



## Agenda Bill

Date: May 21, 2018

To: Russell Axelrod, Mayor  
Members, West Linn City Council

From: Jennifer Arnold, Associate Planner JA

Through: John R. Williams, Community Development Director *JRW*  
Eileen Stein, City Manager

Subject: Annexation of 2.57 acres at 22870 Weatherhill Road (ANX-18-02)

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### **Purpose:**

Council work session overview of the proposed annexation and discuss the procedural requirements prior to the scheduled Council hearing on June 18, 2018.

### **Question(s) for Council:**

Does the Council need additional information regarding the proposed annexation?

### **Public Hearing Required:**

Work session only. The Council will hold a public hearing on this proposal on June 18, 2018.

### **Background & Discussion:**

The applicant, Emerio Design, LLC representing the owner, David and Diana Dean, is requesting annexation of their 2.57 acre property at 22870 Weatherhill Road. If annexed, the applicants request a zoning designation of R-7. Public notice will be mailed out later this month to properties within a 500 foot radius of the property, consistent with the most recent annexations in 2016 and 2017 (ANX-16-01, ANX-16-02, and ANX-17-01).

The applicable approval criteria for this application are located in Community Development Code (CDC) Chapter 81, which refers to the Metro Code, West Linn Municipal Code (WLMC), and Oregon Revised Statutes. The property is one of several county "islands," which are properties in the county that are surrounded by properties in the City. The property is located one-quarter mile inside the Urban Growth Boundary (UGB); it is suitable for development, and it can be serviced with utilities.

Annexations go through a two-step process. Step one is a land use decision. The Council determines whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan and CDC Chapter 81. The Council will assign a zone for the property. At the conclusion of step one, the Council, in its discretion, may: 1) decide to set a public hearing for the annexation request (step two), 2) delay a public hearing on the requested annexation or 3) pass a resolution placing the annexation request on a ballot for an advisory vote.

Step two review for annexation proposals is a legislative or policy decision that applies the standards of WLMC 2.930. After step two, Council may approve an annexation request if it finds that the annexation is in the best interest of the City based on the report prepared by the Planning Director; testimony and evidence presented at the public hearing; and any other information, evidence, or analysis the City or the Council deems relevant to the application.

**Budget Impact:**

The annexation would bring the property onto the City tax rolls and subject to City fees and assessments.

**Council Options:**

The work session is an opportunity for Council to receive a briefing, including the procedural requirements, and request additional information from staff. Council's action will follow the June 18, 2018, public hearing.

**Staff Recommendation:**

Discuss the procedural requirements and other issues prior to the scheduled Council hearing on June 18, 2018.

**Potential Motion:**

Not required at work session.

**Attachments:**

1. Draft staff report



CITY OF  
**West Linn**  
PLANNING AND DEVELOPMENT

**STAFF REPORT  
FOR THE CITY COUNCIL**

**FILE NUMBER:** ANX-18-02

**HEARING DATE:** June 18, 2018

**REQUEST:** Annexation (Expedited Decision) of 2.56 acres at 22870 Weatherhill Road

**APPROVAL CRITERIA:** Community Development Code (CDC) 81.050- 81.055, West Linn Municipal Code (WLMC) 2.920-2.930 and Metro Code 3.09.045 and 3.09.050(D)

