

COUNCIL ORDINANCE No. 2174

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING TRACTS OF LAND IDENTIFIED AS TAX LOTS 2S2E05A 0400, 0402, AND 0403 (THE HARMONY ROAD CAMPUS OF CLACKAMAS COMMUNITY COLLEGE) AS WELL AS THE PUBLIC RIGHT-OF-WAY OF SE HARMONY ROAD FROM SE LINWOOD AVENUE TO THE EASTERN BOUNDARY OF THE COMMUNITY COLLEGE CAMPUS NEAR SE 80TH AVENUE INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2016-006).

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 land owners who own a majority of real property representing a majority of the assessed value of the land within the territory proposed for annexation; 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, 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 two public hearings and mailed notice of the public meeting as required by law; and

WHEREAS, the Planning Commission held a public hearing on June 11, 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 tracts of land and 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 tracts of land and public right-of-way described and depicted in Exhibit B are hereby annexed to the City of Milwaukie.

Section 3. The tracts of land and public right-of-way annexed by this ordinance and described in Section 2 are hereby withdrawn from both the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights.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 tracts of land annexed by this ordinance and described in Section 2 are hereby assigned a Comprehensive Plan land use designation of commercial (C) and a municipal code zoning designation of limited commercial (C-L).

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 7/16/19, and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 7/16/19.

Signed by the Mayor on 7/16/19.



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 Harmony Road campus of Clackamas Community College and the adjacent public right-of-way for Harmony Road, the Milwaukie City Council finds:

1. The Annexation Properties consist of three tax lots comprising a total of 9.66 acres (Tax Lots 2S2E05A 0400, 0402, and 0403). In addition, the larger Annexation Territory includes the public right-of-way (ROW) for SE Harmony Road from SE Linwood Avenue to the eastern boundary of the community college campus near SE 80th Avenue. The Annexation Territory is contiguous to the existing city limits via multiple properties on the north side of SE Harmony Road between SE Linwood Avenue and SE 71st Avenue. The Annexation Properties will be contiguous to the newly extended city limits through the SE Harmony Road ROW being annexed. The Annexation Territory is within the regional urban growth boundary and also within the city's urban growth management area (UGMA).

The Annexation Properties are developed with two buildings comprising the Harmony Road campus of Clackamas Community College, with a large off-street parking area. Construction of an administrative office building for Clackamas Fire District #1 is planned for the westernmost portion of the site. The surrounding area consists of residential dwellings (mostly single-family with some multifamily) to the north across Harmony Road, the Three Creeks Natural Area to the south, the North Clackamas Aquatic Park to the southeast, and a retail commercial store site to the east.

2. The owner of the Annexation Properties seeks annexation to the city as part of an agreement related to the current provision of city sewer service to the Annexation Properties site. The city seeks annexation of the SE Harmony Road ROW to provide contiguity of the city limits to the Annexation Properties.
3. The annexation petition was initiated by a majority of land owners who own a majority of real property representing a majority of the assessed value of the land within the affected area (a.k.a., a "triple majority" annexation) on September 19, 2016, with an application for annexation submitted to the city on the same day (September 19, 2016). It meets the requirements for initiation set forth in ORS 222.170(1), 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 222.170(1), Metro Code Section 3.09.045, and MMC 19.1102.
5. The annexation application includes a request for city comprehensive plan land use and zoning designations to the Annexation Properties. The existing comprehensive plan land use and zoning designations in the county are both office commercial (OC). The applicant has requested city comprehensive plan land use and zoning designations for the Annexation Properties to be commercial (C) and limited commercial (C-L), respectively.

6. 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 properties on the north side of SE Harmony Road between SE Linwood Avenue and SE 71st Avenue as well as through the newly annexed SE Harmony Road ROW itself.

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

Joanne Truesdell, president of Clackamas Community College in 2016, consented to the annexation by signing the petition. There are no registered voters for the Annexation Properties. 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. City sewer service is available to the Annexation Properties in SE Harmony Road. 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 7.

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 map and comprehensive plan map.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC Subsections 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 applicant has proposed to designate the Annexation Properties according to the guidance of MMC Table 19.1104.1.E, from a county zoning designation of Office Commercial (OC) to city designations of Limited Commercial (C-L) for zoning and Commercial (C) for land use. The approval criteria for both proposed amendments are effectively met.

