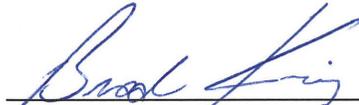


Signed:


Brad Kilby AICP, Planning Manager

Proposal:

I. BACKGROUND

- A. Applicant: **The Holt Group, Inc.**
2601 NE 163rd Court
Vancouver, WA 98687
- B. Location: South of the existing Sherwood City limits, generally north of Brookman Road, east of Pacific Highway and west of Ladd Hill. A map of the project area is attached as Exhibit B and a list of tax lots, owners, and assessed values within the area to be annexed is included as Exhibit E.
- C. Review Type: An annexation is a legislative decision by the City Council and the City Charter requires a vote on annexation if approved by the City Council.
- D. Public Notice and Hearing: Notice of the August 20, 2013 City Council hearing on the proposed annexation was provided to affected agencies and service providers, posted in five public locations around town, posted in two locations in the subject vicinity, and mailed to all property owners within the area to be annexed on July 30, 2013. Notice of the hearing was published in The Times on August 8th and August 15th, 2013.
- E. Review Criteria: While the Oregon Revised Statutes (ORS 222) guide the process for annexations, there are no specific criteria for deciding city boundary changes within the statutes. Metro, the regional government for this area, has legislative authority to provide criteria for reviewing (Metro Code 3.09). In addition, the City of Sherwood Comprehensive Plan Growth Management policies for urbanization are applicable and are addressed within this report.
- F. Legislative history: The area was brought into the Sherwood Urban Growth Boundary in 2002 via Metro Ordinance 02-0969B to provide for needed residential land. The entire Brookman area is comprised of 66 tax lots and approximately 258 acres. The area was concept planned between 2007-2009. In June 2009, via Ordinance 2009-004 the City approved the concept plan and associated implementing comprehensive plan and map amendments.
- G. Site Characteristics: The proposed annexation area includes 12 tax lots totaling approximately 97.5 acres of land. The area is bisected by the Cedar Creek corridor. A railroad line, cuts through the northwest corner of the area proposed

to be annexed. The area proposed to be annexed is gently to moderately sloped, heavily treed, and contains protected resource areas.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The following agencies: Tri-Met, NW Natural Gas, Sherwood Broadband, Bonneville Power Administration, City of Sherwood Public Works, Tualatin Valley Fire and Rescue, Sherwood School District, ODOT, Pride Disposal, Allied Waste, Waste Management, Sherwood Engineering, Kinder Morgan, Raindrops2Refuge, PGE, Washington County, Clackamas County, Metro, and Clean Water Services. No comments have been received at the time of this report.

Public:

As of the time of this staff report, no written comments have been submitted.

III. REQUIRED CRITERIA AND FINDINGS FOR ANNEXATION AND BOUNDARY CHANGE

State

Oregon revised Statute 222 authorizes and guides the process for annexations of unincorporated and adjacent areas of land into the incorporated boundary of the City. In this particular instance, the property owners of the area are petitioning the City to annex under the triple majority method as allowed by ORS 222.170. Since the City of Sherwood charter requires all annexations to be approved by the electors within the City, ORS 222.160 is applicable. ORS 222.160 states that when the annexation is put to the electors, the City shall proclaim the annexation via resolution or ordinance if it receives a majority vote. Assuming the annexation is approved by the voters, a resolution proclaiming the annexation and forwarding notification to the Secretary of State, Department of Revenue and affected agencies and districts will be prepared for Council approval.

Regional Standards

There are no specific criteria for deciding city boundary changes within the Oregon statutes. However, the Legislature has directed Metro to establish criteria, which must be used by all cities within the Metro boundary. This area is within the Urban Growth Boundary; however Metro has not extended their jurisdictional boundaries to include this area. Regardless, the City will err on the side of caution and review the annexation for compliance with the applicable Metro Code Chapter, Chapter 3.09 (Local Government Boundary Changes).

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

(a) The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.

(b) Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and 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;

The Brookman Area Concept Plan, developed in 2009 identifies the location and size of urban services including water, sanitary and storm sewer. The Water System Master Plan, Storm Water Master Plan and Sanitary Sewer Master Plan already include assumptions for the Brookman area and upgrades needed to serve the Brookman area are already programmed in. Therefore, while urban services are not immediately available within the Brookman area, they have been extended to locations where it is feasible for them to be extended to serve the proposed annexation area.

