

COUNCIL ORDINANCE No. 2211

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DD05600 AND LOCATED AT 5880 SE HECTOR ST INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-002).

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

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

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

WHEREAS the annexation and withdrawals are not contested by any necessary party; and

WHEREAS the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS Table 19.1104.1.E of the Milwaukie Municipal Code (MMC) provides for the automatic application of city zoning and comprehensive plan land use designations; and

WHEREAS the city conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS the city prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached as Exhibit A.

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

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

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

Section 3. The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.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 assigned a Comprehensive Plan land use designation of low density residential (LD) and a municipal code zoning designation of residential R-10.

Section 5. The city will immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030, ORS 222.005, and ORS 222.177. The annexation and withdrawal will become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on 12/21/2021 and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 12/21/2021.

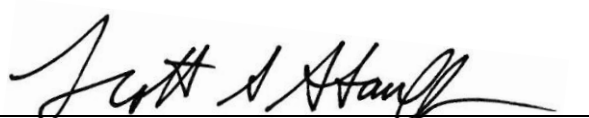
Signed by the Mayor on 12/21/2021.

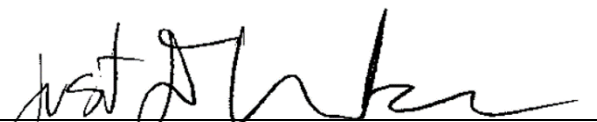


Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:



Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of 5880 SE Hector St, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.16 acres (tax lot 1S2E30DD05600). The annexation property is contiguous to the existing city limits along its frontage on the public right-of-way (ROW) in Hector Street to the north as well as where adjacent to the residential property 10114 SE Stanley Ave to the west. The annexation property is within the regional urban growth boundary and also within the city’s urban growth management area (UGMA).

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

2. The current owners of the annexation property seek annexation to the city to access city services, namely sewer service. The previous owner has signed a consent to annex form and paid the necessary fees and charges to allow an emergency connection to the city sewer service.
3. An application for annexation was submitted to the city by the previous owner on March 4, 2021. The application, including the annexation petition, was updated by the current owners on October 19, 2021. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsections 19.1104.1.A.3 and 19.1102.2.C.
4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC 19.1104. The annexation petition is being processed as an expedited annexation at the request of the current property owners. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.
5. The expedited annexation process provides for automatic application of city comprehensive plan land use and zoning designations to the annexation property based on their existing comprehensive plan land use and zoning designations in the county, which are urban low density residential (LDR) and residential R-10, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic city comprehensive plan land use and zoning designations for the annexation property is low density residential (LD) and residential R-10, respectively.
6. The applicable city approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.

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

The annexation property is within the regional UGB and within the city’s UGMA.

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

The annexation property is contiguous to the existing city limits along its frontage on the public ROW in Hector Street to the north as well as where adjacent to the residential property 10114 SE Stanley Ave to the west.

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

Michael and Ryan McGraw, the current property owners, consented to the annexation by signing the petition. Ryan McGraw constitutes 50% of the registered voters for the annexation property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing in the annexation territory.

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

Chapter 12 of the comprehensive plan contains the city's annexation policies. Applicable annexation policies include: (1) delivery of city services to annexing areas where the city has adequate services and (2) requiring annexation in order to receive a city service. With annexation, the city will take over urban service provision for the property. City services to be provided include wastewater collection, stormwater management, police protection, and general governmental services. As proposed, the annexation is consistent with Milwaukie Comprehensive Plan policies.

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

The annexation proposal is consistent with applicable Metro code sections for expedited annexations as detailed in Finding 7.

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

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

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.4.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

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

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

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

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

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

There is one applicable urban service agreement adopted pursuant to ORS 195 in the area of the proposed annexation (see Finding 8, Street lights). The City has an UGMA agreement with Clackamas County that states that the City will take the lead in providing urban services in the area of the proposed annexation. The proposed annexation is in keeping with the city's policy of encouraging properties within the UGMA to annex to the city.

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

- (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

- (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020
(2) between the affected entity and a necessary party;

There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

- (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The city subsequently adopted this plan as an ancillary comprehensive plan document. The plan contains four elements:

- Sanitary Sewerage Services*
- Storm Drainage*
- Transportation Element*
- Water Systems*

The proposed annexation is consistent with the four elements of this plan as follows:

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

Storm: *The annexation property is not connected to a public storm water system.*

Treatment and management of on-site storm water will be required when new development occurs.

