



STAFF REPORT

TO: City Council

AGENDA DATE: November 1, 2016 **REPORT DATE:** October 25, 2016

FROM: Jeff Salvon AICP, Associate Planner
Community Development Department

SUBJECT: Expedited Annexation (ANX2014-0004)

ACTIONS: Annexation to the City of Beaverton of one parcel located at 7400 SW Scholls Ferry Road. The property proposed for annexation is identified as tax lot 1S123DB03700 as shown on the attached map, and more particularly described by the attached legal description (Attachment A). The right-of-way adjacent to the subject parcels is also included in this expedited annexation. Annexation is owner initiated and is being processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045.

NAC: The subject parcel is located adjacent to the boundary of the Denny Whitford / Raleigh West Neighborhood Association Committee (NAC). The Neighborhood Office is recommending that staff include a provision in the ordinance to amend the NAC boundaries to include the parcel proposed for annexation.

AREA: The parcel totals approximately 2.16 acres.

TAXABLE ASSESSED VALUE: \$0

ASSESSOR'S REAL MARKET VALUE: \$ 555,720

NUMBER OF LOTS: 1

EXISTING COUNTY ZONE: The subject parcel is designated Institutional by Washington County.

RECOMMENDATION: Staff recommends the City Council adopt an ordinance annexing the referenced property effective as of the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, or 30 days from date the ordinance is signed, whichever is later and withdrawing the property from the Washington County Urban Road Maintenance District and Enhanced Sheriff's Patrol District.

BACKGROUND

The subject site is within unincorporated Washington County. Atonement Lutheran Church, owner of the subject site, are requesting that their property be annexed to the City of Beaverton in order to obtain City maintained sanitary and storm water services. Service availability from the City is required in order to enable construction upgrades desired for the property.

Upon annexation the City of Beaverton will provide service to the subject site and incur the costs associated with providing those services such as police, storm water and sanitary sewer conveyance, urban planning, and development review. The proposed area of annexation will include a portion of the right-of-way of SW Canyon Road that fronts the property requesting annexation since that right-of-way is already in the City of Beaverton.

Consent to annex on the part of the landowner allows this proposal to be processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045. Because there are no residents on the subject parcels and the petitioners represent 100% of the ownership of the parcels, no public hearing is required.

On December 2004, the City and Washington County entered into an Intergovernmental Agreement for an Interim Urban Services Plan that established an area "A", in which the City could proceed with annexations without County consent and an area "B", in which the City would need to obtain County consent to proceed with annexation. The proposed annexation is in area "A". Therefore, no further authority to annex the property is required.

The Beaverton-Washington County Urban Planning Area Agreement (UPAA) specifies that in cases where Washington County lands are annexed, application of City plan and zone designations reflect the most proximate zones to what is currently applied to the property. Specific City – County plan and zone designations are provided in the attached Exhibit C of the UPAA. In accordance with these specifications, the City will apply a plan designation and a zoning designation to the property through a separate process.

EXISTING CONDITIONS

Map and Tax Lot	Site Address	Lot Size (acres)	Existing Land Use
1S123DB03700	7400 SW Scholls Ferry Rd.	2.16	Church

SERVICE PROVISION:

Cooperative, urban service and intergovernmental agreements affecting provision of service to the subject property include the following:

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Park and Recreation District, and Clean Water Services.
- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.
- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements “for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon”, the last of which was signed by then Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.
- On December 22, 2004, the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The property proposed for annexation by this application is included in the areas the City may annex without County consent.

This action is consistent with those agreements.

The following details the various services available to the property to be annexed.

- POLICE:** The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff’s Patrol District (ESPD). The property will be withdrawn from the ESPD, and the City will provide police service upon annexation. In practice, whichever law enforcement agency is able to respond first to an emergency does so in accordance with the mutual aid agreement described above.
- FIRE:** Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to the property. The City annexed its own fire services to TVF&R in 1995. TVF&R is designated as the long-term service provider to this area.
- SEWER:** The property proposed for annexation is within the Clean Water Service’s (CWS) service area. Future service can be provided by the city of Beaverton by connecting a lateral connection to an 8” line under SW Scholls Ferry Road.
- WATER:** The subject parcels falls within the service area of the Tualatin Valley Water District (TVWD). Subsequent to annexation, TVWD will continue to provide service to the parcel and the City of Beaverton will bill the property for services rendered and transfer the revenue collected back to the District.

