRSHIP	County	50.87	\$1,099,799	\$514,770	\$1,614,569	\$1,614,569	1/15/15
<b>TOTALS</b>	<b>Tax Lot Count = 3</b>				<b>\$1,322, 286</b>	<b>\$945,760</b>	<b>\$2,268,045</b>	<b>\$2,206,445</b>	

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 and instructs staff to file the necessary documentation with the Oregon Secretary of State to annex the territory.

### 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. Properties proposed for annexation are shown in Figure 1.

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 alternative mobility standards, the City is unable to approve zone changes that would allow for 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 Future Urbanizable 10 acre zoning (FU-10), which is a holding zone that precludes creating parcels smaller than 10 acres until urban services can be provided by the City. 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 comprised of three tax lots that total approximately 51.41 acres. It is currently zoned FU-10 by Clackamas County. The site is occupied by the Oregon City Golf Club, which includes a club house with associated parking and an 18-hole golf course. Two single-family homes and accessory buildings are also located on the site. 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 the north half of the golf course and a natural resource area associated with Thimble Creek and, further north, some low-density residential development. 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 RA-2 by Clackamas County and is comprised of 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 included in the original UGB boundary when it was established by Metro in 1979. The entire site has been designated Future Urban FU on the comprehensive plan map since 2004.

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, 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 the proposed annexation satisfies them. 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 former mayors who participated in the drafting and administration of aforementioned plans and agreements and therefore are well qualified to advise on how this annexation comports with them. Lastly, the applicant and the petitioners submitted extensive testimony and evidence which supports findings in favor of the application.

In addition, the City Commission finds this annexation is consistent with the adopted Concept Plan under appeal. It considered the appeal and notes that LUBA upheld the city's decision, however the petitioner appealed three issues to the court of appeals.

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 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.

Ms. 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 OCMC 14.04.060 and notes it requires the city to "consider" the enumerated "factors". The City Commission interprets this code to mean that the factors are not mandatory approval criteria.

The City Commission considered the staff testimony regarding annexation in relation to other land use actions required for development of vacant land. It notes that annexation may occur so long as land is within the UGB. **Finding:** The City Commission reviewed the requirements in OCMC 14.04 and interprets it to mean that there is no requirement in the OCMC or the UGMA that precludes annexation prior to the acknowledgement of a concept plan.

**Finding:** 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 24<sup>th</sup>, 2016 Public Hearing to the date certain of November 14<sup>th</sup> 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 party<sup>1</sup> 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 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.*

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<sup>1</sup> 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.



*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 acknowledge 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).

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. **Finding:** On-site or sub-regional stormwater drainage, water quality, and detention facilities will be required at the time of development. The City Commission finds the alternative storm systems A and D are consistent with the annexation.

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 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.

*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 Sanitary Sewer Master Plan, 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 Concept Plan will ultimately be the concept plan that will guide future development in the proposed annexation area. The Concept Plan was adopted by the city and approved by Metro and LUBA however it is currently being appealed to the court of appeals, and therefore is not yet effective and cannot be applied to this annexation application. There are no other concept plans for the annexation territory, and therefore this criterion is not applicable.

The City Commission alternatively finds that in the event the Concept Plan is deemed to be applicable even though it is not yet finalized, this annexation is consistent with that concept plan, for the following reasons. The Concept Plan 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.

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.

### **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 extension of those facilities to and through the site to accommodate future development. **Finding:** 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. On timeliness, the City Commission notes the infrastructure master plans for water, sanitary sewer and transportation are adopted, and that there are no objections raised by other service providers such as police, fire and the school district. **Finding:** 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 transportation planner, whether from Oregon City, another jurisdiction or the private sector.

On orderliness, some opponents assert the boundary change should not occur until after the Hwy 213 planning process is complete and additional capacity improvements are built. **Finding:** The City Commission considered that argument and 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 Beavercreek 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.

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. **Finding:** 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.

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.

**Finding:** The City Commission reviewed and considered the stormwater issue and interprets this OCMC provision to mean that it is not required that this annexation application demonstrate compliance with Statewide Planning Goal 6 or with the state water quality standards in OAR Chapter 340, Division 41. Alternatively, the City Commission did review the adoption of Stormwater and Grading Design Standards (2015), and implementation since adoption, and finds that the plan complies with Goal 6 and OAR Chapter 340, Division 41. It reviewed the record and discovered no credible evidence to the contrary.

