

ORDINANCE NO. 1967

(An ordinance proclaiming the annexation of certain contiguous territory located within the Urban Growth Boundary—Smith)

WHEREAS, the owner of certain property contiguous to the City limits located in the Urban Growth Area has applied for connection to the City's sewer system, a copy of which application is attached as Exhibit A;

WHEREAS, the property is legally described as set forth in the application and is located in Hood River County, State of Oregon (3N 10E 35DB #2200 & #2300);

WHEREAS, pursuant to HRMC Chapter 12.09, a request for connection to City water and/or sewer service for property located contiguous to City limits is considered a written consent to annexation;

WHEREAS, all of the Property owners provided their written consent to this annexation. There is one elector on the property that also provided written consent. This annexation was processed pursuant to ORS 222.125;

WHEREAS, the Property is located within the Westside Rural Fire Protection District, Farmers Irrigation District, and the Ice Fountain Water District and ORS Chapter 222 provides for the withdrawal of territories from districts such as the Westside Rural Fire Protection District, Farmers Irrigation District, and Ice Fountain Water District upon annexation;

WHEREAS, notice of the public hearing on the questions of annexation and withdrawal was published and posted as provided in ORS Chapter 222;

WHEREAS, the Council concluded that the territory sought to be annexed should be annexed and withdrawn only from the Westside Rural Fire Protection District and Ice Fountain Water District as part of the proposed annexation;

WHEREAS, the Council concluded that the territory sought to be annexed should remain within the Farmers Irrigation District upon annexation;

WHEREAS, the City has the authority, within constitutional and statutory limits, to set the property tax rate at which annexed territories should be taxed;

WHEREAS, the Planning Commission and the City Council have, in accordance with the procedures set forth in Chapter 17.15 of the Hood River Municipal Code, held public hearings (January 5, 2009 and January 12, 2009, respectively) to consider the annexation of the Property into the City of Hood River and withdrawal of the Property from West Side Fire District;

WHEREAS, the City Council considered the Planning Commission's record and recommendation, the Planning Department's Staff Report, and testimony presented, if any;

WHEREAS, the City Council adopts the Planning Commission's findings of fact and conclusions of law set forth in the staff report signed January 5, 2009 attached to this Ordinance and incorporated by reference as if fully set forth herein;


NOW, THEREFORE, the City of Hood River ordains as follows:

1. The Property described above is hereby proclaimed to be annexed to the City of Hood River, subject to the conditions in the staff report dated January 5, 2009 adopted herein.
2. The Property described above is hereby withdrawn from the Westside Rural Fire Protection District and from the Ice Fountain Water District.
3. The effective date of the annexation is the date of filing with the Secretary of State.
4. The effective date for the withdrawal of the territory from the Westside Rural Fire Protection District is the date the annexation is effective. The effective date for the withdrawal of the territory from the Ice Fountain Water District will be July 1, 2009.

Read for the first time: January 12, 2009.

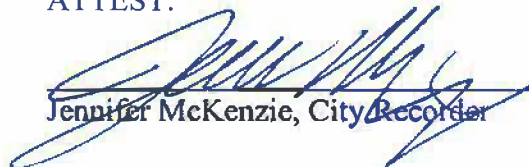
Read for the second time and passed: January 12, 2009 to become effective thirty (30) days hence.

Signed Jan 12, 2009.



Arthur Babitz, Mayor

ATTEST:



Jennifer McKenzie, City Recorder

CITY OF HOOD RIVER APPLICATION
ANNEXATION REQUEST and REQUEST for CONNECTION to CITY of
HOOD RIVER SEWER and/or WATER SERVICE

Submit the completed application WITH TWELVE (12) ADDITIONAL COMPLETE COPIES and appropriate fees to the City of Hood River Planning Department, 301 Oak Ave. (P.O. Box 27), Hood River, OR 97031. Please note the review criteria attached to this application. If you have any questions, please contact the Planning Department at (541) 387-5210.

APPLICANT:

Name: r Betty O. Smith 1802 - connected w a/c
Address: 1806 Avalon Way 1806 - not connected
(physical) Hood River, Or. 97031
(mailing) same

(email) _____
Telephone: 541-386-2586 Cell Phone: _____
Signature: r Betty O. Smith

PARCEL OWNER: (if different than applicant)

Name: _____
Address: _____
(mailing) _____

Telephone: _____ Cell Phone: _____
Signature: _____

**Authorization of parcel owner required.*

PARCEL INFORMATION:

Township 3N Range 10E Section 35DB Tax Lot(s) #2200
Current Zoning: R-2 Parcel Size: .15 ac
Property Location (cross streets or address): Avalon Drive
Existing Water Service, if any: See Fountains
Farmers Irrigation: YES NO Septic: YES NO
Is this a health hazard request for sewer connection? YES NO
If yes, Explain: collapse of 17 Septic tank
City Council Packet

A

20044578(3)

STATE OF OREGON

SS

COUNTY OF HOOD RIVER

I certify that this instrument was received and recorded in the records of said county.

Sandra E. Berry, Director of records and Assessment and Ex-Officio Recorder.

by: *[Signature]* Deputy.

