ORDINANCE NO. 2020

AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A TRACT OF LAND IDENTIFIED AS 9770 SE STANLEY AVENUE AND 5710 SE HAZEL PLACE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. **(FILE #A-10-03).**

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the City's urban growth management area; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land in the territory proposed for annexation; and

WHEREAS, the territory proposed for annexation lies within the territory of Clackamas County Service District No. 5 for Street Lights and Clackamas County Service District for Enhanced Law Enforcement; and

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

WHEREAS, the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1504.1.E of the Milwaukie Municipal Code provides for the automatic application of City zoning and Comprehensive Plan land use designations; and

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

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

Section 1. The Findings in Support of Approval and 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 The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District No. 5 for Street Lights.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 Low Density Residential and a Municipal Code zoning designation of Residential zone R-10.

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 11/2/10, and moved to second reading by 4-0 vote of the City Council.

Read the second time and adopted by the City Council on 11/2/10

Signed by the Mayor on 11/2/10

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney

Document1 (Last revised 09/18/07)

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 9770 SE Stanley Avenue and 5710 SE Hazel Place (the annexation properties), the Milwaukie City Council finds:

1. The annexation properties consist of two tax lots comprising 0.26 acres (Tax Map 1S2E30DA Tax Lots 05700 and 05800). They are contiguous to the existing city limits via the southern border of 5710 SE Hazel Place, Stanley Avenue, and Hazel Place. The site is also within the City's urban growth management area (UGMA).

   The property at 9770 SE Stanley Avenue has a commercial storefront and a dwelling unit attached to the storefront structure. The property at 5710 SE Hazel Place has a single family dwelling unit on the property. The surrounding area consists primarily of single-family dwellings.

2. The property owner seeks annexation to the City to access City services, namely sewer service, to eliminate the use of failing septic systems on the properties.

3. The annexation petition was initiated by Consent of All Owners of Land on August 4, 2010 It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1502.2.A.1.

4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC Section 19.1504.

5. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1504.

6. The expedited annexation process provides for automatic application of City land use and zoning designations to the site based on the site's existing zoning designation in the County. The site's existing zoning designation in the County is Residential R10. Pursuant to MMC Table 19.1504.1.E, the automatic City zoning and Comprehensive Plan land use designations for this site are Residential zone R-10 and Low Density Residential, respectively.

7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1502.3. They are listed below with findings in italics.

   A. The subject site must be located within the City's urban growth management area (UGMA);

      The site is within the City's UGMA.

B. The subject site must be contiguous to the existing city limits;

The site is contiguous to the existing city limits along the southern border of 5710 SE Hazel Place and the Stanley Avenue and Hazel Place rights of way.

C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

The annexation properties are both owned by Michael Flynn, who has initiated the annexation petition. The property at 5710 SE Hazel Place has one registered voter, Harmony Eunis, who consented to the annexation by signing the petition. The property at 9770 SE Stanley Avenue has two registered voters, Robert Lee and Diane Lee, who both consented to the annexation by signing the petition. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors residing at the site.

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) delivery of City services to annexing areas where the City has adequate services, and (2) requiring annexation in order to receive a City service. The proposed annexation is in anticipation of the completion of the City's NE Sewer Extension Project and the requirement for properties to annex to the City in order to connect to the City's new sewer line. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

F. The proposal must comply with the criteria of Metro code Sections 3.09.050 (d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as described below.

8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045 of the Metro Code. They are listed below with findings in italics.

(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 proposed annexation. The City, however, has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. Pursuant to this agreement, the City is in the process of extending City sewer service to this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer line.

(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 proposed annexation.

(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 proposed annexation.

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

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The City subsequently adopted this plan as an ancillary Comprehensive Plan document. The plan contains four elements:

- *Sanitary Sewerage Services*
- *Storm Drainage*
- *Transportation Element*
- *Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

Sewer: The City is the identified sewer service provider in the area of the proposed annexation and is in the process of constructing a public sewer system that can adequately serve this site.

