

**STAFF REPORT TO THE  
CITY COUNCIL  
FOR THE CITY OF TIGARD, OREGON**



120 DAYS = N/A

**SECTION I. APPLICATION SUMMARY**

**FILE NAME:** SOUTH VIEW HEIGHTS ANNEXATION  
**CASE NO:** Zone Change Annexation (ZCA) ZCA2013-00002

**APPLICANT:** Venture Properties, Inc.,  
4230 Galewood Street, #100  
Lake Oswego, OR 97035  
**OWNER:** Hlknauss LLC,  
c/o Sarah Knauss  
4661 Wildwood St  
Lake Oswego, OR 97035

**PROPOSAL:** A request to annex approximately 6.13 acres of property known as South View Heights (Knauss), located at 12035 SW Beef Bend Rd., and adjacent right-of-way into the city of Tigard.

**LOCATION:** 12035 SW Beef Bend Road; Washington County Tax Assessor's Map 2S110CB, Tax Lot 02000.

**COUNTY ZONE:** R6: Residential, 5 units/acre minimum density, 6 units/acre maximum density. The purpose of the R-6 District is to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than six (6) units per acre and no less than five (5) units per acre, except as specified by Section 300-2, Section 300-5, or Section 303-6. The intent of the R-6 District is to provide the opportunity for more flexibility in development than is allowed in the R-5 District.

**EQUIVALENT CITY ZONE:** R-7: Medium-Density Residential District. The R-7 zoning district is designed to accommodate attached single-family homes, detached single-family homes with or without accessory residential units, at a minimum lot size of 5,000 square feet, and duplexes, at a minimum lot size of 10,000 square feet. Mobile home parks and subdivisions are also permitted outright. Some civic and institutional uses are also permitted conditionally.

**APPLICABLE REVIEW CRITERIA:** The approval standards for annexations are described in Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1, Goal 11.1 (Policy 4), Goal 11.3 (Policy 6), and Goal 14.2 (Policy 1-4); ORS Chapter 222; and Metro Code Chapter 3.09.

## SECTION II. STAFF RECOMMENDATION

Staff recommends that the Council find that the proposed annexation (ZCA2013-00002) meets all the approval criteria as identified in ORS Chapter 222, Metro Code Chapter 3.09, Community Development Code Chapters 18.320 and 18.390, and the following Comprehensive Plan Goals and Policies: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; and Goal 14.2, Policy 1-4. Therefore, staff recommends APPROVAL of ZCA2013-00002 by adoption of the attached ordinance.

## SECTION III. BACKGROUND INFORMATION

The annexation site is located north of SW Beef Bend Road and borders the City of Tigard boundary (north of the site). Development has been as a rural homestead with few trees; however the existing home is vacant. The applicant, Venture Properties, Inc. is requesting annexation of 5.79 acres for a future subdivision at urban densities and adjacent right-of-way (approximately .34 acre).

Utilities are available in the area and can be extended to serve the site. Current Washington County zoning of the property is R-6; equivalent city zoning will be R-7. Properties to the east and west are zoned R-6. Properties to the north are within the City of Tigard and are zoned R-4.5.

## SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

**City:** Community Development Code Chapters 18.320 and 18.390; Comprehensive Plan Goal 1.1; Goal 11.1 (Policy 4), and Goal 11.3 (Policy 6), Goal 14.2 (Policies 1-4).

**State:** ORS Chapter 222

**Regional:** Metro Code Chapter 3.09

### A. CITY OF TIGARD COMMUNITY DEVELOPMENT CODE (TITLE 18)

Staff has determined that the proposal is consistent with the relevant portions of the Community Development Code based on the following findings:

#### Chapter 18.320.020.B: Approval Process and Standards.

**Approval Criteria.** The decision to approve, approve with modification, or deny an application to annex property to the City shall be based on the following criteria:

**1. All services and facilities are available to the area and have sufficient capacity to provide service for the proposed annexation area;**

The City of Tigard Comprehensive Plan's Public Facilities and Services Chapter states that for the purposes of the Comprehensive Plan, public facilities and services refer to stormwater management, water supply and distribution, wastewater management, community facilities, and private utilities. In addition the comprehensive Plan Glossary includes public safety, parks, and transportation. All services are available to the proposed annexation site and have adequate capacity to serve future development. Service provider letters from affected agencies were submitted by the applicant showing services and facilities are available and have sufficient capacity. Each service/facility is discussed in further detail below.