DOC#: 20044578
RCPT: 37615 36.00
10/05/2004 9:30 AM

After recording return to:

City of Hood River
P.O. Box 27
Hood River, OR 97031

Until a change is requested, all tax statements shall be sent to:

No change

**Declaration of Deed Restrictions/Restrictive Covenant
(Consent for Annexation)**

DATE: September 24, 2004

PARTIES:

Dennis E. Smith
1802 Avalon Way
Hood River, OR 97031

"Owner"

City of Hood River,
An Oregon municipal corporation
PO Box 27
Hood River, OR 97031

"City"

SITE ADDRESS: 1802 Avalon Way

PROPERTY DESCRIPTION: 3N 10E 35DB #2300

"Property"

RECITALS

1. Owner owns real property located within the Urban Growth Area of the City of Hood River. The property is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference.

2. The City and Hood River County have entered into an intergovernmental Agreement to provide that urban development may occur and the City may provide urban services in the Urban Growth Area before annexation to the City. The City provides water and sewer service in the Urban Growth Area.

3. Owner is requesting that sewer service be provided to Owner's Property.

4. Pursuant to the City's Comprehensive Plan and HRMC Chapter 12.03, Owner may apply for connection to City's sewer and/or water system if Owner provides prior written consent to the annexation of Owner's Property.

In consideration of the City's provision of sewer service to Owner's Property and the mutual benefits and covenants contained herein, Owner agrees, on Owner's behalf and on behalf of Owner's successors in interest:

1—Declaration of Deed Restrictions/Restrictive Covenant
Consent to Annexation
L:\bldg\waivers\3N 10E 35DB #2300 Smith 1802 Avalon Way

A

a. That Owner irrevocably consents to and petitions for the annexation of the above-described Property to the City at the present time or at any time in the future; and agrees to waive the requirement that the City present an annexation plan to Owner with respect to any present or future annexation of the Property.

b. That the provisions of this Covenant run with the land and bind the undersigned and all successors in interest to the Property described herein.

c. In the event that suit or action is instituted to enforce the terms of this Covenant, the prevailing party shall be entitled to recover reasonable attorney fees and all other fees, costs and expenses incurred in connection with the suit or action, including any appeals, in addition to all other amounts allowed by law.

Dennis E. Smith
DENNIS E. SMITH

STATE OF OREGON
County of Hood River

This instrument was acknowledged before me on September 27, 2004 by DENNIS E. SMITH.

Janet Morris
Notary Public for Oregon
My commission expires: 06-23-07



EXHIBIT "A"
CONSENT TO ANNEXATION

DENNIS E. SMITH – CITY OF HOOD RIVER

Commencing at a point 1494.9 feet North and 757.0 feet East, more or less, from the South quarter corner of Section 35, Township 3 North, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon, which point is the South line of the property formerly owned by George Lawrence; thence South 89° 08' East 200 feet; thence South 54.45 feet; thence North 89° 08' West 200 feet; thence North 54.45 feet to the place of beginning, containing one-quarter acre of land, EXCEPTING THEREFROM the West 95 feet thereof.

TOGETHER WITH:

Commencing at the Northwesterly corner of that tract of land conveyed to Charles H. Smith and Betsy O. Smith, husband and wife, by warranty deed recorded April 28, 1955, page 2 of Deed Records Hood River County, Oregon; thence South 89° 58' 00" East, 200 feet; thence South 00° 25' 30" East, 54.45 feet; thence North 89° 58' 00" West, 150 feet to the Northwesterly corner of that tract of land conveyed to Maynard B. Bowles and Tena S. Bowles, husband and wife, by warranty deed recorded January 17, 1951, in Book 44, page 405 of said Deed Records; thence South 00° 25' 30" East along the Westerly line of said deed, a distance of 20 feet to an 1" iron pipe, said iron pipe being the Northeasterly corner of Parcel No. 2, as shown on a plat filed October 19, 1994, on Partition Plat #9418, records of said Hood River County; thence South 89° 58' 00" East, 45 feet to the TRUE POINT OF BEGINNING of this description; thence South 89° 58' 00" East, 105 feet to the Westerly right-of-way line of Avalon Way; thence North 00° 25' 30" West, 20 feet; thence North 89° 58' 00" West, a distance of 105 feet; thence South 00° 25' 30" East, a distance of 20 feet, to the TRUE POINT OF BEGINNING of this description.

