

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, August 12, 2008
6:30 PM**

COMMISSIONERS PRESENT

Jeff Klein, Chair
Dick Newman, Vice-Chair
Lisa Batey
Teresa Bresaw
Charmaine Coleman

STAFF PRESENT

Susan Shanks, Senior Planner
Bill Monahan, City Attorney
Zach Weigel, City Engineer
Alicia Stoutenburg, Admin. Specialist II

COMMISSIONERS ABSENT

Scott Churchill
Paulette Qutub

1.0 CALL TO ORDER

Chair Klein called the meeting to order at 6:32 p.m. and read the conduct of meeting format into the record.

2.0 PROCEDURAL MATTERS – None.

3.0 PLANNING COMMISSION MINUTES

3.1 June 10, 2008

Commissioner Bresaw moved to approve the June 10, 2008 meeting minutes as presented. Commissioner Batey seconded the motion, which passed unanimously.

Approved PC Minutes can be found on the City web site at www.cityofmilwaukie.org.

4.0 INFORMATION ITEMS -- City Council Minutes

City Council Minutes can be found on the City web site at www.cityofmilwaukie.org.

5.0 PUBLIC COMMENT –There was no public comment.

6.0 PUBLIC HEARINGS

6.1 Applicant/Owner: Frank Walker/Hans Thygeson
Address: 6011 & 5900 SE Harmony Rd.
File: A-07-02 **Staff Person:** Susan Shanks/Zach Weigel

Chair Klein called the hearing to order and read the conduct of minor quasi-judicial hearing format into the record.

Susan Shanks, Senior Planner, AIC cited the applicable approval criteria of the Milwaukie Municipal Code as found in 6.1 on page 7 of the Staff Report, which was entered into the record. Copies of the report were made available at the sign-in table.

Chair Klein asked if any Commissioners had any ex parte contacts to declare.

Chair Klein, Vice-Chair Newman, and Commissioners Batey, Bresaw, and Coleman declared for the record that they had visited the site. No commissioners, however, declared a conflict of interest, bias or conclusion from a site visit. No commissioners abstained and no commissioner's participation was challenged by any member of the audience.

Chair Klein clarified that only the annexation would be considered this evening, noting that the large packet received by the Commission included information that related to the development application, which would be reviewed at a later date.

- He advised that questions raised should only pertain to the annexation and not to proposed use.

Ms. Shanks presented the Staff report via PowerPoint presentation and reviewed key questions she had addressed in the report. She announced that the same report would be presented to City Council on September 2, 2008.

- She noted that the two sheets distributed to the Commission at the beginning of the hearing—one with an old City logo in black and white titled, 'Notice of Public Hearing' and the other titled, 'Application Referral'—were copies of the public notice requested by Commissioner Batey.
- She explained that zoning was different than land use and both served different purposes, adding that the City's land use and zoning system also differed from the County's system.
 - * Land use usually consolidated several zones into a Comprehensive Plan or land use designation and addressed bigger issues related to Comprehensive Plan goals and policies. However, the more detailed zoning maps of the Municipal Code facilitated specific implementation of Comprehensive Plan goals and policies via the City's Development Code.
 - * She requested that the third line of Finding #1 on 6.1 page 9 be amended to read: "from the ~~territory of Clackamas County~~ and the following districts and service providers."
 - An annexation specialist explained that the property would still be within Clackamas County and should therefore not be withdrawn from the County.
- Staff recommended that the Commission recommend approval of the application to City Council along with the adoption of the findings in support of approval.

Commissioner Batey:

- Inquired if the ongoing tree removal was for the subject property, for Harmony Park or both.
 - * **Ms. Shanks** was uncertain about the tree removal and deferred the question to the Applicant. She noted the City could not regulate trees on private property unless the trees were in a water quality resource area or the trees were in the public right-of-way (ROW).
- Asked how the City had the authority to withdraw a property from other jurisdictions.
 - * She responded that the annexation process in the Oregon Revised Statutes (ORS) gave the City the authority to do so, adding that the City was required to notify necessary parties, such as the urban service providers and districts, who could object.
 - * **Bill Monahan, City Attorney** agreed the ORS was the statutory authority and noted that the Urban Growth Management Agreement (UGMA) addressed the processes to determine responsibility and revenue for services, etc.

- * **Ms. Shanks** added that the Commission had not received a copy of the ordinance that would go to City Council that also contained language about withdrawing the property from the particular districts. Land withdrawal from water or sewer district providers took longer than the annexation process itself.
 - All withdrawals became effective upon annexation with the exception of withdrawals from water and sewer district providers.

Commissioner Bresaw:

- Asked if the Harmony Park Apartments property received Clackamas River Water District water or City water.
 - * **Ms. Shanks** replied that the property was billed for water by Clackamas River Water District but received water from a City water line. Harmony Park Apartments also received sewer service from the City via an extra-territorial extension.
- Confirmed that new construction had to annex to the City of Milwaukie for City services and asked if water service charges were determined by the County or the City.
 - * **Ms. Shanks** stated the Clackamas River Water District should be reimbursing the City in theory, but that was a fuzzy issue that the annexation would remedy.

Commissioner Batey asked if the plan was to leave the sewer and water lines in Minthorn Creek.

- * **Ms. Shanks** believed so, but deferred to the City Engineer.
- * **Zach Weigel, City Engineer** agreed, noting that moving those sewer lines would be a huge project. He explained that generally sewer mains were put in at the lowest point in order to use gravity.

Vice-Chair Newman understood that the City would become responsible for the property out to the middle of Harmony Rd if the land fronting it was annexed.

- * **Ms. Shanks** understood Harmony Rd was currently under County jurisdiction and would stay so; although the map might technically go to the center of Harmony Rd, it would still jurisdictionally be a County road.
- * **Mr. Monahan** explained it was a two-step process. The City could annex the ROW of SE Harmony Rd but not have jurisdiction, which must then be requested separately. In some cases, such as this one, the City did not want jurisdiction.

There were no further questions for Staff.

Chair Klein confirmed that no other correspondence or testimony had been received regarding the application and then called for the Applicant's testimony.

Frank Walker, Walker & Associates, 1480 Jamestown St SE, Salem, Oregon 97302 stated he had helped originate the Application. He noted Staff had been very cooperative and it had been a pleasure working with the City.

- He stated he had never had a case in the City before, although he was aware of many cases that had been carried through the City's jurisdiction, and some mammoth court rulings, of course, such as *Baker vs. City of Milwaukie*.
- He explained he had taken the Application over from another consultant, which was a difficult task because everybody had their own style and relationships, but he found working with City Staff actually easy.

- The Staff report findings and conclusions were based on a team effort for the Applicant to provide the detailed information needed to make a positive recommendation. He was very pleased with the Staff report and the recommendation. It had been the effort of many other people, other consultants, but obviously the focus was on the annexation.
- He believed the Staff report clearly articulated that the Application met all of the standards of all the jurisdictions, which were challenging to learn and address in an efficient way.
- He thanked the Commission and offered to answer any questions about the annexation process.

There were no questions for the Applicant.

Chair Klein called for public testimony in favor of, opposed or neutral to the application.

There was no public testimony and Staff had no further comments.

Planning Commission Discussion

Commissioner Batey believed the Application was clear and an easy decision, but she wanted to know why the City was not annexing Harmony Rd to give the City the maximum leverage possible in the ongoing discussion with the County about Harmony Rd, Sunnyside Rd, Sunnybrook Blvd, etc.

- She added that just because the City had not annexed the Harmony Road frontage at the Panattoni site, did not necessarily mean it should not be done with this Application.
- She was also concerned that those involved with the Harmony Rd project had no notice that this was under consideration and had no opportunity to comment on it.

Chair Klein stated that Harmony Rd was actually ROW that did not pertain to the Application and asked if Harmony Rd could be annexed at a later date if Staff determined that was imperative to the future of Milwaukie.

- * **Mr. Monahan** noted the City could annex just the ROW as a separate Application at a later date and could also ask for jurisdiction of that road.
 - He had not discussed Staff's reasoning, but explained there were ways to negotiate with a road's jurisdictional entity to make improvements to the facility before it was transferred, which could have been part of Staff's concern.
- * **Mr. Weigel** agreed that was partly the case. Staff did not want to take jurisdiction of a road needing costly improvements but would want the County to improve the road before the City took over jurisdiction.
- * He was unsure how the City having a small portion of Harmony Rd would increase leverage during discussions about improvements to the Harmony Rd/Linwood Av intersection.

Commissioner Batey explained that small piece alone might not provide leverage, but the Apartment piece was coming up and she understood that the Panattoni piece could be revisited.

Chair Klein asked whether the rebuilding of that Harmony Rd intersection was more of an ODOT issue.