**Water – City of Tigard/Tigard Water District.** The property lies within the Tigard Water Service Area. There is an existing 24-inch transmission line to the north. However, direct connection is not permitted and the applicant may extend an existing 12-inch water line to the site from the intersection of SW 122<sup>nd</sup> and Beef Bend Road. Another existing 12-inch line in the Aspen Ridge subdivision could also be extended to serve the site. There is adequate capacity to serve the future homes with water.

**Sewer – City of Tigard/Clean Water Services.** An existing 8-inch sanitary line at SW 122<sup>nd</sup> Avenue can be extended in Beef Bend Road to serve the site. Clean Water Services is the sewer provider in the surrounding area. The lines extended to the site will be CWS lines and lines within the future subdivision will be owned and maintained by the City of Tigard. Based on information supplied to the applicant by the City of Tigard Public Works Department, there is adequate capacity to serve the future homes.

**Stormwater – Clean Water Services.** Clean Water Services is the current provider of stormwater services in this area. Storm drainage will be directed to the south. City staff noted in the service provider letter that a downstream analysis will be necessary as part of the subdivision application to determine what improvements must be made by the applicant.

**Streets – City of Tigard Engineering Division.** The subject property is located on SW Beef Bend Road. The proposed annexation will not affect this access; however, the property is within the Washington County Urban Road Maintenance District and will be removed from the district upon annexation. The applicant will extend public roads to serve the new homes created by the future subdivision.

**Police – City of Tigard Police Department.** Police services are currently provided by the Washington County Sheriff. If approved, the property will be withdrawn from the Enhanced Sheriff's Patrol District. The City of Tigard Police Department was contacted by the applicant regarding the annexation and future subdivision. As indicated in the service provider letter, Tigard Police are willing and able to serve the property and future development.

**Fire – Tualatin Valley Fire and Rescue (TVF&R).** The subject property is in Tualatin Valley Fire and Rescue's (TVF&R's) service area. The TVF&R District currently provides services to site, which will not change following annexation. The Fire District has personnel and equipment in the area that can respond to an emergency incident and implement such actions as may be necessary for fire and/or rescue operations.

**Parks–City of Tigard.** There is an existing City of Tigard neighborhood park on Bull Mountain Road near the proposed annexation site. Additional park properties have been purchased and are being developed to serve Bull Mountain residents. The annexation and development of this property will not adversely impact the city's ability or capacity to provide parks.

CONCLUSION: Based upon this review, staff finds that all public services and facilities (as defined by the Comprehensive Plan) are available to the proposed annexation territory and have sufficient capacity to provide service. The proposed annexation will not reduce the level of services within the City of Tigard. This criterion is met.

## **2. The applicable Comprehensive Plan policies and implementing ordinance provisions have been satisfied.**

FINDINGS: The following Comprehensive Plan goals and policies apply to the proposed annexation: Goal 1.1; Goal 11.1, Policy 4; Goal 11.3, Policy 6; and Goal 14, Policy 1- 4. Staff has determined that the proposal has satisfied the applicable Comprehensive Plan policies based on the following findings:

### **Goal 1.1: Citizen Involvement. The City shall provide citizens, affected agencies and other jurisdictions the opportunity to participate in all phases of the planning process.**

The City maintains an ongoing citizen involvement program. To assure citizens will be provided an opportunity to be involved in all phases of the planning process, the City provides notice for Type IV land-use applications. The City posted, mailed and published notice of the public hearing as follows. The City posted the hearing notice at four public places on July 1, 2013: Tigard Library, Tigard City Hall, Tigard Permit Center, and at the subject property on 12035 SW Beef Bend Road. The City published notice of the hearing in *The Tigard Times* for two successive weeks (June 27 and July 4, 2013) prior to the July 23, 2013, public hearing. The City also mailed notice to all interested parties and surrounding property owners within 500 feet on June 5, 2013.

