

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 09-021

Approving the Annexation of Territory to Dunthorpe-Riverdale County Service District

The Multnomah County Board of Commissioners Finds:

- a. A petition for annexation of certain real property to the Dunthorpe-Riverdale Service District (District) was received pursuant to the applicable procedures set forth in ORS 198.857 and Metro Code 3.09.
- b. A staff report which addressed all the applicable conditions and factors as required under the Metro Code and ORS Chapter 198 was presented to this Board 15 days prior to the original scheduled hearing in this matter on February 19, 2009; as required by the Metro Code, with the recommendation to approve the proposed annexation.
- c. Based on the staff report this Board has made certain findings and conclusions with respect to this proposed annexation that are further explained in the attached "FINDINGS AND REASONS FOR DECISION" identified as Exhibit A.
- d. The real property to be annexed is more particularly described in the attached Exhibit B.
- e. This annexation was endorsed by the District's Board prior to the final action of this Board.
- f. A public hearing was held before the Board of County Commissioners on February 19, 2009 to determine whether the boundary change was appropriate as required by ORS 198.857 and whether it met the criteria laid out in the Metro Code.

The Multnomah County Board of Commissioners Orders:

1. On the basis of the Findings and Conclusions listed in Exhibit A, Proposal No. MU-0408; is approved.
2. The property described in Exhibit B and as shown on the attached map identified as Exhibit C is annexed to the Dunthorpe Riverdale Service District. To the extent there is a conflict between the written description provided in Exhibit B and as shown on the map the written legal description shall prevail.
3. The staff is directed to file this document with the required parties.

ADOPTED this 19th day of February 2009.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON



Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
Agnes Sowle, County Attorney

FINDINGS AND REASONS FOR DECISION

Based on the staff report and the public hearing, the Multnomah County Board found that:

1. The territory to be annexed contains 20,000 square feet and is vacant.
2. The property owner desires sanitary sewer service to construct one single family dwelling.
3. Oregon Revised Statute Chapter 198 directs the Board to “consider the local comprehensive plan for the area and any service agreement executed between a local government and the affected district.”

A second set of criteria can be found in the Metro Code. To approve a boundary change, the reviewing entity [the County Board in this instance must apply the criteria and consider the factors set forth in the Code. To approve a boundary change the County must:

- (1) Find that the change is consistent with expressly applicable provisions in:
 - (A) Any applicable urban service agreement adopted pursuant to ORS 195.205;
 - (B) Any applicable annexation plan adopted pursuant to ORS 195.205;
 - (C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;
 - (D) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - (E) Any applicable comprehensive plan; and
- (2) Consider whether the boundary change would:
 - (A) Promote the timely, orderly and economic provision of public facilities and services;
 - (B) Affect the quality and quantity of urban services; and
 - (C) Eliminate or avoid unnecessary duplication of facilities and services.
4. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

5. The territory is zoned R-20 which allows single family dwellings on 20,000 square foot lots.
6. LCDC required each jurisdiction requesting acknowledgement of their plan to include in the plan a written statement ". . . setting forth the means by which a plan for management of the unincorporated area within the urban growth boundary will be implemented and by which the urban growth boundary may be modified." This takes the form of urban growth management agreements between each city and county.

The territory to be annexed to the Dunthorpe-Riverdale CSD is covered by the Urban Planning Area Agreement between Multnomah County and the City of Portland. The agreement acknowledges that areas covered by the agreement can and should ultimately be provided with a full range of services by the City of Portland and that this should be accomplished through annexation to the City. However, the City is not pursuing annexations in this area at this time. The City would have the option of automatically withdrawing this area from the Dunthorpe-Riverdale District at the time of annexation to the City.