**STAFF REPORT PREPARED BY:** Jennifer Arnold, Associate Planner

Planning Manager's Initials \_\_\_\_\_

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## GENERAL INFORMATION

- OWNERS:** David Dean & Diana Dean  
22780 Weatherhill Road  
West Linn, OR 97068
- APPLICANT:** Emerio Design, LLC, Steve Miller  
6445 SW Fallbrook Place, STE: 100  
Beaverton, OR 97008
- SITE LOCATION:** 22870 Weatherhill Road
- DESCRIPTION:** The site is identified as Assessor's Map 2S 1E 35B tax lot 405
- SITE SIZE:** 2.56 acres (111,537 square feet)
- PROPOSED ZONING DESIGNATION:** R-7 (Single family residential detached and attached, 7,000 square foot minimum lot size)
- COUNTY ZONING:** FU-10 (Future Urbanizable 10 acre district (County))
- COMPREHENSIVE PLAN DESIGNATION:** Low Density Residential
- PUBLIC NOTICE:** Per ORS 197.763(2) (a) (A), notice was mailed on **May 22, 2018** to satisfy the 20 day notice to all property owners within 500 feet (ORS only requires 100 feet), the Savanna Heights Neighborhood Association, DLCD, and all "Necessary Parties" as defined by Metro Code 3.09.020 (J).
- The affidavit of notice (Exhibit CC-1) validates that the notice requirements of Metro Code, CDC, WLMC and Oregon State statutes have been met.
- PROCESS:** Annexations go through a two-step process. Both steps can be done on the same hearing date. Step one is a land use decision, as outlined in WLMC 2.920, and determines whether the proposed annexation is consistent with the intent of the West Linn Comprehensive Plan, CDC Chapter 81 and Metro Code 3.09. The Council will also assign a zone for the property at this time.
- Step two review for annexation proposals is a legislative or policy decision that applies the standards of WLMC 2.930. During step two, the

policy decision, the Council, in its discretion, may: 1) decide to set a public hearing for the annexation request; 2) delay a public hearing on the requested annexation; or, 3) pass a resolution placing the annexation request on a ballot for an advisory vote.

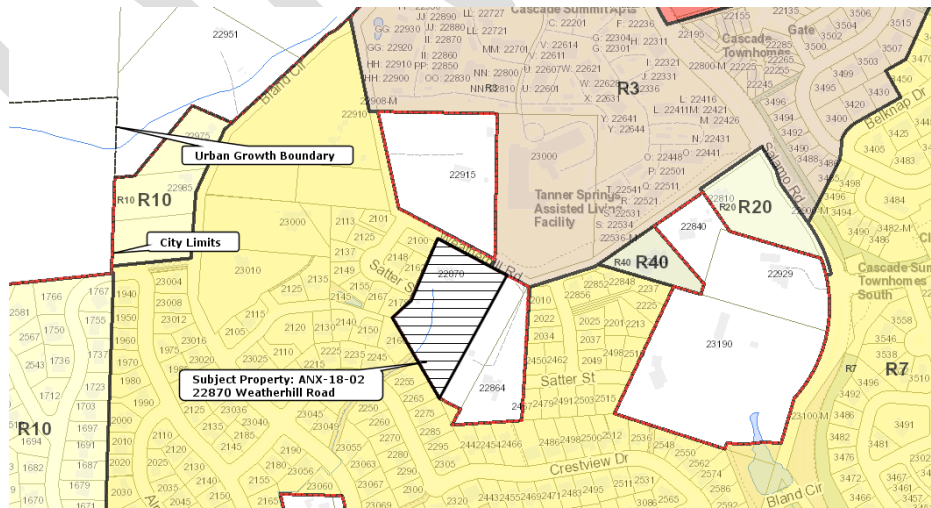
At the conclusion of step two, the Council may approve an annexation request if it finds that the annexation is in the best interest of the City based on the report prepared by the Planning Director; testimony and evidence presented at the public hearing; and any other information, evidence, or analysis the City or the Council deems relevant to the application.

The Council may deny an annexation acting in its legislative capacity even after it has approved the annexation application through the step one process.

### EXECUTIVE SUMMARY

This is a hearing to consider the request for annexation of 22870 Weatherhill Road. If annexed, the property is proposed to have a zoning designation of R-7. The applicable approval criteria are located in Community Development Code (CDC) Chapter 81, which refer to the Metro Code, West Linn Municipal Code, and Oregon Revised Statutes. The property is one of several that form an “island” surrounded by the City. The property is located within the Urban Growth Boundary (UGB), is suitable for development, and can be serviced with utilities.

Concurrently, the property will be annexed into the Tri-City Service District and removed from the Clackamas County Enhanced Law Enforcement District.

