

Regular Session

RS

Milwaukie City Council

COUNCIL REGULAR SESSIONZoom Video Conference
www.milwaukieoregon.gov**AGENDA**

APRIL 21, 2020

Note: times are estimates and are provided to help those attending meetings know when an agenda item will be discussed. Times are subject to change based on Council discussion. **Page #**

Video Meeting: due to the governor's "Stay Home, Stay Healthy" order, the City Council will hold this meeting through Zoom video meetings. The public is invited to watch live on the [city's YouTube channel](#) or on Comcast Cable channel 30 in city limits.

Public Comments: written comments may be submitted by email to ocr@milwaukieoregon.gov. Council will take limited verbal comments during the meeting. To speak during the meeting, email ocr@milwaukieoregon.gov to receive the video conference login information.

1. **CALL TO ORDER** (6:00 p.m.)
 - A. **Pledge of Allegiance**
 - B. **Native Lands Acknowledgment**

7. **INFORMATION – Announcements** (6:01 p.m.)

Council will announce upcoming events and activities. **NOTE:** this item has been moved up the agenda.

2. **PROCLAMATIONS AND SPECIAL REPORTS**
 - A. **Earth Day – Proclamation** (6:05 p.m.) **2**

Staff: Peter Passarelli, Public Works Director

 - B. **Census 2020 – Proclamation** (6:10 p.m.) **3**

Staff: Scott Stauffer, City Recorder

3. **CONSENT AGENDA** (6:15 p.m.)

Consent items are routine matters that are not discussed during the meeting; they may be approved in one blanket motion and any Councilor may remove an item from the Consent Agenda for separate consideration.

 - A. **Approval of Council Meeting Minutes of:** **5**
 1. **March 17, 2020, Regular Session.**

 - B. **Establish Revised 2020 Council Meeting Schedule – Resolution** **9**

 - C. **Road Jurisdiction Transfer Request to Clackamas County – Resolution** **12**

 - D. **Oregon Department of Land Conservation and Development (DLCD) Grant Application for House Bill 2001 Implementation – Resolution** **45**

4. AUDIENCE PARTICIPATION (6:20 p.m.)

To address Council, complete a comment card and submit it to staff. The Mayor will call for comments regarding City business. Per the Milwaukie Municipal Code (MMC) only issues that are “not on the agenda” may be raised; issues that await a Council decision and for which the record is closed may not be discussed; “all remarks shall be directed to the whole Council, and the presiding officer may limit comments or refuse recognition.” The presiding officer may limit the time permitted for comments and may request that a spokesperson be selected for a group of persons wishing to speak. **The public is also invited to make comments in writing and may submit comments before the meeting, by mail, e-mail, or in person to City staff.**

5. PUBLIC HEARING

Public Comment will be allowed on items under this part of the agenda following a brief staff report presenting the item and action requested. The presiding officer may limit testimony.

A. Annexation of 5950 SE Maple St (A-2020-02) – Ordinance (6:25 p.m.) 49

Staff: Mary Heberling, Assistant Planner

6. OTHER BUSINESS

These items will be presented by staff or other individuals. A synopsis of each item together with a brief statement of the action requested shall be made by those appearing on behalf of an agenda item.

A. Affordable Housing Construction Excise Tax (CET) Code Amendment – Ordinance (6:35 p.m.) 78

Staff: Leila Aman, Community Development Director

7. INFORMATION – Council Reports (7:05 p.m.)

The Council and City Manager will provide reports on City events, projects, and programs.

8. ADJOURNMENT (7:10 p.m.)

Americans with Disabilities Act (ADA) Notice

The City of Milwaukie is committed to providing equal access to all public meetings and information per the requirements of the ADA and Oregon Revised Statutes (ORS). Milwaukie City Hall is wheelchair accessible and equipped with Assisted Listening Devices; if you require any service that furthers inclusivity please contact the Office of the City Recorder at least 48 hours prior to the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502 or 503-786-7555. Most Council meetings are streamed live on the City’s website and cable-cast on Comcast Channel 30 within Milwaukie City Limits.

Executive Sessions

The City Council may meet in Executive Session pursuant to ORS 192.660(2); all discussions are confidential and may not be disclosed; news media representatives may attend but may not disclose any information discussed. Executive Sessions may not be held for the purpose of taking final actions or making final decisions and are closed to the public.

Meeting Information

Times listed for each Agenda Item are approximate; actual times for each item may vary. Council may not take formal action in Study or Work Sessions. Please silence mobile devices during the meeting.



CITY OF MILWAUKIE

Memorandum

To: City Council
From: Leila Aman, Community Development Director
CC: Ann Ober, City Manager
Date: Monday, April 20, 2020
Re: Community Development Department Projects – City Council Update for April 21, 2020 Council meeting

Community Development/Housing/Economic Development	Planning	Building
<ul style="list-style-type: none"> ▪ CET ▪ Sparrow Property ▪ Business Outreach and Resources ▪ City Hall ▪ Current City Hall ▪ Pond House 	<ul style="list-style-type: none"> ▪ Comprehensive Plan ▪ Land Use/Development Review: <ul style="list-style-type: none"> • City Council • Planning Commission ▪ Design and Landmarks Committee 	<ul style="list-style-type: none"> ▪ March 2020 in review to come

COMMUNITY DEVELOPMENT/ECONOMIC DEVELOPMENT/HOUSING

Construction Excise Tax (CET)

Staff launched a business relief fund to provide grants to small businesses affected by COVID-19 impacts. This fund is supported by, and will be allocated from, the \$130,000 economic development program revenue within the commercial CET tax collected. Over 100 applications were received and are being evaluated based on meeting minimum eligibility requirements and prioritized to businesses directly impacted by Governor Executive Orders 20-07 and 20-12 "Stay Home, Save Lives." Staff anticipate notifications to first grant recipients by April 24.

Business Outreach and Resources

- Staff continue to compile federal, state, and local resources for businesses.

Sparrow Property

- No new updates, staff still expecting to explore an extension of the Remedial Action Plan deadline with DEQ and are still awaiting a response to our technical assistance grant to Business Oregon.

Pond House

- Inspections were completed for the Pond House and the final price of \$440,000 was negotiated to account for some necessary safety repairs meeting the minimum requirement set by Council. The transaction is expected to close by April 30th.

PLANNING

Comprehensive Plan Update

The City Council is scheduled to hold a public hearing June 2, 2020 to consider the Planning Commission's March 10 recommendation for adoption of the Comprehensive Plan. An updated draft of the plan, incorporating the Planning Commission's proposed changes, was uploaded to the [project website](#) on April 9. The City is now accepting public comments on the updated draft, and will include a summary of those comments in the June 2 meeting packet. The City Council has expressed a desire to hold the public hearing in an open meeting rather than on-line, so please check the project website in advance to ensure the hearing will be held on June 2.

- On March 13, a Request for Qualifications was posted on the city's bid page for Phase 1 implementation of the Comprehensive Plan as it relates to housing, tree protection, and parking, as well as implementation of House Bill 2001. Given delays related to the Covid-19 shut-downs, the response deadline was extended to May 1.
- On April 14, the Planning Commission held a work session to discuss the work program for implementation of the draft Comprehensive Plan. The discussion focused on elements related to housing and natural resources.

Land Use/Development Review

City Council

- On April 7, the City Council approved an amended application for a five-lot subdivision in the Island Station Neighborhood. The proposed Elk Rock Estates development was originally proposed as a 12-unit natural resource cluster development. All five lots will take access directly from 19th Ave.

Planning Commission

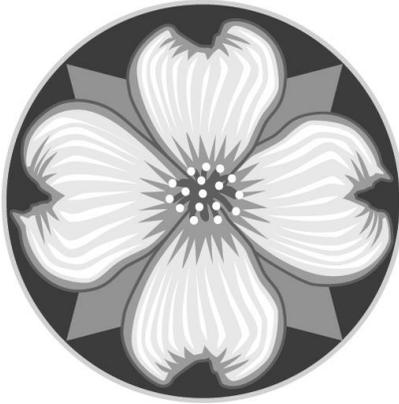
- On April 28, 2020, the Planning Commission will hold two public hearings. The first hearing will be for a major modification to the parking and loading configuration at Ardenwald Elementary School (CSU-2020-001). The second hearing will address an application for a 6-lot subdivision on Railroad Ave (S-2018-001).
- CU-2020-001 – An application for conditional use approval has been submitted to establish a vacation rental at 10707 SE Riverway Ln. The application has been deemed complete, with a public hearing scheduled with the Planning Commission for May 12.

Design and Landmarks Committee

- The May 4 meeting of the DLC has been canceled, while staff and the code-writing consultant continue work on a revised draft of proposed amendments to the Downtown Design Review code. At the moment, staff anticipates holding a virtual meeting with the group on June 1.

BUILDING

March 2020 in review to come.



RS Agenda Item

2

**Proclamations,
Commendations,
Special Reports,
& Awards**

PROCLAMATION

WHEREAS, the People of this City, “The Dogwood City of the West”, are proud to reside amid the natural beauty of the Pacific Northwest and the State of Oregon, and all the trees, plants, waterways, and wildlife encompassed in this region that give character and life to the landscape; and

WHEREAS, the first Earth Day was proclaimed on April 22, 1970, and its annual observance has encouraged the conservation, protection, and appreciation of our planet’s ecosystems and natural resources; and

WHEREAS, April 22, 2020, marks the 50th anniversary of the first Earth Day, and is centered around climate action and increasing community commitment to solving the climate crisis; and

WHEREAS, the Milwaukie community has embraced carbon and sustainability goals in the face of climate change, the most pressing threat for our planet; and

WHEREAS, the City of Milwaukie has formally adopted a Climate Action Plan that includes strategies and actions for our City to conserve our natural resources, encourage sustainable neighborhoods and behaviors, and promote resiliency; and

WHEREAS, the City of Milwaukie declared a climate emergency on January 21, 2020, and called for the acceleration of the climate goals established in the Climate Action Plan to better address the urgency of the climate crisis and to call on community members to take part in climate action in their own homes, businesses, and communities; and

WHEREAS, education, partnerships, and community actions for restoring and protecting our ecosystems, climate, and planet are promoted and honored by all of Milwaukie’s residents, as is the shared desire for a resilient community and environmental justice and access to nature for all community members; and

WHEREAS, the City of Milwaukie proudly recognizes all who protect and preserve the environment and climate through participation in Earth Day activities and by taking a proactive role in the protection of our community’s precious natural resources.

NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim **April 22, 2020**, to be **Earth Day** in Milwaukie.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this twenty-first day of April 21, 2020.

ATTEST:

Mark Gamba, Mayor

Scott Stauffer, City Recorder

PROCLAMATION

WHEREAS, the Constitution of the United States of America mandates that a national census be conducted every ten years; and

WHEREAS, census data is used in decision making and planning for schools, housing, and transportation; and

WHEREAS, census data informs how the federal government distributes funding to states, counties, and local governments; and

WHEREAS, the City of Milwaukie is working to support the 2020 Census in the hopes of increasing participation in the census; and

WHEREAS, the City of Milwaukie is committed to using its influence to convey the importance of the census, particularly to community members in economically and resource-challenged areas.

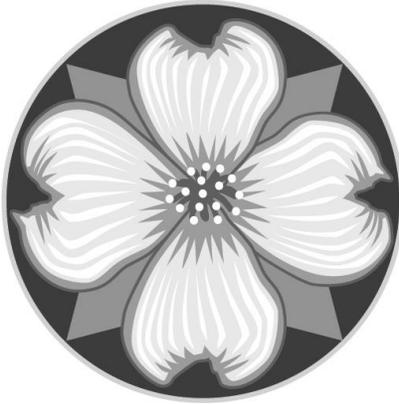
NOW, THEREFORE, I, Mark Gamba, Mayor of the City of Milwaukie, a municipal corporation in the County of Clackamas, in the State of Oregon, do hereby proclaim the City's support and cooperation in promoting awareness of, and participation in, the 2020 Census.

IN WITNESS, WHEREOF, and with the consent of the City Council of the City of Milwaukie, I have hereunto set my hand on this 21st day of April 2020.

Mark Gamba, Mayor

ATTEST:

Scott Stauffer, City Recorder



RS Agenda Item

3

Consent Agenda

COUNCIL REGULAR SESSION

City Hall Council Chambers
10722 SE Main Street
www.milwaukieoregon.gov

2311th Meeting**MINUTES**

MARCH 17, 2020

Council Present: Mayor Mark Gamba**Council Present by Video:** Council President Angel Falconer; Councilors Lisa Batey, Wilda Parks, Kathy Hyzy**Staff:** Assistant City Manager Kelly Brooks (video) Community Development Director Leila Aman (video)
City Attorney Justin Gericke (video)
City Manager Ann Ober (video)
City Recorder Scott Stauffer

Mayor Gamba announced that due to the COVID-19 (coronavirus) pandemic and state directives to not hold public gatherings, Council would conduct the meeting by video conference.

1. CALL TO ORDER

Mayor Gamba called the meeting to order at 6:11 p.m.

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

7. Information – Announcements

Mayor Gamba announced there were no upcoming events. He noted that Council meetings were broadcast on YouTube and Comcast Cable Channel 30 in city limits and explained that comments could be submitted to ocr@milwaukieoregon.gov.

A. COVID-19 Emergency - Declaration

Ms. Ober explained that to ensure continuity of city services and operations Council was asked to declare an emergency due to the COVID-19 pandemic. She noted staff would be tracking pandemic related expenses. **Mr. Gericke** remarked on the intention of the declaration and reported that the authority granted to the city manager by the declaration was allowed under state law and the Milwaukie Municipal Code (MMC).

The group noted the declaration had been posted online for public review.

It was moved by Council President Falconer and seconded by Councilor Parks to approve the COVID-19 emergency declaration. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Hyzy and Mayor Gamba voting “aye.” [5:0]

B. COVID-19 Emergency – Resolution Letter

The group noted that Council had drafted a letter to the community addressing the COVID-19 pandemic instead of a resolution. **Mayor Gamba** read the letter into the record.

To the residents of Milwaukie:

As you are likely aware, we are in the midst of a public health crisis unlike anything in modern history. The World Health Organization has declared the outbreak of novel coronavirus or COVID-19 to be a pandemic. The State of Oregon has declared an emergency, Clackamas County has declared an emergency, and this evening, the City of Milwaukie is declaring an emergency.

We know that COVID-19 is present in the Portland metropolitan region, and that some of the first deaths from the virus are happening here. While there is a lot we still don't know about the coronavirus, we are learning that infected individuals can spread the virus before they show any signs of sickness. The World Health Organization states that most individuals infected with COVID-19 will experience a mild illness, but it will make some individuals very ill. Those over 60 and those with pre-existing medical conditions are at the greatest risk of severe illness and death.

In China, Italy, and Spain, where the outbreaks are farther along than in Oregon, hospitals have been overwhelmed and there have been shortages of necessary facilities and medical supplies to treat those infected with COVID-19. Officials in those countries report that patients who become very ill and need hospitalization often need breathing support from ventilators to survive—and when many people become sick all at once, there may not be enough ventilators for everyone who needs them.

We need to rely on one another to stay safe and protect those at greatest risk and slow the spread of this disease. Social distancing and practicing good hygiene are our best available tools for getting through this together. The City of Milwaukie is taking steps to support the public in staying safe and healthy. As of today, most city buildings, including the Ledding Library and City Hall, are closed to the public.

The Public Safety Building will remain fully operational during this time, with some slight modification to how we do business. We encourage people to call in for assistance, rather than walk in for service. The non-emergency dispatch number is 503 786-7500.

We have suspended all water shutoffs and are returning water service to homes where it was disconnected. Ledding Library is forgiving all fines that accrue during the emergency closure. Our municipal judge has temporarily modified court processes regarding in-person hearings, payment, and rescheduling requests. If you need to pay a bill, please use our online services if you can; otherwise call the main number and someone will take your payment over the phone. If you have a court hearing coming up, please call City Hall.

Oregonians who are financially impacted by closures are receiving some relief from Portland General Electric and Northwest Natural, who are temporarily suspending shutoffs due to nonpayment. Some internet service and cell phone providers are raising data caps and offering free or reduced programs for low-income customers during this time.

Students in North Clackamas School District are receiving pick-up breakfast and lunches. The Wichita Center is providing food boxes for families Monday through Friday, and the Oregon Food Bank is ramping up its food distribution network to provide more support to those in need. Meals on Wheels continues to provide meals for seniors. They are following strict hygiene protocols for food preparation.

If you are over sixty and need help getting food or medication, please call the Milwaukie Center at 503-653-8100. And for anyone needing help with basic needs like food, housing, bills, or transportation, call 211 to see if there are services in the County for you.

Federal and state governments are developing programs to provide unemployment relief to workers and financial assistance to small businesses affected by closures. At the federal level, the Small Business Administration has already announced it will be offering low-interest loans of up to \$2 million each to help businesses through the crisis.

The Oregon Legislature appointed a bipartisan committee to figure out the state's response to the economic crisis we all face, and their first meeting (by phone) is tomorrow. They will be determining how best to support the many hourly workers, the self-employed, and small businesses who are struggling.

Our legislators, Senator Kathleen Taylor and Representative Karin Power, want to hear your stories of how the shutdowns are affecting you. Please contact them by phone or email.

We know these times are full of uncertainty. The patterns of our lives are disrupted. For many of us, work, family life, friendships and daily routines are all out the window.

But when those things fall away, we can see all the other ways we are connected or can be connected. Please, do stay in touch with your loved ones by phone, text, and video chat. If you have neighbors with health issues, check in with them to see if they need a shopping trip.

Be kind to one another.

And if you do need to go out in the world, remember that this virus does not discriminate based on race. It is not “a Chinese virus”. Do not treat our community members of Asian descent any differently than you would anyone else.

Most of all, we urge you to follow the guidance of the Centers for Disease Control, the State of Oregon, and Clackamas County around hygiene and social distancing. For questions related to the COVID-19, we ask people to use OHA and CDC sites rather than coming to the Public Safety Building or calling the non-emergency number.

Wash your hands thoroughly and often with soap and water. If you need to be out in public, stay six feet away from other people. Consider using drive-through windows at pharmacies and delivery or grab-and-go services at stores.

Instruction from the national and state levels is evolving on an hour by hour basis. Rely on trustworthy sources of information such as the Oregon Health Authority ([Oregon.gov/oha](https://oregon.gov/oha)), Clackamas County Public Health (clackamas.us/publichealth) and the Centers for Disease Control (cdc.gov/coronavirus).

The city and other levels of government continue to explore new tools to hold public virtual meetings like this one tonight. We will be back on April 7 with our next regularly scheduled Council meeting to handle the most essential city business that cannot wait until the end of this crisis.