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 which will protect the riparian areas of Thimble Creek and the wooded slope leading up to the golf course. **Finding:** The City Commission finds that 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. It 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.

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. **Finding:** 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 land use decisions that approved the public facilities plan.

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**

If the City Commission decides the proposed annexations should be approved, 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 is subject to the acknowledged Comprehensive Plan of the city, as shown on the city's 2004 Comprehensive Plan Map and the text of the 2004 Comprehensive Plan.

In addition, the acknowledged Comprehensive Plan will apply to the annexing territory upon annexation, as consistent with longstanding city practice including the most recent annexation of AN 16-001. All land within the city limits is subject to the Comprehensive Plan. As noted on page 4: "The Oregon City Comprehensive Plan is implemented through City Codes, ancillary plans, concept plans, and master plans." All land within the city limits must comply with the municipal code. Development of the annexing territory must follow the public facility master plans and all other implementing regulations, such as the TSP. The City Commission concludes the annexing territory will be subject to the acknowledged Comprehensive Plan upon annexation.

*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 of tax lot 290.

*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. The City Commission considered the testimony that the city charter precludes approval of the annexation under SB 1573. Section 3 – Boundaries of the charter states: "[u]nless mandated by law, the city shall include all territory encompassed by its boundaries as they now exist or hereafter are modified by the voters." The City Commission finds that SB 1573 is a valid state law, and that the phrase "[u]nless mandated by state law" means the City must follow SB 1573 and not require a vote of the annexation. It concludes that SB 1573 mandates approval of this annexation without a vote. Therefore, the City Commission finds that Section 3 of the charter does not apply to this annexation.

## 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 Beaver Creek were notified about the meeting. The Hamlet of Beaver Creek 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 prosed 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.** 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. This large site has available natural areas with capacity for storm drainage facilities consistent with the adopted stormwater and drainage standards and alternatives A and D of the ECONorthwest Report. 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 Alternative Mobility Targets 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. **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.

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.

*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 application of urban zoning will 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 Beavercreek 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 city 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:*

*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. Beaver Creek Road (a designated major arterial in the Oregon City Transportation System Plan) in the form of a driveway from Beaver Creek 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.

*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 code standard 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 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. This section demonstrates how the proposed annexation conforms with 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 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, Beavercreek 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 Beavercreek 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 Commission also finds that the Stormwater and Grading Design Standards apply to the annexation area, and that Alternatives A and D in the ECONorthwest report can serve the annexing area. The City Commission therefore concludes stormwater services are available and adequate for the annexation area.

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 is 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 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.

**Finding:** The City Commission finds that the voting requirement in Section 3 of the charter is prefaced by the phrase “[u]nless mandated by law”. It finds that SB 1573 is a valid state law, and interprets the preface of Section 3 to mean the voting requirement does not apply to this annexation because of SB 1573. The Commission further finds that future development of the annexation area is consistent with the Oregon City Comprehensive Plan, City ordinances, and the City Charter.

***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 Beavercreek 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. 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 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. The roadway section in the Beaver Creek 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 TPR. It further finds, as described below, that TPR compliance is not required for this application because it will not significantly affect Hwy 213, as no development is proposed. It therefore concludes that transportation services are adequate and available for the annexing area.

### **Stormwater**

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.

**Finding:** The stormwater provisions of the Concept Plan are currently under appeal, and the City Commission finds that they cannot be applied as necessary criteria to this annexation application. In addition, the City Commission finds that stormwater services are available and adequate to serve the annexing areas as shown in Alternatives A and D in the ECONorthwest report.

