

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDER NO. 08-088

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

The Multnomah County Board of Commissioners Finds:

- a. A petition for annexation of real property was received pursuant to procedures set forth in ORS 198 and Metro Code 3.09.
- b. A staff report which addressed factors mandated in the Metro Code and ORS 198 was presented to the Board 15 days prior to the hearing as required by the Metro Code;"
- c. The Board of the District made certain Findings and Conclusions in the attached Exhibit A with respect to annexation of the real property described in the attached Exhibit B.
- d. The annexation was endorsed by the Board of the District as required by ORS 198.857, (1), subject to certain terms and conditions as provided in the District's "Endorsement Memorandum" attached as Exhibit C.
- e. A public hearing was held before the Board of County Commissioners on June 12, 2008 [Continued from May 15, 2008] to determine whether the boundary change was appropriate as required by ORS 198 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. CL-0508 is approved, subject to the Petitioner's compliance with the conditions set forth in the District's Endorsement Memorandum, Exhibit C, and the timeline set forth therein.

2. Provided the Petitioner complies with the District's conditions and the required timeline as set forth in No. 1; the territory described in Exhibit B and depicted on the attached map, is annexed to Dunthorpe-Riverdale County Service District.
3. The staff is directed to file this document with the required parties.

ADOPTED this 12th day of June, 2008.

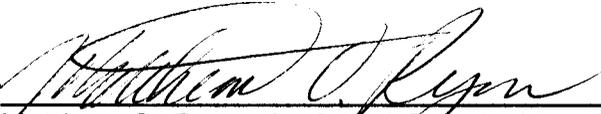


BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY:
Chair Ted Wheeler

FINDINGS AND REASONS FOR DECISION

Based on the staff report and the public hearing, the Commission found that:

1. The territory to be annexed contains 0.77 acres, one single family dwelling, a population of 1 and is evaluated at \$983,038.
2. 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.
3. The property owner desires sanitary sewer service to replace a failed septic system.
4. 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.

5. This territory is inside of Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).
6. The territory is zoned R-30 which allows single family dwellings on 30,000 square foot lots. Since the lot contains one single family dwelling on 33,540 square feet, it is fully developed under the current zoning.
7. 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.

8. 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.*
- a. Oregon Revised Statute 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.
 - b. 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 is connected to the District's line in Iron Mountain Blvd. via a 2-inch pressure line and pump. This was installed three years ago but the property owner did not complete the required annexation to the District at that time.

- c. The territory receives water service from the Palatine Hill Water District.
- d. 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.
- e. Other services are provided generally by Clackamas County.

CONCLUSIONS AND REASONS FOR DECISION

Based on findings, the 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 Lake Oswego Comprehensive Plan and specifically Policy 22 and concludes this proposal complies with it. As noted in Finding 8, the Plan allows annexation to the District because the District has service available and the property owner has agreed to eventual annexation to the City.
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.” Annexation legitimizes service provision by the District which is the only entity with sewer lines in the area. Therefore the Board concludes this criterion is met.

EXHIBIT B

LEGAL DESCRIPTION

A tract of land situated in the Northeast one-quarter of Section 3, Township 2 South, Range 1 East, of the Willamette Meridian, County of Clackamas, State of Oregon, more particularly described as follows.

Beginning at an iron pipe set in the Northerly point of a 20.00 foot radius curve in the Southwesterly right-of-way line of Iron Mountain Boulevard, said iron pipe bears South 60° 15' West and is 30.30 feet distant from the most Southerly corner of Lot 2 in Block 132, said point being in the center line of said Iron Mountain Boulevard, all in the subdivision of Dunthorpe; thence Northwesterly along the said Southwesterly line of Iron Mountain Boulevard on a curve to the right having a radius of 1500.00 feet a distance of 222.00 feet to an iron pipe; thence South 57° 08' West 120.00 feet to an iron pipe; thence South 32° 52' East 271.50 feet to an iron pipe set in the Southwesterly line of Glen Road in said Dunthorpe; thence North 44° 03' East 128.00 feet along said Glen Road to an iron pipe set at the beginning of a curve; thence along said curve to the left having a radius of 20.00 feet a distance of 29.94 feet to the point of beginning.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.830. The said property is free from encumbrances except: COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, SET BACK LINES, POWERS OF SPECIAL DISTRICTS, AND EASEMENTS OF RECORD, IF ANY.

