

TO: Board of County Commissioners

FROM: Ken Martin - Local Government Boundary Change Consultant

Date: August 9, 2010

RE: Boundary Change Proposal No. CL-1110, Annexation to Dunthorpe-Riverdale County Service District for Sewers Set For September 2, 2010 Hearing

1. Recommend./Action Requested: Approval
2. Background/Analysis: See Attached Staff Report
3. Financial Impact: None
4. Legal Issues: None
5. Controversial Issues: None
6. Link to Current County Policies: The relationship to the Lake Oswego Comprehensive Framework Plan is covered in the attached staff report.
7. Citizen Participation: Notice of this hearing invites testimony from any interested party. Notice consisted of: 1) Posting 3 notices near the territory and one notice by the County hearing room 20 days prior to the hearing; 2) Publishing notice twice in the Daily Journal of Commerce; 3) Mailed notice sent to affected local governments, all property owners within 100 feet of the area to be annexed.
8. Other Government Participation: The Dunthorpe-Riverdale County Service District is a county service district for sewers for which the Multnomah County Board serves as the board of Directors. The Board of the District will endorse the annexation prior to the hearing as it is required to do by statute.

PROPOSAL NO. CL-1110 - DUNTHORPE-RIVERDALE CSD - Annexation

Petitioners: Property Owner – Ron & Lynn Penner-Ash

Proposal No. CL-1110 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 198.855 (3) (double majority annexation law), ORS 198.750 (section of statute which specifies contents of petition) and Metro Code 3.09.040 (a) (lists Metro's minimum requirements for petition). If the Board approves the proposal the boundary change could become effective immediately.

The territory to be annexed is located on the south edge of the District, on the north edge of SW Iron Mountain Blvd. west of SW Edgecliff Road and east of SW Glen Road. The territory contains 1.07 acres, one single family dwelling, a population of 2 and is evaluated at \$1,336,570.

JURISDICTION

The property to be annexed lies within Clackamas County. According to State statute the Board of the County containing the largest proportion of the assessed value of the annexing district shall be the decision maker. The bulk of the assessed value of the Dunthorpe-Riverdale County Service District lies within Multnomah County.

REASON FOR ANNEXATION

The property owners desire sanitary sewer service to replace the existing septic system.

CRITERIA

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] 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.

LAND USE PLANNING

REGIONAL PLANNING

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

COUNTY PLANNING

The territory is zoned R-30 which allows single family dwellings on 30,000 square foot lots. The lot contains one single family dwelling and no additional development is proposed.

Urban Planning Area Agreements

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 an Urban Growth Management Agreement between Clackamas County and the City of Lake Oswego. 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 Lake Oswego and that this should be

accomplished through annexation to the City. However this territory is not currently contiguous to the City.

CITY PLANNING

The City of Lake Oswego has established an Urban Service Boundary which covers this area and identifies it as potential for an R-10 residential use. The City does not oppose annexation to the District since the property is not currently contiguous to the City and the property owner has signed a contract to eventually annex to the City. The City's position is based on [Lake Oswego] Comprehensive Plan Policy 22. The policy states:

22. *The City will support expansion of an existing service district's boundaries only if:*
- a) It can be shown that it is the only feasible way to provide a particular service. City services, rather than district services shall be provided when they are, or can be, made available and are adequate;*
 - b) The provision of service is consistent with the City's Public Facility Plan and Comprehensive Plan goals and policies;*
 - c) Annexation agreements are recorded for the property receiving service, to the extent permitted by law, that provides for non-remonstrance to annexation; and*
 - d) The service district can maintain an adequate level of service over both the short and long term.*

FACILITIES AND SERVICES

ORS 195 Agreements. This statute 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.

Sewers - 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 existing dwelling can be served from a District line which is in an easement on the north property line of the territory to be annexed.

Water. The territory receives water service from the Palatine Hill Water District.

Fire. 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.

Police. The site is served generally by Clackamas County.

Other services are provided generally by Clackamas County.

RECOMMENDATION.

Based on the study and the Proposed Findings and Reasons for Decision attached in Exhibit A, the staff recommends Proposal No. CL-1110 be ***approved.***