

Introduction

General Proposal:

This application and responses to criteria is for an annexation into the City of West Linn of 1480 Rosemont Rd. The applicants have been residents of this property since 1967 and since then the property has become one of many “Island” properties in the area. They require this annexation in order to connect to feasible sanitary services.

Site Conditions:

This Property is referred to as Parcel #21E25CA01400. The parcel is a flat tract of land in Clackamas County with a less than 10% grade on the back portion of the property sloping west to east.

Surrounding Land Uses:

The surrounding area is comprised of residential lots of similar size all zoned R-10. Other “Island” properties are located south and east of the property. Several of these are in process for annexation. Wilderness park lies 3 blocks to the south.

Why you believe the application should be approved as you propose it:

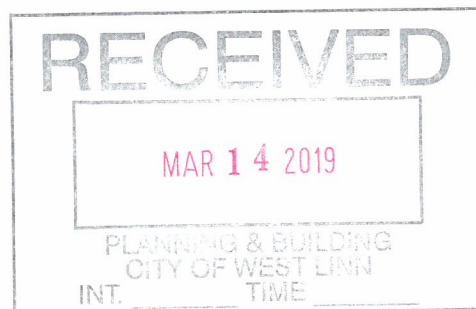
The applicants have been long-standing members of the community and have lived in this house since 1967. They have recently been told that the current septic system is inoperable and unable to be repaired. Therefore, they must connect to City sanitary services in order to maintain acceptable standards of public hygiene and safety. In order to connect to City services, the property must be annexed into the City.

**81.040 PETITION**

A. A petition to annex to the City of West Linn may be initiated by a property owner(s) of the area to be annexed, or the City, as set forth in Section 2.950(1) of the City Code.

**Applicant’s Finding:**

The applicant has submitted the petition for annexation into the City of West Linn. Please see project #ANX-19-01.



A prerequisite to the filing of an annexation petition is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in CDC 99.030(B) and (C).

**Applicant’s Finding:**

Client has completed all necessary pre-application requirements and has been provided the necessary forms. Please see file #PA-18-35.

*B. A petition to annex shall include the completed petition form and three copies of each of the following, except for each drawing submitted, there shall be three copies at the original scale and three copies reduced to a paper size not greater than 11 inches by 17 inches.*

- 1. The minimum petition requirements of Metro Code Section 3.09.040.*
- 2. A narrative which addresses the approval criteria set forth in Municipal Code Section 2.920 and Metro Code Sections 3.09.050(d) and, if applicable, (e).*
- 3. Vicinity, legal, and other descriptive maps necessary to show compliance with Municipal Code Section 2.920 and Metro Code 3.09.040.*

**Applicant’s Finding:**

The applicant has completed all petition forms and provided all required copies as requested.

*C. A petition of any type of boundary change, other than annexation, shall be processed as provided by State law and Metro Code Chapter 3.09.*

**Applicant’s Finding:**

This petition for annexation is proposed in accordance with all applicable sections of the CDC and metro chapter 3.09

*D. The applicant shall pay the requisite fee. The fee for a boundary change shall be established by resolution of the City Council. (Ord. 1442, 1999)*

**Applicant’s Finding:**

Appropriate fees are included with this application.

**81.050 APPROVAL CRITERIA**

*The City 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) and:*

*A. West Linn Municipal Code Section 2.920, Step 1: Land Use Decision.*

- 1. The application of the zoning designation shall follow the criteria in CDC 81.055.*

**Applicant’s Finding:**

See below for responses to applicable criteria to Metro Code sections.

B. *West Linn Municipal Code Section 2.930, Step 2: Policy Decision. (Ord. 1442, 1999; Ord. 1635 § 29, 2014; Ord. 1675 § 52, 2018)*

**Applicant’s Finding:**

See below for responses to applicable Sections of the West Linn Municipal Code.

**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

*Where the City 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.*

**Applicant’s Finding:**

The site is well suited for a R-10 designation. The topography is flat with minimal vegetation. Site slopes west to east at not more than 10% grade. A small stand of trees is located at the rear of the property.

