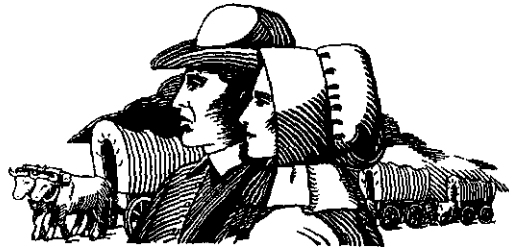


# CITY OF OREGON CITY

## PLANNING COMMISSION

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
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## AGENDA

**City Commission Chambers - City Hall**

**April 24, 2000 at 7:00 P.M.**

### PLANNING COMMISSION MEETING

- 7:00 p.m. 1. **CALL TO ORDER**
- 7:05 p.m. 2. **PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**
- 7:10 p.m. 3. **APPROVAL OF MINUTES:** April 10, 2000
- 7:15 p.m. 4. **PUBLIC HEARING**

**AN00-01;** Harold and Mary Spickelmier, 11886 Partlow Road;  
Clackamas County Map 3S-1E-12AD, Tax Lot 13800; desire to annex for partitioning  
of a 0.68-acre parcel into two single family residential lots as allowed by the City  
Comprehensive Plan and Zoning designations.

- 8:00 p.m. 5. **OLD BUSINESS**
- A. Policy Discussion**
1. Zoning Upon Annexation
- 8:20 p.m. 6. **NEW BUSINESS**
- A. Staff Communications to the Commission**
1. Oregon City Downtown Community Plan Phase II Kick-Off  
Meeting, April 26, 2000
2. City Municipal Code Online
- B. Comments by Commissioners**
- 8:30 p.m. 7. **ADJOURN**

NOTE: HEARING TIMES AS NOTED ABOVE ARE TENTATIVE. FOR SPECIAL ASSISTANCE  
DUE TO DISABILITY, PLEASE CALL CITY HALL, 657-0891, 48 HOURS PRIOR TO MEETING  
DATE.

**CITY OF OREGON CITY  
PLANNING COMMISSION MINUTES  
April 10, 2000**

**COMMISSIONERS PRESENT**

Chairperson Hewitt  
Commissioner Carter  
Commissioner Orzen  
Commissioner Surratt  
Commissioner Vergun

**STAFF PRESENT**

Maggie Collins, Planning Manager  
Bill Kabeiseman, City Attorney  
Bob Cullison, Engineering Manager  
Barbara Shields, Senior Planner  
Jay Toll, Senior Engineer  
Paul Espe, Associate Planner  
Tom Bouillion, Associate Planner

**1. CALL TO ORDER**

**Chairperson Hewitt** called the meeting to order.

**2. PUBLIC COMMENT ON ITEMS NOT LISTED ON AGENDA**

None.

**3. APPROVAL OF MINUTES: March 27, 2000**

**Commissioner Carter** moved to accept the minutes of the March 27, 2000 Planning Commission meeting. **Commissioner Vergun** seconded.

Ayes: Carter, Surratt, Vergun, Orzen, Hewitt; Nays: None.

**PUBLIC HEARING (Quasi-Judicial)**

**Chairperson Hewitt** stated that there are three public hearing items on the agenda, two of which are quasi-judicial. He reviewed the quasi-judicial application procedures and the public hearing process. He stated the time limitations for the speakers in the public hearing.

**4. PD 99-01**

**STAFF REPORT**

Larry Marple/ Triple "L" Development; 14608 Glen Oaks Rd; Clackamas County  
Tax Map 3S-2E-16A Tax Lot 800; Approval of Planned Unit Development  
(PUD) consisting of 37 single family homes, 30 multi-family dwellings

**Chairperson Hewitt** asked the Commissioners if they have any conflicts or statements to declare. **Commissioner Orzen** stated that she had prior knowledge of the application when it came before her neighborhood association meeting. However, she believes that she can make an unbiased judgment.

Three Commissioners had visited the sight.

**Barbara Shields** reviewed the staff report. She focused on the major factors of the application. She reviewed the site characteristics and the development proposal. There is a PGE easement that crosses the northwest corner of the property. The property fronts on Glen Oak Road and is adjacent to the Pioneer Place subdivision to the east. To the north and west are large parcels outside the City limits. Exhibit number 2 illustrates the site plan for the proposed development. The proposal exceeds the allowed density; however, a density bonus may be allowed under the PUD. The applicant must show that the proposal has some additional benefits to the site as trade-offs for added density. The proposal includes both active and passive open space. The northwest portion of the site will include a wetland area. The proposed homes are neo-traditional in design with front-porches and alleyways. The applicant is requesting adjustments to the site requirements in lot dimensions, setbacks, and parking standards. Based on the analysis and findings, staff recommends approval of the requested PUD subject to the proposed conditions of approval in Exhibit 7. The conditions of approval are divided into site and design layout conditions, utility and facility design conditions, and site development conditions.

**Commissioner Vergun** asked for clarification on the purpose of a PUD. **Barbara Shields** replied that the PUD is a special residential concept where a developer must exhibit certain tradeoffs for flexibility allowed in the site requirements. There must be a balance of the tradeoffs and the effect on the community.

**Commissioner Vergun** asked what the tradeoffs for this application are. **Barbara Shields** replied that the applicant is asking for adjustments in the minimum lot size, the setback requirements, and the number of required parking spaces. **Commissioner Vergun** asked what the applicant's proposed benefits are. **Barbara Shields** replied that the applicant is proposing a significant amount of open space with a wetland mitigation area. In addition, the applicant proposes unique design features.

**Commissioner Vergun** asked that if the applicant were proceeding without a PUD, would he be required to have the same amount of open space proposed in this application. **Barbara Shields** replied that he would have to maintain a setback from the wetland area, but would not be required to provide any active open space.

**Commissioner Vergun** asked which PUD ordinance this application is under. **Barbara Shields** replied that the recommended PUD ordinance will be heard before the City Commission on May 3, 2000. This application is under the existing PUD ordinance.

**Chairperson Hewitt** asked how the underlying zoning affects the proposed PUD. **Barbara Shields** replied that the applicant must provide at least 80% of the minimum gross density requirement and no more than 130% of the maximum density requirement.

**Chairperson Hewitt** asked what the PGE easement has to do with a PUD on this site. **Barbara Shields** replied that no residential units are allowed within the PGE easement. **Chairperson Hewitt** then stated that one of the constraints on the site, which led the developer to apply for a PUD, was the PGE easement. **Barbara Shields** agreed.

**Commissioner Carter** asked why there are so many different residential zoning designations in the area. **Barbara Shields** replied that some of the properties have not been annexed yet and though there may be many zoning districts, all the property is under one Comprehensive Plan Low Density Residential designation.

**Commissioner Orzen** asked where the Urban Growth Boundary is. **Barbara Shields** replied that the Urban Growth Boundary is outside what is shown on the map.

#### TESTIMONY IN FAVOR

Speaker: Mike Miller, 104 West 9<sup>th</sup>, Vancouver Washington; representing Triple L Development

**Mike Miller** stated that there are four main influences that affect the development of the site. They are the market, the site, the jurisdictional rules, and the neighborhood. In respect to the market, they desire to have a diversity of housing type. They chose to proceed with the PUD option and are pleased with the outcome. He described the site and the site requirements. The purpose of their design is to increase a more pedestrian friendly environment as well as to increase density. The Code states that they should endeavor to provide 25% open space and they have provided over 25% of open space. He pointed out the features of the proposed development on the plan. There are 6 four-plexes and one four-plex proposed. They tried to cluster the open space in the center to create a more useable area. They went to neighborhood meetings a few months ago and again a few weeks ago. The neighborhood is concerned about the proposed apartments and the smaller single-family lots. One of their objectives is for the proposed development to be compatible with the neighborhood. Because of this concern, they came up with another plan without the apartments and four lots around the periphery. They also provided approximately 2.5 acres of open space. In order to reach a similar density, they added carriage units on top of the garages in a number of the lots in the middle of the site.

**Maggie Collins** stated that the applicant's large display map will be marked as Exhibit A.

**Mike Miller** stated that they feel like they have found a balance with the market, that they have a diversity of product, that they fit the site, that they have met the site requirements, and that they have come a long way to satisfy neighborhood concerns. They are asking for a continuance to be heard again on May 22nd. This will give them time to revise plans to reflect the new proposal. They would like to know what plan the Planning Commission prefers and any comments they might have towards the application.

**Commissioner Carter** asked what the square footage would be on the flats. **Mike Miller** replied that they would be 400 to 500 square feet in area and be located above a two-car garage. The purpose of the units would be for home offices or separate rental units. The house connected to a flat would own the unit. **Chairperson Hewitt** asked if Mr. Miller had checked with the planning staff about whether this type of unit would be allowed in that district. **Mike Miller** replied that under a PUD this would be allowed and that staff seemed to like the idea.

**Commissioner Surratt** asked if the applicant has any documentation regarding the PGE easements. **Mike Miller** replied that they do not have documentation, but they have had several conversations with PGE and are familiar with their requirements. **Commissioner Surratt** asked if there would be any playground equipment within the easement. **Mike Miller** replied that there would not.

**Commissioner Vergun** asked to compare the two plans. The original plan appears to propose an expansion of the wetland area while the alternative plan appears to keep it as it is now. **Mike Miller** replied that both plans propose enhancement of the wetland area. In reality, the creek is little more than a ditch at this time.

**Commissioner Vergun** asked Mr. Miller to compare the statistics between the two plans' open space. **Mike Miller** replied that he will have to estimate the alternative plan. There is obviously more open space and more useable open space in the alternative plan. **Commissioner Vergun** stated that the original plan has a pond, while the alternative plan does not. He stated concerns about a playground being placed next to a pond. **Mike Miller** replied that the pond is really no more than a depression for water quality.

**Commissioner Vergun** asked for a comparison between the number of lots on the two plans. **Mike Miller** replied that they both have 37 lots. The original plan has a 38<sup>th</sup> lot for the apartments. **Commissioner Vergun** asked if the traffic impact would be the same for both plans. **Mike Miller** replied that the traffic impact would be less on the alternative plan because it adds 15 small studio apartments as opposed to the original plan's 32, two-bedroom apartments. They will update the traffic data for the next meeting.

**Commissioner Surratt** asked if they would need to ask for the parking variance if they went with the alternative plan. **Mike Miller** replied that they would not.

**Commissioner Carter** asked if the same depression in the original plan would occur in the middle of the open space on the alternative plan. **Mike Miller** replied that it would not. There are numerous ways to deal with the need for water detention. He stated that because the alternative plan was developed over the weekend, there was not enough time to meet with the neighborhood group. Most of the public at the meeting this evening may not be aware of the alternative plan and may have come to oppose the original plan.

**Commissioner Vergun** asked that if they did approve a continuance, would that date give the applicant enough time to meet with the neighborhood association. **Mike Miller** replied that it would be sufficient time to meet with them.

**Chairperson Hewitt** stated that it would be difficult to not hear everyone at the meeting tonight, despite the public not being familiar with the proposed alternative plan.

**Commissioner Vergun** stated that there seem to be two alternatives. They can either listen to all the comments and then choose to continue the hearing, or simply continue the public hearing without hearing public comment. **Chairperson Hewitt** stated that they need to give comments back to the applicant and therefore it would be helpful to hear from the public as to what the issues on the application may be. He stated to the audience that the Commission is willing to listen to all public comment; however, they should listen carefully to those before them. If they agree with what has been said, they should so indicate, and then add any additional comment. He asked if there is a representative from the neighborhood association who would like to speak. Aaron Olson was nominated to speak for the Caufield Neighborhood Association.

#### **TESTIMONY OPPOSED**

Speaker: Aaron Olson, 14436 Cambria Terrace, Oregon City, OR 97045;  
representing the Caufield Neighborhood Association.

**Aaron Olson** handed out an exhibit with pictures along Glen Oak Road. He reviewed the photos and the various widths of Glen Oak Road. They appreciate what the developer is proposing, however they are concerned with traffic safety issues. First, they are concerned with the paved portion of Glen Oak. It is unacceptable for future development to use that road. There are no streetlights, and no marked lanes or fog lines. The issue has to do with the existing homeowners off of Glen Oak. Who is going to foot the bill to widen Glen Oak? The existing problem is that there is a wide portion of 30' but it then funnels down to the narrow portion of Glen Oak. The other issue is the amount of traffic on Glen Oak and the need for a traffic signal at Highway 213. There are a number of concerned neighbors at this meeting who either need to make a right or left turn on Highway 213 during busy hours of the day. Initially they were concerned with the apartment complex. There is not a shortage of apartment housing in the City. Their main concern is Glen Oak. It is unsafe. There will also be environmental impact from the development near the power lines. There is some land that should not be developed and

there is nothing wrong with having open space. Maybe it is time to say "no" to some of these developments. He urged them to be wise stewards of Oregon City and reject the submitted plan.

**Commissioner Vergun** asked Aaron Olson to point on the map where the pictures in the exhibit were taken. **Aaron Olson** pointed out where the funnel of the traffic occurs and gave a description of a large portion of Glen Oak Road. He pointed to where development and sidewalks occur in a piecemeal way. The biggest thing they are concerned about is the coordination of planning. There is an issue between a fence line and a proposed mobile home park development. There seems to be a lack of coordination between the developers.

**Chairperson Hewitt** asked staff if Glen Oak is a county or a city road from Beavercreek Road to Highway 213. **Barbara Shields** replied that it is a City road. **Chairperson Hewitt** asked Aaron Olson how long the bottleneck has existed on Glen Oak Road. **Aaron Olson** replied that he moved to Pioneer Place in October of 1998, but judging on the development and according to Engineering staff, the road has been this way for over 20 years. **Chairperson Hewitt** stated that because the street has been in the same condition for a number of years, he is wondering how other development has occurred in the area without the road being improved.

**Chairperson Hewitt** asked how the City will be able to improve the street without developing properties around the street and charging fees to the developers. **Aaron Olson** replied that they need to elect officials to represent the best interests of the community. If they cannot respond to the needs of the community, they need to find the officials who will. It is time to think outside of the box and come up with some solutions. Something must be done. It may mean putting a moratorium on some development projects until there is an agreement as to what should be done. It is not fair to existing property owners.