Storm Drainage: The City will require on-site management of storm water runoff at the time of development and will regulate direct storm water discharge to Johnson Creek.

Transportation: The City will require public street improvements along the site's frontage at the time of development.

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the City's more recent UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City is in the process of developing a water service master plan for all of the territory within its UGMA and discussing possible service provision changes with CRW. In the meantime, CRW will continue to provide water service to this site.

(E) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous page. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. It does, however, contain the City-County UGMA agreement, which identifies the area of the proposed annexation as being within the City's UGMA. The UGMA agreement requires that the City notify the County of proposed annexations, which the City has done. The agreement also calls for City assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The City has already annexed and taken jurisdiction of Stanley Avenue and Hazel Place, which are adjacent to the proposed annexation properties..

(2) Consider whether the boundary change would:

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

The City is the identified urban service provider in the area of the proposed annexation, and the proposed annexation will facilitate the timely, orderly, and economic provision of urban services to this site.

The area does not currently contain a public sewer system; however, the City is in the process of extending City sewer service into this area. The proposed annexation is in anticipation of the completion of this sewer project and the requirement for properties to annex to the City in order to connect to the City's new sewer system.

The area is currently served by CRW, and the City does not propose to duplicate CRW's water system in order to serve this site.

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

Annexation of the site, a single undeveloped tax lot, is not expected to affect the quality or quantity of urban services in this area given the surrounding level of urban development and the existing level of urban service provision in this area.

(C) Eliminate or avoid unnecessary duplication of facilities and services.

The site will be served by the Milwaukie Police Department upon annexation. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

CRW is the current water service provider in the area of the proposed annexation. Until such time as the existing IGA between the City and CRW is renegotiated, the City does not intend to duplicate CRW's existing water supply system or withdraw private properties being served by CRW from the CRW district. CRW will continue to be the water service provider in this area.

9. The City is authorized by ORS Section 222.120 (5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory 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.

Wastewater: The site is within the City's sewer service area and will be served by the City's new sewer lines in the northeast sewer extension area once the project is completed.

Water: The site is currently served by CRW through a CRW water line. Pursuant to the City's IGA with CRW, the site should not be withdrawn from this district at this time.

Storm: The site is not currently developed or connected to a public storm water system. Treatment and management of on-site storm water will be required at the time of development.

Fire: The site is currently served by Clackamas County Fire District No. 1 and will continue to be served by this fire district upon annexation since the entire City is within this district.

Police: 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. In order to avoid duplication of services, the site should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

Street Lights: All properties in unincorporated Clackamas County are in Clackamas County Service District No. 5 for Street Lights. The site should be withdrawn from this district upon annexation to the City. The City does not levy a separate tax or assess individual properties for street lighting.

Other Services: 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

Annexation to the City Of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-10-03

Property Address:	9770 SE Stanley Avenue, Milwaukie, OR 97222
Tax Lot:	1S2E30DA05800
Legal Description:	The north 50 feet of Lot 1, Block 5, HOLLYWOOD PARK (Clackamas County Plat # 378)
County:	Clackamas

Property Address:	5710 SE Hazel Place, Milwaukie, OR 97222
Tax Lot:	1S2E30DA05700
Legal Description:	Lot 2, Block 5, HOLLYWOOD PARK (Clackamas County Plat # 378)
County:	Clackamas

NE 1/4 SE 1/4 SEC. 30 T.1S. R.2E. W.M.
CLACKAMAS COUNTY
1"=100'

