Applicants/Owners: Andrea Marek, RB Pamplin Corp. and Don & Suzanne Conklin

Location of Property:

4905 and 4575 Upper Drive
(21E07DD04400 and 21E07DD03500)

The City zoning of R-7.5 shall be applied to tax lot 3500, and the City zoning of Office Commercial/Neighborhood Commercial (OC/NC) shall be applied to tax lot 4400, immediately upon the effective date of annexation.

Date of Final City Council Decision:

The City Council approved this annexation as set forth in Ordinance 2505 on January 22, 2008. Upon further review of the legal description for this territory it was found that the legal description omitted a portion of the right of way. On March 4, 2008 the City Council approved Ordinance 2508 which corrects Ordinance 2505 by including the complete legal description for the right of way.

Effective Dates:

1. Pursuant to the Lake Oswego City Charter, the effective dates of the annexation ordinances shall be on the 30th day after their enactment, February 21, 2008 for Ordinance 2505 and April 3, 2008 for Ordinance 2508.

2. Effective Date of Annexation.
   Following the filing of the annexation with the Secretary of State, the effective date of the annexation shall be upon the later of either (see note below):
   a. The 30th day following the date of adoption of the ordinance, or
   b. The date of filing of the annexation records with the Secretary of State.

Note: 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.
To Learn More About the Effective Date of an Annexation

Once the City of Lake Oswego has been notified that the Secretary of State has filed the documents (generally 3 to 4 weeks from the City Council’s decision), the effective date of the annexation will be posted to the City’s web site at:

http://www.ci.oswego.or.us/plan/Annexations/AnnexationCases.htm

(select annexation file number AN 07-0008)

For additional information on the effective date, you may also contact:

Iris Treinen
City of Lake Oswego – Planning Division
503/697-6591 or by e-mail atitreinen@ci.oswego.or.us

Right to Appeal: This decision may be appealed by filing a written Notice of Intent to Appeal with the State of Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of the decision, March 4, 2008. For more information, contact LUBA at:

Land Use Board of Appeals
550 Capitol St. NE, Suite 235
Salem, OR 97301-2552
(503) 373-1265

How to Obtain More Information: The decision is available for review, and a copy may be obtained at cost at the following address:

Lake Oswego Planning Department
Lake Oswego City Hall
P. O. Box 369
380 A Avenue
Lake Oswego, OR 97034
Phone (503) 697-6591

Or call

Paul Espe, Associate Planner
Phone (503) 697-6577
ORDINANCE NO. 2505

AN ORDINANCE ANNEXING TO THE CITY OF LAKE OSWEGO TWO PARCELS COMPRISING APPROXIMATELY 1.41 ACRES AT 4905 AND 4575 UPPER DRIVE AND THE ADJACENT ROAD RIGHT OF WAY ON UPPER DRIVE AND A PORTION OF BRYANT ROAD; DECLARING CITY OF LAKE OSWEGO ZONING PURSUANT TO LOC 50.05.025; AND REMOVING THE PARCELS FROM CERTAIN DISTRICTS (AN 07-0008).

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 owner as outlined in ORS 222.111(2); and,

WHEREAS, the City has received consent for the proposed annexation from 100 percent of the owners of land and 66 percent of the electors in the territory; and,

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

WHEREAS, the part of the territory that lies within the Surface Water Management Agency of Clackamas County would, by operation of ORS 222.520, be withdrawn from that agency immediately upon approval of the annexation; and,

WHEREAS, LOC 50.05.025 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 territory as of the effective date of the annexation; and,

WHEREAS, the staff report, dated January 2, 2008 which addresses applicable criteria, is hereby incorporated; and,

WHEREAS, this annexation is consistent with Chapter 14 (Urbanization) of the City of Lake Oswego’s acknowledged Comprehensive Plan, Oregon Revised Statutes 222.111(2); 222.125; and 222.170 for boundary changes, and Metro Code Sections 3.09.050(b) and (d).
Now, therefore, The City of Lake Oswego ordains as follows:

Section 1.  Legal Description of Property to be Annexed: The real property described as follows is hereby annexed to the City of Lake Oswego:

4905 Upper Drive
21E07DD4400

All of that portion of Block 13 beginning at the Southwesterly corner of Block 10 of said Bryant Acres, running

thence Southerly and following the Easterly line of Block 13 of Bryant Acres a distance of 290.4 feet to the Southeasterly corner of said Bryant Acres Block 13; thence Westerly and tracing the center of Upper Drive a distance of 75 feet to a point;

thence northerly and parallel to and 75 feet distance from the Easterly line of Block 13 of Bryant Acres a distance of 290.4 feet to a point;

thence Easterly a distance of 75 feet to the place of beginning,

And

Part of Lot 13, Bryant Acres, more particularly described as follows: Beginning at the Intersection of the East line of Lot 13, and the Southeasterly right of way line of Boones Ferry County Road;

thence South along the East line of said Lot 13, a distance of 48.26 feet more or less, to a point which is the Northeast corner of that tract of land conveyed by deed to Clara E. Will, recorded February 9, 1920 in book 166, Page 656, Deed Records;

thence West along the North line of said Hill tract 75 feet, more or less, to the northwest corner of said Hill Tract;

thence north, parallel to the East line of Lot 13, to a point on the South right of way line of Boones Ferry County Road;

thence Northeasterly along said right of way line 65.8 feet more or less, to the point of beginning.
4575 SW Upper Drive
21E07DD3500