Speaker: Chris Laharty, 20207 Heider Dr. Oregon City, OR 97045; representing himself

**Chris Laharty** pointed to his home in Pioneer Place on the map. He agreed with everything Mr. Olson had stated. The proposed development is asking for adjustments. He is concerned about the parking standards and is not sure that there won't be adjustments to the parking requirements in the alternative plan as well. The adjustments need balances, but he has not heard what these might be.

Speaker: Barry McCain, 14404 Talawa Dr. Oregon City, OR 97045; representing himself

**Barry McCain** stated that there is additional new development proposed that will also dump traffic onto Glen Oak Road. He pointed to where the 59-unit mobile home park is

proposed and stated that it was denied access to Highway 213 and therefore that traffic will also be dumped onto Glen Oak Road. There comes a point where money needs to be obtained before more development is allowed.

Speaker: Barbara McCain, 14404 Talawa Dr. Oregon City, OR 97045; representing herself

**Barbara McCain** stated that she would like to know if association dues will be collected from the new development to maintain the greenspace. What are the requirements for the condition of the private alleyways? Also, she would like clarification as to whether the homes will be stick-built or manufactured. If manufactured, whose standards will take precedence, the City's or the state's? Will they limit the number of flats allowed in the development if it is an optional feature of the development? If Glen Oak Road has been a problem for 15 to 20 years, how many more years does the City need in order to improve the road?

**Commissioner Vergun** asked if the traffic on Beaver Creek is as bad as that on Highway 213. **Barbara McCain** described an accident she had at the intersection of Glen Oak and Beaver Creek two years ago. There is a visibility problem with a hedge and the speed limit of 50 mph is excessive. It is just a matter of time before a tragic accident occurs with school buses.

**Chairperson Hewitt** stated that as the Chairperson he is always asked the question about how they are going to fix anything within the City unless they allow development. He does not have the answer, but it is a question that is always before them.

Speaker: Jeannie Bryant, 20193 S. Heider Dr. Oregon City, OR 97045; representing herself

**Jeannie Bryant** stated that she agrees with the testimony thus far in opposition to the proposed application and she has nothing to add.

Speaker: Michael Love, 20165 S. Heider Dr. Oregon City, OR 97045; representing himself

**Michael Love** stated that he had submitted some information in writing. He stated that there has been a lot of development along Glen Oak. What has happened to all the system development money from those developments? They have lost the ability to use tax increment financing because of Measure 5, which was one way to raise money. There are a lot of neighborhood issues. Although the site is 9.7 acres, 2.6 are not really developable, and therefore there are only 7.1 usable acres. The original proposal had parking and a water retention facility within the easement. It is smart to not place that type of use within the easement. In the new proposal, the flats are placed on the smaller



lots where more parking will be required. Currently, many pets die along Glen Oak. It's just a matter of time before accidents occur with people.

**Commissioner Vergun** asked if the proposed benefits of the development, which include open space and neo-traditional design, are important to Mr. Love. **Michael Love** replied that he would have to see drawings of the proposed designs to give good feedback. However, his first reaction to manufactured homes on 4000 square foot parcels is that they will not look upscale. The open space along the easement will be there whether they develop or not.

**Chairperson Hewitt** stated that it is unfair to the applicant to state that they are proposing a mobile home park. Nothing he has read designates a mobile home or manufactured dwelling. He assumes they are stick-built. **Barbara Shields** stated that the zoning district allows manufactured homes, but they do not have the information as to whether the homes will be manufactured or stick-built.

Speaker: Steve Hartung, 14445 Talawa Dr. Oregon City, OR 97045; representing himself

**Steve Hartung** stated that he agrees with all that has been said. He read a study from the University of Pennsylvania archives regarding power lines. Studies in Sweden, Denmark, and Finland showed that power lines affected the probability of children getting cancer. He also wants to know what institutional control will be put in place to protect the wetlands.

**Commissioner Surratt** stated that she is an employee with Bonneville Power and she is watching the studies very carefully. **Steve Hartung** replied that he is an employee with the federal government and he is doing the same.

Speaker: Michael Johnson, 14433 Cambria Terrace, Oregon City, OR 97045; representing himself

**Michael Johnson** stated that he agrees with testimony thus far and would like to make a few additions regarding traffic, parking, taxes, and investment in the land purchased. He agrees with the traffic concerns. While driving along Glen Oak, he often has had to drive onto the shoulder or hit potholes along the street. He would like to know where the additional units will park, whether on the street or on the lots. In regards to funding the improvements of the road, he asked if Oregon City functions in the manner of having both reoccurring expenses and funds for projects. He does approve of the proposed project, without the apartments, yet he requests that the project be planned in conjunction with the improvement of the road. The developer most likely got a discount on the property because of the easement and the unusable area, and that should be taken into account.

**Chairperson Hewitt** clarified that there are Capital Improvement funds given to the improvement of roads every year. However, whether or not this road is one of them, he does not know.

Speaker: Frank Newland, 14469 Talawa Dr. Oregon City, OR; representing himself

**Frank Newland** stated that at the meeting with the developer, they were told that there was a traffic study done about one year ago. Since that time, Pioneer Place has undergone the first phase. The study was based upon each home having 1.5 cars. However, in Pioneer Place each home has 2 or more cars. Another main concern is that they are proposing to place the garages at the back of the property. He read from his CC&Rs regarding their parking restrictions. He does not believe that the proposed development is compatible to the new developments that are going in right now. He also agrees with those who have spoken in opposition because of traffic concerns. Just last week there was a major accident at Glen Oak and Highway 213 and it may be just the beginning.

**Chairperson Hewitt** stated that CC&Rs are something that the developer will put in place that are above and beyond what the City can govern. It is the homeowner's association that governs those rules.

Speaker: Wilma Hartung, 14445 Talowa Dr., Oregon City, OR; representing herself

**Wilma Hartung** stated that she agrees with all that has been said in opposition to the proposed development. She does not like the first plan with the pond and the parking in the easement. The traffic really is bad along Glen Oak. As for the second plan, she would like to ask a few questions. Why is it necessary to have a private road and alleys? She does not agree with the small sizes of the lots and definitely does not agree with the flats. College students will rent the flats and they do not fit in with why she moved to Oregon City. She does not like either plan.

Speaker: Trina Kennedy, 14436 S. Talowa Dr., Oregon City, OR; representing herself

**Trina Kennedy** stated that she also agrees with all that has been said in opposition. She is familiar with the upscale development in Hillsboro. Nothing indicates that this proposed development is of the same caliber and quality that the Hillsboro development is. At Orenco they do have mother-in-law flats, but they are attached to two story beautiful homes. In addition, she questions the generous use of open space. Part of that space is not developable, and she does not believe that it is "generous."

Speaker: Joe Kennedy, 14436 S. Talowa Dr., Oregon City, OR; representing himself

**Joe Kennedy** stated that he agrees with all that has been said. He does not oppose development, but he is looking for equal value in the development. He has questions as to the details of the flats, attached or detached garages or carports, safety fencing around ponds, and apartments in a low access area. They were told that they will be manufactured homes, but will they be one-story or two-story? Will they be newer manufactured homes from 1999 or will they be 20 years old? They could be stick-built, but that is not what has been communicated.

Speaker: Courtney Layne, 14459 S. Talawa Dr., Oregon City, OR 97045; representing himself

**Courtney Layne** stated that he agrees wholeheartedly and emphatically with all that has been said in opposition. He would like it specified as to whether they will be stick-built or manufactured homes. Will the parking spill over into their neighborhood? Should rental properties be allowed within the neighborhood? He is concerned as to the minimum setbacks allowed. Oregon City should not have row houses like San Francisco. School kids do not have a sidewalk to walk along Glen Oak and so they end up walking on the street cutting more into the narrow paved area. How is minimum density calculated? It seems odd to calculate it using unusable space such as the PGE easement and the creek. Also, is there any way to specify the price point for the proposed homes?

Speaker: Robert Pouriea, 10049 S. Cambria, Oregon City, OR 97045; representing himself

**Robert Pouriea** stated that he is concerned with the power lines. There is a generous space set aside for recreation and a playground, but it is under the power lines. He had checked out two books in regard to electromagnetic illnesses. The books stated that there are dreadful effects on children. Therefore, the property should not be deemed developable. In addition, if there is not enough money to repair the roads, why should new development be allowed around roads that will not be improved or fixed?

## **APPLICANT REBUTTAL**

**Mike Miller** stated that they are also concerned with the traffic. However, the traffic is a regional issue. There is the question of equity. What did Pioneer Place do for traffic? They have prepared a thorough traffic report and it does take into account Pioneer Place and all proposed developments. It suggests that some money be put towards a traffic signal at Highway 213. In addition, part of the mitigation is paving the section of the project along Glen Oak. This is a means of improving Glen Oak Road. He is perplexed at some of these comments. It is not up to one project of 50 units to solve the City's traffic problems. The project is trying to go above and beyond the criteria and promote a

pedestrian-oriented development. They do have the plans and the traffic report available for anyone to review. The project will do more than its share of mitigating its impact. It is not a matter of whether or not this development will move forward, it's a question of what will be developed. There is a safety issue, but they will do more than their part to mitigate the impacts from the project. State law and federal law have property rights that do not allow the City to ask for anything beyond the development's fair share of the impact. As far as environmental impact, they are proposing a 50' minimum buffer. The minimum lot size for their adjusted plan is 5,000 square feet. These are not small lots. Fairview Village has lots that are in the 4,000 square foot range. Not every lot in Oregon City needs to be 6,800 square feet for a single-family house. If land is continued to be squandered with large lots, sprawl will be perpetuated and more and more traffic will be created. Additional parking spaces can be placed near the garages in the rear of the lots for those units with flats. There will be association dues and CC&Rs. They have not decided whether they will be stick-built or manufactured homes. They can go either way. The Code allows both. However, they will perform to a certain character and to a certain design. There will be high-pitched roofs and architectural details. They are proposing public roads where they will be accepted. The only private roads will be the alleys. Everything will be built to City standards. They could put another standard subdivision in there, but it is up to the City.

**Commissioner Surratt** asked staff if it is possible to ask the developer to come up with a hypothetical subdivision that would go through the Planning Division without a hearing? **Maggie Collins** replied that they could possibly require a quick-sketch map, but any more than that would be departing from the request. **Commissioner Surratt** asked Mr. Miller if it would be possible for him to complete the sketch in the time frame for the next meeting. **Mike Miller** responded that he could.

**Chairperson Hewitt** asked if they have a definite idea as to what type of building they will use. **Mike Miller** replied that the design they submitted could be built either way. It is a new type of manufactured home. It has a steeper pitch with a porch. Parts of it could be stick-built. It is a sort of a hybrid. They have not decided which way to go because of costs. In some cases the manufactured houses are more expensive to build than stick-built. In no case are they talking about mobile homes.

**Maggie Collins** stated that they should ask the applicant if he is willing to waive the 120-day requirement on behalf of his client and then make a motion to continue the public hearing until the later date. **Mike Miller** stated that they would be willing to waive the 120-day requirement to a further date certain. **Maggie Collins** stated that the waiver could be set to July 28<sup>th</sup>. **Mike Miller** stated that that is acceptable.

**Commissioner Surratt** moved to continue the quasi-judicial hearing for PD 99-01 until May 22, 2000. **Commissioner Carter** seconded the motion.

Ayes: Orzen, Vergun, Surratt, Carter, Hewitt; Nays: None.

## **CLOSE OF PUBLIC HEARING**

### **DELIBERATION AMONG COMMISSIONERS**

**Chairperson Hewitt** stated that the applicant would like direction from the Planning Commission. **Commissioner Vergun** stated that although the public hearing is closed, he would like to make it clear that the public hearing will be re-opened on May 22<sup>nd</sup>. **Chairperson Hewitt** stated that the public will have the opportunity to speak again at the meeting on May 22<sup>nd</sup>.

**Commissioner Vergun** stated that there are a few issues that he would like to hear about again, perhaps after the applicant meets with the neighbors. The issues include traffic and the intersection of Highway 213, design structure, and open space and the easement and power line. His best feeling is that if an application is approved, he feels that the alternative plan would be more appropriate than the original plan. Of the two, it is a better use of open space and he has some concern about the proposed pond and apartments.

**Commissioner Carter** agreed with Commissioner Vergun that the second drawing is better than the first. There were too many problems with the first drawing, such as the pond and the parking lot surrounding the playground. It is too crowded looking and not compatible with the neighborhood. They are on the right track with the alternative plan. She would encourage compatibility with the rest of the residential neighborhood in whatever plan they choose to bring forward.

**Commissioner Orzen** agreed that of the two plans, she like the second better. The multi-family units do not blend in with the rest of the neighborhood. They were quite a bit taller. She also likes the setback from Caufield Creek and the proposed enhancements.

**Commissioner Surratt** stated that part of the new PUD ordinance is to have multi-use. The first plan made a good attempt to do what the Planning Commission has spelled out for them to do. With the new ordinance, they will be seeing more of these types of proposals. They should be expecting this. She does want more information from PGE, to calm some of the public fears. She is familiar with the reports. There are some uses that low voltage will not detrimentally affect. There is equipment that should not be placed under any power line. And again she would like to see the subdivision sketch.

**Chairperson Hewitt** stated that the original proposal met all the criteria for a PUD. Every piece was authorized in the Code. The developer took neighborhood comments into account and came up with a second plan, which he did not have to do. All that is proposed in the second plan is allowed in the PUD ordinance as well. He has not heard anything tonight that says the developer has not met certain criteria. The Commissioners may have different opinions, such as about stick-built or manufactured homes, but the

criteria allows both. The use of parking areas is something they can discuss. The other issue is that they cannot make a developer do something that they would not make every other developer do. For example, they could not require the applicant to build sidewalks all the way down to Highway 213 because they have not asked other developers to do the same. There are certain issues that the developer is not responsible for. Also, the Planning Commission cannot deal with pricing. The PUD is a trade-off. Oregon City has passed other PUDs that give only 7% open space. In this case, the developer is truly giving 25% open space, which he has never seen in a PUD in the last 2.5 years. He does not like small lot subdivisions, and he is prone to the original proposal. The new PUD ordinance will mandate multi-family or common-wall dwellings. The purpose of a PUD was not originally for small lot subdivisions. Multi-family dwellings will not "lower" development of adjacent neighborhoods as long as those neighborhoods are set apart from the development. In the applicant's original proposal, the apartments are set apart. He applauds the developer for going through the steps, meeting the criteria, for planning staff agreeing with them, and for listening to the neighborhood. It is a start in the right direction for a very good development. He suggested that Mr. Miller get together with Mr. Olson and Mr. McCain to find a time to meet with their neighborhood association before May 22<sup>nd</sup>.

