



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

### NOTICE OF ADOPTED AMENDMENT

September 10, 2008



TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Milwaukie Plan Amendment  
DLCD File Number 004-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: September 25, 2008**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Jennifer Donnelly, DLCD Regional Representative  
Susan P. Shanks, City of Milwaukie

<paa> ya/

# Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCDD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Milwaukie**

Local file number: **A-07-02**

Date of Adoption: **9/2/2008**

Date Mailed: **9/4/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCDD? **Yes** Date: 6/27/2008

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Milwaukie City Council adopted an ordinance that annexed two properties into the City of Milwaukie that are located on SE Harmony Road between SE Lake Road and SE Railroad Avenue. Prior to annexation, both properties were within the City's urban growth management area and were contiguous to the existing city limits. Upon annexation, a land use designation of Industrial (I) and a zoning designation of Business Industrial (BI) was applied to both properties.

Does the Adoption differ from proposal? No, no explanation is necessary.

Plan Map Changed from: **County General Industrial** to: **City Industrial**

Zone Map Changed from: **County Light Industrial** to: **City Business Industrial**

Location: **5900 and 6011 SE Harmony Road in Milwaukie**

Acres Involved: **2.96**

Specify Density: Previous: **NA**

New: **NA**

Applicable statewide planning goals:

- |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                                     |                          |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                 | <b>5</b>                 | <b>6</b>                 | <b>7</b>                 | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                           | <b>12</b>                | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
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Was an Exception Adopted?  YES  NO

Did DLCDD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCDD file No. 004-08 (16974)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Clackamas County and all current service providers listed in the Clackamas County Rate Book for Tax Code 012-169.

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Local Contact: **Susan P. Shanks**

Phone: **(503) 786-7653** Extension:

Address: **6101 SE Johnson Creek Blvd**

Fax Number: **503-774-8236**

City: **Milwaukie**

Zip: **97206**

E-mail Address: **shankss@ci.milwaukie.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: [webserver.lcd.state.or.us](http://webserver.lcd.state.or.us). To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us).
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

**ORDINANCE NO. 1984**

**AN ORDINANCE OF THE CITY OF MILWAUKIE ANNEXING A TRACT OF LAND IDENTIFIED AS 5900 SE HARMONY ROAD AND 6011 SE HARMONY ROAD INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE AND WITHDRAWING THE TRACT FROM THE TERRITORY OF CLACKAMAS RIVER WATER, CLACKAMAS COUNTY SERVICE DISTRICT FOR ENHANCED LAW ENFORCEMENT, AND CLACKAMAS COUNTY SERVICE DISTRICT NO. 5 FOR STREET LIGHTS. (FILE #A-07-02).**

**WHEREAS**, the tract of land is contiguous to the City and can be served by city services; and

**WHEREAS**, the City received written consent from a majority of electors and all owners of land in the territory proposed to be annexed as required by ORS 222.170; and

**WHEREAS**, the City Planning Commission and City Council held public hearings in accordance with ORS 222.120, Metro Code Section 3.09.050, and Milwaukie Municipal Code Sections 19.1502.1 and 19.1011.4; and

**WHEREAS**, the City mailed and posted notice of the public hearings in accordance with ORS 222.120, Metro Code Section 3.09.030, and Milwaukie Municipal Code Section 19.1011.4; 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 hereto as Exhibit A; and

**WHEREAS**, the City Planning Commission and City Council considered a Comprehensive Plan land use designation change from County General Industrial (GI) to City Industrial (I) and a Municipal Code zone change from County Light Industrial (I2) to City Business Industrial (BI) for the tract of land as a part of the proceeding as provided for in Milwaukie Municipal Code Section 19.1502.1; and

**WHEREAS**, the City Council dispenses with submitting the question of the proposed annexation to the electors of the City for their approval or rejection as provided for in ORS 222.170; and

**WHEREAS**, the tract of land lies within the territory of Clackamas River Water; and

**WHEREAS**, the tract of land lies within the territory of Clackamas County Service District for Enhanced Law Enforcement; and

**WHEREAS**, the tract of land lies within the territory of Clackamas County Service District No. 5 For Street Lights; and

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

**NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:**

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

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

Section 3. The tract of land annexed by this ordinance and described in Section 2 is hereby withdrawn from Clackamas River Water, Clackamas County Service District for Enhanced Law Enforcement, and Clackamas County Service District No. 5 For Street Lights.

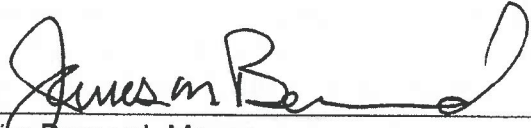
Section 4. The tract of land annexed by this ordinance and described in Section 2 is hereby assigned a Comprehensive Plan land use designation of Industrial (I) and a Municipal Code zoning designation of Business Industrial (BI).

