

CITY OF SHERWOOD

ORDINANCE NO. 2003-1146

AN ORDINANCE APPROVING OF ANNEXATION PROPOSAL AN-01-03 SUBJECT TO APPROVAL AT ELECTION, PROVIDING FOR A CITY ELECTION TO BE HELD IN THE CITY OF SHERWOOD, OREGON, MAY 20, 2003, FOR THE PURPOSE OF SUBMITTING TO THE LEGAL VOTERS OF THE CITY OF SHERWOOD THE QUESTION OF APPROVING ANNEXATION PROPOSAL AN 01-03 PURSUANT TO CITY CHARTER

WHEREAS, there has been submitted a consent petition of property owners and by registered voters meeting the requirements for initiation of annexation to the City set forth in ORS 222.170(2) and Metro Code Section 3.09.050(a); and

WHEREAS, after due and legal notices, a public hearing was held on the proposal for annexation by the City Council on March 11, 2003, at which public hearing comment and testimony was received, heard and considered; and

WHEREAS, the property proposed for annexation contains 11.78 acres being Tax Lot 1700 and part of Tax Lot 1600, Washington County Assessor's Map No. 2S129B, is legally described on Exhibit A attached hereto, and maps showing said parcels are included in the staff report attached as Exhibit B; and

WHEREAS, the Council has received, reviewed and considered the staff report dated February 21, 2003 prepared by Ken Martin and proposed findings and reasons for decision attached as Exhibit A to the staff report; and

WHEREAS, the City Charter requires voter approval of annexation to the City of Sherwood, and it appears the matter should be submitted to the voters at the May 20, 2003 special election, provided applicant pays the annexation fees and costs for said special election.

NOW, THEREFORE, THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds that the annexation proposal, AN-01-03, should be approved and the property described in Exhibit A should be and is hereby approved, subject to obtaining approval of the voters at election. In so finding, the City Council having considered the record herein, hereby approves and adopts the "Findings and Reasons for Decision" submitted in Exhibit A of the staff report attached to this Ordinance as Exhibit B.

Section 2. It is necessary and required by the Sherwood City Charter that there be submitted to the legal voters of the City of Sherwood at the May 20, 2003 election date, the proposition hereinafter set forth for annexation, for which purpose an election is called on said date.

Section 3. There shall be submitted to the voters of the City of Sherwood for their approval or rejection, the following measure for which following ballot title is prescribed:

Measure No. _____

Caption

PROPOSAL TO ANNEX TO CITY
PARCEL CONSISTING OF 11.78 ACRES

Question

"SHALL LOT 1700 AND PART OF 1600, ASSESSOR'S MAP NO. 2S129B,
BE INCLUDED WITHIN CITY OF SHERWOOD CORPORATE BOUNDARY?"

YES ()

NO ()

Summary

Approval of this ballot measure would allow annexation of an approximately 11.78 acre parcel of land (known as Tax Lot 1700 and part of Tax Lot 1600, Assessor's Map 2S129B) to within the corporate boundaries of the City of Sherwood. The petitioner for this annexation is the property owner, Portland General Electric Co. The City Council has approved the petition to annex, but pursuant to City Charter, the annexation must be submitted to the voters of the City. A legal description for the parcel and maps of the parcel are on file at the Sherwood City Hall, as well as the application, staff report, and council findings for public inspection.

Section 4. In addition to such notice as the County Elections Officer shall give, the Recorder shall give notice of the election in the manner required by §8.3 of the City Charter. The form of the notice shall be substantially as follows:

Notice of Election on Annexation Proposal
to the City of Sherwood

Notice is hereby given that pursuant to Ordinance No. 2003-1146 enacted by the City Council on March 11, 2003, there will be submitted to the qualified voters of the City of Sherwood for their approval or rejection at the election to be held May 20, 2003, the following proposition:

Measure No. _____

Caption

PROPOSAL TO ANNEX TO CITY
PARCEL CONSISTING OF 11.78 ACRES

Question

"SHALL LOT 1700 AND PART OF 1600, ASSESSOR'S MAP NO. 2S129B
BE INCLUDED WITHIN CITY OF SHERWOOD CORPORATE BOUNDARY?"

YES ()
NO ()

Summary

Approval of this ballot measure would allow annexation of an approximately 11.78 acre parcel of land (known as Tax Lot 1700 and part of 1600 Assessor's Map 2S129B) to within the corporate boundaries of the City of Sherwood. The petitioner for this annexation is the property owner, Portland General Electric. The City Council has approved the petition to annex, but pursuant to City Charter, the annexation must be submitted to the voters of the City. A legal description for the parcel is on file at the Sherwood City Hall, as well as the application, staff report, and council findings for public inspection.

Location of Property

Plat maps showing the location of the lot proposed for annexation are attached to this notice. The territory to be annexed is located generally on the north edge of the City, on the east side of southwest Pacific Highway north of its intersection with Tualatin Sherwood Road. It contains 11.78 acres and is vacant.

Balloting

This election will be by mail, conducted as determined by the County Elections Officer, in accordance with voting by mail procedure prescribed by Oregon law, using the mails and ballot drop sites designated by the County Elections Officer.

Dated this _____ day of _____, 2003.

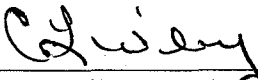
Chris Wiley, City Recorder
City of Sherwood

Section 5. The City Recorder be and she is hereby authorized and directed to cause the County Elections Officer to have prepared ballots in due and legal form as herein prescribed and to take any and all other and further actions necessary to conduct the election in accordance with the laws regulation and governing elections.

