



AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 11E35 00100 (ELK ROCK ISLAND) INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE. (FILE #A-2017-007)

WHEREAS, the territory proposed for annexation is contiguous to the City's boundary and is within the regional urban growth boundary; 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 (if any) and all owners of land in 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

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 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 tracts of land and withdrawal from all applicable districts based on findings and conclusions attached hereto as Exhibit A;

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

Section 1. The Findings in Support of Approval and attached as Exhibit A are hereby adopted.

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

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.

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 Public and a Municipal Code zoning designation of Residential Zone R-10 with overlay zoning designation of Natural Resource (NR) and Willamette Greenway (WG) and recognition of the existing park as a de-facto Community Service Use (CSU).

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 12/19/17 and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 12/19/17.

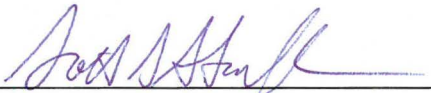
Signed by the Mayor on 12/19/17.



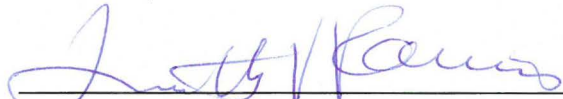
Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC



Scott S. Stauffer, City Recorder



City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the expedited annexation staff report for Elk Rock Island, the “Annexation Property,” the Milwaukie City Council finds:

1. The Annexation Property consists of one tax lot comprising a total of approximately 13.25 acres (Tax Lot 11E35 00100). The Annexation Property is contiguous to the existing City limits via the adjacent property to the east. The Annexation Property is within the regional urban growth boundary. The subject property consists entirely of vacant open space.
2. The property is owned by the City of Milwaukie which seeks annexation to assure proper governance and access to City Police protection.
3. This annexation was initiated by the Milwaukie City Manager, Ann Ober, on behalf of the Milwaukie City Council. There are no electors residing on the subject property. The subject property meets the applicable requirements for expedited annexation, to wit:
It meets the requirements for initiation set forth in ORS 222.125 (unanimous consent of property owners and no electors residing on the property), Metro Code Section 3.09.040 (petition for annexation filed as required), and Milwaukie Municipal Code (MMC) Subsection 19.1102.2.A.1 (petition for annexation properly filed and approval criteria addressed in filing).
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 Property based on its existing zoning designation in the County. The current County zoning designation for the Annexation Property is Open Space Management (OSM), which corresponds to the City’s Low Density Residential R-10 zoning. The annexation will result in application of overlay zones for Natural Resources and the Willamette Greenway. In addition, the City will recognize the open space/park use as a de-facto Community Service Use (CSU) upon annexation.
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 contiguous to the existing city limits;
The Annexation Property is contiguous to the existing city limits via the property to the east.

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

As submitted, the annexation petition meets the statutory 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. There are no electors residing on Elk Rock Island.

- D. The proposal must be consistent with Milwaukie Comprehensive Plan Policies;

Chapter 3: Environmental and Natural Resources

Open Spaces, Scenic Areas, and Natural Resources Element

"Goal Statement: To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources...In addition, Elk Rock Island, although not within Milwaukie, but owned by the City of Portland, offers good wildlife habitat due to its sufficient ground cover and its proximity to the Willamette River."

The goal statement quoted above emphasizes the retention of open spaces and natural areas, specifically including Elk Rock Island. Given that the City intends to retain the island in open space use, and apply Natural Resource and Willamette Greenway overlay zoning with a de-facto Conditional Service Use (CSU) after annexation, annexation and rezoning of the island will help to implement this goal statement. The Comprehensive Plan update that is being initiated will result in upgrades to this current goal statement to reflect City ownership of the property.

Objective #1 – Open Space

"To protect the open space resources of Milwaukie to improve the quality of the environment, provide a diversity of natural visual character within the City, and provide residents with ecological, educational, and recreational experiences in a variety of environmental settings.... Within this plan, the term "open space" is intended to define and designate vacant land which will remain undeveloped in accordance with the Willamette Greenway Program, natural area designation, or other land use requirements. Open space includes those areas designated as Public on the Land Use Map (Map 8) and as "water quality resources" and "habitat conservation areas" on the Natural Resources Map (Map 5)."

Policy 12: "The City will participate with the appropriate agencies in implementing the Elk Rock Island Natural Area Management Plan."