Thank you, from the bottom of our hearts, to all of our first responders, medical health professionals, grocery store workers, delivery people, and everyone else who is putting themselves at risk to help. We are indebted to your service, and you are a model for us all.

Please be safe and stay informed.

2. PROCLAMATIONS, COMMENDATIONS, SPECIAL REPORTS, AND AWARDS

- ~~A. Milwaukie High School Outstanding Student Achievement~~** (canceled)
- ~~B. Vietnam Veterans Day – Proclamation~~** (canceled)
- ~~C. Census 2020 – Proclamation~~** (canceled)
- ~~D. NW Natural Gas Low Carbon Pathway – Report~~** (canceled)

3. CONSENT AGENDA

It was moved by Councilor Parks and seconded by Council President Falconer to approve the Consent Agenda as presented.

- A. City Council Meeting Minutes:**
 - 1. February 11, 2020, Study Session;**
 - 2. February 18, 2020, Work Session; and**
 - 3. February 18, 2020, Regular Session.**
- B. Resolution 20-2020: A Resolution of the City Council of the City of Milwaukie, Oregon, establishing a municipal court fines amnesty program from July 1 through August 30, 2020.**
- C. Approval of an Oregon Liquor Control Commission (OLCC) Application for Alpine Carriers and Storage, 9696 SE Omark Drive – Warehouse.**

Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Hyzy and Mayor Gamba voting “aye.” [5:0]

4. AUDIENCE PARTICIPATION

Mayor Gamba reviewed the public comment procedures and **Ms. Ober** reported that there was no follow-up report from the March 3 audience participation. **Mr. Stauffer** confirmed that no public comments had been received.

5. PUBLIC HEARING

A. ~~Vacation of a Public Right-of-Way (ROW) on 51st Avenue~~ (rescheduled)

B. Appeal of Elk Rock Estates Development (File #AP-2019-003) – Order, continued from February 4, 2020

Call to Order: **Mayor Gamba called the public hearing on the appeal of the Planning Commission’s decision to deny a natural resources cluster development application, files NR-2018-005 and AP-2019-003, to order at 6:32 p.m.**

Mayor Gamba announced that due to the COVID-19 pandemic, Council would motion to continue the hearing to April 21.

Site Visits: It was noted that all members of Council had visited the site.

Ex-Parte Contacts and Conflicts of Interest: It was noted that no Council member had new conflicts of interest or ex-parte contacts to report. **Councilor Hyzy** announced that she would recuse herself from the hearing due to potential conflicts of interest.

Jurisdiction: it was noted that there was no audience to challenge Council’s jurisdiction.

Council Decision: **It was moved by Council President Falconer and seconded by Councilor Parks to continue the hearing to a date certain of April 7, 2020. Motion passed with the following vote: Councilors Falconer, Batey, and Parks, and Mayor Gamba voting “aye.” [4:0]**

6. OTHER BUSINESS

A. None Scheduled.

7. INFORMATION – Council Reports

Mayor Gamba announced that after the regular session Council would meet in executive session pursuant to Oregon Revised Statute ORS) 192.660 (2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions designated by governing body for real property transactions.

8. ADJOURNMENT

It was moved by Councilor Batey and seconded by Council President Falconer to adjourn the Regular Session. Motion passed with the following vote: Councilors Falconer, Batey, Parks, and Hyzy and Mayor Gamba voting “aye.” [5:0]

Mayor Gamba adjourned the meeting at 6:36 p.m.

Respectfully submitted,

Scott Stauffer, City Recorder

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Reviewed: Amy Aschenbrenner, Administrative Specialist II

From: Scott Stauffer, City Recorder

Subject: **Establish Revised 2020 Council Meeting Schedule**

Date Written: Apr. 10, 2020

ACTION REQUESTED

Council is asked to revise its designated regular meeting schedule for calendar year 2020 by increasing the flexibility in meeting start times.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Council sets its regular meeting schedule by adopting a resolution annually at the beginning of each calendar year. Council has updated its meeting schedule when necessary.

On [January 7, 2020](#), Council adopted its 2020 meeting schedule resolution.

On [April 7, 2020](#), due to Governor Kate Brown's order limiting public gatherings because of the COVID-19 emergency, Council discussed revising its meeting schedule to allow for a more flexible regular session start time. Council directed staff to prepare a resolution making this change.

ANALYSIS

Council is required by Milwaukie Municipal Code (MMC) 2.04.070 to provide notice of its regularly scheduled meeting times and locations. The proposed resolution establishes the dates and times of the work, regular, and study session meetings.

Work sessions are held before regular sessions on the same day and are informal meetings where Council may consider a limited number of agenda items. Regular sessions are formal business meetings where ceremonial and business items are considered and acted upon. Work and regular sessions have historically been held on the first and third Tuesdays of each month. To date, regular session meeting start times have been set at 6 p.m.

Study sessions are informal meetings where one or two topics may be considered in-depth. These meetings have typically been held on the second Tuesday of each month.

During its April 7 discussion, Council expressed interest in being able to start regular session meetings at different times under certain special circumstances. They understood the logistical preferences for starting regular session meetings earlier but also agreed that it is important to maintain a consistent meeting schedule to allow for maximum public engagement. They directed staff to revise the meeting schedule resolution with sufficiently flexible language to allow for a different regular session meeting time under special circumstances.

BUDGET AND WORKLOAD IMPACTS

None.

COORDINATION, CONCURRENCE, OR DISSENT

Staff received Council direction to revise its 2020 meeting schedule.

STAFF RECOMMENDATION

Staff recommends Council adopt the resolution to establish its revised 2020 meeting schedule.

ALTERNATIVES

Council may direct staff to set different meeting dates and times for its regular meetings.

ATTACHMENTS

1. Resolution



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, DESIGNATING THE FIRST AND THIRD TUESDAYS OF EACH MONTH AS THE REGULARLY SCHEDULED CITY COUNCIL MEETING DATES, ESTABLISHING THE TIMES OF MEETINGS, AND REPEALING RESOLUTION 2-2020.

WHEREAS, the Milwaukie City Charter requires the City Council to hold a regular meeting in the city at least twice a month at a time and place that it designates; and

WHEREAS, Milwaukie Municipal Code (MMC) 2.04.070 states that the City Council must provide notice of its regular meeting times and locations; and

WHEREAS, the City Council adopted Resolution 2-2020, which established that regular session meetings would be held on the first and third Tuesday of each month during the year 2020; and

WHEREAS, the City Council directed staff to revise the 2020 meeting schedule resolution to allow for increased flexibility in setting the starting time of its regular session meetings.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon:

Section 1. Regular Session City Council meetings will be held on the first and third Tuesday of each month at 6:00 p.m., or at a different time if special circumstances warrant, in the Council Chambers at City Hall, 10722 SE Main Street, or at a designated alternate location as required by the Public Meetings Laws of the State of Oregon.

Section 2. The City Council may schedule work or study sessions, if deemed necessary by the members, and hold them either before or after the regular session or on alternative meeting dates. The City Council may cancel any work session or study session if there are insufficient agenda topics to warrant convening a meeting.

Section 3. The city recorder is directed to provide notice to the public of all City Council meetings as required by law.

Section 4. Resolution 2-2020, adopted January 7, 2020, is repealed.

Section 5. This resolution is effective April 21, 2020.

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: April 3, 2020

Reviewed: Steve Adams, PE, City Engineer

From: Wendy Marshall, PE, Civil Engineer

Subject: **Transfer of Road Maintenance Authority from Clackamas County to City of Milwaukie – Portions of SE Monroe Street and SE Kuehn Road**

ACTION REQUESTED

Request jurisdictional transfer of portions of SE Monroe Street and SE Kuehn Road from Clackamas County to the city in accordance with the Urban Growth Management Agreement (UGMA). The transfer will be contingent upon receipt of payment from the county in the amount of \$11,758.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

- April 21, 2015: Adoption of Ordinance 2096, File #A-2015-001, annexation of SE Monroe Street west of SE Linwood Avenue.
- August 20, 2019: Adoption of Ordinance 2176, File #A-2019-002, annexation of SE Kuehn Road and SE Lake Road (Cereghino Farms subdivision).

ANALYSIS

When public right-of-way (ROW) is annexed into the city, authority to maintain the street is not transferred, and requires a separate action. This action is requested to transfer maintenance authority to the city for the two road segments referenced above that were annexed into the city.

Prior to the transfer, the county is required to upgrade the pavement to a certain standard, or to compensate the city for application of a two-inch asphalt overlay on substandard pavement. Kuehn Road is new and meets standards. Compensation for the requested segment of SE Monroe Street has been calculated at \$11,758. Lake Road is not included in this action and will be requested for transfer later, when county funding to compensate the city for the overlay has been identified.

BUDGET IMPACTS

The city will receive a one-time payment of \$11,758 from the county for the city to apply a two-inch asphalt overlay for the described segment of SE Monroe Street upon approval and execution of the transfer. The transfer of roads will have a minor impact on future costs for street sweeping, repairs, and winter weather operations.

WORKLOAD IMPACTS

The transfer of roads will have a minor impact on future workload for street sweeping, repairs, and winter weather operations.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

None.

STAFF RECOMMENDATION

Staffs recommends that the Clackamas County Board of Commissioners be asked to transfer jurisdiction of maintenance authority of the roads referenced above.

ALTERNATIVES

Council may decide to not request jurisdictional authority over the roads described above.

ATTACHMENTS

1. Resolution
 - a. Exhibit A: Ordinance 2096 Monroe Street Transfer Area
 - b. Exhibit B: Ordinance 2176 Kuehn Road Transfer Area
 - c. Exhibit C: UGMA

COUNCIL RESOLUTION No.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REQUESTING TRANSFER OF JURISDICTION TO THE CITY BY THE CLACKAMAS COUNTY BOARD OF COMMISSIONERS FOR PORTIONS OF SE MONROE ST AND SE KUEHN RD.**

WHEREAS, properties and contiguous rights-of-way as described in Exhibits A and B have been annexed into the city from Clackamas County; and

WHEREAS, Oregon Revised Statute (ORS) 373.270 provides a means for cities to request the transfer of jurisdiction of county roads within city; and

WHEREAS, the city has coordinated with the county to facilitate transfer of the roads described in Exhibits A and B; and

WHEREAS, the city and county adopted an urban growth management agreement (UGMA) attached as Exhibit C; and

WHEREAS, the county roads described in Exhibits A and B lie within the city limits; and

WHEREAS, it is in the public interest for this transfer to take place.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the Clackamas County Board of Commissioners is asked to execute the jurisdictional transfer described above.

Introduced and adopted by the City Council on **April 21, 2020**.

This resolution is effective immediately.

Mark F. Gamba, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A.1



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No. 2096

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E31AA01300 AND LOCATED AT 6169 SE MONROE STREET, AS WELL AS THE ADJACENT PUBLIC RIGHT-OF-WAY ON MONROE STREET, INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE. (FILE #A-2015-001)

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 all owners of land in the territory proposed for annexation; and

WHEREAS, the requirements of the Oregon Revised Statutes for initiation of the annexation are further satisfied in that written consent from a majority of electors is not required given that there are no electors residing on the property; 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 and adjacent public right-of-way described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The tract of land and adjacent public right-of-way annexed by this ordinance and described in Section 2 are 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. The public right-of-way annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Low Density Residential, with a Municipal Code zoning designation of Residential zone R-10 on the northern half of the length of the right-of-way and Residential zone R-7 on the southern half of the length of the right-of-way.

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 4/21/15, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 4/21/15

Signed by the Mayor on 4/21/15



Wilda Parks, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

Exhibit A**FINDINGS IN SUPPORT OF APPROVAL**

Based on the expedited annexation staff report for 6169 SE Monroe Street (the "Annexation Property") and adjacent public right-of-way on Monroe Street, the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.19 acres (Tax Map 1S2E31AA, Tax Lot 01300). In addition, the larger "Annexation Area" includes the entire width of the public right-of-way (ROW) on Monroe Street, from the current City boundary at the western edge of 6063 SE Monroe Street (two properties to the west of the Annexation Property) through the intersection with Linwood Ave. The Annexation Area is contiguous to the existing City limits via the properties along the southern border of Monroe Street. The Annexation Area is within the regional urban growth boundary and also within the City's urban growth management area (UGMA).

The Annexation Property is developed with a single-family dwelling unit. The surrounding area consists of single-family dwellings.
2. The property owner seeks annexation to the City to access City services, namely sewer service.
3. The annexation petition was initiated by Consent of All Owners of Land on January 8, 2015, with an application for annexation submitted to the City on the same day (January 8, 2015). It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.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 19.1104.
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 19.1104.
6. The expedited annexation process provides for automatic application of City land use and zoning designations to the Annexation Area based on its existing land use designation in the County. For the Annexation Property, the existing County land use designation is Low Density Residential and the existing County zoning is Residential R10. For the ROW, the existing County land use designation is Low Density Residential and the existing zoning is split, with the County's Residential R10 zoning on the northern half of the ROW and the City's Residential Zone R-7 on the southern half.

Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use and zoning designations for the Annexation Property are Low Density Residential and Residential Zone R-10, respectively. The automatic City Comprehensive Plan land use designation for the ROW is Low Density

Residential; the automatic City zoning designations for the ROW are Residential Zone R-10 on the northern half and Residential Zone R-7 on the southern half.

7. The applicable City approval criteria for expedited annexations are contained in MMC 19.1102.3. 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 Annexation Area is within the City's UGMA.
 - B. The subject site must be contiguous to the existing city limits;
The Annexation Area is contiguous to the existing city limits along the southern boundary of the Monroe Street ROW.
 - C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;
Thea Tilford, owner of the Annexation Property, consented to the annexation by signing the petition. On behalf of the City, the Planning Director initiated the annexation of the ROW to be annexed. There is one registered voter residing at the Annexation Property, and that voted signed the petition. In general, ROW is not associated with any registered voters. 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, if any, residing in the Annexation Area.
 - 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. City sewer service is available to the Annexation Property in Monroe Street. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.
 - E. The proposal must comply with the criteria of Metro Code Sections 3.09.045(d) and, if applicable, (e).
The annexation proposal is consistent with applicable Metro Code sections for expedited annexations as detailed in Finding 8.
8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.
 - A. Find that the change is consistent with expressly applicable provisions in:

- (1) 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. However, the City 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 has maintained a public sewer system in this area for several decades (since at least 1975). The proposed annexation is in keeping with the City's policy of requiring properties to annex to the City in order to connect to City services such as the new sewer line.

- (2) 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.

- (3) 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.

- (4) 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 maintains a public sewer system that can adequately serve the Annexation Property.

Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Transportation: The City may require public street improvements along the Annexation Property's frontage when new development occurs.

Water: The City's UGMA agreement with the County identifies the City as the lead urban service provider in the area of the proposed annexation. The City maintains a public water system that can adequately serve the Annexation Property.

- (5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. The comprehensive plans, 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. With the proposed annexation, the City will annex and then take jurisdiction of the Monroe Street right-of-way adjacent to the proposed Annexation Property.

- B. Consider whether the boundary change would:

- (1) 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 the Annexation Property.

The City has public sewer and water service in this area via Monroe Street.

- (2) Affect the quality and quantity of urban services; and

The Annexation Property is a tax lot developed with a single-family residence. Annexation of the site 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.

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

The Annexation Property 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.

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 Annexation Property is within the City's sewer service area and is served by the City's 8-inch sewer line accessible in Monroe Street.

Water: The Annexation Property is currently served by the City through a City water line in Monroe Street (4- and 10-inch water lines are available).

Storm: The Annexation Property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Fire: The Annexation Property is currently served by Clackamas 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 Annexation Area 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 area should be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.

Street Lights: The Annexation Area is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). The City assumes operational responsibility for street lights and street light payments for properties within the City limits. The Annexation Property should be withdrawn from the District upon annexation.

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 Annexation Property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.

EXHIBIT B

ANNEXATION TO CITY OF MILWAUKIE

LEGAL DESCRIPTION

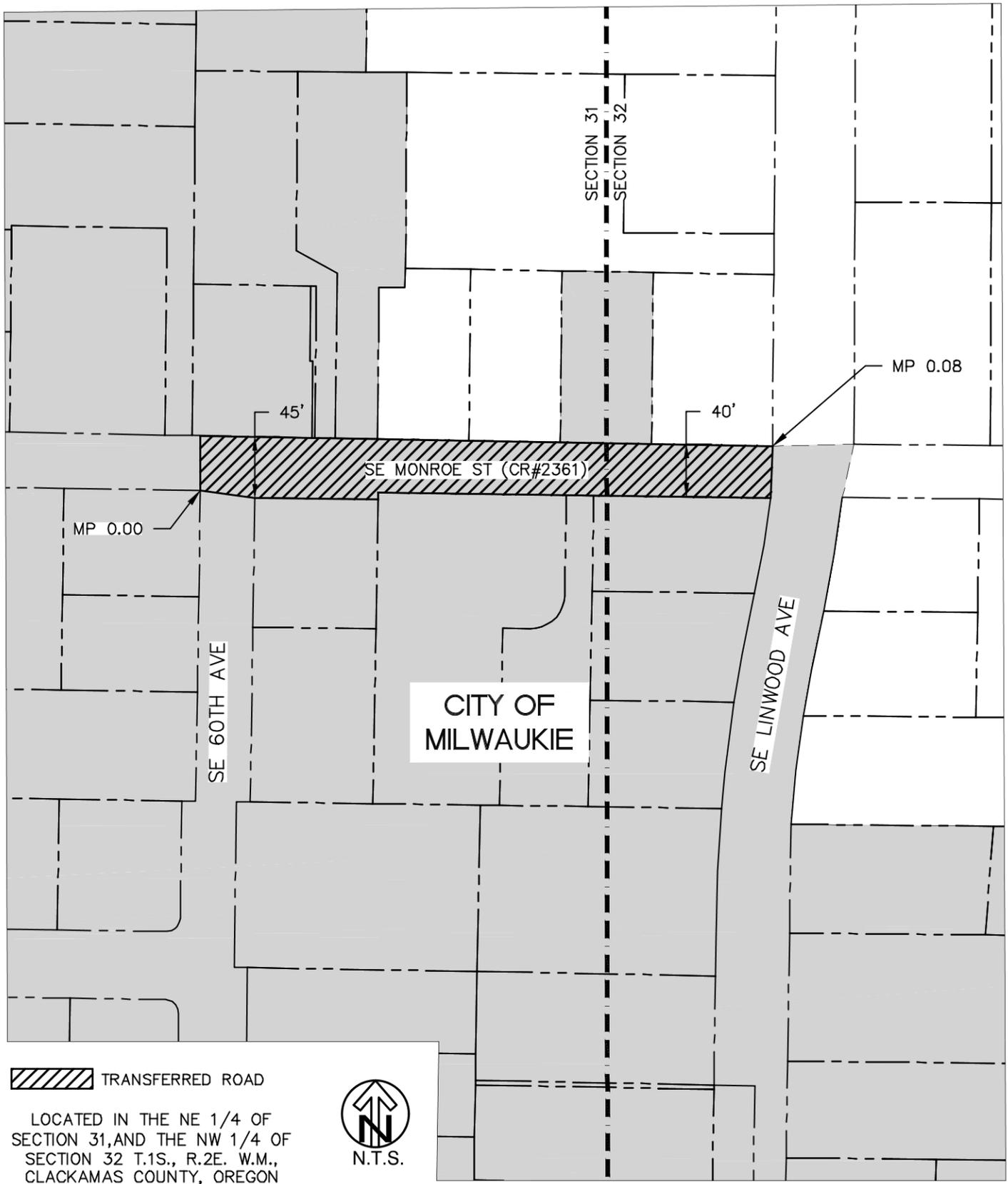
1-2E-31AA-01300 plus Monroe St Right-of-Way