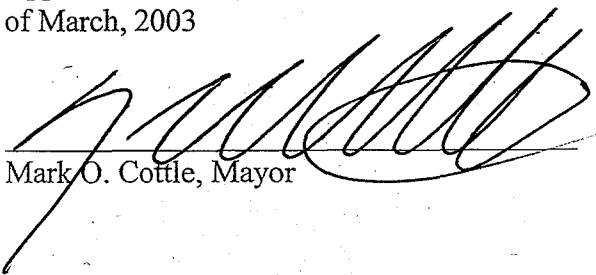
Section 6. Pursuant to ORS 222.520 and 222.120(5), the City Council declares that upon approval of the annexation by the voters and the annexation becoming effective, the territory so annexed to the City shall be thereupon withdrawn from the Washington County Urban Road Maintenance District, the Washington County Enhanced Sheriff's Patrol District, and the Washington County Service District for Vector Control, to the extent said territory may be within said Districts.

Section 7. It is necessary for the orderly conduct of the election and to comply with the statutory time requirements for submitting election information to the County Elections Officer prior to the election date that this ordinance become effective upon its passage. Therefore an emergency is hereby declared to exist and this ordinance shall become effective upon passage by the Council and approval by the Mayor.

Duly passed by the City Council
this 11th day of March, 2003


Chris Wiley, City Recorder

Approved by the Mayor this 11th day
of March, 2003


Mark O. Cottle, Mayor

| | <u>Aye</u> | <u>Nay</u> |
|-----------|-------------------------------------|------------|
| Weislogel | <input checked="" type="checkbox"/> | ___ |
| Grant | <input checked="" type="checkbox"/> | ___ |
| Heronimus | <input checked="" type="checkbox"/> | ___ |
| Durrell | <input checked="" type="checkbox"/> | ___ |
| Mays | <input checked="" type="checkbox"/> | ___ |
| Fox | <input checked="" type="checkbox"/> | ___ |
| Cottle | <input checked="" type="checkbox"/> | ___ |

A TRACT OF LAND BEING ALL OF TRACT "A" AND A PORTION OF PARCEL 1 OF PARTITION PLAT NO. 2001-048 LOCATED IN THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "A"; THENCE SOUTH $00^{\circ} 20' 31''$ EAST, ALONG THE EAST LINE OF SAID TRACT "A", 70.00 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "A"; THENCE ALONG THE SOUTH LINE OF SAID TRACT "A" SOUTH $89^{\circ} 49' 31''$ WEST 15.90 FEET; THENCE SOUTH $37^{\circ} 45' 43''$ WEST 1235.62 FEET TO THE NORTHEASTERLY LINE OF PARCEL 2 OF PARTITION PLAT NO. 1994-013 AS RECORDED IN THE WASHINGTON COUNTY PLAT RECORDS; THENCE NORTH $52^{\circ} 17' 41''$ WEST 484.19 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SOUTHWEST PACIFIC HIGHWAY (99W) AND THE BEGINNING OF A 5,863.58 FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; THENCE ALONG SAID CURVE TO THE LEFT AND SAID RIGHT-OF-WAY LINE 16.54 FEET THROUGH A CENTRAL ANGLE OF $00^{\circ} 09' 42''$ (CHORD BEARS NORTH $42^{\circ} 10' 25''$ EAST, 16.54 FEET); THENCE NORTH $42^{\circ} 05' 34''$ EAST, ALONG SAID RIGHT-OF-WAY LINE, 993.21 FEET TO THE NORTHWEST CORNER OF SAID TRACT "A" OF PARTITION PLAT NO. 2001-048; THENCE NORTH $89^{\circ} 49' 31''$ EAST 478.34 FEET TO THE POINT OF BEGINNING.

CONTAINING 11.778 ACRES, MORE OR LESS.

EXHIBIT A

TO: Sherwood City Council
FROM: Ken Martin - Local Government Boundary Consultant
DATE: February 21, 2003
RE: Boundary Change Proposal No. AN 01-03, Annexation to Sherwood
Scheduled for Hearing Date of March 11, 2003

1. Recommendation/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 City Policies: City Charter requires a vote on annexation if approved by the City Council. The relationship to the City Comprehensive 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 4 notices in the City 45 days prior to the hearing; 2) Publishing notice twice in the Tualatin Times; 3) Mailed notice sent to affected local governments, and all property owners within 100 feet of the area to be annexed
8. Other Government Participation: None, except as noted above, possible participation in the hearing

EXHIBIT B

PROPOSAL NO. AN 01-03 CITY OF SHERWOOD - Annexation

Petitioners: Property Owners: PGE

Proposal No. AN 01-03 was initiated by a consent petition of the property owners and registered voters. The petition meets the requirement for initiation set forth in ORS 222.170 (2) (double majority annexation law) and Metro Code 3.09.050 (a) (Metro's minimum requirements for a petition).

The Council must review the proposal and determine whether it is in compliance with all applicable criteria. If the City Council decides that the annexation should be approved it is required by Charter to submit the annexation to the electors of the City.

The territory to be annexed is located generally on the north edge of the City, on the east side of Pacific Highway north of its intersection with Tualatin-Sherwood Road. The territory contains 11.78 acres and is vacant.

REASON FOR ANNEXATION. The property owners desire city services to facilitate future development. No development is being proposed at this time.

CRITERIA FOR DECISION-MAKING

There are no specific criteria for deciding city boundary changes within the statutes. However, the Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary.

The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.

3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

LAND USE PLANNING

SITE CHARACTERISTICS

The area is basically flat. There are a few trees on the site and a Bonneville Power Administration easement crosses the southern end of the property.

REGIONAL PLANNING

General Information

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

Regional Framework Plan

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include " . . . compliance with adopted regional urban growth goals and objectives, functional plans . . . and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion. None of these requirements relate directly to the issue of annexation to a city.