## **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 annexation opponents have previously appealed the TSP to LUBA without success, and concludes that further attempts to challenge it are without probable cause to believe the position is 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 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, opens 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 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 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-15A-00201	20118 S BEAVERCREEK RD	HERBERGER MAY ROSE CO-TRSTE	County	0.25	\$111,243	\$143,770	\$255,013	\$210,779	1/5/16
3-2E-15A-00202	20130 S BEAVERCREEK RD	ROSEMARY S HOLDEN	County	0.29	\$111,243	\$287,220	\$398,463	\$381,097	1/5/16
3-3E-15A-00290	20124 S BEAVERCREEK RD	HERBERGER FAM LTD PTNRSHIP	County	50.87	\$1,099,799	\$514,770	\$1,614,569	\$1,614,569	1/15/15
<b>TOTALS</b>	<b>Tax Lot Count = 3</b>				<b>\$1,322, 286</b>	<b>\$945,760</b>	<b>\$2,268,045</b>	<b>\$2,206,445</b>	

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 FU-10 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 requests, including the request of the South End Neighborhood Association, to require voter approval of the annexation. The City Commission notes that the voting requirement in Section 3 of the charter is prefaced by the phrase "[u]nless mandated by law". It finds that SB 1573 is a valid state law, and interprets the charter to mean that the voting requirement in Section 3 does not apply to this annexation. The City Commission directs staff to promptly file the annexation with the Oregon Secretary of State.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF OREGON CITY  
APPROVING ANNEXATION PROPOSAL NO. AN-16-0003 AND APPROVING THE  
ANNEXATION OF CERTAIN PROPERTY LOCATED ON S BEAVERCREEK ROAD  
INCLUDING BEAVERCREEK ROAD RIGHT-OF-WAY TO THE CITY OF OREGON  
CITY**

**WHEREAS**, the owners of certain real property adjacent to the City of Oregon City, the Herberger Family Limited Partnership and Rosemary S Holden, proposed in Annexation Proposal No. AN-16-0003 that their 51.41 acre properties located at 20118, 20124 and 20130 S. Beaver Creek Road, Clackamas County map 3S-2E-15A tax lots 00201, 00202 and 00290, more fully identified in Exhibit 'A' to this Ordinance, be annexed to the City; and

**WHEREAS**, the City finds that the proposal complies with all applicable legal requirements, as detailed in the findings attached hereto and made a part of this ordinance as Exhibit 'B'; and

**WHEREAS**, Senate Bill 1573, adopted in 2016, requires annexation of territory without a vote by the people, notwithstanding city charter and regulations to the contrary, and the City finds that the annexed area is within the urban growth boundary, will be subject to an acknowledged comprehensive plan, is contiguous to the city limits and conforms with all other city requirements; and

**WHEREAS**, the City finds that applicant's proposal does not include rezoning, and the properties will remain zoned Clackamas County FU-10 until such time as a city zoning designation is applied to the properties and that the City apply and administer the zones; and

**WHEREAS**, the identified property is currently in Clackamas Fire District # 1 (CFD#1); and CFD#1 will continue to provide fire protection service to the identified property when annexed; and

**WHEREAS**, the identified property is currently within the Clackamas County Service District for Enhanced Law Enforcement; and the Oregon City Police Department will be responsible for police services to the identified property when annexed; and

**WHEREAS**, the identified property is currently within and served by the Clackamas River Water (CRW) District service area; and the property will continue to be served by CRW when annexed; and

**WHEREAS**, the identified property is not currently within the Tri-City Service District and must petition for annexation into said District with the concurrence of the City; and

**WHEREAS**, the City Commission concurs that the Tri-City Service District can annex the identified properties into their sewer district.

**NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:**

**Section 1.** That the area further identified in the legal description attached hereto as Exhibit "A", is hereby annexed to and made a part of the City of Oregon City.

**Section 2.** That the territory identified in Exhibit "A" shall hereby remain within Clackamas County Fire District # 1.

**Section 3.** That the territory identified in Exhibit "A" is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement, and henceforth, the Oregon City Police Department will be responsible for police services to the identified property.

**Section 4** That the territory identified in Exhibit "A" shall remain within Clackamas River Water District.

**Section 5** The City hereby concurs with and approves the annexing of the territory identified in Exhibit "A" into the Tri-City Service District by the Clackamas County Board of Commissioners, to the extent allowed by law.

**Section 6.** That the territory identified in Exhibit "A" will remain zoned Clackamas County FU-10 until such time as a city zoning designation is applied to the properties and that the City apply and administer the zone.

**Section 7.** That the effective date for this annexation is the date this ordinance is submitted to the Secretary of State, as provided in ORS 222.180.

Read for the first time at a regular meeting of the City Commission held on the 15th day of March 2017, and the City Commission final enacted the foregoing Ordinance this \_\_\_\_ day of March, 2017.