- * **Mr. Weigel** responded it was a County project, but that City Engineering Staff was very involved and attended regular meetings to monitor the Environmental Impact Statement and the options being considered to ensure the project stayed on track with the City's best interests.
- * **Ms. Shanks** added that in reviewing the Panattoni Application to prepare for the current Application, she noted that the City had considered jurisdiction at that time and had not wanted it then.

Commissioner Batey stated her concerns had not been addressed because no notice had been given of the potential to annex this portion of Harmony Rd in the notice that went out, especially the people who cared most and had been attending all the working group meetings.

- She was not comfortable with the fact that the road issue had not had more public discussion.

Chair Klein:

- Considered annexation of the road segment separate, as one of two different negotiations that would have to take place—one being the Applicant's annexation before the Commission and the other the road negotiation at the County level.
 - Even if the City wanted to annex the road, that would be above and beyond the current matter; but if it was important to the City, the Commission could encourage City Council to look at annexing that road portion.
- * **Mr. Monahan** agreed, adding that property could be added to the property advertised for the annexation through the public hearing process if the addition stayed within the parameters of the criteria, had the approval of a majority of the property owners, etc.
- * **Ms. Shanks** explained that she consulted with the Engineering Director during the Staff report's preparation, and he had not been interested in jurisdiction over the road segment for the reasons previously noted by Mr. Weigel, but they had not actually discussed annexation vs. jurisdiction. She agreed that annexation of Harmony Rd might be something for the City and Engineering Director to consider.
- * She also understood that the City could just annex the ROW, similar to Mr. Monahan's description. In fact, the ROW of a sewer project could be annexed to put in the sewer and then properties could be annexed off that annexed ROW. Such annexations could definitely be separate, standalone actions.
- **Chair Klein** confirmed a secondary negotiation would have to take place.
 - * **Ms. Shanks** noted in this case, the area was adjacent to the city limits, so the City would have the ability to annex; however, bigger monetary issues were at play regarding bringing that ROW section up to standards. The UGMA required the County to bring a roadway up to standards before giving the City jurisdiction, but that had not been happening and was hard for the City to enforce. Annexing and improving Harmony Rd would be expensive.

There were no further questions and the Applicant had no rebuttal.

Chair Klein closed the public hearing at 7:15 p.m.

Commissioner Batey stated that she would abstain from the vote because she did not feel that the issue of the road was sufficiently publicly vetted. She assured her position had nothing to do with the application as it related to the Applicant's property.

Commissioner Bresaw moved to recommend approval of Application A-07-02 with the change to recommended Finding #1 as read into the record.

(Note: deleted language struck through.)

- Finding #1 on 6.1 page 9 was amended as follows: "Through this annexation the City is withdrawing 5900 and 6011 SE Harmony Rd (Map IS2E 31D; TLID 1800, 1900, and 1990), a 2.96-acre site, from ~~the territory of Clackamas County and the~~ following districts and service providers."

Vice-Chair Newman seconded the motion, which passed 4 to 0 to 1 with Commissioner Batey abstaining.

Chair Klein read the rules of appeal into the record.

Chair Klein excused himself from the meeting, passing direction of the meeting to Vice-Chair Newman.

7.0 WORKSESSION ITEMS — None.

8.0 DISCUSSION ITEMS

Commissioner Batey confirmed that the Favorite Appeal was scheduled for the August 26, 2008 meeting and asked about *Baker vs. the City of Milwaukie*.

- * **Mr. Monahan** offered to provide information on that landmark case at a later date.

Ms. Shanks stated she would convey Commissioner Batey's thoughts about Harmony Rd to the Engineering Director.

Commissioner Batey:

- Understood public notices had to strike a balance with respect to discretion and the limited space available to explain an application to the public.
 - * **Ms. Shanks** explained there were two separate notices: one went to property owners within 300 ft and one went to the newspaper, which required submission 20 days in advance.
- Believed that the public had not been given effective notice of issues relevant to surrounding landowners/neighborhood associations. She cited tonight's annexation and the football field lighting as examples.
- Explained her concern was that notices needed to reflect public impact issues and she believed a better way was needed to provide real notice, in layman terms, about the real, potential impacts of an application.
 - * **Ms. Shanks** appreciated the concern, noting that time constraints were also a factor. Staff might not know what the relevant issue/impact was at release, and stated she would check into how much space was allowed for newspaper notices, which contained even less information than those sent to the neighborhood associations and property owners.
- Was less concerned about the newspaper notices than the longer notices sent directly to those who might be impacted. Most of the big applications involved three or four larger impacts such as lighting, noise, traffic, etc., that should be noticed.
 - * **Ms. Shanks** confirmed Commissioner Batey's concern was that project descriptions in the longer notices did not necessarily point out what the key impacts might be.

- * She was unaware of any space constraints for the 300-ft notices.

Commissioner Bresaw:

- Asked how Clackamas River Water District and the City communicated.
 - * **Ms. Shanks** replied that through the annexation process the City was required to notify necessary parties 20 days prior to the hearing, which included the Water District. Notification for the other utilities, such as PGE, was required by law within 10 days of the annexation approval. She was unaware of other general communication.
- Clarified she was asking about actual water and sewer bills. She noted the City of Portland would charge an average for water usage if they did not actually own the meter.
 - * **Mr. Weigel** noted that tonight's Application regarded only four or five properties, which had not been a big issue previously, but it was being resolved by annexations.
 - * **Ms. Shanks** explained the Public Works Director and the Water District recently evaluated or was evaluating the written agreement between the City of Milwaukie and the Water District, which involved multiple layers. One piece regarded the Water District billing the customer and when the City would receive reimbursement for the use of their water line.
 - * **Mr. Weigel** added the contract for the City's tie-in with Clackamas River Water in the Harmony Rd area was being renegotiated because construction of the Well 8 project would render that tie-in moot.
 - * **Mr. Monahan** noted the contract had been completed before the end of June 2008 and had been renegotiated primarily because of the City's contractual obligation to purchase surplus water before Well 8 had been installed, which curtailed that need. The primary focus of the agreement had been to rectify the financial considerations, but the process also identified the need for more and better communication between City and County staff about the types of situations exemplified by the Harmony Rd area.
 - The agreement had not addressed this in detail but had opened communication to address individual problems, though ultimately the water lines in the UGMA area are expected to become the responsibility of the City.
 - Had the City not owned the line in the Harmony Rd area, the UGMA would have required the City to compensate the Water District for the line upon annexation when the City became responsible for delivering the service.
- Asked when the contract ended, as far as the obligation to purchase from the Water District.
 - * **Mr. Monahan** believed the term expired in 2015, noting that the City had ratcheted down its obligation to purchase water dramatically.

Vice-Chair Newman confirmed Well 8 was at the corner of Hwy 224 and Lake Rd and asked the depth of the well because it seemed the work took 9 months.

- * **Mr. Weigel** did not recall how deep the well had been. Originally, he was the project manager and the drilling had been lengthy because they kept hitting boulders that knocked the pipe off alignment, requiring them to drill three times to get it straight enough for the flow.

Commissioner Batey asked if the UGMA sewer line extension was east or further north of the yellow line indicated on the displayed map.

- * **Mr. Weigel** clarified the sewer line extension was north of King Rd.

9.0 OLD BUSINESS -- None.

10.0 OTHER BUSINESS/UPDATES

10.1 Hillside Manor Update

Staff Person: Susan Shanks

Ms. Shanks reported she had no update because the Hillside Manor representative had not attended the meeting as expected. She believed the agenda might have been full and perhaps discussion of Hillside Manor had been rescheduled, but she would track the gentleman down for an update to provide the Commission.

- She explained this project involved the Clackamas County Housing Authority's plans to potentially redevelop the site in Milwaukie off 32nd Ave, which was in the Hillside Manor area, in order to revamp the older Housing Authority development and integrate it better with the community in terms of housing style and ownership patterns and to better connect the development to the existing street system.

10.2 Planning Commission Materials—Update Pages

Staff Person: Susan Shanks

Ms. Shanks verified the Commission had received the update pages, noting that any questions could be directed to Marcia Hamley once she returned from vacation.

11.0 NEXT MEETING:

Ms. Shanks noted two public hearing items were scheduled for the August 26, 2008 meeting:

- * The Favorite Appeal of the Property Line Adjustment Denial
- * The development proposal for tonight's Harmony Rd annexation
- She added that a work session item might follow the hearings with Brett Kelter, Assistant Planner, discussing Title 13 – Nature in Neighborhoods.

Commissioner Coleman announced that a one-time work conflict prevented her attendance at the next meeting.

Forecast for Future Meetings:

September 9, 2008 – Ardenwald Elementary Demolition Request (tentative)

Meeting adjourned at 7:33 p.m.