STORM WATER DRAINAGE:

The property proposed for annexation is within the Clean Water Service’s (CWS) service area. The parcels drain to the northwest to SW Scholls Ferry Rd. Lateral connection would hook up to a 24” pipe located at the eastern portion of the street.

STREETS and ROADS:

The properties front SW Scholls Ferry Road (classified on the City’s Functional Classification Map as an arterial and maintained by the County. Subsequent to annexation the subject property will be withdrawn from the County Urban Road Maintenance District and Washington County will continue to assume maintenance responsibilities for Scholls Ferry Road.

PARKS and SCHOOLS:

The proposed annexation is a Beaverton School District Facility within the Beaverton School District (BSD) and the Tualatin Hills Park and Recreation District (THPRD). Because the proposed action does not involve residential uses, school enrollment will not be affected by the proposed annexation and no additional service demands will be imposed upon either THPRD or BSD. Subsequent to annexation, service district boundaries will remain unaffected.

PLANNING, ZONING and BUILDING:

Washington County currently provides long-range planning, development review, and building inspection for the property. City plan and zone designations that approximate County designations will be proposed in a separate process. The choice as to which designations will be applied will be dictated by the terms specified in the UPAA. Once the annexation becomes effective the City will conduct all planning and zoning functions associated with the properties.

CRITERIA FOR APPROAL

REGIONAL ANNEXATION CRITERIA

In December 1998, the Metro Council adopted Metro Code Chapter 3.09 (Local Government Boundary Changes). This Chapter has since been amended through Ordinance 07-1165A (adopted January 17 2008). Metro Code Sections 3.09.045 (c) and (d) include the following minimum criteria for expedited annexation decisions:

3.09.045 (c) At least seven days prior to the date of decision the City or Metro shall make available to the public a report that includes the following information:

- (1) The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;***

The proposal involves annexation of one parcel involving approximately 2.16 acres of land. As indicated in the previous section, annexation is required due to the proposed connection to City utilities.

Other essential urban services are already provided to the parcel by the County and area special service districts. Services that will transfer to the City subsequent to annexation are sanitary sewer, storm water conveyance, police protection, long-range planning, development review, and building inspection. The proposed annexation does not entail extra-territorial extensions of service.

(2) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party;

Consistent with the provisions established in the City of Beaverton - Clean Water Services Inter-Governmental Agreement signed July 1, 2009, the City of Beaverton will acquire sanitary sewer maintenance responsibilities for the sanitary sewer facilities serving the parcel to be annexed to the City. Additionally, in accordance with the terms specified in the City of Beaverton – Washington County Urban Planning Area Agreement, the property will be removed from Washington County’s Enhanced Sheriff’s Patrol and Urban Road Maintenance Districts. The proposed annexation will not require withdrawal of territory from any other service districts identified as necessary parties.

(3) The proposed effective date of the boundary change.

The proposed annexation was prompted by a desire on the part of the property owner to receive urban services from the City of Beaverton. Upon annexation the City of Beaverton will service the subject site and incur the costs associated with services provided, such as police, planning, development review and storm water sewer.

ORS 222.180 specifies that the date an approved annexation becomes effective is determined by the date the Secretary of State files the jurisdiction’s decision with its office. ORS 222.180 also specifies that when annexation proceedings are initiated by a city, the city may specify a later effective date than that determined by the Secretary of State.

The City’s annexation process requires that the proposed ordinance receive first and second readings on consecutive meeting dates. Additionally, Section 36 of the City’s Charter specifies that City ordinances shall take effect thirty (30) days after their adoption by the Council and approval of the mayor.