ENDORSEMENT MEMORANDUM

TO: Multnomah County Board of Commissioners

FROM: Dunthorpe-Riverdale Sewer District

RE: Boundary Change Proposal No. CL-0508, Annexation to Dunthorpe-Riverdale County Service District for Sewers Set For June 12, 2008 Hearing [**Continued from May 15, 2008**]

The District supports the ultimate annexation of the subject property into the District. However, the District must demand that the Petitioner, Ms. Pinda-Allen, comply with three necessary conditions. The conditions are as follows:

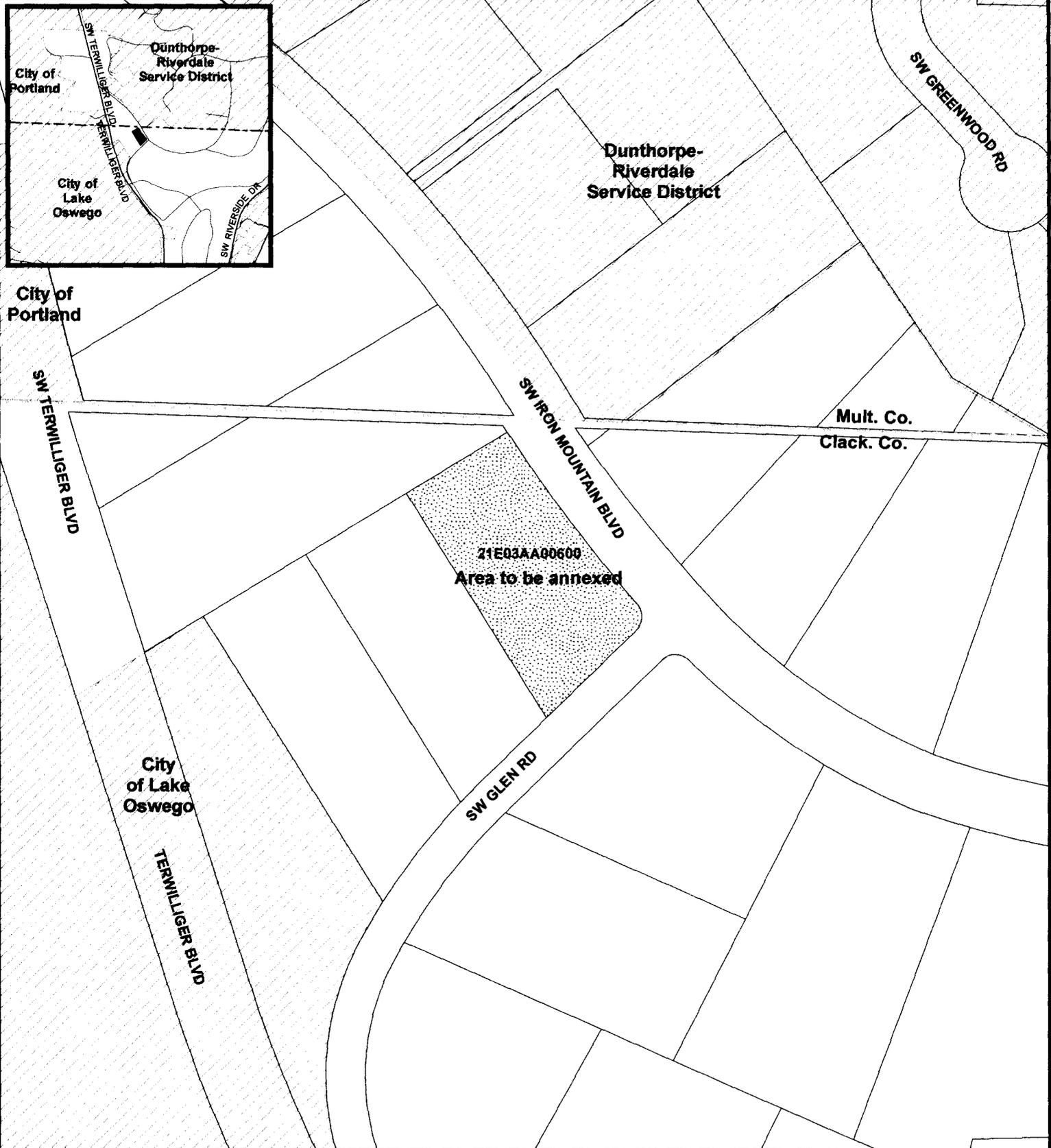
1. Petitioner agrees to cooperate fully with Clackamas County and obtain all required inspections, permits, review, etc., for the sewer line(s) laid from her Iron Mountain Blvd. property to the District manhole, and pay all fees and charges associated with these tasks to establish a Clackamas County approved right-of-way sewer line;
2. Petitioner agrees to cooperate fully with the City of Portland; comply with the City's code, regulations and rules; obtain all required inspections, permits, reviews etc.; and pay all fees and charges associated with these tasks to have an approved City of Portland private sewer line connection to the District's manhole in Iron Mountain Blvd.
3. Petitioner agrees to pay the District \$5008.00, which includes the District's permit fee, line connection charge and assessments for the period of the connection to the District's system prior to annexation.

Conclusion:

The District endorses the annexation of Petitioner Pinda-Allen's property into the District provided the Petitioner complies with the conditions by June 30, 2008.

Proposal No. CL0508

2s1e03 Annexation to Dunthorpe-Riverdale County Service District Clackamas Co.



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

-  County boundary
-  Area to be annexed
-  Current sewer district boundaries

Figure 1

1:1,600

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 P.O. Box 29079
 Portland, OR 97296-9079
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