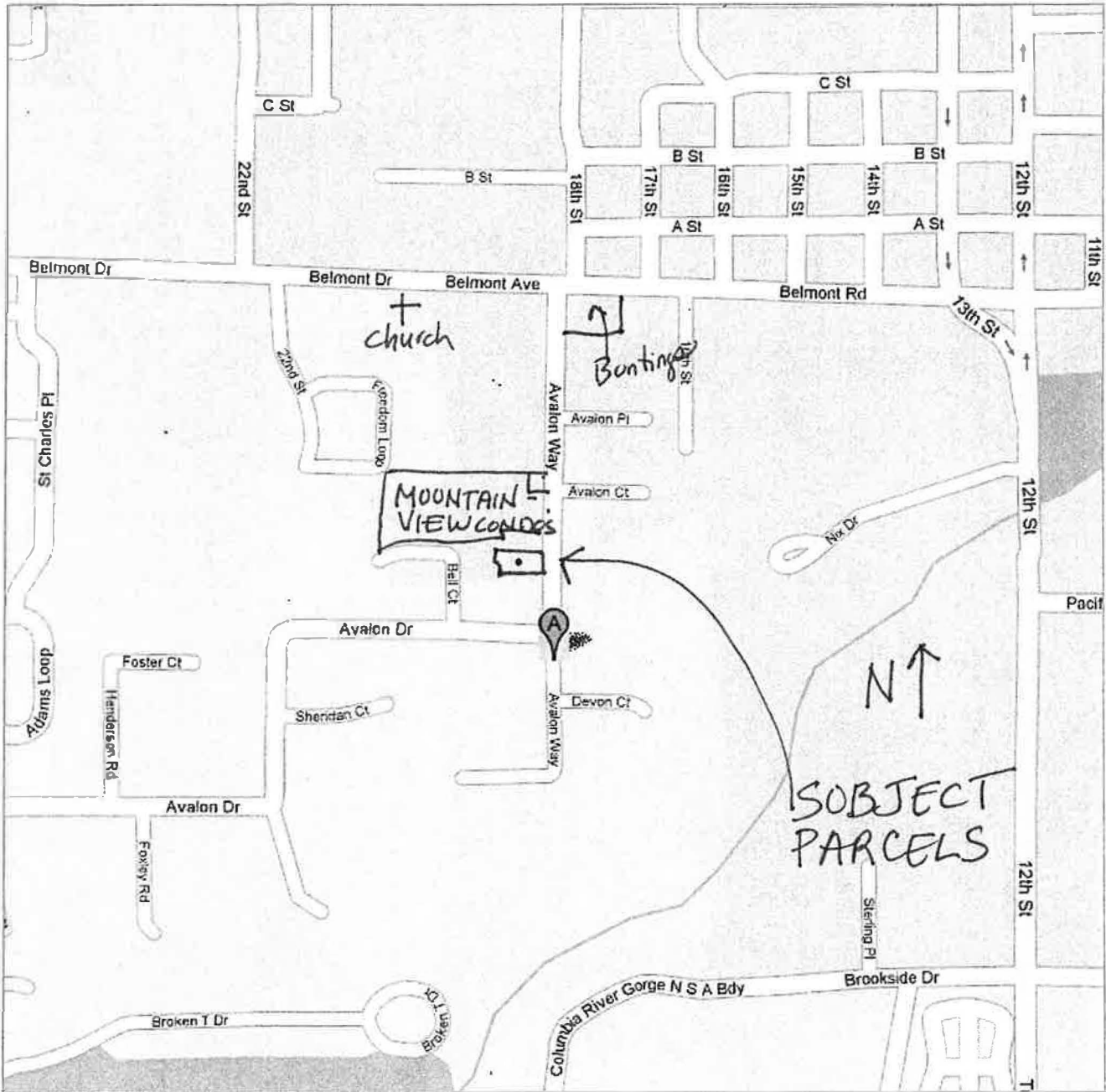




Address 1806 Avalon Way
Hood River, OR 97031

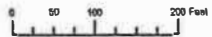
Get Google Maps on your phone

Text the word "GMAPS" to 466453



"B"

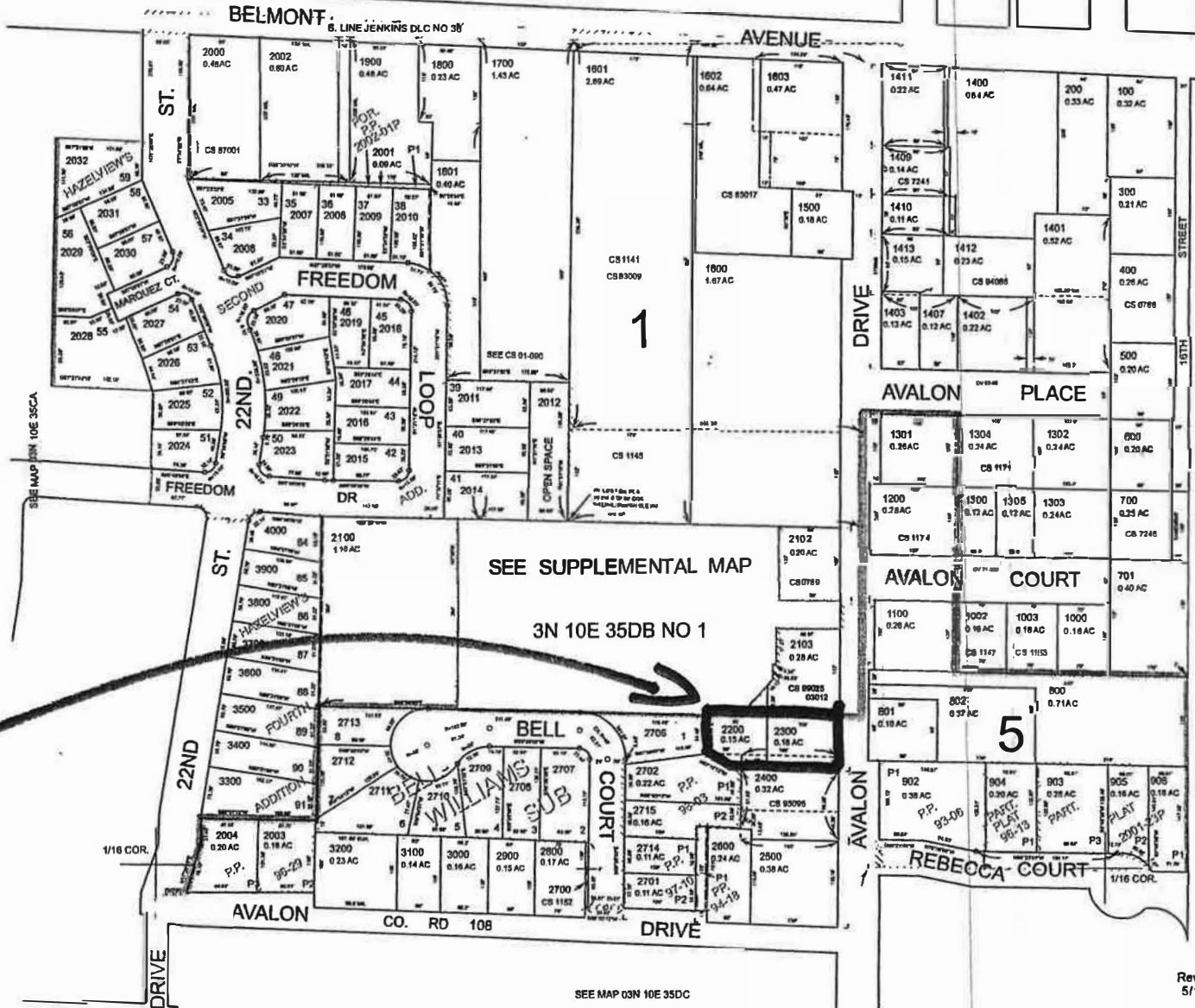
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