**Commissioner Carter** stated that the flats are a good way to get in the extra units. There are many college people who would rather live in a homey environment, rather than stuffed into an apartment. If the Oregon City community is not open to that, she is suspicious as to what type of community they are becoming. As a Planning Commission they need to stick with the criteria. Annexation is a big issue that they are dealing with. The way that properties are annexed into the City piecemeal prohibits the City from having control and being able to fix roads and have concurrent growth. They need to find a different way to bring properties into the City. Secondly, Clackamas County is the only county in the Metro area that has no county gas tax levy. To fix the roads, we can tax ourselves with a gas tax. These are serious and difficult issues and we need to work together to find better ways to allow concurrent growth and to fix the roads.

**Chairperson Hewitt** asked Mr. Miller if he has been given sufficient information from the Planning Commission to continue on. **Mike Miller** replied that he has. **Chairperson Hewitt** again stated that the public hearing for this item will be reopened on May 22<sup>nd</sup>.

After a short break **Chairperson Hewitt** restated the time limits for the public hearing.

## **5. VR 99-07**

James McKnight/ 161 Barclay Avenue; Clackamas County Map 3S-2E-31DC Tax Lot 5400; Request to modify the zoning requirement of an R-10 Single-Family Dwelling District from a 100' lot depth to an 80' lot depth

## **STAFF REPORT**

**Paul Espe** reviewed the staff report for the variance. The applicant is applying for a variance in lot depth from 100' to 80' and would comply with all other site requirements. He reviewed the site characteristics and the location of the lot as well as the zoning regulations in the area. The frontage for the proposed lot would be along Charman Avenue. There were three letters submitted from neighbors in the area, two of which oppose the variance proposal. There was also a signed petition from the neighbors in support of the variance. He reviewed the history of the lot and the prior lot line adjustments. A pre-application meeting was held in 1998 with the applicant before the ordinance was changed. The proposed lot dimensions would have been acceptable under the previous ordinance. The applicant was informed in June of 1999 that a variance would be required. However, staff has found that this variance request does not meet criteria because the evidence submitted fails to prove that the applicant would be deprived rights that are commonly enjoyed by others since none of the substandard lots mentioned by the applicant were created by the variance or partitioning process. In addition, staff finds nothing unique about the property that would preclude any development rights that are enjoyed by others. Criteria A, C, D, and E are not met.

**Commissioner Surratt** asked why only 80' was chosen. There is no information given as to why they could not have a greater depth than 80'. **Paul Espe** stated that it is up to the applicant to provide all the necessary information for the criteria. **Commissioner Surratt** then stated that the applicant has not proved that they have explored all of the alternatives. **Paul Espe** replied that there may be some extenuating circumstances that exist, but there was nothing apparent from his perspective that would preclude the property owner from purchasing a larger amount of property.

**Commissioner Vergun** stated that the language states that a variance may be considered only if all of the conditions exist. He asked for staff to reiterate which criteria are not met. **Paul Espe** replied that they have not met criteria A, C, D, and E. In general, variances alleviate extenuating circumstance on existing lots, not on lots that have not been created.

**Chairperson Hewitt** stated that the distance between the two streets is 200'. **Paul Espe** stated that the dimension may vary. **Chairperson Hewitt** then stated that there should be no need for a variance if the proposed lot depth was to be 99.5'. Is that up to staff's discretion? **Paul Espe** agreed and stated that the City may also require a property dedication and therefore require the property line to move. However that is a separate issue and would depend upon the width of the existing streets. Most partitions that are processed require full street improvements and require a property dedication from five to seven feet. Another way would be for the applicant to dedicate an easement to the City from the curb back. It may have been possible that the applicant would still have needed to ask for a variance with street dedication requirements. A survey would need to confirm the length of the existing lot.

**Chairperson Hewitt** then stated that he is hearing two different things. First, that there is a 100' lot depth requirement. However, in order to partition a property, the applicant may need to dedicate additional property that would cause the 100' lot depth dimension to no longer be met. Yet the way to get around that would be to dedicate an easement to the City for the right-of-way improvements. **Paul Espe** agreed. It is an objective decision up to a property owner to decide whether he or she would like to dedicate the actual property to the City or just an easement.

**Chairperson Hewitt** then stated that this applicant could have chosen to provide the 100' lot depth and then asked for the easement in lieu of the property dedication to avoid the necessity of a variance. It is at no fault to the City, but there was a private property line adjustment between two properties. **Paul Espe** replied that the applicant states that staff informed him that when Title 16 was to be passed, he could still complete his proposed partition. **Chairperson Hewitt** asked how long after Title 16 was approved that the applicant came in for the partition. **Maggie Collins** stated that on page 2 of the staff report it states that the change in the ordinance took place in October of 1998 and the application was submitted in September of 1999. Therefore it was about one year later.

## TESTIMONY IN FAVOR

Speaker: Jill Long, 101 SW Main, Portland OR, 97204; representing Jim McKnight

**Jill Long** stated that her law firm represents Mr. McKnight and she will be speaking on his behalf. She submitted a supplemental packet into the record as Exhibit A. The supplemental information particularly addresses criteria A, C, D, and E. She then reviewed the history of the application. In August of 1998, Mr. McKnight entered a pre-application for a partition. He was told that there would be a possible change in the ordinance, but that it would not affect him because he had begun the application process prior to the change. The pre-application lasted for 6 months and he was preparing his packet for submittal. In February of 1999, he applied for an extension to his pre-application. The City then replied that the ordinance had changed in October of 1998 and he would now be required to apply for a variance for the lot depth. She reviewed Criterion A and stated that there are a number of substandard lots within the same subdivision. Mr. McKnight is basically asking to flip the width and depth requirements. The lot is large enough. The dimensions are just flipped. There are no substandard lots that were created under the new ordinance because it is new. Instead, the criteria should be as to whether the lot created is in fact a legal lot. All the lots noted in the original application are substandard lots that were legally created under the code. There are also extraordinary circumstances in the process that the applicant went through with the City staff. No other property owner began the process and then had it changed. She reviewed Criterion C and stated that when Mr. McKnight bought the property this hardship did not exist. In fact he took the steps to insure that his rights remained the same prior to and after the ordinance change. In exhibit D of the supplemental packet, the City planner actually noted that Mr. McKnight would not be held responsible for being aware of the



changes in the ordinance. None of the applicant's arguments for Criterion C are due to monetary hardship. Finally, in exhibit E of the supplemental packet, the swimming pool on the neighboring parcel is evident on the topographical map. The distance from the swimming pool to the lot line is exactly 20'. Therefore it was not a practical alternative to increase the lot depth to greater than the proposed 80'. For these reasons and for the fact that Criteria A, C, D, and E are met, the variance should be granted.

**Commissioner Vergun** asked Ms. Long to reiterate the argument for Criteria A. **Jill Long** again reviewed how Criterion A can be met. She stated that there are tax lots within the neighborhood with substandard lot depths. There are therefore times where it is acceptable to have substandard lot depths. Also, there are extraordinary circumstances in what was communicated to Mr. McKnight and the process he had to go through that led him to needing to apply for the variance.

Speaker: Don Vedder, 126 Cherry Avenue, Oregon City, OR 97045; representing himself

**Don Vedder** stated that he lives in the same subdivision as the proposed application. He has known the applicant for over 30 years and he knows that the applicant is in favor of controlled growth. Mr. McKnight was a professional planner and was mayor of Oregon City. It would be unfair to deny his application since Mr. McKnight did proceed as staff had told him.

## TESTIMONY IN OPPOSITION

Speaker: Linda Lord, 142 Holmes Lane, Oregon City, OR 97045; representing herself

**Linda Lord** stated that she had submitted written testimony in Exhibit J. She was not expecting her first letter on the subject of CC&Rs to be in the Planning Commission packets. She agrees with Mr. Vedder that Mr. McKnight is a nice guy and that he has given service to the community; however, those are not criteria in deciding a variance. Mr. McKnight bought the property in 1991 when the zoning ordinance would have allowed this application to be approved without a variance. By delaying his decision to develop, he has now created a proposed substandard lot. Criterion A is specific in stating that there have to be rights that he would be denied if the Code was applied literally. Just because there are other substandard lots that exist historically, that is not sufficient to meet Criterion A. The staff was clear in stating that none of the lots were created by use of a variance. Mr. McKnight is not asking for rights that anyone else has been granted. She agrees with staff that Criterion A is not met. In regards to the Comprehensive Plan, the staff report states that this area is in compliance with the Comprehensive Plan because the City has a facilities plan that says that there should be infilling of vacant land in the City. However, this is not vacant land. This land has been developed since 1940. It is open space, yet the Comprehensive Plan does not say that they should develop all open

space. There are no buildable lots within the neighborhood. Her objections are to changing the character of the neighborhood. If variances are allowed to break up all large lots because someone has a financial hardship, then what use is there in having a neighborhood with large lots? The LCDC goals say that they want to preserve the character of the existing neighborhoods.

**Chairperson Hewitt** asked if what is marked on the plan as "building site" is a building site or an existing house. **Linda Lord** stated that that "building site" is currently someone's back yard. She stated that she is unaware if the swimming pool existed on the neighboring site in 1991 when Mr. McKnight bought the property.

Speaker: Mark Reagan 141 Barclay Avenue, Oregon City, OR 97045; representing himself

**Mark Reagan** pointed out his property adjacent to the proposed building site and proposed lot. He spent three years looking for his property and the seclusion of the backyard was why they moved there. His house sits up on his site and they would look straight into the building if built on the proposed "building site." It would destroy the character of his lot and perhaps the character of the neighborhood. Small lots should be placed in a PUD, but it is not worth it to break up the few existing large lots left.

**Chairperson Hewitt** asked if there is an elevation difference between Charman and Barclay. **Mark Reagan** replied that Barclay is higher, but not by much. It is a gentle slope.

#### **APPLICANT REBUTTAL**

**Jill Long** stated that Mr. McKnight did not make a specific decision to delay in the application process. He began the petition process and then was forced to go back and submit for a variance application. They concur with the staff report in regards to Criterion F in that the character of the neighborhood will not be harmed. They are not talking about making the parcel into a small subdivision. In regards to Criteria D and E, if the lot depth were to be increased, not only would the setbacks to the existing swimming pool be substandard, but it would also make the square footage non-conforming in the R-10 zone. She then read from the petition from those neighbors in favor of the application. There is neighborhood support for the proposal.

**Commissioner Vergun** asked if the change in the ordinance occurred before or after the application was deemed complete. **Jill Long** stated that there was a pre-application conference and submittal. Mr. McKnight gathered data and then the City told him that the ordinance had changed and that he must apply for a variance. From that point, he moved forward with the variance application. **Commissioner Vergun** then stated that ordinances change. He asked what prevents an applicant from beginning an application process without it being deemed complete and then taking weeks, months, or years to

gather information, while in the meantime, the ordinance changes. Is that an extraordinary circumstance? **Jill Long** stated that there are some extraordinary circumstances in this particular case. A pre-application approval is valid for six months. Therefore, after the six-month period they need to either submit, or request an extension. There would not be a way to delay indefinitely. What occurred with Mr. McKnight is an unusual situation. **Commissioner Vergun** then stated that it is therefore the procedural circumstances that are extraordinary. **Jill Long** replied that the procedural circumstances can be tied to the property. The pre-application was specific to this property. It goes hand in hand with the property alone.

**Chairperson Hewitt** asked if the six-month pre-application period had run out for Mr. McKnight. **Jill Long** replied that it had not run out and he had submitted a letter to the planning staff for an extension. **Chairperson Hewitt** stated that Mr. McKnight was working within a six-month time frame and he submitted for an extension in an adequate amount of time. **Jill Long** stated that Mr. McKnight submitted a letter on February 1<sup>st</sup> for the extension and then it took 3 months, until April 4<sup>th</sup>, for the City to respond and say that he must apply for a variance. **Chairperson Hewitt** then stated that somewhere within the extension period the rules changed. The argument may be valid that they have extraordinary circumstances. As far as the argument for using the other substandard lots in the neighborhood, he assumes these were a part of a legal subdivision.

**Bill Kabeiseman** stated that he heard the phrase "pre-application approval" a few times and would like to clarify what occurs. A pre-application is an opportunity for an applicant to come to staff with a proposal and for the staff to provide information to the applicant. There is no approval on a proposal at that stage. There is a requirement that any application for a permit must first go through the pre-application process. The fact that the pre-application is valid for six months means that they do not need to come in for another pre-application meeting before submitting a land use application. There is no approval given then. The applicants are told that failure to provide relevant criteria or the omission of any relevant criteria does not constitute a waiver of any standard or criteria.

**Commissioner Vergun** asked if the extension of the pre-application is mandatory or discretionary. **Bill Kabeiseman** replied that it may or may not be mandatory. However, if it were mandatory, all that would mean would be that the applicant does not need to come in for another pre-application and pay money. **Chairperson Hewitt** stated that it sounds like it is mandatory.

**Commissioner Vergun** then asked that if the law changes within the time period, are they held to the standard of the prior law. **Bill Kabeiseman** replied that a pre-application submittal is not an application. The law that is in effect when the application is filed is the law that must be adhered to. **Chairperson Hewitt** asked if the 120-day clock starts when the application is submitted or when the applicant comes in for a pre-application. **Bill Kabeiseman** replied that the clock starts when the application is submitted and

deemed complete. The applicants are specifically told they are not given any rights at the pre-application point of the process.

**Jill Long** stated that what is different is that the City planner had stated to the applicant that he would be okay when the ordinance changed in the future. Whether or not it legally creates a waiver is another argument, but it certainly made a difference in Mr. McKnight's actions and in his understanding surrounding the pre-application.

**Commissioner Carter** stated that if the partition were granted, the building site is laid out due to the sewer line easements. **Paul Espe** replied that the easement is a remnant from the previous lot line adjustment. The easement has not been relinquished and as a result it has added another constraining factor to the property. **Commissioner Carter** asked if a detached garage could be located on the other side of the easement and if the house could then be moved further away from the neighboring property. **Paul Espe** replied that there must be a four feet separation between buildings for a firewall. In addition, Criterion A is specifically related to property as opposed to process.