Objective #1 – Open Space, and Policy 12 quoted above emphasize the retention of open spaces and natural areas, including Elk Rock Island. Given that the City intends to retain the island in open space use after

annexation, annexation and rezoning of the island will help to implement this objective and related policies.

Objective #7 – Riverfront Recreation

“To maximize the recreational use of the Willamette River shoreland and waterways.”

Planning Concepts: “A marina near downtown, linked with public lands such as the grounds of the Kellogg Wastewater Treatment Plant, Elk Rock Island, and Spring Park would form a riverfront corridor providing a variety of river-oriented experiences.”

Policy 4: “The City will cooperate with the City of Portland to encourage suitable use of Elk Rock Island.”

Objective #7 – Riverfront Recreation and the related planning concepts and the policy quoted above were written at a time when Elk Rock Island was still owned by the City of Portland. The ownership of the island has now been conveyed to the City of Milwaukie. The intent of these Comprehensive Plan provisions still remains valid, however, as the City of Milwaukie intends to annex the island and maintain it for open space use. The City of Milwaukie will continue to cooperate with other interested governmental agencies in the management of the island.

Willamette Greenway Element

Goal Statement: “To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

Goal Statement – Willamette River Greenway Element -- this language is a direct quote from Oregon’s Statewide Planning Goal #15. By annexing and rezoning the island as proposed, the City intends to protect, conserve, enhance and maintain the natural qualities of Elk Rock Island, which is entirely within the Willamette River Greenway.

As proposed, the annexation and zone change are consistent with relevant 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, below.

- 8. Prior to approving an expedited annexation, the City must apply the provisions contained in Section 3.09.045.D of the Metro Code. 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.

- (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 Statewide Planning Goal 11 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: *There are no planning documents that identify a sewer service provider for this property. The capacity of the public sewer system is not an issue for this annexation. The City does not anticipate the need to extend sewer service to the property.*

Storm: *The Annexation Property is not connected to a public storm water system. However, the entire site is within the floodplain of the Willamette River which will continue to receive run-off from the site as in the past.*

Transportation: *The City is the primary transportation service provider in the area of the proposed annexation. However, given that the City intends to keep the subject property in open space usage, the capacity of public transportation systems is not an issue for this annexation.*

Water: *There are no planning documents that identify a water*

service provider for the property. The capacity of the public water system is not an issue for this annexation. The City has no plans to extend water service to the property.

- (5) Any applicable comprehensive plan provisions.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan. See Findings #6 and & 7.D, above.

The Clackamas County Comprehensive Plan contains no specific language regarding City annexations. The City has agreed to notify the County of proposed annexations, which the City has done.

B. Consider whether the boundary change would:

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

The unique nature of the subject property and this proposed annexation are expected to have minimal impacts on the provision of urban services. Annexation is expected to facilitate the provision of police services to the Island. No water, sewer, or storm services are being provided to the property.

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

The Annexation Property consists of one tax lot under the ownership of the City of Milwaukie. The entire site is open space. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, other than police services, which will become more readily available from the Milwaukie Police Department.

- (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 not within the City's sewer service area and is not expected to need sanitary sewer service, given its planned open space use.*

Water: *The Annexation Property is not within the City's water service area and is not expected to need water service, given its planned open space use.*

Storm: *The Annexation Property is not connected to a public storm water system. The island is not expected to need stormwater service, given its continued open space use.*

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 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 the Milwaukie Police Department can adequately serve the site. In order to avoid duplication of services, the site will be withdrawn from Clackamas County Service District for Enhanced Law Enforcement upon annexation to the City.*

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 the City of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2017-007

Property Address: N/A

Tax Lot Description: 11E3500100

Legal Description: Real property in the County of Clackamas, State of Oregon,
described as follows:

A tract of land being a portion of the Lot Whitcomb's Donation Land Claim No. 38, in Section 35, Township 1 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:

That certain Island in the Willamette River above the Town of Milwaukie, Oregon, formerly known as Whitcomb Island, now called Elk Rock Island, lying near the Southwest corner of the said Lot Whitcomb's Donation Claim No. 38, Township 1 South, Range 1 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon.

SW Corner Whitcomb DLC No. 38

This map was prepared for assessment purpose only.