### **Goal 11.1: Public Facilities and Services.**

#### **Policy 4. The City shall require the property to be located within the city limits prior to receiving City stormwater services.**

Stormwater service will be provided by Clean Water Services and drainage will be to the south. City staff noted in the service provider letter that a downstream analysis will be necessary as part of the subdivision application to determine what improvements must be provided by the applicant to accommodate the increased stormwater.

**Goal 11.3: Public Facilities and Services.**

**Policy 6. The City shall require the property to be located within the city limits prior to receiving City wastewater services.**

Clean Water Services sanitary service is available to the east and west of the site and can be extended to serve the site. Future sanitary lines within the proposed subdivision will be owned and maintained by the City of Tigard. The applicant will not receive City services prior to annexation.

**Goal: 14.2. Implement the Tigard Urban Services Agreement through all reasonable and necessary steps, including the appropriate annexation of unincorporated properties.**

**Policy 1. The City shall assign a Tigard zoning district designation to annexed property that most closely conforms to the existing Washington County zoning designation for that property.**

The applicable Tigard zoning district designations are addressed below in the findings for Section 18.320.020.C.

**Policy 2. The City shall ensure that capacity exists, or can be developed, to provide needed urban level services to an area when approving annexation.**

Capacity has been addressed above, consistent with this policy.

**Policy 3. The City shall approve proposed annexations based on findings that the request:**

**A. can be accommodated by the City's public facilities and services; and**

The availability of the City's public facilities and services has been addressed above, consistent with this policy.

**B. is consistent with applicable state statute.**

As reviewed in this report, staff finds that the provisions of ORS 222 have been met, consistent with this policy.

**Policy 4. The City shall evaluate and may require that parcels adjacent to proposed annexations be included to: A) avoid creating unincorporated islands within the City; B) enable public services to be efficiently and effectively extended to the entire area; or C) implement a concept plan or sub-area master plan that has been approved by the Planning Commission or City Council.**

The subject site lies within an unincorporated island of Washington County. Annexation of the site will divide an existing island into two smaller ones. The requested annexation is for the extension of services needed to subdivide and develop the site with single-family homes. The applicant states that additional parcels do not need to be added to approve this annexation.

The City typically sends invitations to adjacent parcels as a courtesy and to prevent the creation of unincorporated islands. The development pattern and size of the existing island make it difficult to eliminate. Elimination of the smaller island to the east is also not possible at this time since the area contains thirteen parcels, several of which are not adjacent to the city limits. Annexation of surrounding parcels is not required for extension of services to the site nor is the area within a special plan area. For these reasons, invitations were not sent with this annexation.

CONCLUSION: Annexation of additional parcels is not necessary at this time. The city has coordinated with all jurisdictions and agencies within/near the annexation site. The City of Tigard has the services/facilities available and at adequate capacity to serve the site. The proposed annexation is consistent with applicable Comprehensive Plan policies. This criterion is met.

**Chapter 18.320.020.C**

**Assignment of comprehensive plan and zoning designations.**

**The comprehensive plan designation and the zoning designation placed on the property shall be the City's zoning district which most closely implements the City's or County's comprehensive plan map designation. The assignment of these designations shall occur automatically and concurrently with the annexation. In the case of land which carries County designations, the City**

**shall convert the County's comprehensive plan map and zoning designations to the City designations which are the most similar.**

FINDINGS: All of the subject property is currently zoned R-6 (Washington County). This zone is intended for residential development at no more than 6 units per acre and no less than 5 units per acre. Table 18.320.1 in the TDC summarizes the conversion of the County's plan and zoning designations to City designations which are most similar. According to this table, the City designation most similar to R-6 is R-7 zoning.

CONCLUSION: Upon annexation the property will be zoned R-7, which most closely implements Washington County's comprehensive plan and zoning designations (R-6). This criterion is met.

**Chapter 18.390.060: Type IV Procedure**

Annexations are processed by means of a Type IV procedure, as governed by Chapter 18.390 of the Community Development Code (Title 18) using standards of approval contained in 18.390.020.B, which were addressed in the previous section. Chapter 18.390 requires City Council to hold a hearing on an annexation. It also requires the City to provide notice at least 20 days prior to the hearing by mail and to publish notice at least 10 business days prior to the hearing; the City mailed notice on June 5, 2013, and published public notice in *The Tigard Times* for two successive weeks (June 27 & July 4, 2013) prior to the July 23, 2013 public hearing.