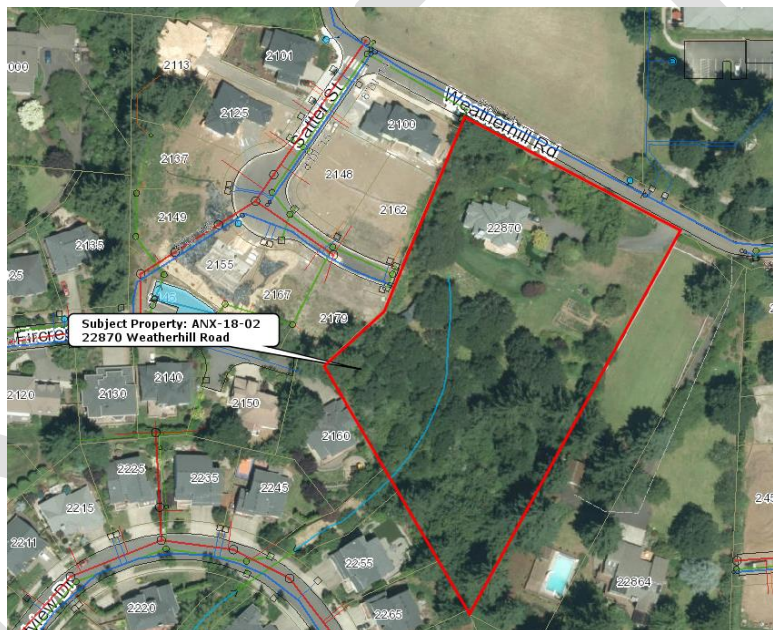


## BACKGROUND

Existing Land Uses: The area proposed to be annexed comprises 2.56 acres. The property is one single lot of record owned by David and Diana Dean. The property is a roughly a quarter mile inside the UGB and the City limits line. There is an existing single family home on the property with numerous accessory buildings.

Natural Features: The property initially has a gradual slope towards the rear of the property but the steepness increases to an average slope of 16%. There is a grove of trees near the rear property line and an ephemeral stream begins near the center of the parcel.

Zoning: The property has a Comprehensive Plan designation of “Low Density Residential” and, if annexed, the property could receive an R-7 zoning district designation per the applicant’s request. The R-7 zone is a “Single-family residential detached and attached” district with a 7,000 square foot minimum lot size.



Utilities: Water service is located in the Weatherhill Road ROW and within the Satter Street ROW to the west of this property. Storm water and sewer lines are stubbed out near the terminus of Satter Street, and can be extended to serve this property.

### Public comments:

No public comments have been received to date.

## RECOMMENDATION

Staff recommends approval of the Step One “Land Use Decision” and Step Two “Policy Decision” by Ordinances (attached) to annex the property at 22870 Weatherhill Road and establish an R-7 zone designation per the applicant’s request.

**ADDENDUM  
APPLICABLE REGULATIONS AND ASSOCIATED FINDINGS**

**STEP ONE: “LAND USE DECISION”**

**OREGON REVISED STATUTES**

***222.111 Authority and procedure for annexation.***

*(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.*

**Finding 1: The property is appropriate for annexation since it is within the Metro Urban Growth Boundary and is one of three lots that represent an “island” that is surrounded by the City. The criterion is met.**

**WLMC 2.920 Step 1: Land Use Decision**

When an annexation application has been properly initiated pursuant to ORS 222.111, 222.125, 222.170, or 222.840, Step 1 shall include review of the land use aspect of the petition pursuant to Community Development Code Chapter 81.

**Finding 2: The application has been correctly initiated per ORS 222.111 by owners of real property in the territory to be annexed. Review pursuant to CDC Chapter 81 is discussed below.**

**METRO CODE**

***Metro 3.09.040 Requirements for Petitions***

A. A petition for a boundary change must contain the following information:

...

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.

**Finding 3:** Pursuant to ORS 222.125, the applicant submitted certificates of consent to the annexation signed by 100 percent of the owners and electors (David and Diana Dean) within the property proposed to be annexed. These certificates have been reviewed and validated by the County Assessor's Office. The criterion is met.

***Metro 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.*

**Finding 4:** The subject property qualifies for an expedited decision since 100 percent of the property owners and electors have provided certificates of written consent regarding the annexation (David and Diana Dean).

Notice requirements (including 20 days' notice) have been satisfied (see Affidavit of Notice (Exhibit CC-1)). (Notice was sent to property owners within a 500 foot radius consistent with a Council decision on annexations in 2016 (ANX-16-01 and ANX-16-02), DLCD and all "necessary parties".) The criteria are met for the expedited decision process.