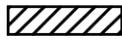
A parcel of land in the Daniel Hathaway Donation Land Claim No. 40 in Section 31, Township 1 South, Range 2 East of the Willamette Meridian in Clackamas County, Oregon, more particularly described as follows:

BEGINNING at the intersection of the Northerly right-of-way line of SE Monroe Street with the Westerly right-of-way line of SE Linwood Avenue;

1. Thence Westerly along the Northerly right-of-way line of said SE Monroe Street, 88.0 feet to the Southeast corner of that tract of land conveyed to Richard Tilford and Thea Tilford in Instrument No. 90-01885, Clackamas County Deed Records;
2. Thence Northerly parallel with the Westerly right-of-way line of said SE Linwood Avenue, 126.77 feet, more or less, to the Northeast corner of said Tilford tract and a point on a line marked with 3/4 inch iron pipes in the Westerly right-of-way line of said SE Linwood Avenue and North 89° 59' West, 270 feet therefrom set by R.S. Milln in 1956 as PS 1837, Clackamas County Records of Survey;
3. Thence North 89° 59' West along said line marked by Milln, 67.0 feet to the Northwest corner of said Tilford tract;
4. Thence Southerly parallel with the Westerly right-of-way line of said SE Linwood Avenue, 126.77 feet, more or less, to the Southwest corner of said Tilford tract and a point on the Northerly right-of-way line of said SE Monroe Street;
5. Thence Westerly along the Northerly right-of-way line of said SE Monroe Street, 134.0 feet, more or less, to the Southwest corner of that tract of land conveyed to Thomas L. Runft and Laura J. Runft in Instrument No. 79-51302, Clackamas County Deed Records;
6. Thence Southerly parallel with the Westerly right-of-way line of said SE Linwood Avenue, 40.0 feet, more or less, to the Southerly right-of-way line of said SE Monroe Street;
7. Thence Easterly along the Southerly right-of-way line of said SE Monroe Street and the Easterly extension thereof, 349.0 feet, more or less, to the Easterly right-of-way line of said SE Linwood Avenue;
8. Thence Northerly along the Easterly right-of-way line of said SE Linwood Avenue, 40.0 feet, more or less, to a point on the Easterly extension of the Northerly right-of-way line of said SE Monroe Street;
9. Thence Westerly along said Easterly extension of the Northerly right-of-way line SE Monroe Street, 60.0 feet, more or less, to the Point of Beginning.

EXHIBIT A.2



 TRANSFERRED ROAD

LOCATED IN THE NE 1/4 OF SECTION 31, AND THE NW 1/4 OF SECTION 32 T.1S., R.2E. W.M., CLACKAMAS COUNTY, OREGON



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: M.BAYS DATE: 4/6/2020
JURISDICTIONAL TRANSFER
MONROE STREET
COUNTY ROAD #2361

SHEET
1 OF 1

RS24



COUNCIL ORDINANCE No. 2176

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING INTO THE CITY LIMITS THE PUBLIC RIGHTS-OF-WAY OF SE LAKE ROAD AND SE KUEHN ROAD ADJACENT TO THE CEREGHINO FARMS SUBDIVISION AND THE PORTION OF SE LAKE ROAD WEST TO THE CURRENT CITY LIMITS (FILE #A-2019-002).

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

WHEREAS, the requirements of the Oregon Revised Statutes (ORS) for initiation of the annexation were met by the City Council approving a motion to initiate the annexation at its regular session meeting on May 21, 2019; and

WHEREAS, the territory proposed for annexation lies within the territories of both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights; 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, the annexed public right-of-way will receive Comprehensive Plan land use and zoning designations equivalent to the adjacent properties; and

WHEREAS, the city conducted two public hearings and mailed notice as required by law; and

WHEREAS, the Planning Commission held a public hearing on July 23, 2019, and recommended approval of the annexation; 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 public right-of-way 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 attached as Exhibit A are hereby adopted.

Section 2. The public rights-of-way described and depicted in Exhibit B is hereby annexed to the City of Milwaukie.

Section 3. The public rights-of-way annexed by this ordinance and described in Section 2 is hereby withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights.

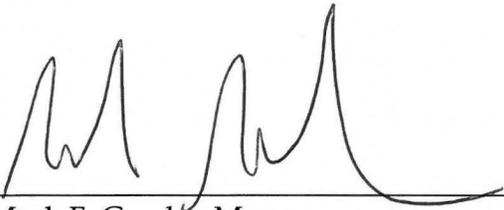
Section 4. The public rights-of-way annexed by this ordinance and described in Section 2 is hereby assigned a comprehensive plan land use designation of low density residential (LDR) and a municipal code zoning designation of residential R-10.

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, ORS 222.005, and ORS 222.177. The annexation and withdrawal 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 8/20/19, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 8/20/19.

Signed by the Mayor on 8/20/19.



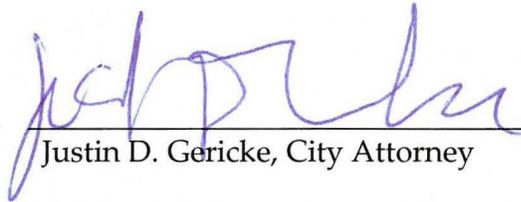
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder



Justin D. Gericke, City Attorney

EXHIBIT A
FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of the public right-of-way in SE Lake Road and SE Kuehn Road adjacent to the Cereghino Farms subdivision property as well as the SE Lake Road ROW west to the current city limits, the Milwaukie City Council finds:

1. The Annexation Territory consists of approximately 2.16 acres of public right-of-way (ROW) in SE Lake Road and SE Kuehn Road, found on Assessor Maps 1S2E31CC, 2S2E06BA, 2S2E06BB, and 2S2E06BD. The Annexation Territory is contiguous to the existing city limits via the existing SE Lake Road ROW to the west as well as via a residential property at the southwest corner of SE Lake Road and SE Kuehn Road. The Annexation Territory is within the regional urban growth boundary and also within the city's urban growth management area (UGMA).

Clackamas County currently has maintenance authority over the ROW that comprises the Annexation Territory, though the city expects to initiate a transfer of that authority following annexation. The surrounding area consists of residential dwellings and lots (mostly single-family).
2. The City Council initiated annexation of the Annexation Territory on May 21, 2019, in conjunction with the recent annexation of the Cereghino Farms subdivision property (Ordinance 2171, land use file #A-2019-001). The city seeks annexation of the SE Lake Road and SE Kuehn Road ROW to provide greater contiguity of the city limits to the Cereghino Farms subdivision property. The proposed annexation meets the requirements for initiation set forth in Oregon Revised Statutes (ORS) 222.111, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) 19.1102.2.A.4.
3. The annexation petition was processed, and public notice was provided in accordance with ORS 222.170(1), Metro Code Section 3.09.030, and MMC 19.1102.
4. The proposed annexation would adjust the city boundary on the comprehensive plan land use map and zoning map. The application includes a proposal to show the appropriate city land use and zoning designations over the Annexation Territory; for ROW, those designations are determined by the designations of the adjacent properties. The existing comprehensive plan land use and zoning designations on the adjacent properties, both in the county and within the current city boundary, are low density residential and residential R-10, respectively. As proposed, the city land use and zoning designations for the Annexation Territory would also be low density residential and residential R-10, respectively.
5. The approval criteria for annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.

A. The subject site must be located within the city's urban growth boundary (UGB);

The Annexation Territory is within the regional UGB and within the city's UGMA.

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

The Annexation Territory is contiguous to the existing city limits via the existing SE Lake Road ROW to the west as well as via a residential property at the southwest corner of SE Lake Road and SE Kuehn Road.

- C. The requirements of the ORS for initiation of the annexation process must be met;

As allowed by ORS 222.111, the City Council initiated the annexation by a motion approved at its regular session meeting on May 21, 2019.

- 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. City sewer and water services are available in the SE Lake Road portion of the Annexation Territory; bringing the Annexation Territory into the city will make those services available to other nearby unincorporated properties if they choose to annex. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro Code Section 3.09.050, which refers to criteria (d) and (e) of Section 3.09.045.

The annexation proposal is consistent with applicable Metro code sections for annexations, as detailed in Finding 6.

- F. The proposal must comply with the criteria of MMC 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning map and comprehensive plan map.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.3.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan map designations for expedited annexations. Compliance with the table is essentially equivalent to specific findings that address individual criteria for zoning map and comprehensive plan map amendments, such as compatibility, public need, etc. In essence, if a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.

In the case of the proposed annexation, the public ROW will assume the zoning designation of adjacent properties, which is R-10 both for incorporated and unincorporated lots in this area. The application includes a proposal to designate the Annexation Territory according to the

guidance of MMC Table 19.1104.1.E, from a county zoning designation of Residential R-10 to a city designation of R-10 for zoning and a county land use designation of Low Density Residential to a city designation of Low Density Residential for land use. The approval criteria for both proposed amendments are effectively met.

6. Prior to approving an annexation, the city must apply the provisions set forth in Metro Code Section 3.09.050.D, which references subsections D and E of Section 3.09.045. They are listed below with findings in italics.

A. Find that the change is consistent with expressly applicable provisions in:

- (1) 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 has an UGMA agreement with Clackamas County that outlines procedures and practices for coordinating land use planning activities. The proposed annexation is in keeping with the city's policy of requiring properties to annex to the city in order to connect to city services.

- (2) 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.

- (3) 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.

- (4) 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:

Wastewater: The city maintains a public sewer system in SE Lake Road within the Annexation Territory that can adequately serve the area. The existing sewer system in SE Kuehn Road is maintained by Clackamas County Water Environment Services (WES); staff intends to seek jurisdictional transfer of the sewer system to the city following annexation.

Storm: The city has a short segment of storm line on the north side of the ROW at 4637 SE Lake Road but no other stormwater facilities in the SE Lake Road or SE Kuehn Road ROW.

Transportation: Clackamas County currently maintains SE Lake Road and SE Kuehn Road. Following this annexation of ROW, the city will initiate a transfer of jurisdiction for maintenance authority.

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's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. The city has 6-in and 12-in cast iron pipe (CIP) water mains in SE Lake Road west of SE Kuehn Road and a 12-in CIP water main in Lake Road east of SE Kuehn Road. CRW maintains an 8-in ductile iron pipe (DIP) water main in SE Lake Road east of SE Kuehn Road and a 6-in CIP water main in SE Kuehn Road. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service within the Annexation Territory.

(5) Any applicable comprehensive plan.

As discussed in Finding 5, the proposed annexation is consistent with the Milwaukie Comprehensive Plan. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, 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 will initiate a transfer of jurisdiction for the newly annexed ROW in SE Lake Road and SE Kuehn Road once the annexation is official.

B. Consider whether the boundary change would:

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

As discussed above in Finding 6-a, the city is the primary identified urban service provider in the area of the proposed annexation. The proposed annexation will facilitate the timely, orderly, and economic provision of urban services to properties abutting the Annexation Territory.

The city has public sewer service via a sewer line in SE Lake Road. As per the UGMA agreement discussed above in Finding 6-a, CRW will continue to provide water service to the surrounding area through its existing water lines within the Annexation Territory.

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

The Annexation Territory consists of approximately 2.16 acres of public ROW in SE Lake Road and SE Kuehn Road. Annexation of the site 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.

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

Upon annexation, the Annexation Territory will be served by the Milwaukie Police Department. The city will also assume responsibility for the street lights in the Annexation Territory; however, with the city's current enrollment in PGE Option A, maintenance of these street lights will be performed by PGE. To avoid duplication of law enforcement and street lighting services, the site will be withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights, respectively, upon annexation.

- C. A city may not annex territory that lies outside the UGB, except that it may annex a lot or parcel that lies partially within and partially outside the UGB.

The Annexation Territory is entirely within the regional UGB.

7. The city is authorized by ORS 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 city maintains a public sewer system in SE Lake Road within the Annexation Territory that can adequately serve the area. The existing sewer system in SE Kuehn Road is maintained by WES; staff intends to seek jurisdictional transfer of the sewer system to the city following annexation.*

Water: *CRW is the water service provider identified in the North Clackamas Urban Area Public Facilities 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's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. The city has 6-in and 12-in CIP water mains in SE Lake Road west of SE Kuehn Road and a 12-in CIP water main in Lake Road east of SE Kuehn Road. CRW maintains an 8-in DIP water main in SE Lake Road east of SE Kuehn Road and a 6-in CIP water main in SE Kuehn Road. As per the city's IGA with CRW, CRW will continue to provide water service within the Annexation Territory, which should not be withdrawn from this district at this time.*

Storm: *The city has a short segment of storm line on the north side of the ROW at 4637 SE Lake Road but no other stormwater facilities in the SE Lake Road or SE Kuehn Road ROW.*

Fire: *The Annexation Territory is currently served by Clackamas Fire District #1 and will continue to be served by the district upon annexation, since the entire city is within this district.*

Police: *The Annexation Territory 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 area. To avoid duplication of services, the area will be withdrawn from this district upon annexation to the city.*

Street Lights: *The Annexation Territory is currently within Clackamas County Service District #5 for Street Lights but will be withdrawn from this district upon annexation.*

Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the area upon annexation as necessary. The Annexation Territory will continue to remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.



AKS ENGINEERING & FORESTRY, LLC
 12965 SW Herman Road, Suite 100, Tualatin, OR 97062
 P: (503) 563-6151 | www.aks-eng.com

AKS Job #6685-02

OFFICES IN: BEND, OR - KEIZER, OR - TUALATIN, OR - VANCOUVER, WA

EXHIBIT B

Annexation Description

A portion of right-of-way, located in the Northwest One-Quarter of Section 6, Township 2 South, Range 2 East, Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

Beginning at the northwest corner of the Elisha Kellogg Donation Land Claim No. 54, also being on the west line of Document Number 2015-052983, Clackamas County Deed Records; thence along said west line, North 01°19'24" East 226.08 feet to the northeast corner of Document Number 2017-074698, Clackamas County Deed Records, also being on the southerly right-of-way line of SE Lake Road (45.00 feet from centerline), and the Point of Beginning; thence along said southerly right-of-way line along a non-tangent curve to the right with a Radius of 5774.58 feet, a Delta of 01°36'36", a Length of 162.28 feet and a Chord of North 70°42'56" West 162.27 feet; thence continuing along said southerly right-of-way line, North 69°54'38" West 154.92 feet; thence continuing along said southerly right-of-way line (variable width from centerline), North 72°46'23" West 100.12 feet; thence continuing along said southerly right-of-way line (50.00 feet from centerline), North 69°54'38" West 48.41 feet; along a curve to the right with a Radius of 5779.58 feet, a Delta of 00°54'03", a Length of 90.87 feet and a Chord of North 69°27'36" West 90.87 feet to the northwest corner of said deed, also being on the easterly right-of-way line of SE Kuehn Road, County Road No. 1249, (15.00 feet from center line); thence along said easterly right-of-way line, South 00°58'18" West 818.63 feet to the northwest corner of Document Number 2007-064347, Clackamas County Deed Records; thence leaving said easterly right-of-way line, North 87°34'13" West 30.00 feet to the westerly right-of-way line of SE Kuehn Road, County Road Number 1249, (variable width from centerline); thence along said westerly right-of-way line, Northerly 475 feet, more or less, to the southeast corner of Document Number 2006-109951, Clackamas County Deed Records, also being on the City of Milwaukie city limits line; thence continuing along said westerly right-of-way line and said city limits line, Northerly 385 feet, more or less, to the intersection of said westerly right-of-way line and the southerly right-of-way line of SE Lake Road (30.00 feet from centerline); thence along said southerly right-of-way line and said city limits line, Northwesterly 273 feet, more or less, to the southwesterly extension of the easterly line of Document Number 2011-010989, Clackamas County Deed Records; thence along said southwesterly extension and said city limits line, Northeasterly 60 feet, more or less, to the southeasterly corner of said deed, also being on the northerly right-of-way line of SE Lake Road (variable width from centerline); thence leaving said city limits line along said northerly right-of-way line, Southeasterly 881 feet, more or less, to the northerly extension of the west line of said Document Number 2015-052983; thence along said northerly extension and the west line of said Document Number 2015-052983, Southerly 101 feet, more or less, to the Point of Beginning.

The above described tract of land contains 2.16 acres, more or less.