The Regional Transportation Plan deals with design guidelines, standards for street connectivity, etc. but does not contain any specific criteria applicable to the changing of local government boundaries.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

WASHINGTON COUNTY PLANNING

The parcel to be annexed was created by a two-lot partition approved by the County on November 8, 2002. That partition created the lot to be annexed which is entirely within the regional Urban Growth Boundary and a second larger lot which is mostly outside the UGB. The lot which is mostly outside the UGB contains a PGE substation. Legal requirements for a buffer around the substation dictated that a 40 foot strip of land inside the UGB had to be made a part of that lot.

The Metro Code states that the Commission's decision on this boundary change should be "... consistent with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans, public facility plans ..." Thus the applicable plans must be examined for "specific directly applicable standards or criteria."

The Washington County Comprehensive Plan currently covers this area.

County Planning. The Washington County Sherwood Community Plan designates the parcels R-15 (both plan designation and zoning designation). R-15 is Residential 12-15 units per acre. It permits (detached and attached) residential development with densities of up to 15 units per acre.

Washington County has adopted urban growth management policies that require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water, and a balanced urban-level transportation system are the primary urban services considered.

County 2000. Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system which distinguishes between municipal and county-wide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special districts.

Urban Growth Management Agreement

Under the Washington County/Sherwood Urban Planning Area Agreement (UPAA), the City was responsible for preparing the comprehensive plan and public facilities plan within the regional urban growth boundary surrounding the City limits. In the UPAA the County agreed that:

III. Comprehensive Planning and Development Policies

A. Definition

Urban Planning Area means the incorporated area and certain unincorporated areas contiguous to the incorporated area for which the CITY conducts comprehensive planning and seeks to regulate the development activities to the greatest extent possible. The CITY Urban Planning Area is designated on Exhibit "A".

- B. The CITY shall be responsible for comprehensive planning within the Urban Planning Area.
- C. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the Urban Planning Area.
- D. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers; facilities under the jurisdiction of other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY.
- E. The COUNTY shall not approve land divisions within the unincorporated portions of the Urban Planning Area which would create lots that are less than 10 acres in size.
- F. The COUNTY shall not approve a development proposal in the Urban Planning Area if the proposal would not provide for, nor be conditioned to provide for, an enforceable plan for redevelopment to urban densities consistent with the CITY'S Comprehensive Plan in the future upon annexation to the City as indicated by the CITY Comprehensive Plan.
- G. The COUNTY shall not oppose annexations to the CITY within the CITY'S Urban Planning Area.

CITY PLANNING

City Planning. The territory is within the City's Urban Planning Area as identified on the acknowledged Sherwood Comprehensive Land Use Plan and the Sherwood/Washington County Urban Planning Area Agreement. Sherwood has a single document encompassing its Comprehensive Plan, its zoning ordinances and facility master plans. This "active plan" covers the lands within the City's portion of the regional Urban Growth Boundary.

The City Plan designates the territory as Light Industrial (LI). The City has a one map planning and zoning system, so zoning on the site is LI as well. The City Code calls for application of this zoning on an interim basis upon annexation of the property to the City.

The Growth Management Chapter of the City's Comprehensive Plan contains several policy objectives (Chap. 3 section B.2.):

- a. Focus growth into areas contiguous to existing development rather than "leap frogging" over developable property.
- b. Encourage development within the present city limits, especially on large passed-over parcels that are available.
- c. Encourage annexation inside the UGB where services are available.
- d. When designating urban growth areas, consider lands with poorer agricultural soils before prime agricultural lands.
- e. Achieve the maximum preservation of natural features.
- f. Provide proper access and traffic circulation to all new development.
- g. Establish policies for the orderly extension of community services and public facilities to areas where new growth is to be encouraged, consistent with the ability of the community to provide necessary services. New public facilities should be available in conjunction with urbanization in order to meet future needs. The City, Washington County, and special service districts should cooperate in the development of a capital improvements program in areas of mutual concern. Lands within the urban growth boundary shall be available for urban development concurrent with the provision of the key urban facilities and services.
- h. Provide for phased and orderly transition from rural to suburban or urban uses.

The Growth Management chapter of the City Plan also contains the following City Limits Policies (Chap. 3 section F.1.b.)

- Policy 5 Changes in the City limits may be proposed by the City, County, special districts or individuals in conformance with City policies and procedures

for the review of annexation requests and County procedures for amendment of its comprehensive plan.

* * *

Policy 7 All new development must have access to adequate urban public sewer and water service.

The following provision concerning the application of City Plan and Zoning designations is from the Land Use Chapter 4 section N.3.:

To simplify the understanding and administration of the Comprehensive Plan, the zones detailed on the Plan/Zone Map will serve as "zoning districts" within the current incorporated limits of the City of Sherwood. Washington County zoning will continue to apply in unincorporated areas within the Sherwood Urban Growth Boundary until annexation occurs. When annexation occurs, the annexed properties will be subject to change to the zone on the Plan/Zone Map. The procedure detailed in the City Zoning Code Section 1.102 applies to all requests for changes in the Plan/Zone Map.

Section 1.102.04 of the Zoning and Development Code provides:

The zoning districts on the Official Plan and Zoning Map, for land outside of the incorporated area of the City but within the Urban Growth Boundary, shall serve as a guide to development in these areas. Actual land use regulation and development shall be controlled under the terms of the Urban Planning Area Agreement between the City and Washington County. This Agreement is made part of this Code by reference and is attached as Appendix H. An area incorporated into the City shall, upon annexation, be given an interim zoning consistent with the Official Plan and Zoning Map. The City shall provide notice of this interim zoning as per Section 3.202.03. No hearing shall be required and the interim zoning shall be considered final thirty (30) days after mailing of said notice.

In general, Chapter 6 of the City Zoning and Development Code requires new development to be served by public domestic water, sewer, drainage and fire flow facilities adequate to serve the development.

FACILITIES AND SERVICES

ORS 195 Agreements. 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. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this part of Washington County.