*Metro 3.09.045 (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 extraterritorial 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.*

**Finding 5:** This staff report was available for public review at least seven days prior to the scheduled Council hearing date. This staff report addresses urban services in Finding 6. The annexation will require the withdrawal of the property from the Clackamas County Enhanced



**Law Enforcement District. The effective date of the boundary change is to be determined by Council. This criteria is met.**

*Metro 3.09.045 (D). To approve a boundary change through an 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;*
  - 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;*
  - e. Any applicable comprehensive plan;*
  - f. Any applicable concept plan; and*
- 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.*

**Finding 6: The property is within the City's adopted Urban Growth Boundary (UGB) which is acknowledged and approved by Metro and the State of Oregon. The UGB is recognized as the means of identifying lands that are appropriate and serviceable for annexation. The City's Comprehensive Plan designates this property to be developed as "Low Density Residential" which allows R-7 to R-40 zones.**

**Regarding "Public Facility plans", staff finds that the City's water, sewer, and surface water management (master) plans and the Transportation System Plan (TSP) anticipated annexation, development and service of this property.**

**Regarding "applicable Comprehensive Plan" policies, Policy 7(a) in Goal 2: Land Use Planning (Residential Development) calls for "low density residential" zoning in "Areas with limited capacity for development because of existing facilities such as sewer, water and drainage and/or development limitations due to topography, soil characteristics, drainage, high water table, and flooding." With no infrastructure limitations and few site constraints, the R-7 zone, is appropriate for the site.**

**Goal 10: Housing and Policy 2 encourages the development of various housing types, including single family homes. The R-7 zone designation would facilitate that.**

**Regarding “*promot(ing) the timely, orderly and economic provision of public facilities and services... the quality and quantity of urban services*”, Public sewer and storm water lines are located within Satter Street ROW abutting the western property line. No upgrade in capacity is needed to serve this property.**

**Satter Street stubs out at the west edge of this property and is expected to connect with Salamo Road, per the 2016 Transportation System Plan (TSP)(“*Recommended Local Street Connectivity Projects*” Figure 12), at such time that the property is developed.**

**Regarding the “*...Economic provision of public facilities and services...*”, staff finds that the applicant currently uses City streets, parks and other services but does not pay City taxes. By annexing to the City, the applicant’s taxes will contribute to those public facilities and services.**

**Regarding “*...avoiding the unnecessary duplication of facilities or services...*”, annexing the property will eliminate the need for Clackamas County Sheriff’s officers having to respond to calls well within the City limits where City of West Linn Police are better positioned to provide coverage. The criteria is met.**

*Metro 3.09.045 (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.*

**Finding 7: Regarding Metro 3.09.045 (E), staff finds that the property lies inside the Urban Growth Boundary. The criteria is met.**

## **CDC CHAPTER 81, BOUNDARY CHANGES**

### **CDC 81.050 APPROVAL CRITERIA**

The Council shall approve a boundary change proposal based on findings and conclusions that the proposal complies with the criteria of Metro Code Section 3.09.050(D).

**Finding 8: Metro Code Section 3.09.050(D) criteria states that “*To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (D) and (E) of section 3.09.045*”. Staff finds that 3.09.045 (D) and (E) have been addressed above in Finding 6 and 7. The criteria is met.**

### **CDC 81.055 ZONING DESIGNATION**

A decision on annexation shall also incorporate a decision on a zoning designation. The applicant may concurrently apply for a comprehensive plan amendment if desired. Any

approval of an annexation shall designate the City zone to be applied if the annexation is approved by the voters. The City zone shall be designated based upon the existing West Linn comprehensive plan/land use designation, pursuant to the following table:

COMPREHENSIVE PLAN/LAND USE DESIGNATION	ASSIGNED ZONING DISTRICT
Low Density Residential	R-40, R-20, R-15, R-10 or R-7
Medium Density Residential	R-5 or R-4.5
Medium High Density Residential	R-3 or R-2.1
Mixed Use	MU
Commercial	NC, GC, or OBC
Industrial	GI or CI
Other	FU-10