Water: The Water System Master Plan identifies the need for several major improvements to extend water service to the area. These projects include: the seismic upgrade to the existing reservoirs; construction of new reservoirs; installation of a pressure reducing valve; and the addition of several pipeline segments. These improvements are required to provide a “backbone” network that will serve the area. Several of these items, including a seismic upgrade of the Main Reservoir and a new 4.0 million gallon reservoir have been completed. The Southwest Sherwood Pressure Reduction Valve (PRV) station and associated piping will be constructed in the right-of-way of Old Highway 99 at the border of the 455-foot pressure zone. This connection will provide service to the western portion of the concept plan area, located in the 380- foot pressure zone. The PRV reduces the water pressure in the piping as it moves from the 455-foot pressure zone to the lower pressure, 380-foot pressure zone. This project is programmed for 2024/2025, however may be completed sooner as development occurs within the area.

Sewer: The Sanitary Sewer Master Plan identifies needed system upgrades including the extension of a 15-inch line to the southern limit of the annexation area, and a 12-inch line west and across Highway 99 to serve future development within the overall Brookman Plan area.

The City is within the Clean Water Services County Service District and is served by the Durham regional treatment plant. The territory to be annexed is not currently within the District and will require separate annexation request to CWS.

Storm Drainage. The Concept Plan and Storm Water Master Plan identify regional water quality facilities to meet the storm water needs of the area. The concept plan identifies several ideal locations for these facilities, however, they do not currently exist and it is unlikely funding will be available in the near future to provide for these facilities prior to development. Developers could construct a regional stormwater facility and create a Local Improvement District (LID) or Reimbursement District to recoup the costs. Otherwise, developments will be required to provide private on-site storm water facilities. It may also be possible to recoup some of the costs through System Development Charges (SDC) credits.

Parks and Recreation. The City of Sherwood maintains a number of developed parks and open spaces. Additionally the City maintains over 300 acres of Greenway/greenspace/natural areas. 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, commercial and industrial development.

Transportation. The proposed annexation area is within Washington County territory. A portion of the area (2 tax lots) 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 area occurs via several locations including Pacific Highway, Brookman Road, Ladd Hill, Middleton Road, Old Highway 99W, Pinehurst and Timbrel. Road upgrades will be necessary with development. Transportation improvement needs were identified in the development of the concept plan and the funding plan that was adopted by Council in 2011 (Resolution 2011-072) demonstrates that these identified transportation improvements are "reasonably likely" to be funded with existing local, county, regional and state funding sources.

Fire. The territory is within the boundary of the Tualatin Valley Fire and Rescue District, which is served by Station 33 located on SW Oregon Street. Station 35 in King City and Station 34 in Tualatin are also in close proximity. This will not change with annexation.

Police. The proposed annexation area is within the Washington County Enhanced Sheriff's Patrol District (W41). The City will 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.

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

As discussed above, all of proposed annexation properties are within the Washington County Enhanced Sherriff's Patrol District. It is expected that these areas will be withdrawn from the district upon annexation into the City.

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

Because of the City of Sherwood charter requirement that annexations be approved by the citizens of Sherwood, the annexation would not take effect until after voter approval at the November 5, 2013 election. The effective date of annexation will be finalized after the election and Council acceptance of the election results, via resolution, and filing of the approval and election results with the Secretary of State, Department of Revenue, and other affected agencies.

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

The applicant has submitted the petition application along with certified petitions and legal descriptions required to initiate the annexation request. The information that was supportive of an earlier attempt to annex the entire Brookman Road Concept Area, and this staff report demonstrate that the proposed annexation meets the applicable criteria.

(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 are evaluated immediately below

Metro Criteria § 3.09.045 (d.)

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

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 the City would be responsible for comprehensive planning within the Urban Planning Area and would be responsible for the preparation, adoption and amendment of the public facility plan required by OAR 660-11 within the Urban Planning Area. The UPAA also identifies the City as the appropriate provider of local water, sanitary sewer, storm sewer and transportation facilities within the urban planning area.

FINDING: As discussed within this report, the concept plan for the area was developed consistent with the UPAA. The agreement specifies that the City of Sherwood is the appropriate urban service provider for this area and that Washington County will not oppose annexation. Therefore, the annexation is fully consistent with Washington County policies and agreements.

(b) Any applicable annexation plan adopted pursuant to ORS 195.205

This is not applicable

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

The City is in the Clean Water Services District and this area will need to be annexed into the CWS district. The City and CWS have cooperative agreements that will not be affected by this annexation. The territory is also in the TVF&R service district which will not change upon annexation. The proposed annexation area is within the Washington County Enhanced Sherriff Patrol District and Urban Road Maintenance District and is expected to be withdrawn upon annexation.

