

Planning Commission's Report and
Recommendation

Creation of An Expedited Review
Process for Uncontested
Annexations and Service Extensions



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Bureau of Planning
City of Portland
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ACKNOWLEDGEMENTS

Portland City Council

Vera Katz, Mayor
Jim Francesconi, Commissioner
Charlie Hales, Commissioner
Dan Saltzman, Commissioner
Erik Sten, Commissioner

Portland Planning Commission

Ethan Seltzer, President
Ingrid Stevens, Vice President
Richard Michaelson, Vice President
Amanda Fritz
Larry Hilderbrand
Paul R. Schlesinger
Timothy W. Smith

Bureau of Planning Staff

Steve Dotterer, Principal Planner
Bob Clay, AICP, Chief Planner
Barbara Sack, AICP

With assistance from Linly Rees, City Attorney's Office

For more information, contact:
Barbara Sack, City Planner
Portland Bureau of Planning
1900 SW Fourth, Room 4100
Portland, Oregon 97201-5350
Phone: 823-7853
Fax: 823-7800
TDD: 823-6868

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1. Summary and Recommendation

Summary

The Bureau of Planning acquired the annexation function from the Office of Management and Finance (OMF) in July 2002. One of the tasks that Planning has taken over from OMF is processing annexations and extra-territorial extensions of water or sewer service. These are types of minor boundary changes. While these minor boundary change cases are heard only by City Council, they must be found in accordance with *Comprehensive Plan* policies, particularly certain urban development and public facilities policies. These policies state that the City of Portland (instead of some other incorporated city or special district) intends to be the eventual provider of urban services such as water, sewer, police and fire within its urban services boundary (USB).

Currently, the City is not initiating any annexations. Most are initiated by petitions from single property owners, as are requests for extensions of water or sewer service where annexation is not possible in the near future because their properties are not contiguous with the city boundary. Generally, the property owners initiating these requests must be located in the City of Portland's urban service boundary (USB). There is a map of Portland's USB on the opposite page. Planning processes these requests with the assistance of an annexation consultant. These cases have been very few in number over the last several years and all require a City Council hearing.

The Metro Code allows local governments in their jurisdiction to establish an expedited review to process uncontested minor boundary changes. Planning Bureau staff could process these requests in a shorter time period if the expedited review process is established. Also, these cases could be placed on the City Council's Consent Calendar. The expedited review process can be established by the passage of an ordinance by City Council. Since the City eventually intends to annex all properties within our USB, there are usually no significant issues to be considered in these minor boundary change cases. The expedited process could save time for property owners, City staff and the City Council in the processing these minor boundary changes.

Planning Commission's Recommendation

Establish an expedited review process for uncontested annexations and extra-territorial service extension cases. Include in the ordinance establishing the process, a notification period of 45 days. The reason for the longer notification period than is allowed by Metro is to give neighborhood associations enough time to review the cases.

2. Background: Legislative Intent and Legal Requirements

Local government boundary changes are governed by state, regional and local policies and regulations. Also, the City has entered into various intergovernmental agreements with Multnomah County and other contiguous counties that involve the provision of urban services and the establishment of urban services boundaries. The policies and regulations most relevant to the establishment of an expedited review process are listed below.

State Law

Local government boundary changes are governed by several chapters of *Oregon Revised Statutes* including Chapters 195, 222 and 268.. Chapter 195 includes provisions that govern coordination of local governments by Metro, agreements between various service providers, and the use of annexation by incorporated cities to provide urban services. Chapter 222 governs city boundary changes, mergers, consolidations, and withdrawals (of territory). Chapter 268 describes the authority of Metro including its authority over local government boundary changes within its jurisdiction.

Metro Code

In 1997, the Oregon Legislature directed Metro to establish criteria that must be used by all cities within the Metro boundary for boundary changes. Metro has done so through the adoption of Metro Code Section 3.09, *Local Government Boundary Changes*. It sets out requirements for petitions, notices, hearings, findings and appeals. Included in this section are the provisions that allow a local government to establish an expedited review process. Section 3.09.045, *Expedited Decisions*, allows an expedited process for uncontested minor boundary changes.