Section 5. The City shall immediately file a certified copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030 and ORS 222.005 and 222.177. The annexation and withdrawals shall become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.<sup>1</sup>

Read the first time on 9/2/08 and moved to second reading by 4 vote of the City Council.


Read the second time and adopted by the City Council on 9/2/08

Signed by the Mayor on 9/2/08

  
\_\_\_\_\_  
Jim Bernard, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis PC

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney

<sup>1</sup> Since this ordinance was enacted after March 31, the effective date of the withdrawal of the tract of land from Clackamas River Water, a domestic water supply district, shall be July 1, 2009 pursuant to ORS Section 222.465.

## ATTACHMENT 1 – Exhibit A

### 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 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 (I) 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. The City Council held a public hearing on September 2, 2008.
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 annexation properties are located within the City's urban growth boundary.*
- B. The subject site must be contiguous to the existing city limits;  
*The annexation properties are contiguous to the existing city limits.*
- 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 annexation properties 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 and land use designations in the County are Light Industrial (I2) and General Industrial (GI), respectively. 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 sections 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.*



SEP 2007 RECEIVED CLACKAMAS COUNTY ASSESSOR (140)

Return to - Genevieve Holton Benty 5900 S.E. Harmony Rd. Multnomah, Ore. 97222 Top statement to same address. SPECIAL WARRANTY DEED

JOHN GREVES and ILSE GREVES, husband and wife, Grantors, convey and specially warrant to GENEVIEVE HOLTON BENTY, Grantee, their one-fourth interest in the following described real property, free of encumbrances created or suffered by the Grantor except as specially set forth herein:

A part of the DEC of John D. Garrett and wife, in T. 1 and 2, S., R. 2 E., of W.M., bounded and described as follows, to-wit: Beginning at a point in the center of the Foster road at the southwest corner of that certain tract of land conveyed to Stephen Parker by Deed recorded in Book 248, page 398, Deed Records of Clackamas County, Oregon, which point is South 89°50' West 837.38 feet distant and North 226.10 feet distant from the southeast corner of the John D. Garrett DEC, in T. 2 S., R. 2 E., of the W.M., running thence North 64°24' East 143.70 feet to the true place of beginning of the tract of land described; thence North 158.27 feet to an iron pipe; thence East 75.08 feet to an iron pipe; thence South 122.34 feet to a point on the center line of said Foster road; thence following said center line South 64°24' West 83.16 feet to the true place of beginning of this description. EXCEPTING THEREFROM that portion conveyed to the State of Oregon, by Deed recorded May 12, 1967, Fee No. 7229, Deed Records.

PL 12E 31D 01B00

There is no monetary consideration for this transfer. Grantors' predecessors in interest sold the property many years ago to Grantee. Grantors are conveying only a fractional share.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Until a change is requested, send all real property tax statements to:

Dated this 29th day of August, 1990. 87-081924

John Greves Ilse Greves

STATE OF WASHINGTON ) COUNTY OF CLATSOP ) ss. 8-29, 1990.

Personally appeared the above named JOHN GREVES and ILSE GREVES and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Washington My commission expires: 9-15-91

ATTACHMENT 1 - Exhibit B-2

Legal Description of parcel to be Annexed

A part of the Donation Land Claim of John D. Garrett and wife, in Townships 1 and 2 South, Range 2 East, of the Willamette Meridian, in the County of Clackamas and State of Oregon, bounded and described as follows, to-wit:

Beginning at a point in the center of Foster Road at the Southwest corner of that certain tract of land conveyed to Stephen Parker by deed recorded in Book 248, Page 398, Deed Records of Clackamas County, Oregon, which point is South 88° 50' West, 847.50 feet distant and North 226.10 feet distant from the Southeast corner of the John D. Garrett Donation Land Claim in Township 2 South, Range 2 East, of the Willamette Meridian; running thence North 61° 21' East, 149.70 feet to the true point of beginning of the tract of land described; thence North 787.50 feet to an iron pipe driven in the Southwesterly boundary line of the right-of-way of the Southern Pacific Railway Co.; thence tracing the Southwesterly side of the right-of-way of said railway South 63° 59' East, 163.58 feet to an iron pipe at the Northwest corner of tract conveyed to E. Nelson Neulen, et ux, by deed recorded July 14, 1931, in Book 212, Page 157, Deed Records; thence South 9° 32' East tracing the Westerly line of said Neulen tract 609.65 feet to the Southwest corner of said Neulen tract; thence tracing the center of Foster Road South 64° 24' West, 280 feet to the point of beginning.

SAVE AND EXCEPT that portion lying within the boundaries of the county road.

EXCEPTING THEREFROM that portion conveyed to Marvin E. Scott and Dorothy A. Scott, by deed recorded April 6, 1950, in Book 429, Page 672, Deed Records.

12E 31D 01900, 01990



# Map of Annexation Properties

5900 & 6011 SE Harmony Road  
Map 1S2E31D Tax Lots 01800, 01900, and 01990  
(properties to be annexed outlined in red)