\_\_\_\_\_  
Dan Holladay, Mayor

Attested to this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Kattie Riggs, City Recorder

Approved as to legal sufficiency:

\_\_\_\_\_  
City Attorney

Exhibit A — Legal Description and Map of Proposed Annexation

Exhibit B — Proposed Findings, Reasons for Decision and Conclusions

## **Herberger Property Description – Tax Lots 201, 202 and 290, and Beaver creek Road**

Part of the North 1/2 of Section 15 Township 3 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, and further described as follows:

Beginning at the most Northwestern corner of the duly recorded plat of Saddle Hill Estates at Beaver creek (County Plat No. 3149), thence East along portions of the North line of said Saddle Hill Estates at Beaver creek and being the Urban Growth Boundary line 1740 feet more or less to a point being 1320 feet North and 1320 feet West of the one-quarter corner between Sections 14 and 15, Township 3 South, Range 2 East of the Willamette Meridian;

Thence North  $0^{\circ} 30'$  West tracing the Urban Growth Boundary Line 540 feet more or less, to a point of deflection of the Urban Growth Boundary line;

Thence Northwesterly, tracing the Urban Growth Boundary Line, a distance of 1110 feet, more or less, to a point on the Southerly boundary of Section 10, Township 3 South, Range 2 East of the Willamette Meridian;

Thence West along the Southerly boundary of said Section 10, 1080 feet more or less;

Thence S  $0^{\circ} 46' 16''$  W, 570.00 feet to a 5/8" iron rod set at the South most Southeast corner of a parcel of land conveyed to Wayne C Hall and Helen E Hall and recorded in Clackamas County Deed Records in Book 546, page 288;

Thence S  $87^{\circ} 11' 21''$  W along the South line of said Hall tract, 445.92 feet to the South most Southwest corner; and being on the Easterly right-of-way line of Beaver creek Road;

Thence South  $40^{\circ} 17'$  East along the Easterly right-of-way of said Beaver creek Road 70 feet, more or less, to a point which bears Northeasterly from the most Northerly corner of Tract "G" of the duly recorded plat of Three Mountains-Randall (County Plat No. 2482);

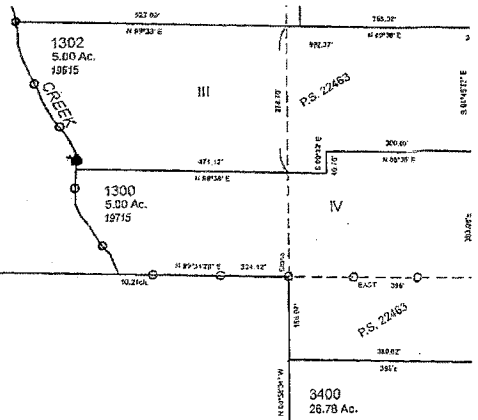
Thence Southwesterly, crossing said Beaver creek Road at a right angle, a distance of 60 feet to the Southwesterly right-of-way of said Beaver creek Road;

Thence following said Southwesterly right-of-way of said road South  $40^{\circ} 37'$  East 810 feet, more or less, to a point on the Westerly extension of the Northerly line of the duly recorded plat of Saddle Hill Estates at Beaver creek (County Plat No. 3149);

Thence Easterly along the said Westerly extension of Northerly line of said Saddle Hill Estates at Beaver creek and crossing Beaver creek Road to the point of beginning.

FEB 2017

62-14



Township 35  
Range 2 E W.M.

TBR

Section 10

Section 15

UGB  
TBR

TLs 201, 202, 290  
and Beavercreek Road  
F.U.-10

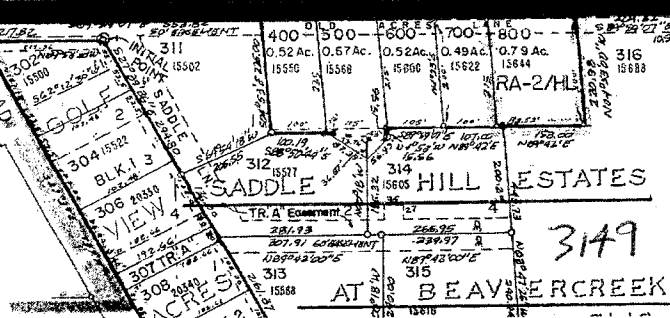
62-84

POB NW Corner Plat 3149  
East 1740' UGB Boundary

N 0°30' W  
540' +/-  
UGB

62-14

R.A.-2



Book 546  
Page 288

S 40° 17' E  
70'