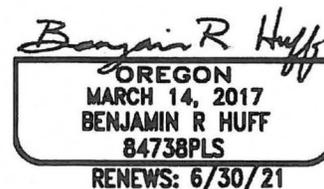
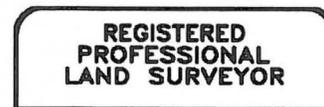
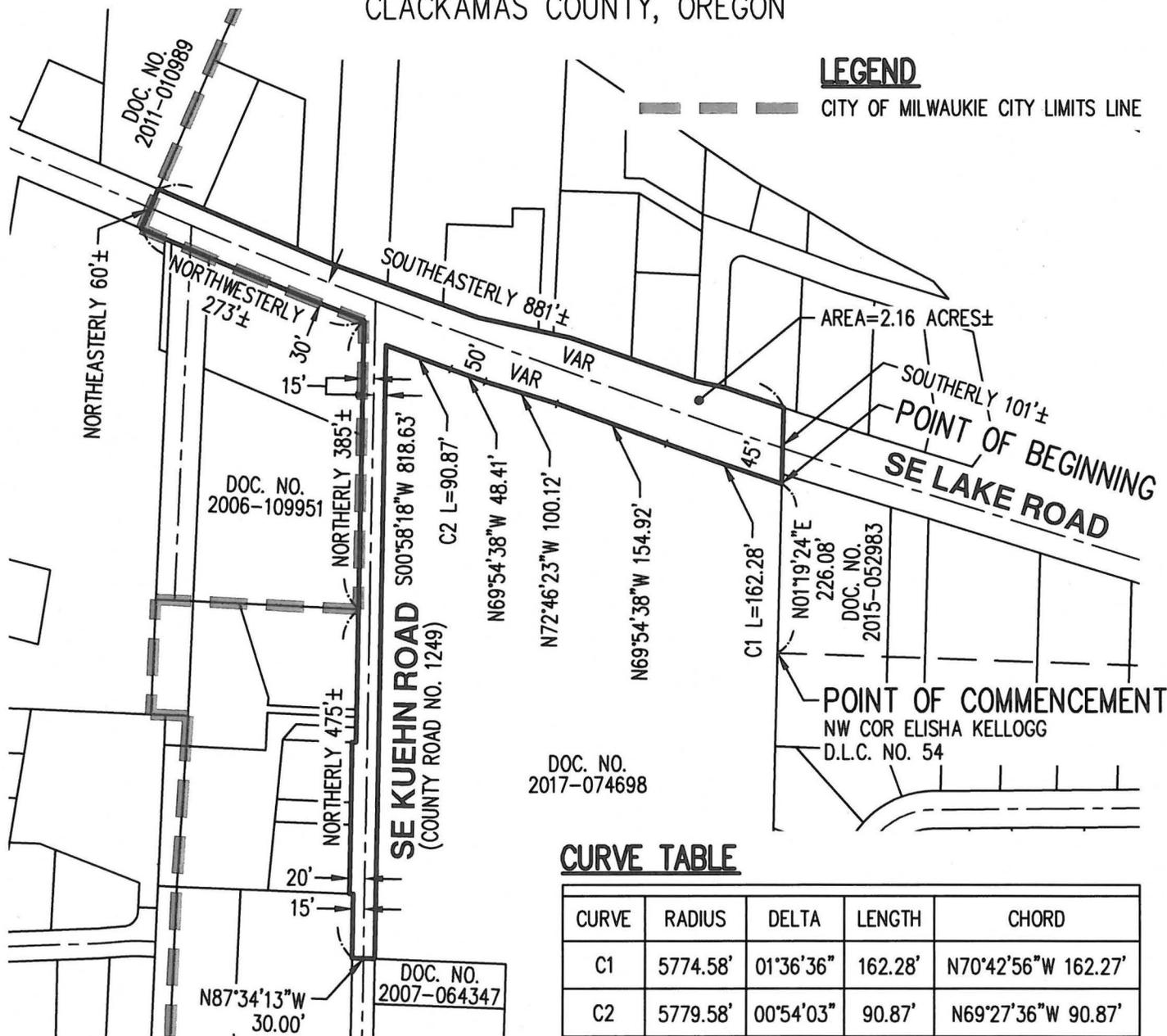


EXHIBIT B

A PORTION OF RIGHT-OF-WAY,
 LOCATED IN THE NORTHWEST 1/4 OF SECTION 6,
 TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN,
 CLACKAMAS COUNTY, OREGON



7/12/2019

**REGISTERED
 PROFESSIONAL
 LAND SURVEYOR**

PREPARED FOR

CITY OF MILWAUKIE
 6101 SE JOHNSON CREEK BOULEVARD
 MILWAUKIE, OR 97206

SCALE: 1" = 200 FEET



Benjamin R Huff
 OREGON
 MARCH 14, 2017
 BENJAMIN R HUFF
 84738PLS
 RENEWS: 6/30/21

ANNEXATION MAP		EXHIBIT B
AKS ENGINEERING & FORESTRY, LLC 12965 SW HERMAN RD, STE 100 TUALATIN, OR 97062 503.563.6151 WWW.AKS-ENG.COM		DRWN: WCB CHKD: BRH AKS JOB: 6685-02



12 E 31CC
MILWAUKIE

S.W.1/4 S.W.1/4 SEC.31 T.1S. R.2E. W.M.
CLACKAMAS COUNTY

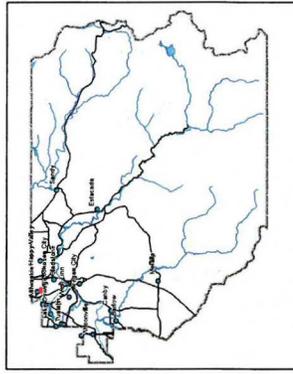
1" = 100'

D. L. C.
JOHN GARRETT NO 38 & 61
JOSEPH KELLOGG NO 39 & 67

Cancelled Taxlots

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- 400

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Plats
- Land Use Zoning
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Mander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

12 E 31CC
MILWAUKIE

7/22/2019

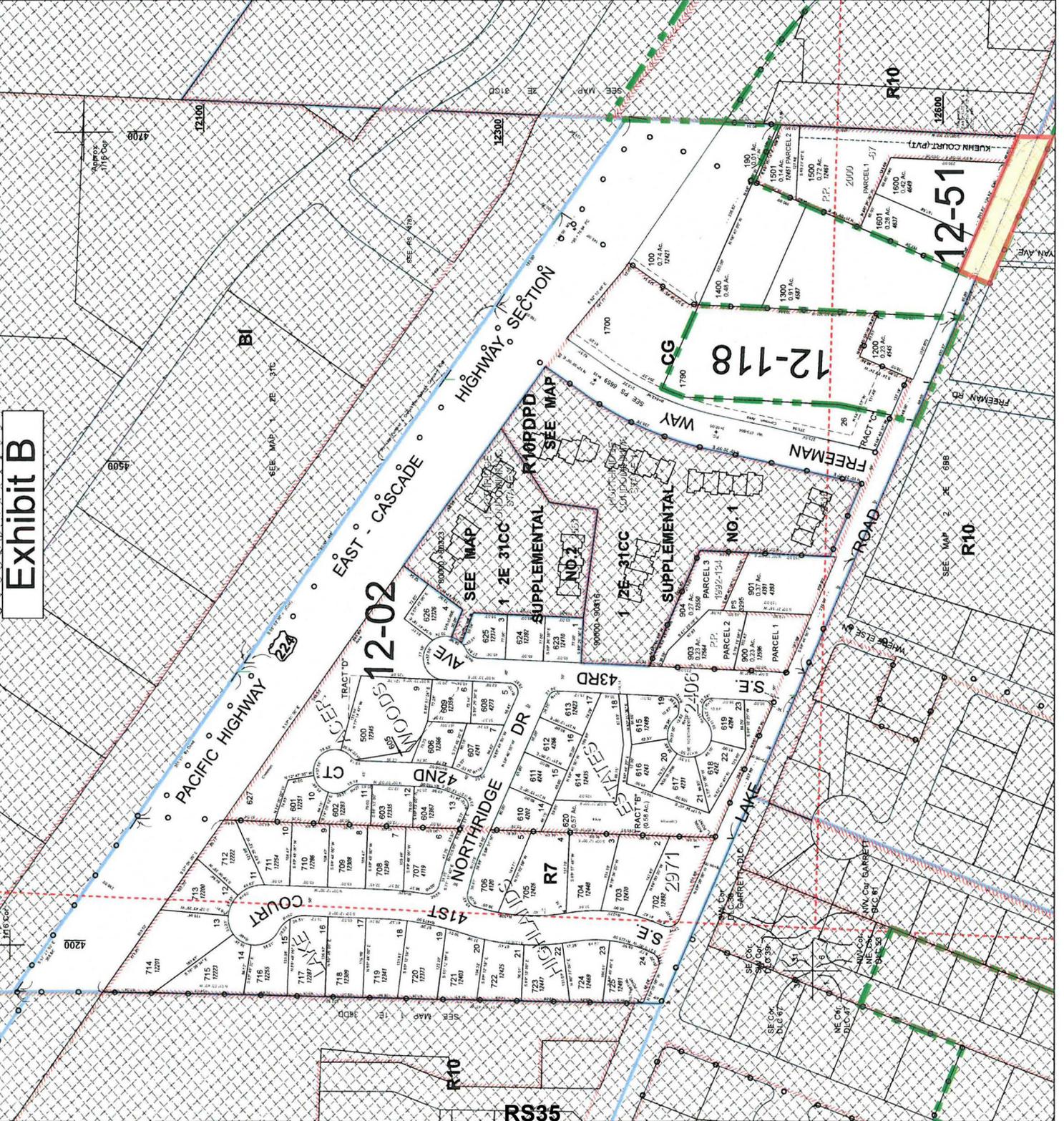


Exhibit B

NE 1/4 NW1/4 SEC. 6 T.2S. R.2E. W.M.
CLACKAMAS COUNTY

D.L.C.
JOSEPH KELLOGG NO 53
ELISHA KELLOGG NO. 54
JOHN GARRETT NO. 61

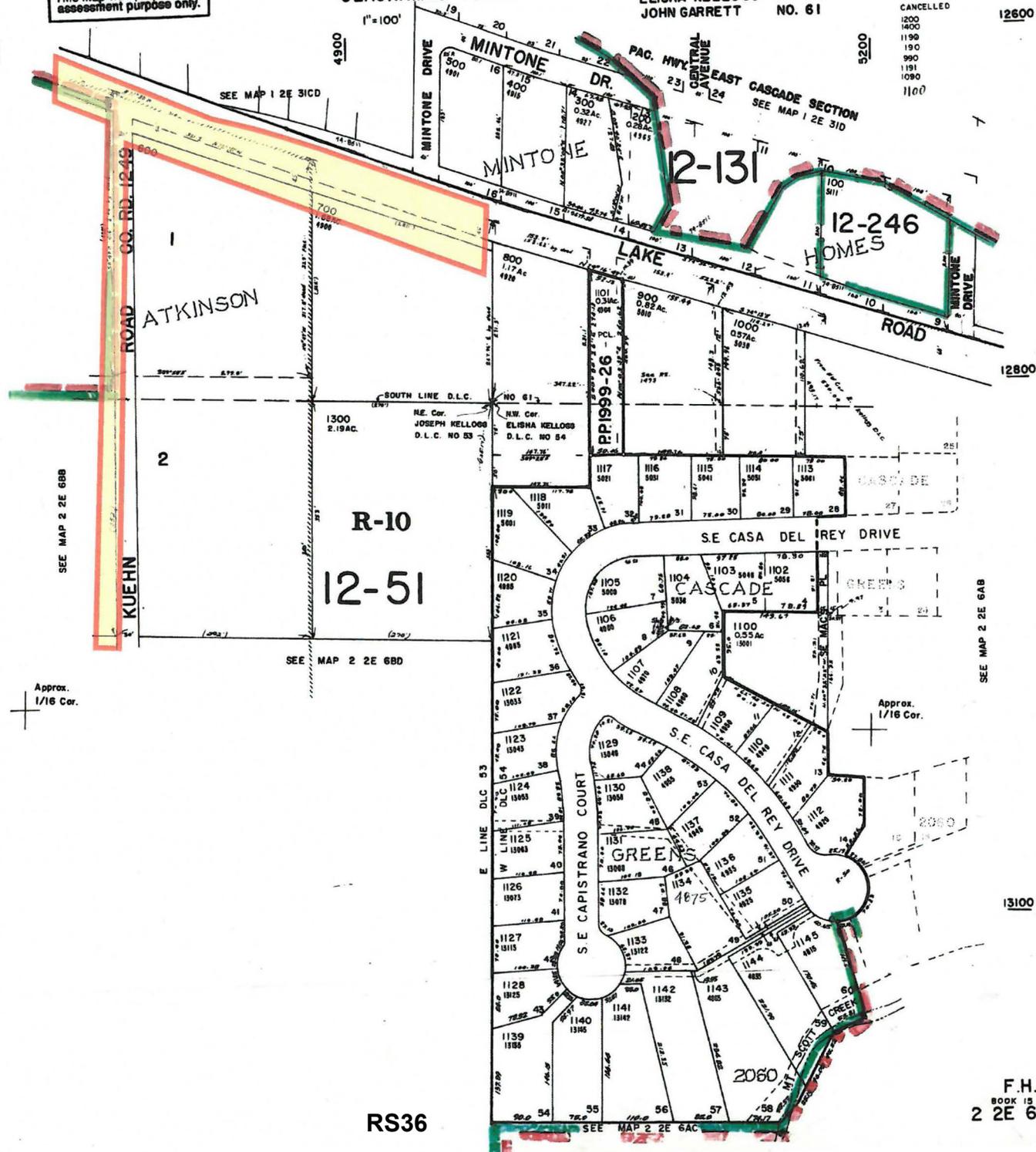
2 2E 6SB

This map was prepared for
assessment purposes only.

CANCELLED
1200
1400
1190
190
990
1191
1090
1100

4700

1"=100'



SEE MAP 2 2E 6BB

Approx.
1/16 Cor.

SEE MAP 2 2E 6BD

SEE MAP 2 2E 6AB

Approx.
1/16 Cor.

13100

RS36

F.H.D.
BOOK 15
2 2E 6BA

78 5/24/03

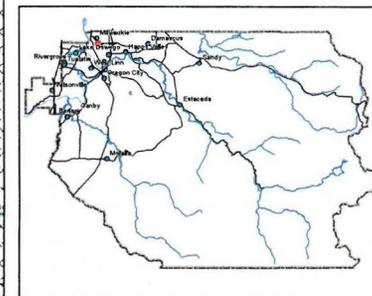
N.W.1/4 N.W.1/4 SEC.6 T.2S. R.2E. W.M.
CLACKAMAS COUNTY
1" = 100'

D. L. C.
JOHN D. GARRETT NO. 38 & 61
JOSEPH KELLOGG NO. 53

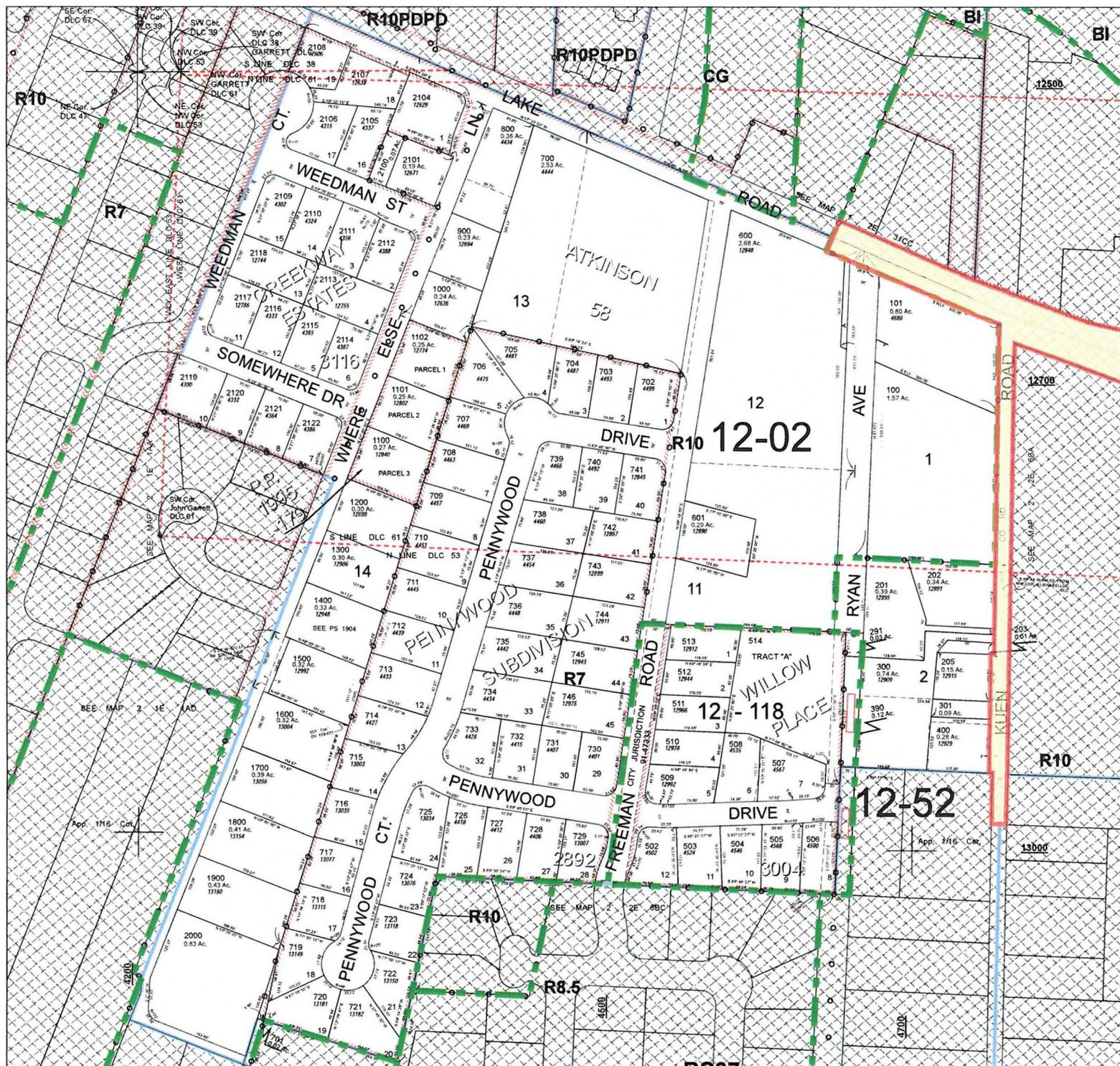
Cancelled Taxlots

- 200
- 204
- 500
- 500U1
- 500U2
- 501
- 590
- 591
- 594
- 596
- 2102
- 2103

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY



This map was prepared for assessment purposes only.