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

Water: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the city's more recent UGMA agreement with the county identifies the city as the lead urban service provider in the area of the proposed annexation. The city's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. As per the city's intergovernmental agreement (IGA) with CRW, CRW will continue to provide water service to the annexation property through its existing water line in Hector Street.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, however, contain the city-county UGMA agreement, which identifies the area of the proposed annexation as being within the city's UGMA. The UGMA agreement requires that the city notify the county of proposed annexations, which the city has done. The agreement also calls for city assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The city has already annexed and taken jurisdiction of the public ROW in Hector Street adjacent to the annexation property.

B. Consider whether the boundary change would:

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

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

The city has public sewer service in this area via Hector Street.

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

The annexation property consists of one tax lot developed with a single-family residence. Annexation of the site is not expected to affect the quality or quantity of urban services in this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

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

Upon annexation, the annexation property will be served by the Milwaukie Police Department. The city will assume responsibility for maintaining street lights in the annexation territory. In order to avoid duplication of law enforcement services, the site will

be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement upon annexation.

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

Wastewater: *The annexation property is within the city's sewer service area and, via an emergency connection allowed in conjunction with the proposed annexation, is served by the city's 8-inch sewer line accessible in Hector Street.*

Water: *The annexation property is currently served by Clackamas River Water (CRW) through CRW's water line in Hector Street. Pursuant to the city's intergovernmental agreement (IGA) with CRW, water service will continue to be provided by CRW and the annexation property will not be withdrawn from this district at this time.*

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

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

Police: *The annexation property is currently served by the Clackamas County Sheriff's Department and are within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The city has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.*

Street Lights: *As of July 1, 2011, an IGA between the city and Clackamas County Service District No. 5 for Street Lights (the "district") transferred operational responsibility to the city for the street lights and street light payments in the city's northeast sewer extension project area. The annexation property is not within the district. The city has operational responsibility for any future street lights and street light payments.*

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

EXHIBIT B

Annexation to the City of Milwaukie LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2021-002

Property Address: 5880 SE Hector St, Milwaukie OR 97222

Tax Lot Description: 1S2E30DD05600

Legal Description:

Part of the Hector Campbell D.L.C., in Township 1 South, Range 2 East of the Willamette Meridian, in Clackamas County, Oregon, more particularly described as follows, TO-WIT:

Beginning at the initial point of the Survey of Hollywood Park, a duly recorded plat in said County and State, which point is also the Southwest corner of Block 8 of said plat; thence Southerly along the Easterly line of the County Road (commonly known as Stanley Avenue), 432.50 feet to the South line of Hector Street, a 40-foot Dedicated Road conveyed to Clackamas County by Deed recorded in Book 382, Page 111, Deed Records; thence East along the South line of said Hector Street, 206.6 feet to a point that is 1,360 feet West of the East line of that Tract conveyed to Walter S. Gibson, Et Ux, by Deed recorded September 4, 1946 in Book 376, Page 596, Deed Records, and true point of beginning of the tract herein described; thence South parallel with the East line of said Gibson Tract, 117.50 feet to the South line of the Gibson Tract described in Book 239, Page 90, Deed Records; thence West along the South line of said last mentioned Gibson Tract, 60 feet; thence North 117.50 feet to the South line of Hector Street; thence East along South line 60 feet to the true point of beginning.

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

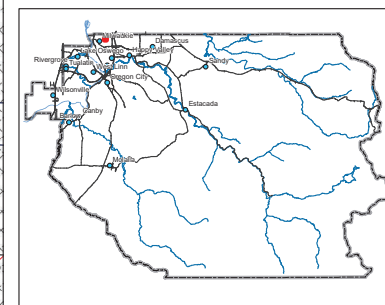
D. L. C.
HECTOR CAMPBELL NO. 41

Key, from True Point of Beginning:
1= S parallel with E line of Gibson tract (Book 376, Page 596) 117.5 ft
2= W along S line of Gibson tract (Book 239, Page 90) 60 ft
3= N 117.5 ft to S line of Hector St
4= E along S line of Hector St 60 ft to True Point of Beginning

Cancelled Taxlots

2101
4800
5401
5501
6100
6900
7301

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



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY