

ORDINANCE 2789

AN ORDINANCE ANNEXING TO THE CITY OF LAKE OSWEGO ONE PARCEL CONSISTING OF 0.96 ACRES AT 13485 ATWATER LANE; DECLARING CITY OF LAKE OSWEGO ZONING PURSUANT TO LOC 50.01.004.5(a-c); AND REMOVING THE TERRITORY FROM CERTAIN DISTRICTS (AN 18-0005).

WHEREAS, annexation to the City of Lake Oswego of the territory shown in the map in Attachment "A" and described below, would constitute a contiguous boundary change under ORS 222.111, initiated by petition from the property owners as outlined in ORS 222.111(2); and,

WHEREAS, the City has received consent for the proposed annexation from all of the property owners and not less than 50 percent of the electors residing in the territory as outlined in ORS 222.125; and,

WHEREAS, the part of the territory that lies within the Lake Grove Fire District #57 will, by operation of ORS 222.520, be withdrawn from that district immediately upon approval of the annexation; and,

WHEREAS, the part of the territory that lies within the Clackamas County Enhanced Sheriff's Patrol District will, by operation of ORS 222.520, be withdrawn from the district upon approval of the annexation; and,

WHEREAS, LOC 50.01.004.5 specifies that, where the Comprehensive Plan Map requires a specific Zoning Map designation to be placed on the territory annexed to the City, such a zoning designation shall automatically be imposed on the territory as of the effective date of the annexation; and,

WHEREAS, this annexation is consistent with the Urbanization Chapter of the City of Lake Oswego's acknowledged Comprehensive Plan, Oregon Revised Statutes 222.111(2) and 222.125 for boundary changes, and Metro Code Sections 3.09.040(a)(1-4) and 3.09.045.

Now, therefore, the City of Lake Oswego ordains as follows:

Section 1. The real property described as follows is hereby annexed to the City of Lake Oswego:

A tract of land located in the northeast quarter of Section 4, Township 2 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being a part of Lots 1 and 2, Tract 4, Woodmont 1ST Addition (Plat No. 334), plat records of Clackamas County, said tract more particularly described as follows:

Beginning at a 5/8" iron rod with a yellow plastic cap marked "PARIS & ASSOC. R.L.S. 289" at the northwest corner of said Lot 2;

Thence North 00°20' West, along the westerly line of said Lot 1, 29.50 feet to a 5/8" iron rod with a yellow plastic cap marked "PARIS & ASSOC. R.L.S. 289";

Thence leaving said westerly line, South 69°15' East, 114.22 feet to a 5/8" iron rod with a yellow plastic cap marked "Paris & Assoc. R.L.S. 289";

Thence South 89°38' East, parallel with, and 10.20 feet southerly of the northerly line of said Lot 2,

140.45 feet to a 5/8" iron rod with a yellow plastic cap marked "PARIS & ASSOC. R.L.S. 289" on the westerly right-of-way of Atwater Lane;

Thence South 00°20' East, along the said right-of-way, 162.60 feet to a 5/8" iron rod with a yellow plastic cap marked "PARIS & ASSOC. R.L.S. 289" at the southeast corner of said Lot 2;

Thence leaving said right-of-way, North 89°38' West along the southerly line of said Lot 2, 247.08 feet to the southwest corner of said Lot 2;

Thence leaving said southerly line, North 00°20' West along the westerly line of said Lot 2, 172.80 feet, more or less, to the point of beginning.

The annexed territory is depicted on Attachment A.

Section 2. The annexed area lies within the following districts and shall be withdrawn from these districts upon the effective date of annexation:

Lake Grove Fire District #57
Clackamas County Enhanced Sheriff's Patrol District

Section 3. In accordance with LOC 50.01.004.5, the City zoning designation of R-10 shall be applied to the subject property on the effective date of annexation, as shown on Attachment A.

Section 4. The City Council hereby adopts the findings of fact and conclusions set forth in Attachment B in support of this annexation ordinance.