S 87° 11' 21" W  
445.92'

60'

MARKET

S 40° 37' E  
810' +/-

Tract G  
Three  
Mountains -  
Randall

Plat # 2482

SEE MAP 3 2 E 15B1D

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF OREGON CITY  
APPROVING ANNEXATION PROPOSAL NO. AN-16-0003 AND APPROVING THE  
ANNEXATION OF CERTAIN PROPERTY LOCATED ON S BEAVERCREEK ROAD  
TO THE CITY OF OREGON CITY**

**WHEREAS**, the owner of certain real property adjacent to the City of Oregon City, the Herberger Family Limited Partnership, proposed in Annexation Proposal No. AN-16-0003 that their 63.82 acre property located at 20124 S. Beaver Creek Road, Clackamas County map 3S-2E-10D tax lot 03500, more fully identified in Exhibit 'A' to this Ordinance, be annexed to the City; and

**WHEREAS**, the City finds that the proposal complies with all applicable legal requirements, as detailed in the findings attached hereto and made a part of this ordinance as Exhibit 'B'; and

**WHEREAS**, Senate Bill 1573, adopted in 2016, requires annexation of territory without a vote by the people, notwithstanding city charter and regulations to the contrary, and the City finds that the annexed area is within the urban growth boundary, will be subject to an acknowledged comprehensive plan upon acknowledgement of the Beaver Creek Road Concept Plan or other post acknowledgement plan amendment, is contiguous to the city limits and conforms with all other city requirements; and

**WHEREAS**, the City finds that applicant's proposal does not include rezoning, and the properties will 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 zone; and

**WHEREAS**, the identified property is currently in Clackamas Fire District # 1 (CFD#1); and CFD#1 will continue to provide fire protection service to the identified property when annexed; and

**WHEREAS**, the identified property is currently within the Clackamas County Service District for Enhanced Law Enforcement; and the Oregon City Police Department will be responsible for police services to the identified property when annexed; and

**WHEREAS**, the identified property is currently within and served by the Clackamas River Water (CRW) District service area; and the property will continue to be served by CRW when annexed; and

**WHEREAS**, the identified property is not currently within the Tri-City Service District and must petition for annexation into said District with the concurrence of the City; and

**WHEREAS**, the City Commission concurs that the Tri-City Service District can annex the identified properties into their sewer district.



**NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:**

**Section 1.** That the area further identified in the legal description attached hereto as Exhibit "A", is hereby annexed to and made a part of the City of Oregon City.

**Section 2.** That the territory identified in Exhibit "A" shall hereby remain within Clackamas County Fire District # 1.

**Section 3.** That the territory identified in Exhibit "A" is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement, and henceforth, the Oregon City Police Department will be responsible for police services to the identified property.

**Section 4** That the territory identified in Exhibit "A" shall remain within Clackamas River Water District.

**Section 5** The City hereby concurs with and approves the annexing of the territory identified in Exhibit "A" into the Tri-City Service District by the Clackamas County Board of Commissioners, to the extent allowed by law.

**Section 6.** That the territory identified in Exhibit "A" will 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.

**Section 7.** That the effective date for this annexation is the date this ordinance is submitted to the Secretary of State, as provided in ORS 222.180.

Read for the first time at a regular meeting of the City Commission held on the 15th day of March 2017, and the City Commission final enacted the foregoing Ordinance this \_\_\_\_ day of March, 2017.