## **CLOSE OF PUBLIC HEARING**

## **DELIBERATION AMONG COMMISSIONERS**

**Chairperson Hewitt** stated that Ms. Long's argument almost persuaded him. The problem is that one of the neighboring properties is going to be damaged with any development of the property. The variance criteria states clearly that it cannot "cause substantial damage to adjacent property by reducing light, air, safe access, or other desirable or necessary qualities otherwise protected by this title." One of the quality issues is that you don't place a house right next to the property line and try to make it livable. However, the fact that the property owner bought the property and now is claiming some sort of foul based on a pre-application procedure is not sufficient. The pre-app does not give any explicit rights. There are no extraordinary circumstances. It is fairly cut and dry. Both Criteria A and B are not met. Criterion C is therefore also not met. Should the applicant have known that the ordinance changed? He was aware of it during the process, but he did not make the application in the correct amount of time.

**Commissioner Vergun** stated that he personally does not like the variance statute. It is draconian, meaning that it has extraordinarily inequitable results at times. However, they must abide by the City Code. He is concerned with Criterion A because the extraordinary circumstances should not be procedural. The ordinance clearly states that it must be related to the property, not the process. Criterion B has also not been met. That is enough for him to determine that the conditions have not been satisfied.

**Commissioner Carter** stated that she is not so technical or black and white. She understands what has been said about the criteria, but she would like to believe that they have latitude to exercise some judgment based on the evidence. When told that a certain

set of circumstances will apply in a situation, we take that on good faith. In this scenario, that overrides the criteria as it is technically written. The applicant was told something. He believed it. He proceeded according to that belief only to find out later that the rules had changed and he had to start over again and ask for a variance.

**Chairperson Hewitt** stated that he understands what she is stating, however the law states that they must abide by the criteria given. It does not say "and all other circumstances that apply to this situation." Why have an ordinance if you can throw a variance at it without any problem? That is why variances are extremely difficult to obtain. If extraordinary circumstances exist then a variance might be applicable to a situation. In this situation there must be a minimum of 100' depth. Both properties had 200' lots and now he is saying that there is hardship because he cannot develop the back portion of someone else's lot.

**Commissioner Carter** stated that the criteria of the time allowed him to do that.

**Chairperson Hewitt** replied that they are not dealing with the criteria of the time, but the criteria of today. The procedure as to how the applicant got to this point has little to do with the property. **Commissioner Carter** asked if it is denying him the right to split his property and build a house on it. **Chairperson Hewitt** replied that it is not denying him a right under today's ordinance. The decision needs to be criteria-based.

**Commissioner Carter** stated that there is an obligation to honor what was said in the past. The public gets hung up on such facts and there is no credibility. **Chairperson Hewitt** asked her how she can get around Criterion B. **Commissioner Carter** stated that all that needs to be done is change the design of the building and move it further from the lot line. **Chairperson Hewitt** stated that the variance does not speak to that issue. They cannot dictate what he can or cannot build as part of a variance process. **Commissioner Carter** agreed but stated that the applicant could possibly come up with a better site plan. They do not know what he is planning and he could be proposing a building that will not reduce light, air, or any other thing.

**Commissioner Surratt** stated that the applicant has not proven beyond a shadow of a doubt that he will not affect the light, air, etc. According to the setbacks, the neighbor contends that it could affect his property. **Commissioner Carter** replied that they could make a condition that he would have to come back with a site plan. **Chairperson Hewitt** replied that that is not allowed where an outright use is involved. They need to determine whether this will affect the livability of the adjacent property. Rules change and they may not be aware of all of them. The applicant is trying to go through the process, but he does not meet all the criteria of the process.

**Commissioner Vergun** moved to deny the application VR 99-07 for a variance and that the City Attorney be directed to prepare findings of facts consistent with their discussion. **Commissioner Surratt** seconded.

Ayes: Surratt, Vergun, Orzen, Hewitt; Nays: Carter.

**Chairperson Hewitt** stated that if there are any questions regarding the process or procedure, please review it with the planning staff. The item will be back before the Planning Commission for review and acceptance at the next meeting.

## **7. OLD BUSINESS**

### **PZ 99-05; Review and Adoption of Findings**

**Chairperson Hewitt** asked if everyone has read the Findings of Fact and if there is any comment. There was none.

**Commissioner Surratt** moved to accept the Findings and Fact for PZ 99-05 as written. **Commissioner Orzen** seconded.

Ayes: Carter, Surratt, Vergun, Orzen, Hewitt; Nays: None.

**Maggie Collins** stated that this acceptance starts the appeal period for this file.

### **6. L 00-01; Proposed new Parking Lot Landscaping Standards**

**Tom Bouillion** presented the proposed language in Exhibit 1. He submitted a page of landscaping photos into the record as Exhibit 2. He pointed out an example of a sub-sized tree used as landscaping in a parking lot and examples of larger tree sizes more similar to what might be required under the new standards. This process began with the TSP process. It came before the Planning Commission both on January 10 and February 14 from which staff took their comments. If the Planning Commission recommends approval of the Code amendment, it would go before the City Commission at the May 3<sup>rd</sup> meeting. Staff recommends that the Planning Commission recommend approval of the proposed new parking lot landscaping standards so that the City Commission can move forward to final adoption.

**Commissioner Carter** asked about B under page 2. It states that shrubs should not reach a height greater than 3 feet. That seems like an awfully small shrub. **Tom Bouillion** replied that the 3-foot standard is for the site distance around corners and entry points. That is primarily why the 3-foot standard was selected. **Commissioner Carter** then asked if it should indicate that it is for those areas where it would obstruct visibility. **Tom Bouillion** stated that they could insert language that clarifies the clear vision areas. **Chairperson Hewitt** stated that he recalls the state and county laws require clear vision between 30 inches and 8 feet in height. **Maggie Collins** agreed, but stated that they should refer to the City's established ordinance. **Tom Bouillion** stated that it is referred to and covered in number 5 and therefore they could strike it from the statement in 2.

**Chairperson Hewitt** agreed and stated #2 should read, "Shrubs, spaced no more than five feet apart on the average."

**Tom Bouillion** stated that he would like a motion from the Planning Commission recommending approval of the text to the City Commission.

**Commissioner Carter** moved to recommend approval of the proposed parking lot landscaping standards with the revision to C.2.b. regarding the shrubs to the City Commission. **Commissioner Surratt** seconded the motion.

Ayes: Orzen, Vergun, Surratt, Carter, Hewitt; Nays: None.

**Chairperson Hewitt** stated that Mr. Bouillion's report was very well done.

All Commissioners agreed to adjourn.

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**Gary Hewitt, Planning Commission  
Chairperson**

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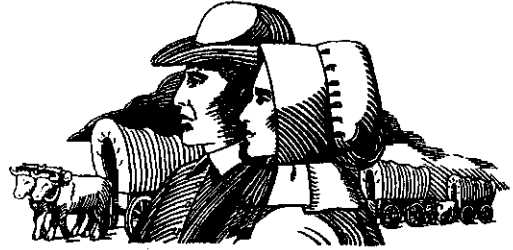
**Maggie Collins, Planning Manager**

# CITY OF OREGON CITY

## Planning Commission

320 WARNER MILNE ROAD  
TEL 657-0891

OREGON CITY, OREGON 97045  
FAX 657-7892



### MEMORANDUM

Date: April 24, 2000

**FILE NO.:** AN 00-01

**HEARING TYPE:** Legislative

**APPLICANT:** Harvel Wingerd

**PROPERTY OWNERS:** Harold & Mary Spickmier

**REQUEST:** Annexation of .68 acres from Clackamas County into the City of Oregon City

**LOCATION:** 11886 Partlow Road

**RECOMMENDATION:** To Recommend Approval

**REVIEWER:** Deniece Won, Metro  
Tom Bouillion, Oregon City



**BACKGROUND:**

This annexation request is the second to be evaluated by the Planning Commission under Ordinance 99-1030 adopted on December 1, 1999. This process requires the Planning Commission to hold a public hearing to recommend approval or denial of this request for placement on a Citywide ballot.

The recommendation must be based upon the seven criteria spelled out in Section 6 of Ordinance 99-1030 (Exhibit 2).

Subsequently, the request is reviewed at a hearing before the City Commission, who takes into account the recommendation of the Planning Commission. If the City Commission approves the request, it will be scheduled for the next available municipal election. If the voters approve the annexation request, the final step is for the City Commission to proclaim the results of the election and set the boundaries of the area to be annexed by a legal description into an ordinance.

The staff report attached as Exhibit 1, prepared by Deniece Won, contains an assessment of the seven criteria upon which the Planning Commission must rely.

**STAFF COMMENTS:**

- Findings to support the seven approval criteria cited above are found in Exhibit 1, under Findings and Reasons, page 17 of 18, reasons 6-10.

**EXHIBITS:**

Exhibit 1- Metro Staff Report, AN 00-01

Exhibit 2- Ordinance 99-1030

**PROPOSAL NO. AN-00-01 – CITY OF OREGON CITY – Annexation**

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**Property Owners / Voters:** Harold Spickelmeier; D.E. Pett; Steve & Beth Pierson;  
Catherine Mullen

**Applicant:** Harvel Wingerd

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Proposal No. AN-00-01 was initiated by a consent petition 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).

If the Commission decides the proposed annexation should be approved, the Commission is required by the Charter to submit the annexation to the electors of the City. If a necessary party 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.

The territory to be annexed is located generally in the southwest part of the City on the southwest edge of Partlow Road at its intersection with Spring Drive. The territory contains 0.68 acres, one single-family residence, an estimated population of two, and has an assessed value of \$210,050.

**REASON FOR ANNEXATION**

The property owners desire to annex to enable partitioning of the parcel into two single-family residential lots as allowed by the City Comprehensive Plan and zoning designations, which would be applicable upon annexation.

**CRITERIA FOR DECISION-MAKING**

***METRO CODE***

There are no specific criteria for deciding city boundary changes within the statutes. However, 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. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexation, which can only be done after all required 195 agreements are in place, and which must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning 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. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where: 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.

#### *CITY CODE*

This proposal is being processed under the City's recently adopted (December 1, 1999) code revisions on annexation processing. Section 6 of the new ordinance requires the City Commission "to consider the following factors, as relevant":

1. Adequacy of access to the site;
2. Conformity of the proposal with the City's Comprehensive Plan;
3. Adequacy and availability of public facilities and services to service potential development;
4. Compliance with applicable sections of Oregon Revised Statutes Chapter 222, and Metro Code 3.09;
5. Natural hazards identified by the City, such as wetlands, floodplains, and steep slopes;

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

Section 8 of the Ordinance states that: "The City Commission shall only set for an election annexations consistent with a positive balance of the factors set forth in Section 6 of this ordinance. The City Commission shall make findings in support of its decision to schedule an annexation for an election."

## **LAND USE PLANNING**

### *SITE CHARACTERISTICS*

The property has a two-percent slope to the south. Surrounding land uses are large lot single family residential.

### *REGIONAL PLANNING*

#### General Information

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

#### 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]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro adopted one functional plan - the Urban Growth Management Functional Plan. They have codified this functional plan in Metro Code Chapter 3.07. and they include it as an appendix to the Regional Framework Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion into Urban Reserve areas. The Functional Plan was reviewed and found not to contain any directly applicable criteria for 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, . . ." Thus the applicable plans must be examined for "specific directly applicable standards or criteria." It is the applicant's burden to prove the standards or criteria are satisfied.

The Clackamas County Comprehensive Plan is the applicable plan for this area. The plan designation for this site is FU-10, Future Urbanizable on the County's Northwest Urban Land Map (Map IV-1) and Low Density Residential (LR) on the County's Oregon City Area Land Use Plan (Map IV-5). Zoning on the property is FU-10, Future Urban-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.

The City and the County are required to have an Urban Growth Management Agreement, which is an adopted part of their Comprehensive Plans. Under the City-County Urban Planning Area Agreement, the County agreed to adopt the City's Comprehensive Plan designations for this area. The County adopted the City's Low Density Residential plan designation. The Zoning, as noted above, is FU-10. Consequently, when property is annexed to Oregon City, it already has a City planning designation. 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 17.06.050 Zoning of annexed areas.

### **CITY LAND USE CLASSIFICATION**

<u>Residential</u>	<u>City Zone</u>
Low-density residential	R-10, R-8, R6
Low-density residential/MD	R-6/MH
Medium-density residential	RD-4
Medium-density residential/MDP	RD-4
High-density residential	RA-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/MD	R-6MH
Medium-density residential	RD-4
Medium-density residential/MDP	RD-4
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The chapters in the Comprehensive Plan consist of: Background; Issues; Summary of Findings and Conclusions; Goals; and Policies. Each chapter has been searched for materials concerning annexations. Sections of these elements, which speak directly to the issue of annexation, have been reviewed to decide whether the current proposal is consistent with them.

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- *Seek citizen's input not only through recognized community organizations, but also through service organizations, interest groups, granges, and other ways.*

The combination of statutory and Metro notice requirements on annexations are consistent with this policy. On this annexation three notices were posted near the area to be annexed and one was posted in City Hall. Affected units of government including Clackamas River Water, Clackamas County R.F.P.D. # 1, etc. were notified. Owners of all properties within 300 feet were sent notices. Notice of the hearing was published twice in the *Clackamas Review*.

Chapter 3 of the Clackamas County Comprehensive Plan, *Natural Resources and Energy*, covers the following topics: Water Resources; Agriculture; Forests; Aggregate Resources; Wildlife Habitats and Distinctive Resource Areas; Natural Hazards; Energy Sources and Conservation. All of these topics are covered in broad terms. At no point is there any mention of any specific criteria relating to annexation. Maps are included in the subsections on water (identifying various river conservation areas), aggregate resources and scenic & resource areas. None of these maps show any of these elements on the site to be annexed.

The *Land Use* section of the Plan, Chapter 4, identifies the territory proposed for annexation as *future urbanizable*.

*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.*

The County Plan notes on page 46 that "Oregon City and Clackamas County have adopted the City's Comprehensive Plan designations for the Future Urbanizable area to be served by Oregon City." As noted above this designation is Low Density Residential (LR).

Among the Urbanization Goals listed in Chapter 4 is the following:

- *Encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way.*

Policy 5.0 provides that land is converted from "Future Urbanizable to Immediate Urban when land is annexed to either a city or special district capable of providing public sewer."