7. Prior to approving an annexation, the city must apply the provisions set forth in Subsection 3.09.050.D of the Metro Code, 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 that can adequately serve the Annexation Properties.

Storm: The Annexation Properties are developed with on-site stormwater facilities and for overflow are connected to a public stormwater system managed by Clackamas County Water Environment Services (WES). Treatment and management of on-site stormwater will be required when any new development occurs.

Transportation: Clackamas County currently maintains SE Harmony Road. In the future, following county improvements, the city will initiate a transfer of jurisdiction. The city may then require public street improvements along the Annexation Properties' frontage when any 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 Properties.

(5) Any applicable comprehensive plan.

As discussed in Finding 6, 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 SE Harmony Road ROW once the annexation is official and the county makes planned improvements to the road.

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 Properties.

The city has public sewer service in this area via a sewer line in the SE Harmony Road ROW.

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

The Annexation Properties consist of three tax lots under the same ownership. The site is developed with two buildings comprising the Harmony Road campus of Clackamas Community College, an administrative office building for Clackamas Fire District #1, and

associated off-street parking. 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 Properties will be served by the Milwaukie Police Department. The city will also assume responsibility for maintaining street lights in the Annexation Territory. 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.

8. 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 Properties are within the city's sewer service area and are served by the city's 8-in sewer line accessible in SE Harmony Road.*

Water: *The Annexation Properties are currently served by CRW through CRW's water line in SE Harmony Road adjacent to the Annexation Properties. Pursuant to the city's IGA with CRW, the Annexation Properties should not be withdrawn from this district at this time.*

Storm: *The Annexation Properties are developed with on-site stormwater facilities and for overflow are connected to a public stormwater system managed by WES. Treatment and management of on-site stormwater will be required if any new development occurs.*

Fire: *The Annexation Properties are 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 Properties are 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. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.*

Street Lights: *The Annexation Properties are 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 site upon annexation. The Annexation Properties 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 the City of Milwaukie
LEGAL DESCRIPTION for 3 PROPERTIES**

Milwaukie Annexation File No. A-2016-006

Property Address: 7616 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00400

Legal Description: Parcel 1 of Partition Plat 1992-41

Property Address: 7726 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00402

Legal Description: Parcel 7 of Partition Plat No. 2007-104, except that part lying in SE Harmony Road, in the County of Clackamas and State of Oregon

Property Address: 7738 SE Harmony Rd, Milwaukie OR 97222

Tax Lot Description: 2S2E05A 00403

Legal Description: Parcel 8 of Partition Plat No. 2007-104, except that part lying in SE Harmony Road, in the County of Clackamas and State of Oregon