7. The City of Portland has established an Urban Services Boundary which has also been adopted as the Urban Planning Area Agreement boundary. The City's Urban Services Policy acknowledges the City's ultimate primacy as service provider but also calls on the City to coordinate with other urban service providers within the urban services area prior to the ultimate timely annexation of the area.
8. 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. There are no ORS 195 agreements between the Dunthorpe-Riverdale County Service District and other entities.
9. The Dunthorpe-Riverdale County Service District is a separate governmental entity which has as its board of directors the County Commissioners. The District provides collector sanitary sewer service in the Dunthorpe-Riverdale portion of the County. Through an agreement with the City of Portland, sewage from the District is treated at the City's Tryon Creek regional sewage treatment plant. While previously staffed and run by County employees, the District is now maintained by the City of Portland through a contract. The proposed dwelling can be connected to the District's 8-inch line at the eastern edge of the area to be annexed.
10. The territory receives water service from the Palatine Hill Water District.
11. The territory is within the Multnomah County Rural Fire Protection District #11 (also known as Dunthorpe-Riverdale RFPD #60). This District provides fire protection services via a contract with the City of Lake Oswego.
12. The site is served generally by Multnomah County.
13. Other services are provided generally by Multnomah County.

CONCLUSIONS AND REASONS FOR DECISION

Based on findings, the County Board concluded that:

1. The Metro Code calls for consistency with expressly applicable provisions of urban service agreements adopted pursuant to ORS 195. The annexing entity (Dunthorpe-Riverdale County Service District) is not a party to an urban service agreement. Therefore no inconsistencies exist.
2. The Metro Code requires consistency with expressly applicable provisions of any applicable annexation plan adopted pursuant to ORS 195.205. No city or district annexation plan covers this area. Therefore the boundary change is not inconsistent with any such plan.
3. Metro Code 3.09.045 (d) (1) (C) requires the County to find that the boundary change is consistent with any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party. The District is not a party to a cooperative agreement required by ORS 195. Therefore the Board concludes the proposal is consistent with this requirement.
4. The Metro Code at 3.09.045 (d) (1) (C) calls for consistency between the Board decision and any "expressly applicable provisions" contained in any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services. The City's Public Facility Plan calls for service to be ultimately provided by the City and the City allows for interim service to be provided by the District.
5. The Metro Code calls for consistency with expressly applicable provisions in any applicable comprehensive land use plans. ORS 198 requires consideration of the applicable comprehensive plan and any service agreements affecting the area. The Board has reviewed the City of Portland Comprehensive Plan and concludes this proposal complies with it. As noted in Finding 6, the City County Urban Planning Area Agreement calls for service by the City ultimately but does not preclude interim service by the District.
6. Metro Code 3.09.045 (d) (2) (A) requires consideration of whether the boundary change would "Promote the timely, orderly and economic provision of public facilities and services." The District already provides service to the site and to surrounding areas. The Board therefore concludes that annexation promotes the timely, orderly and economic provision of this service.
7. The Metro Code at 3.09.045 (d) (2) (B) calls for consideration of whether the boundary change will affect the quality and quantity of urban services. Given the size of the District, this one-lot annexation will have little or no impact on the District's ability to provide services.
8. The Board is to consider whether the boundary change would "Eliminate or avoid unnecessary duplication of facilities or services." The District which is the only entity with sewer lines in the area. Therefore the Board concludes this criterion is met.

LEGAL DESCRIPTION

Lots 5, 6, 11 and 12, Block 85, PALATINE HILL NO. 3, in the County of Multnomah and State of Oregon. Together with that portion of vacated SW Elysium Avenue which inured to Lots 11 and 12, Block 85, by Vacation Order 2875 of the Board of County Commissioners.