SE 1/4 NW 1/4 SEC. 6 T.2S. R.2E. W.M.
CLACKAMAS COUNTY

D. L. C.
JOSEPH KELLOGG NO 53

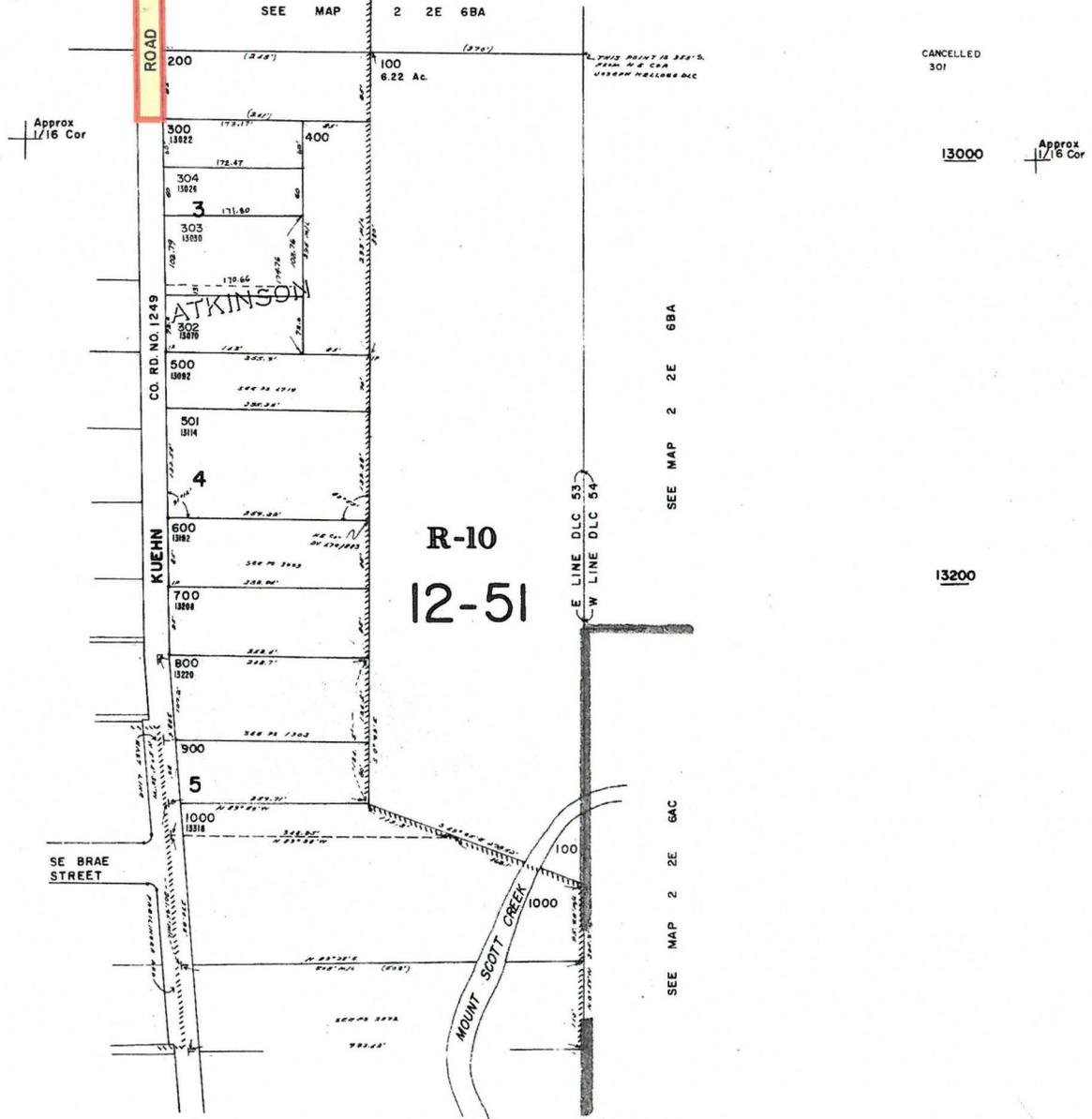
2 2E 6BD

1"=100'

4700

5000

9200



SEE MAP 2 2E 6BC

SEE MAP 2 2E 6BA

SEE MAP 2 2E 6AC

SEE MAP 2 2E 6CA

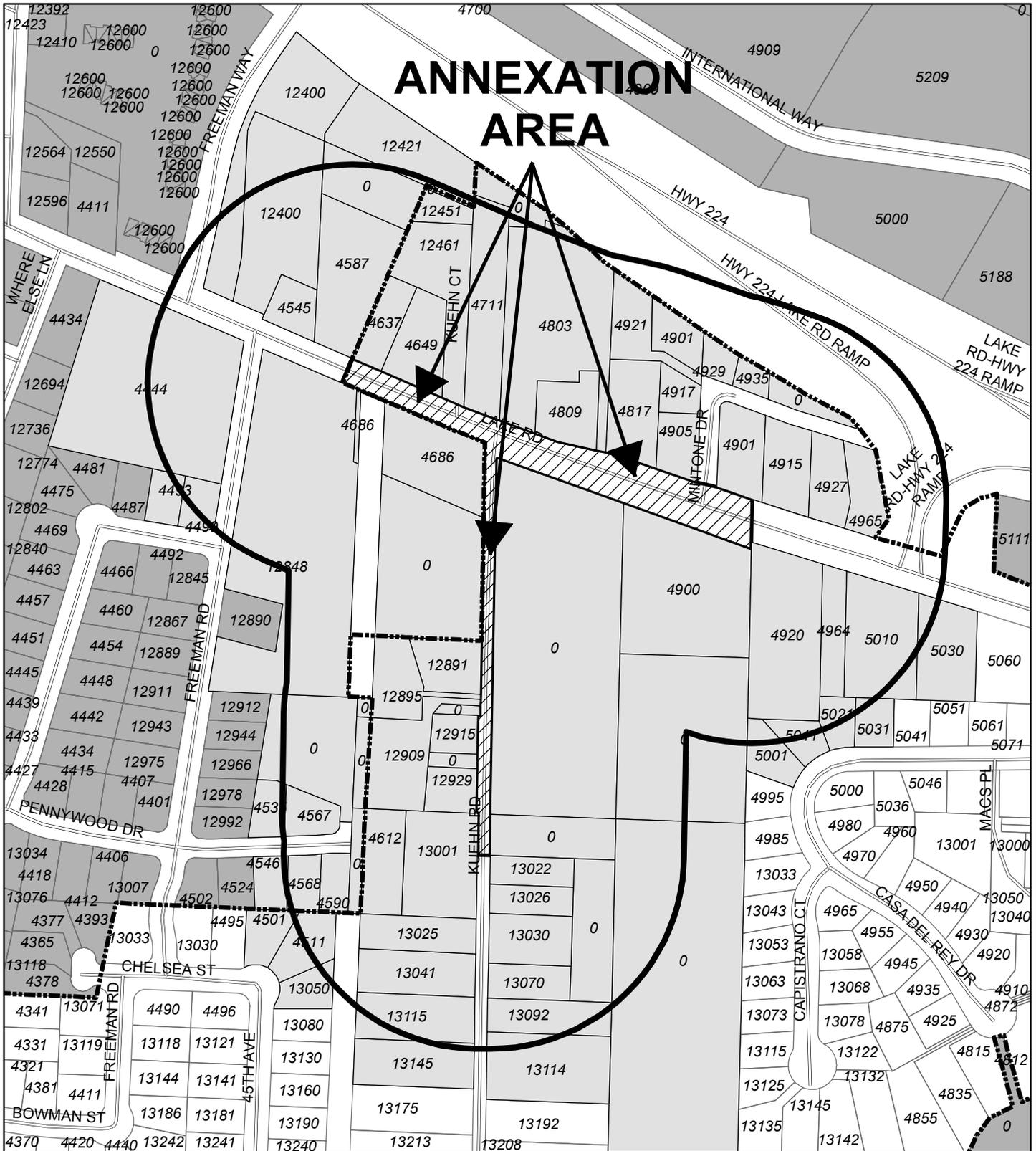
9-11-69 DH

Approx
1/16 Cor

F.H.D.

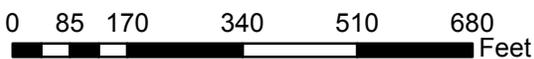
13500 BOOK 15
Approx
Center Sec
2 2E 6BD

RS38



ANNEXATION AREA

Site Map
Annexation of public right-of-way
in Lake Rd & Kuehn Rd
File #A-2019-002

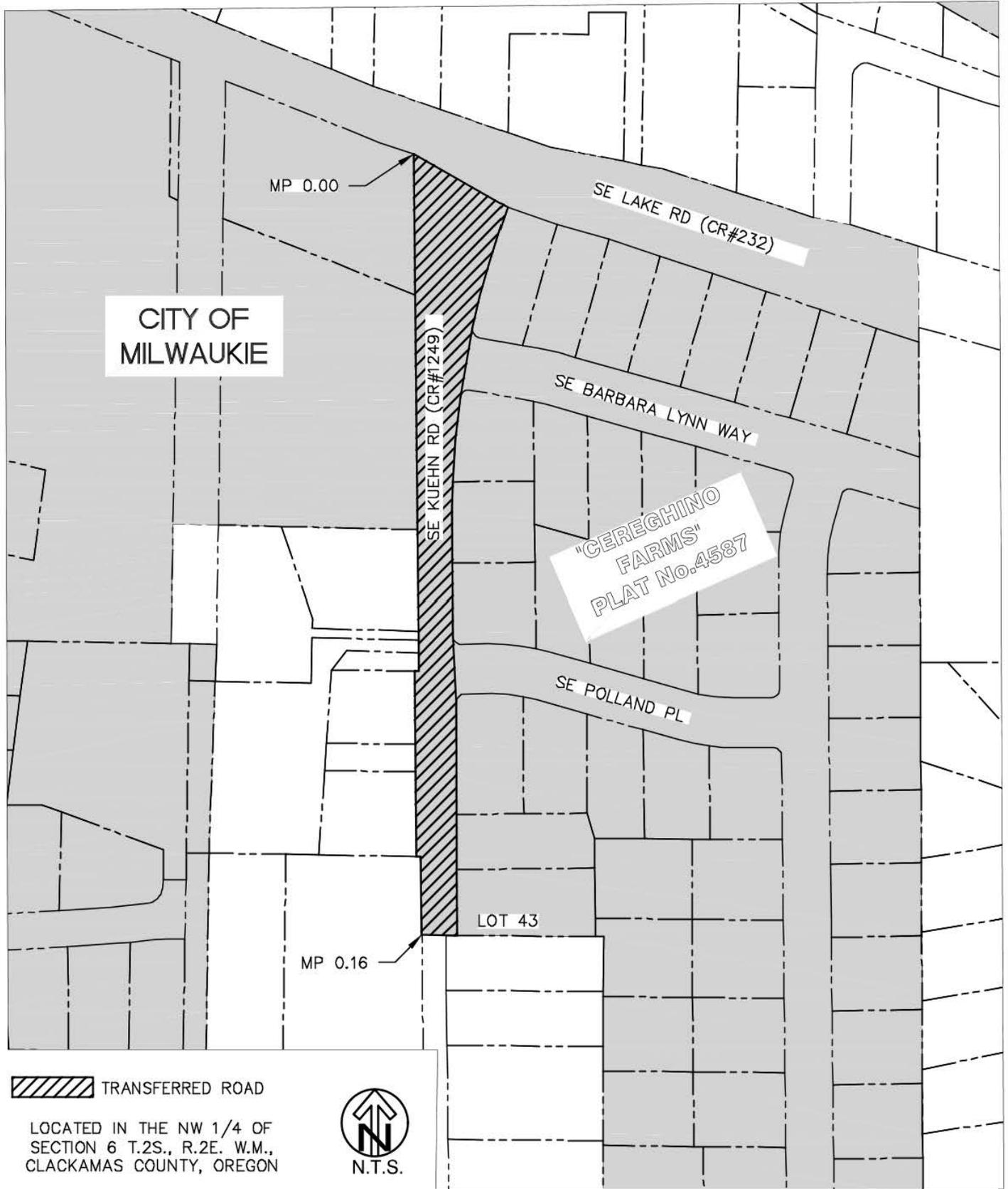


RS39

Legend

-  ROW being annexed
-  400-ft notice boundary
-  Properties receiving notice
-  Other Milwaukee tax lots
-  Other tax lots (unincorporated)
-  City Limit

EXHIBIT B.2



 TRANSFERRED ROAD

LOCATED IN THE NW 1/4 OF
SECTION 6 T.2S., R.2E. W.M.,
CLACKAMAS COUNTY, OREGON



DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

150 BEAVERCREEK ROAD
OREGON CITY, OR 97045



BY: M.BAYS

DATE: 4/7/2020

JURISDICTIONAL TRANSFER
KUEHN ROAD
COUNTY ROAD #1249

SHEET
1 OF 1

EXHIBIT C

90-506

Urban Growth Management Agreement

THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY

The City of Milwaukie (CITY) and Clackamas County (COUNTY) enter into this Agreement in order to satisfy statutory requirements for land use coordination, to establish working communication channels, and to implement orderly and cost-effective conversion of potential urban land to urban uses.

WHEREAS, ORS 197.190(1) requires counties to coordinate plans and planning activities within a county; and

WHEREAS, ORS 227.090(1) authorizes cities to undertake planning activities for land adjacent to their incorporated areas; and

WHEREAS, ORS 197.175(2) authorizes cities and counties to undertake comprehensive planning and implementation measures; and

WHEREAS, the CITY's interests are best served in defining its role as a service provider within the general North Clackamas area, and in defining its responsibilities in providing cost-effective and coordinated services to said area in the future; and

WHEREAS, the COUNTY's interests are best served by fulfilling its responsibility for ensuring coordinated land use plans throughout the county and for adopting a Public Facilities Plan that serves as a framework for future cost-effective service provision in urbanizing areas; and

WHEREAS, the CITY's and COUNTY's interests are best served by establishing processes and procedures whereby issues of regionalization and/or various interjurisdictional service delivery arrangements can be explored;

NOW THEREFORE, the parties hereto agree as follows:

A. Urban Growth Boundary Management Area

1. The Urban Growth Boundary Management area in which the CITY and COUNTY have mutual interest in coordinating effective and efficient service delivery shall be that area identified in EXHIBIT A.
2. The CITY shall adopt the North Clackamas Urban Area Public Facilities Plan, developed through a County coordinated process, for the area within the Urban Growth Management Boundary identified in EXHIBIT A.
3. Notification and referral procedures set out in Section C of this Agreement shall apply to the area within the Urban Growth Management Boundary identified in EXHIBIT A.

Urban Growth Management Agreement
THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY

B. Dual Interest Areas

1. The CITY shall assume a lead role in providing urbanizing services, whenever possible and according to adopted capital improvement programs, in the area identified as Dual Interest Area A in EXHIBIT A.
2. The COUNTY will not oppose CITY programs and projects which accomplish service provision within Dual Interest Area A.
3. The CITY and COUNTY agree the area identified as Dual Interest Area B in EXHIBIT A warrants particularly close coordination, notification, and review of appropriate provision of services.
4. The Dual Interest Area boundaries may be amended at any time by consent of both parties.

C. Action Notification Procedures

1. The CITY and COUNTY shall provide notice at least thirty (30) days in advance of the first public hearing on all proposed quasi-judicial or legislative changes to each jurisdiction's respective Plans, zoning, or implementation ordinances affecting land within the Urban Growth Management Boundary as identified in EXHIBIT A.
2. The COUNTY shall provide notification to the CITY at least fifteen (15) days prior to staff decision on applications for administrative actions as provided for in the COUNTY's Zoning and Development Ordinance for applications within the Dual Interest Areas as identified in EXHIBIT A.
3. The COUNTY shall provide notification to the CITY at least thirty-five (35) days prior to the first scheduled public hearing on all land use actions before the County Hearings Officer affecting land within the Dual Interest Areas as identified in EXHIBIT A.
4. A reasonable response time will be provided and any response will be included within the record of the action. Lack of response will be considered "no objection" to the proposal.
5. Within the Dual Interest Areas, notification procedures specified in Section C(1) shall be in effect, with the added requirement that written concurrence or no objection shall be the appropriate and necessary response by each party.
6. If an annexation to the CITY occurs, the CITY shall assume jurisdiction of COUNTY roads and local access roads that are within or abutting the area annexed. As a condition of jurisdiction transfer for roads not built to the CITY street standards, on the date of the final decision on

Urban Growth Management Agreement
THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY

the annexation, the COUNTY shall either reimburse the CITY for the actual cost of the overlay or the COUNTY shall install the overlay itself over the width of the then-existing pavement. However, if the width of pavement is less than twenty (20) feet, the sum shall be calculated for an overlay twenty (20) feet wide. The cost of asphaltic concrete overlay to be used in the calculation shall be the average of the most current asphaltic concrete overlay projects performed by each of the CITY and COUNTY. Arterial roads shall be considered for transfer on a case-by-case basis. Terms of transfer for arterial roads shall be negotiated and agreed to by both jurisdictions.

D. Urban Service Coordination Committees

1. The CITY and the COUNTY shall meet at a minimum once each quarter to discuss issues and activities of mutual concern as identified in the North Clackamas Urban Area Public Facilities Plan.
2. A minimum of four (4) Coordination Committees shall be established, corresponding to the four public facilities of sanitary sewerage services, water supply and delivery services, storm drainage provision, and transportation planning. Other service systems, such as parks and recreation planning, may be organized as coordination committees.
3. In addition to issues identified in the North Clackamas Urban Area Public Facilities Plan, each coordination committee shall address regional coordination and cooperation, service operation and maintenance concerns where there are joint responsibilities, future facility locations, and future funding sources.

E. Term of Agreement

1. This Agreement may be amended in writing by the concurrence of both signatory jurisdictions, with each elected body acting at a regular public meeting.
2. This Agreement may not be terminated except during either jurisdiction's Periodic Review. At such time, either party may terminate this Agreement after one hundred twenty (120) days written notice to the other party, provided, however, that in the event this action is taken, termination shall not occur until after a representative of the Department of Land Conservation and Development (DLCD) reviews this Agreement and the concerns of both jurisdictions regarding its successful operation.
3. This Agreement supersedes previous agreements, if any.

Urban Growth Management Agreement
THE CITY OF MILWAUKIE AND CLACKAMAS COUNTY

IN WITNESS WHEREOF, the respective parties have caused to be signed in their behalf to make and enter into this Agreement this 24th day of May, 1990.

CITY OF MILWAUKIE

CLACKAMAS COUNTY
BOARD OF COMMISSIONERS

By: Roger A. Hall
Roger A. Hall, Mayor

By: Darlene Hooley
Darlene Hooley, Chairperson
Board of Commissioners

ATTEST:

By: Dale Harlan
Dale Harlan
Commissioner

By: Jerri L. Widner
Jerri L. Widner
City Recorder

By: Ed Lindquist
Ed Lindquist
Commissioner

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: April 14, 2020

Reviewed: Leila Aman, Community Development Director,
Denny Egner, Planning Director, and
Peter Passarelli, Public Works Director

From: Vera Koliass, Associate Planner

Subject: Comprehensive Plan Implementation – Grant Application

ACTION REQUESTED

Council is asked to adopt a resolution to support an application to the Oregon Department of Land Conservation and Development (DLCD) for grant funds to assist with the development of code amendments to comply with House Bill 2001 (HB 2001).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

March 30, 2020: The city was notified by DLCD that Milwaukie was identified as a potential recipient of funding for planning assistance and was invited to submit a grant application.

March 24, 2020: The city submitted a letter of interest to DLCD indicating that the city wanted to pursue grant funds for planning assistance with code amendments related to HB 2001.

March 13, 2020: The city posted a request for qualifications (RFQ) seeking a consultant team to assist staff with code amendments that implement the Comprehensive Plan policies related to housing, urban forestry, and parking as well as bring the city's code into compliance with HB 2001.

ANALYSIS

DLCD provides resources to help communities prepare and update local land use plans and implementing ordinances to respond to growth management and resource protection issues. During the 2019 legislative session, the state legislature appropriated funds to DLCD for the purpose of providing planning assistance to local governments for the certain projects, including the development of regulations to provide for middle housing as specified in HB 2001.