**Finding 9: The Comprehensive Plan designation for this property and surrounding properties is “Low Density Residential”, which permits R-7 to R-40 zones. The proposed zone designation is consistent with R-7 zoning of adjacent residential development to the west, south and east which represents the majority of the property perimeter. The criterion is met.**

*CDC 81.055 (cont.) Where the Council has discretion to apply zoning, the Council shall consider the following factors in making its decision:*

- A. *Specific site characteristics such as topography, drainage, and existing vegetation.*
- B. *The existing zoning and development patterns of surrounding properties.*
- C. *The capacity of the City to provide road, sanitary sewer, storm drainage, and water service to the site.*

**Finding 10: Site characteristics include an average 16 percent slope from the property’s high point of approximately 634 feet at the northwest or front of the property down to an elevation of approximately 550 feet at the southern, or rear property line. The south half of the site is forested. Also, there is an ephemeral stream begins near the center of the parcel.**

**Zoning patterns were addressed in Finding 9. The “development pattern” finds surrounding properties to the south and west are fully built out with single family homes within long**

established subdivisions (see table below). The property to the north has not been annexed and is occupied by one single family home. The property to the northeast is occupied by an assisted living facilities. The property to the east has not yet been annexed (ANX-18-01) and is occupied by one single family home.

Direction	Zoning	Land Use
West	R-7	Single family homes
East	Not Yet Annexed FU-10 (Clackamas County)	Single family homes (ANX-18-01)
North	Not yet annexed FU-10 (Clackamas County) & R-3	Single family home, Tanner Springs Assisted Living Facility, & Cascade Summit Apartments
South	R-7	Single family homes

Utilities have been addressed in Finding 6.

The criteria is met.

## STEP TWO: "LEGISLATIVE/POLICY DECISION"

### **WLMC 2.930 (2) Policy Decision**

(2) *If the annexation is approved in the Step 1 process, the Planning Director shall prepare a report which includes the following information:*

- (a) *General information on the property or properties, including but not limited to location, size, access to infrastructure, recommended zone, protected resource areas and infrastructure status;*
- (b) *Impact on the school district, including but not limited to impacted schools, taxes, and anticipated number of additional students;*
- (c) *Cost to City of infrastructure that is not funded by SDCs; and*
- (d) *Tax implications for the City.*

**Finding 9: The criteria of WLMC 2.930 (2) (a) has been addressed and met in Findings 6, 9 and 10.**

**Regarding the impact on the school district, infrastructure costs and tax implications staff concurs with the findings in the applicant's submittal reprinted below:**

*(School District) "The West Linn-Wilsonville School District Long Range Plan of 2014 identifies student yield factors for single-family detached housing units of 0.31 for K-5, 0.12 for 6-8 and 0.14 for 9-12. This means that development of this property with approximately 12 homes could yield approximately 4 elementary students, 1 middle school student, and 2 high school students. The anticipated 7 students that may enter the school district from these homes will have a negligible effect on the existing schools. The enrollment forecasts for all schools in the district includes build-out of properties in the Urban Growth Boundary, such as this one.*

*The implementation of new capital facilities for schools is funded through municipal bonds. Bonds are prepared based upon estimates of the build-out needs for facilities using the potential for development within the City's Urban Growth Boundary. As new homes are added to the tax base through the conversion of rural lands to urban developments, the larger debt service associated with school bonds is spread across a larger tax base. The tax rates associated with voter-approved debt may drop as a result of the introduction of new homes within the service area. As such, additional students are anticipated will not cause significant impact to the school district. The annexation may have a positive effect on the tax roles for existing debt service associated with current school bonds."*

*(Infrastructure Costs) "All infrastructure needed to support development of this site as a residential subdivision will be installed with future construction as paid for by the developer. Any off-site infrastructure needs (i.e. parks, etc.) will be funded through SDCs. There is no anticipated additional cost to the City for infrastructure that is not funded by SDCs."*

*(Tax Implications) "The City will collect property taxes from the owners of the site once annexed to the City and from the subsequent owners of any new homes build on the property if the property is further developed. The annexation of the subject property closes a gap in the City's boundary and provides for an orderly and well-considered City planning, maintenance, and jurisdictional boundary. The requirements of this section have been satisfied."*

**The criteria is met.**