\_\_\_\_\_  
Dan Holladay, Mayor

Attested to this \_\_\_\_ day of \_\_\_\_\_, 2017

\_\_\_\_\_  
Kattie Riggs, City Recorder

Approved as to legal sufficiency:

\_\_\_\_\_  
City Attorney

Exhibit A — Legal Description and Map of Proposed Annexation

Exhibit B — Proposed Findings, Reasons for Decision and Conclusions

### Herberger Property Description – Tax Lot 3500

Part of the South 1/2 of Section 10 Township 3 South, Range 2 East of the Willamette Meridian, County of Clackamas, State of Oregon, and further described as follows:

Beginning at the most Northwesterly corner of the duly recorded plat of Saddle Hill Estates at Beavercreek (County Plat No. 3149), thence East along portions of the North line of said Saddle Hill Estates at Beavercreek and being the Urban Growth Boundary line 1740 Feet more or less to a point being 1320 feet North and 1320 feet West of the one-quarter corner between Sections 14 and 15, Township 3 South, Range 2 East of the Willamette Meridian;

Thence North 0° 30' West tracing the Urban Growth Boundary Line 540 feet more or less, to a point of deflection of the Urban Growth Boundary line;

Thence Northwesterly, tracing the Urban Growth Boundary Line, a distance of 1110 feet, more or less, to a point on the Southerly boundary of Section 10, Township 3 South, Range 2 East of the Willamette Meridian and the True Point of Beginning;

Thence East, tracing the Southerly boundary line of said Section 10 and the Urban Growth Boundary line a distance of 840 feet more or less to a point in the east line of the parcel described in Deed Book 564, Pages ~~638-640~~, Clackamas County Deed Records and the West boundary of that parcel of land described in Clackamas County Recorder's Fee No. 78-18499;

Thence North 0° 30' West 1320 feet along said line and the Urban Growth Boundary to the Southeast corner of Government Lot 2 in Section 10 of Township 3, Range 2 East of the Willamette Meridian;

Thence West following the South boundary of said Lot 2 and the Urban Growth Boundary to the Southwest corner of said Lot 2, a distance of 1330.56 feet;

Thence North 0° 13' East 378 feet along the West line of said Lot 2 and the Urban Growth Boundary to a 5/8 inch rod set in a mound of stone at the North most Southeast corner of a parcel of land conveyed to Wayne C Hall and Helen E Hall and recorded in Clackamas County Deed Records in Book 546, page 288;

Thence N 89° 13' 00" W 500.04 feet to 5/8" iron rod;

Thence N 89° 13' 00" W 197.71 feet to 5/8" iron rod;

Thence S 12° 49' 21" W 306.64 feet to 5/8" iron rod;

Thence S 27° 12' 06" E 533.04 feet to 1/2" iron rod;

Thence S 0° 46' 57" W 480.44 feet to a 5/8" iron rod;

Thence S 0° 46' 16" W 410.31 feet to 5/8" iron rod;

Thence East 1080 feet more or less to the True Point of Beginning.



62-14

BLK 546 P. 288

SEE MAP 3 2E 10C

147.71'  
3500  
66.00 Ac.  
19715  
N 89° 13' W  
500.04'  
366.81'  
512° 49' 41"  
30° 30' 10" S  
527° 18' 06" S  
410.31'  
50° 46' 16" W  
480.44'  
50° 46' 57" W

SW Corner  
Govt Lot 2  
UGB

West 1330.56'

TBR

TL 3500

SE Corner  
Govt Lot 2

Township 35  
Range 2E  
of W.M.

UGB

East 1080' +/-

Section 10

East 840' +/-

Section 15

TPDB

62-33

TBR

NW 1110' +/-

F.U.-10

62-84

(NW Corner Plot 3149)

East 1740' +/-

UGB Boundary

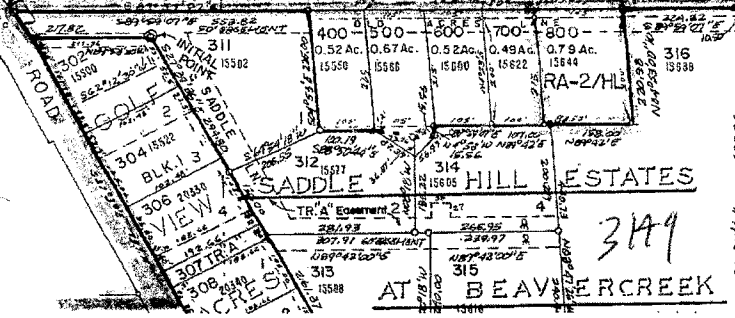
N 02° 00' W  
540' +/-

UGB

MARKET  
BEAVERCREEK  
RD.

SEE MAP 3 2E 15BD

POB



62-14

R.A.-2