DLCD issued a grant announcement inviting communities to submit a grant application for assistance with code amendment projects. The primary objective is to prepare a hearings-ready development code to comply with HB 2001 by June 30, 2022, as required by the bill.

City staff is preparing a grant application for the code implementation project, specifically Tasks 5-7 in the RFQ. This includes draft code changes and map amendments, code and map review and reconciliation, and final code and map changes and adoption.

BUDGET IMPACT

The grant funds would supplement the overall funding for the code amendment project.

WORKLOAD IMPACT

Community development staff will oversee the project.

CLIMATE IMPACT

The proposed code amendments include code language related to urban forestry and natural resources, as related to the development of housing. Furthermore, infill development has been shown to have a positive impact on climate change, as it represents a more compact and efficient form of development that promotes the use of alternative modes of transportation.

COORDINATION, CONCURRENCE, OR DISSENT

Community development and public works staff support the grant application.

STAFF RECOMMENDATION

Staff recommends that Council support the grant application.

ALTERNATIVES

None.

ATTACHMENTS

1. Resolution

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, IN SUPPORT OF THE SUBMISSION OF A PLANNING ASSISTANCE GRANT APPLICATION TO THE OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT.

WHEREAS, the City Council has prioritized making code amendments that are consistent with Comprehensive Plan policies and Oregon House Bill 2001; and

WHEREAS, the city has issued a request for qualifications seeking consultant assistance with code and map amendments related to housing, urban forestry, parking, and compliance with House Bill 2001; and

WHEREAS, the Oregon Department of Land Conservation and Development (DLCD) has invited the city to submit a grant application for planning assistance related to compliance with House Bill 2001.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city supports an application to DLCD seeking a grant for planning assistance related to compliance with House Bill 2001.

Introduced and adopted by the City Council on **April 21, 2020**.

This resolution is effective immediately.

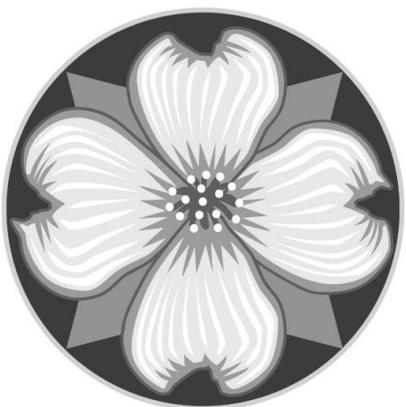
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney



RS Agenda Item

4

Audience Participation

Scott Stauffer

From: OCR
Sent: Tuesday, April 21, 2020 7:01 PM
To: Mark Gamba; Ann Ober
Cc: OCR
Subject: Fw: Adorable Housing

Please see the comment below on this topic... on Affordable Housing CET.

Scott

From: Rod Smith <smith.rod33@gmail.com>
Sent: Tuesday, April 21, 2020 6:59 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Re: Adorable Housing

Yes!

On Tue, Apr 21, 2020, 6:59 PM OCR <OCR@milwaukieoregon.gov> wrote:

Mr. Smith - we got your message, I will ask it to Council for you. Are you watching on Comcast cable channel 30?

Scott Stauffer
City Recorder

From: Rod Smith <smith.rod33@gmail.com>
Sent: Tuesday, April 21, 2020 6:56 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Adorable Housing

Will the number of adorable housing (by percentage) go up as we face a possible recession or is it maxed at the current percent?

Disclaimer

The information contained in this communication from the sender is confidential. It is intended solely for use by the recipient and others authorized to receive it. If you are not the recipient, you are hereby notified that any disclosure, copying, distribution or taking action in relation of the contents of this information is strictly prohibited and may be unlawful.

This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd.**

Scott Stauffer

From: OCR
Sent: Tuesday, April 21, 2020 7:13 PM
To: Rod Smith
Cc: OCR
Subject: Re: Penalties

Comment received, will pass it to Council.

Scott Stauffer
City Recorder

From: Rod Smith <smith.rod33@gmail.com>
Sent: Tuesday, April 21, 2020 7:10 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Penalties

6a. There should be penalties to the current issue and the city should have yearly inspections to keep up with our ordinances. If not current with our standards we should move forward. Oversight needed

Scott Stauffer

From: OCR
Sent: Tuesday, April 21, 2020 7:32 PM
To: Rod Smith
Cc: OCR
Subject: Re: Re:

Mr. Smith - as you might have heard we relayed your remarks to Council. Thank you for submitting your comments! Let me know if we may be of further assistance.

Scott Stauffer
City Recorder

From: Rod Smith <smith.rod33@gmail.com>
Sent: Tuesday, April 21, 2020 7:21 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Re:

You answered my question. I was mostly concerned with the amount of affordable housing available in the immediate future as well as long term future given the current economy.

On Tue, Apr 21, 2020, 7:12 PM OCR <OCR@milwaukieoregon.gov> wrote:
Comment received, will pass it to Council.

Scott Stauffer
City Recorder

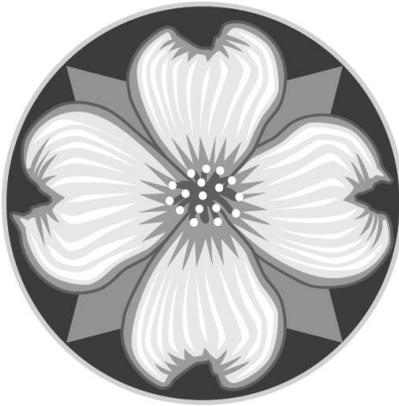
From: Rod Smith <smith.rod33@gmail.com>
Sent: Tuesday, April 21, 2020 7:10 PM
To: OCR <OCR@milwaukieoregon.gov>
Subject: Penalties

6a. There should be penalties to the current issue and the city should have yearly inspections to keep up with our ordinances. If not current with our standards we should move forward. Oversight needed

Disclaimer

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RS Agenda Item

5

Public Hearing

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: April 1, 2020

Reviewed: Leila Aman, Community Development Director, and
Denny Egner, Planning Director

From: Mary Heberling, Assistant Planner

Subject: Annexation of Property at 5950 SE Maple St

ACTION REQUESTED

Council is asked to approve application A-2020-002, an annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation into the city of 5950 SE Maple St (Tax Lot 12E30DA08700), the “annexation property.”
- Application of a low density residential (LD) Comprehensive Plan land use designation and a residential (R-10) zoning designation to the annexation property.
- Amendments to the city’s Comprehensive Plan land use map and zoning map to reflect the city’s new boundary and the annexation property’s new land use and zoning designations.
- Withdrawal of the annexation property from the following urban service districts:
 - Clackamas County Service District for Enhanced Law Enforcement
 - Clackamas County Service District No. 5 for Street Lights

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

July 1990: Clackamas County Order No 90-726 established an urban growth management agreement (UGMA) in which the city and county agreed to coordinate the future delivery of services to the unincorporated areas of north Clackamas County. With respect to Dual Interest Area “A,” the agreement states: “The city shall assume a lead role in providing urbanizing services.”

January 2010: Council annexed the rights-of-way (ROW) in the Northeast Sewer Extension (NESE) project area making all properties in this area contiguous to the city limits and eligible for annexation (Ordinance 2010).

June 2010: Council approved the first annexation of property in the NESE project area (Ordinance 2016, land use file A-10-01). Since then, Council has approved the annexation of approximately 158 additional properties in the NESE area. To date, there are approximately 103 properties within the NESE project area that have not yet annexed.

February 2020: The property owner at 5950 SE Maple St approached the city’s community development department to initiate the expedited annexation process and make an emergency

connection to the city sewer system. The owner has signed a consent to annex form and paid the necessary fees and charges.

ANALYSIS

Proposal

The applicants, Philip and Rae Ritthaler, have applied to annex the approximately 10,454-sq-ft (0.24-acre) site to the city. The annexation property is developed with a single-family detached dwelling. It has residential Clackamas County land use and zoning designations and will receive equivalent residential city land use and zoning designations upon annexation.

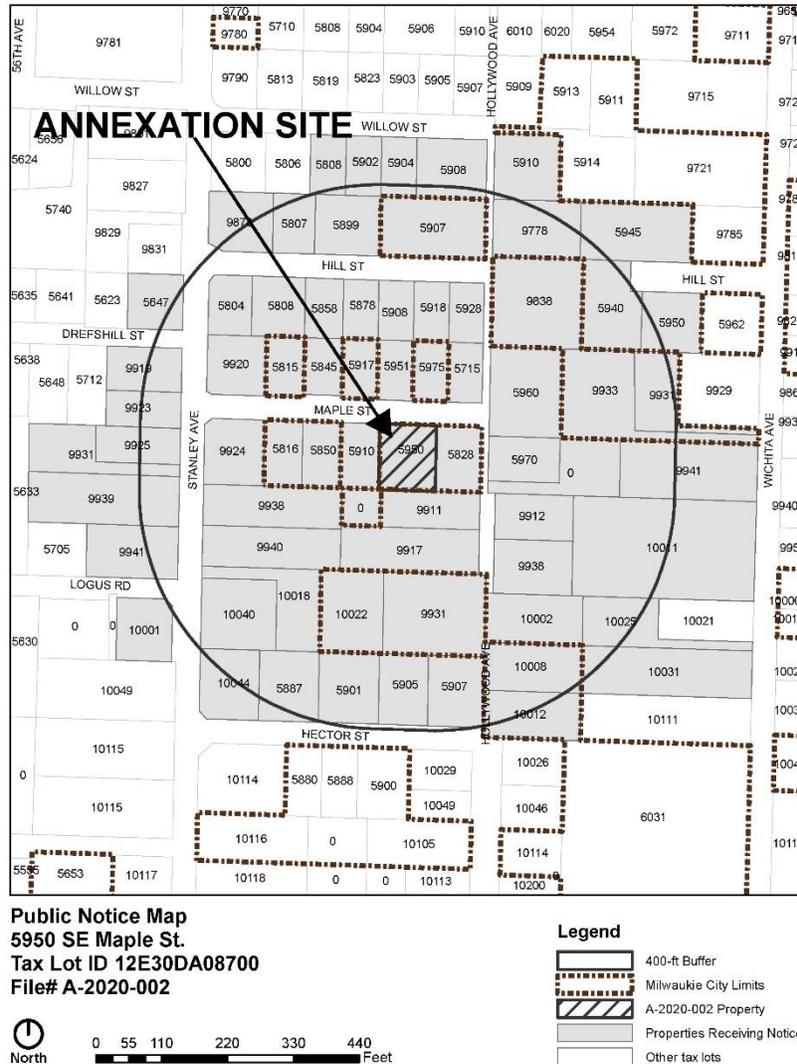


Figure 1: Annexation Site

Site and Vicinity

The annexation property is within the city’s UGMA and is contiguous to the existing city limits along its frontage on the public ROW in SE Maple St to the north (see Figure 1). The surrounding area consists primarily of other similar single-family residential dwellings.

Annexation Petition

The petition is being processed as an expedited annexation. Under the expedited process, a city land use and zoning designation is automatically applied to the annexation property upon annexation.

Any property that is within the UGMA and contiguous to the city boundary may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation. Clackamas County has certified that these thresholds are met for the annexation property.

As set forth in Milwaukie Municipal Code (MMC) Table 19.1104.1.E, the expedited annexation process automatically assigns city land use and zoning designations to the annexation property based on the existing Clackamas County land use and zoning designations. The existing county Comprehensive Plan land use designation for the annexation property is low density residential (LDR), which corresponds to the city's low density residential (LD) Comprehensive Plan designation upon annexation. The current county zoning designation for the annexation property is urban low-density residential R-10, which corresponds to a city zoning designation of residential R-10 upon annexation.

Pursuant to city, regional, and state regulations on expedited annexations, all necessary parties, interested persons, and residents and property owners within 400 feet of the site were notified of these proceedings under MMC 19.1103.4.1.C. A public hearing is not required for an expedited annexation; however, Council must adopt an ordinance to implement the annexation.

Annexation Approval Criteria

The annexation application is subject to Milwaukie Comprehensive Plan Chapter 6 City Growth and Governmental Relationships, Oregon Revised Statutes (ORS) Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1100 Annexations and Boundary Changes.

Expedited annexations must meet the approval criteria of MMC 19.1102.3. Compliance with the applicable criteria is detailed in Attachment 1 (Exhibit A, Findings).

Utilities, Service Providers, and Service Districts

The city is authorized by ORS 222.120(5) to withdraw the annexation property from non-city service providers and districts upon annexation to the city. This allows for a more unified and efficient delivery of urban services to the newly annexed property and is in keeping with the city's Comprehensive Plan policies relating to annexation.

- **Wastewater:** The annexation property is within the city's sewer service area and, via an emergency connection allowed in conjunction with the proposed annexation, is served by the city's 8-inch sewer line accessible in SE Maple St.
- **Water:** The annexation property is currently served by Clackamas River Water (CRW) through CRW's water line in SE Stanley Ave, adjacent to Maple St Pursuant to the city's intergovernmental agreement (IGA) with CRW, the annexation property will not be withdrawn from this district at this time.
- **Storm:** The annexation property is not connected to a public stormwater system. Treatment and management of on-site stormwater will be required when new development occurs.

- Fire: The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation since the entire city is within this district.
- Police: The annexation property 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. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.
- Streetlights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "district"). As of July 1, 2011, an IGA between the city and the District transferred operational responsibility to the city for the streetlights and streetlight payments in the NESE area. Although the city now provides the services through the IGA, many of the properties will remain in the District until they are annexed to the city. The annexation property should be withdrawn from the District upon annexation.
- Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.

CLIMATE IMPACTS

The annexation is not expected to have any impact on the climate. The property is currently occupied by a single-family home and redevelopment is not anticipated in the short term.

BUDGET IMPACTS

This annexation will have minimal fiscal impact on the city. As with most annexations of residential properties, the costs of providing governmental services will likely be offset by the collection of property taxes. According to Clackamas County Assessor data, the total current assessed value of the annexation property is \$132,040. Based on the latest information available (from the Clackamas County Rate Book for 2019), total property tax collection of approximately \$2,419 is anticipated for the annexation property. The city will receive approximately \$600 of this total.

WORKLOAD IMPACTS

For most city services, workload impacts from the annexation itself will be minimal and will likely include, but are not limited to, utility billing, provision of general governmental services, and the setting up and maintenance of property records.

COORDINATION, CONCURRENCE, OR DISSENT

All city departments, necessary parties, interested persons, and residents and property owners within 400 feet of the annexation property were notified of these proceedings as required by city, regional, and state regulations. The Lewelling Neighborhood District Association also received notice of the annexation petition and the Council meeting.

The city did not receive comments from any necessary parties with objections to the proposed annexation.

STAFF RECOMMENDATION

Staff recommends that Council approve the application and adopt the ordinance and findings in support of approval.

ALTERNATIVES

Council has two decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

ATTACHMENTS

1. Annexation Ordinance
 - Exhibit A. Findings in Support of Approval
 - Exhibit B. Legal Description and Annexation Map
2. Annexation Site Map
3. Applicant's Annexation Application

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 12E30DA 08700 AND LOCATED AT 5950 SE MAPLE ST INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE A-2020-002).

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

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

WHEREAS, the territory proposed for annexation lies within the territory of the Clackamas County Service District for Enhanced Law Enforcement and 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 annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS, Table 19.1104.1.E of the Milwaukie Municipal Code (MMC) 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 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 the 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 (LD) and a municipal code zoning designation of residential 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, ORS 222.005, and ORS 222.177. The annexation and withdrawal 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 _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of 5950 SE Maple St, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.24 acres (tax lot 12E30DA 08700). The annexation property is contiguous to the existing city limits along its frontage on the public right-of-way (ROW) in SE Maple St to the north. The annexation property is within the regional urban growth boundary and also within the city’s urban growth management area (UGMA).

The annexation property is developed with a single-family detached dwelling unit. The surrounding area consists primarily of single-family dwellings.

2. The current owner of the annexation property seeks annexation to the city to access city services, namely sewer service. The owner has signed a consent to annex form and paid the necessary fees and charges to allow an emergency connection to the city sewer service.
3. The annexation petition was initiated by consent of all owners of land on February 17, 2020, with an application for annexation submitted to the city on February 18, 2020. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsections 19.1104.1.A.3 and 19.1102.2.C.
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 19.1104.
5. The annexation petition is being processed as an expedited annexation at the request of the property owners. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.
6. The expedited annexation process provides for automatic application of city comprehensive plan land use and zoning designations to the annexation property based on their existing comprehensive plan land use and zoning designations in the county, which are urban low density residential (LDR) and residential R-10, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic city comprehensive plan land use and zoning designations for the annexation property is low density residential (LD) and residential R-10, respectively.
7. The applicable city approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.
 - A. The subject site must be located within the city’s urban growth boundary (UGB);
The annexation property is within the regional UGB and within the city’s UGMA.
 - B. The subject site must be contiguous to the existing city limits;
The annexation property is contiguous to the existing city limits along its frontage on the public ROW in SE Maple St to the north.

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

Philip and Rae Ritthaler, the current property owners, consented to the annexation by signing the petition. Mr. and Mrs. Ritthaler are the only registered voters for the annexation property. 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, if any, residing in the annexation territory.

- 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. With annexation, the city will take over urban service provision for the property. City services to be provided include wastewater collection, stormwater management, police protection, and general governmental services. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

- E. The proposal must comply with the criteria of Metro Code Sections 3.09.045(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro code sections for expedited annexations as detailed in Finding 8.

- F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning and comprehensive plan land use maps.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.4.B, respectively.

MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan land use map designations for expedited annexations. If a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.

In the case of the proposed annexation, the annexation property will assume the zoning and comprehensive plan designations provided in MMC Table 19.1104.1.E, which are R-10 and low density residential, respectively. The approval criteria for both proposed amendments are effectively met.

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

- A. Find that the change is consistent with expressly applicable provisions in:

(1) Any applicable urban service agreement adopted pursuant to ORS 195.065;

There is one applicable urban service agreement adopted pursuant to ORS 195 in the area of the proposed annexation (see Finding #9, Street lights). The City 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. The proposed annexation is in keeping with the city's policy of encouraging properties within the UGMA to annex to the city.

The city has an intergovernmental agreement with WES regarding wholesale rates for wastewater treatment, but that agreement does not address issues related to annexations.

- (2) 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.

- (3) 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.

- (4) 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:

Wastewater: The city is the identified sewer service provider in the area of the proposed annexation and maintains a public sewer system that can adequately serve the annexation property via an 8-in sewer line accessible in SE Maple St.

Storm: The annexation property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Transportation: Access is provided to the annexation property via SE Maple St, a local street maintained by the city. The city may require public street improvements along the annexation property's frontage when new development occurs.