Respectfully submitted,

Paula Pinyerd, ABC Transcription for
Alicia Stoutenburg, Administrative Specialist II


Jeff Klein, Chair

MILWAUKIE PLANNING COMMISSION

MILWAUKIE CITY HALL
10722 SE MAIN STREET

AGENDA TUESDAY, August 12, 2008 6:30 PM

		ACTION REQUIRED
1.0	Call to Order	
2.0	Procedural Matters If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. Thank You.	
3.0	Planning Commission Minutes	Motion Needed
3.1	June 10, 2008 Approved PC Minutes can be found on the City web site at: www.cityofmilwaukie.org	
4.0	Information Items – City Council Minutes City Council Minutes can be found on the City web site at: www.cityofmilwaukie.org	Information Only
5.0	Public Comment This is an opportunity for the public to comment on any item not on the agenda.	
6.0	Public Hearings	Discussion and Motion Needed For These Items
6.1	Applicant/Owner: Frank Walker/Hans Thygeson Staff Member: Susan Shanks/Zach Weigel Address: 6011 & 5900 SE Harmony Rd. File: A-07-02	
7.0	Worksession Items	Information Only
8.0	Discussion Items This is an opportunity for comment or discussion by the Planning Commission for items not on the agenda.	Review and Decision
9.0	Old Business	
10.0	Other Business/Updates	Information Only
10.1	Hillside Manor Update Staff Member: Susan Shanks	Review and Comment
10.2	Planning Commission Materials--Update Pages Staff Member: Susan Shanks	
11.0	Next Meeting: The above items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.	
Forecast for Future Meetings: September 9, 2008 – Ardenwald Elementary Demolition Request (tentative)		

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

Public Hearing Procedure

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** The staff report is followed by any verbal or written correspondence that has been received since the Commission was presented with its packets.
3. **APPLICANT'S PRESENTATION.** We will then have the applicant make a presentation, followed by:
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **COMMENTS OR QUESTIONS.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** We will then take testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** When you testify, we will ask you to come to the front podium and give your name and address for the recorded minutes. Please remain at the podium until the Chairperson has asked if there are any questions for you from the Commissioners.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all testimony, we will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. We will then enter into deliberation among the Planning Commissioners. From this point in the hearing we will not receive any additional testimony from the audience, but we may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION/ACTION.** It is our intention to make a decision this evening on each issue before us. Decisions of the Planning Commission may be appealed to the City Council. If you desire to appeal a decision, please contact the Planning Department during normal office hours for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** The Planning Commission may, if requested by any party, allow a continuance or leave the record open for the presentation of additional evidence, testimony or argument. Any such continuance or extension requested by the applicant shall result in an extension of the 120-day time period for making a decision.
12. **TIME LIMIT POLICY.** All meetings will end at 10:00pm. The Planning Commission will pause hearings/agenda items at 9:45pm to discuss options of either continuing the agenda item to a future date or finishing the agenda item.

Milwaukie Planning Commission:

Jeff Klein, Chair
Dick Newman, Vice Chair
Lisa Batey
Teresa Bresaw
Scott Churchill
Paulette Qutub
Charmaine Coleman

Planning Department Staff:

Katie Mangle, Planning Director
Susan Shanks, Associate Planner
Bob Fraley, Associate Planner
Brett Kelter, Assistant Planner
Ryan Marquardt, Assistant Planner
Michelle Rodríguez, Administrative Assistant
Marcia Hamley, Administrative Assistant
Paula Pinyerd, Hearings Reporter



To: Planning Commission
Through: Kenny Asher, Community Development & Public Works Director *KA*
From: Susan P. Shanks, Senior Planner *SPS*
Date: August 5, 2008 for August 12, 2008 Public Hearing
Subject: File: A-07-02 (Annexation)
 Applicant: Frank Walker & Associates
 Owner(s): Genevieve Holton Bentz and Hans Thygeson
 Address: 5900 and 6011 SE Harmony Road
 Legal Description: Map 1S2E 31D, TLID 1800, 1900, and 1990
 NDA: Adjacent to Lake Rd NDA, Linwood NDA, and N. Clackamas
 Citizen Association

Action Requested

Recommend approval of application A-07-02, an annexation petition, and associated findings in support of approval (Attachment 1) to the Milwaukie City Council. Approval of this application would result in the following actions:

- Annexation of 5900 and 6011 SE Harmony Road (the Site) into the City.
- Amendments to the City's Land Use Map and Zoning Map to reflect the annexation and to apply a land use designation of Industrial and a zoning designation of Business Industrial (BI) to the Site.
- Withdrawal of the Site from Clackamas County and the following urban service providers and districts:
 - Clackamas River Water
 - Clackamas County Service District for Enhanced Law Enforcement
 - Clackamas County Service District No. 5 for Street Lights

See Attachment 2 for various maps that graphically show the Site's location and existing zoning and land use designations. See Attachment 3 for the applicant's application materials.

History of Prior Actions and Discussions

The City annexed the property immediately to the west of the Site in 2004. That property had a County zoning designation of Light Industrial (I2) prior to annexation and requested and received a Business Industrial (BI) zoning designation upon annexation. The City's only other industrial zoning designation is Manufacturing (M), but City Council found that the BI zone was a more appropriate designation for that property given the adjacent BI zoning.

Background

A. Proposal

The applicant seeks annexation of the Site to the City to access City services and develop the Site with two industrial buildings. The applicant's development proposal requires a major quasi-judicial land use decision and is scheduled for a public hearing before the Planning Commission on August 26, 2008. The Site's existing zoning designation in the County is Light Industrial (I2). The proposed zoning and land use designations upon annexation to the City are Business Industrial (BI) and Industrial, respectively. The Site also has a regional Title 4 Employment designation. There is no proposal to change that designation at this time.

B. Annexation Petition

Since all property owners and a majority of the electors residing at the Site signed the annexation petition, the petition is initiated by Consent of All Owners of Land. The petition meets the requirements for initiation set forth in Oregon Revised Statutes Section 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Section 19.1502.2.

The petition is being processed as a non-expedited annexation at the request of the applicant. A non-expedited annexation is a major quasi-judicial decision that requires a recommendation by Planning Commission and a decision by City Council at public hearings. The applicant requested the non-expedited process because it allows the applicant to propose and the City to apply a different zoning designation than the one that would automatically be applied to the Site through the expedited process.¹ The City's automatic zoning designation for this Site is Manufacturing; however, the applicant is requesting a Business Industrial (BI) zoning designation.

The annexation petition has been processed and public notice has been provided in accordance with MMC Section 19.1011.4 Major Quasi-Judicial Review and Metro Code Section 3.09.030 Notice Requirements.

¹ Per Table 1 of Milwaukie Municipal Code Chapter 19.1500 Boundary Changes, the City automatically assigns a City zoning and land use designation based on a property's existing zoning designation in the County.

C. Site and Vicinity

The Site is contiguous to the existing city limits and is within the City's urban growth management area (UGMA). It is composed of two properties on Harmony Rd. The smaller property is 0.17 acres in size, and the larger one is 2.79 acres in size. The 2.79-acre site is largely undeveloped. The existing uses are single-family residential, and the total assessed value of the land and existing improvements is \$570,450. The site is bisected by Minthorn Creek and is bounded to the north by railroad tracks and Railroad Ave and to the south by Harmony Rd. Access to the Site is obtained through Harmony Rd.

The surrounding area consists of a single-family residential neighborhood to the north and a multi-family residential development to the east. Industrial uses extend to the west and south. The Site is within close proximity to two 3-legged intersections: 1) the Harmony Rd, Lake Rd, and International Way intersection and 2) the Harmony Rd, Linwood Ave, and Railroad Ave intersection.

D. Utilities, Service Providers, and Service Districts

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

Wastewater: The Site is currently served by a private septic system. Connection to the City's wastewater system will be required when the property redevelops. The City has a 15-inch wastewater line crossing the Site just north of and parallel to Minthorn Creek and an 8-inch wastewater line along the Site's eastern property line. These lines can adequately serve the Site.

Water: The Site is currently in the Clackamas River Water district; however, the City currently serves the Site via its 12-inch water line in Harmony Rd along the Site's frontage. This line can adequately continue to serve the Site.

Storm: The Site is not currently connected to a public storm water system. On site treatment and management of storm water will be required when the property redevelops. Access to a public storm water system will not be necessary in the future.

Fire: Clackamas County Fire District No. 1 currently serves the Site. It will continue to be served by this district upon annexation since the entire City is within Clackamas County Fire District No. 1.

Police: The site is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the Site.

Street Lights: The site is within Clackamas County Service District # 5 for Street Lights. The Site should be withdrawn from this district upon annexation. The City does not levy a separate tax or assess individual properties for street lighting.

Other Services: Planning, Building, Engineering, Code Enforcement, and other municipal services are available through the City and will be available to the Site upon annexation. The Site will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control, etc.