N.v.1/4 S.E.1/4 SEC.35 T.3N. R.10E. W.M.
HOOD RIVER COUNTY
1" = 100'

03N10E35DB
HOOD RIVER

- CANCELLED:
- 900
- 901
- 1001
- 1404
- 1405
- 1408
- 1408
- 1604
- 1606
- 1606
- 1808
- 2101
- 2104
- 2401
- 2402
- 2489
- 2599
- 2703
- 2704
- 2705



SUBJECT PROPERTY
 City Council Packet # 23-
 3N10E35DB
 #2200
 2300

B

SEE MAP 03N 10E 35DA

SEE MAP 03N 10E 35DC

Revised JB
5/19/2008

HOOD RIVER
03N10E35DB

Farmers Irrigation District

*1985 Country Club Road, Hood River, Oregon 97031
541-386-3115 Phone; 541-386-9103 Fax;
fidhr@gorge.net email*

11/10/2008

Kevin Liburdy, Senior Planner

Re: Smith Annexation # 2008-36

Dear Mr. Liburdy,

Tax Lot 3N-10E-35DB # 2300 has .10 water right acres; Tax Lot 3N-10E-35DB # 2200 has .10 water right acres. Farmers Irrigation District will continue to serve irrigation water into annexed territories.

Thank you for notification of this matter.

Sincerely,

Rick Brock
Water Rights Department
541-387-5263

Jessica Kinder

From: Dave Bick
Sent: Thursday, November 06, 2008 2:38 PM
To: Jessica Kinder
Cc: Bob Francis; Ron Geason; Cindy Walbridge; Kevin Liburdy; Gary Lindemyer
Subject: RE: IGA meeting

Greetings Jessica,

It went well. Only Mike from Farmer's showed up and they have no issue with the annexation of that parcel.

Mark Beam from Ice Fountain called a day or two before and said that they also had no issue as long as we connect them to our system when they annex, which is not a problem to do. IF will send us a bill to be paid next year in accordance with the IGA.

No word from Westside Fire, but I cannot imagine that they will have too much issue with this as we are only expanding one lot to the south of the existing boundary.

Dave

From: Jessica Kinder
Sent: Wednesday, November 05, 2008 10:42 AM
To: Dave Bick
Cc: Kevin Liburdy
Subject: IGA meeting

Hi Dave Bick,

How did the IGA meeting go yesterday??

Thanks,

Jessica Kinder
City of Hood River
Planning Assistant
301 Oak St
P.O. Box 27
Hood River, OR 97031
541.387.5210

D

**BEFORE THE CITY OF HOOD RIVER PLANNING COMMISSION
HOOD RIVER OREGON**

In the matter of the annexation)
request by Betty Smith)
for a .33 acre annexation)
File #2008-36)

