

STAFF REPORT

Report date: August 9, 2022

Application/project name: ANX2022-0001 9650 SW 166 Avenue

Application Numbers: ANX2022-0001

Proposal: An Ordinance Annexing One Tax Lot at 9650 SW 166th Avenue and the Adjacent Right of Way along SW 166th Avenue; Withdrawing the Properties and Adjacent Right of Way from the Tualatin Valley Water District, Washington County Enhanced Sheriff's Patrol District, Washington County Service District for Lighting, and Washington County Urban Road Maintenance District; and Adding the Properties and Adjacent Right of Way to the Sexton Mountain Neighborhood Association Committee.

Proposal location: 9650 SW 166th Avenue. Tax lot 2000 of Washington County Tax Assessor's Map 1S130DD.

Petitioner: Lorna Rush and Duane Smith

Applicant: City of Beaverton

Recommendation: APPROVAL of ANX2022-0001 9650 SW 166th Avenue

Contact information:

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Property owner: Lorna Rush and Duane Smith
9650 SW 166th Avenue
Beaverton OR, 97007



Existing conditions

Zoning: Washington County R-6

Site conditions: Existing uses on site include a single-detached residence with accessory structures common to a single-family residence and existing right of way.

Site Size: 0.4 acres

Location: 9650 SW 166th Avenue and adjacent right of way.

Neighborhood Association Committee: Sexton Mountain

Table 1: Surrounding uses

Direction	Zoning	Uses
North	Residential	Single-Family Residence
South	Residential	Vacant
East:	Residential	Single-Family Residence
West:	Residential	Single-Family Residence

Application information

Table 2: Application summaries

Application	Application type	Proposal summary	Approval criteria location
ANX2022-0001	Annexation	Annexation to the City of Beaverton one parcel of land and adjacent Right of Way.	Metro Code 3.09.045

Table 3: Key Application Dates

Application	Petition Date	Deemed Complete	120-Day	365-Day*
ANX2022-0001	January 18, 2022	N/A	N/A	N/A

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Annexation Background and Summary

On January 11, 2022, the owner's representative submitted a petition for annexation. The annexation boundary includes a parcel owned by the petitioner and adjacent right of way on SW 166th Avenue. The annexation area is in unincorporated Washington County. The parcel is developed with a single-detached residence with multiple accessory structures. The surrounding area contains primarily single-detached homes and natural areas.

The right of way to be annexed is adjacent to the parcel. The Washington County-Beaverton Urban Planning Area Agreement (UPAA) provides consent to annex "unincorporated properties, including County roads, within Annexation Area A" as shown in Exhibit B of the agreement, that are not a County road designated as County long-term jurisdiction in the County's Transportation System Plan. This section of County right of way is within Annexation Area A in the UPAA and is not a County road designated as County long-term jurisdiction in the County's Transportation System Plan. Under ORS 222.125 and Metro Code 3.09.045, consent to annex on the part of the landowners allows this proposal to be processed as an expedited annexation.

Analysis and Findings for Annexation Approval

Recommendation: Based on the facts and findings presented below, staff recommends the City Council approve **ANX2022-0001**.

Metro Code Section 3.09.045 Expedited Decisions:

Section 3.09.045 Approval Criteria:

Section 3.09.045 of the Metro Code specifies that to approve an Annexation application, the decision-making authority shall make findings of fact that all criteria specified in Section 30.09.045.A-E are satisfied. The following findings apply to the City's proposed annexation of one parcel of land and adjacent right of way.

Section 3.09.045.A

The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

FINDING:

The proposal is to annex 9650 SW 166th Avenue, specifically identified as Tax Lot 02000 on Washington County Tax Assessor's Map 1S130DD. The City of Beaverton received a Petition for a Consent Annexation that was signed by one hundred percent of the property owners and 100 percent of the electors. There are no additional electors that reside at the property besides the petitioners. The City may thus use the expedited decision process for a minor boundary change.

Conclusion: Therefore, staff finds that the proposal satisfies Section 3.09.045.A.

Section 3.09.045.B

The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objections to the boundary change.

FINDING:

Metro Code Section 3.09.020.J defines necessary party as "any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the

affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 195.003, that is party to any agreement for provision of an urban service to the affected territory.” On July 27, 2022, 20 days prior to the date set for the first reading of the annexation ordinance (August 16, 2022), staff mailed notice of the proposal to the necessary parties. The notice stated that the petition is subject to the expedited process unless a necessary party gives written notice of its objections to the boundary change.

Conclusion: Therefore, staff finds that the proposal satisfies Section 3.09.045.B

Section 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 an extraterritorial extension of service;

FINDING:

This staff report was posted on the City’s website no later than August 9, 2022, which is seven days prior to the first reading of the annexation ordinance at the August 16, 2022, City Council meeting and 28 days before the public hearing on September 6, 2022.