Both the City and Washington County will continue to honor the mutual aid agreements which ensure coverage of law enforcement regardless of the jurisdictional boundary. The area to be annexed will be withdrawn from this district as the City of Sherwood provides these services and the special district service will no longer be needed. Pursuant to the ORS, the cooperative agreements call for coordination of planning activities. As affected agencies, Washington County, CWS and TVF&R received notice of the proposed annexation and the opportunity to provide comments.

(d) Any applicable public facility plan adopted pursuant to a Statewide planning goal on public facilities and services; and

City Council reviewed and adopted the Brookman Concept Plan in June 2011. The Brookman Concept Plan incorporated the recommendations found in the City's water, sanitary sewer and storm water master plan and the Transportation System Plan. At that hearing the Council evaluated the Plan's consistency with the Comprehensive Plan and the applicable master plans and found that these were met; however, the discussions and findings in this report also demonstrate that the proposed annexation can feasibly comply with those plans.

(e) Any applicable comprehensive plan; and

Compliance with the local Comprehensive Plan is discussed further in this report under the "Local Standards" section.

2. Consider whether the boundary change would:

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

The proposed annexation area can be served by extending existing sewer and water services that abut the City limits. Within this specific

area, two potential locations for extending sewer and water have been identified by the applicant and are considered feasible to the City Engineer provided that improvements and upgrades to the system are provided by future development in the area. Franchise utilities and road access are already provided by both Washington County and the respective utility service provider. Upgrades to these utilities will be studied, and if needed, required to be paid for by development. Finally, by annexing the area, the City will be able to collect the SDC's necessary to make infrastructure improvements needed to serve the area consistent with the applicable master plans.

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

Currently there are no urban services in the territory proposed to be annexed, therefore annexation will provide the opportunity for extension of urban services to City standards. There are existing roads that vary in quality. Annexation will not immediately affect these positively or negatively, however as development occurs, road improvements will likely be required, and utility extensions and upgrades will be made. Therefore, the annexation positively affects the quality and quantity of urban services.

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

The existing property owners most likely use City facilities such as the library and parks, while also relying upon County services for road maintenance and law enforcement. However, because of the proximity to the City, Sherwood would be a first responder on many emergency calls. In addition, there can sometimes be confusion on the part of both the City and residents when an area is developed in such close proximity to the City in regard to who the service provider is. Annexation will eliminate any confusion or potential duplication of services.

C. Local Standards

The territory is within the City's Urban Planning Area as identified in Sherwood/Washington County Urban Planning Area Agreement. As such, the Comprehensive Plan goals and policies for urbanization apply. In addition, the city adopted the Brookman Concept Plan, including amendments to the Comprehensive Plan to implement the concept plan. Ordinance 2009-004 designated the zoning for the properties in the area. A copy of the adopted comprehensive plan zoning map is attached as Exhibit C. This zoning will be applied upon annexation of the area.

The Growth Management Chapter of the City's Comprehensive Plan contains several policy objectives

Chapter 3, section B.2

- a. **Focus growth into areas contiguous to existing development rather than "leap frogging" over developable property.**

The subject property is immediately south of existing fully built out development inside the City limits therefore this policy is addressed.

b. Encourage development within the present city limits, especially on large passed-over parcels that are available.

The area was brought into the UGB by Metro in 2002 to provide for residential development. The decision to annex the property provides for additional development opportunities within the City. While there may be existing parcels in the city that have not yet developed, there are very few vacant or developable and residentially zoned large parcels in the City. In some cases, the land available for residential development is being actively pursued by developers, and the owners have not demonstrated a willingness to develop. By and large, the majority of land available for residential redevelopment is infill, and will only accommodate small partitions.

The proposed annexation area was included within the UGB in 2002, and has been identified as necessary to meet the local and regional need for residential development over the then 20 year planning horizon. That was over 10 years ago. The annexation of this area will not significantly affect the ability for existing parcels inside the City limits to develop when and if they are ready to develop.

c. Encourage annexation inside the UGB where services are available.

The area to be annexed is in the UGB and services are available to be extended into the area.

d. When designating urban growth areas, consider lands with poorer agricultural soils before prime agricultural lands.

This is now a criterion that Metro must consider in its decision to expand the UGB. Any land's brought into the UGB have already undergone extensive weighing of the need and ultimately the decisions that were made to allow the area to be urbanized outweighs the need to preserve the agricultural land.

e. Achieve the maximum preservation of natural features.

The annexation of the area, in and of itself will not preserve natural features; however the development of the concept plan considered the natural environment and development of the area must be in compliance with Clean Water Services standards and the development code standards which will encourage preservation of natural areas.

f. Provide proper access and traffic circulation to all new development.