Water. There is an 12-inch water line in Highway 99W along the northwest edge of the site and 12-inch line on the site along the north edge.

The City obtains water from four wells tapping the ground water of the Columbia River Basalt. Sherwood also has an agreement with the City of Portland, Tualatin Valley Water District and the City of Tualatin to obtain Bull Run water (up to 12 MGD) through Tualatin Valley Water District and Tualatin lines. A physical connection has been made along NE Oregon Street, allowing the City to use water from this source.

The City has an existing 2.0-MG reservoir located on the south side of Division St. east of S. Pine Street and has planned and funded an additional reservoir which will be located on the north side of Highway 99. The four wells and the Bull Run Transmission line feed directly into the City's water system, and if the reservoir depletes to a level of 80% full capacity, then the water sources feed into the reservoir.

Sewer. Gravity sewer service will be available through developments to the northeast.

The territory to be annexed is within the Clean Water Services County Service District, as is the City, and is served by the Durham regional treatment plant. The area of Clean Water Service's sewer system that serves Sherwood consists of two sub-basins centered on Cedar Creek and Rock Creek for which each sub-basin is named. The area to be annexed is in the Rock Creek Basin.

Clean Water Services has a standard agreement with the large cities within the Agency (Beaverton, Forest Grove, Hillsboro, Tigard, Tualatin and Sherwood). In that agreement the Cities agree to: 1) comply with the Agency's construction and maintenance standards for sanitary and storm water sewer facilities, 2) follow and accomplish the Agency's work program for storm and surface water, 3) obtain the Agency's consent before issuing construction permits within wetlands, floodways and floodplains. The agreement provides that the city owns and is responsible for sanitary sewer lines under 24-inches in diameter within the City limits and for storm water facilities within the City limits as identified on a map (virtually all facilities). The Clean Water Services is responsible for all industrial waste discharges both in and out of cities. Clean Water Services agreed not to extend sanitary sewer service to areas outside the City within the City's Urban Planning Area unless the City approves.

Storm Drainage. Clean Water Services has responsibility for surface water management within the Washington County urban growth boundary. Clean Water Services has entered into an intergovernmental agreement with Sherwood for allocation of the City and the Clean Water Services responsibilities. The City has responsibilities for operations and maintenance of storm and surface water facilities within the City. In the County, responsibility for maintaining drainage associated with roads remains with the Department of Land Use and Transportation. Therefore, road related drainage facilities do not transfer to the City upon annexation unless the road transfers to the City.

The City may not issue permits for construction within or modification to a wetland, floodway or floodplain without first receiving approval from Clean Water Services.

Parks and Recreation. The City of Sherwood maintains the following developed parks: Stella Olsen, which is 13 acres in size, a 0.4 acre park adjacent to City Hall, and a 0.21 community campus park adjoining the Sherwood Community Center. In addition, there are 3.2 acres of city property at the end of Roy Street reserved for a future park site. The parks and open space system is funded out of the General Fund. The City also assesses a Parks and Open Space

System Development Charge on residential development. The Zoning Code identifies the requirements of the Parks and Open Space System Development Charge.

Transportation. The territory is within the boundary of the Washington County Urban Road Maintenance District. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District, on the effective date of the annexation the District's tax levy value will no longer apply.

Access to the site will come via SW Adams Avenue on the north. This issue would be more thoroughly examined as part of any future development proposal.

Fire. The territory is within the boundary of the Tualatin Valley Fire and Rescue District, which also serves the City of Sherwood. No change in service results from annexation to the City.

Police. The territory is within the Washington County Enhanced Sheriff's Patrol District which, included with the basic County-wide level of protection, provides .94 officers per 1000 population. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

Upon annexation police services will be provided by the Sherwood Police Department which provides 24-hour/day protection.

Vector Control. The territory is within the County Service District for Vector Control. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5).