FINDINGS AND RECOMMENDATION

I. BACKGROUND:

- A. **REQUEST:** Annexation of 0.33-acre, consisting of two parcels (.15 acre and .18 acre in size) and connection to the municipal sanitary sewer system, for tax lot 1806 to replace a failing septic system.
- B. **APPLICANTS:** Betty Smith
- C. **OWNERS:** Betty Smith: 3N 10E 35DB #1806; Dennis Smith: 3N 10E 35DB #1802
- D. **PROPERTY LOCATION:** The property is located on the west side of Avalon Way two parcels south of the entrance to the Mountain View Condominiums. Legal description: 3N 10E 35DB Tax Lots #2200 and #2300.
- E. **PROPERTY SIZE:** 0.33 acre total
- F. **SITE ZONING AND LAND USE:** The property currently is in the Urban Growth Area and is zoned Urban Standard Density Residential (U-R-2). If the property is annexed, the zoning will remain Urban Standard Density Residential (R-2). There is an existing single-family home on each tax lot.
- G. **SURROUNDING ZONING AND LAND USES:**
- North: U-R-3, single-family home, condominiums
 - South: U-R-2, single-family homes
 - East: R-1, single family residential
 - West : U-R-2, single-family homes
- H. **APPLICABLE CRITERIA:**
- Hood River Municipal Code (HRMC) Section 17.09.040 – Quasi-Judicial Actions
 - HRMC Chapter 17.15 – Annexation
 - Oregon Revised Statute (ORS) Sections 222.111 through 222.183
 - HRMC 17.03.020 – Urban Standard Density Residential (R-2)
- I. **AGENCY COMMENTS:** Affected agencies were notified of this request. The following comments were submitted in response to the notice prior to the public hearing:
1. Farmers Irrigation District: See attached comments dated 11/10/2008 (Attachment “C”)
 2. Ice Fountain Water District: See attached comments from Dave Bick, City Engineer, dated 11/06/08 (Attachment “D”)
- J. **ADJACENT PROPERTY OWNERS COMMENTS:** Property owners within 250 feet of the subject site were notified of this request. No comments were submitted in response to the notice prior to the public hearing.
- K. **HISTORY:**

1. Application submitted September 25, 2008
2. DLCD Annexation Notice mailed October 1, 2008
3. Notice of Planning Commission & City Council hearings mailed November 5, 2008
4. IGA meeting November 4, 2008
5. Planning Commission hearing January 5, 2009
6. Ordinance posted January 5, 2009.
7. City Council hearing January 12, 2009.
8. Notice of decision for annexation mailed _____, 2009.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW:

A. CHAPTER 17.15 - ANNEXATION

17.15.010 Introduction. It is the policy of the City of Hood River to promote orderly, efficient, and fiscally responsible annexation of territories in conjunction with urban growth or expected or desired urban growth within the urban growth area. Accordingly, the City shall annex property where:

1. The proposed annexation represents the natural extension of the existing City boundary consistent with urban growth;
2. The proposed annexation would not, when developed or as developed, unreasonably limit the ability of the City to provide a level of services to City residents consistent with community needs and the financial capabilities of the City, as determined by the City;
3. The proposed annexation would not cause the City to pledge extension of services beyond its resources so as to result in a deficit operation of the service;
4. The proposed annexation would serve the interests of the entire community and not solely the interests or convenience of those within the territory proposed to be annexed.

FINDINGS: The northern property line of the subject site abuts the City Limits and, as such, the annexation is a natural extension of the City boundary consistent with urban growth. Pursuant to the City's Intergovernmental Agreement (IGA) with the special districts (i.e. West Side Fire District, Ice Fountain Water District, Farmers Irrigation District), the City Manager invited representatives of the special districts to a meeting to discuss the annexation on November 4, 2008.

Farmers Irrigation District will continue to provide irrigation to the subject site following the annexation. However, Ice Fountain Water District will not serve the site if it is annexed; City water is available at the property line.

The impact on the City's ability to provide services and financial capabilities of the City are addressed below in HRMC 17.15.060.

17.15.020 Application and Process. An annexation may be proposed by the City of Hood River, landowners, or a group of residents and shall include the following elements:

1. Preliminary plans and specifications, drawn to scale, showing the actual shape and dimensions of the property to be annexed and the existing and proposed land uses and residential density. City and County zoning in the proposed territory, as shown on a vicinity map, and contiguous lands must also be indicated.
2. Comprehensive statement of reasons in support of the annexation addressing the applicable annexation criteria.
3. Completed certifications of property ownership, registered voter status, map, and legal description.

FINDINGS: The owners of the subject property propose the annexation based upon the City's policy of requiring annexation before providing access to City sewer and/or water service. The submitted application generally includes the information required by this section. The Oregon Department of Revenue requires provision of a metes and bounds legal description of properties to be annexed prior to final approval. As

such, a condition of approval is recommended that prior to final approval the applicants shall provide a current metes and bounds legal description of the property to be annexed. As conditioned, the application is consistent with these requirements.

17.15.030 Filing Fees. Fees for filing for annexation requests shall be set by City Council resolution.

FINDINGS: The applicant submitted a filing fee as set by City Council resolution.

17.15.040 Planning Commission Review. The Planning Commission shall review the application in a public hearing and forward a recommendation with findings to the City Council who will conduct a public hearing according to the *Quasi-Judicial Hearing Procedures* or *Legislative Hearing Procedures* (Chapter 17.09), whichever is applicable.

FINDINGS: The Planning Commission is reviewing the request for annexation, and will make a recommendation with findings to the City Council. The City Council will conduct a Quasi-Judicial public hearing and will make a decision on the annexation application.

17.15.050 Evaluation Criteria – Developed Land. Prior to approving a proposed annexation of undeveloped land, affirmative findings shall be made relative to the following criteria

1. The territory is contiguous to the city limits and within the Urban Growth Area;

FINDINGS: The subject property is located within the Urban Growth Area, and its eastern property line is contiguous to the City Limits. As such, the proposal is consistent with this criterion.

2. The annexation represents the natural extension of the existing City boundary to accommodate urban growth;

FINDINGS: The subject property was designated for location inside the Urban Growth Area in 1980 when the City-Westside Comprehensive Plan was adopted by the County Board of Commissioners (Ordinance #102). The City was required by the State of Oregon Land Conservation and Development Commission (LCDC) to designate sufficient amounts of urbanizable land to accommodate future expansion. The Urban Growth Boundary was adopted by the City Council and LCDC in 1983 and zoned for future urban uses.

