

ORDINANCE NO. 1987

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A TRACT OF LAND IDENTIFIED AS 6019 SE HARMONY ROAD INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS RIVER WATER, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-08-01).

WHEREAS, the tract of land is contiguous to the City and can be served by city services; and

WHEREAS, the City received written consent from a majority of electors and all owners of land in the territory proposed to be annexed as required by ORS 222.125; and

WHEREAS, the City mailed notice of the public meetings in accordance with Metro Code Section 3.09.045 (b) and Milwaukie Municipal Code Section 19.1504.1; and

WHEREAS, the City prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A; and

WHEREAS, the tract of land lies within the territory of Clackamas River Water; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District for Enhanced Law Enforcement; and

WHEREAS, the tract of land lies within the territory of Clackamas County Service District No. 5 For Street Lights; and

WHEREAS, the annexation and withdrawals are not contested by any necessary party; and

WHEREAS, the City conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS, subsection E of Section 1504.1 of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan designation in accord with Table 1 in that section;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The Findings and Reasons for Decision attached as Exhibit A are hereby adopted.

Section 2. The tract of land described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas River Water,¹ Clackamas County Service District for Enhanced Law Enforcement, and Clackamas County Service District No. 5 For Street Lights.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Moderate Density Residential and a Municipal Code zoning designation of R-5 Residential.

Section 5. The City shall immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on 10/21/08, and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the City Council on 10/21/08

Signed by the Mayor on 10/21/08



Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Schrader Ramis PC



Pat DuVal, City Recorder



City Attorney

Document27 (Last revised 2/6/2008)

¹ Pursuant to ORS Section 222.465, since this ordinance, which is resulting in the withdrawal of the tract of land from a domestic water supply district, was enacted after March 31, 2008 the effective date of the withdrawal from Clackamas River Water shall be July 1, 2009.

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 6019 SE Harmony Road (the Site), the City Council finds:

1. The Site consists of three tax lots comprising 1.02 acres (Tax Map 1S2E31D Tax Lots 2000, 2090, and 2190). It is contiguous to the existing city limits and is within the City's urban growth management area (UGMA). The Site is bisected by Minthorn Creek and is bounded to the north by railroad tracks and Railroad Ave and to the south by Harmony Rd. Access is obtained through Harmony Rd.

The surrounding area consists of a single-family residential neighborhood to the north and a multi-family residential development to the east. Industrial uses extend to the west and south. The Site is within close proximity to two 3-legged intersections: 1) the Harmony Rd, Lake Rd, and International Way intersection and 2) the Harmony Rd, Linwood Ave, and Railroad Ave intersection.

2. The applicant seeks annexation of the Site to the City to access City services, particularly sewer service. The site is being developed with six (6) two-story attached townhouse units and two (2) apartment units with associated parking. The development was processed under County jurisdiction and construction is nearly complete. The development is an extension of the Harmony Park Apartments complex directly east in unincorporated Clackamas County. The single-family home that was previously on the site was connected to the City's sewer system.
3. The annexation is being processed as an expedited annexation at the request of the applicant. The expedited process does not provide for a public hearing on the proposal. Under the expedited process a City land use and zoning designation is automatically applied to the Site based on the Site's zoning designation in the County.
4. The Site's existing zoning designation in the County is Medium Density Residential (MR-1). The automatic zoning and land use designations upon annexation to the City are R-5 Residential and Moderate Density Residential, respectively. The development will be a legal, albeit nonconforming, use upon annexation to the City since multi-family development is not an outright permitted use in the R-5 zone.
5. The annexation was initiated by Consent of All Owners of Land. The petition meets the requirements for initiation set forth in Oregon Revised Statutes (ORS) Section 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Section 19.1502.2.

6. The annexation petition has been processed and public notice has been provided in accordance with ORS Section 222.125, Metro Code Section 3.09.030 Notice Requirements, and MMC Section 19.1504 Expedited Process.
7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1502.3. They are as follows:
 - A. The subject site must be located within the City's urban growth management area (UGMA);
The Site is within the City's UGMA. The Council finds that this criterion is met.
 - B. The subject site must be contiguous to the existing city limits;
The Site is contiguous to the existing city limits. The Council finds that this criterion is met.
 - C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;
The annexation petition meets the Oregon Revised Statutes requirements for initiation. The Council finds that this criterion is met.
 - D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;
Chapter 6 of the Comprehensive Plan contains the City's annexation policies. Applicable annexation policies include: 1) support for annexations only within the City's UGMA; 2) delivery of City services to annexing areas where the City has adequate services and where a majority of the residents and property owners support the annexation; 3) requiring annexation in order to receive a City service. In the current instance, the Site is within the City's UGMA, the City has the service available, and the single property owner is requesting annexation in order to obtain City services. The Council finds that the annexation proposal is consistent with the City's Comprehensive Plan.
 - E. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).
The Council finds that the annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding No. 8 below.

8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045(d) of the Metro Code, which are as follows:

(1) Find that the change is consistent with expressly applicable provisions in:

(A) Any applicable urban service agreement adopted pursuant to ORS 195.205;

There are no applicable urban service agreements adopted pursuant to ORS 195 in the area of the annexation. The Council finds that this criterion is met.

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

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the annexation. The Council finds that this criterion is met.

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

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the annexation. The Council finds that this criterion is met.

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

A public facilities plan was developed by Clackamas County and subsequently adopted by the City through the City-County UGMA Agreement pursuant to the statewide planning goal on public facilities. The Council finds that extension of City services to the Site upon annexation is consistent with this public facilities plan.

(E) Any applicable comprehensive plan.

The Clackamas County Comprehensive Plan is the only applicable comprehensive plan, and this plan contains no specific language relating to City annexations. It does, however, contain the City-County UGMA Agreement, which identifies this area as being within the mutually agreed upon UGMA boundary. The UGMA Agreement requires the City to notify the County of annexations, which the City has done. The UGMA Agreement also calls for City assumption of jurisdiction of local streets adjacent to the Site. However, the one street adjacent to the Site, i.e. SE Harmony Road, is not covered by this provision because it is not a local street. The Council finds that

the annexation proposal is consistent with the County's Comprehensive Plan.

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

All urban services are available to the site including the desired service, sanitary sewers. The quantity and quality of urban services is adequate to support the development on the property. Annexation will simplify the government structure in the area and will eliminate some layers of government by withdrawing the site from three districts as a result of annexation to the City. The Council finds that the annexation proposal is consistent with these considerations.

9. The City is authorized by ORS Section 222.120 (5) to withdraw the Site from non-City service providers and districts upon annexation of the Site to the City. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's Comprehensive Plan policies relating to annexation.
10. When the Site was developed with a single-family home, it was connected to the City's sewer system. The City has a 15-inch wastewater line crossing the Site just north of and parallel to Minthorn Creek and an 8-inch wastewater line along the Site's western property line. These lines can adequately serve the new multi-family residential development on the Site.
11. The Site is currently in the Clackamas River Water District. However, the City currently serves the Site via its 12-inch water line in Harmony Rd along the Site's frontage. This line can adequately continue to serve the Site. The Site should be withdrawn from the Clackamas River Water District upon annexation to the City.
12. The Site is not currently connected to a public storm water system. Treatment and management of storm water is being handled through the County's development process.
12. Clackamas County Fire District No. 1 currently serves the Site. It will continue to be served by this district upon annexation since the entire City is within Clackamas County Fire District No. 1.

13. The site is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the Site. The Site should be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.
14. The site is within Clackamas County Service District # 5 for Street Lights. The Site should be withdrawn from this district upon annexation. The City does not levy a separate tax or assess individual properties for street lighting.
15. Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the Site upon annexation. The Site will continue to receive services and remain within the boundaries of certain regional and county service providers, such as Tri-Met, North Clackamas School District, Vector Control District, etc.

EXHIBIT B

1S2E31 & 2S2E06

Annexation to City of Milwaukie

CLACKAMAS CO.