Section 5. Effective Dates:

a. Effective Date of Decision to Annex. Pursuant to Metro Code 3.09.050(f), the effective date of this annexation decision shall be immediately upon adoption, unless a governmental entity that qualifies as a "necessary party" under Metro Code 3.09.020(j) has contested this annexation, in which event this annexation decision shall be effective on the 10th day following the mailing of this ordinance by the City Recorder to Metro and to all necessary parties who appeared in this proceeding.

b. Effective Date of Annexation Ordinance. Pursuant to Lake Oswego City Charter, Section 35.C, this ordinance shall be effective on the 30th day after its enactment.

c. Effective Date of Annexation. Following the filing of the annexation records with the Secretary of State as required by ORS 222.177, this annexation shall be effective upon the later of either:

1. the 30th day following the date of adoption of this ordinance; or
2. the date of filing of the annexation records with the Secretary of State.

Provided, however, that pursuant to ORS 222.040(2), if the effective date of the annexation as established above is a date that is within 90 days of a biennial primary or general election or after the deadline for filing notice of election before any other election held by any city, district or other municipal corporation involved in the area to be annexed, then the effective date of

the annexation shall be delayed until, and the annexation shall become effective on, the day after the election.

Section 6. Mailing Copies of this Ordinance; Metro Notice

Within 30 days following the date of adoption:

a. The City Recorder shall mail a copy of this ordinance to all persons and governmental entities that appeared at the public hearing and requested a copy of the ordinance following adoption.

b. The City Recorder shall mail a copy of this ordinance together with the applicable mapping and notice fee charged by Metro pursuant to Metro Code 3.09.110, to the Metro Data Resource Center, 600 NE Grand Ave., Portland, OR 97232.


Read by title only and enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 3rd day of July, 2018.

AYES: Mayor Studebaker, Buck, Manz, Gudman, O'Neill

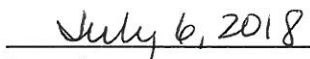
NOES: LaMotte, Kohlhoff

ABSTAIN: None

EXCUSED: None

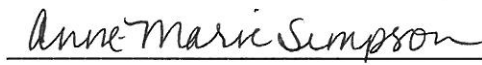


Kent Studebaker, Mayor




Dated

ATTEST:



Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:



David Powell, City Attorney

ATTACHMENT B

Criteria, Findings, Conclusion, and Effective Date

APPLICABLE CRITERIA:

- A. Oregon Revised Statutes (ORS), Boundary Changes; Mergers and Consolidations.
 - 1. ORS 222.111(2) - Annexation of Contiguous Territory, Authority and Procedure for Annexation, Generally.
 - 2. ORS 222.125 - Annexation by consent of all owners of land and the majority of electors.

- B. Metro Code.
 - 1. 3.09.040(a)(1-4) Minimum Requirements for Petitions.
 - 2. 3.09.045 (A-E) Expedited Decisions.

- C. Comprehensive Plan - Urbanization Chapter
 - 1. Policy A-3: "The Urban Services Boundary (as depicted on the Comprehensive Plan Map) is the area within which the City shall be the eventual provider of the full range of urban services."
 - 2. Policy C-3: "Ensure that annexation of new territory or expansion of Lake Oswego's Urban Services Boundary does not detract from the City's ability to provide services to existing City Residents."
 - 3. Policy C-4: "Prior to the annexation of non-island properties, ensure urban services are available and adequate to serve the property or will be made available in a timely manner by the City or a developer commensurate with the scale of the proposed development."

FINDINGS:

- A. **Oregon Revised Statutes (ORS), Boundary Changes; Mergers and Consolidations.**
 - 1. **ORS 222.111(2) Annexation of Contiguous Territory, Authority and Procedure for Annexation, Generally.**

ORS 222.111(2) provides that a proposal for annexation of territory to a City may be initiated by the legislative body of the City, on its own motion, or by a petition to the legislative body of the City by owners of real property in the territory to be annexed. The property owners have petitioned the City for this annexation. The proposed annexation complies with this statute.

- 2. **ORS 222.125 - Annexation by consent of all owners of land and the majority of electors.**

ORS 222.125 states that an election need not be held on the question of annexation within the area proposed to be annexed if all of the owners of land in the territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation. The property owners, who are also electors, have consented to the annexation. The proposed annexation complies with this statute.

B. Metro Code

1. 3.09.040 - Minimum Requirements for Petitions.

- (A) A petition for a boundary change must contain the following information:**
- 1) The jurisdiction of the reviewing entity to act on the petition;**
 - 2) A map and a legal description of the affected territory in the form prescribed by the reviewing entity;**
 - 3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and,**
 - 4) For boundary changes under ORS 198.855 (3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.**

The above information was submitted as required by Metro Code. The property owners have signed the application and petition. A map and legal description in the form required by the City have been included in the application materials and are on file. The owners have consented to the annexation on the annexation petition, meeting the consent requirements of ORS 222.125. The annexation petition complies with the Metro code requirements.

