



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No. 2121

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30BB02100 AND LOCATED AT 4425 SE JOHNSON CREEK BOULEVARD, AS WELL AS THE ADJACENT PUBLIC RIGHT-OF-WAY ON JOHNSON CREEK BOULEVARD, INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE. (FILE #A-2016-002)

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

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

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

WHEREAS, the annexation and withdrawal are not contested by any necessary party and 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 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 adjacent public right-of-way and the 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 The tract of land and adjacent public right-of-way annexed by this ordinance and described in Section 2 are hereby withdrawn from Clackamas County Service District for Enhanced Law Enforcement.

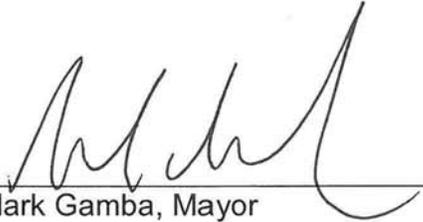
Section 4. The tract of land and adjacent public right-of-way annexed by this ordinance and described in Section 2 are hereby assigned a Comprehensive Plan land use designation of Low Density Residential and a Municipal Code zoning designation of Residential zone R-7.

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 5/17/16, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 5/17/16.

Signed by the Mayor on 5/17/16.



Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Pat DuVal, City Recorder



City Attorney

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for 4425 SE Johnson Creek Blvd (the "Annexation Property") and adjacent public right-of-way on Johnson Creek Boulevard, the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising 0.19 acres (Tax Lot 1S2E30BB02100). In addition, the larger "Annexation Area" includes the northern half of the public right-of-way (ROW) on Johnson Creek Boulevard fronting the Annexation Property and Tax Lot 2000 (4325 SE Johnson Creek Blvd). The Annexation Area is contiguous to the existing City limits on all sides and is effectively an island. 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 owners seek 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 March 29, 2016, with an application for annexation submitted to the City on the same day (March 29, 2016). The property was sold in late April 2016, and a new annexation petition was signed by the new property owners on May 4, 2016. The petition 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 Comprehensive Plan land use and zoning designations to the Annexation Area based on its existing Comprehensive Plan land use and zoning designations in the County, which are Low Density Residential and Residential R7, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic City Comprehensive Plan land use and zoning designations for the Annexation Area are Low Density Residential and Residential Zone R-7, 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 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 via the adjacent public right-of-way in Johnson Creek Boulevard to the south as well as all of the surrounding properties.
- C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;
Thomas and Alan Murray, owners of the Annexation Property, consented to the annexation by signing the petition. The owners are the only registered voters residing at 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 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 Johnson Creek Boulevard. 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 the early 1980s). 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 existing 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 is the identified water service provider in this plan and 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. The City already has jurisdiction of the Johnson Creek Boulevard right-of-way adjacent to the Annexation Property; with the proposed annexation, the City will annex said right-of-way.

- 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 services in this area via Johnson Creek Boulevard.

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

The Annexation Area includes a tax lot developed with a single-family residence. Annexation of the area 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 Area 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 Johnson Creek Boulevard.

Water: The Annexation Property is currently served by the City through the City's 12-inch water line adjacent to the Annexation Property in Johnson Creek Boulevard.

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 not currently within a County service district for street lights. The City assumes operational responsibility for street lights and street light payments for properties within the City boundary.

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-30BB-02100 plus Johnson Creek Boulevard Right-of-Way

A tract of land in the Northwest quarter of Section 30, T1S, R2E, of the Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

BEGINNING at the Southwest corner of that tract of land conveyed to Henry W Foster, et ex, by deed recorded February 27, 1943 in Book 303, Page 454, Clackamas County Deed Records, said point also being South 83°48' East, 653.34 feet and South 3°30' East, 370.98 feet from the Northwest corner of said Section 30, and a point on the Northwesterly right-of-way line of SE Johnson Creek Boulevard;

- 1) THENCE, North 3°30' West along the westerly line of said Foster tract, 116 feet, more or less, to the Northwest corner of that tract of land conveyed to Claude K. Olson in Instrument No. 96-056042, Clackamas County Deed Records;
- 2) THENCE, East along the Northerly line of said Olson tract, 55.80 feet;
- 3) THENCE South 40°09'10" East along the Northeasterly line of said Olson tract, 69.80 feet to the most Easterly corner of said Olson tract;
- 4) THENCE Southeasterly 48 feet, more or less, to the intersection of the Southeasterly right-of-way line of SE Johnson Creek Boulevard as it existed prior to 2003 with the Northwesterly boundary of the Walter N. Paulson, et ex, tract described in Book 423, Page 663, Clackamas County Deed Records;
- 5) THENCE Southwesterly along the Southeasterly right-of-way line of SE Johnson Creek Boulevard as it existed prior to 2003, 190 feet, more or less, to a point on the Southeasterly extension of the Southwesterly line of that tract of land conveyed to Rick DeVries and Janice DeVries as Parcel II in Instrument No. 2006-006563, Clackamas County Deed Records;
- 6) THENCE Northwesterly along said Southeasterly extension, 40.0 feet, more or less, to the most Southerly corner of said Devries tract, and a point on the Northwesterly right-of-way line of SE Johnson Creek Boulevard;
- 7) THENCE North 65°00' East along the Northwesterly right-of-way line of SE Johnson Creek Boulevard, 60.0 feet more or less, to the Point of Beginning.

