

COUNCIL ORDINANCE No. 2212

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30DA09702 AND LOCATED AT 5911 SE WILLOW ST INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2021-005).

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 The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement.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

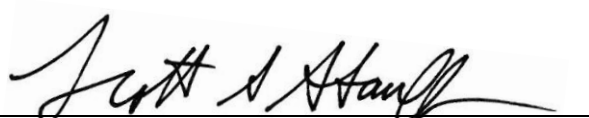
Signed by the Mayor on 12/21/2021.

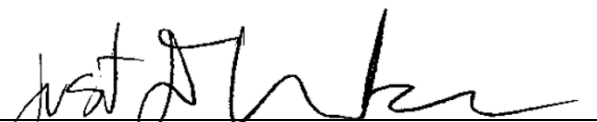


Mark F. Gamba, Mayor

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 5911 SE Willow St, the “annexation property,” the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.23 acres (tax lot 1S2E30DA09702). The annexation property is contiguous to the existing city limits along an access easement to frontage along the public right-of-way (ROW) in Hollywood Avenue and Willow Street to the west and where adjacent to other residential properties to the north at 5954 and 5972 SE Hazel Pl and to the east at 9715 SE Wichita Ave. 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 owner of the annexation property seeks annexation to the city to access city services, namely sewer service. The 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. The annexation petition was initiated by consent of all owners of land on June 16, 2021, with an application for annexation submitted to the city on June 17, 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 property owner. 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 an access easement to frontage along the public ROW in Hollywood Avenue and Willow Street to the west and where adjacent to other residential properties to the north at 5954 and 5972 SE Hazel Pl and to the east at 9715 SE Wichita Ave.

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

Mark Hayward, the current property owner, consented to the annexation by signing the petition. Mark Hayward is the only registered voter 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 within a public easement extending east from Hollywood Avenue and Willow 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 an access easement at the intersection of Hollywood Avenue and Willow Street, local streets 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 extending from Willow 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 Hollywood Avenue and Willow Street, adjacent to the public access easement serving 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 an easement extending east from Hollywood Avenue and Willow 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 within a public easement extending east from Hollywood Avenue and Willow Street.*

Water: *The annexation property is currently served by CRW through CRW's existing water line extending from Willow Street. Pursuant to the city's 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 intergovernmental agreement 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 REVISED LEGAL DESCRIPTION (November 16, 2021)

Milwaukie Annexation File No. A-2021-005

Property Address: 5911 SE Willow St, Milwaukie, OR 97222

Tax Lot Description: 1S2E30DA09702

Legal Description:

The annexation property (tax lot 9702) is comprised of the following two parcels:

Parcel I:

The North 10.5 feet of the East 76.65 feet of that tract conveyed to Colleen Sweeney, by Deed recorded March 27, 1978, Recorder's Fee No. 78-12381, said Sweeney tract being more particularly described as follows:

Part of the Hector Campbell Donation Land Claim No. 41, in Township 1 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at the Southwest corner of certain tract conveyed to John E. Taylor and Anna M. Taylor, by deed recorded March 4, 1942, in Book 291, Page 51, which beginning point is North along the West side of Wichita Road, 1654.00 feet and West 456.00 feet from the Southeast corner of that certain tract conveyed to School District No. 119, by deed recorded May 21, 1909 in Book 109, Page 128; to the place of beginning; thence South along the Easterly line of Hollywood Park, according to the duly recorded plat thereof, 10 feet, more or less, to the Northwest corner of that certain tract conveyed to Fred Gedlich and Louise Gedlich, by deed recorded August 26, 1949, in Book 422, Page 496; thence East 110 feet along the North line of said Gedlich tract to the Northeast corner thereof; thence South along the East line of the said Gedlich tract, 110 feet to the North line of that certain tract conveyed to Theron J. Smith and Elida Smith, by deed recorded April 1, 1942, in Book 292, Page 163; thence East along the North line of said Smith tract, 125 feet to a point; thence North parallel with the Easterly line of Hollywood Park, 120 feet, more or less, to the Southeast corner of the aforementioned Taylor tract, thence West along the South line of said Taylor tract, 235 feet to the place of beginning.

Parcel II:

The Easterly 76.65 feet of the following described tract of land:

A tract of land in Section 30, Township 1 South, Range 2 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, described as follows:

Beginning at a point which is the Southeast corner of that certain tract of land described in deed recorded in Book 109, Page 128, of the Deed Records of Clackamas County, Oregon, wherein T.S. Mullan and Mary Mullan are the grantors and School District No. 119 is the grantee; running thence 1774 feet Northerly along the Westerly line of Wichita Road to a point; thence 456.0 feet, more or less, Westerly, to a point in the Easterly line of Hollywood Park, which is 1043 feet Southerly from the Northeasterly corner of said Hollywood Park; being the true point of beginning of the land herein described; thence Southerly along the Easterly line of said Hollywood Park, 120 feet to a point; thence Easterly and parallel with the Northerly line of that certain tract of land described in deed recorded in Book 214, Page 461 of the Deed Records of Clackamas County, Oregon, and being the first of two tracts described in said deed, 235 feet to a point; thence Northerly and parallel with the Easterly line of said Hollywood Park, 120 feet to a point in the Northerly line of said tract described in Deed Book 214, Page 461; thence Westerly 235 feet to the point of beginning. EXCEPTING THEREFROM the Westerly 75.0 feet conveyed to George B. Miller, et ux, by deed recorded September 11, 1951, in Book 448, Page 423, Deed Records.

EXHIBIT B:
REVISED 11/16/2021

1 2 E 30DA

N.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

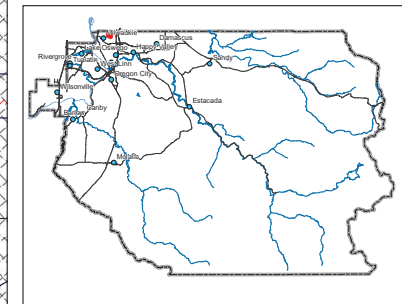
Key--Annexation Area, Parcel I
The N 10.5 ft of the E 76.65 ft of Sweeney tract (Fee No. 78-12381) outlined below, from Place of Beginning:
1 = S along E line of Hollywood Park, 10 ft m/l to NW corner of Gedlich tract (Book 422, Page 496)
2 = E 110 ft along N line of Gedlich tract to NE corner thereof
3 = S along E line of Gedlich tract 110 ft to N line of Smith tract (Book 292, Page 163)
4 = E along N line of Smith tract 125 ft
5 = N parallel with E line of Hollywood Park 120 ft m/l to SE corner of Taylor tract (Book 291, Page 51)
6 = W along S line of Taylor tract 235 ft to Place of Beginning

Cancelled Taxlots

500
600
701
900
9001
7101
7201
7701
7801
8401
9200
9701
13000

- Historical Boundary
- Railroad Centerline
- TaxCodeLines
- Key--Annexation Area, Parcel II
- 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'

Key--Annexation Area, Parcel II
The Ely 76.65 ft of following described tract, from True Point of Beginning:
1 = Sly along E line of Hollywood Park 120 ft
2 = Ely 235 ft and parallel with Nly line of tract described in Book 214, Page 461
3 = Nly and parallel with E line of Hollywood Park 120 ft to point in N line of tract described in Deed Book 214, Page 461
4 = Wly 235 ft to True Point of Beginning
5 = Excepting the W 75 ft conveyed to George B. Miller, et ux, by deed in Book 448, Page 423



THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

9/27/2018

1 2 E 30DA