



**Staff Report**  
**Kemmer Summit Annexation**  
**City Council**

<b>1<sup>st</sup> Reading:</b> .....	<b>February 5, 2019</b>
<b>2<sup>nd</sup> Reading:</b> .....	<b>February 12, 2019</b>
<b>Date of Report:</b> .....	<b>January 29, 2019</b>

**Application No.** ANX2018-0003

**Request/Summary:** Expedited annexation of an area of land recently subdivided from three parcels into 20 parcels and three conservation tracts to the City of Beaverton. Also amendment of the Sexton Mountain Neighborhood Association Committee Boundary to include the area proposed for annexation. The proposal also includes withdrawal of the property from Tualatin Valley Water District, Washington County's Urban Road Maintenance District, and Washington County's Enhanced Sheriff's Patrol District.

**Location:** An area southwest of the city's corporate boundary near the intersection of SW Weir Rd. and SW 170<sup>th</sup> Ave.

**Owners/Applicants:** Graham Colton and Nancy Satterberg

**Total Area:** Approximately 4.36 acres

**Taxable Assessed Value:** \$1,721,050

**Review Criteria:** Metro Code Chapter 3.09.045

**Staff Reviewer:** Jeff Salvon, AICP

**RECOMMENDATION:** Staff recommends the City Council adopt an ordinance annexing the referenced properties 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; withdrawing the property from the Tualatin Valley Water District, the Washington County Urban Road Maintenance District

and the Enhanced Sheriff's Patrol District; and adding the annexed area to the Sexton Mountain Neighborhood Association Committee.

## **BACKGROUND**

The subject properties are in unincorporated Washington County. The property owners are working with a development consultant to subdivide the property into a 20-lot residential subdivision. Development of the resulting subdivision will require access to a city-maintained stormwater conveyance facility.

The stormwater facility consists of a 12-inch pipe within the SW 170<sup>th</sup> Avenue right of way just east of the property. In predevelopment planning for the area, the project development team determined that development of property was contingent upon access to this city line. In late 2017, the development team approached the city with a request that the project be provided access to this line. City policy requires that lands in unincorporated Washington County requiring city services annex into Beaverton so the city can recover costs associated with that service.

After the property is annexed into Beaverton, the city will provide a variety of additional services to the property including street maintenance, sewer maintenance, police, urban planning, and development review. Under ORS 222.125 and Metro Code 3.09.045, consent to annex on the part of the landowner allows this proposal to be processed as an expedited annexation. Under this state law, annexations that are owner initiated do not require a public hearing.

As part of this proposal and pursuant to an intergovernmental agreement between the City of Beaverton and TVWD, the city is also proposing to withdraw this property from TVWD as part of the city's water services transfer program and as part of a larger service territory withdrawal process.



**Criterion:** **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;**

**Response:** The proposal involves annexation of a new 20-lot subdivision with an additional three conservation tracts on 4.36 acres. Annexation is required because subdivision of the property will require drainage of stormwater runoff into a city-maintained stormwater line. A city-maintained 12-inch line is available in the SW 170<sup>th</sup> Avenue right of way.

Other essential and critical urban services are already provided to the parcel by the county and area special service districts. Annexation of the property will mean a transfer of services in some cases. A detailed explanation as to how these services will be addressed is provided below. The proposed annexation does not entail extra-territorial extensions of city services.

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 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.

Fire:

Tualatin Valley Fire & Rescue (TVF&R) provides fire, rescue and emergency medical service to the property. TVF&R is designated as the long-term service provider to this area.

Sanitary Sewer:

The subject property is currently served by Clean Water Services (CWS). Subdivision of the property will require that the future homes access two CWS 8-inch sanitary sewer lines. The first is within the SW 171<sup>st</sup> Avenue right of way and the second is in the SW 172<sup>nd</sup> Avenue right of way. Both lines are north of the properties proposed for annexation. Subsequent to annexation, these lines will continue to be serviced and maintained by CWS.

Water:

The area proposed for annexation is within the Tualatin Valley Water District service area and is served by the District. Pipes capable of serving the property are available within the SW Crest Street right of way. Pursuant to an agreement with the Tualatin Valley Water District, and city's water services transfer program, the City of Beaverton will assume responsibility for potable water service to the subject area subsequent to annexation.

Stormwater Drainage:

A 12-inch stormwater pipe is east of the property within the SW 170<sup>th</sup> Avenue right of way. Access to that line was granted to the property owner in 2018 on the condition that the property owner enter into an annexation agreement with the city. This agreement allowed the developer to plat and record the subdivision on the condition that the property annex into the city. Subsequent to annexation, the City of Beaverton will assume maintenance of all public lines within the subdivision.

Streets and Roads:

Subdivision of the area includes the creation of two new local streets: SW 172<sup>nd</sup> Avenue and SW Ridge Drive. These street segments are about 750 linear feet of new right of way and will provide access to the subject property via the Kemmer Ridge subdivision to the north and west of the subject property. Subsequent to annexation, the area will be withdrawn from the Washington County Urban Road Maintenance District and the City of Beaverton will assume maintenance responsibility for those segments within the subdivision.

Schools and Parks:

The proposed annexation is within the Beaverton School District (BSD). Because the proposed action does not include construction of new units on the property, school enrollment will not be immediately affected. Therefore, no additional service demands will be imposed upon the school district. The subject property is also within the Tualatin Hills Park & Recreation District. Subsequent to annexation, school district and park district boundaries will remain unaffected.