All of lot 20 except the Westerly 13.00 feet, in the subdivision of Bryant Acres, as platted and recorded in Book 14, Page 11, Record of Town Plats of Clackamas County, Oregon, more particularly described as follows, to wit:

Beginning at an iron pipe set in the Northeasterly corner of said Lot 20, said iron pipe is in the center line of a six foot easement reserved for pedestrian travel. From said beginning point;

thence South 25°12’ East 290.40 feet to a point in the center line of Upper Drive in said plat, passing over an iron pipe set 15.00 feet from said center line;

thence South 64°48’ West 137.00 feet along said center line to an iron pipe;

thence North 25° 12’ West 290.40 feet, passing over an iron pipe set 15.00 feet from said center line, to an iron pipe set in the center line of said six foot easement,

thence North 64°48’ East 137.00 feet to the point of beginning.

Section 2. District Retention: The annexed area lies wholly within the following districts and shall be retained within these districts upon the effective date of annexation:

Lake Grove Park District
Lake Grove Water District

Section 3. District Withdrawal: 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
Surface Water Management Agency of Clackamas County

Section 4. Zoning Designation: In accordance with Community Development Code Section 50.05.025, the City zoning of R-7.5 shall be applied to tax lot 3500, and the City zoning of OC/NC shall be applied to tax lot 4400, immediately upon the effective date of annexation.

Section 5. Neighborhood Association Designation: In accordance with Goal 1 of the City’s Comprehensive Plan these parcels shall become a part of the Lake Grove Neighborhood Association immediately upon the effective date of annexation.
Section 6. Adoption of Findings and Conclusions: The City Council hereby adopts the findings of facts and conclusions set forth in the January 2, 2008 staff report in support of this annexation ordinance.

Section 7. 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 34, 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 8. Mailing Copies of this Ordinance: Metro Notice.

Within 30 days following the date of adoption:

a. The City Recorder is hereby directed to 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 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 __22nd__ day of __January__, 2008.
AYES: Mayor Hammerstad, Groznik, Hennagin, Jordan, McPeak, Turchi

NOES: None

ABSTAIN: Johnson

EXCUSED: None

Judie Hammerstad, Mayor

Dated: 1-23-08

ATTEST:

Robyn Christie, City Recorder

APPROVED AS TO FORM:

David D. Powell, City Attorney
Ordinance No. 2508

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING ORDINANCE 2505 (AN 07-0008) TO CORRECT A SCRIVENER’S ERROR IN THE TEXT OF A LEGAL DESCRIPTION

WHEREAS, on January 22, 2008, the City Council adopted Ordinance 2505, which became effective on February 21, 2008; and

WHEREAS, Ordinance 2505 annexed two parcels on the north side of Upper Drive to the City of Lake Oswego and retained or withdrew these parcels from certain service districts; and

WHEREAS, a scrivener’s error in the text of the legal description used in the adopted ordinance erroneously omitted the westerly 13 feet and south half of the Upper Drive right of way adjacent to 4575 Upper Drive (Tract 2 of the legal description). (21E07DD03500); and

WHEREAS, Section 1 of Ordinance 2505 should be amended to correct the scrivener’s error by including the westerly 13 feet and the south half of the Upper Drive right of way in the legal description of the territory to be annexed, consistent with the City Council’s ruling in AN 07-0008.

The City of Lake Oswego ordains as follows:

Section 1. Section 1 of Ordinance 2505 is hereby amended to read as follows:

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

Two tracts of land located in the southeast quarter of Section 7, Township 2 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon; more particularly described as follows:

Tract 1: 21E07DD04400 (4905 Upper Dr, Lake Oswego)

The easterly 75.00 feet of Lot 13, Bryant Acres (Plat # 0383), plat records of Clackamas County, Oregon; said 75.00 feet to be cut off by a line drawn parallel with and offset westerly from the east line of said Lot 13.

EXCLUDING therefrom all public rights of way.

Tract 2: 21E07DD03500 (4575 Upper Dr, Lake Oswego) and public right of way

Beginning at an iron pipe set at the northeast corner of Lot 20, Bryant Acres (Plat #0383), plat records of Clackamas County, Oregon;"
thence along the east line of said Lot 20, South 25° 12’ East, 275.40 feet to an iron pipe set in the north right of way line of Upper Drive (County Road # 1009);

thence along said north right of way line, South 64° 48’ West, 137.00 feet to an iron pipe;

thence leaving said right of way line, North 25° 12’ West, 275.40 feet to an iron pipe set in the north line of said Lot 20;

thence along said north lot line, North 64° 48’ East, 137.00 feet to the point of beginning.

INCLUDING therewith the following described right of way:

All of Upper Drive (30 feet wide) (County Road # 1009) lying adjacent to said Lot 20, Bryant Acres; being 150.00 feet in length.

Enacted at the regular meeting of the City Council of the City of Lake Oswego held on 4th day of March, 2008.

AYES: Mayor Hammerstad, Turchi, Groznik, Jordan, Johnson

NOES: none

ABSTAIN: none

EXCUSED: McPeak, Hennagin

Judith Hammerstad, Mayor

Dated: 3-4-08

ATTEST:

Robyn Christie, City Recorder

APPROVED AS TO FORM:

David Powell, City Attorney