Policy 6.0 contains guidelines that apply to annexations that convert Future Urbanizable to Immediate Urban land:

- a. Capital improvement programs, sewer and water master plans, and regional public facility plans should be reviewed to insure that orderly, economic provision of public facilities and services can be provided.*
- b. Sufficient vacant Immediate Urban land should be permitted to insure choices in the market place.*
- c. Sufficient infilling of Immediate Urban areas should be shown to demonstrate the need for conversion of Future Urbanizable areas.*
- d. Policies adopted in this Plan for Urban Growth Management Areas and provisions in signed Urban Growth Management Agreements should be met (see Planning Process Chapter.)*

Public Facilities and Services are covered in Chapter 7 of the County Plan. The following policies of this chapter are related to annexation decisions.

#### POLICIES

\* \* \*

#### Sanitary Sewage Disposal

\* \* \*

- 4.0 Insure that sewerage facilities in Clackamas County are developed and maintained by the appropriate sanitary district, county service district or city.*

\* \* \*

**6.0** *Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.*

\* \* \*

**8.0** *Prohibit subsurface disposal systems within Urban Growth Boundaries except for:*

\* \* \*

**b.** *Parcels of ten acres or larger in Future Urbanizable areas inside the Metro Urban Growth Boundary (UGB), . . .*

\* \* \*

#### Water

\* \* \*

**12.0** *Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan.*

**13.0** *In urban areas, require water purveyors to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers and storm drainage facilities, which are necessary to serve additional lands.*

**14.0** *Encourage development in urban areas where adequate urban water facilities already exist.*

\* \* \*

#### Street Lighting

**27.0** *Encourage provision of street lighting for all new and existing developments inside the Urban Growth Boundary.*

#### Urban Growth Management Agreement

As required by LCDRC, Oregon City and the County have an urban growth management agreement (UGMA) by which they coordinate their planning within an area of mutual interest next to the City. The territory to be annexed falls within this urban growth management boundary (UGMB) and is subject to the agreement. Pertinent sections of the Agreement are included below.

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, in coordination with other service providers in the area.

The Agreement goes on to say:

3. Development Proposals in Unincorporated Area

\* \* \*

B. *The provision of public facilities and services shall be consistent with the adopted public facility plan for the unincorporated UGMB . . .*

\* \* \*

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.

## **CITY PLANNING**

As noted above, although the Oregon City acknowledged Comprehensive Plan does not cover this territory, the City prepared a plan for its surrounding area and the County has adopted its plan designations in this area. Certain portions of the City Plan, therefore, may have some applicability and these are covered here.

Chapter G of the Plan is entitled *Growth And Urbanization Goals And Policies*. Several policies in this section may be pertinent to proposed annexations.

2. *Ensure that Oregon City will be responsible for providing the full range of urban services for land annexed to the City within the Urban Growth Boundary.*

\* \* \*

5. *Urban development proposals on land annexed to the City from Clackamas County shall be consistent with the land use classification and zoning approved in the City's Comprehensive Plan. Lands that have been annexed shall be reviewed and approved by the City as outlined in this section.*

6. *The rezoning of land annexed to the City from Clackamas County shall be processed under the regulations, notification requirements and hearing procedures used for all zone change requests, except in those cases where only a single City zoning designation corresponds to the Comprehensive Plan designation and thus the rezoning does not require the exercise of legal or policy judgement on the part of the decision maker. The proposal shall address the following:*

- (1) *Consistent and supportive of the Comprehensive Plan Goals and Policies,*
- (2) *Compatible with the general land use pattern in the area established by the comprehensive Plan.*

*Quasi-judicial hearing requirements shall apply to all annexation and rezoning applications.*

The City Comprehensive Plan labels Chapter I as *Community Facilities Goals And Services*. The following sections of that section may be pertinent.

### Goal

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

### Policies

1. *The City of Oregon City will provide the following urban facilities and services as funding is available from public and private sources:*

- a. Streets and other roads and paths*
- b. Minor sanitary and storm water facilities*
- c. Police protection*
- d. Fire protection*
- e. Parks and recreation*
- f. Distribution of water*
- g. Planning, zoning and subdivision regulation*

*\* \* \**

3. *Urban public facilities shall be confined to the incorporated limits.*

*\* \* \**

5. *The City will encourage development on vacant buildable land within the City where urban facilities and services are available or can be provided.*

6. *The extension or improvement of any major urban facility and service to an area will be designed to complement the provision of other urban facilities and services at uniform levels.*

#### *Sanitary Sewers*

*\* \* \**

4. *Urban development within the City's incorporated boundaries will be connected to the Tri-City sewer system with the exception of buildings that have existing sub-surface sewer treatment, if service is not available.*

*\* \* \**

7. *The Tri-City Service District will be encouraged to extend service into the urban growth area concurrent with annexation approval by Oregon City.*

#### *Water*

2. *The city will coordinate with Clackamas County and [Clackamas River] Water District to provide an efficient and orderly water system in the urban growth area.*

#### *Storm Water Drainage*

1. *The City will coordinate with the Tri-City Service District to ensure adequate storm water drainage facilities within the City limits.*

*\* \* \**

3. *The City will coordinate with Clackamas County to ensure that adequate storm water drainage procedures are followed for new development in the urban growth area.*

#### Fire Protection

2. *Oregon City will ensure that annexed areas receive uniform levels of fire protection.*

Chapter M, identifies land use types. Low density residential is identified as follows:

- (3) *LOW DENSITY RESIDENTIAL [LR]: Areas in the LR category are largely for single-family homes or more innovative arrangements, such as low density planned development. Net residential density planned varies from a maximum density of 6,000 square feet for one dwelling unit (7.3 units/net acre) to as low as the density desired ("net acres" exclude the land devoted to roadways). This choice of lot sizes will occur as annexation or rezoning and will vary based on site-specific factors, including topography and adjoining development. In no case will more than 10,000 square feet be required if the home is connected to the sewer system and the site-specific factors would not preclude this density.*

The City/County urban growth management agreement specifies that the County's acknowledged Comprehensive Plan and implementing regulations shall apply until annexation and subsequent plan amendments are adopted by the City. Oregon City has three zones that may be applied to the County's Low Density Residential land use classification. These are R-10, R-8 and R-6. These zones require minimum lot sizes of 10,000, 8,000 and 6,000 square feet and the minimum density is 4.4, 5.5 and 7.3 units per acre respectively. Surrounding city zoning is R-10. The applicant will need to obtain approval of a zone change to city zoning before submitting a partition application to the City.

#### **FACILITIES AND SERVICES**

ORS 195 Agreements. ORS 195 requires agreements between providers of urban services.

Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in Clackamas County.

Sewers. The City of Oregon City provides sanitary sewer collector service. Sewers are available both in Partlow Road and in Westwood Drive. There is an 8-inch sanitary sewer line on Westwood Drive. The petitioner wants to serve both the existing and the proposed residence to the Westwood Drive sewer line. The applicant proposes to create a 5-foot utility easement along the east edge of the property for the sewer lines.

The Tri-City County 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 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 Tri-City plant has had measured flows of 50 mgd. At this flow, the collection system was backed up, however the District did not divert any flows to the Willamette River. The available average capacity is 4.4 mgd. The plant was designed to serve a population of 66,500 in the year 2001.

Oregon City charges its customers \$22.60 per month to use the sewerage facilities. The City has a systems development charge of \$3,178 per equivalent dwelling unit. Of this amount Oregon City retains \$1,333, transmits \$2,020 to the Tri-City Service District and \$25 is for inspection fees.

Water. The existing residence obtains water service from the Clackamas River Water District from a water line in Partlow Road. The existing home will be required to switch to service to a City water line in Partlow Road. There is an 8-inch City water line in Westwood Drive that can serve the new home.

Oregon City and the District have agreements for the transition of water systems from the District to the City as the City expands to its urban growth boundary. They have agreed to jointly use certain of the District's mains. Under the agreements, Oregon City can withdraw territory from the District when the City provides direct water service to an area. This occurs after the City annexation in accord with provisions of ORS 222.

Oregon City, with West Linn, owns the water intake and treatment plant, which the two cities operate through a joint intergovernmental entity known as the South Fork Water Board (SFWB). The ownership of the Board is presently divided with Oregon City having 54 percent and West Linn 46 percent ownership of the facilities.

The water supply for the South Fork Water Board is obtained from the Clackamas River through an intake directly north of the community of Park Place. Raw water is pumped from the intake up to a water treatment plant located within the Park Place neighborhood. The treated water then flows south through a pipeline and is pumped to a reservoir in Oregon City for distribution to both Oregon City and West Linn. The SFWB also supplies surplus water to the Claimont Water District portion of the Clackamas River Water District.

Both the river intake facility and the treatment plant have a capacity of twenty million gallons per day (MOD). There is an intertie with Lake Oswego's water system that allows up to five mgd to be transferred between Lake Oswego and SFWB (from either system to the other).

Oregon City charges City water customers \$9.75 per month plus \$1.63 per 100 cubic feet of water. There is a \$1,436 systems development charge for Oregon City's distribution system, a \$1,220 systems development charge for the South Fork Water Board system, and a \$550 installation fee charged for new water connections, for a total of \$3,206.

Storm Sewerage. When development is proposed for the subject site the owner will be required to design and construct a storm water collection and 2000 square foot detention system to compensate for the increase in impervious area of the property.

Oregon City charges a monthly storm user charge of \$2.00. The charge pays for maintenance and administration of the drainage system. The portion of projects financed by the city capital improvements program that relate to the needs of existing growth is also funded from the user charge. Oregon City also has a \$519 per residential unit system development charge for storm water facilities. This charge finances system improvements that relate to needs generated by new development.

Fire Protection. This territory is currently within Clackamas County R.F.P. D. # 1. 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.

Police. The Clackamas County Sheriff's Department currently serves the territory. Subtracting out the sworn officers dedicated to jail and corrections services, the County Sheriff provides approximately .5 officers per thousand population for local law enforcement services.

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 territory. Oregon City fields approximately 1.3 officers per 1000 population. The City is divided into three patrol districts with a four-minute emergency response and a twenty-minute non-emergency response time.

Transportation. Access to the existing home is from Partlow Road. The proposed parcel can obtain access from Westwood Drive. Partlow Road is designated as a collector street. City standards require 36-feet of pavement and a 7-foot sidewalk. City standards require a 32-feet of pavement and a 5-foot sidewalk on Westwood Drive. Half-street improvements

may be required for Partlow Road and Westwood Drive when the property is partitioned. City standards require an 80-foot right-of-way on Partlow Road and a 50-foot right-of-way on Westwood Drive. Dedication may be required when the property is partitioned.

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

## **RECOMMENDATION**

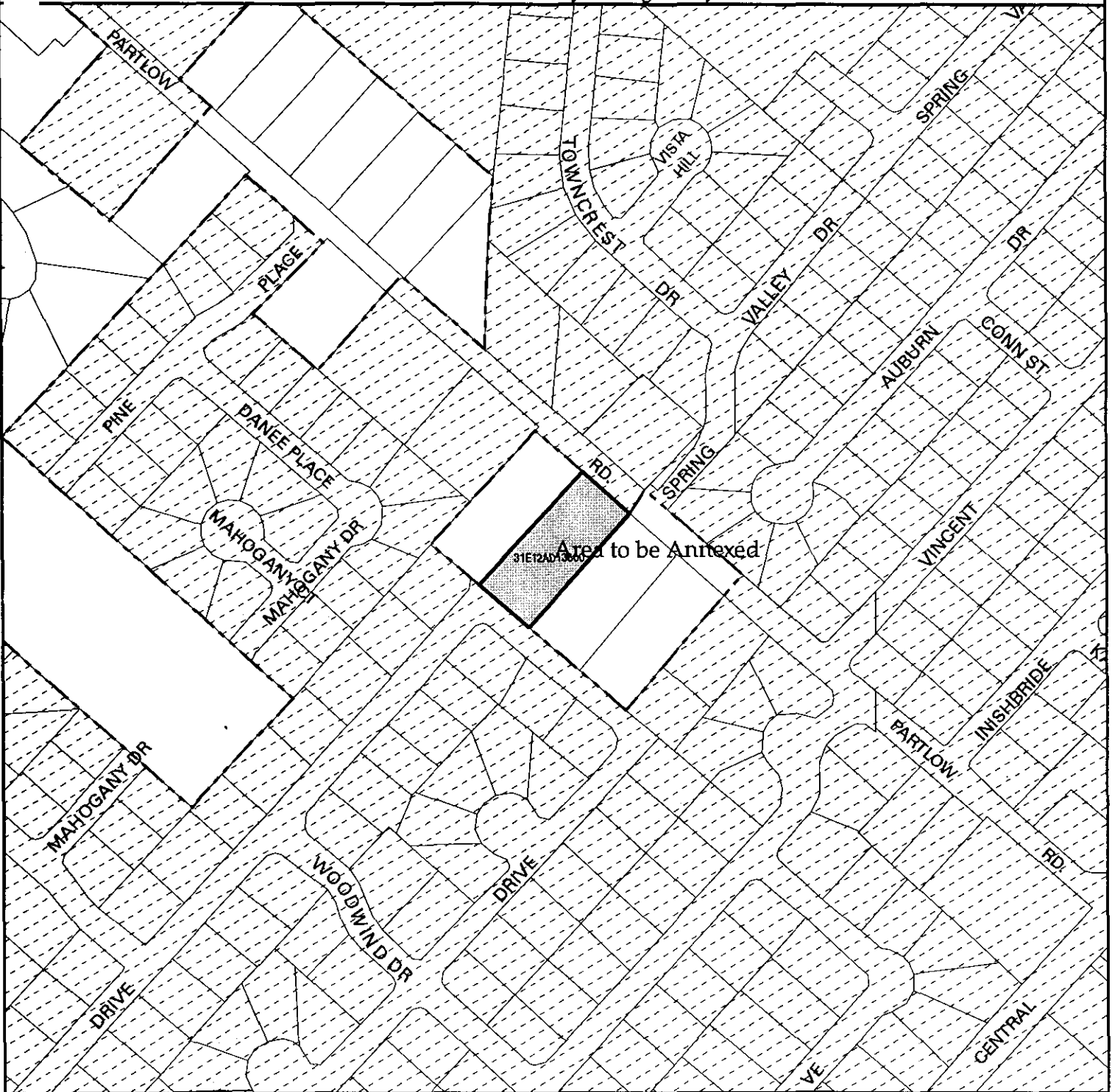
Based on the study and the Proposed Findings and Reasons for Decision attached in Exhibit A, the staff recommends Proposal No. AN-00-01 be *approved*. The staff further recommends that the Commission withdraw the territory from Clackamas County R.F.P.D. # 1 and the County Service District for Enhanced Law Enforcement as allowed by statute.