Portland's Comprehensive Plan

Two *Comprehensive Plan* chapters govern annexation and extraterritorial extension of services. These are 2, "Urban Development," and 11, "Public Facilities."

"Urban Development, Policy 2.3" states that the City should phase the annexation program of the City to allow for the incorporation of urban and urbanizable land in a manner that is consistent with the *Comprehensive Plan* and the urban growth boundary as administered by Metro. It also states that annexations outside the USB will not be accepted.

"Public Facilities, Policy 11.1, Service Responsibility B." states that outside its boundaries of incorporation, the City's role as principal provider of urban services within the city's USB shall be acknowledged and provides criteria for the annexation of land into the City.

Planning Commission's Finding:

The adoption of an expedited process will facilitate extension of city services to and annexation of land within its USB by shortening the time line for uncontested annexations and service extensions.

3. Proposal for the Creation of the Expedited Review Process

The Planning Commission recommends that the City Council establish the expedited process for uncontested annexations and service extensions through the passage of an ordinance.

Features of the recommended expedited review process include:

- Annexations and service extension cases must be uncontested. These requests must have the consent of 100 percent of the property owners and 50 percent of the electors, if any, within the affected territory. If a necessary party objects, the expedited review process cannot be used. Necessary parties are affected governments or urban service providers.
- A shorter notice period is allowed. This is 20 day instead of 45 days notice to all interested parties of the boundary change. [This includes bureaus and special districts that now, or in the future, will provide services.] The notice would state that the petition is subject to an expedited process.

The Planning Commission decided to keep the same notice period as the unexpedited process which is 45 days so that City of Portland neighborhood associations, which may only meet monthly, will have time to discuss these cases.

- The report on the boundary change may be made available to the public closer to the date set for the decision. This is seven days before instead of 15 days.
- No public hearing would be required. Currently, a City Council hearing is held which includes a staff presentation on these annexation and extraterritorial extension of service cases. Under expedited review, these cases could be placed on the Council's consent calendar.

The primary reason to adopt this process is that it will allow the processing of property owner-initiated annexations and service extensions on a shorter timeline. Property owners will be able to use this process to annex to the city and have services extended if they are within the City's USB. Currently, annexations and service extension cases are heard by City Council only several times a year. These cases are "bundled" and heard when there are more than one case to save Council and staff processing time. This means that property owners may have to wait months to have their requests processed.

Comment:

Planning's annexation consultant identified a concern about the Metro Code expedited process provisions. The Metro Code requires that notice be given of expedited proposals to "interested parties" but this term is not defined. He advised us that "necessary parties" (affected governments and service providers)

should be included. He also advised us that notice to surrounding property owners is required by ORS 197.763 for all “land use” decisions and annexations are land use decisions. For this reason, the recommended ordinance establishing the process requires notification of surrounding property owners and any surrounding neighborhood associations, even though this is not explicitly required by the Metro Code.

4. Planning Commission Findings and Recommendation

The adoption of an expedited process is supportive of extending urban services and annexing land within the City of Portland’s urban services boundary as called for in “Policy 2.3, Annexation,” and “11.1 Service Responsibility B.” of Portland’s *Comprehensive Plan*. Adoption of this process will reduce the amount of time that it takes for property owners to obtain Council approval of annexations or service extensions. Also, it will reduce the time spent by Planning staff and its consultant at City Council hearings and the amount of time these cases take up of the Council’s calendar.

Planning Commission recommends to City Council that they adopt the recommended ordinance creating the expedited review process for uncontested annexation and service extension requests as allowed by Metro Code section 3.09.045, *Expedited Decisions*. They also recommend notification be increased from the allowed 20 days to 45 days so that neighborhood associations have adequate time to consider these expedited cases.