E. Analysis of Key Issues

1. *Does the annexation comply with all applicable State, Metro, County, and City regulations?*

Staff believes that the annexation application, including the associated map amendments, is consistent with all applicable statutes, code provisions, intergovernmental agreements, and land use and annexation policies. See Attachment 1 Recommended Findings in Support of Approval for more detailed analysis and findings related to compliance.

2. *Is the annexation in the City and the public's best interests?*

Staff believes that the annexation is in the City and public's best interests as follows:

- The annexation is consistent with the City's UGMA agreement with the County and the annexation policies and objectives contained in the City's Comprehensive Plan. The intergovernmental agreement with the County and the City's annexation policies aim to provide for the timely and orderly extension of urban services to the areas identified in the City's UGMA. The Site is within the City's UGMA and immediately adjacent to the city limits. The property owner desires to develop the property with an industrial use and requires City services in order to proceed with the proposed development. The City has existing water and wastewater lines adjacent to and through the Site that can adequately serve the Site. The annexation facilitates the efficient use of land and utilities by taking advantage of existing investments in utilities and streets. Staff asserts that the annexation and subsequent extension of urban service is both timely and orderly.
- The annexation will not adversely affect the health, safety, and welfare of the community. On the contrary, the annexation will improve the community's safety and welfare by allowing the Site to connect to the City's wastewater system, thus improving the groundwater in the immediate area. Since Milwaukie's water supply comes from local wells, it is in the City's best interest to protect and maintain the local groundwater supply.
- The annexation and subsequent extension of services will allow the Site to redevelop. The Site is currently not developed to the extent allowed by its current

or proposed zoning and will not be able to develop as such until annexation occurs.

- The annexation will contribute to the City's tax base. Redevelopment of the Site with industrial uses will also contribute to the City's economy and provide additional services and employment opportunities. While it is not possible to quantify the net fiscal effect of annexation and future development at this time, staff believes that the annexation will provide long-term fiscal benefits to the City.

3. *Should the City apply a Business Industrial zoning designation and an Industrial land use designation to the Site upon annexation?*

Staff supports the applicant's land use and zoning designation requests given the Site's existing County zoning and location. An Industrial land use designation and Business Industrial zoning designation would match the land use and zoning designations of the City properties to the west of the Site. A Business Industrial designation would allow for land use consistency and ease of zoning administration in the area.

The only other industrial zoning designation in the City is Manufacturing, which staff does not believe is a viable option for this Site. In addition to the absence of any properties zoned Manufacturing in this area, the Manufacturing zone has an employment standard that requires 10 employees per acre.² At almost three acres in size, this standard would require approximately 30 employees to be employed at this location, which would add a significant number of vehicular trips to Harmony Rd. Given the traffic on Harmony Rd and level of service at adjacent intersections, it does not seem prudent to apply a zone that would result in the addition of a significant number of trips.

4. *Should the City annex the portion of Harmony Rd along the Site's frontage?*

Staff recommends that the City not attempt to take jurisdiction of this portion of Harmony Rd. This is consistent with the recommendation made by staff in 2004 when the adjacent property to the west of the Site annexed to the City. Harmony Rd is an arterial road under County jurisdiction. Annexing a portion of it would fragment the County's jurisdiction and complicate capital project planning and maintenance tasks, resulting in administrative and maintenance inefficiencies. The Urban Growth Management Agreement between the City and the County states that arterial roads will be considered for transfer on a case-by-case basis, the terms of which must be negotiated and agreed to by both jurisdictions. The City's Engineering Director is not interested in negotiating the transfer of this portion of Harmony Rd to the City.

5. *Are adequate City utilities and services available to serve the Site upon annexation?*

² There are no minimum employment standards associated with the Site's Title 4 Employment designation.

Staff believes that adequate City utilities and services are available to serve the Site upon annexation. Annexation will result in the long-term provision of urban services to an industrial property, and needed public utilities, wastewater in particular, can be provided without adversely impacting existing development or restricting future development in the area.

6. *Does Metro or ODOT object to the proposed land use and zoning designations?*

Neither agency objects to the proposed land use and zoning designations. ODOT has determined that the proposed designations would have no significant impacts on Highway 212/224. Moreover, Metro has confirmed that there would be no conflict between the Site's existing Title 4 designation and the proposed Business Industrial zoning designation since the City's Business Industrial zone is already in compliance with the employment lands section of Title 4.

Concurrence

The application was forwarded to the following City departments for review and comment: Community Development, Engineering, Fire, and Building. It was also forwarded to Clackamas County, TriMet, Metro, ODOT, and the following three neighborhood associations: Linwood NDA, Lake Road NDA, and North Clackamas Citizen Association.

No objections to or concerns about the annexation have been received.

Clackamas County, TriMet, Metro, ODOT, two neighborhood associations, and other interested persons provided comments, and those received from Metro and ODOT are attached (See Attachment 4). The comments provided by Clackamas County, TriMet, the two neighborhood associations, and other interested persons are not attached, as they pertained to the proposed development not the proposed annexation. Since the Planning Commission will review the proposed development at a public hearing on August 26, 2008, those comments will be attached to that staff report for that hearing.

Prior to the September 2, 2008 public hearing before City Council, all necessary parties, affected City departments, and residents and property owners within 400 feet of the Site will be notified of the annexation proceedings.

Fiscal Impact

The annexation is expected to have a positive fiscal effect through collection of property taxes and other revenues. The value of the property, for tax revenue purposes, will depend upon how the site is developed in the future and trends in industrial property values. Potential negative effects include the costs of providing governmental services to the site. However, industrial properties typically have low governmental service demands. While it is not possible to quantify the net fiscal effect at this time, staff believes that the annexation will provide long-term fiscal benefits.

Work Load Impact

Workload impacts will be minimal and will likely include, but are not limited to, the following: utility billing, provision of general governmental services, and the setting up and maintenance of property records.

Alternatives

The application is subject to Milwaukie Comprehensive Plan Chapter 2 for plan amendments, Oregon Revised Statutes Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and the following provisions of the Milwaukie Zoning Ordinance, which is Title 19 of the Milwaukie Municipal Code (MMC):

- MMC 19.900 Amendments
- MMC 19.1011.4 Major Quasi Judicial Review
- MMC 19.1500 Boundary Changes

The application is also subject to major quasi-judicial review, which requires the Planning Commission to conduct a public hearing and either deny the application or recommend approval of the application to City Council based on compliance with all applicable code provisions and regulations listed above.

The Commission has the following three decision-making options:

1. Recommend approval of the application and adoption of recommended findings of approval.
2. Recommend approval of the application and adoption of modified findings of approval. (Any modifications need to be read into the record.)
3. Recommend denial of the application and specify reasons for a denial recommendation.

The final decision on this application must be made by the City Council on or before October 24, 2008, in accordance with the Oregon Revised Statutes and the Milwaukie Zoning Ordinance. The applicant can waive the time period in which the application must be decided.

Attachments

1. Findings in Support of Approval
- 2a. City and County Existing Zoning Designations Map
- 2b. Existing Land Use Designations Map
- 2c. Aerial Photo of Surrounding Area
- 2d. County Assessor Tax Map
3. A-07-02 Application Materials
4. Agency Comments

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Attachment 1

RECOMMENDED FINDINGS IN SUPPORT OF APPROVAL

1. Through this annexation the City is withdrawing 5900 and 6011 SE Harmony Rd (Map 1S2E 31D; TLID 1800, 1900, and 1990), a 2.96-acre site, from the territory of Clackamas County and the following districts and service providers:
 - a. Clackamas River Water
 - b. Clackamas County Service District for Enhanced Law Enforcement
 - c. Clackamas County Service District No. 5 for Streetlights
2. Upon annexation of the aforementioned properties, the City will amend its Land Use Map (Comprehensive Plan Map 7) and Zoning Map to apply an Industrial land use designation and a Business Industrial (BI) zoning designation to the annexed properties. A BI zoning designation will allow for land use consistency and ease of zoning administration in the area.
3. Upon annexation of the aforementioned properties, the City will not amend its land use and zoning maps to annex any portion of Harmony Rd.
4. The application of a BI zoning designation to the aforementioned properties will not significantly impact state highway facilities (as determined by ODOT) and will not conflict with Metro's Title 4 Employment designation (as confirmed by Metro).
5. The annexation application has been processed and public notice has been provided in accordance with Milwaukie Municipal Code (MMC) Chapter 19.1500 Boundary Changes, MMC Chapter 19.900 Amendments, MMC Section 19.1011.4 Major Quasi-Judicial Review, Metro Code Chapter 3.09 Local Government Boundary Changes, and Oregon Revised Statutes Chapter 222 City Boundary Changes.
6. The Land Use Map and Zoning Map amendments have been processed and public notice has been provided in accordance with Milwaukie Comprehensive Plan Chapter 2, MMC Chapter 19.900 Amendments, and MMC 19.1011.4 Major Quasi-Judicial Review.
7. The Planning Commission conducted a public hearing on August 12, 2008 and passed a motion recommending that the City Council approve the annexation.
8. The City Council finds that the annexation is in the City and public's best interests as follows:
 - The annexation is consistent with the City's Urban Growth Management Area (UGMA) agreement with the County and the annexation policies and objectives contained in the City's Comprehensive Plan. The intergovernmental agreement with the County and the City's annexation policies aim to provide for the timely

and orderly extension of urban services to the areas identified in the City's UGMA. The annexation properties are within the City's UGMA and immediately adjacent to the city limits. The property owner desires to develop the properties with an industrial use and requires City services in order to proceed with the proposed development. The City has existing water and wastewater lines adjacent to and through the area that can adequately serve the annexation properties without impacting existing development or restricting future development. The annexation facilitates the efficient use of land and utilities by taking advantage of existing investments in utilities and streets. The City Council finds that the annexation and subsequent extension of urban service is both timely and orderly.