2. 3.09.045 – Expedited Decisions

- A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.**
- B. The expedited process must provide for a minimum of 20 days’ notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.**
- C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:**
- 1. The extent to which urban services are available to serve the affected territory, including any extra- territorial extensions of service;**
 - 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and**
 - 3. The proposed effective date of the boundary change.**

Metro Code 3.09.045 A. states that an expedited review of an annexation, where no public hearing is required, can be considered by a governing body within the area proposed to be annexed if one hundred percent of the property owners and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation. The property owners have signed the annexation application. The property owners, who are also electors residing on the property have consented to this annexation. One hundred percent of the owners and electors on this property have consented to this annexation

Metro Code 3.09.045 B. requires a minimum of 20 days notice to all necessary parties prior to the decision date unless a shorter time is agreed upon. The County, Metro and local service districts are necessary parties under the Metro Code 3.09.020 J. and have been notified.

Metro Code 3.09.045 C. requires that the report discussing availability of urban services, withdrawal of the affected territory and the proposed effective date of the boundary change be made available at least seven days prior to the date of decision. The annexation report has been prepared and made available within seven days of the public hearing.

The proposed annexation complies with the Metro Code.

D. To approve a boundary change through the expedited process 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

The City has entered into - ORS 195.065 agreements with: 1) Lake Oswego School District; and, 2) Lake Grove Fire District. 3) Clackamas County (for roadways). The intergovernmental agreement with the Rivergrove Water District is not discussed in this section because it was entered into before the adoption of ORS 195.065, and consequently does not include all of the provisions necessary to be considered an “urban service agreement” under that statute.

Lake Oswego School District: The City and the Lake Oswego School District entered into an ORS 195.065 urban service agreement for park services in July, 2003. The School District operates the Lake Grove Swim Park located at 3800 Lakeview Boulevard. The agreement states that the annexation of property by the City within the Lake Grove Park District (which funds the swim park) shall not cause the withdrawal of the property from the district. This property is not within the Lake Grove Park District.

Lake Grove Fire District #57: The City and District entered into an ORS 195.065 urban service agreement for fire protection in July, 2003. The agreement states that upon annexation of property within the district by the City, the annexed property shall be withdrawn from the District and the City shall provide fire protection services.

b. Any applicable annexation plan adopted pursuant to ORS 195.205.

There are no applicable annexation plans adopted pursuant to ORS 195.205 relating to the affected territory.

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

There are no ORS 195.020(2) cooperative agreements (which relate to special districts) between the city and a necessary party.

d. Any applicable public facility plan adopted pursuant to a state wide planning goal on public facilities and services

Sanitary sewer service is available from a City of Lake Oswego eight-inch collection line located in the open space tract (Area B of the Country Commons subdivision plat) adjacent to the east side of Atwater Lane east of the site and has been constructed in accordance with the City Wastewater Master Plan. The Wastewater Master Plan identifies an extension

of the sewer collection system through the subject property to undeveloped properties to the west. Water is available from a 10-inch City water line in Atwater Lane north of Knaus Road and has been constructed in accordance with the City Water System Master Plan.

e. Any applicable comprehensive plan policies

Comprehensive Plan Map: The subject property is currently designated R-10, Low Density Residential on Clackamas County's Comprehensive Plan and Zoning Maps. This property is designated as Low Density Residential R-10 on the City's Comprehensive Plan Map. Upon annexation, a City zoning designation of R-10 will be applied to this parcel.

The City and County have coordinated their comprehensive plans within the Dual Interest Area outlined in the City/County Urban Growth Management Agreement (dated February 4, 1992 and updated November 18, 1997), hence the City/County designations have been determined to be compatible. Therefore, this annexation is consistent with the City's Comprehensive Plan Map.

Comprehensive Plan Policies: The Lake Oswego Comprehensive Plan contains the following relevant language in the Urbanization chapter, Policy A-3: "The Urban Services Boundary (as depicted on the Comprehensive Plan Map) is the area within which the City shall be the eventual provider of the full range of urban services." The proposed annexation and the withdrawal of the property from the identified districts are consistent with this policy.