The subject property has been located inside the City's Urban Growth Area (UGA) since 1983 and has been zoned for future urban uses since that time. Annexation of property in the UGA is consistent with the City's Comprehensive Plan. The subject site is adjacent to the City limits and is in the vicinity of property that is developed at an urban level for residential uses. As such, the proposal is consistent with this criterion.

3. The development of the property is compatible and consistent with the rational and logical extension of utilities and roads to the surrounding area;

FINDINGS: The property is located adjacent to an existing local street, Avalon Way. The city sewer and water systems are adjacent to the site along Avalon. The property will continue to be served by Farmers Irrigation District.

4. The City is capable of providing and maintaining its full range of urban services to the territory without negatively impacting the City's ability to adequately serve all areas within the existing city limits;

FINDINGS: Annexation of the existing homes will result in additional demand on City services, including maintenance of sanitary sewer lines, as well as an increased demand on the City's Fire and Police Departments. City Fire- and Police Departments already respond to calls for service in the vicinity of the site.

City Council Packet

The City's sewer fund is not in a deficit (the deficit is in the City's general fund, which does not affect provision of this service). Sewer can be provided without negatively impacting service elsewhere because existing sewer facilities are sized to accommodate the urban growth area. User fees will offset maintenance costs. As such, the proposal is consistent with this criterion.

During a meeting with the City Manager, representatives of the Ice Fountain Water District explained that they will not continue to provide water service to the site if it is annexed. According to the Engineering Department the City is capable of providing City water to serve the site at this time.

According to City of Hood River Resolution 2008-18, all annexations of property that is not being simultaneously withdrawn from Ice Fountain Water District **shall contain a condition of approval requiring the property owners, and their heirs, successors and assigns, to compensate the City for the costs associated with the withdrawal of the subject property from Ice Fountain Water District pursuant to the City's Intergovernmental Agreement with Ice Fountain Water District. The applicants/property owners shall record a document in the deed records of Hood River County binding the property owners and their heirs, successors and assigns to this obligation.**

In addition, conditions of approval are recommended that **the applicants shall deposit with the City funds in the estimated amount of any required payment to West Side Rural Fire District and/or Ice Fountain Water District as specified by Council. Within 30 days after the estimated payment amounts are approved by the City and the respective Districts, the applicants shall pay any balance owed to the City, or the City shall refund to the applicant any overpayment.** As conditioned, the proposal is consistent with this criterion.

5. The fiscal impact of the annexation is favorable, as determined by the City of Hood River because of existing development;

FINDINGS: The applicants request annexation to receive City services for one single-family residence with a dialing septic system, and another home that is already on the City's sanitary sewer. Under Measure 50, it is favorable to annex property in association with development. The permanent tax rate for the City of Hood River is \$2.8112 per thousand dollars of assessed valuation. The taxes of an individual property are calculated by multiplying the tax rate by the property's assessed value. Based upon the current assessed value of the subject property (tax lot #2200 – 1806 Avalon owned by Betty Smith \$153.160 and tax lot #2300 1802 Avalon owned by Dennis Smith \$145.150), annual property taxes distributed to the City will be approximately $(\$299,310 \times 0.0028112) = \841.42

Pursuant to the City's IGA with West Side Fire District, the City is required to compensate the District for five years of lost property tax revenue upon withdrawal from the West Side Fire District. Similarly, pursuant to the City's IGA with Ice Fountain Water District, the City is required to compensate the District for three years of lost revenue, user fees, infrastructure and debt service when the property is withdrawn from the Ice Fountain Water District. Pursuant to resolution of the City Council, the applicant will be required to reimburse the City for these costs as a condition of approval of annexation. Therefore, there will be no negative impact to the City associated with the costs of compensating the Districts.

In association with construction of new dwellings, the City collects system development charges (SDCs) for sanitary sewer (\$1,508/dwelling unit), water (\$3,883/dwelling unit), and the transportation system (\$705.12/dwelling unit). Park SDCs are merely a "pass-through" to the Hood River Valley Parks and Recreation District. In addition, monthly sanitary sewer-, storm sewer- and water fees are collected for each household (\$48 for sanitary sewer, \$2.50 for storm sewer, and \$23.81 for water). No new dwellings are proposed, but the applicants will pay fees associated with sanitary sewer because the existing homes on the site will be connected to the City's sanitary sewer system and water systems.

City Council Packet

Annexing the homes will result in City collection of franchise fees for Pacific Power and Light, Northwest Natural Gas, Charter Cable, and Hood River Garbage Service. Franchise fees go into the City's general fund. Assuming franchise fees for a home total approximately \$150 per month, the City would receive approximately 4% of these fees totaling approximately \$72 a year ($\$150 \times 12 \times 4\% = \$72 \times 2 = \$144$).

The following comparison estimates the fiscal impact if the property is annexed, versus remaining in the UGA under the County's jurisdiction.

If annexed

Sanitary SDC 1 @ 1508	=	\$1508
Annual Sewer Fees 2 @ 48x12	=	\$1152
Annual Storm Fees 2 @ 2.50x12	=	\$60
Franchise Fees (approximately) 2 @ 72	=	\$144
Water SDC 2 @ 1368	=	<u>\$2736</u>
Total		\$5600

If not annexed

Loss of all fees by \$60.00 per month for the existing sanitary sewer connection (1802 Avalon Way).