RECOMMENDATION

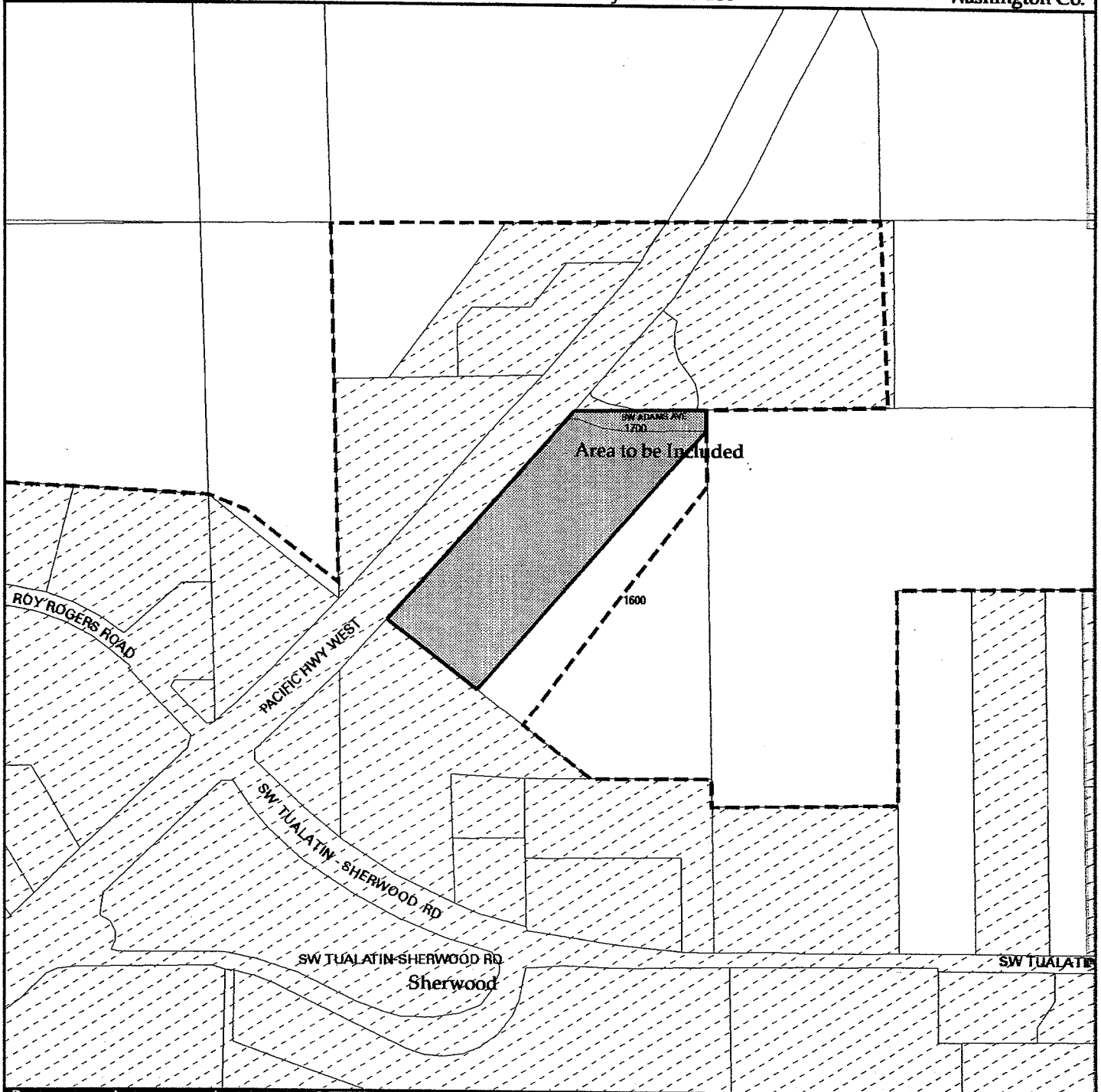
Based on the study and the Proposed Findings and Reasons for Decision attached in Exhibit A, the staff recommends Proposal No. AN 01-03 be **approved** and that the territory be **withdrawn** from the Enhanced Law Enforcement District, the Urban Roads Maintenance District and the Vector Control District.

Proposal No. AN-01-03

2S1W29B

Annexation to the City of Sherwood

Washington Co.



R L I S
REGIONAL LAND INFORMATION SYSTEM



800 NE Grand Ave.
Portland, OR 97232-2736
Voice 503 797-1742
FAX 503 797-1808
Email drc@metro-region.org

METRO

The information on this map was derived from digital databases on Metro's GIS. Care was taken in the creation of this map. Metro cannot accept any responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

County lines

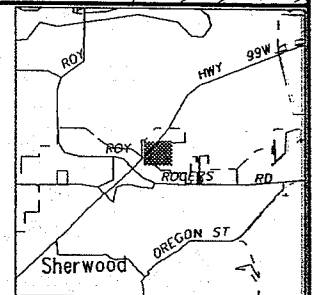
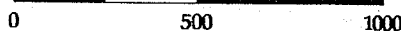
City

Annexation boundary

Urban Growth Boundary

Proposal No. AN-01-03
CITY OF SHERWOOD
Figure 1

Scale: 1" = 500'