The property shown on Exhibit A, and more particularly described in Exhibit B, is hereby annexed to the City of Beaverton effective upon the date the ordinance is filed with the Secretary of State (as specified by ORS 222.180), or thirty (30) days from the date of adoption, whichever is later.”

FINDING: Having addressed the elements contained in Metro Code Section 3.09.045 (c) above, and as this staff report will be made available to the public on

or before October 25, 2016, at least seven days prior to the date of decision, the proposal satisfies Metro Code Section 3.09.045 (c).

3.09.045 (d) To approve a boundary change through an expedited process, the city shall:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.065;

The Service Provision section of this staff report addresses the provision of services in detail. Although discussion with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties, the City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the City.

As previously noted, on December 22, 2004, the City did enter into an interim intergovernmental agreement with Washington County, titled the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Services Plan". This agreement identifies areas that require Washington County consent before the City may annex in certain areas. The agreement has an effective period of ten years, and references ORS 195.065(1) among its recitals. The property proposed for annexation by this application does not require County consent in accordance with this agreement. No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation.

FINDING: Staff finds that where applicable, the proposed annexation is consistent with urban service agreements in place as demonstrated in the staff report and as such the proposal satisfies Metro Code Section 3.09.045 (d)(1)(A).

(B) Any applicable annexation plan adopted pursuant to ORS 195.205;

As noted previously, the City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the City. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of individual annexation plans as provided under ORS 195.205.

FINDING: Due to the fact that a comprehensive urban service agreement has not been established as a basis for preparing City annexation plans, staff finds that provisions in Metro Code Section 3.09.045 (d)(1)(B) do not apply.

(C) Any applicable cooperative planning agreement adopted pursuant

to ORS 195.020(2) between the affected entity and a necessary party:

As noted in the Urban Service Provision Section of this report the City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Valley Water District, Tualatin Hills Park and Recreation District, and Tualatin Valley Water District. These agreements call for coordination of planning activities between each service district and the City, although annexations are not subject to coordination under the agreement language. However, as necessary parties, the subject districts have been notified of this proposed annexation.

FINDING: Staff finds that the proposed annexation is not subject to existing cooperative agreements.

(D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

The City's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan, the Transportation Element of the Comprehensive Plan, the City's Capital Improvements Plan, and the most recent versions of master plans adopted by providers of the following facilities and services in the City: storm water drainage, potable water, sewage conveyance and processing, parks and recreation, schools and transportation. Where a service is provided by a jurisdiction other than the City, by adopting the master plan for that jurisdiction as part of its public facilities plan, the City has essentially agreed to abide by any provisions of that master plan.

Staff could not identify any provisions in the Washington County Public Facilities Plan relevant to this proposed annexation.

FINDING: Staff finds that the proposed annexation is consistent with applicable Public Facility Plans and therefore satisfies Metro Code Criterion 3.09.045 (d)(1)(D).

(E) Any applicable comprehensive plan;

The only relevant policy of the City of Beaverton's Comprehensive Plan is Policy 5.3.1.d, which states "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's Acknowledged Comprehensive Plan.

In reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the County's web site (reflecting changes through County Ordinance No. 809) that amended the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- A paragraph in the "County-Wide Development Concept" at the beginning of the Comprehensive Framework Plan which states:

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the County itself in how to evaluate annexation proposals, and not guidance to the City regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if they believe the boundary change is inconsistent with the approval criteria (see Metro Code Section 3.09).

- Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:

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

Two implementing strategies under Policy 15 that relate to annexation state:

The County will:

- f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:
 - 3. Service district or city annexation
- g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.

The City of Beaverton, Washington County and the other urban service providers for the subject area worked off and on for several years to arrive at an urban service area agreement for the Beaverton area pursuant to ORS 195.065 that would be consistent with Policy 15 and the cited implementing strategies. Unfortunately, although most issues were resolved, a few issues remained between the County and the City that prevented completion of the agreement. These issues do not relate to who provides services or whether they can be provided when needed in an efficient and cost effective manner so much as how the transfer of service provision responsibility occurs, particularly the potential transfer of employees and equipment from the County to the City. As previously noted, the County and the City have entered into an intergovernmental agreement that sets an interim urban services plan area in which the County commits to not oppose annexations by the City.