Planning, Zoning, and Building:

Washington County currently provides long-range planning, development review and building inspection for the property. Once the annexation becomes effective, the city will conduct all planning and zoning functions related to the property. A decision as to which Beaverton land-use designations and zones will be applied after annexation will be determined consistent with the City of Beaverton – Washington County Urban Planning Area Agreement (UPAA). Those land use and zoning changes will be completed through a separate process.

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

**Response:** As part of this annexation proposal, the City of Beaverton is proposing that the area be withdrawn from Tualatin Valley Water District's service territory so the city can assume the role of primary water service provider for the property over time. This action is being proposed pursuant to an agreement that the city has with TVWD to take over water service for specific areas throughout of city. The property is also proposed to be withdrawn from Washington County's Enhanced Sheriff's Patrol District and Urban Road Maintenance District so services provided through these districts can be transferred to the city.

The proposed annexation will not require withdrawal of territory from any other service districts identified as necessary parties. Necessary parties include Clean Water Services, Tualatin Valley Fire and Rescue, and Tualatin Hills Park & Recreation District.

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

**Response:** 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 30 days after their adoption by the Council and approval of the mayor.

The language featured within the ordinance is:

The property shown on Exhibit B of the ordinance, and described in Exhibit A, 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 30 days from the date of adoption, whichever is later.

**FINDING:** *Staff has addressed the elements contained in Metro Code Section 3.09.045 (C) above. Additionally, this staff report will be made available to the public on or before January 29, 2019, at least seven days prior to the date of decision. Therefore, staff finds that the proposal satisfies Metro Code Section 3.09.045 (C).*

**Criteria:** **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;**

**Response:** With the exception of area special district water providers Raleigh Water District and West Slope Water District, cooperative, urban service and/or intergovernmental agreements affecting provision of service to the subject property have been established with all critical and essential special service providers including Clean Water Services, Tualatin Valley Fire and Rescue District, and Tualatin Hills Park & Recreation District.

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

**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).*

**Criteria:**     ***(b) Any applicable annexation plan adopted pursuant to ORS 195.205;***

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

**FINDING:** *Because 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.*

**Criteria:**     ***(c) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party:***

**Response:** As noted in the previous section of this report, the city has entered into ORS Chapter 195 cooperative agreements with Washington County; Tualatin Valley Fire & Rescue District; Tualatin Valley Water District, Tualatin Hills Park & Recreation District. These agreements call for coordination of planning activities between each service district and the city, although it should be noted that annexations are not subject to coordination under the agreement language because annexation does not trigger an immediate change in service provision from the special districts. However, as necessary parties, the subject districts have been notified of this proposed annexation.

**FINDING:** *Staff finds that 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)(c).*

**Criteria:**     ***(d) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;***

**Response:** 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 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 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).*

**Criteria:**     **(e) Any applicable comprehensive plan:**

**Response:** 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 website (reflecting changes through county ordinance No. 844) that will amend 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 that 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.*

Subsequent to annexation, the City of Beaverton will apply its plan and zone designations to the parcel. 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.

**FINDING:** Staff finds that the proposed annexation is consistent with applicable provisions contained in the City of Beaverton's Comprehensive Plan and Washington County's Framework Plan. The proposed amendment therefore satisfies Metro Code Criterion 3.09.045 (D)(1)(e).

**Criteria:** (f) Any applicable Concept plan;

**Response:** No concept plan applies to this area, so this criterion is not applicable.

**FINDING:** Staff finds that Metro Code Criterion 3.09.045 (d)(1)(f) is not applicable to this proposal.

**Criteria:** (2) Consider whether the boundary change would:

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

**Response:** 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 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.

**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).*

**Criteria:**       **(b) Affect the quality and quantity of urban services;**

**Response:** Responsibilities pertaining to the provision of public facilities and services will either remain unchanged or transfer to the city and its primary parks provider. In general, because cities and their special service district partners provide services on an urban scale, they can provide services at a level equal to or higher than what is 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 to or higher than what was previously received.

Annexation to the City of Beaverton will therefore retain or enhance the quality and quantity of urban services for the annexed area. In addition, annexation will make possible stormwater conveyance needed to support planned development of the property.

**FINDING:** *The proposed annexation will generally retain or enhance the quality and quantity of urban service. Criterion 3.09.045(D)(2)(b) has been met.*

**Criteria:**       **(c) Eliminate or avoid unnecessary duplication of facilities or services.**

**Response:** This staff report identifies which agency will be responsible for the providing of urban services in this area. The city and service providers have agreements that specify which agency provides services. These agreements therefore fulfill the role of eliminating duplication.

**FINDING:** *As the proposed annexation is subject to the terms of agreements among the city and other governments and 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 January 15, 2019, (at least 20 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 was posted in City Hall, in the city library, and on the city's website on January 15, 2019, (at least 20 days prior to the City Council's first reading of the ordinance that would approve the annexation).
- This staff report was posted on the City's website on January 29, 2019, (at least 20 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 for the Kemmer Summit Subdivision, meets all pertinent criteria outlined in Metro Section 3.09.045.***

Attachments:

A: Legal description

B: Recently recorded 20-lot plat map