As such, the fiscal impact of the annexation is favorable and the proposal is consistent with this criterion.

- 6. The proposed annexation does not negatively impact nearby properties, whether located within the city limits or the urban growth area; and;

FINDINGS: The applicants propose annexation and connection of the existing home to the municipal sanitary sewer system. No additional development is proposed at this time. Because the zoning of the property will remain consistent with the existing County zoning designation, development potential on the site is similar regardless if it is annexed or not. Use of the site for the existing single-family home is consistent with the use of adjacent properties, therefore nearby properties will not be negatively affected by the annexation. As such, the proposal is consistent with this criterion.

- 7. The annexation conforms to the Comprehensive Plan.

FINDINGS: Generally, the City's Comprehensive Plan does not contain approval standards. Therefore, compliance with the Comprehensive Plan is achieved through compliance with the City's ordinances.

Goal 1: Citizen Involvement

This Goal is satisfied through provisions in the acknowledged Comprehensive Plan and Zoning Ordinance that provide for citizen participation including public hearings. This application has been processed pursuant to those provisions. Notices have been mailed to property owners and agencies, posted in appropriate locations and included in the Hood River News. Public hearings are held before the Planning Commission and City Council before a decision is reached.

Goal 2: Land Use Planning

The Comprehensive Plan and Zoning Ordinance provide a land use planning process and policy framework as the basis for all decision and actions relating to the use of land. This Goal is satisfied by following the Zoning Ordinance including applicable procedures for processing this application and conducting public hearing related to the application.

Goal 3: Agricultural Land

This goal is not applicable as the property is located within the City's Urban Growth Area and is not used as agricultural land.

Goal 4: Forest Land

This goal is not applicable as the property is located within the City's Urban Growth Area and has been "excepted" from the County's resource base.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources

The County has adopted the City's ordinances for use in the UGA. Although the County has not adopted the City's Goal 5 Ordinance (1874), there are no known Goal 5 resources on the subject site.

Goal 6: Air, Water and Land Resources Quality

This application does not increase or decrease the air, water and land resource qualities of the area because it does not directly result in any development. The existing single-family home is not expected to adversely affect air, land or resource quality.

Goal 7: Natural Disasters

This site is not in a floodplain, does not include slopes greater than 25%, does not contain any environmental protection areas and has no designated geologic hazard areas within its boundaries.

Goal 8: Recreational Needs

Policy 6 states "as parcels of land are annexed from the UGA into the City, some land will be designated Open Space/Public Land for the development of new parks and public facilities, including access ways, to serve the recreational needs of the community."

This annexation is for two existing dwellings, one with a failing septic system. The total acreage is .33. There is insufficient land for addition Open Space/Public Facilities designation.

Goal 9: Economy of State

This Goal requires the City to ensure that there is adequate land with public services provided to meet the needs for economic growth and development. This goal is not applicable.

Goal 10: Housing

The subject property was included within the buildable lands inventory for the City/UGA, and will remain zoned for housing.

Goal 11: Public Facilities

The proposal's effect on public facilities is addressed above in HRMC 17.15.060.

Goal 12: Transportation

Following annexation, any subsequent development will be required to compliance with the City's Transportation System Plan.

Goal 13: Energy Conservation

Annexation and development of lands located close to existing services generally promotes energy conservation. Increased residential densities may facilitate additional transportation alternatives such as mass transit.

Goal 14: Urbanization

The subject property is located within the Urban Growth Area, as such, and annexation of property is consistent with the City's Comprehensive Plan.

FINDINGS: There are 2 existing single-family homes on the site. Additional development on the site is very limited. As such, these criteria are not applicable. The applicable evaluation criteria addressed above in HRMC 17.15.050.

17.15.070 Evaluation Criteria – Fiscal Impact. The following factors are to be taken into consideration when determining fiscal impact for both developed and undeveloped land and may include, but are not be limited to:

1. The additional revenues, if any, available to the City as a result of the annexation;
2. Whether any unusual or excessive costs will be incurred as a result of the annexation; and
3. The impact on the City's tax base, if any, as a result of the annexation.

17.15.080 Evaluation Criteria – Urban Service Capabilities.

A. The municipal service needs, if any, of the territory to be annexed, including those of police and fire protection, public sewer and water supply facilities, street improvement and/or construction, and such other municipal services as may reasonably be required. Both short term and long term plans for all services shall be addressed.

B. The projected costs of supplying reasonably needed municipal services to the territory proposed to be annexed.

FINDINGS: This provision contains factors to be taken into consideration when evaluating urban service capabilities. The findings above in 17.15.060(4) address these criteria. The applicants will be required to pay all costs associated with withdrawing the existing property from the Special Districts as well as providing adequate public facilities.

B: OREGON REVISED STATUTES FOR ANNEXATION

ORS 222.111 Authority and procedure for annexation. (1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies. (2) A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. (3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year. (4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510, the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465, the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465. (5) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative

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body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose. (6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart. (7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.

FINDINGS: The proposed annexation is for property that is contiguous to the city. The owners of the property are the petitioners for the annexation. The rate of taxation will be consistent with these requirements. The territory to be annexed is a part of districts named in ORS 22.510 including the West Side Fire District, Ice Fountain Water District, and Farmers Irrigation District.