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's water service master plan for all of the territory within its UGMA addresses the need to prepare for

future demand and coordinate service provision changes with CRW. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service to the annexation property through its existing water line in SE Stanley Ave, which is adjacent to SE Maple St.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, 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 the SE Maple St ROW adjacent to the annexation property.

B. Consider whether the boundary change would:

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

With annexation, the city will be the primary urban service provider in the area of the proposed annexation, and the annexation will facilitate the timely, orderly, and economic provision of urban services to the annexation properties.

The city has public sewer service in this area via SE Maple St.

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

The annexation property consists of one tax lot developed with a single-family residence. Annexation of the site 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.

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

Upon annexation, the annexation property will be served by the Milwaukie Police Department. The city will assume responsibility for maintaining street lights in the annexation territory. In order to avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement upon annexation.

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 annexation property is within the city's sewer service area and, via an emergency connection allowed in conjunction with the proposed annexation, is served by the city's 8-in sewer line accessible in SE Maple St.*

Water: The annexation property is currently served by CRW through CRW's water line in SE Stanley Ave adjacent to the annexation property. Pursuant to the city's IGA with CRW, the annexation property will not be withdrawn from this district at this time.

Storm: The annexation property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

Fire: The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation, since the entire city is within this district.

Police: The annexation property is currently served by the Clackamas County Sheriff's Department and are 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 will be withdrawn from this district upon annexation to the city.

Street Lights: The Annexation Property is currently within Clackamas County Service District No. 5 for Street Lights (the "District"). As of July 1, 2011, an intergovernmental agreement between the City and the District transferred operational responsibility to the City for the street lights and street light payments in the NESE area. Although the City now provides the services through the IGA, many of the properties will remain in the District until they are annexed to the City. The Annexation Property should be withdrawn from the District upon annexation.

Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.

EXHIBIT A

Annexation to the City of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2020-001

Property Address: 5950 SE Maple St, Milwaukie OR 97222

Tax Lot Description: 12E30DA08700

Legal Description:

Lot 5, EXCEPT the West 6 feet and Lot 5, EXCEPT the East 17 feet, in Block 8,
HOLLYWOOD PARK, in the County of Clackamas and State of Oregon.

EXHIBIT B

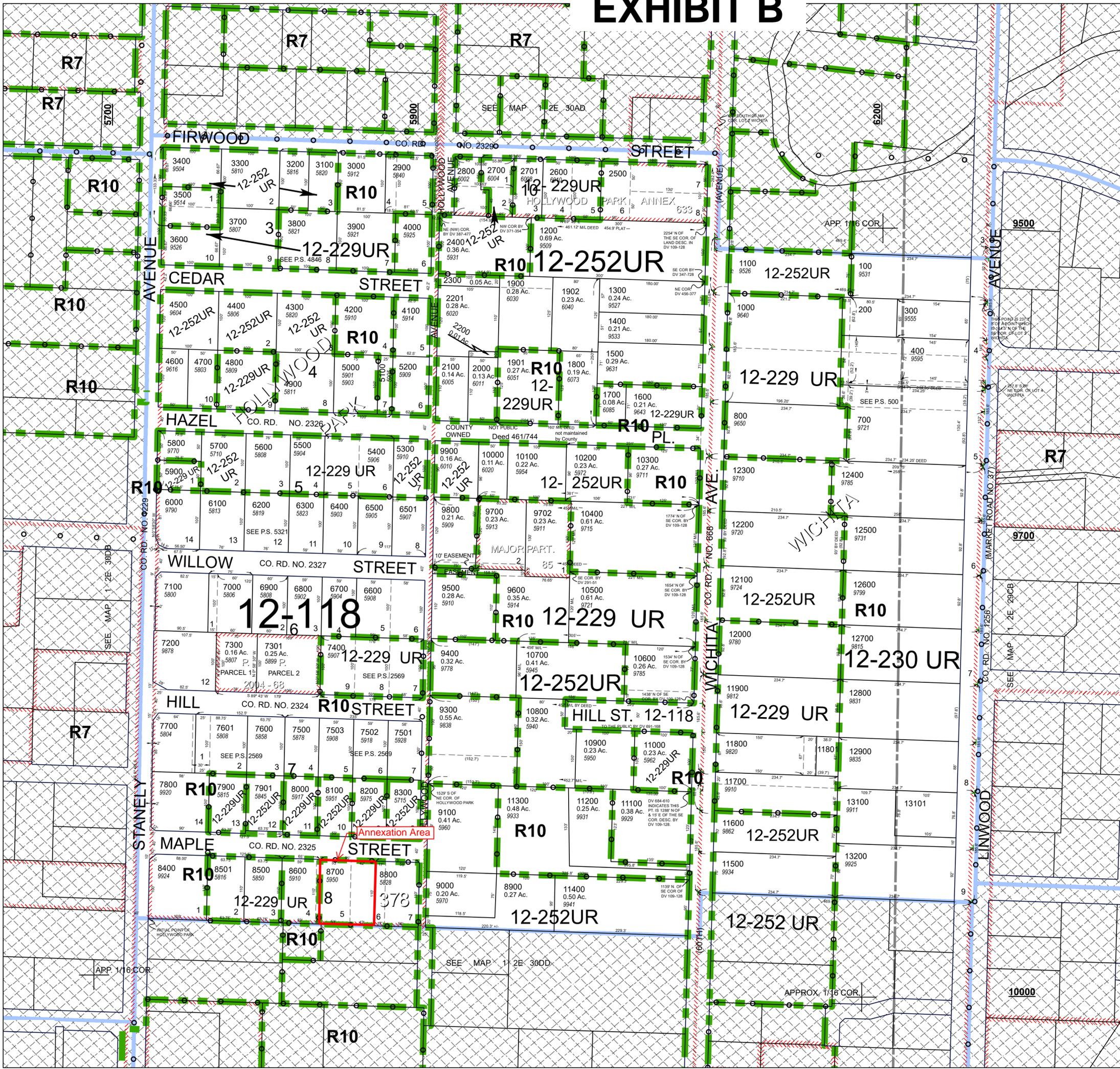
1 2 E 30DA

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

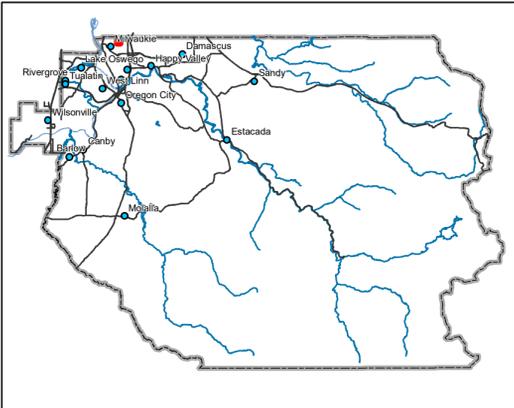
D. L. C.
HECTOR CAMPBELL NO. 41

Cancelled Taxlots

- 500
- 600
- 701
- 900
- 6001
- 7101
- 7201
- 7701
- 7801
- 8401
- 9200
- 9701
- 13000



- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Map Index
- WaterLines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'

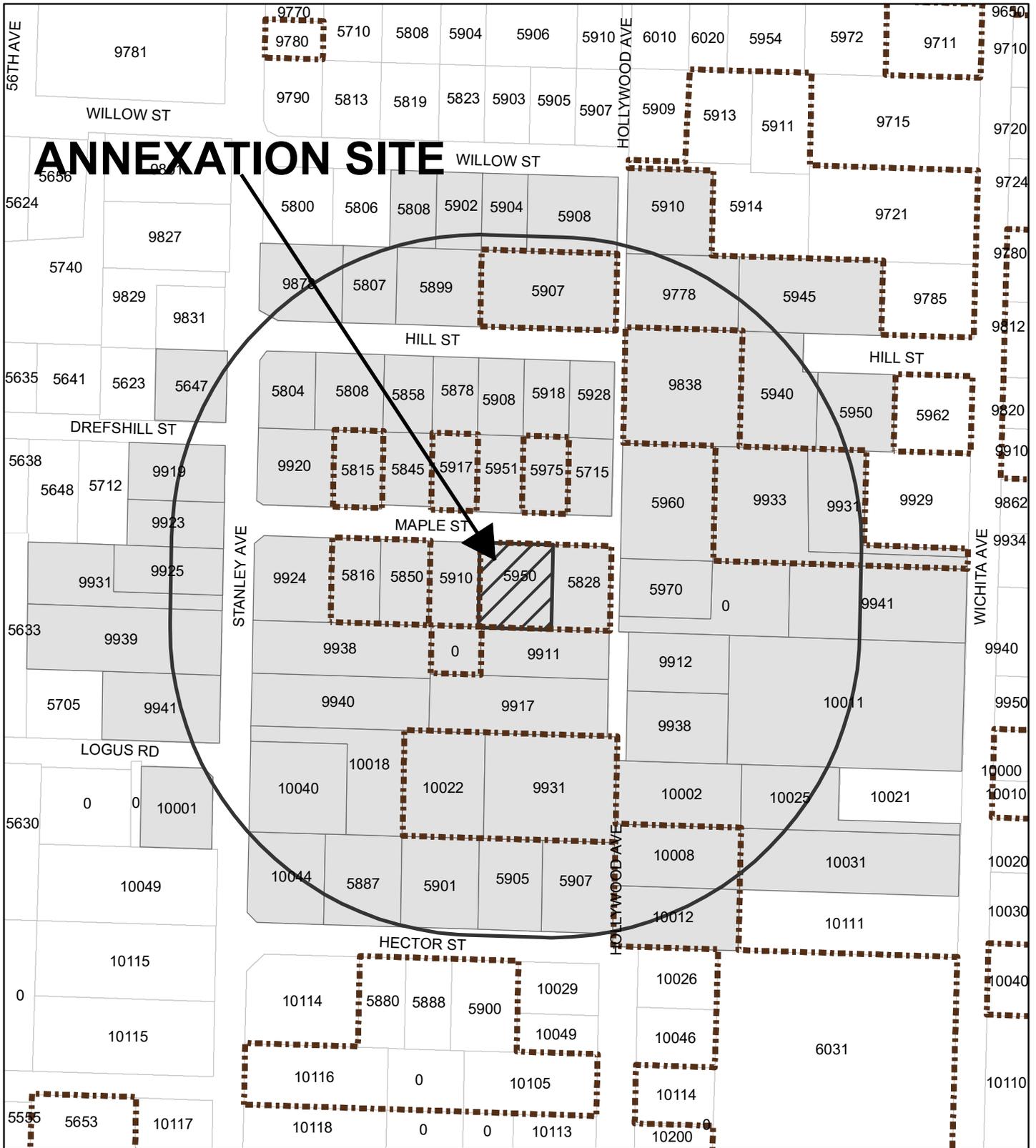


THIS MAP IS FOR ASSESSMENT PURPOSES ONLY



9/27/2018

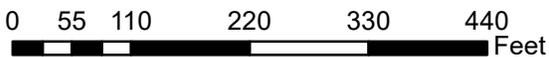
1 2 E 30DA



Public Notice Map
5950 SE Maple St.
Tax Lot ID 12E30DA08700
File# A-2020-002

Legend

-  400-ft Buffer
-  Milwaukie City Limits
-  A-2020-002 Property
-  Properties Receiving Notice
-  Other tax lots





PLANNING DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630
FAX: 503-774-8236
E-MAIL: planning@milwaukieoregon.gov
WEB: www.milwaukieoregon.gov

Expedited Annexation Application

File #: A-2020-002

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): PHILIP AND RAE RITTHALER

Mailing address: 5950 SE MAPLE ST MILWAUKIE OREGON Zip: 97222

Phone(s): 503-654-5229 503-367-1781 E-mail: 57PONTIACMAN@COMCAST.NET

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address:

Zip:

Phone(s):

E-mail:

SITE INFORMATION:

Address(es): 5950 SE MAPLE ST Map & Tax Lot(s): 12E30DA08700 Property size: 0.24 AC

Existing County zoning:

Proposed City zoning: R10

Existing County land use designation:

Proposed City land use designation: LD

PROPOSAL (describe briefly):

Annexation to connect to City Sewer.

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, internet, and/or phone: Comcast CenturyLink (formerly Qwest)

Energy: PGE NW Natural Gas

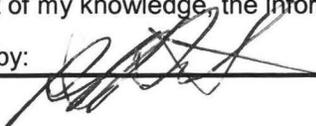
Garbage hauler: Waste Management Mel Deines Hoodview Disposal and Recycling

Wichita Sanitary Oak Grove Disposal Clackamas Garbage

Other (please list):

SIGNATURE:

ATTEST: I am the property owner or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: 

Date: 2-14-2020

CONTINUED ON REVERSE

RS64

THIS SECTION FOR OFFICE USE ONLY:

File #: A-2000-00	Fee: \$ 150.00	Receipt #:	Rcd. by:	Date stamp:
Associated application file #'s:				RECEIVED FEB 18 2020 CITY OF MILWAUKIE PLANNING DEPARTMENT
Neighborhood District Association(s): Levelling				
Notes (include discount if any):				

CERTIFICATION OF REGISTERED VOTERS

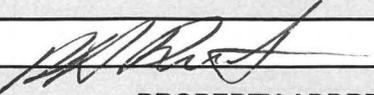
I hereby certify that the attached petition contains the names of at least 50% of the electors registered in the territory proposed for annexation as described in the attached petition.

Name Rolekah Stern Doll
Title Deputy Clerk
Department Elections
County of Clackamas
Date 2/18/2020



PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	PHILIP RITTHALER	✓	✓	✓	2-17-20
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
5950 SE MAPLE ST					

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
	Rae L. Rittaler	✓	✓	✓	2-17-20
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
5950 SE Maple St.					

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

*PO = Property Owner RV = Registered Voter OV = Owner and Registered Voter

9
10
11

RECORDING REQUESTED BY
Fidelity National Title Company of Oregon

GRANTOR'S NAME
Rae Lenore Ritthaler and Phillip Joseph Ritthaler

GRANTEE'S NAME
Rae Lenore Ritthaler and Philip Joseph Ritthaler

SEND TAX STATEMENTS TO:
Mr. and Mrs. Ritthaler
5950 SE Maple Street
Milwaukie, OR 97222

AFTER RECORDING RETURN TO:
Mr. and Mrs. Ritthaler
5950 SE Maple Street
Milwaukie, OR 97222

Clackamas County Official Records
Sherry Hall, County Clerk 2007-047228



\$26.00

05/31/2007 10:45:24 AM

D-D Cnt=1 SIn=4 KANNA
\$5.00 \$11.00 \$10.00

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY QUITCLAIM DEED

Rae Lenore Ritthaler and Phillip Joseph Ritthaler, Wife and Husband, Grantor, releases and quitclaims to

Phillip Joseph Ritthaler and Rae Lenore Ritthaler, as tenants by the entirety, Grantee, all right title and interest in and to the following described real property, situated in the County of Clackamas, State of Oregon,

Lot 5, EXCEPT the West 5 feet and Lot 6, EXCEPT the East 17 feet, in Block 8, HOLLYWOOD PARK, in the County of Clackamas and State of Oregon.

02/18/20
MN

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$0.00 (See ORS 93.030)

DATED: May 25, 2007

1506061
This instrument filed for record by Fidelity National Title Company as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.

Rae Lenore Ritthaler
Rae Lenore Ritthaler

Phillip Joseph Ritthaler
Phillip Joseph Ritthaler

STATE OF OREGON Clackamas
COUNTY OF

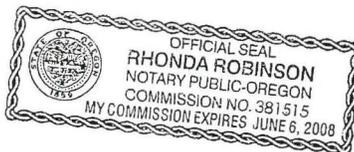
This instrument was acknowledged before me on
5/25/07

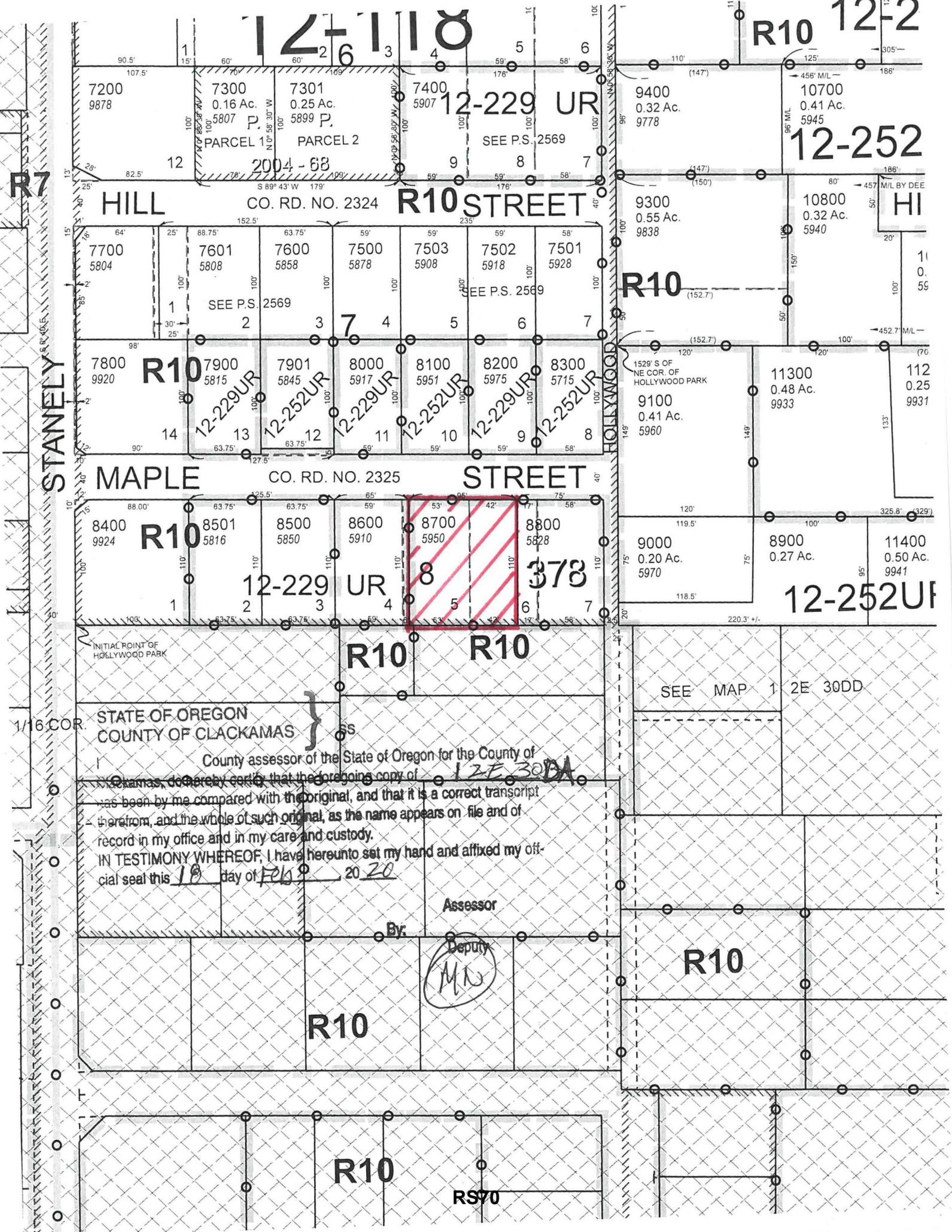
by Rae Lenore Ritthaler and Phillip Joseph Ritthaler