- The annexation will not adversely affect the health, safety, and welfare of the community. On the contrary, the annexation will improve the community's safety and welfare by allowing the annexation properties to connect to the City's wastewater system, thus improving the groundwater in the immediate area. Since Milwaukie's water supply comes from local wells, it is in the City's best interest to protect and maintain the local groundwater supply.
 - The annexation will contribute to the City's tax base. Redevelopment of the annexation properties with industrial uses will also contribute to the City's economy and provide additional services and employment opportunities. While it is not possible to quantify the net fiscal effect of annexation and future development at this time, it is reasonable to believe that annexation of these properties will provide long-term fiscal benefits to the City.
9. The annexation is consistent with the following applicable State, Metro, County, and City policies, agreements, provisions, and regulations:

Milwaukie Municipal Code

Chapter 19.1500 Boundary Changes

Chapter 19.900 Amendments

Milwaukie Comprehensive Plan

Chapter 2 Plan Review and Amendment Process

Chapter 4 Land Use

Chapter 5 Transportation, Public Facilities, and Energy Conservation

Chapter 6 City Growth and Governmental Relationships

Metro Code

Chapter 3.09 Local Government Boundary Changes

Chapter 3.07 Urban Growth Management Functional Plan

Urban Growth Management Area (UGMA) Agreement

Oregon Revised Statutes 2007

Chapter 195 Local Government Planning Coordination

The annexation is consistent with the following applicable State, Metro, County, and City policies, agreements, provisions, and regulations as detailed below:

Milwaukie Municipal Code

Milwaukie Municipal Code (MMC) Section 19.1502.3 states that the City Council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria:

- A. The subject site must be located within the city urban growth boundary;

The site meets this requirement.

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

The site meets this requirement.

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

The application was initiated in accordance with applicable statutes. The petition was initiated by Consent of All Owners of Land since all property owners and a majority of the electors residing at the subject site signed the annexation petition.

- D. The proposal must be consistent with Milwaukie comprehensive plan policies; and

The proposal is consistent with the Comprehensive Plan as detailed in Milwaukie Comprehensive Plan section of this document.

- E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d)

The proposal is consistent with the Metro Code as detailed in Metro Code section of this document.

MMC Section 19.903 states that proposals for zoning map amendments must provide evidence that all requirements of this title relative to the proposed use or uses are satisfied, in addition to addressing the following:

- A. Applicable requirements of Section 19.1003;

The annexation application and associated map amendment requests were made on forms prescribed by the City and were accompanied by appropriate maps and supporting documentation.

- B. Reasons for requesting the zoning map amendment;

The zoning map amendment request is made in conjunction with an annexation petition pursuant to MMC Section 19.1502.1.A, which states that annexation petitions shall include a request for comprehensive plan and zoning designations.

- C. Description of existing site conditions, including but not limited to topography, public facilities and service, natural hazards, natural areas or open space, historic sites, transportation, current uses of the subject site and current zoning of the subject site;

The site is contiguous to the existing city limits and is within the City's urban growth management area (UGMA). It is composed of two properties on Harmony Rd. The smaller property is 0.17 acres in size, and the larger one is 2.79 acres in size. The 2.79-acre site is largely undeveloped. The existing uses are single-family residential, and the total assessed value of the land and existing improvements is \$570,450. The site is bisected by Minthorn Creek and is bounded to the north by railroad tracks and Railroad Ave and to the south by Harmony Rd. Access to the site is obtained through Harmony Rd.

The site's existing zoning designation in the County is Light Industrial (I2). The proposed zoning and land use designations upon annexation to the City are Business Industrial (BI) and Industrial, respectively. The site also has a regional Title 4 Employment designation. There is no proposal to change that designation at this time.

- D. Description of the intended use or uses;

The intended use is industrial development.

- E. Identification on a detailed site plan of public facilities both existing and proposed; existing and proposed structures and site development details, including display of setback and other zoning standards compliance information; and an indication of mitigation or other measures proposed for purposes of health, safety or welfare within the community.

The applicant seeks to develop the annexation properties with two industrial buildings. A detailed site plan was provided with the development proposal application. The applicant's development proposal application will be reviewed and decided upon by the Planning Commission at a public hearing on August 26, 2008. The applicant's site plan demonstrates that the annexation properties can be developed in accordance with BI zone development standards. Mitigation of development impacts will likely include construction of traffic control improvements, protection and improvement of the water quality resource area, and construction of storm water treatment and management facilities at the time of development.

- F. The approval criteria of Section 19.905, which include the following:

1. The proposed amendment must conform to applicable comprehensive plan goals, policies and objectives and be consistent with the provisions of city ordinances, Metro urban growth management functional plan and applicable regional policies.

The proposal is consistent with the Milwaukie Comprehensive Plan, Metro Code, and UGMA agreement as detailed in later sections of this document. The proposal does not conflict with Metro's Title 4 Employment provisions.

2. The anticipated development must meet the intent of the proposed zone, taking into consideration the following factors: site location and character of the area, the predominant land use pattern and density of the area, the potential for mitigation measures adequately addressing development effects, any expected changes in the development pattern for the area, the need for uses allowed by the proposed zone amendment, and the lack of suitable alternative sites already appropriately zoned for the intended use or uses. The planning commission and city council shall use its discretion to weigh these factors in determining the intent of the proposed zone.

The potential future development that would ensue as a result of annexation and the application of a BI zone designation will be consistent with the predominant land use pattern in the area. There are no known potential adverse effects associated with either the annexation or a BI zone designation that could not be addressed through the land use or building permit review process at the time of development.

3. The proposed amendment will meet or can be determined to reasonably meet applicable regional, state or federal regulations.

There are no known federal regulations that apply to this annexation. The proposed annexation and BI zoning designation will meet or can be determined to reasonably meet applicable State, Metro, and County regulations. ODOT has determined that neither action will significantly impact state highway facilities. Metro has confirmed that neither action will conflict with Metro's Title 4 Employment provisions. The City has determined that the annexation is consistent with its UGMA agreement with the County.

4. The proposed amendment demonstrates that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

The City has an existing water line and waste water line adjacent to the annexation properties that can adequately serve the annexation properties without impacting existing development or restricting future development in the area.

5. The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact analysis may be required subject to the provisions of Chapter 19.1400.

The annexation properties are currently zoned for industrial uses in the County. The City has two industrial zones that could be applied to the properties, Business Industrial and Manufacturing. A Manufacturing zoning designation is not a viable option for the annexation properties. In addition to the absence of any properties zoned Manufacturing in this area, the Manufacturing zone has an

employment standard that requires 10 employees per acre. At almost three acres in size, this standard would require approximately 30 employees to be employed at this location, which would add a significant number of vehicular trips to Harmony Rd. Given the traffic on Harmony Rd and level of service at adjacent intersections, it is not prudent to apply a zone that would result in the addition of a significant number of trips.

The applicant's development proposal application triggered a transportation impact study. Street improvements consistent with MMC Chapter 19.1400 will likely be required as a condition of land use approval to mitigate for the proposed development's impacts and to protect the functional classification, capacity, and level of service of Harmony Rd.

Milwaukie Comprehensive Plan

Chapter 2 Plan Review and Amendment Process states that all amendments to the Comprehensive Plan, including map amendments associated with annexations, shall be evaluated based on the following criteria:

A. Conformance with the Comprehensive Plan, its goals, policies, and spirit;

The proposal is consistent with the Milwaukie Comprehensive Plan as detailed throughout this section. Specifically, it is consistent with the following applicable Comprehensive Plan elements:

- *Economic Base and Industrial/Commercial Land Use Element of Chapter 4*
- *Public Facilities and Services Element of Chapter 5*
- *City Growth Element of Chapter 6*

B. Public need for the change;

The annexation properties are in the City's UGMA and immediately adjacent to the city limits. Creation of the City's UGMA and development of the UGMA agreement with the County provides for the eventual annexation of UGMA properties into the City for the express purpose of: (1) extending urban services to these properties in an orderly and timely manner, and (2) delivering services to these properties through a single service provider where possible. In keeping with the UGMA agreement, the annexation properties need to annex to allow the extension of urban services to the properties and to establish the City as the primary urban service provider.