LEGAL DESCRIPTION
HARMONY ROAD
CITY OF MILWAUKIE

#8174
2/1/19 MAR

A STRIP OF LAND, VARIABLE WIDTH, LOCATED IN THE SOUTHWEST ONE-QUARTER AND THE SOUTHEAST ONE-QUARTER OF SECTION 32, TOWNSHIP 1 SOUTH, RANGE 2 EAST AND THE NORTHWEST ONE-QUARTER AND THE NORTHEAST ONE-QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, CITY OF MILWAUKIE, CLACKAMAS COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8 INCH DIAMETER IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "CLACKAMAS COUNTY DTD", FOUND AT THE NORTHEAST CORNER OF PARCEL 6, PARTITION PLAT 2006-003, CLACKAMAS COUNTY PLAT RECORDS, BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF SE HARMONY ROAD (COUNTY ROAD NO. 115, WIDTH VARIES); THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE THE FOLLOWING 15 COURSES: N.87°39'46"W., 50.00 FEET; THENCE S.01°33'06"W., 12.00 FEET; THENCE N.87°39'46"W., 301.51 FEET; THENCE N.88°26'54"W., 473.13 FEET; THENCE N.01°33'06"E., 22.00 FEET; THENCE N.88°26'54"W., 701.10 FEET; THENCE 196.41 FEET ALONG THE ARC OF A 686.17 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 16°24'00" (THE CHORD OF WHICH BEARS S.83°21'06"W., 195.74 FEET); THENCE S.75°09'06"W., 332.02 FEET; THENCE 199.48 FEET ALONG THE ARC OF A 602.95 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 18°57'20" (THE CHORD OF WHICH BEARS S.84°37'46"W., 198.57 FEET); THENCE N.85°53'34"W., 337.13 FEET; THENCE 213.66 FEET ALONG THE ARC OF A 1115.90 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 10°58'14" (THE CHORD OF WHICH BEARS S.88°37'19"W., 213.34 FEET); THENCE S.83°08'12"W., 262.86 FEET; THENCE 141.84 FEET ALONG THE ARC OF A 2321.77 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 03°30'01" (THE CHORD OF WHICH BEARS S.84°53'12"W., 141.82 FEET); THENCE S.86°38'13"W., 964.12 FEET TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY LINE OF SOUTHERN PACIFIC RAILROAD (60.00 FEET WIDE); THENCE ALONG SAID NORTHEASTERLY RIGHT OF WAY LINE, N.64°51'48"W., 223.63 FEET TO A POINT; THENCE N.25°08'12"E., 60.00 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF SAID SE HARMONY ROAD; THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE THE FOLLOWING 21 COURSES: S.64°51'48"E., 83.73 FEET; THENCE 244.16 FEET ALONG THE ARC OF A 490.85 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 28°29'59" (THE CHORD OF WHICH BEARS S.79°06'47"E., 241.65 FEET); THENCE N.86°38'13"E., 485.96 FEET; THENCE N.86°30'17"E., 359.95 FEET; THENCE N.80°34'30"E., 50.27 FEET; THENCE 66.19 FEET ALONG THE ARC OF A 2256.77 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 01°40'50" (THE CHORD OF WHICH BEARS N.83°58'37"E., 66.19 FEET); THENCE N.75°03'00"E., 35.54 FEET; THENCE N.83°08'12"E., 100.00 FEET; THENCE N.56°34'18"E., 89.44 FEET; THENCE N.83°08'12"E., 47.67 FEET; THENCE 61.34 FEET ALONG THE ARC OF A 1225.90 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 02°52'00" (THE CHORD OF WHICH BEARS N.84°34'12"E., 61.33 FEET); THENCE S.63°09'47"E., 60.75 FEET; THENCE 116.97 FEET ALONG THE ARC OF A 1195.90 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 05°36'14" (THE CHORD OF WHICH BEARS S.88°41'41"E., 116.92 FEET); THENCE S.85°53'34"E. 93.65 FEET; THENCE S.04°06'26"W., 20.00 FEET; THENCE S.85°53'34"E., 87.09 FEET; THENCE

S.86°08'35"E., 79.03 FEET; THENCE S.86°04'39"E., 104.58 FEET; THENCE 152.41 FEET ALONG THE ARC OF A 542.95 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 16°04'58" (THE CHORD OF WHICH BEARS N.83°11'35"E., 151.91 FEET); THENCE N.75°09'06"E., 439.54 FEET; THENCE S.88°26'54"E., 1575.49 FEET; THENCE N.01°33'06"E., 10.00 FEET; THENCE S.88°26'54"E., 57.74 FEET; THENCE S.01°33'06"W., 84.82 FEET TO THE POINT-OF-BEGINNING, CONTAINING 299577 SQUARE FEET, (6.88 ACRES) MORE OR LESS.

