

Before the Boundary Commission, St. Louis County, Missouri

In re: Valley Park Tree Court and)
Arbor Creek Annexation Area) File No. BC1501
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**SUMMARY OF DECISION
PROPOSAL FOR ANNEXATION OF THE TREE COURT
AND ARBOR CREEK ANNEXATION AREA
CITY OF VALLEY PARK, MISSOURI**

INTRODUCTION

On November 13, 2015, the City of Valley Park (the “City”) delivered its Official Submittal (the “Proposal”) to the St. Louis County Boundary Commission (the “Commission”) wherein the City proposed to annex an area of land currently within the boundaries of St. Louis County, Missouri (the “County”), and which is not within the jurisdiction of any municipality, town, village or other incorporated entity. The City refers to the area as the Tree Court and Arbor Creek Annexation Area (the “Area”) and the Commission has adopted this designation. In response to the completeness review performed by the Commission staff, the City responded to the identified deficiencies. As revised, the Commission deemed the Proposal complete and accepted it as such on November 17, 2015.

On January 26, 2016, pursuant to an Order of the Commission and the statutorily required public notice, the Commission held a public hearing on the Proposal at the Valley Park Lions Club, 1001 St. Louis Avenue, Valley Park, MO 63088. At the public hearing, the City presented evidence in addition to the Proposal. A representative of the County presented evidence in response to the Proposal. The Commission opened the public hearing for public comment and public comment was received from anyone in attendance wishing to speak. The Commission received written comments from the public during the 21-day comment period following the public hearing. The City provided additional comments in its Comments in Support of the City of Valley Park Official Submittal to the St. Louis County Boundary Commission for Annexation of Tree Court and Arbor Creek Annexation Area, dated February 16, 2016 (the “City’s Supplement”). The County also provided additional, detailed, written comments on the Proposal in the form of a written report dated February 16, 2016 (the “Report”). Mr. Daniel S. Peters, esq., with the law firm of Herzog Crebs LLP, submitted written comments on the Proposal on behalf of property owners in an area known as Keyes Summit, a portion of which lies within the Area, in a letter dated February 16, 2016 (the “Herzog Comments”). Finally, Mr. Elkin Kistner, esq., with the law firm of Bick & Kistner, P.C., submitted written comments on the Proposal on behalf of property owners in the Tree Court Industrial Park, which lies within the Area (the “Kistner Comments”).

The Commission makes the following findings based upon: (1) Proposal; (2) information provided by the City at the public hearing; (3) information presented by the County at the public hearing; (4) the public comment received by the Commission at the public hearing; (5) the written comments received by the Commission within 21 days after the public hearing, including the City's Supplement, the Report, the Herzog Comments, and the Kistner Comments; and (6) the Commission's consideration of the statutory factors identified in § 72.403.3, RSMo.

GEOGRAPHIC

A legal description of the Area is included in Section 4—Supporting Documents of the Proposal and is attached to this Summary of Decision as **Exhibit A**, and incorporated by reference herein. A map of the proposed annexation area is included in Section 5—Maps of the Proposal and a copy of the map is attached to this Summary of Decision as **Exhibit B**, and incorporated by reference herein.

Pursuant to information contained within the Proposal, the Area has a population of approximately 243 based upon the 2010 U.S. Census estimate. At the public hearing, the City claimed that there were approximately 260 residents in the Area. The County stated that the Area had a population of 220 in the 2010 U.S. Census.

The Commission finds that the Area includes approximately 430.15 acres of land adjacent to the northeastern section of the City. The Area is bounded on the north by Big Bend Road, by Tree Court Industrial Drive and the City of Kirkwood on the east, by Marshall Road and the Meramec River on the south, and by the existing limits of the City of Valley Park on the west. The Commission finds the Area to be contiguous to the City because 53% of the Area's boundary lines are adjacent to the City's existing boundaries. Further, no unincorporated pockets would be created by the proposed annexation. Therefore, the Commission finds the Area is compact to the existing City boundaries.

The City claims that there are 2.12 miles of public streets and 2.68 miles of private streets in the Area. According to the County, there are 3.72 miles of public streets that would become the City's responsibility to maintain if the Area were annexed into the City. The Commission finds that public and private streets provide access to the Area from the City and from adjacent unincorporated property. Despite the discrepancy between the number of miles of public streets in the City, the Commission finds that there are no natural or man-made barriers to the provision of services to the Area by the City.

The Area contains multi-family condominium units known as the Arbor Creek Condominium Community, multiple single-family residences, and many commercial and industrial properties in the Tree Court Industrial Subdivision. No subdivision splits will result from the Proposal. Therefore, the Commission finds that the present request does not affect existing or natural neighborhoods.