New zoning and land use map designations are necessary for all annexations pursuant to MMC Section 19.1502.1.A, which states that annexation petitions shall include a request for comprehensive plan and zoning designations. The annexation properties cannot retain their County designations upon annexation to the City.

C. Public need is best satisfied by this particular change;

Annexation will allow the annexation properties to access the City's waste water system. Use of the City's waste water system in lieu of the existing septic system will protect the long-term health and safety of the community by improving the

groundwater in the immediate area. It will also result in the long-term provision of urban services to an industrial property. The Comprehensive plan supports the adequate supply of industrial land and the provision of urban services to industrial lands.

A BI zoning designation is consistent with the existing zoning and land use pattern in the area and will better protect the functional classification, capacity, and level of service of Harmony Rd than a Manufacturing zoning designation.

- D. The change will not adversely affect the health, safety, and welfare of the community;

The proposal will improve the health, safety, and welfare of the community by improving the groundwater in the immediate area.

- E. The change is in conformance with applicable Statewide Planning Goals;

- Goal 1 requires local governments to establish a land use planning process as a basis for all decisions and actions to ensure a factual basis for such decisions.

The proposal is consistent with all applicable State, Metro, County, and City policies, agreements, provisions, and regulations as detailed in this document.

- Goal 11 requires development of public facility plans that ensure the orderly and timely provision of public services.

The proposal is consistent with the City's UGMA agreement with the County and the North Clackamas County Public Facilities Plan, which provides a framework for ensuring cost-effective service provision in urbanizing areas.

- F. The change is consistent with Metro Growth Management Functional Plan and applicable regional policies.

The proposal is consistent with the Metro Growth Management Functional Plan and applicable regional policies as detailed in Metro Code section of this document.

The Economic Base and Industrial/Commercial Land Use Element of Chapter 4 of the Milwaukie Comprehensive Plan states that the City should support and encourage the development of a broad industrial base in the City. Planning objectives include the following:

Objective #1 – Economic Development: The City will encourage an increase in the overall economic development activity within the City.

The applicant proposes to annex a 2.96-acre site into the City and to develop the site with industrial uses consistent with the City's Business Industrial zone.

Objective #4 – Industrial Land Use: To encourage new industries to locate within the three major industrial areas of the City, in order to take maximum advantage of existing access and public facilities serving industry. Properties adjacent to industrial

areas will be evaluated against the following criteria when an industrial designation is proposed:

- (a) Those having an historical commitment to industrial use;

The annexation properties are presently developed with single-family residential uses but are zoned for industrial uses in the County. The properties are adjacent to the City's Business Industrial zone to the west, which is committed to industrial use.

- (b) Access to a regional transportation network, which should include one or more of the following: freeway, major or minor arterial access, or rail service;

The annexation properties are in close proximity to Highway 224 and have direct access to Harmony Rd, an arterial road.

- (c) Significant traffic increase shall not result on streets of collector or less status serving low-density residential areas;

Traffic generated by future development on the annexation properties will be distributed to arterial and collector streets including Lake Rd, Harmony Rd, Highway 224, and Linwood Ave.

- (d) Areas with sites large enough to accommodate expansion of individual establishments or serve several establishments within one district,

The annexation properties are 2.96 acres in size.

- (e) Compliance with all applicable Plan policies.

The proposal complies with all applicable Comprehensive Plan policies as detailed throughout this section.

The Public Facilities and Services Element of Chapter 5 of the Milwaukie Comprehensive Plan states that the City should plan, develop, and maintain a timely, orderly, and efficient arrangement of public facilities and services to serve urban development.

As detailed elsewhere in this document, the annexation properties desire City services to develop, and the City can adequately provide urban services to the annexation properties without impacting existing development or restricting future development in the area.

The City Growth Element of Chapter 6 of the Milwaukie Comprehensive Plan states that the City should establish a consistent framework for providing municipal services to the urbanized, unincorporated area surrounding the City. Planning objectives include the following:

Objective #1 – Unified System of Governance: To encourage and participate in efforts to define a unified system of government for the northwest urban area of Clackamas County.

As defined in the Milwaukie Comprehensive Plan, a unified system of government is one in which a single entity provides most urban services. Annexation will result in the City becoming the primary urban service provider for the annexation properties.

Objective #2 – Urban Service Area: To establish an area within which the City will participate in planning, coordinating and providing services.

The annexation properties are within the City's recognized urban service area as outlined in the City's UGMA agreement with the County.

Objective # 3 – Annexation: To ensure that City Annexation policies conform to urban service and growth management policies.

As detailed elsewhere in this document, the annexation is consistent with the City's regulations governing annexations pursuant to MMC Chapter 19.1500 Boundary Changes and the City's UGMA agreement with the County.

Objective # 5 – Economic Balance in Land Use and Service Demand: To maintain an economically advantageous balance of residential, commercial, and industrial land base and land use.

The annexation properties are zoned for industrial uses in the County and have a regional Title 4 Employment designation. The City sees no reason to radically alter the properties' existing County and regional designations.

Objective #6 – Cost of Services: To ensure that the cost of urban services provision is paid equitably by all who receive them.

Annexation will ensure that the annexation properties pay for the City services they are proposing to use.

Objective #7 – Extension of Services: To enable the City to maintain and extend adequate service levels as city growth occurs.

As detailed elsewhere in this document, the annexation properties desire City services to develop, and the City can adequately provide urban services to the annexation properties without impacting existing development or restricting future development in the area.

Metro Code

The Oregon State Legislature directed Metro to establish boundary change approval criteria to be used by all cities and properties within the regional Urban Growth Boundary (UGB). The City and the proposed annexation properties are within the UGB. To approve a boundary change, the City shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Metro Code Section 3.09.045, which are as follows:

To approve a boundary change, the City shall:

1. Find that the change is consistent with expressly applicable provisions in:
 - A. Any applicable urban service agreement adopted pursuant to ORS 195.065;
 - B. Any applicable annexation plan adopted pursuant to ORS 195.205;
 - C. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
 - D. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services; and
 - E. Any applicable comprehensive plan.

There are no adopted agreements in place pursuant to ORS 195.065. The Clackamas County Comprehensive Plan was reviewed for applicable policies and provisions related to annexations. Of the few relevant ones that were found, all were duplicative of the provisions contained in the UGMA agreement and the policies contained in the Milwaukie Comprehensive Plan, against which this annexation has already been reviewed. As detailed elsewhere in this document, the annexation is consistent with all other existing applicable planning agreements and plans.

2. Consider whether the boundary change would:
 - A. Promote the timely, orderly and economic provision of public facilities and services;
 - B. Affect the quality and quantity of urban services; and
 - C. Eliminate or avoid unnecessary duplication of facilities or services.

As detailed elsewhere in this document, annexation would promote the timely and orderly provision of public facilities and services to the annexation properties. All public facilities and services needed for future development of the annexation properties are presently in place, and use of such facilities would not affect service to existing development or restrict future development in the area.

Title 4 of Metro Code Chapter 3.07 Urban Growth Management Functional Plan calls for a strong economic climate. To improve the region's economic climate, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial, and Employment Areas.

The annexation properties have a Title 4 Employment designation. Metro has

confirmed that there is no conflict between the properties' existing Title 4 designation and a Business Industrial zoning designation since the City's Business Industrial zone is already in compliance with the employment lands section of Title 4.

Urban Growth Management Area (UGMA) Agreement

The City and Clackamas County have an UGMA agreement that provides for the coordination of effective and efficient service delivery in areas of mutual interest that are adjacent to the City. Section C.6 of the Agreement provides the following: 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.

The annexation properties are located within the UGMA. The UGMA agreement supports the extension of urban services to the properties and the establishment of the City as the primary urban service provider.