B. *The existing zoning and development patterns of surrounding properties.*

**Applicant’s Finding:**

The surrounding properties in all directions are zoned R-10 and are developed with single-family homes. There are several properties to the west which are also zoned FU-10 and are future candidates for annexation. Other “Island” properties within the City are going through similar processes. Additionally, this site is designated as low density residential. This criteria is met.

C. *The capacity of the City to provide road, sanitary sewer, storm drainage, and water service to the site. (Ord. 1442, 1999; Ord. 1528, 2005; Ord. 1590 § 1, 2009;*

Ord. 1635 § 30, 2014)

### **Applicant's Finding:**

The property is on a main road with City services being provided to adjacent properties. There is an 8" water main as well as sanitary line at the rear of the property. Stormwater connection is 100' from the rear of the property.

#### **105.050 QUASI-JUDICIAL AMENDMENTS AND STANDARDS FOR MAKING DECISION**

*A decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following standards:*

*A. The standards set forth in CDC 99.110(A), which provide that the decision shall be based on consideration of the following factors:*

*1. The applicable Comprehensive Plan policies as identified in subsection C of this section and map designation.*

*2. The applicable standards of any provision of this code or other applicable implementing ordinance.*

*B. The standards set forth in CDC 99.110(B), which provide that, in making the decision, consideration may also be given to the following:*

*1. Proof of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application.*

*2. Factual oral testimony or written statements from the parties, other persons and other governmental agencies relevant to the existing conditions, other applicable standards and criteria, possible negative or positive attributes of the proposal or factors in sub-section A or (B)(1) of this section.*

*C. The Comprehensive Plan, Plan and Ordinance Revision Process, and Specific Policy No. 4, which provides that the decision shall be based on consideration of the following criteria:*

*1. Conformance with the Comprehensive Plan policies and criteria.*

*2. There is a public need for the change or the change can be demonstrated to be in the interest of the present and future community.*

*3. The changes will not adversely affect the health, safety and welfare of the community.*

### **Applicant's Finding:**

**A. The Comprehensive Plan Designation for this property is R-10 Low Density Residential. This request for assignment to zone R-10 is consistent with the goals of the Comprehensive Plan.**

**B. This request for annexation is consistent with the surrounding neighborhood and no mistakes have been found with the Comprehensive**

Plan as it relates to this property.

- C. This application conforms to the requirements of the Comprehensive Plan. Furthermore, it is in the public's best interest to annex these "island" properties into the City. This will provide neighborhood cohesion, uniform access to services and will add to the land use cohesion of the area.

D. *Transportation Planning Rule compliance.*

1. *Review of applications for effect on transportation facilities. When a development application, whether initiated by the City or by a private interest, includes a proposed comprehensive plan amendment zone change or land use regulation change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule: "TPR"). "Significant" means the proposal would:*

a. *Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

b. *Change standards implementing a functional classification system;*  
or

c. *As measured at the end of the planning period identified in the adopted transportation system plan:*

1) *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;*

2) *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or*

3) *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

**Applicant's Finding:**

In accordance with Oregon Administrative Rule (OAR) 660-012-0060, all concerns are met because the annexation of this property and designation as R-10 conforms to the City of West Linn Comprehensive Plan and therefore will not, (i) change the functional classification of an existing or planned transportation facility, (ii) *Change standards implementing a functional classification system,* and (iii) *allow land uses that would produce traffic inconsistent* with the classification, reduce or worsen the performance of existing or planned transportation facility. This annexation and subsequent rezoning to R-10 will not significantly affect a transportation facility and is consistent with the City of West Linn Comprehensive Plan.

## Chapter 2 GOVERNMENT AND ADMINISTRATION

### **2.915 Annexation Purpose Statement.**

(1) *The purpose of Sections 2.915 to 2.940 is to establish a two-step process for annexation applications. The first step is a land use decision. The second step is a policy decision by the City Council to determine if the annexation should be approved. The Step 1 and Step 2 decisions can occur at the same meeting. An annexation to the City shall not be effective unless it is approved by the City Council at its discretion and by Metro pursuant to its authority regarding annexations within its boundaries.*

#### **Applicant's Finding:**

The applicant/owner of the subject site has reviewed the section and is aware of the process prescribed in the above section.