Currently the majority of the Area is zoned M-1 Industrial District and NU Non-Urban District under the County's zoning ordinances. Portions of the Area are also zoned FPNU Flood Plain Non-Urban District, R6A Residential District, C-8 Planned Commercial District, M-3 Planned

Industrial District, FMP-3 Flood Plain Planned Industrial District, PS Park and Scenic District and FPPS Flood Plain Park and Scenic District. If the Area was annexed into the City, the Commission finds that the Area would be re-zoned under the City's existing zoning ordinances to districts that are the most similar to the existing County zoning districts.

The County noted in its Report that the City does not have a floodplain district and the floodplain designation would be removed from the properties located within the floodplain. The City has adopted the National Flood Insurance Program and has implemented the required regulatory criteria. Under the City's current ordinances, any development of any land in the Area located in floodplain must first comply with all FEMA requirements. The Commission concludes that as a result of the City's current floodplain policies there will be no practical impact or detriment to the Area if the annexation is approved as a result of the loss of the "FP" designation.

FINANCIAL

The City and County presented evidence of the financial impact and benefits of the proposed annexation on the Area, the County and the City.

Impact on the Area

Annexation of the Area will result in higher personal property taxes, real property taxes, sales taxes, business licensing fees, refuse collection fees and sewer lateral fees. After annexation, the sales tax rate will increase by one percent from 7.113% to 8.113%. If the annexation is approved, the Area will be subject to the City's property taxes at a rate of \$0.4760/\$100 of assessed value on residential property, \$0.6360/\$100 of assessed value on commercial property, and a personal property tax rate of \$0.57/\$100 of assessed value. If annexation is approved, the residents in the Area will incur a \$22.00 increase in annual sewer lateral fees which fund the City's Sewer Lateral Repair Program. Further, the City's Sewer Lateral Repair Program has a limit of \$3,500.00 on repair costs whereas the County's Sewer Lateral Repair Program has no limit on repair costs.

The County estimates that if the annexation is approved, an owner of a \$99,000 condominium will experience an increase in taxes and fees of approximately \$112 annually (excluding sales tax). Further, a single-family residence with a value of \$204,500 (the appraised value for the single-family homes in the Area range from \$65,600 to \$304,000) will experience an increase in taxes and fees of approximately \$207 annually (excluding sales tax). The City estimates that the average real property tax increase for a single-family home in the Area will be \$135 annually and the average increase for a condominium will be \$89.19 annually (these estimates do not include the additional sewer lateral fee). Further, residential rates for refuse collection will increase in the Area by \$72.48 annually (although this would include yard waste service which is not currently provided by the County). Properties in the Tree Court Industrial Subdivision will see a collective increase in property taxes of \$118,579. The City also imposes a business license fee based on the type of business and a sliding scale based on gross receipts, square footage, or a flat fee.

The County contends and the Commission finds that the proposed annexation will have a substantial financial impact on the residents and property owners in the Area.

Impact on the County

The County estimates that the total annual revenue loss to the County if the Area is annexed into the City is \$265,474. The City claimed that the County would recoup some of this revenue because, if the annexation is approved, the City would contract with the County for two additional police officers at a cost of \$185,000 per year. However, the County asserted that it would incur costs in providing the additional officers. The Commission finds that the loss of revenue that would result from the Proposal, if approved, will not have a significant impact on the County's revenue, nor will there be an extraordinary effect on the distribution of tax resources for the County.

Impact on the City

The City estimates that the proposed annexation will generate \$135,342 from property taxes in 2016 and \$139,402 in 2017. The County estimates that the City will generate the following additional revenue annually if the Area is annexed into the City:

Sales Tax	\$25,520
Utility Tax (residential)	\$13,300
Utility Tax (commercial)	\$154,776
Highway User Tax	\$6,178
County Road and Bridge Tax	\$25,216
Cigarette Tax	\$690
Cable Television Tax	\$1,197

These additional revenues combined with the property tax revenue total \$362,219 in additional, annual revenue for the City. This estimate does not include the additional business license fees, which are difficult to estimate. According to the Proposal, the City anticipates receiving \$3,573,720 in 2016 (which includes an estimated \$131,400 in revenue from the Area). The Commission finds that the revenue that the City will receive if the annexation is approved will amount to approximately 10% of the City's current city-wide revenues anticipated for 2016. Therefore, the Commission finds that the Proposal will significantly increase the tax revenue raised by the City.

SERVICES

The City intends to take over all municipal type services for the Area if annexation is approved, including but not limited to street maintenance, refuse collection (including trash, yard waste and recycling), street lighting, planning and zoning and subdivision regulations, and building code enforcement. The City presented evidence that the effective date of the annexation will be six (6) months following the date of the election, if the annexation is approved. The Commission finds that all of these services except street lighting are currently provided by the County or through contract with the County. Further, after annexation, police services and mechanical permitting and inspection services will continue to be provided by the County pursuant to contracts between the City and the County.