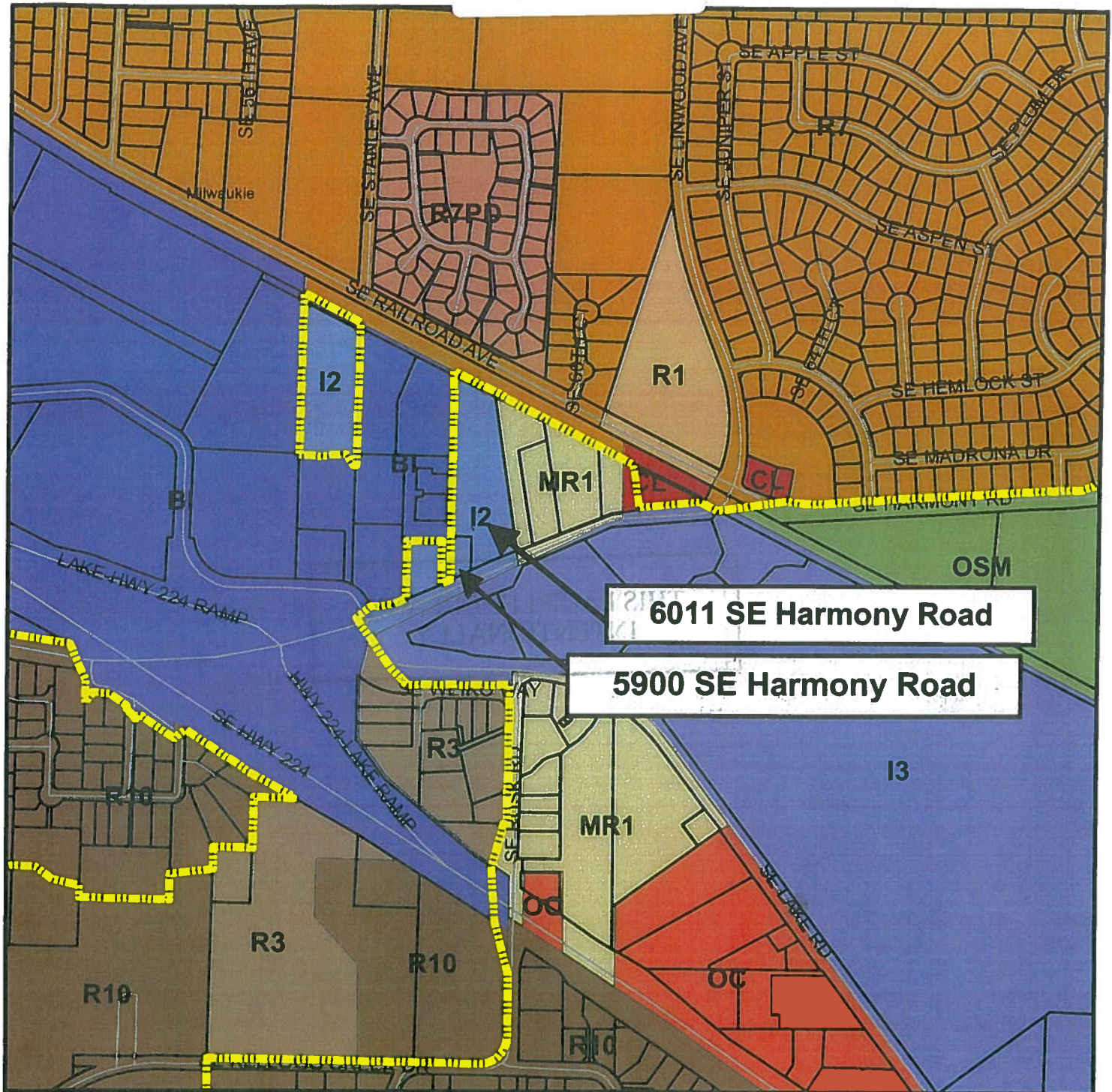
The annexation properties have frontage on Harmony Rd. Harmony Rd is an arterial road under County jurisdiction. Annexing a portion of it would fragment the County's jurisdiction and complicate capital project planning and maintenance tasks, resulting in administrative and maintenance inefficiencies. The City is not interested in or required to annex this portion of Harmony Rd at this time.

Oregon Revised Statutes 2007

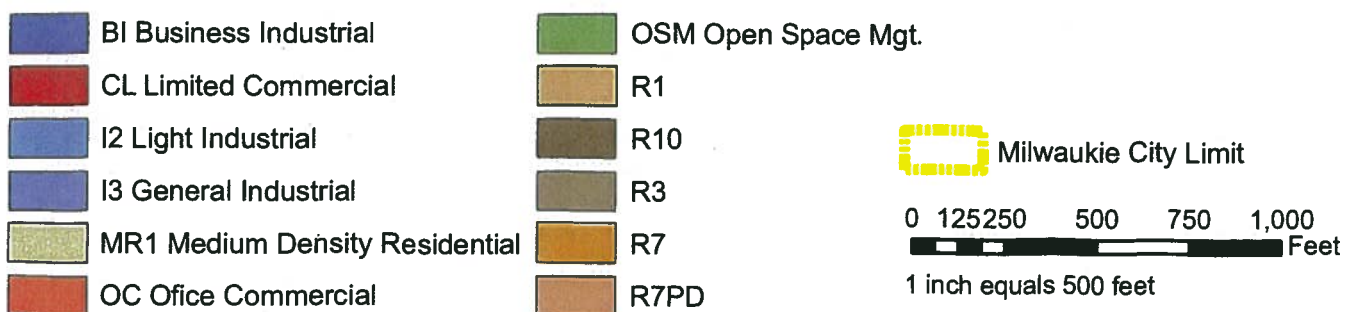
ORS Chapter 195 requires agreements between providers of urban services. Urban services are defined as: sanitary sewers, water, fire protection, parks, open space, recreation, streets, roads, and mass transit. These agreements are to specify which governmental entity will provide which service to which area in the long term. The counties are responsible for facilitating the creation of these agreements.

No urban service agreements have been adopted pursuant to this statute in this area of the County as of yet.

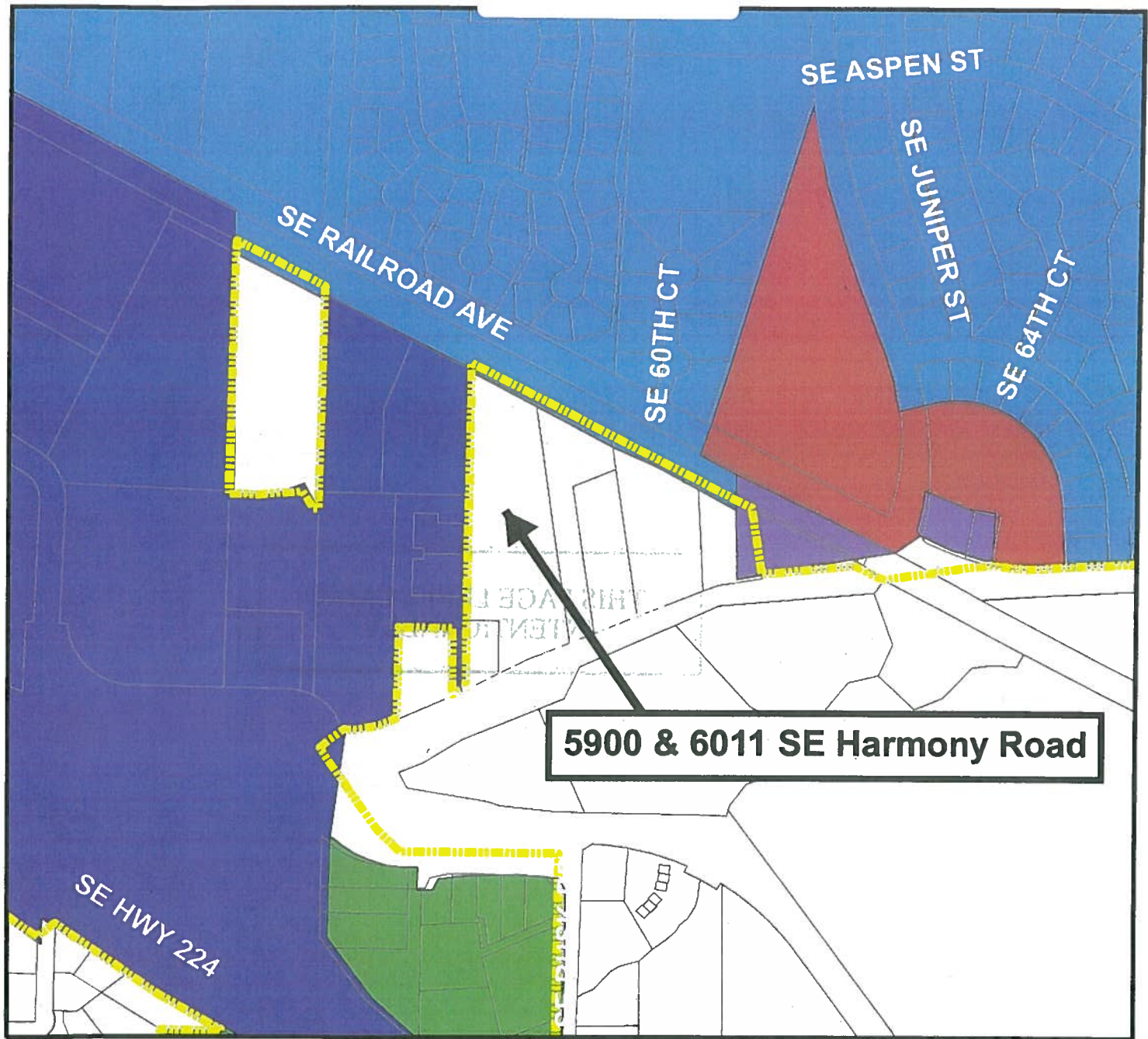
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City and County Existing Zone Designations 5900 & 6011 SE Harmony Road