In association with the annexation, the site will be withdrawn from the West Side Fire District and Ice Fountain Water District as of the effective date of the annexation, but will continue to be served by Farmers Irrigation District. As addressed below, the City is not obligated to submit the annexation request to the electors. As such, the proposal is consistent with these requirements.

ORS 222.120 - Procedure without election by city electors; hearing; ordinance subject to referendum. (1) Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection. (3) The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of 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 a like period. (4) After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question: (b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section. (5) If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510, the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance.

FINDINGS: The City Charter does not require the City Council to submit a proposal for annexation to the voters. This annexation is not being submitted to the voters; instead, public hearings on the annexation are being held in accordance with the requirements of this statute. Notice of the public hearings was published in accordance with ORS 222.120, including being published once each week for two successive weeks prior to the date of the City Council hearing in the Hood River News, and posting of notices of the hearing in four public places in the city for the same period of time.

This annexation request includes withdrawal of territory from a district named in ORS 222.510 (West Side Fire District and Ice Fountain Water District). Pursuant to ORS 222.111(5), the effective date of withdrawal from West Side Fire District and Ice Fountain Water District will be the effective date of the annexation. As such, the proposal is consistent with these requirements.

ORS 222.125 Annexation by consent of all owners of land and majority of electors. The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

FINDINGS: There are two residents living in the home on the subject property. Written consent to the annexation was provided by the owners, Betty Smith and Dennis Smith. The two occupants are registered voters at this address. Because written consent was provided by the owners and not less than 50 percent of the electors, no election is necessary. As such, the proposal is consistent with these requirements.

ORS 222.180 Effective date of annexation. (1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

FINDINGS: The public hearing for this annexation is expected to take place before the City Council on December 22, 2008. If approved, the City Council will read the ordinance approving the annexation and withdrawing the territory from West Side Fire District and Ice Fountain Water District for the first time (and second time if a full Council is present) by title only on December 22, 2008. After the second reading the ordinance will be transmitted to the Secretary of State for filing. Pursuant to ORS 222.180, the effective date of the annexation would be the date it was filed with the Secretary of States. As such, the proposal is consistent with these requirements.

222.183 Notice of annexation when effective date delayed for more than one year. (1) If the effective date of an annexation is more than one year after the date of a proclamation of annexation, the city, through its recorder or other city officer or agency performing the duties of recorder under this section, shall send notice to the county clerk of each county within which the city is located. The notice shall be sent not sooner than 120 days and not later than 90 days prior to the effective date of the annexation. (2) The notice described in subsection (1) of this section shall be in addition to any other notice or filing required under ORS 222.010 to 222.750.

FINDINGS: As addressed above, the effective date of annexation will be the date the annexation is filed with the Secretary of State. The annexation will be filed with the Secretary of State less than one year from the date of proclamation of annexation. As such, these notice requirements are not applicable.

C. CHAPTER 17.03 – LAND USE ZONES:

17.03.020 – Urban Standard Density Residential Zone (R-2)

FINDINGS: If the subject Annexation application is approved, the applicants propose to connect the existing single-family home at 1806 Avalon Way to the municipal sanitary sewer system. According to HRMC 17.03.010, single-family dwellings are permitted in the R-2 zone. No additional development is proposed.

III. RECOMMENDATION AND CONDITIONS: Based on the above Findings of Fact, staff recommends that the planning commission forwards a recommendation of **approval** of the Annexation to the city council **subject to the following conditions:**

1. Prior to final approval, the applicants shall connect to the City water and sewer in conformance with applicable standards of the City Engineering Department.
2. Prior to final approval, the applicants shall provide a current metes and bounds legal description of the annexed property to the Planning Director.

3. The effective date for the annexation shall be the date the ordinance goes into effect, except for purposes of ORS 308.225. The effective date of the withdrawal from West Side Rural Fire District and Ice Fountain Water District will be the effective date of the annexation, except for purposes of ORS 308.225.
4. Annexation and withdrawal from West Side Rural Fire Protection District and Ice Fountain Water District is required as a condition of connection to City sanitary sewer and water facilities. All annexation and withdrawal fees are the responsibility of the applicants.
5. The property owners, and their heirs, successors and assigns, shall compensate the City for the costs associated with the withdrawal of the subject property from Ice Fountain Water District and West Side Rural Fire District pursuant to the City's Intergovernmental Agreement with these special districts. The applicants/property owners shall record a document in the deed records of Hood River County binding the property owners and their heirs, successors and assigns to this obligation.
6. The applicants shall deposit with the City funds in the estimated amount of any required payment to West Side Rural Fire District and/or Ice Fountain Water District as specified by Council. Within 30 days after the estimated payment amounts are approved by the City and the respective Districts, the applicants shall pay any balance owed to the City, or the City shall refund to the applicant any overpayment.

PLANNING COMMISSION DECISION: It was moved and seconded to recommend approval of the annexation application by City Council based on the above findings of fact and subject to the conditions of approval. The motion passed with a 7-0 vote.

APPROVED BY THE CITY OF HOOD RIVER PLANNING COMMISSION the 6 day of January, 2009.



Kate McBride, Chair

ATTEST:



Cindy Walbridge, Planning Director