# Proposal No. AN-00-01

361E12AD

Annexation to the City of Oregon City

Clackamas Co.



R L I S  
REGIONAL LAND INFORMATION SYSTEM



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

**METRO**

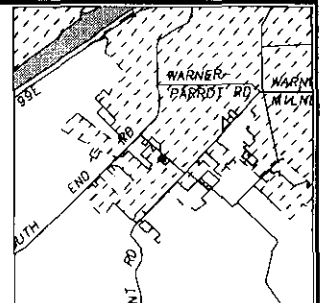
The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

- Incorporated city
- City boundary
- Annexation boundary

PROPOSAL NO. AN-00-01  
CITY OF OREGON CITY  
Figure 1

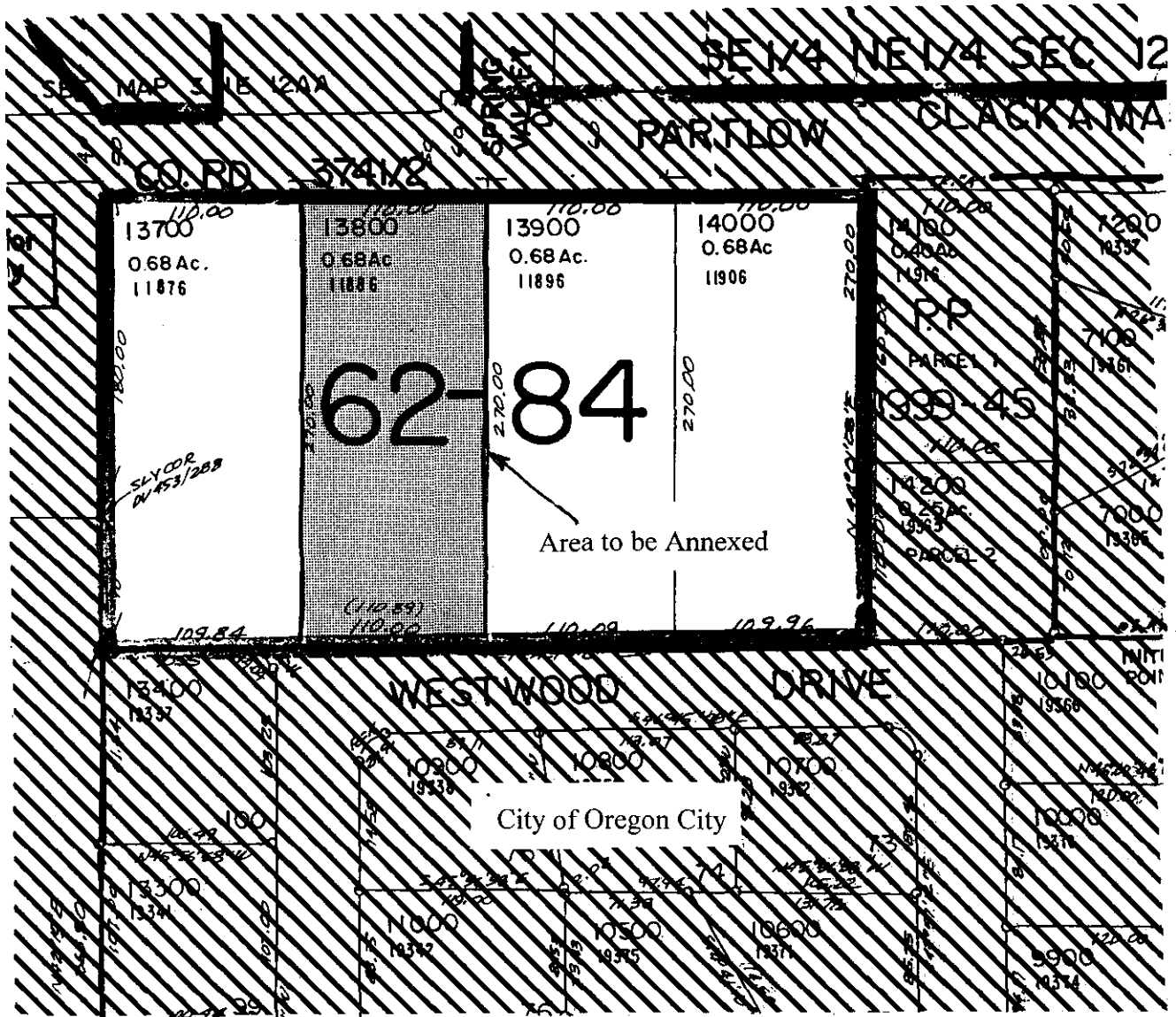
Scale: 1" = 250'

0 200 400





Annexation to the City of Oregon City  
Clackamas Co.  
Section 3S1E12AD



## **FINDINGS**

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

1. The territory to be annexed contains 0.68 acres, one single-family residence, an estimated population of two, and has an assessed value of \$210,050.
2. The property owners desire to annex to enable the property to be partitioned into two single-family residential lots.
3. There are no specific criteria for deciding city boundary changes within the statutes. However, 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. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexation, which can only be done after all required 195 agreements are in place, and which must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning 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. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.

7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where: 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.

4. This proposal is being processed under the City's recently adopted (December 1, 1999) code revisions on annexation processing. Section 6 of the new ordinance requires the City Commission "to consider the following factors, as relevant":
  1. Adequacy of access to the site;
  2. Conformity of the proposal with the City's Comprehensive Plan;
  3. Adequacy and availability of public facilities and services to service potential development;
  4. Compliance with applicable sections of Oregon Revised Statutes Chapter 222, and Metro Code 3.09;
  5. Natural hazards identified by the City, such as wetlands, floodplains, and steep slopes;
  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;
  7. Lack of any significant adverse effects on the economic, social and physical environment of the community by the overall impact of annexation."

Section 8 of the Ordinance states that: "The City Commission shall only set for an election annexations consistent with a positive balance of the factors set forth in Section 6 of this ordinance. The City Commission shall make findings in support of its decision to schedule an annexation for an election."

5. The property has a two-percent slope to the south. Surrounding land uses are large lot single family residential.

This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB). The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan

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The combination of statutory and Metro notice requirements on annexations are consistent with this policy. On this annexation three notices were posted near the area to be annexed and one was posted in City Hall. Affected units of government including Clackamas River Water, Clackamas County R.F.P.D. # 1, etc. were notified. Owners of all properties within 300 feet were sent notices. Notice of the hearing was published twice in the *Clackamas Review*.

Chapter 3 of the Clackamas County Comprehensive Plan, *Natural Resources and Energy*, covers the following topics: Water Resources; Agriculture; Forests; Aggregate Resources; Wildlife Habitats and Distinctive Resource Areas; Natural Hazards; Energy Sources and Conservation. All of these topics are covered in broad terms. At no point is there any mention of any specific criteria relating to annexation. Maps are included in the subsections on water (identifying various river conservation areas), aggregate resources and scenic & resource areas. None of these maps show any of these elements on the site to be annexed.

The *Land Use* section of the Plan, Chapter 4, identifies the territory proposed for annexation as *future urbanizable*.

*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.*

The County Plan notes on page 46 that "Oregon City and Clackamas County have adopted the City's Comprehensive Plan designations for the Future Urbanizable area to be served by Oregon City." As noted above this designation is Low Density Residential (LR).

Among the Urbanization Goals listed in Chapter 4 is the following:

- *Encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way.*

Policy 5.0 provides that land is converted from "Future Urbanizable to Immediate Urban when land is annexed to either a city or special district capable of providing public sewer."

Policy 6.0 contains guidelines that apply to annexations that convert Future Urbanizable to Immediate Urban land:

- a. *Capital improvement programs, sewer and water master plans, and regional public facility plans should be reviewed to insure that orderly, economic provision of public facilities and services can be provided.*
- b. *Sufficient vacant Immediate Urban land should be permitted to insure choices in the market place.*
- c. *Sufficient infilling of Immediate Urban areas should be shown to demonstrate the need for conversion of Future Urbanizable areas.*
- d. *Policies adopted in this Plan for Urban Growth Management Areas and provisions in signed Urban Growth Management Agreements should be met (see Planning Process Chapter.)*

Public Facilities and Services are covered in Chapter 7 of the County Plan. The following policies of this chapter are related to annexation decisions.

POLICIES

\* \* \*

Sanitary Sewage Disposal

\* \* \*

- 4.0 *Insure that sewerage facilities in Clackamas County are developed and maintained by the appropriate sanitary district, county service district or city.*

\* \* \*

- 6.0 *Require sanitary sewerage service agencies to coordinate extension of sanitary services with other key facilities, i.e., water, transportation, and storm drainage systems, which are necessary to serve additional lands.*

\* \* \*

- 8.0 *Prohibit subsurface disposal systems within Urban Growth Boundaries except for:*

\* \* \*

- b. *Parcels of ten acres or larger in Future Urbanizable areas inside the Metro Urban Growth Boundary (UGB), . . .*

\* \* \*

Water

\* \* \*

- 12.0 *Require all public water purveyors to design the extension of water facilities at levels consistent with the land use element of the Comprehensive Plan.*
- 13.0 *In urban areas, require water purveyors to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers and storm drainage facilities, which are necessary to serve additional lands.*
- 14.0 *Encourage development in urban areas where adequate urban water facilities already exist.*

\* \* \*

Street Lighting

- 27.0 *Encourage provision of street lighting for all new and existing developments inside the Urban Growth Boundary.*

7. As required by LCDC, Oregon City and the County have an urban growth management agreement (UGMA) by which they coordinate their planning within an area of mutual interest next to the City. The territory to be annexed falls within this urban growth management boundary (UGMB) and is subject to the agreement. Pertinent sections of the Agreement are included below.

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, in coordination with other service providers in the area.

The Agreement goes on to say:

3. *Development Proposals in Unincorporated Area*



\* \* \*

- B. The provision of public facilities and services shall be consistent with the adopted public facility plan for the unincorporated UGMB . . .*

\* \* \*

**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.

8. As noted above, although the Oregon City acknowledged Comprehensive Plan does not cover this territory, the City prepared a plan for its surrounding area and the County has adopted its plan designations in this area. Certain portions of the City Plan, therefore, may have some applicability and these are covered here.

Chapter G of the Plan is entitled *Growth And Urbanization Goals And Policies*. Several policies in this section may be pertinent to proposed annexations.

2. *Ensure that Oregon City will be responsible for providing the full range of urban services for land annexed to the City within the Urban Growth Boundary.*

\* \* \*

5. *Urban development proposals on land annexed to the City from Clackamas County shall be consistent with the land use classification and zoning approved in the City's Comprehensive Plan. Lands that have been annexed shall be reviewed and approved by the City as outlined in this section.*

6. *The rezoning of land annexed to the City from Clackamas County shall be processed under the regulations, notification requirements and hearing procedures used for all zone change requests, except in those cases where only a single City zoning designation corresponds to the Comprehensive Plan designation and thus the rezoning does not require the exercise of legal or policy judgement on the part of the decision maker. The proposal shall address the following:*

- (1) *Consistent and supportive of the Comprehensive Plan Goals and Policies,*
- (2) *Compatible with the general land use pattern in the area established by the comprehensive Plan.*

*Quasi-judicial hearing requirements shall apply to all annexation and rezoning applications.*

The City Comprehensive Plan labels Chapter I as *Community Facilities Goals And Services*. The following sections of that section may be pertinent.

Goal

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

Policies

1. *The City of Oregon City will provide the following urban facilities and services as funding is available from public and private sources:*
  - a. *Streets and other roads and paths*
  - b. *Minor sanitary and storm water facilities*
  - c. *Police protection*
  - d. *Fire protection*
  - e. *Parks and recreation*
  - f. *Distribution of water*
  - g. *Planning, zoning and subdivision regulation*

\* \* \*

3. *Urban public facilities shall be confined to the incorporated limits.*

\* \* \*

5. *The City will encourage development on vacant buildable land within the City where urban facilities and services are available or can be provided.*
6. *The extension or improvement of any major urban facility and service to an area will be designed to complement the provision of other urban facilities and services at uniform levels.*

Sanitary Sewers

\* \* \*

4. *Urban development within the City's incorporated boundaries will be connected to the Tri-City sewer system with the exception of buildings that have existing sub-surface sewer treatment, if service is not available.*

\* \* \*

7. *The Tri-City Service District will be encouraged to extend service into the urban growth area concurrent with annexation approval by Oregon City.*

Water

2. *The city will coordinate with Clackamas County and [Clackamas River] Water District to provide an efficient and orderly water system in the urban growth area.*

Storm Water Drainage

1. *The City will coordinate with the Tri-City Service District to ensure adequate storm water drainage facilities within the City limits.*

\* \* \*

3. *The City will coordinate with Clackamas County to ensure that adequate storm water drainage procedures are followed for new development in the urban growth area.*

Fire Protection

2. *Oregon City will ensure that annexed areas receive uniform levels of fire protection.*

Chapter M, identifies land use types. Low density residential is identified as follows:

- (3) *LOW DENSITY RESIDENTIAL [LR]: Areas in the LR category are largely for single-family homes or more innovative arrangements, such as low density planned development. Net residential density planned varies from a maximum density of 6,000 square feet for one dwelling unit (7.3 units/net acre) to as low as the density desired ("net acres" exclude the land devoted to roadways). This choice of lot sizes will occur as annexation or rezoning and will vary based on site-specific factors, including topography and adjoining development. In no case will more than 10,000 square feet be required if the home is connected to the sewer system and the site-specific factors would not preclude this density.*

The City/County urban growth management agreement specifies that the County's acknowledged Comprehensive Plan and implementing regulations shall apply until annexation and subsequent plan amendments are adopted by the City. Oregon City has three zones that may be applied to the County's Low Density Residential land use classification. These are R-10, R-8 and R-6. These zones require minimum lot sizes of 10,000, 8,000 and 6,000 square feet and the minimum density is 4.4, 5.5 and 7.3 units per acre respectively. Surrounding city zoning is R-10. The applicant will need to obtain approval of a zone change to city zoning before submitting a partition application to the City.