The concept plan for the area identifies transportation improvements necessary to serve the anticipated development of this area. As development occurs, new roads will be required in accordance with the existing Development Code which

requires road connections every 530 feet and a maximum block length of 1,800 except for blocks adjacent to arterials. Development of this area will provide additional connectivity and the possibility to provide additional transportation options for existing developments in the City limits.

- 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.**

This is a goal that is achieved through the concept planning and public facility planning for new urban areas. This was done concurrent with the Brookman Area Concept Plan.

- h. Provide for phased and orderly transition from rural to suburban or urban uses.**

The concept plan was developed to ensure that the urbanization of this area was orderly and met the needs of the community; therefore the annexation of the proposed area is also consistent with the policies outlined above.

The Growth Management chapter of the Comprehensive Plan also contains the following City Limits Policies

Chapter 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.

The proposed annexation has been initiated by an individual corporation on behalf of all of the property owners within the affected area. The owners have all indicated by petition, that they are interested in annexing their properties into the City.

Policy 6 provides guidelines for the UPAA consideration and is not directly relevant to the annexation proposal since the UPAA already exists.

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

As discussed previously, while the area must still be annexed into the Clean Water Services District Boundaries, the subject area will have access to public sewer and water. Services, once extended and upgraded, will have adequate capacity to service the area.

Policy 8 through 10 are not relevant to annexation proposals.

Specific requirements of the Brookman Concept Plan include:

Chapter 8, Comp Plan policy 8.2:

To facilitate and ensure implementation in accordance with the concept plan policies, annexation of properties within the Brookman Addition concept plan area may not occur until development code amendments are made to implement applicable policies, including but not limited to policy 4.4.

Upon detailed review of the policies, the majority are already able to be implemented with the existing code standards. The only specific policy found to be applicable is 5.2 which called for the City to “Develop an open space requirement (e.g. as a percentage of land area) for all new development.” This was addressed when the Council adopted new standards for Parks and Open Spaces via Ordinance 2011-009.

Policy 4.4, referenced in the implementation policy is specifically regarding the extension of Red Fern from the existing City limits into the area. Staff has determined that a development code amendment is not necessary as the Comprehensive Plan and Concept Plan already identify Red Fern as an area of special concern. However, to ensure this is understood, it is recommended that the annexation approval also specify this.

- a. Prior to or concurrent with annexation, and assignment of zoning of properties within the Brookman addition area, a plan shall be prepared and adopted by Council to ensure that necessary infrastructure improvements will be available and a funding mechanism or combination of funding mechanisms are in place for the necessary infrastructure improvements consistent with the funding options identified in the concept plan and in full compliance with the Transportation Planning Rule. The plan for annexation may address all or part of the concept plan area, subject to Council approval.”**

The Brookman area funding plan, adopted August 16, 2011, by Ordinance 2011-072 identifies that the infrastructure improvements identified in the Concept Plan are available to serve the area and funding will be available to extend the infrastructure into the area with the collection of SDC’s and the allocation of transportation funds. The funding plan, created to discuss funding for all properties within the Brookman area also acknowledges that some property owners may wish to develop their property prior to a point in time which the City could be expected to have adequate funds to install the infrastructure. In these instances, the responsibility to extend services will be the developers, with the possibility that they might recoup some of their costs through SDC credits or the development of a reimbursement district. This criterion is met.

IV. RECOMMENDATION

Based on the analysis and findings in this report Staff recommends Proposal No. AN 13-01 be **approved** for the November 2013 ballot subject to the following conditions:

1. The required election of the City of Sherwood registered voters voting in the majority to approve the annexation.
2. If the annexation is approved by the voters, the area shall be withdrawn from the Enhanced Law Enforcement District and the Urban Roads Maintenance District.
3. The annexation approval resolution shall specify that the extension of Red Fern into the Brookman area is considered an area of special concern due to existing development constraints and shall only be deemed appropriate for bicycle, pedestrian and emergency vehicle access consistent with the findings adopted with the adoption and implementation of the Brookman Concept Plan.
4. The property owners understand that if the annexation is approved by the Sherwood voters, actions must be taken through Clean Water Services, and Metro to extend their boundaries prior to development being proposed or approved by the City.

V. EXHIBITS

- A. Legal description of area to be annexed
- B. Vicinity map of area to be annexed
- C. Comprehensive zoning map adopted via Ordinance 2009-004
- D. List of tax lots, owners, and assessed values within the area to be annexed