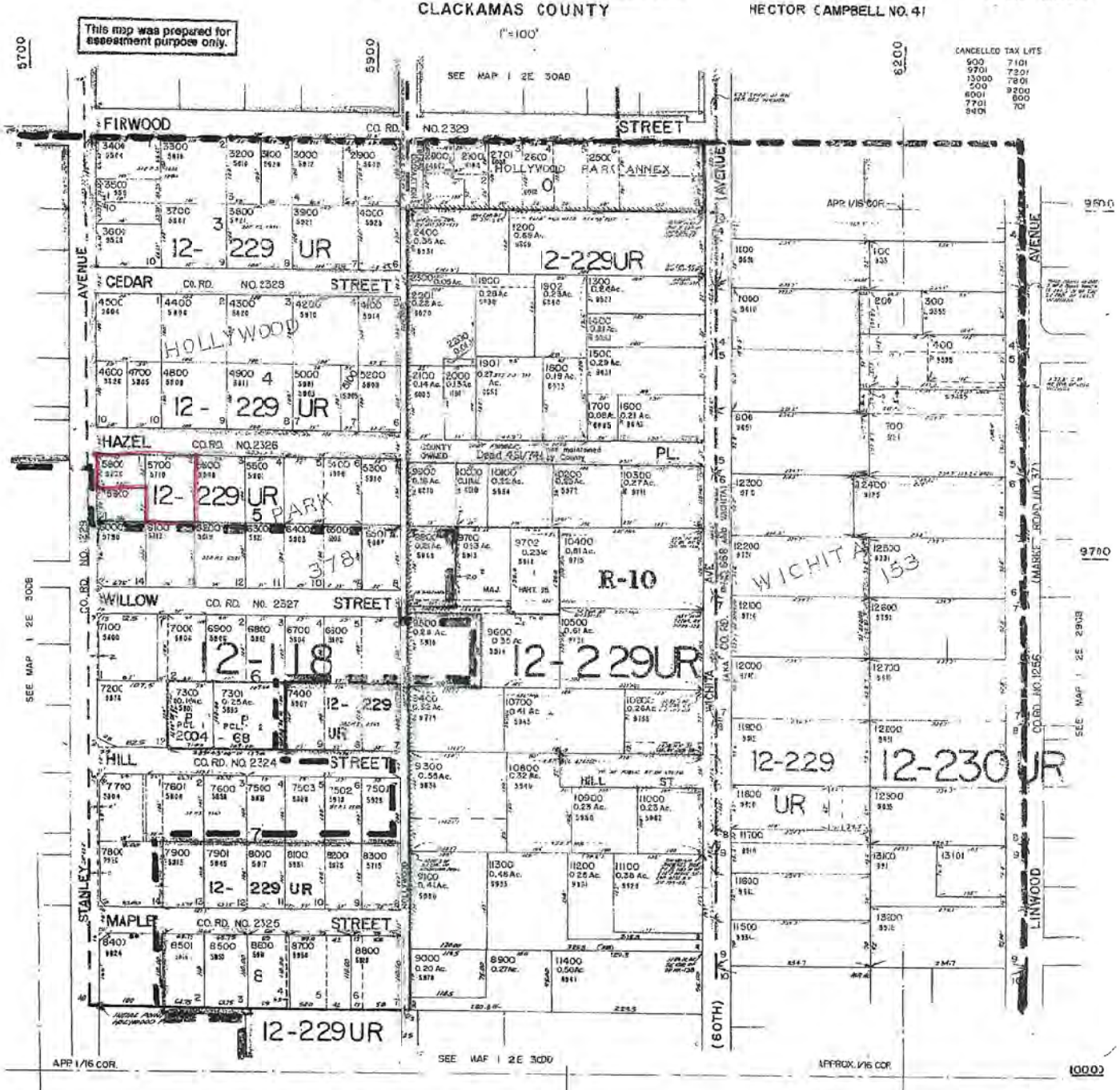
D.L.C.
HECTOR CAMPBELL NO. 41

1 2E 30DA

This map was prepared for assessment purpose only.

Cancelled
T.L. 600
701

CANCELLED TAX LOTS
900 7101
9701 7201
13000 7801
500 9200
6001 800
7701 701
8401



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BOOK 3