The County currently uses Big Bend Road and Marshall Road to access the Area and provide services to the residents of the Area. The County asserts, and the Commission finds, that the Area is at the southern tip of a large unincorporated area, with a population in excess of 10,000 people, throughout which the County provides services. In close proximity to the Area, there exists the West County Government Center, West County (7th) Police Precinct, District 4 (Southwest) Maintenance Station for the Department of Transportation, inspectors from the Office of Neighborhood Preservation, and 13 County parks, in addition to the general services provided throughout the County.

According to the County, the annual cost of County street maintenance in the Area is \$31,136 and the annual cost of snow removal is \$4,166. The City asserted that expected street maintenance in the Area will cost approximately \$94,000 (not including maintenance of Big Bend Road and Marshall Road), which is nearly three times larger than the County's street maintenance costs in the Area. In addition, at the public hearing, the City asserted that it would spend \$56,700 on maintaining Big Bend Road and \$11,400 on maintaining Marshall Road. However, Big Bend Road is not within the Area and Marshall Road would be maintained by the County, not the City, if the Area were annexed into the City.

The County does not maintain private streets in the Area. Public comments submitted at the public hearing suggested, and the City confirmed in the City's Supplement, that the City and residents of the Area have discussed the possibility of the City's maintenance and improvement of the private streets in the Area. However, in the Proposal, the City indicated that it had no plans for future improvements in the Area. Therefore, because the City's street maintenance costs far exceed the County's and the City has not demonstrated that it will provide better maintenance than the County, the Commission finds that the residents of the Area would not benefit from City maintenance of the streets in the Area.

In the Proposal, and at the public hearing, the City argued that the increase in revenue brought about by the annexation would be offset by a decrease in the cost of services to the residents of the Area. At the public hearing, the residents of the Area indicated that improvements to the private streets were necessary and expensive. The Commission finds, and the City affirmatively stated, that the City has no plans for improvement of the private streets. Further, City maintenance of private property using public money is not in the interests of the residents of the City. Therefore, the Commission finds that the increase in revenue brought about by the annexation will not be offset by a decrease in the cost of services to the residents of the Area.

The Proposal does not seek to alter the current fire protection services, school districts or emergency medical services provided to the Area. The Commission finds that the Valley Park Fire Protection District, Parkway School District and Valley Park School District will serve the Area whether or not the Area is annexed into the City.

The Commission finds that if the proposed annexation is approved, the cost for services such as road maintenance and refuse services will increase and residents may be responsible for a greater portion of sewer lateral repairs. The Commission also finds that the City has not shown that it will provide major services that are in addition to those provided by the County to the residents of the Area. Further, the Commission finds that the County is currently able to easily access the

Area to provide services to the residents of the Area. Therefore, with respect to services, the Commission finds that annexation of the Area would not be in the best interest of the Area or the residents of the Area. Further, the Commission finds that the residents of the Area will not receive improved services commensurate with the increased taxes and fees paid to the City.

DECISION

At a public meeting of the Commission on February 23, 2016, with the required statutory notice having been given, the Commission reviewed and discussed the Proposal and the additional information presented by all interested parties. Following discussion of the foregoing, and after each Commissioner had been provided the opportunity to express his/her respective thoughts concerning the Proposal, a motion was made to deny the Proposal as a Boundary Change-Annexation, with details of the motion, seconding of the motion, and vote of the Commissioners set forth in the approved minutes of the Commission from that meeting. The vote of the Commissioners was six (6) in the affirmative and zero (0) in the negative, one (1) Commissioner abstaining, one (1) Commissioner absent and three (3) vacancies. Pursuant to the Rules of the Commission, the motion passed and the Proposal was denied.

Based upon the facts presented in the (1) Proposal; (2) information provided by the City at the public hearing; (3) information presented by the County at the public hearing; (4) the public comment received by the Commission at the public hearing; (5) the written comments received by the Commission within 21 days after the public hearing, including the City's Supplement, the Report, the Herzog Comments, and the Kistner Comments; and (6) the Commission's consideration of the statutory factors identified in § 72.403.3, RSMo., the Commission hereby determines that the Proposal is not in the best interest of the City and the Area. It is the opinion of the majority of the Commission members that the Proposal should be denied as a Boundary Change-Annexation.

NOW THEREFORE, the Proposal hereby is DENIED, effective as of February 23, 2016, as a Boundary Change-Annexation. The Commission finds that the annexation proposed by Proposal BC1501 shall not be submitted for approval by the voters.

BOUNDARY COMMISSION,
ST. LOUIS COUNTY, MISSOURI

Richard Dorsey, Chairman

Date

EXHIBIT A
[attach Proposal]

EXHIBIT B
[attach map]