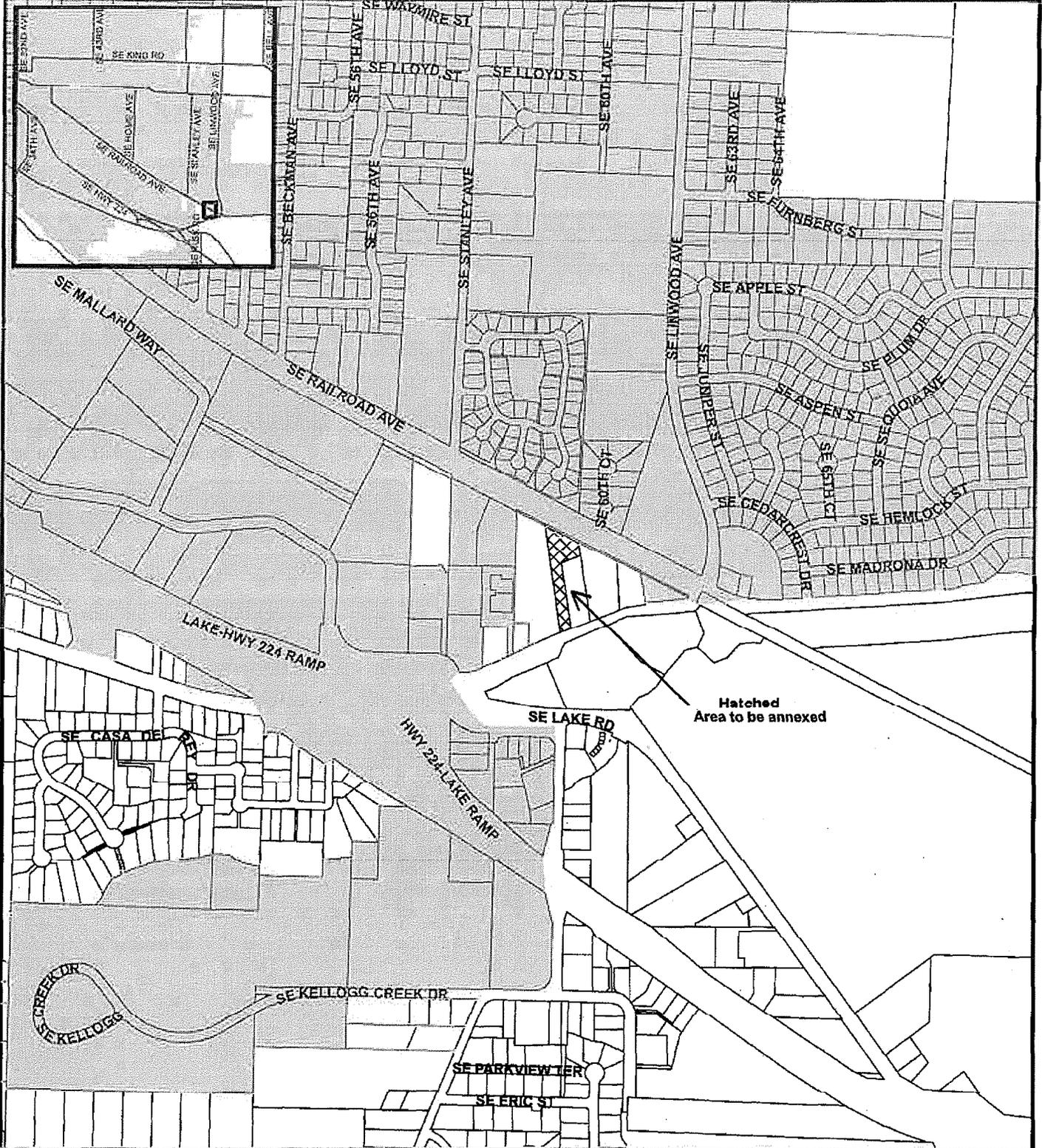


EXHIBIT B

Proposal No. A-08-01

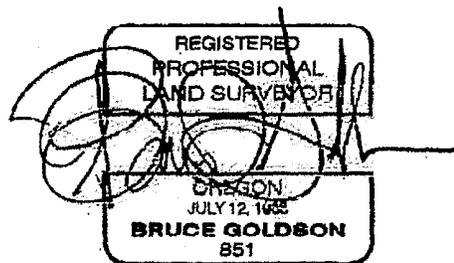
LEGAL DESCRIPTION.

JOB NO. 5824
10/03/08 BDG

EXHIBIT 'A'

A TRACT OF LAND LOCATED IN THE S.E. ¼ OF SECTION 31, TOWNSHIP 1 SOUTH, RANGE 2 EAST AND IN THE NE ¼ OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, IN CLACKAMAS COUNTY, STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON BOLT DRIVEN IN THE NORTHERLY BOUNDARY OF THAT CERTAIN TRACT OF LAND CONVEYED TO J.E. MINARD BLACK BY DEED RECORDED IN BOOK 107, PAGE 518, DEED RECORDS, WHICH POINT IS ON THE SOUTHWESTERLY RIGHT-OF-WAY OF THE OREGON AND CALIFORNIA RAILROAD, SOUTH 65°16'30" EAST, 399.6 FEET DISTANCE FROM THE MOST NORTHERLY CORNER OF SAID TRACT, SAID BEGINNING POINT BEING 108.84 FEET NORTH AND 494.83 FEET WEST OF A BASALT STONE SET AT THE INTERSECTION OF THE NORTH BOUNDARY OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, WITH THE EAST BOUNDARY OF J.D. GARRETT DONATION LAND CLAIM; THENCE SOUTH 65°16'30" EAST, ALONG SAID RAILROAD RIGHT-OF-WAY, 107.77 FEET TO AN IRON PIPE; THENCE SOUTH 09°32'00" EAST, A DISTANCE OF 75.11 FEET TO A POINT; THENCE SOUTH 63°41'00" WEST, A DISTANCE OF 106.00 FEET TO A POINT; THENCE SOUTH 09°32'00" EAST A DISTANCE OF 339.98 FEET TO THE NORTHERLY 35.0 FOOT RIGHT-OF-WAY OF S.E. HARMONY ROAD; THENCE ALONG SAID 35.0 FOOT RIGHT-OF-WAY SOUTH 63°41'00" WEST, A DISTANCE OF 61.06 FEET TO A POINT; THENCE NORTH 09°32'00" WEST A DISTANCE OF 572.27 FEET TO A PIPE DRIVEN ON THE SOUTHWESTERLY RIGHT-OF-WAY OF THE OREGON AND CALIFORNIA RAILROAD; THENCE ALONG SAID RAILROAD RIGHT-OF-WAY SOUTH 65°16'30" EAST A DISTANCE OF 85.75 FEET, MORE OR LESS TO THE POINT-OF-BEGINNING; CONTAINING 1.02 ACRES MORE OR LESS.



DATE OF SIGNATURE

10/3/08

VALID UNTIL: 06/30/2008