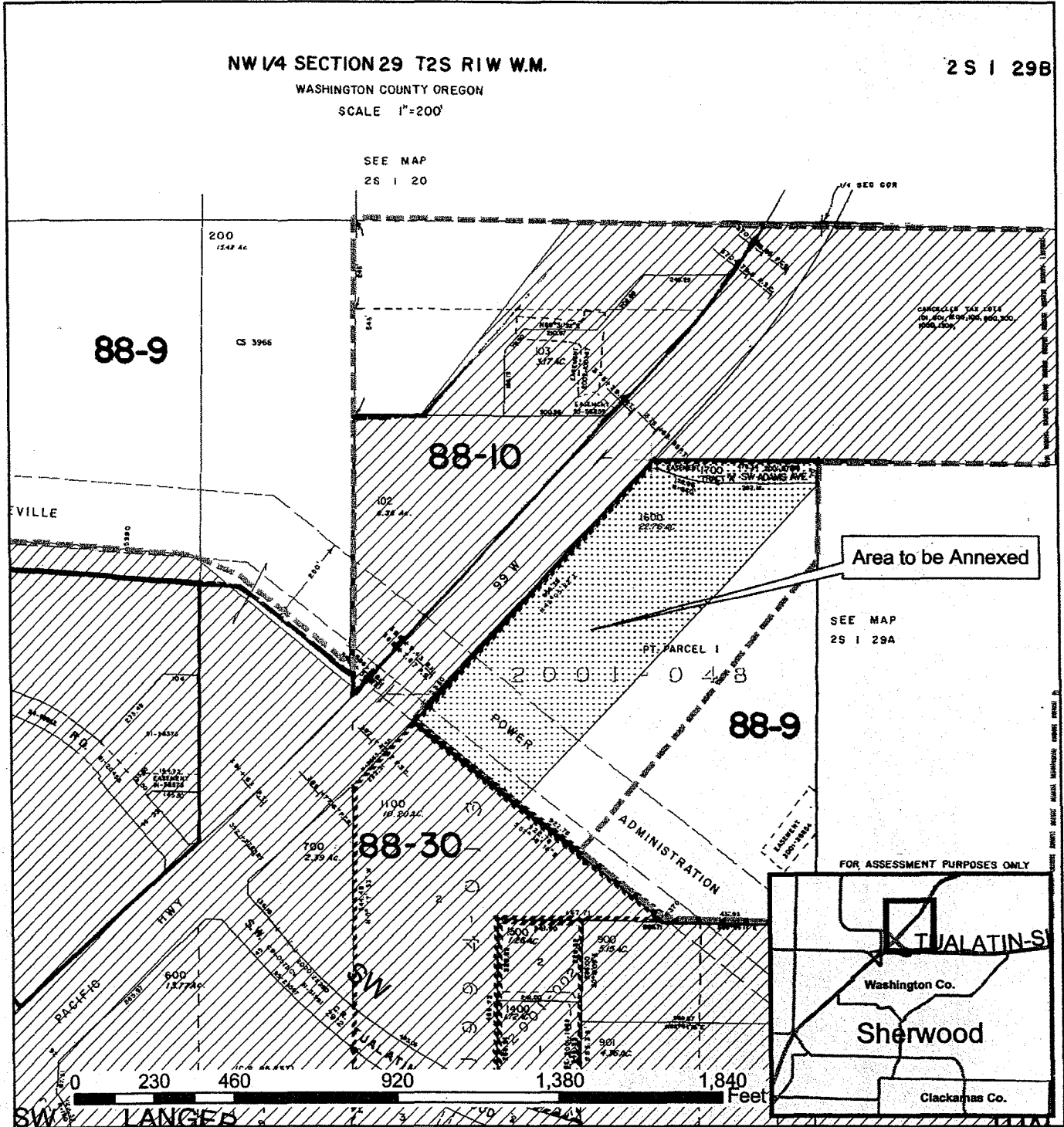


Proposal No. AN-01-03

K M C

Ken Martin Consulting
 P.O. Box 29079
 Portland, OR 97296-9079
 (503) 222-0955

Annexation to the City of Sherwood
 Washington Co. 2S1W29B



PROPOSAL No. AN-01-03
 City of Sherwood
 Figure 2

FINDINGS

Based on the study and the public hearing the City Council found:

1. The territory to be annexed contains 11.78 acres and is vacant.
2. The property owners desire city services to facilitate future development. No development is being proposed at this time.
3. There are no specific criteria for deciding city boundary changes within the statutes. However, the Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary.

The Metro Code states that a final decision shall be based on substantial evidence in the record of the hearing and that the written decision must include findings of fact and conclusions from those findings. The Code requires these findings and conclusions to address the following minimum criteria:

1. Consistency with directly applicable provisions in ORS 195 agreements or ORS 195 annexation plans. [ORS 195 agreements are agreements between various service providers about who will provide which services where. The agreements are mandated by ORS 195 but none are currently in place. Annexation plans are timelines for annexations that may only be done after all required 195 agreements are in place and that must have been voted on by the City residents and the residents of the area to be annexed.]
2. Consistency with directly applicable provisions of urban planning area agreements between the annexing entity and a necessary party.
3. Consistency with directly applicable standards for boundary changes contained in Comprehensive land use plans and public facility plans.
4. Consistency with directly applicable standards for boundary changes contained in the Regional framework or any functional plans.
5. Whether the proposed boundary change will promote or not interfere with the timely, orderly and economic provision of public facilities and services.
6. If the boundary change is to Metro, determination by Metro Council that territory should be inside the UGB shall be the primary criteria.
7. Consistency with other applicable criteria for the boundary change in question under state and local law.

The Metro Code also contains a second set of 10 factors which are to be considered where: 1) no ORS 195 agreements have been adopted, and 2) a necessary party is contesting the boundary change. Those 10 factors are not applicable at this time to this annexation because no necessary party has contested the proposed annexation.

4. The area is basically flat. There are a few trees on the site and a Bonneville Power Administration easement crosses the southern end of the property.
5. This territory is inside Metro's jurisdictional boundary and inside the regional Urban Growth Boundary (UGB).

The law that requires Metro to adopt criteria for boundary changes specifically states that those criteria shall include "... compliance with adopted regional urban growth goals and objectives, functional plans ... and the regional framework plan of the district [Metro]." In fact, while the first two mentioned items were adopted independently, they are now part of Metro's Regional Framework Plan. The Regional Framework Plan also includes the 2040 Growth Concept. Metro is authorized to adopt functional plans which are limited purpose plans addressing designated areas and activities of metropolitan concern and which mandate local plan changes. Metro adopted two functional plans - the Urban Growth Management Functional Plan and the Regional Transportation Plan.

The Urban Growth Management Functional Plan requires cities and counties to amend their comprehensive plans and implementing ordinances to accord with elements in the Functional Plan. Included in these requirements are such items as minimum density standards, limitations on parking standards, mandated adoption of water quality standards and rules relating to Urban Growth Boundary expansion. None of these requirements relate directly to the issue of annexation to a city.

The Regional Transportation Plan deals with design guidelines, standards for street connectivity, etc. but does not contain any specific criteria applicable to the changing of local government boundaries.

The Regional Framework Plan was reviewed and found not to contain specific criteria applicable to boundary changes.

6. The parcel to be annexed was created by a two-lot partition approved by the County on November 8, 2002. That partition created the lot to be annexed which is entirely within the regional Urban Growth Boundary and a second larger lot which is mostly outside the UGB. The lot which is mostly outside the UGB contains a PGE substation. Legal requirements for a buffer around the substation dictated that a 40 foot strip of land inside the UGB had to be made a part of that lot.

The Metro Code states that the Commission's decision on this boundary change should be "... consistent with specific directly applicable standards or criteria for boundary

changes contained in comprehensive land use plans, public facility plans . . ." Thus the applicable plans must be examined for "specific directly applicable standards or criteria."

The Washington County Comprehensive Plan currently covers this area.

The Washington County Sherwood Community Plan designates the parcels R-15 (both plan designation and zoning designation). R-15 is Residential 12-15 units per acre. It permits (detached and attached) residential development with densities of up to 15 units per acre.

Washington County has adopted urban growth management policies that require urban development to be accompanied by adequate urban services. The growth management policies define both urban development and necessary urban services. Public sewer, public water, and a balanced urban-level transportation system are the primary urban services considered.