Raleigh Hills – Garden Home Community Plan

Finally, staff has reviewed other elements of the County Comprehensive Plan and has determined that the area of SW Scholls Ferry Road in which the Atonement Lutheran Church is located is not designated as area of special concern within the Raleigh Hills – Garden Home Community Plan.

Subsequent to annexation, the City of Beaverton will apply its plan and zone designations to the parcel as a substitute for what had been imposed by Washington County. Selection as to which designations are appropriate will be dictated by the terms specified in the Beaverton – Washington County Urban Planning Area Agreement (UPAA). The intent is to apply City designations that most closely correspond to what had previously been applied. Subsequently, all City design standards pertaining to pedestrian access, landscaping, etc. will be applied in a development review process when any future land use application is submitted.

FINDING: Staff finds that the proposed annexation is consistent with applicable provisions contained in the City of Beaverton’s Comprehensive Plan, Washington County’s Framework Plan and the Raleigh Hills-Garden Home Community Plan. The proposed amendment therefore satisfies Metro Code Criterion 3.09.045 (d)(1)(E).

(2) Consider whether the boundary change would:

(A) Promote the timely, orderly and economic provision of public facilities and services;

The existing conditions section of this staff report contains information addressing this criterion in detail. As indicated, changes that affect public facility and service provisions to individual properties are generally subject to agreements between the City of Beaverton, Washington County, and special districts. These agreements address which urban service provider will assume responsibilities for service in the event of a boundary change. By entering into these agreements and through the adoption of planning documents the City and its service district partners have attempted to ensure that the provision of services subsequent to the proposed boundary change will be timely, orderly, and economically viable.

FINDING: Staff finds that for the reasons indicated above, changes in service provision occurring subsequent to the proposed boundary change have been adequately anticipated and planned for. The proposed amendment therefore satisfies Metro Code Criterion 3.09.045 (d)(2)(A).

(B) Affect the quality and quantity of urban services;

The existing conditions section of this staff report contains information addressing this criterion in detail. As indicated, responsibilities pertaining to the provision of public facilities and services will either remain unchanged or transfer to the City. In general, because cities provide services on an urban scale, they can provide services at a level

equal or higher than provided in unincorporated areas. Accordingly, the City is generally regarded as offering a level of service to properties that annex from unincorporated County that is equal or higher than what was previously received. Annexation to the City of Beaverton will therefore benefit the quality and quantity of urban services transferred to the City.

FINDING: The proposed annexation will generally have a beneficial effect on the quality and quantity of urban service. Criterion 3.09.045(d)(2)(B) has been met.

(C)Eliminate or avoid unnecessary duplication of facilities or services.

The intent of the intergovernmental agreements described in the Existing Conditions Section of this report is to clarify which agency bears responsibility for the provision of urban services in specific areas of the City and in circumstances of a jurisdictional boundary transfer. These agreements therefore fulfill the role of eliminating duplication of services where jurisdictional responsibilities may be unclear. The issue of duplication has therefore been addressed and resolved through these agreements.

FINDING: As the proposed annexation is subject to the terms established by established service agreements between the City and its special district service providers, provisions have been made to avoid unnecessary duplication of facilities or services involving the subject parcel. Criterion 3.09.045(d)(2)(C) has been met.

PROCESS

- Consistent with Metro Code Section 3.09.045, the City sent notice of the proposed annexation on October 11, 2016 (21 days prior to the City Council's first reading of the ordinance that would approve the annexation) to all necessary parties including Washington County, Metro, affected special districts and County service districts.
- The notice and a copy of this staff report will be posted on the City's web page on October 25, 2016 (7 days prior to the City Council's first reading of the ordinance that would approve the annexation).

CONCLUSION

Based on the facts and findings in this report, staff concludes that approval of the owner initiated annexation of Tax Lot # 1S123DB03700, meets all pertinent criteria outlined in Metro Section 3.09.045.