**Additionally, Chapter 18.390.060 sets forth five factors for consideration when making a Type IV decision:**

**1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**

FINDINGS: The city's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission to be in compliance with state planning goals and as reviewed above, the annexation proposal is consistent with Tigard Comprehensive Plan goals and policies.

CONCLUSION: The proposal is consistent with the city's acknowledged Comprehensive Plan. Therefore, the proposal complies with statewide planning goals, including citizen involvement, public facilities, transportation, and urbanization.

**2. Any federal or state statutes or regulations found applicable;**

FINDINGS:

**ORS 222:**

State law (ORS 222.120(4)(b), ORS 222.125 and ORS 222.170(1)) allows for a city to annex contiguous territory when owners of land in the proposed annexation territory submit a petition to the legislative body of the city. In addition, ORS 222.111(2) allows for a city to act on its own motion to annex contiguous territory. A city is not required to hold an election for such an annexation if it follows the noticing procedures for a public hearing per ORS 222.120.

ORS 222.120 requires the city to hold a public hearing before its legislative body (City Council) and provide public notice to be published once each week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for the same two week period.

The owners of the subject parcel have signed a petition for annexation to the City. The subject parcel is contiguous to the City's boundary. The City mailed notice on June 5, 2013, and published public notice in *The Tigard Times* for two successive weeks (June 27 & July 4, 2013) prior to the July 23, 2013 public hearing and posted the hearing notice for public view on July 1, 2013 in the Tigard Library, Tigard City Hall, Tigard Permit Center, and at the site on SW Beef Bend Road.

CONCLUSION: Staff finds that the provisions of ORS 222 have been met.

### 3. Any applicable METRO regulations;

Chapter 3.09 of the Metro Code (Local Government Boundary Changes) includes standards to be addressed in annexation decisions, in addition to local and state review standards. Staff has reviewed the Metro regulations for Local Government Boundary Changes and addressed the applicable regulations (Metro Code 3.09.045(d) & (e) and 3.09.050) below:

#### FINDINGS:

##### **Metro 3.09.045 (d) and (e)**

The proposed annexation is not being reviewed through an expedited process, but subsections (d) of Metro Code 3.09.050 requires that the standards of 3.09.045 (d) & (e) be addressed.

##### **(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;**

The Tigard Urban Service Agreement (TUSA) is between the City, County, Metro, and the service Districts for water, sewer, transportation, parks and public safety. The agreement outlines the role, provision, area, and planning/coordination responsibilities for service providers operating in the Tigard Urban Services Area. These services are addressed above at the beginning of this report.

The Urban Planning Area Agreement (UPAA) between the City and the County provides coordination of comprehensive planning and development, defines the area of interest, and includes policies with respect to the active planning area and annexation. The applicable annexation policies include the assignment of comprehensive plan and zoning designations addressed earlier in this report and acknowledgements that the City is the ultimate service provider of urban services within the Tigard Urban Service Area.

The City has followed all processing and notice requirements in the *UPAA*, providing Washington County with 45-day notice prior to the public hearing. The agreement states that “so that all properties within the Tigard Urban Service Area will be served by the City, the County and City will be supportive of annexations to the City.”

##### **(B) Any applicable annexation plan adopted pursuant to ORS 195.205;**

These statutes outline the process for annexations initiated by a city or district, including public hearings and voting procedures. This statute is not applicable since the annexation was initiated by the property owner. The applicant has submitted a petition to annex signed by both property owners. There are no registered voters at the site.

##### **(C) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;**

ORS195.020(2) speaks to cooperative agreements between counties or Metro with each special district that provides an urban service within the boundaries of the county or the metropolitan district. Special districts would include fire, water, school, and sewer districts. These districts are the same within the county and city with the exception of the sewer district, which will be the City of Tigard following development of the subdivision. Planning for these areas will still be considered by the same special districts upon annexation due to existing agreements with the City.