7. Washington County reviewed its role in service provision in its County 2000 program, the County's financial management plan. The County established a policy of supporting a service delivery system which distinguishes between municipal and county-wide services. To achieve tax fairness and expenditure equity in the provision of public services the County's policy is to provide only countywide services with general fund revenues. The County policy favors municipal services being provided either by cities or special districts.
8. Under the Washington County/Sherwood Urban Planning Area Agreement (UPAA), the City was responsible for preparing the comprehensive plan and public facilities plan within the regional urban growth boundary surrounding the City limits. In the UPAA the County agreed that:

III. Comprehensive Planning and Development Policies

A. Definition

Urban Planning Area means the incorporated area and certain unincorporated areas contiguous to the incorporated area for which the CITY conducts comprehensive planning and seeks to regulate the development activities to the greatest extent possible. The CITY Urban Planning Area is designated on Exhibit "A".

B. The CITY shall be responsible for comprehensive planning within the Urban Planning Area.

C. The CITY shall be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the Urban Planning Area.

- D. As required by OAR 660-11-010, the CITY is identified as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area. Exceptions include facilities provided by other service providers subject to the terms of any intergovernmental agreement the CITY may have with other service providers; facilities under the jurisdiction of other service providers not covered by an intergovernmental agreement; and future facilities that are more appropriately provided by an agency other than the CITY.
- E. The COUNTY shall not approve land divisions within the unincorporated portions of the Urban Planning Area which would create lots that are less than 10 acres in size.
- F. The COUNTY shall not approve a development proposal in the Urban Planning Area if the proposal would not provide for, nor be conditioned to provide for, an enforceable plan for redevelopment to urban densities consistent with the CITY'S Comprehensive Plan in the future upon annexation to the City as indicated by the CITY Comprehensive Plan.
- G. The COUNTY shall not oppose annexations to the CITY within the CITY'S Urban Planning Area.

9. The territory is within the City's Urban Planning Area as identified on the acknowledged Sherwood Comprehensive Land Use Plan and the Sherwood/Washington County Urban Planning Area Agreement. Sherwood has a single document encompassing its Comprehensive Plan, its zoning ordinances and facility master plans. This "active plan" covers the lands within the City's portion of the regional Urban Growth Boundary.

The City Plan designates the territory as Light Industrial (LI). The City has a one map planning and zoning system, so zoning on the site is LI as well. The City Code calls for application of this zoning on an interim basis upon annexation of the property to the City.

The Growth Management Chapter of the City's Comprehensive Plan contains several policy objectives (Chap. 3 section B.2.):

- a. Focus growth into areas contiguous to existing development rather than "leap frogging" over developable property.
- b. Encourage development within the present city limits, especially on large passed-over parcels that are available.
- c. Encourage annexation inside the UGB where services are available.

- d. When designating urban growth areas, consider lands with poorer agricultural soils before prime agricultural lands.
- e. Achieve the maximum preservation of natural features.
- f. Provide proper access and traffic circulation to all new development.
- g. Establish policies for the orderly extension of community services and public facilities to areas where new growth is to be encouraged, consistent with the ability of the community to provide necessary services. New public facilities should be available in conjunction with urbanization in order to meet future needs. The City, Washington County, and special service districts should cooperate in the development of a capital improvements program in areas of mutual concern. Lands within the urban growth boundary shall be available for urban development concurrent with the provision of the key urban facilities and services.
- h. Provide for phased and orderly transition from rural to suburban or urban uses.

The Growth Management chapter of the City Plan also contains the following City Limits Policies (Chap. 3 section F.1.b.)

Policy 5 Changes in the City limits may be proposed by the City, County, special districts or individuals in conformance with City policies and procedures for the review of annexation requests and County procedures for amendment of its comprehensive plan.

* * *

Policy 7 All new development must have access to adequate urban public sewer and water service.

The following provision concerning the application of City Plan and Zoning designations is from the Land Use Chapter 4 section N.3.:

To simplify the understanding and administration of the Comprehensive Plan, the zones detailed on the Plan/Zone Map will serve as "zoning districts" within the current incorporated limits of the City of Sherwood. Washington County zoning will continue to apply in unincorporated areas within the Sherwood Urban Growth Boundary until annexation occurs. When annexation occurs, the annexed properties will be subject to change to the zone on the Plan/Zone Map. The procedure detailed in the City Zoning Code Section 1.102 applies to all requests for changes in the Plan/Zone Map.

Section 1.102.04 of the Zoning and Development Code provides:

The zoning districts on the Official Plan and Zoning Map, for land outside of the incorporated area of the City but within the Urban Growth Boundary, shall serve as a guide to development in these areas. Actual land use regulation and development shall be controlled under the terms of the Urban Planning Area Agreement between the City and Washington County. This Agreement is made part of this Code by reference and is attached as Appendix H. An area incorporated into the City shall, upon annexation, be given an interim zoning consistent with the Official Plan and Zoning Map. The City shall provide notice of this interim zoning as per Section 3.202.03. No hearing shall be required and the interim zoning shall be considered final thirty (30) days after mailing of said notice.

In general, Chapter 6 of the City Zoning and Development Code requires new development to be served by public domestic water, sewer, drainage and fire flow facilities adequate to serve the development.

10. 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. The statute was enacted in 1993 but no urban service agreements have yet been adopted in this part of Washington County.
11. There is an 12-inch water line in Highway 99W along the northwest edge of the site and 12-inch line on the site along the north edge.

The City obtains water from four wells tapping the ground water of the Columbia River Basalt. Sherwood also has an agreement with the City of Portland, Tualatin Valley Water District and the City of Tualatin to obtain Bull Run water (up to 12 MGD) through Tualatin Valley Water District and Tualatin lines. A physical connection has been made along NE Oregon Street, allowing the City to use water from this source.