Policy C-3 states: "Ensure that annexation of new territory or expansion of Lake Oswego's Urban Services Boundary does not detract from the City's ability to provide services to existing City residents."

The approval of this annexation will result in the addition of 0.96 acres to be served by the City. As stated in Section 2(b)(1), the addition of this territory will not detract from the City's ability to provide police and fire protection to existing City residents. Annexation of this property will not affect the City's ability to provide parks and recreation services. Public facilities, such as sewer and water are also found to be adequate to serve this site.

Comprehensive Plan Policy C-4 states: "Prior to the annexation of non-island properties, ensure urban services are available and adequate to serve the property or will be made available in a timely manner by the City or a developer commensurate with the scale of the proposed development."

Availability of urban services serving this property is discussed below:

Water: Water is available from a 10-inch City water line in Atwater Lane north of Knaus Road. Any new water service connections need to be made to the existing 10-inch Forest Highlands pressure line (and not the 14-inch Knaus Road pressure line, which is also located in the vicinity). The closest fire hydrant is located at the southeast corner of the site along the west side of Atwater Lane.

Sewer: Sanitary sewer service is available from a City of Lake Oswego eight-inch collection line in the open space tract (Area B of the Country Commons subdivision plat) adjacent to the east side of Atwater Lane. Upon connection to the City collection line, the existing septic tank on the property will need to be decommissioned per DEQ standards.

The City's Wastewater Master Plan (update 2013) identifies the need for the public sewer to be extended from the existing manhole located in Common Area 'B' and across the southern boundary of this site to the southwest corner of the site. A new sewer connection or development would require that the public sewer be extended to the upstream boundary of the site at the time of sewer connection or as a condition of approval for a future land use action in order to be allowed to develop and connect to the public sewer. Therefore, a sewer connection or future partition development will require the owner to construct an 8" public sewer extension for approximately 450 lineal feet to the southwest corner of this site in order to allow for a future extension through the abutting properties to the west.

Fire Protection: Lake Grove Fire District #57 provides fire protection services to the subject property by agreement with the City of Lake Oswego. Upon annexation, the property will be withdrawn from this fire district and served directly by the City. The Main Fire Station on 300 B Avenue, located southeast of the site, would be able to respond to emergencies under the eight minute goal established in the Comprehensive Plan.

Police: Upon annexation, the subject property will be withdrawn from the Clackamas County Enhanced Sheriff's Patrol District and served by the City of Lake Oswego. The Lake Oswego Police Department reviewed the proposal and indicated that it does not have any concerns with serving this property upon annexation.

Parks and Open Space: The City has 537 acres of park and open space lands, or 14.6 acres per 1,000 population. The nearest parks to this property are Woodmont Natural Park and Springbrook Park. Woodmont Natural Park is 6.8 acres and located on the corner of Knaus Road and Atwater Lane. Woodmont Park is a natural park that has no amenities for organized recreation activities; however, the Parks Department has begun the master planning process for the property in the near future. Springbrook Park is 52 acres and contains the Lake Oswego Indoor Tennis Center. The City's park system will not be overburdened by any additional population annexed to the City with this application.

Lake Grove Park District: The Lake Grove Swim Park, managed by the Lake Oswego School District, and funded by the Lake Grove Park District, is located at 3800 Lakeview Boulevard. The swim park is approximately 1.3 acres in size with restroom, play and swim facilities. This property is not within the Lake Grove Park District.

Transportation - Streets and Mass Transit: Atwater Lane is designated as a Local Street in the Comprehensive Plan which is uncurbed on the west side and curbed along the east side of the street. It is under the maintenance jurisdiction and permitting authority of the City of Lake Oswego. The nearest mass transit service is Tri-Met bus line 78, which operates between downtown Lake Oswego and the Tigard and Beaverton Transit Centers. Service can be accessed at the intersection of Knaus Road and Country Club Road.

Community Development Code Section 50.06.008.3 requires that all development be provided with the following utility services: sanitary sewer, water, sidewalks, pedestrian and bicycle paths, traffic control signs and devices, street lights, streets, and TV cable. These utilities are now in place or can be put in place to serve this property.

In the event that future development occurs, an applicant for development is obligated to construct all necessary public facilities to serve their development.

As noted above, police and fire services are available upon annexation. The amount of protection provided will be similar to protection provided to other City residents because the property proposed to be annexed is not isolated from other areas of the City.