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

The City of Tigard Public Facility Plan was adopted in 1991 in compliance with statewide planning goals and Oregon Administrative Rule 660-11. A revised plan is currently being developed as part of periodic review. New Comprehensive Plan goals and policies for public facilities were adopted in 2008 (Goal 11),

and the applicable goals and policies were addressed previously in this report. The proposed annexation is consistent with the Tigard Public Facility Plan.

**(E) Any applicable comprehensive plan; and**

The Tigard Comprehensive Plan applies in this case. Applicable policies are satisfied as addressed previously in this report.

**(2) Consider whether the boundary change would: (A) Promote the timely, orderly and economic provision of public facilities and services; (B) Affect the quality and quantity of urban services; and (C) Eliminate or avoid unnecessary duplication of facilities or services.**

The proposed annexation will allow urban services to be provided for future urban development. The site is currently developed with an abandoned home without sewer or public water and served by Washington County and Tualatin Valley Fire and Rescue (TVF&R). Upon annexation sanitary sewer, storm sewer, and water can be extended to serve future development. In addition, Tigard Police will serve the site instead of Washington County Sheriff. TVF&R will continue to provide service as it is a county-wide provider.

**(e) A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and outside the UGB. Neither a city nor a district may extend water or sewer services from inside a UGB to territory that lies outside the UGB.**

The property to be annexed is not outside the UGB. This criterion is not applicable.

**Metro 3.09.050 (b)**

**(b) Not later than 15 days prior to the date set for a change decision, the approving entity shall make available to the public a report that addresses the criteria in subsection (d) below, and that includes at a minimum the following:**

The staff report was available July 8, 2013, thirteen days prior to the public hearing.

**(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;**

As addressed previously in this report, urban services are available and can be extended to the affected territory.

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

The proposed territory will remain within Washington County but will be required to be withdrawn from the Washington County Enhanced Sheriff's Patrol District and Urban Road Service District upon completion of the annexation. This withdrawal is incorporated into the proposed ordinance.

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

The public hearing will take place July 23, 2013. If the Council adopts findings to approve ZCA2013-00002, the effective date of the annexation will be upon filing with the Secretary of State office per Oregon Revised Statutes (ORS 222.180) or 30 days following City Council adoption, whichever is later.

**(c) The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.**

The proposed boundary change meets the applicable criteria as demonstrated in this staff report.

**(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.**

The criteria and factors outlined in subsections (d) and (e) of Section 3.09.045 have been previously addressed in this report.

CONCLUSION: As shown in the above findings the proposed annexation satisfies the Metro Code regulations related to Local Government Boundary Changes. This criterion is met.

**(Tigard CDC 18.390.060 continued)**

**4. Any applicable comprehensive plan policies; and**

FINDINGS: Findings addressing the applicable Comprehensive Plan policies were provided previously in this report.

CONCLUSION: As previously demonstrated, the proposed annexation is consistent with all applicable comprehensive plan policies.

**5. Any applicable provisions of the City's implementing ordinances.**

FINDINGS: Resolution 13-08 extended previously approved incentives for property owners that voluntary annex into the city limits through February 2014. These incentives include waiver of the annexation application fee, assistance with paperwork and, phasing in of increased property taxes. These incentives have been extended to the applicant. As demonstrated in previous sections of this report, the proposed annexation is consistent with all other applicable provisions of the Tigard Development Code.

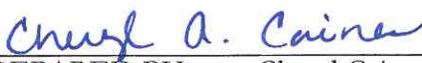
CONCLUSION: Based upon the findings above, all applicable provisions of the city's implementing ordinances are satisfied

**SECTION VII. AGENCY COMMENTS**

**Century-Link/Qwest** responded that the site was outside of the Century-Link service area.

**SECTION VIII. PUBLIC COMMENTS**

The City mailed notice to surrounding property owners within 500 feet. No written public comments were received. One phone call was received to obtain the contact information of the applicant.

  
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PREPARED BY: Cheryl Caines  
Associate Planner

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July 3, 2013  
DATE

  
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REVIEWED BY: Tom McGuire  
Asst. Community Development Director

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July 3, 2013  
DATE