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Existing Land Use Designations 5900 & 6011 SE Harmony Road



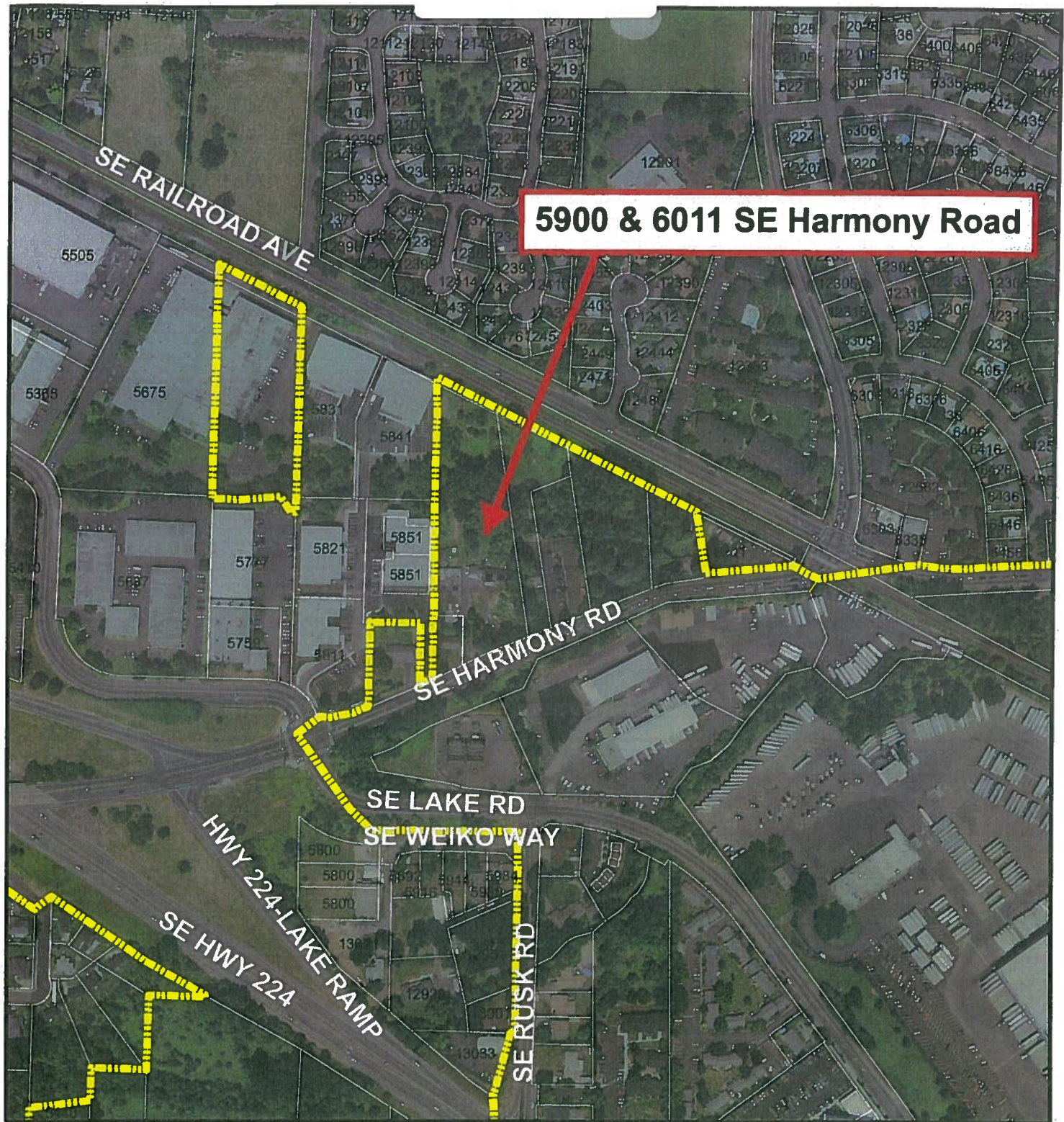
Land Use

	Commercial		Industrial
	Mixed Use		Low Density
	High Density		Moderate Density
			Medium Density



Milwaukie City Limit

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Aerial Photo of Surrounding Area 5900 & 6011 SE Harmony Road



Milwaukie City Limit



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1" = 200'

5200

5800

6200

1700
301
400
500
600
300
202
201E
904
900
2302
901
1300
806
1300
1590
1500
1501

SEE MAP 1 2E 310.

11900

SEE MAP I 2E 32CB

12300

822

SEE, MAP

12903

1 2E 3ID

Attachment 2d

6.1 Pg.27

Clackamas County Tax Assessor Map

5900 & 6011 SE Harmony Road (Properties outlined in red)

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To: Planning Commission

From: Susan P. Shanks, Senior Planner

Date: August 5, 2008 for August 12, 2008 Public Hearing

Subject: A-07-02 Application Materials (Attachment 3 of Staff Report)

On August 12, 2008, the Planning Commission will hear and make a recommendation on application A-07-02, an annexation petition. The materials submitted by the applicant for this application are included as Attachment 3 of the staff report.

Attachment 3 also includes materials submitted by the applicant that pertain to the applicant's development proposal at the same location. It was originally intended for the annexation petition and the development proposal application to be heard by the Planning Commission at the same meeting. However, through no fault of the applicant's, the development proposal application was rescheduled to the next Planning Commission meeting on August 26, 2008.

As a result, not all of the materials contained in Attachment 3 are relevant to the August 12 annexation hearing. However, do not discard any of these materials, as you will need them for the August 26 development proposal hearing.

The following materials from Attachment 3 are relevant to the **August 12** annexation hearing:

- Some of the applicant's narrative. However, since the narrative for the annexation and the development proposal are so intertwined, staff cannot tell you exactly what pages are specifically relevant to the annexation proposal

The following materials from Attachment 3 are relevant to the **August 26** development proposal hearing:

- All Appendices.
- All large format site plans. (Not available electronically. Available at City Hall front desk, JCB front desk, and Ledding Library public information shelf.)
- Some of the applicant's narrative. However, since the narrative for the annexation and the development proposal are so intertwined, staff cannot tell you exactly what pages are specifically relevant to the development proposal.

Please direct any questions you may have about Attachment 3 of the August 12 staff report for annexation application A-07-02 to Susan P. Shanks at shankss@ci.milwaukie.or.us or 503-786-7653.

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Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Region 1 Land Use Planning

123 NW Flanders

Portland OR 97209-4012

Telephone (503) 731-8219

Fax (503) 731-8259

Date: July 8, 2008

File # 2949

ODOT Response to Local Land Use Notification

Project:	Milwaukie Mini-Storage	Applicant:	Frank Walker
Jurisdiction:	City of Milwaukie	Case #:	A07-02; CU07-02; VR07-06
Site Address:	5900 & 6011 SE Harmony Rd Milwaukie, OR	Legal Description:	T01SR02ES31D
State Highway:	Hwy 212/224	Tax Lot:	01800, 01990
		Milepost:	

ODOT has determined there will be no significant impacts to state highway facilities and no additional state review is required.

Please send a copy of the Notice of Decision including conditions of approval to:

**ODOT Region 1 Planning
Development Review
123 NW Flanders St
Portland, OR 97209**

Development Review Planner	Gail Curtis	Phone:	(503) 731-8206
Traffic Contact:	Abraham Tayar	Phone:	(503) 731-8221
District 2B Contact:	Loretta Kieffer	Phone:	(971) 673-6228

Shanks, Susan

From: Miranda Bateschell [Miranda.Bateschell@oregonmetro.gov]
Sent: Wednesday, July 30, 2008 4:56 PM
To: Shanks, Susan
Subject: 6011 & 5900 SE Harmony Rd

Hi Susan,

I apologize for the delay in responding after our telephone conversation a couple of weeks ago. As we discussed, these sites are designated Title 4 employment lands. Thus, if these sites are annexed, they should be zoned and regulated by the City of Milwaukie to comply with Title 4 of the Metro Functional Plan. The City of Milwaukie has already come into compliance with the employment lands section of Title 4 (3.07.440). Thus, current City zoning designations/regulations for Title 4 employment areas in the City can be applied to the sites being annexed.

Please let me know if you have any further questions.

Miranda

Miranda D. Bateschell
Associate Regional Planner
Brownfields Recycling Program Manager
503 797-1817
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miranda.bateschell@oregonmetro.gov

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