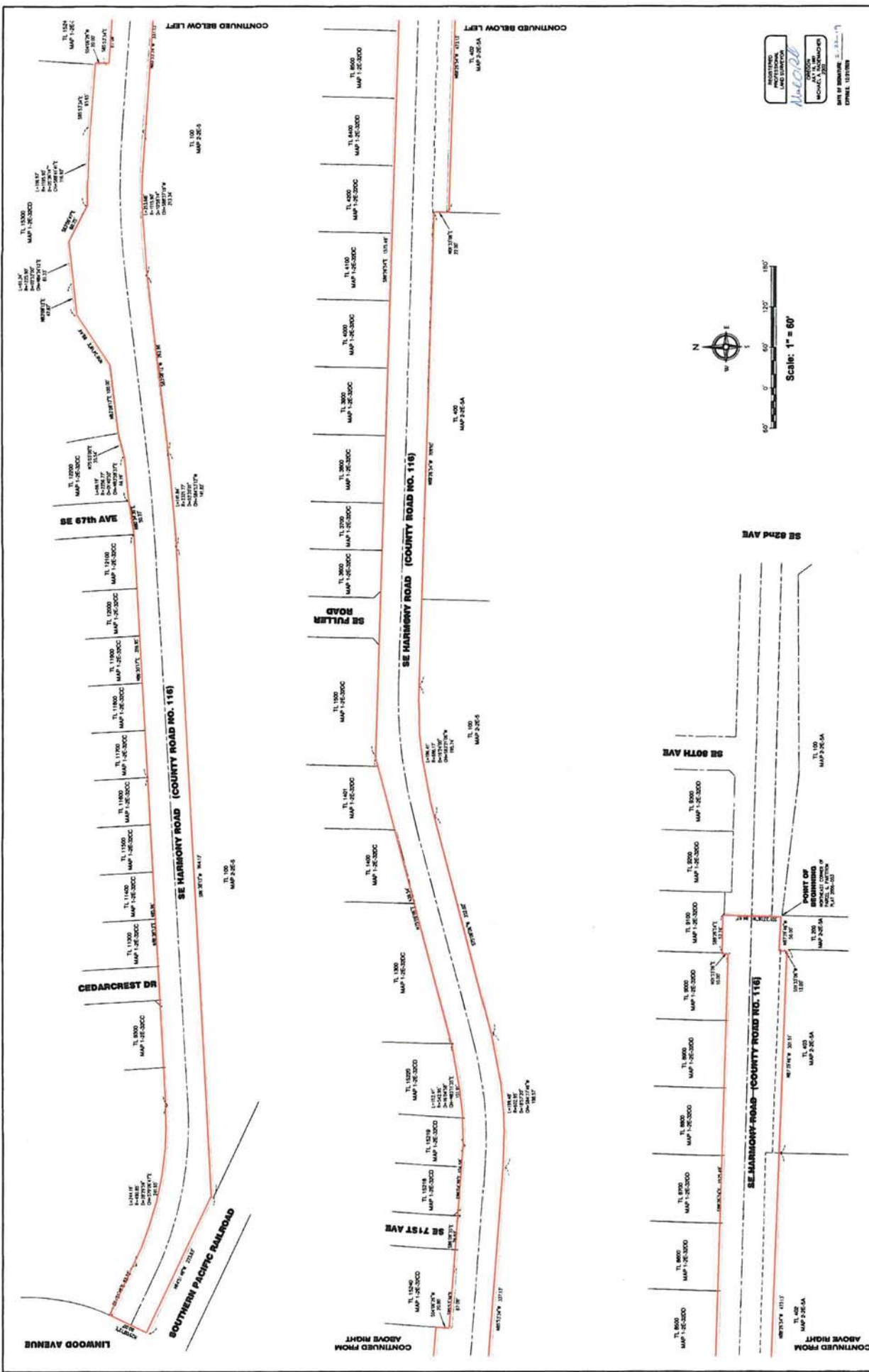
THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS SN 23425, CLACKAMAS COUNTY SURVEY RECORDS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303

DATE OF SIGNATURE: 2-6-19

EXPIRES: 12/31/2018



REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 No. 12345
 JAMES W. BROWN
 1000 N. BROADWAY
 PORTLAND, OREGON 97202
 DATE OF SURVEY: 5-23-17
 SHEET 1 OF 2

DATE	BY	REVISION	SCALE	DATE	BY	REVISION
			1" = 60'			

COMPASS Land Surveys 4107 SE International Way, Suite 705 Milwaukie, Oregon 97222 503-633-9993		CITY OF MILWAUKIE 10722 SE MAIN STREET MILWAUKIE, OREGON 97222		HARMONY ROAD LEGAL DESCRIPTION LOCATED IN THE SW 1/4 AND THE SE 1/4 SECTION 25, T.15S., R.2E., AND THE NW 1/4 AND THE NE 1/4 SECTION 5, T.25S., R.2E., W.2E., CITY OF MILWAUKIE, CLATSOP COUNTY, OREGON	
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