SECTION 35 T.1S. R.1E. W.M.
CLACKAMAS COUNTY
1" = 400'

D.L.C.'s
LOT WHITCOMB NO. 38
LOT WHITCOMB NO. 41

1 IE 35
& INDEX
MILWAUKIE

200

1200

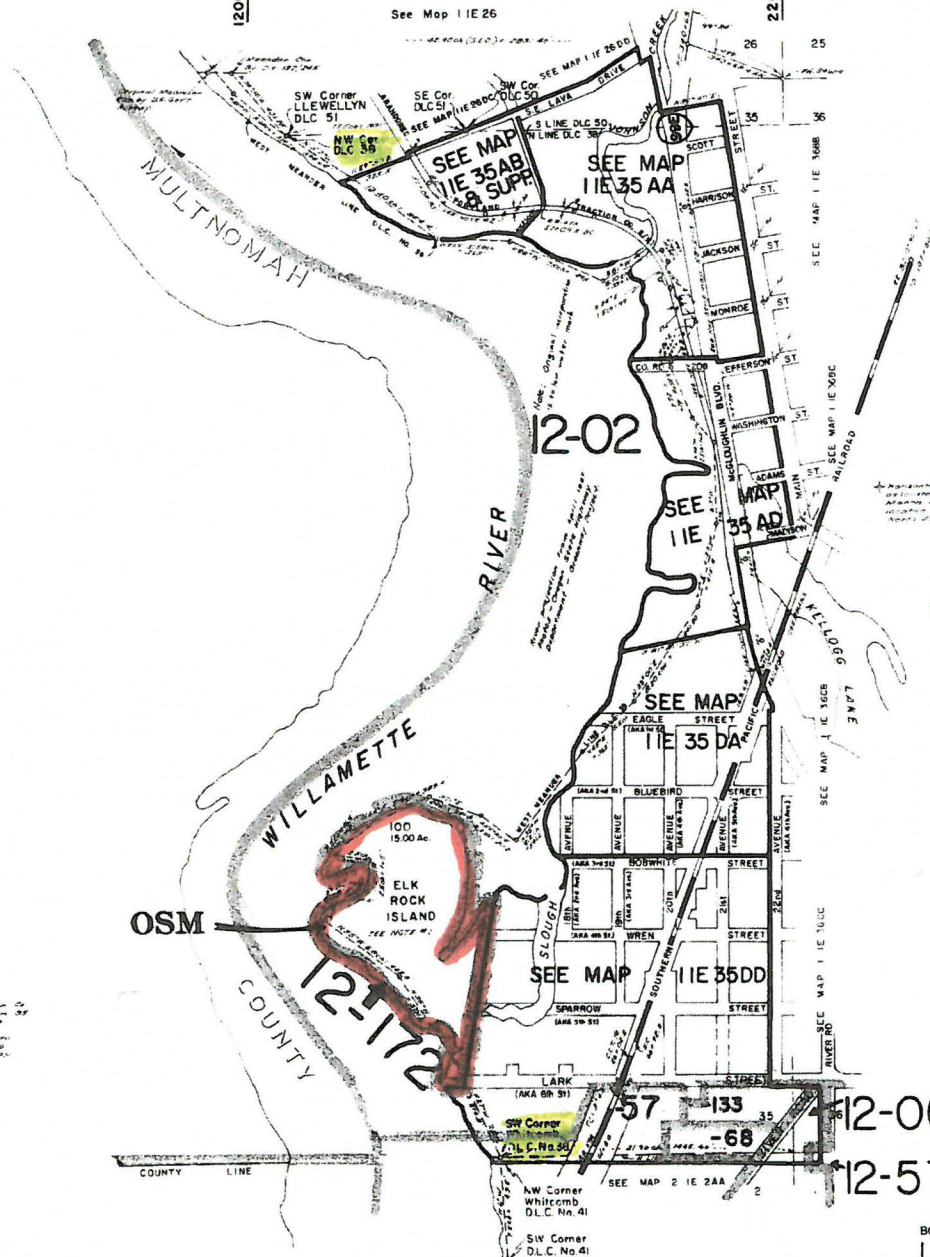
2200

10500

11500

See Map 1 IE 36

12500



- NOTE 1: Elk Rock Island currently owned by Whitcomb
- NOTE 2: Portions of Oregon Section 35 abandoned in 1850 in Section 35 as laid out on 17,100 maps
- NOTE 3: For information of survey refer to the Oregon Statutes 1850 to 1852 See also statute 1852 § 20-21-22-23-24

Exhibit B

SEE MAP 2 IE 2

GREEN WAY
SEE MAP I-5

BOOK 1
1 IE 35
& INDEX
MILWAUKIE