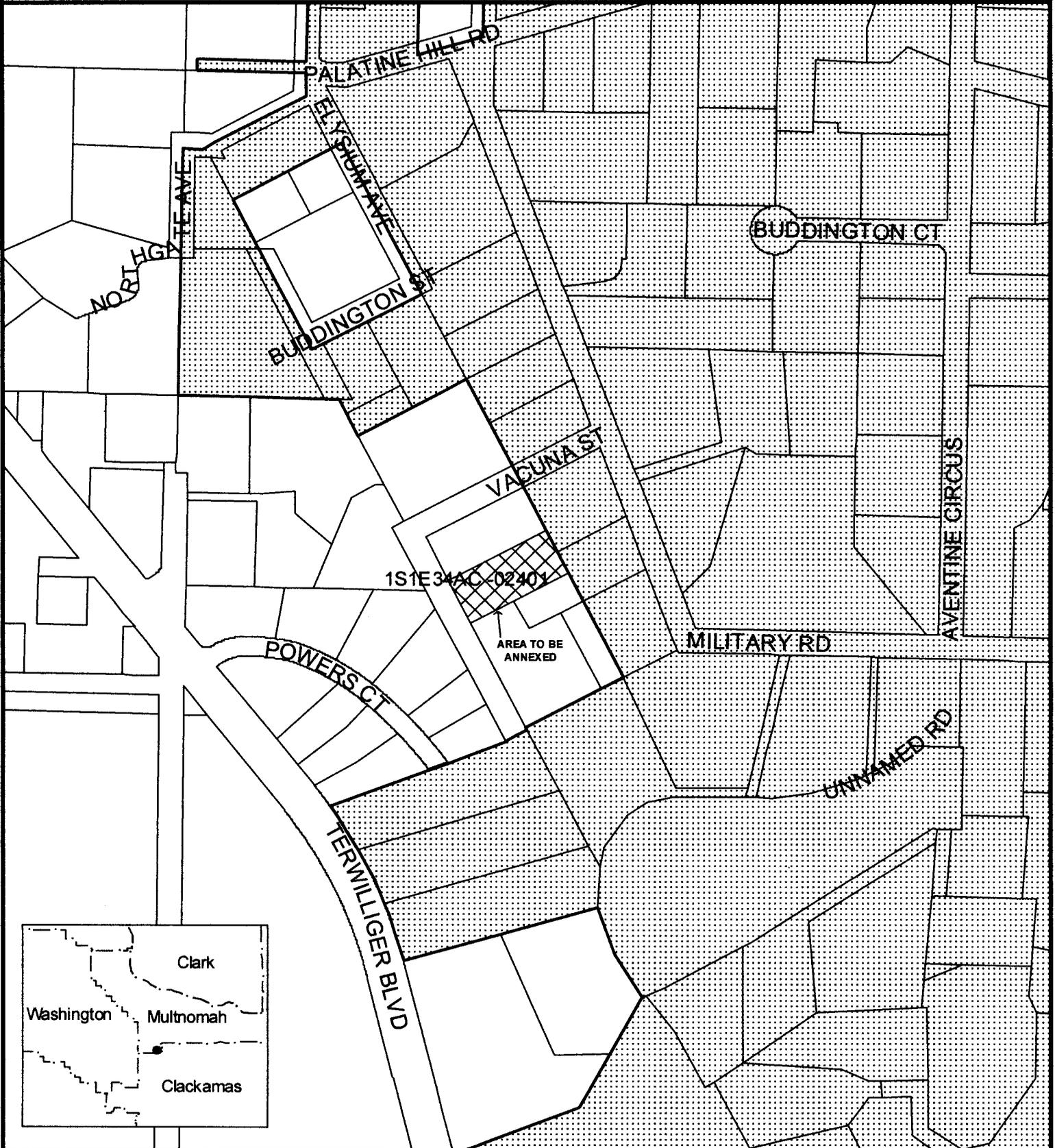
TOGETHER WITH an easement for ingress and egress as described in that certain instrument recorded August 5, 2005 as Fee No. 2005-146584.

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Dunthorpe-Riverdale Service District

Multnomah County



METRO

Data Resource Center
600 NE Grand Ave
Portland, OR 97232-2736
(503) 797-1742
<http://www.metro-region.org/drc>

- Dunthorpe-Riverdale Service District
- Areas to be annexed

MU0408

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