This instrument was acknowledged before me on

by _____
as _____
of _____

Rhonda Robinson
Notary Public for Oregon
My Commission Expires: 6/6/08





12-118

R10 12-2

12-252

12-229 UR

HILL CO. RD. NO. 2324 R10 STREET

MAPLE CO. RD. NO. 2325 STREET

STANLEY

R10

R10

R10

R10

R10

R10

R10

R10

RS70

7200 9878
7300 0.16 Ac. 5807 P.
7301 0.25 Ac. 5899 P.
7400 5907
PARCEL 1
PARCEL 2
2004-68

9400 0.32 Ac. 9778
10700 0.41 Ac. 5945

7700 5804
7601 5808
7600 5858
7500 5878
7503 5908
7502 5918
7501 5928
SEE P.S. 2569

9300 0.55 Ac. 9838
10800 0.32 Ac. 5940

7800 9920
7900 5815
7901 5845
8000 5917
8100 5951
8200 5975
8300 5715
12-229UR
12-252UR
12-229UR
12-252UR
12-229UR
12-252UR

11300 0.48 Ac. 9933
9100 0.41 Ac. 5960
112 0.25 9931

8400 9924
8501 5816
8500 5850
8600 5910
8700 5950
8800 5828
12-229 UR
378

9000 0.20 Ac. 5970
8900 0.27 Ac.
11400 0.50 Ac. 9941

STATE OF OREGON
COUNTY OF CLACKAMAS

County assessor of the State of Oregon for the County of Clackamas, do hereby certify that the foregoing copy of 12E 30DD was been by me compared with the original, and that it is a correct transcript therefrom, and the whole of such original, as the name appears on file and of record in my office and in my care and custody.
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this 18 day of Feb 20 20

Assessor

By

Deputy

(Signature)

SEE MAP 1 2E 30DD

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map 12E30DA) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

Name Mary Neigel
Title GIS Cartographer II
Department Assessment & Tax
County of Clackamas
Date 02.18.20

**CERTIFICATION OF PROPERTY OWNERSHIP OF
100% OF LAND AREA**

I hereby certify that the attached petition contains the names of the owners¹ (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

Name Mary Neigel
Title GIS Cartographer II
Department Assessment & Tax
County of Clackamas
Date 02.18.20



¹ Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

CONFIDENTIAL

Census Form

Date 2-17-2020

Use one form per housing unit

CITY OF MILWAUKIE, OREGON

ADDRESS 5950 SE MAPLE ST MILWAUKIE OR 97222

HOUSING TYPE:

Single Unit Structure
Multiple Unit Structure
Trailer or Mobile Home

TENURE:

Owner Occupied
Renter Occupied
Vacant
Seasonal

RESIDENTS:

	<u>Last Name</u>	<u>First Name</u>
Respondent	<u>RITTHALER</u>	<u>PHILIP</u>
2)	<u>RITTHALER</u>	<u>RAE</u>
3)	_____	_____
4)	_____	_____
5)	_____	_____
6)	_____	_____
7)	_____	_____
8)	_____	_____
9)	_____	_____
10)	_____	_____

POPULATION RESEARCH CENTER

PORTLAND STATE
UNIVERSITY

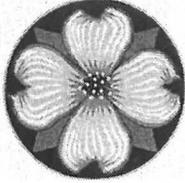
(503) 725-3922

NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

	Name of Owner/Voter	Mailing Street Address	Property Address
		Mailing City/State/Zip	Property Description <small>(township, range, ¼ section, and tax lot)</small>
1	PHILIP RITTHALER	5950 SE MAPLE ST	
		MILWAUKIE OREGON 97222	
2	RAE RITTHALER	5950 SE MAPLE ST	
		MILWAUKIE OREGON 97222	
3			
4			
5			
6			
7			
8			
9			
10			



Milwaukie Planning Department

6101 SE Johnson Creek Blvd
Milwaukie, OR 97206
503-786-7630
Fax: 503-774-8236
planning@milwaukieoregon.gov

Transaction Receipt

601-20-000009-PLNG

IVR Number: 601052539200

Receipt Number: 18464

Receipt Date: 2/18/20

www.milwaukieoregon.gov

Worksite address: 6101 SE JOHNSON CREEK BLVD, MILWAUKIE, OR 97206

Parcel: 11E36BB01600

Fees Paid

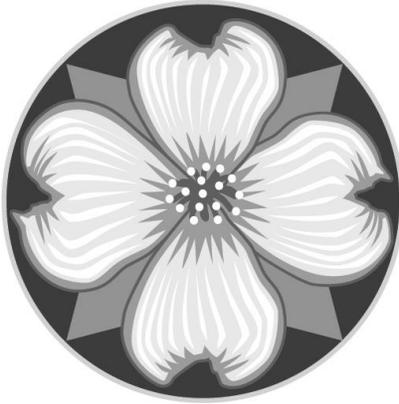
Transaction date	Units	Description	Account code	Fee amount	Paid amount
2/18/20	150.00 Amount	Annexation Expedited	110-000-4480	\$150.00	\$150.00

Payment Method: Credit card Payer: Philip J Ritthaler Payment Amount: \$150.00
 authorization: 700822
 Transaction Comment: Philip J Ritthaler
 5950 SE Maple St
 Milwaukie, OR 97222

Cashier: Dan Harris

Receipt Total:

\$150.00



RS Agenda Item

6

Other Business

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Feb. 5, 2020

Reviewed: Justin Gericke, City Attorney

From: Leila Aman, Community Development Director

Subject: **Affordable Housing Construction Excise Tax (CET) Code Amendment**

ACTION REQUESTED

Council is asked to consider adopting updates to Milwaukee Municipal Code (MMC) 3.60.050 related to exemptions to the Affordable Housing Construction Excise Tax (CET).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[November 21, 2017:](#) Council adopted Ordinance 2154 authorizing a CET.

[July 17, 2018:](#) Council adopted the Milwaukee Housing Affordability Strategy (MHAS).

[May 7, 2019:](#) Council approved the formation of a CET Oversight Group (CETOG).

[January 21, 2020:](#) Council received an update and provided feedback to finalize criteria to allocate CET funds.

ANALYSIS

Staff is proposing an amendment to the MMC to clarify that multi-family housing projects that include deed restricted units that meet income and duration criteria set forth in the code be exempted from the CET. The exemption will apply only if the estimated forgone revenue of holding those units as income restricted is at least double the estimated tax that would have been imposed on the project.

If amended, staff would develop an exemption application form and pro-forma model to evaluate exemptions on a case-by-case basis to determine if a project meets the threshold requirements. A deed restriction on the income restricted units will be required to be recorded on the property and evidence provided to the city to demonstrate this requirement has been met in order to receive the exemption. The deed restriction must be provided to the city prior to the city releasing a certificate of occupancy.

The intent of this proposal is to encourage developers of market rate multi-family housing to include some portion of units to be income restricted and to advance the city's goals for creating new affordable housing units.

BUDGET IMPACT

The city will forgo a portion of future CET revenue but will leverage new income restricted units that would not have otherwise been constructed as a result.

WORKLOAD IMPACT

There will be minimum workload impact and the community development staff have the capacity to do it.

CLIMATE IMPACT

None.

COORDINATION, CONCURRENCE, OR DISSENT

The city attorney has reviewed the proposed changes.

STAFF RECOMMENDATION

Staff recommends that Council adopt the proposed revisions to MMC 3.60.050.

ALTERNATIVES

Council could decline to adopt the proposed revisions.

ATTACHMENTS

1. MMC 3.06.050 (redline)
2. Ordinance
3. Memo

Exhibit A

3.60.050 EXEMPTIONS

A. Notwithstanding Section 3.60.040, the construction excise tax (CET) shall not be imposed on the following:

1. Residential housing units, including detached housing ~~and, market rate multi-family housing units within a market rate projects,~~ that are subject to a deed restriction or other mechanism acceptable to the City ensuring that the unit(s), or a portion of the units in the case of a multi-family housing project, are affordable under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than eighty percent (80%) of the median household income for a period of at least thirty (30) years following the date of issuance of the building permit on which the improvement value is based and that remain affordable. For purposes of the initial determination of eligibility for this exemption, the City shall use the median family income for the year prior to the date of issuance of the permit on which the improvement value is based. Continuing affordability shall be determined based on the median family income for the prior calendar year. ~~Multi-family housing project must demonstrate the financial impact to the developer of the deed restricted units exceeds the CET that would have been otherwise imposed on the project by at least twice the amount being exempted.~~
2. Accessory dwelling units. This exemption expires automatically on the date that is the fifth anniversary of the effective date of the ordinance codified in this chapter. The construction excise tax (CET) shall apply to all building permits for accessory dwelling units issued after that date.
3. Improvements having a total improvement value of less than one hundred thousand dollars (\$100,000.00).
4. Public school improvements.
5. Public improvements as defined in ORS 279A.010.
6. Public or private hospital improvements.
7. Improvements to religious facilities primarily used for worship or education associated with worship.
8. Long-term care facilities, as defined in ORS 442.015, operated by a not-for-profit corporation.
9. Residential care facilities, as defined in ORS 443.400, operated by a not-for-profit corporation.
10. Continuing care retirement communities, as defined in ORS 101.020, operated by a not-for-profit corporation.
11. Any improvements required to be exempted from this construction excise tax (CET) by state law.

B. The City may require any person seeking an exemption to demonstrate that the improvement is eligible for an exemption and to establish all necessary facts to support the exemption. (Ord. 2154 § 1, 2017)

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE CHAPTER 3.60.050.

WHEREAS, Milwaukie Municipal Code (MMC) Chapter 3.60 governs the city's construction excise tax (CET); and

WHEREAS, the 2016 Oregon Legislative Assembly enacted Senate Bill 1533 (2016 Oregon Laws Chapter 59) authorizing cities to impose a CET for the purpose of promoting affordable housing; and

WHEREAS, the City Council has declared a housing emergency due to low vacancy rates, high rents, and lack of affordable housing opportunities; and

WHEREAS, providing an exemption from the CET for multi-family housing projects that include deed restricted housing units that meet certain income and duration criteria established by the city will promote the development of affordable housing.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Chapter 3.60.050 is amended to read as shown in Exhibit A.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

3.60.050 EXEMPTIONS

A. Notwithstanding Section 3.60.040, the construction excise tax (CET) shall not be imposed on the following:

1. Residential housing units, including detached housing and market rate multi-family housing projects, that are subject to a deed restriction or other mechanism acceptable to the City ensuring that the unit(s), or a portion of the units in the case of a multi-family housing project, are affordable under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than eighty percent (80%) of the median household income for a period of at least thirty (30) years following the date of issuance of the building permit on which the improvement value is based and that remain affordable. For purposes of the initial determination of eligibility for this exemption, the City shall use the median family income for the year prior to the date of issuance of the permit on which the improvement value is based. Continuing affordability shall be determined based on the median family income for the prior calendar year. Multi-family housing project must demonstrate the financial impact to the developer of the deed restricted units exceeds the CET that would have been otherwise imposed on the project by at least twice the amount being exempted.
2. Accessory dwelling units. This exemption expires automatically on the date that is the fifth anniversary of the effective date of the ordinance codified in this chapter. The construction excise tax (CET) shall apply to all building permits for accessory dwelling units issued after that date.
3. Improvements having a total improvement value of less than one hundred thousand dollars (\$100,000.00).
4. Public school improvements.
5. Public improvements as defined in ORS 279A.010.
6. Public or private hospital improvements.
7. Improvements to religious facilities primarily used for worship or education associated with worship.
8. Long-term care facilities, as defined in ORS 442.015, operated by a not-for-profit corporation.
9. Residential care facilities, as defined in ORS 443.400, operated by a not-for-profit corporation.
10. Continuing care retirement communities, as defined in ORS 101.020, operated by a not-for-profit corporation.
11. Any improvements required to be exempted from this construction excise tax (CET) by state law.

B. The City may require any person seeking an exemption to demonstrate that the improvement is eligible for an exemption and to establish all necessary facts to support the exemption. (Ord. 2154 § 1, 2017)



MEMORANDUM

To: Mayor and City Council
From: Justin Gericke, City Attorney and
Leila Aman, Community Development Director

Date Written: April 14, 2020

Subject: Use of Construction Excise Tax for Rent Assistance

There has been interest in considering the use of construction excise tax (CET) funds collected from improvements to commercial and industrial real property to fund a rent assistance program during the COVID-19 emergency. We have reviewed the bill that created the CET, SB 1533, its legislative history, and the statutes that it amended. Based on this review, we believe that use of CET funds for a rent assistance program is not authorized by SB 1533.

SB 1533 was designed to promote housing development and accomplished that goal through the amendment of several statutes. The statute under which a rent assistance program has been proposed is ORS 320.195, which provides in relevant part that a city shall use 50 percent of the revenues received from the CET imposed on commercial and industrial real property to fund programs of the city related to housing. See ORS 320.195(4). While the language appears to provide cities wide latitude to define or establish any program “related to housing,” the meaning of the word “housing” in ORS 320.195(4) needs to be consistent with its use elsewhere throughout SB 1533. The word “housing” appears 29 times in SB 1533, 28 of which variously describe or define the construction, creation, or development of housing units. The 29th use of the term is in Section 9 of bill, which became ORS 320.195(4). A review of the voluminous legislative history for SB 1533 indicates that no testimony or language was proposed to address or consider rent assistance part of the bill package or to advocate for a different meaning of “housing” in Section 9. Therefore, we conclude that SB 1533 does not authorize the use of CET funds for a rent assistance program as that would impermissibly require a different, more expanded meaning for the word “housing” that is used throughout the bill. Using CET funds for a rent assistance program could subject the city to legal challenge from a development-related stakeholder because the use of CET funds for a rent assistance program is not authorized. We shared this analysis with LOC, who concurs with the conclusion but was going to look further into the legislative history we reviewed.

This is different than the action Council took last week when it adopted a small business grant program funded with the other 50 percent of the CET imposed on commercial and industrial real property.. When Council adopted the CET, it determined that a portion of the funds should assist with the implementation of the City’s Economic Development Strategy, Urban Renewal Plan, and the Downtown Milwaukie Riverfront Framework Plan, among other key plans.. The Business Relief Fund (BRF) adopted last week provides working capital necessary for businesses to continue to operate in our city and meets the original intent of the CET ordinance to use CET funds for economic development purposes. The BRF provides an emergency funding mechanism to help retain existing small businesses, which is a key goal of the City’s Economic Development Strategy, Urban Renewal Plan, and Downtown Milwaukie Riverfront Framework Plan, all of which specifically name small business retention as a goal.

RS 6. A. 4/21/2020
Presentation

Affordable Housing Construction Excise Tax (CET) Code Amendment

City Council Regular Session

April 21, 2020

Leila Aman

Community Development Director



Action Requested

Adopt updates to the Milwaukie Municipal Code (MMC) 3.6-.050 related to exemptions to the Affordable Housing Construction Excise Tax.



Encourage Affordable Mixed Income Housing

- Amendment to the MMC that clarifies that multi-family housing projects include deed restricted units can be exempted.
- Want to encourage market rate developers to provide income restricted housing.
- Provides incentive for developer to provide some income restricted housing they would not otherwise have considered.



Encourage Affordable Mixed Income Housing

- This will allow the city another tool to leverage income restricted units
- We are requiring 2x investment on the part of the applicant
- We will require a deed restriction on the units prior to release of Certificate of Occupancy (CoO)



Proposed Language

EXHIBIT A

3.60.050 EXEMPTIONS

A. Notwithstanding Section 3.60.040, the construction excise tax (CET) shall not be imposed on the following:

1. Residential housing units, including detached housing ~~and, market rate multi-family housing units within a market rate projects,~~ that are subject to a deed restriction or other mechanism acceptable to the City ensuring that the unit(s), or a portion of the units in the case of a multi-family housing project, are affordable under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than eighty percent (80%) of the median household income for a period of at least thirty (30) years following the date of issuance of the building permit on which the improvement value is based and that remain affordable. For purposes of the initial determination of eligibility for this exemption, the City shall use the median family income for the year prior to the date of issuance of the permit on which the improvement value is based. Continuing affordability shall be determined based on the median family income for the prior calendar year. ~~Multi-family housing project must demonstrate the financial impact to the developer of the deed restricted units exceeds the CET that would have been otherwise imposed on the project by at least twice the amount being exempted.~~

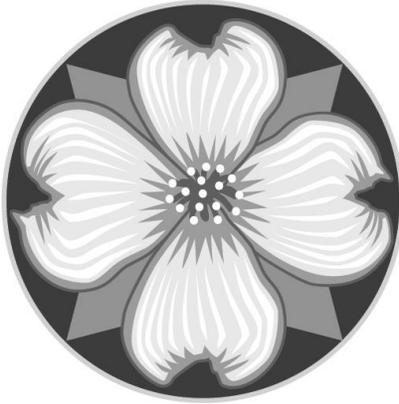
2. Accessory dwelling units. This exemption expires automatically on the date that is



Action Requested

Adopt updates to the Milwaukie Municipal Code (MMC) 3.6-.050 related to exemptions to the Affordable Housing Construction Excise Tax.





RS Agenda Item

7

Information



ELECTION 2020



Mayor's Announcements – Apr. 21, 2020

- **2020 City Elections (Milwaukie City Council – Positions 1 & 3)**
 - Nov. 3 general election
 - Candidate filing window is Jul. 27 through Aug. 25
 - Candidate information packet at www.milwaukieoregon.gov/elections
 - Questions? Email ocr@milwaukieoregon.gov or call 503-786-7502.
- **Library Programs Available Online**
 - Bug Science – Thu., Apr. 23 (2 p.m.)
 - Dana Haynes Presentation – Thu. Apr. 30 (7 p.m.)
- **Milwaukie Sunday Farmers Market** – Opens May 3 (9:30 a.m. – 2 p.m.)
 - Focused on providing essential items only with various modifications to provide a safe shopping experience.
 - Review the COVID-19 Requirements for all customers before you go at www.milwaukiefarmersmarket.com or if you have questions call 503-407-0956.
 - SE Harrison St. & SE Main St. (Across Main St. from City Hall)
- **LEARN MORE AT WWW.MILWAUKIEOREGON.GOV**