Critical and essential urban services are already provided to the subject parcel by Washington County and area special service districts. Annexation of the property will mean transfer of some services. The proposed annexation does not entail extraterritorial extensions of city services. More information on each urban service is provided below:

Public Water: The subject parcel is within the Tualatin Valley Water District (TVWD) and is served by TVWD. The property will be withdrawn from Tualatin Valley Water District service area to preserve the city’s ability to serve the lot in the future. The subject property will continue to be served by the Tualatin Valley Water District through a wheeling agreement until the City has infrastructure in place to serve the property.

Public Sanitary Sewer: The subject property will be provided Sanitary Sewer Service by the City of Beaverton upon annexation, utilizing the current infrastructure (8-inch sanitary sewer main) within SW 166th Avenue.

Stormwater Drainage: The City of Beaverton will provide stormwater drainage to the parcel upon annexation. The parcel will be served by an existing 12-inch storm gravity main located within SW 166th Avenue, approximately 88 feet southwest of the parcel.

Transportation: The subject parcel is an interior lot with a single-family dwelling to the north and a vacant lot to the south. In addition to the right of way fronting the property, the city will annex additional right of way on 166th Avenue. The additional right of way is

located north of the of the parcel and will terminate at SW Emeraldview Street, which is already within the city's jurisdiction. Staff refers to Exhibit 1.1 (Vicinity Map) of the staff report for the boundaries of the proposed annexation. The city will be responsible for maintenance of the segments of SW 166th Avenue identified in Exhibit 1.1 when the annexation occurs. The property will continue to be served by the existing transportation network via SW Diamond View Way, SW Nora Road, and SW Kemmer Road.

Fire: Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to the property. TVF&R is designated as the long-term service provider to this area and will continue to serve the subject property after annexation.

Schools and Parks: The proposed annexation is within the Beaverton School District. Because the proposed action does not propose new residential use of the property, school enrollment will not be affected by the proposed annexation and no additional service demands will be imposed upon the school district. Potential impacts affecting enrollment would occur if the property were redeveloped in the future. After annexation, school district boundaries will remain unaffected. The site isn't in the Tualatin Hills Park and Recreation District (THPRD), the recreation district which serves the City of Beaverton. Annexation of the property into THPRD's service boundary will occur through a separate process. The property will continue to be served by parks in Washington County's jurisdiction.

Police Protection: The property to be annexed receives police protection from the Washington County Enhanced Sheriff's Patrol District (ESPD). The property will be withdrawn from the ESPD, and the City of Beaverton 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 a mutual aid agreement.

Planning, Zoning, and Building: Washington County currently provides long-range planning, development review, and building inspection services to the property. Once the annexation becomes effective, the City will conduct all planning and zoning functions associated with the property. The Beaverton land use and zoning district designations will be applied to the 9650 SW 166th Avenue parcel after annexation by the City of Beaverton pursuant to City of Beaverton Comprehensive Plan procedures and Development Code rules. Those land use and zoning changes will be completed through a separate but concurrent process.

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

FINDING:

As part of this annexation proposal, the property will be withdrawn from the Washington County Enhanced Sheriff's Patrol, Tualatin Valley Water District and Urban Road Maintenance Districts. The proposed annexation will not require withdrawal of territory

from any other service districts identified as necessary parties, including Clean Water Services and Tualatin Valley Fire & Rescue.

3. The proposed effective date of the boundary change.

FINDING

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 of Beaverton's annexation process and City Charter require that the proposed ordinance receive an announcement of a public hearing (first reading) and a public hearing, with the first reading taking place a minimum of one week prior to the second reading. Additionally, Article 6.6 of the City's Charter specifies that city ordinances shall take effect 30 days after their adoption by the Council.

The properties shown in Exhibit 1.1 (Vicinity Map), are 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 30 days from the date of the annexation ordinance's adoption, whichever is later.

Conclusion: Therefore, staff finds that the proposal satisfies Section 3.09.045.C

Section 3.09.045.D

To approve a boundary change through an expedited process, the city shall:

1. Find that the change is consistent with the expressly applicable provisions in:
 - a. Any applicable urban service agreement adopted pursuant to ORS 195.065

FINDING:

Cooperative, urban service, and/or intergovernmental agreements affecting provision of service to the subject property have been established with all critical and essential special district service providers. This includes Clean Water Services; Tualatin Valley Fire & Rescue District and Tualatin Valley Water District.

No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation. This action is consistent with existing agreements.