9. ORS 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements. The statute was enacted in 1993 but no urban service agreements have yet been adopted in Clackamas County.
10. The City of Oregon City provides sanitary sewer collector service. Sewers are available both in Partlow Road and in Westwood Drive. There is an 8-inch sanitary sewer line on Westwood Drive. The petitioner wants to serve both the existing and the proposed residence to the Westwood Drive sewer line. The applicant proposes to create a 5-foot utility easement along the east edge of the property for the sewer lines.

The Tri-City County 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 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 Tri-City plant has had measured flows of 50 mgd. At this flow, the collection system was backed up, however the District did not divert any flows to the Willamette River. The available average capacity is 4.4 mgd. The plant was designed to serve a population of 66,500 in the year 2001.

Oregon City charges its customers \$22.60 per month to use the sewerage facilities. The City has a systems development charge of \$3,178 per equivalent dwelling unit. Of this amount Oregon City retains \$1,333, transmits \$2,020 to the Tri-City Service District and \$25 is for inspection fees.

11. The existing residence obtains water service from the Clackamas River Water District to a City water line in Partlow Road. The existing home will be required to switch to service from a city water line in Partlow Road. There is an 8-inch City water line in Westwood Drive that can serve the new home.

Oregon City and the District have agreements for the transition of water systems from the District to the City as the City expands to its urban growth boundary. They have agreed to jointly use certain of the District's mains. Under the agreements, Oregon City can withdraw territory from the District when the City provides direct water service to an area. This occurs after the City annexation in accord with provisions of ORS 222.

Oregon City, with West Linn, owns the water intake and treatment plant which the two cities operate through a joint intergovernmental entity known as the South Fork Water Board (SFWB). The ownership of the Board is presently divided with Oregon City having 54 percent and West Linn 46 percent ownership of the facilities.

The water supply for the South Fork Water Board is obtained from the Clackamas River through an intake directly north of the community of Park Place. Raw water is pumped from the intake up to a water treatment plant located within the Park Place neighborhood. The treated water then flows south through a pipeline and is pumped to a reservoir in Oregon City for distribution to both Oregon City and West Linn. The SFWB also supplies surplus water to the Clairmont Water District portion of the Clackamas River Water District.

Both the river intake facility and the treatment plant have a capacity of twenty million gallons per day (MOD). There is an intertie with Lake Oswego's water system that allows up to five mgd to be transferred between Lake Oswego and SFWB (from either system to the other).

Oregon City charges City water customers \$9.75 per month plus \$1.63 per 100 cubic feet of water. There is a \$1,436 systems development charge for Oregon City's distribution system, a \$1,220 systems development charge for the South Fork Water Board system, and a \$550 installation fee charged for new water connections, for a total of \$3,206.

12. When development is proposed for the subject site the owner will be required to design and construct a storm water collection and 2000 square foot detention system to compensate for the increase in impervious area of the property.

Oregon City charges a monthly storm user charge of \$2.00. The charge pays for maintenance and administration of the drainage system. The portion of projects financed by the city capital improvements program that relate to the needs of existing growth is also funded from the user charge. Oregon City also has a \$519 per residential unit system development charge for storm water facilities. This charge finances system improvements that relate to needs generated by new development.

13. This territory is currently within Clackamas County R.F.P. D. # 1. 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.
14. The Clackamas County Sheriff's Department currently serves the territory. Subtracting out the sworn officers dedicated to jail and corrections services, the County Sheriff provides approximately .5 officers per thousand population for local law enforcement services.

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 territory. Oregon City fields approximately 1.3 officers per 1000 population. The City is divided into three patrol districts with a four-minute emergency response and a twenty-minute non-emergency response time.

15. Access to the existing home is from Partlow Road. The proposed parcel can obtain access from Westwood Drive. Partlow Road is designated as a collector street. City standards require 36-feet of pavement and a 7-foot sidewalk. City standards require a 32-feet of pavement and a 5-foot sidewalk on Westwood Drive. Half-street improvements may be required for Partlow Road and Westwood Drive when the property is partitioned. City standards require an 80-foot right-of-way on Partlow Road and a 50-foot right-of-way on Westwood Drive. Dedication may be required when the property is partitioned.
16. Planning, building inspection, permits, and other municipal services will be available to the territory from the City upon annexation.

### **CONCLUSIONS AND REASONS FOR DECISION**

Based on the Findings, the City Commission determined:

1. The introduction section of the Regional Framework Plan calls for Metro to encourage a high level of public awareness of its actions. A public hearing was held on this

matter and extensive notice of that hearing was given including: 1) posting of notices in the vicinity of the annexation 45 days before the hearing; 2) mailed notice to necessary parties 45 days before the hearing; 3) two published notices; 4) notice by first class mail to every property owner within 300 feet. The Commission concludes this hearing and notice is consistent with this section of the Regional Framework Plan. The balance of the Regional Framework Plan contains no decision-making criteria directly applicable to boundary changes.

2. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;"

The Commission has reviewed the acknowledged Clackamas County Comprehensive Plan which currently applies to this site and finds approval of this annexation to be consistent with the very few directly applicable standards and criteria in that plan.

Chapter 2 of the County Comprehensive Plan calls for an emphasis on citizen participation. The Commission concludes that the extensive notice given on this proposal makes it compatible with this section of the Plan.

The Commission finds general consistency between this proposed action and the *Urbanization* chapter of the County Plan. This annexation would "encourage development in areas where adequate public services and facilities can be provided in an orderly and economic way." The annexation also provides for conversion from future urbanizable to immediate urban classifications by making sewer service available as called for in Policy 5.0 of this chapter of the County Plan. The Commission considered the four conversion criteria in Policy 6.0. As the findings on Facilities and Services show, all public facilities are available to serve this site. The comprehensive plan criteria findings demonstrate that the policies of the Clackamas County comprehensive plan and provisions within the urban growth management agreement are met.

The *Public Facilities* chapter of the County Plan also contains requirements with which the Commission believes this proposal is consistent. The County, by agreeing to annexation through the UGMA, is insuring ". . . that sewerage facilities in Clackamas County are developed and maintained by the appropriate . . . city." (Policy 4.0 under the subheading of Sanitary Sewerage Disposal). By annexing to Oregon City, which can provide a full range of services, the proposal is also in accord with Policy 13.0 under the subheading Water. This requires ". . . water purveyors to coordinate the extension of water services with other key facilities, i.e., transportation, sanitary sewers and storm drainage facilities . . ." The action also is consistent with Policy 14.0 which requires the County to, "Encourage development in urban areas where adequate urban water facilities already exist."



3. With regard to Metro Code 3.09.050 (d)(2) the Commission finds that this proposal is consistent with the Clackamas County - City of Oregon City UGMA which requires the City to notify the County of any annexation decisions. The Commission notes that the record states the County was notified of this proposal. Furthermore, it is noted that the UGMA specifically provides that the City may undertake annexations within the area covered by the UGMA and that this territory is within the area.
4. As noted in Conclusion No. 2 above, the Metro Code calls for boundary changes to be consistent with comprehensive plans. Also of the six factors to be considered by the City Commission under the City Code, factor 2 calls for "Conformity of the proposal with the City's Comprehensive Plan."

The Commission concludes that the annexation is consistent with the City's Plan. Specifically the Commission notes that the extensive notice requirements particularly emphasizing notice to city residents, is consistent with the Plan's emphasis on citizen involvement.

Policy 2 of Chapter G states that Oregon City will ensure that it will be responsible for providing the full range of urban services for annexed lands. The property must have urban services available before it can develop. The full range of urban services, particularly sanitary sewer service can only be obtained from Oregon City after annexation. (Policy 3, Chapter I). As the Findings on facilities and services demonstrate, the City has urban facilities and services available to serve the property. Sewer and water facilities are available to the area of the proposed annexation consistent with the City's adopted sewer and water master plans. The territory is not within the Tri-City Service District which provides sanitary sewer services to lands within Oregon City. There is no provision for automatic annexation to the Tri-City Service District concurrent with annexation to the City. Therefore, each annexation to Oregon City needs to be followed by a separate annexation of the territory to the Tri-City Service District. The property owners want sanitary treatment services and can be required to annex to the District as a condition of development approval. Therefore, the Commission concludes that it is not necessary to require the property owners to petition to annex to the Tri-City Service District at this time.

5. 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." Factor 3 to be considered by the Commission under the City Code is "Adequacy and availability of public facilities and services to service potential development. The Commission concludes that the City's services are adequate to serve this area, based on Findings 10-16 and that therefore the proposed change promotes the timely, orderly and economic provision

of services.

6. Factor 1 to be considered by the City Commission is the adequacy of access to the site. This site is well accessed by Partlow Road and Wildwood Drive.
7. Factor 2 & 3 of the City Code are addressed above in Reasons No 4 & 5. Factor 4 to be considered by the City, compliance with ORS 222 and Metro Code 3.09 are addressed above in Reasons No. 1-5.
8. The fifth factor to be considered by the City Commission is natural hazards such as wetlands, floodplains and steep slopes. Examination of the City and County Comprehensive Plans reveals no natural hazards in this area.
9. Factor 6 to be considered deals with potential adverse affects of the annexation on open space, scenic, historic or natural resource areas. The City and County Plans do not reveal any existing such resources in the area to be annexed.
10. The last factor for City Commission consideration is "Lack of any significant adverse effects on the economic, social and physical environment of the community by the overall impact of the annexation." This annexation is in the Urban Growth Boundary and both the City and County Comprehensive Plans and the Urban Growth Management Agreement have anticipated this area developing within the City. The annexation itself will have no adverse effects on the economic, social or physical environment of the community. The annexation does have a positive impact on the City's tax base by adding assessed value to the City tax roll. The annexation brings property within the City's jurisdiction for planning and development control, which would enable partitioning of the property into one additional parcel and the development of one additional residence. The partitioning and development are subject to subsequent city approvals that will be subject to the City's standards, which have been designed to reflect the existing community's character.
11. The City may withdraw the territory from the Clackamas River Water District at a future date, consistent with the terms of agreements between the City and the District.
12. The City may specify in its annexation Ordinance that the territory will be simultaneously withdrawn from Clackamas RFPD #1. First response to this area is provided by the City under the terms of an agreement between the City and the District. The City's general property tax levy includes revenue for City fire protection. To prevent the property from being taxed by both the District and the City for fire services, the territory should be simultaneously withdrawn from the Fire District.
13. The City may specify in its annexation Ordinance that the territory will be

simultaneously withdrawn from the Clackamas County Service District for Enhanced Law Enforcement. Upon annexation the City's police department will be responsible for police services to the annexed territory. The City's general property tax levy includes revenue for City police services. To prevent the property from being taxed by both the District and the City for law enforcement services, the territory should be simultaneously withdrawn from the Enhanced Law Enforcement District.

**ORDINANCE NO. 99-1030**

AN ORDINANCE CREATING A NEW TITLE OF THE OREGON CITY MUNICIPAL CODE OF 1991 REGARDING CITY BOUNDARY CHANGES AND EXTENSIONS OF SERVICES, AND DECLARING AN EMERGENCY.

OREGON CITY MAKES THE FOLLOWING FINDINGS:

WHEREAS, on May 18, 1999 Oregon City voters approved a process for voter approval of future City boundary changes; and

WHEREAS, on June 2, 1999 the Mayor by general proclamation affirmed a City Charter amendment mandating voter approval of future City boundary changes; and

WHEREAS, it is necessary to codify the processes and procedure by which future proposed City boundary changes shall be presented to the City electorate; and

WHEREAS, processes and procedure comprising a new section of Municipal Code were reviewed by the Oregon City Planning Commission in worksession on October 25, 1999, and by public hearing on November 8, 1999; and

WHEREAS, on November 8, 1999 the Planning Commission recommended adoption of new Municipal Code section, titled "Boundary Changes and Extensions of Services" and incorporated as EXHIBIT A of this Ordinance; and

WHEREAS, the City Commission held a public hearing on the contents of EXHIBIT A on December 1, 1999; and

WHEREAS, the City Commission finds it is in the best interests of the residents of Oregon City to adopt clear processes and procedure by which future proposed City boundary changes are reviewed and prepared:

NOW, therefore,

OREGON CITY ORDAINS AS FOLLOWS:

Section 1. That the Oregon City Municipal Code of 1999 is amended to add Exhibit A of this Ordinance, titled "City Boundary Changes and Extension of Services."

AN 00-01  
Exhibit 2

Section 2. Because this Ordinance is necessary for the preservation of the peace, public health, safety and welfare of Oregon City, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the time of passage by the Commission.

Read first time at a regular meeting of the City Commission held on the 1<sup>st</sup> day of December, 1999 and the foregoing ordinance was finally enacted by the City Commission on the 1<sup>st</sup> day of December 1999.

*Leilani Bronson-Crelly*  
LEILANI BRONSON-CRELLY, City Recorder

ATTESTED to this 1<sup>st</sup> day of December, 1999

*John F. Williams, Jr.*  
\_\_\_\_\_  
JOHN F. WILLIAMS, Jr., Mayor

ORDINANCE NO. 99-1030  
Effective Date: December 1, 1999

## **City Boundary Changes and Extension of Services**

### **Section 1. Purpose.**

It is the purpose and general intent of this Ordinance to delineate the appropriate procedures to be followed to annex territory to the City and to undertake other major and minor boundary changes. It is recognized that annexations to the corporate limits are major land use actions affecting all aspects of city government and that other boundary changes and extensions of services must also be regulated.

A. With respect to annexations, the procedures and standards established in this Chapter are required for review of proposed annexations in order to:

1. Provide adequate public information and sufficient time for public review before an annexation election;
2. Maximize citizen involvement in the annexation review process;
3. Establish a system for measuring the physical, environmental, fiscal, and related social effects of proposed annexations; and
4. Ensure adequate time for staff review.

B. With respect to major and minor boundary changes or extensions of services other than annexations, it is the purpose and general intent of this Ordinance to provide a method by which such changes or extensions may be reviewed in a rational way and in accordance with applicable comprehensive plans.

### **Section 2. State and Regional Regulations Regarding Annexations, Other Boundary Changes and Extensions of Services.**

The regulations and requirements of Oregon Revised Statutes Chapter 222, and Metro Code Section 3.09, are concurrent obligations for annexation and are not affected by the provisions of this Chapter.