The City has an existing 2.0-MG reservoir located on the south side of Division St. east of S. Pine Street and has planned and funded an additional reservoir which will be located on the north side of Highway 99. The four wells and the Bull Run Transmission line feed directly into the City's water system, and if the reservoir depletes to a level of 80% full capacity, then the water sources feed into the reservoir.

12. Gravity sewer service will be available through developments to the northeast.

The territory to be annexed is within the Clean Water Services County Service District, as is the City, and is served by the Durham regional treatment plant. The area of Clean Water Service's sewer system that serves Sherwood consists of two sub-basins centered on Cedar Creek and Rock Creek for which each sub-basin is named. The area to be annexed is in the Rock Creek Basin.

Clean Water Services has a standard agreement with the large cities within the Agency (Beaverton, Forest Grove, Hillsboro, Tigard, Tualatin and Sherwood). In that agreement the Cities agree to: 1) comply with the Agency's construction and maintenance standards for sanitary and storm water sewer facilities, 2) follow and accomplish the Agency's work program for storm and surface water, 3) obtain the Agency's consent before issuing construction permits within wetlands, floodways and floodplains. The agreement provides that the city owns and is responsible for sanitary sewer lines under 24-inches in diameter within the City limits and for storm water facilities within the City limits as identified on a map (virtually all facilities). The Clean Water Services is responsible for all industrial waste discharges both in and out of cities. Clean Water Services agreed not to extend sanitary sewer service to areas outside the City within the City's Urban Planning Area unless the City approves.

13. Clean Water Services has responsibility for surface water management within the Washington County urban growth boundary. Clean Water Services has entered into an intergovernmental agreement with Sherwood for allocation of the City and the Clean Water Services responsibilities. The City has responsibilities for operations and maintenance of storm and surface water facilities within the City. In the County, responsibility for maintaining drainage associated with roads remains with the Department of Land Use and Transportation. Therefore, road related drainage facilities do not transfer to the City upon annexation unless the road transfers to the City.

The City may not issue permits for construction within or modification to a wetland, floodway or floodplain without first receiving approval from Clean Water Services.

14. The City of Sherwood maintains the following developed parks: Stella Olsen, which is 13 acres in size, a 0.4 acre park adjacent to City Hall, and a 0.21 community campus park adjoining the Sherwood Community Center. In addition, there are 3.2 acres of city property at the end of Roy Street reserved for a future park site. The parks and open space system is funded out of the General Fund. The City also assesses a Parks and Open Space System Development Charge on residential development. The Zoning Code identifies the requirements of the Parks and Open Space System Development Charge.
15. The territory is within the boundary of the Washington County Urban Road Maintenance District. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District, on the effective date of the annexation the District's tax levy value will no longer apply.

Access to the site will come via SW Adams Avenue on the north. This issue would be more thoroughly examined as part of any future development proposal.

16. The territory is within the boundary of the Tualatin Valley Fire and Rescue District, which also serves the City of Sherwood. No change in service results from annexation to the City.
17. The territory is within the Washington County Enhanced Sheriff's Patrol District which, included with the basic County-wide level of protection, provides .94 officers per 1000 population. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5). If the City declares the territory withdrawn from the District on the effective date of the annexation the District's tax levy will no longer apply.

Upon annexation police services will be provided by the Sherwood Police Department which provides 24-hour/day protection.

18. The territory is within the County Service District for Vector Control. The City may withdraw the territory from the District upon annexation. ORS 222.520 and 222.120(5).

CONCLUSIONS AND REASONS FOR DECISION

Based on the Findings, City Council Determined:

1. The Metro Code at 3.09.050(d)(3) calls for consistency between the City's decision and any "specific directly applicable standards or criteria for boundary changes contained in comprehensive plans, public facilities plans. . . ." The Council has reviewed both the County comprehensive plan which currently applies to this parcel and the City Comprehensive Plan which will apply upon annexation. The County Plan does not contain any criteria directly applicable to annexations. The County 2000 program suggests that the County supports all urban lands annexing to cities. The City's plan suggests that it expects to annex and be the service provider to all lands within its urban service area. The plan encourages annexations contiguous to developed land. This site is adjacent to development.

The plan encourages annexation where services are available. All services are available. The Council concludes that the annexation is consistent with the applicable plans.

2. Metro Code 3.09.050(d)(1) requires the Council's findings to address consistency with applicable provisions of urban service agreements or annexation plans adopted pursuant to ORS 195. As noted in Finding No. 10 there are no such plans or agreements in place. Therefore the Council finds that there are no inconsistencies between these plans/agreements and this annexation.
3. The Council notes that the Metro Code also calls for consistency of the annexation with urban planning area agreements. As stated in Finding No. 8, the Sherwood-Washington County UPAA specifically says that the County assumes this area will be served by the City. Therefore, the Council finds the annexation to be consistent with the UPAA.
4. The Metro Code calls for consistency of the annexation with the Regional Framework Plan or any functional plan. Because there were no directly applicable criteria for boundary changes found in the Regional Framework Plan, the Urban Growth Management Function Plan or the Regional Transportation Plan (see Finding No. 5) the Council concludes the annexation is not inconsistent with this criterion.
5. Metro Code 3.09.050(e)(3) states that another criterion to be addressed is that the annexation will not interfere with the timely, orderly and economic provision of public services and facilities. As development has occurred, services have been extended. Now all necessary services to support urban development of this land have been extended to or near the property. The Council finds the City's services are adequate to serve this area and that their timely provision will not be affected by the annexation. Those services are covered in more detail in Findings 11-18.
6. The Council concludes that the portion of the territory which lies within the Washington County Urban Roads Maintenance District, Washington County Service District for Enhanced Law Enforcement and Washington County Service District for Vector Control should be withdrawn from those districts. The services provided by these districts will be provided by the City subsequent to annexation.