(2) *The procedures and standards established in this chapter are required for review of proposed annexations in order to:*

(a) *Provide adequate public notice, information and sufficient time for public review before annexation hearings and elections;*

(b) *Maximize citizen involvement in the annexation review process; and*

(c) *Provide information to the public concerning the physical, environmental, financial and related social effects of annexation.*

#### **Applicant's Finding:**

The applicant/owner of the subject site has reviewed above section and has met this provision by providing the City required information and analysis in this application.

### **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. If the application receives Council approval through the Step 1 process, the Council shall proceed to Step 2. A determination that the application meets the land use requirements does not obligate the City to approve the annexation application.*

#### **Applicant's Finding:**

Acknowledged. The annexation application/or the subject site has been initiated and the application follows the land use designation of the applicable CDC.



## **2.930 Step 2: Policy Decision.**

*(1) Step 2 of the annexation process is a policy decision and shall follow the steps in the subsections below.*

*(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.*

*(e)*

*(3) Following delivery of the report and consideration of the report by the City Council at a public meeting, the Council may, in its discretion, decide to set a public hearing for the annexation request, delay a public hearing on the requested annexation or pass a resolution placing the annexation request on a ballot for an advisory vote, at any election. At the public meeting, any person may appear and be heard on the questions of whether the annexation should proceed and whether the request should be placed on the ballot for an advisory vote.*

*(4) If City Council decides to proceed to a public hearing on the requested annexation without an advisory vote, a public hearing will be scheduled. Notice of the Step 2 public hearing shall be published in accordance with State law and the Metro Code.*

*(5) The City 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.*

*(6) The City Council may deny an annexation acting in its legislative capacity even after it has approved the annexation application through the Step 1 process. A decision to deny an annexation in Step 2 shall be specifically stated in the record and noted as a legislative act separate and apart from the land use decision in Step 1.*

## **Applicant's Finding:**

**Section 2.930 is met with the following response:**

**Applicant acknowledges the implications considered in weighing this decision for annexation and has responded to such concerns. The applicant agrees to the process as required by the City Council. This property conforms to surrounding zoning characteristics and therefore is a good candidate for annexation.**

## West Linn's Comprehensive Plan

*The following Goals and Policies within the City of West Linn's Comprehensive Plan are applicable and provide guidance regarding the annexation of properties into the City. The City's Comprehensive Plan provides a series of over-arching guidance for growth and development within the City. Structured as a goal setting and policy document, the guidance provided by the Comprehensive plan is meant to inform decisions and create a framework for the Community Development Code, which implements the visions, goals, and policies of the Plan.*

*Goal 2: Land Use Planning*

*Goal 11: Public Facilities and Services*

*Goal 14: Urbanization*

### **Applicant's Finding:**

**Goal 2: Land Use Planning (Residential Development, Comprehensive Plan) 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."**

**Goal 11: Annexation will allow this property to access City services including sanitary and stormwater which are both accessible from the back of the property.**

**Goal 14: This property is within the UGB. With no infrastructure limitations and few site constraints. Annexation will bring this property more into conformity with the City and the surrounding neighborhood. Due to the site conforming to the Comprehensive Plan, R-10 zone is appropriate for the site.**

### **Metro Code:**

#### *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.*

### **Applicant's Finding:**

**Pursuant to ORS 222.125, the applicant submitted certificates of consent signed by 100% of the owners of the property. The criteria are met.**

#### *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.*

*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.*

*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.*

### **Applicant's Finding:**

Although this application does not intend to ask for an expedited decision, if the subject site is qualified, and if such a process is initiated at the City's discretion, the applicant/owner is willing to cooperate with the City for all proper procedures prescribed in this Metro Code Section. This property lies within the UGB.

### Summary/Conclusion

This request for annexation into the City of West Linn conforms to all applicable codes, urban growth planning, and the West Linn Comprehensive Plan. This site has been a long-established residence and is one of a handful of “Island” properties within the City limits. Furthermore, the current infrastructure of the property has decayed to the point that connection to City services is essential. It is in the best interest of the community and neighborhood for this annexation to be approved without delay. We respectfully request you approve our request for annexation into the City of West Linn.