**Section 3. Definitions.** Unless the context requires otherwise, the following definitions and their derivations shall be used in this ordinance.

"City" means the City of Oregon City, Oregon.

"Commission" or "City Commission" means the City Commission of Oregon City, Oregon.

“District” means an entity described in ORS 198.010, 198.710(1) to (4) or 199.420.

“Major Boundary Change” means the formation, merger, consolidation or dissolution of a city or district.

“Minor Boundary Change” means an annexation or withdrawal of territory to or from a city or district or from a city-county to a district. “Minor boundary change” also means an extra-territorial extension of water or sewer service by a city or district.

“Planning Commission” means the Oregon City Planning Commission.

“Withdrawal” means the detachment, disconnection, or exclusion of territory from the City or district.

#### Section 4      Procedures for Major Boundary Changes and for Minor Boundary Changes Other Than Annexations

A.      With respect to Major Boundary Changes and for Minor Boundary Changes other than for Annexations, the procedures that shall be followed shall be those provided by the laws of the State of Oregon.

B.      The City Commission may provide for the withdrawal of territory from a District described in ORS 222.111, when land is annexed into the City. Any such withdrawal shall be specifically set forth in the final order of the City Commission approving the annexation.

#### Section 5.      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.

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.

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.

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.

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.
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.
3. A list of property owners within 300 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.
4. Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined.
5. Twenty-five (25) copies of a site plan, drawn to scale (not greater than 1"=50'), 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, isolated preservable trees (trees with trunks over 6" in diameter—as measured 4 feet above ground), and significant areas of vegetation;
  - e. General land use plan indicating the types and intensities of the proposed, or potential 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.
7. A narrative statement explaining the conditions surrounding the proposal and addressing the factors contained in Section 6 of this ordinance, 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.
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.

**Section 6. Annexation Factors.** When reviewing a proposed annexation, the commission shall consider the following factors, as relevant:

1. Adequacy of access to the site;
2. Conformity of the proposal with the City's Comprehensive Plan;

3. Adequacy and availability of public facilities and services to service potential development;
4. Compliance with applicable sections of Oregon Revised Statutes Chapter 222, and Metro Code Section 3.09;
5. Natural hazards identified by the City, such as wetlands, floodplains, and steep slopes;
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;
7. Lack of any significant adverse effects on the economic, social and physical environment of the community by the overall impact of the annexation.

Section 7. Action by the Planning Commission.

The Planning Commission shall conduct a public hearing in the manner provided by OCMC 17.50.170(B) to evaluate the proposed annexation and make a recommendation to the City Commission regarding how the proposal has or has not complied with the factors set forth in Section 6 Of this ordinance. The Planning Commission shall provide findings in support of its recommendation.

Section 8. Action by City Commission.

Upon receipt of the Planning Commission's recommendation, the City Commission shall hold a public hearing in the manner provided by OCMC 17.50.170(C). The City Commission shall endeavor to review all proposals prior to the City application deadline for submitting ballot measures to the voters. The City Commission shall only set for an election annexations consistent with a positive balance of the factors set forth in Section 6 of this ordinance. The City Commission shall make findings in support of its decision to schedule an annexation for an election.

Section 9. Legal Advertisement of Pending Election.

After City Commission review and approval, the City Manager shall cause a legal advertisement describing the proposed annexation and pending election to be published in at least one newspaper of general circulation in the city in the manner provided by state election law. The advertisement shall be placed at least 14 days prior to the election. The size of the advertisement shall be determined by the City Manager. The advertisement shall contain: a description of the location of the property; size of the property; its current zoning and any proposal for zone changes upon annexation; a general description of the potential land uses allowed; any required Comprehensive Plan text or map amendment or Zoning Ordinance text or map amendment; and where the City Commission's evaluation of the proposed annexation may be found. Any statement regarding development of the property proposed for annexation that is dependent upon

future action by the City shall be accompanied by a disclaimer to the effect that such development would not be affected by the annexation vote.

**Section 10. Election Procedures.**

- A. Pursuant to ORS 222.130(1), the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words. The City Attorney shall prepare the ballot title wording.
- B. Pursuant to ORS 222.130(2), the notice of an annexation shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.
- C. Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

**Section 11. Setting of Boundaries and Proclamation of Annexation.**

Upon approval by the voters of the proposed annexation, the City Commission, by Ordinance, shall set the boundaries of the area to be annexed by a legal description, adopt findings, and proclaim the results of the election.

**Section 11. Exceptions.**

The City Commission may authorize an exception to any of the requirements of this ordinance. An exception shall require a statement of findings that indicates the basis for the exception. Exceptions may be granted for identified health hazards and for those matters which the City Commission determines that the public interest would not be served by undertaking the entire annexation process. All annexations, however, shall be referred to the voters of the City except those exempted by state law. An exception referring to an annexation application that meets the approval criteria to an election cannot be granted except as provided for in the Oregon Revised Statutes.

## **City Boundary Changes and Extension of Services**

### **Section 1. Purpose.**

It is the purpose and general intent of this Ordinance to delineate the appropriate procedures to be followed to annex territory to the City and to undertake other major and minor boundary changes. It is recognized that annexations to the corporate limits are major land use actions affecting all aspects of city government and that other boundary changes and extensions of services must also be regulated.

A. With respect to annexations, the procedures and standards established in this Chapter are required for review of proposed annexations in order to:

1. Provide adequate public information and sufficient time for public review before an annexation election;
2. Maximize citizen involvement in the annexation review process;
3. Establish a system for measuring the physical, environmental, fiscal, and related social effects of proposed annexations; and
4. Ensure adequate time for staff review.

B. With respect to major and minor boundary changes or extensions of services other than annexations, it is the purpose and general intent of this Ordinance to provide a method by which such changes or extensions may be reviewed in a rational way and in accordance with applicable comprehensive plans.

### **Section 2. State and Regional Regulations Regarding Annexations, Other Boundary Changes and Extensions of Services.**

The regulations and requirements of Oregon Revised Statutes Chapter 222, and Metro Code Section 3.09, are concurrent obligations for annexation and are not affected by the provisions of this Chapter.

**Section 3. Definitions.** Unless the context requires otherwise, the following definitions and their derivations shall be used in this ordinance.

"City" means the City of Oregon City, Oregon.

"Commission" or "City Commission" means the City Commission of Oregon City, Oregon.

“District” means an entity described in ORS 198.010, 198.710(1) to (4) or 199.420.

“Major Boundary Change” means the formation, merger, consolidation or dissolution of a city or district.

“Minor Boundary Change” means an annexation or withdrawal of territory to or from a city or district or from a city-county to a district. “Minor boundary change” also means an extra-territorial extension of water or sewer service by a city or district.

“Planning Commission” means the Oregon City Planning Commission.

“Withdrawal” means the detachment, disconnection, or exclusion of territory from the City or district.

#### Section 4      Procedures for Major Boundary Changes and for Minor Boundary Changes Other Than Annexations

A.      With respect to Major Boundary Changes and for Minor Boundary Changes other than for Annexations, the procedures that shall be followed shall be those provided by the laws of the State of Oregon.

B.      The City Commission may provide for the withdrawal of territory from a District described in ORS 222.111, when land is annexed into the City. Any such withdrawal shall be specifically set forth in the final order of the City Commission approving the annexation.

#### Section 5.      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.

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.

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.

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.

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.
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.
3. A list of property owners within 300 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.
4. Two full quarter-section county tax assessor's maps, with the subject property(ies) outlined.
5. Twenty-five (25) copies of a site plan, drawn to scale (not greater than 1"=50'), 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, isolated preservable trees (trees with trunks over 6" in diameter—as measured 4 feet above ground), and significant areas of vegetation;
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**Oregon City Community  
Development Department  
Planning Division**

## Memo

**To:** Oregon City Planning Commission  
**From:**  Maggie Collins, Planning Manager  
**CC:** Planning Division Staff  
**Date:** 04/14/00  
**Re:** Policy Discussion: Zoning Upon Annexation

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Earlier in the year, the Planning Commission reviewed and recommended approval of some Municipal Code housekeeping measures (ZC99-07), one of which was to confirm the R-10 Zone District as the appropriate category for residential properties newly annexed into the City.

The City Attorney wished to make sure that this is the policy that the Planning Commission wishes to recommend; and staff has agreed to bring this back for one more Commission review. See Exhibit 1 for the change to Section 17.50.060 that the Commission approved on January 10<sup>th</sup>.

### Background

- A. Until 1994 the Municipal Code stated as follows:

#### **ZONING OF ANNEXED AREAS**

*All territory which may hereafter be annexed to the City shall automatically become an "R-10" Single-Family Dwelling District. The City Commission shall, on its own initiative, direct the Planning Director to make a study of the new City area and report the recommendation for the final reclassification to the City Commission within sixty (60) days after the date of annexation. (Section 11-2-5)*

- B. In 1994, the Planning Commission concluded, that the Commission, not the Code, should decide on the appropriate zoning for newly annexed residential properties. The Planning Commission further concluded that there should be choice between the three single-family residential Zoning Districts.
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## Memo to the Planning Commission

April 14, 200

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### Staff Comments

Staff recommends that the Planning Commission re-affirm its previous approval of a new Section 17.06.050 of the Municipal Code as its policy choice.

### Rationale

**Growth Concerns.** With the requirement of voter approval of an annexation request, it increasingly appears that residents have concerns about the rate and timing of growth. Further, recent applications adjacent to areas where annexation is possible have brought forth neighborhood concerns about infrastructure adequacy for newly-annexed areas. The City does not have a series of master plans to detail desirable growth at the City's fringe, but it does have a strong low-density residential zoning tool in R-10.

**R-10 Option Available to All Residential Properties.** No property rights are being denied by routinely bestowing an R-10 Zone District classification on properties that enter the City. This zone district option is available under the current version of Section 17.05.060. As with other zoning classifications, an R-10 property owner is obliged to undertake a land use and/or a development permit process in order to develop his or her property. If the applicant wishes to make an application for development at a greater density than R-10, a zone change request can be processed concurrently in a public forum where infrastructure and other issues can be publicly discussed.

**Density.** In view of the purposes of the City's residential zones, the R-10 Zone District has the least development impact as a zone to carry out the City's Low Density Residential Plan Map designation.

**Consistency.** The County FU-10 (Future Urbanizable 10-Acre) zone functions as a holding pattern for property outside the City limits but within the Urban Growth Boundary until annexation occurs. The City's R-10 is the comparable low-density zone to the County's FU-10.

Action Needed: Motion.

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## SUMMARY OF PROPOSED MINOR AMENDMENTS

<p><b>Section 17.06.050</b>  <b>7.06.050 Zoning of annexed areas.</b> All lands within the urban growth boundary of Oregon City have been classified...</p>	<p>Proposed amendment to Table 17.06.050, City Land Use Classification, provides only for one residential zone (R-10) in assigning City zoning for newly annexed areas with the Low-density Residential Comprehensive Plan designation. The existing language provides for three zoning alternatives: R-10, R-8, and R-6.</p> <p>Proposed <del>deletions</del> include the following:  1) Change in Table 17.06.050; eliminates R-8 and R-6 zoning as options for newly annexed areas designated "Low -Density Residential" in the Comprehensive Plan:</p> <p><u>17.06.050 Zoning of annexed areas.</u> All lands within the urban growth boundary of Oregon City have been classified...</p> <p>Table 17.06.050  CITY LAND USE CLASSIFICATION  <u>Residential</u>                      <u>City Zone</u></p> <p>Low-density residential  R-10, <del>R-8, R-6</del></p> <p>(...).</p> <p>2) Deletion of the selected sections of 17.06.050(C) to reflect the proposed non-discretionary zone change for newly annexed areas designated Low Density by the Comprehensive Plan. --</p>	<p><b>17.06.050 Zoning of annexed areas.</b> All lands within the urban growth boundary of Oregon City have been classified...</p> <p>Table 17.06.050  CITY LAND USE CLASSIFICATION  <u>Residential</u>                      <u>City Zone</u></p> <p>Low-density residential  R-10 ...</p> <p>In those cases where only a single city zoning designation corresponds to the comprehensive plan designation and thus the rezoning decision does not require the exercise of legal or policy judgment on the part of the decisionmaker, Section 17.68.025 shall control. The decision in these cases shall be a ministerial decision of the planning <i>manager</i>, made without notice or any opportunity for a hearing.</p>
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## **Section 17.06.050**

**"17.06.050 Zoning of annexed areas.** All lands within the urban growth boundary of Oregon City have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The planning department shall complete a review of the final zoning classification within sixty days after annexation.

The zoning classification shall reflect the city land use classification as illustrated in Table 17.06.050.

Table 17.06.050

## CITY LAND USE CLASSIFICATION

### Residential

### City Zone

Low-density residential  
Low-density residential/MD  
Medium-density residential  
Medium-density residential/MD  
High-density residential

R-10, ~~R-8, R-6~~  
R-6/MH  
RD-4  
RD-4  
RA-2

### Commercial

### City Zone

General commercial  
Tourist commercial  
Limited commercial

C  
TC  
LOC, LO, NC, LC

### Industrial

### City Zone

Industrial/Campus  
Industrial/Light  
Industrial/Heavy

M-1, Campus  
M-1  
M-2

A. A public hearing shall be held by both the planning commission and city commission in accordance with the procedures outlined in Chapter 17.68.

B. Lands within the urban growth boundary and designated low-density residential on the comprehensive plan map shall, upon annexation, be eligible for manufactured homes (infill of individual lots and subdivisions).

~~C. Lands designated low-density residential may receive a designation consistent with Table 17.16.050. The hearings body shall review the proposed zoning designations and consider the following factors:~~

- ~~1. Any applicable comprehensive plan goals and policies of the dual interest area agreement;~~
- ~~2. Lotting patterns in the immediate surrounding area;~~
- ~~3. Character of the surrounding area. If the land is constrained by steep slopes or natural features (wetlands, vegetation, etc.), R-10 shall be designated.~~

In those cases where only a single city zoning designation corresponds to the comprehensive plan designation and thus the rezoning decision does not require the exercise of legal or policy judgment on the part of the decisionmaker, Section 17.68.025 shall control. The decision in these cases shall be a ministerial decision of the planning ~~director~~ manager, made without notice or any opportunity for a hearing.

~~At any time of filing a petition for annexation, the filing fee listed in Section 17.50.480 shall be paid to the city recorder to defray the costs of publication, investigation, and processing.~~