- b. Any applicable annexation plan adopted pursuant to ORS 195.205

FINDING:

The City has not submitted or received voter approval for an annexation plan related to this annexation, so this criterion is not applicable.

- c. Any applicable cooperative planning agreement adopted pursuant to ORS195.020(2) between the affected entity and a necessary party:

FINDING:

As noted in the findings above, the City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire & Rescue 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 because annexations do not trigger an immediate change in service provision from the special districts, as necessary parties, the subject districts have been notified of this proposed annexation.

- d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

FINDING:

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 that exist in the city: stormwater 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 or special district plans applicable to the proposed annexation.

- e. Any applicable comprehensive plan;

FINDING

Staff reviewed both City and County comprehensive plan documents and found three applicable plans, described below.

City of Beaverton Comprehensive Plan: There is one policy in the City's Comprehensive Plan that is relevant to annexations. Policy 5.3.1.d states that "the City shall seek to eventually incorporate its entire Urban Service Area." The subject property is within the Assumed Urban Services Area, which is Figure V-1 of the Comprehensive

Plan. The annexation proposal is therefore consistent with the City's Comprehensive Plan.

Aloha-Reedville-Cooper Mountain Community Plan: The subject site is within the boundaries of Washington County's Aloha-Reedville-Cooper Mountain Community Plan, which is one of a number of planning elements that together comprise the Washington County Comprehensive Plan. Staff reviewed this plan and did not find any policies relevant to the proposed annexation.

Washington County Comprehensive Framework Plan for the Urban Area: There are two policies in Washington County's Comprehensive Framework Plan for the Urban Area that are relevant to annexations. The relevant policies are:

Policy 3, Intergovernmental Coordination: It is the policy of Washington County to effectively coordinate its planning and development efforts with federal, state, and other local governments and special districts to ensure that the various programs and activities undertaken by these bodies are consistent with the County Comprehensive Plan; and

Policy 15, Roles and Responsibilities for Serving Growth: 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.

Subsequent to annexation, the City of Beaverton will apply its comprehensive plan and zoning district designations to the subject property. Selection of the appropriate designations will be dictated by the City of Beaverton pursuant to City of Beaverton Comprehensive Plan procedures and Development Code rules, which are consistent with the Urban Planning Area Agreement with Washington County. Service provision findings were provided above with findings responding to Metro Code 3.09.045.C.

- f. Any applicable concept plan; and

FINDING:

Aloha-Reedville-Cooper Mountain Community Plan: The subject site is within the boundaries of Washington County's Aloha-Reedville-Cooper Mountain community Plan, which is one of a number of planning elements that together comprise the Washington County Comprehensive Plan. This Community Plan shows that the subject site does not contain any Significant Natural or Cultural Resources, and it is not located in any Areas of Special Concern. Accordingly, the proposed annexation will remain consistent with this Community Plan.

2. Consider whether the boundary change would:
 - a. Promote the timely, orderly, and economic provision of public facilities and services;

FINDING:

Changes that affect public facility and service provision to individual properties are generally subject to agreements between the City of Beaverton, Washington County, and special districts. These agreements are adopted and periodically updated to 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.

- b. Affect the quality and quantity of urban services; and

FINDING:

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 to or greater than what is provided in unincorporated areas. Annexation to the City of Beaverton will therefore retain or enhance the quality and quantity of urban services for the annexed area.

- c. Eliminate or avoid unnecessary duplication of facilities or services.

FINDING:

This staff report identifies which agency will be responsible for the provision of urban services in this area. The City and service providers have agreements that specify which agency provides services and these agreements therefore fulfill the role of eliminating duplication.

Conclusion: Therefore, staff finds that the proposal satisfies Section 3.09.045.D

Section 3.09.045.E

A City may not annex territory that lies outside the UGB, except it may annex a lot parcel that lies partially within and partially outside the UGB.

FINDING:

The territory proposed to be annexed into the City of Beaverton lies wholly within the UGB.

Conclusion: Therefore, staff finds that the proposal satisfies Section 3.09.045.E

CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, staff concludes that the proposed owner-initiated annexation meets all pertinent criteria outlined in Metro Code Section 3.09.045 for an expedited annexation.

Therefore, staff recommends that City Council adopt an ordinance annexing one parcel of land and adjacent right of way; withdrawing the property from the Washington County Enhanced Sheriff's Patrol District, the Washington County Service District for Lighting, the Washington County Urban Road Maintenance District and Tualatin Valley Water District; and adding the property to the West Beaverton Neighborhood Association Committee, effective as of the date the ordinance is filed with the Secretary of State as specified by ORS 222.180 or 30 days from the date the ordinance is signed, whichever is later.

Exhibits

1.1 Vicinity Map