Urban Growth Management Agreement: General Urbanization Policy 4.A.4 of the Clackamas County Comprehensive Plan calls for the establishment of Urban Growth Management Areas and Urban Growth Management Agreements to clarify planning responsibilities between the County and cities for areas of mutual interest. Policy 4.A.5 directs the County to establish agreements with cities and service districts to clarify service and infrastructure responsibilities for areas of mutual interest. Similarly, the Lake Oswego Comprehensive Plan, Urbanization Chapter, Policy D-3, calls for entering into and maintaining an Urban Growth Management Agreement (UGMA) with Clackamas County for lands within the Urban Services Boundary. In furtherance of these policies, the City and County have entered into an Urban Growth Management Agreement that stipulates a mutual interest in coordinated land use planning, compatible comprehensive plans and provision of urban services and facilities. This agreement ensures coordination and consistency between the City and County comprehensive plans and outlines responsibilities in providing services and managing growth within the Dual Interest Area. Subsections 6 and 7, provided below, are applicable to annexations.

*“6C. City and County Notice and Coordination:
The City shall provide notification to the County, and an opportunity to participate, review and comment, at least 35 days prior to the first public hearing on all proposed public facilities plans, legislative changes to the City Comprehensive Plan, or quasi-judicial land use actions adjacent to, or in close proximity to unincorporated areas. The City shall provide notice to the County of private or City initiated annexation requests within five days of the filing of an application with the Portland Metropolitan Boundary Commission.”*

The Urban Growth Management Agreement specifies that the City notify the County of an annexation request within five days of when it is submitted to the Boundary Commission. There is no longer a Boundary Commission for the Portland Metropolitan area.

Staff relies on the notice requirements of Metro Code 3.09.045b, which requires notice 20 days prior to the annexation decision for all necessary parties (other governmental entities). The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change. The County is a necessary party under the Metro Code definition and has been notified.

*“7. City Annexations
A. The City may undertake annexations in the manner provided for by law within the Dual Interest Area. The City annexation proposals shall include adjacent road right-of-way to property proposed for annexation. The County shall not oppose such annexations.
B. Upon annexation, the City shall assume jurisdiction of the County roads and local access roads pursuant to a separate road transfer agreement between the City and county.”*

June 13, 2018

The City is undertaking this annexation in the manner provided for in the applicable ORS and Metro Code for the territories that lie within the Dual Interest Area. This annexation is consistent with the City and County comprehensive plans which have been coordinated in the Dual Interest Area within the regional Urban Growth Boundary (UGB). The right of way adjacent to this property is within the City Boundary and under the jurisdiction of the City of Lake Oswego.

f. Any applicable concept plan

Consistency of the proposed boundary change with urban planning agreements is mentioned under D(1)(c)above.

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**
- c. Eliminate or avoid unnecessary duplication of facilities or services**

Due to the proximity of the property to existing City services, this annexation will promote the timely, orderly and economical extension of public facilities and services. The subject property can readily be served with urban services and facilities. If and when additional development occurs in the area, provision of public facilities and services will occur consistent with the City's adopted public facility master plans, ensuring that it does not adversely affect the quality or quantity of urban services and avoiding unnecessary duplication of facilities or services. Therefore, this boundary change is consistent with criteria 2.a through 2.c.

(E) A city may not annex territory that lies outside the UGB except it may annex a lot or parcel that lies partially within and partially outside the UGB.

The property to be annexed is located entirely within the City's Urban Growth Boundary (UGB).

CONCLUSION:

Based on the criteria and findings set forth above, the City Council concludes that AN 18-0005 complies with all applicable criteria and the annexation should be approved.

EFFECTIVE DATE:

A. Effective Date of Annexation Ordinance. Pursuant to Lake Oswego City Charter, Section 35.C., the ordinance shall be effective on the 30th day after its enactment.

B. Effective Date of Annexation. Following the filing of the annexation records with the Secretary of State as required by ORS 222.177, this annexation shall be effective upon the later of:

- 1. the 30th day following the date of adoption of this ordinance; or
- 2. the date of filing of the annexation records with the Secretary of State;

provided however that pursuant to ORS 222.040(2), if the effective date of the annexation as established above is a date that is within 90 days of a biennial primary or general election or after the deadline for filing notice of election before any other election held by any City, district or other municipal corporation involved in the area to be annexed, then the effective date of the annexation shall be delayed until, and the annexation shall become effective on, the day after the election.