

COUNCIL BILL NO. 3082

ORDINANCE NO. 2565

AN ORDINANCE ANNEXING APPROXIMATELY 150 ACRES OF TERRITORY KNOWN AS THE HAZEL M. SMITH PROPERTY INTO THE CITY OF WOODBURN, LOCATED ADJACENT TO 690 BEN BROWN LANE AND INCLUDING 105 BEN BROWN LANE AND 15198 & 15218 STUBB ROAD, MARION COUNTY, OREGON

WHEREAS, the subject property is owned by Hazel M. Smith Properties LLC, Don Ivan Mametieff, and Anna Kamis with Stafford Land Company LLC as contract purchaser, and is legally described in Exhibit "A" and mapped in Exhibit "B", which are affixed hereto and by this reference incorporated herein; and

WHEREAS, consistent with Oregon Revised Statutes (ORS) 222.111(2) the owner of real property in the territory to be annexed initiated by petition a proposal for annexation, a copy of the petition being on file with the City Recorder (ANX 2017-05); and

WHEREAS, the applicant for the purpose of the Smith Creek Development obtained written consent from the owners of the territory and has requested annexation of the subject property; and

WHEREAS, the property to be annexed is within the City Urban Growth Boundary (UGB); and

WHEREAS, the property to be annexed is contiguous to the City and can be served with City services; and

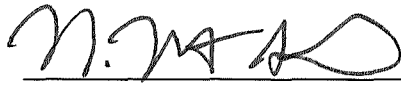
WHEREAS, on October 11, 2018 the Woodburn Planning Commission considered the annexation application and, after a duly advertised public hearing, recommended approval of the annexation; and

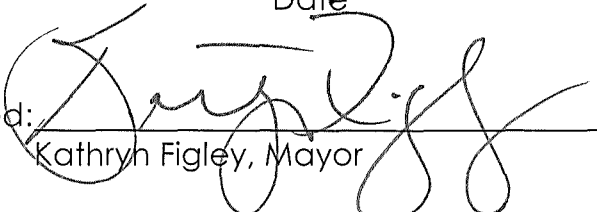
WHEREAS, on October 29, 2018, the Woodburn City Council held a public hearing, reviewed the record, heard all public testimony presented on said application, and upon deliberation concluded that the proposed annexation meets the applicable approval criteria under City of Woodburn Development Ordinance (WDO) 5.04.01C.; **NOW, THEREFORE**,

THE CITY OF WOODBURN ORDAINS AS FOLLOWS:


Section 1. That the subject property, legally described in Exhibit "A" and mapped in Exhibit "B", is annexed to the City of Woodburn.

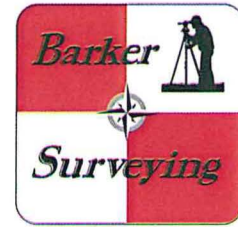
Section 2. That the City Council adopts the Analysis & Findings, affixed hereto as Exhibit "C" and by this reference incorporated herein.

Approved as to form:  11/6/2018
City Attorney Date

Approved: 
Kathryn Figley, Mayor

Passed by the Council November 13, 2018
Submitted to the Mayor November 14, 2018
Approved by the Mayor November 14, 2018
Filed in the Office of the Recorder November 14, 2018

ATTEST: 
Heather Pierson, City Recorder
City of Woodburn, Oregon



Legal Description For:
City of Woodburn
Property to be annexed

A tract of land situated in the southeast one-quarter of Section 12 and all quarters of Section 13, Township 5 South, Range 2 West and the southwest one-quarter of Section 7 and the northwest one-quarter of Section 18, Township 5 South, Range 1 West of the Willamette Meridian, Marion County, Oregon, more particularly described as follows:

Beginning at the northeast corner of Parcel 1, Partition Plat 94-110, as platted and recorded in the Marion County Book of Partition Plats, said point being North 2°25'40" East 22.00 feet from the northwest corner of Lot 12 in SMITH'S ADDITION NO. 4, as platted and recorded in Volume 40, Page 15, Book of Town Plats for Marion County, Oregon; and running thence along the existing City of Woodburn City Limits boundary on the following 16 courses:

thence South 2°25'40" West 343.17 feet along the west line of said SMITH'S ADDITION NO. 4 to the northwest corner of SMITH'S ADDITION NO. 3, as platted and recorded in Volume 32, Page 49, Book of Town Plats for Marion County, Oregon;

thence South 28°15'01" East 262.62 feet along the west line of said SMITH'S ADDITION NO. 3 to an angle point thereof;

thence South 16°42'31" West 1288.67 feet along said west line and the west line of SMITH'S ADDITION NO. 2, as platted and recorded in Volume 29, Page 43, Book of Town Plats for Marion County, Oregon to a point on the north line of that property conveyed to the City of Woodburn in that instrument recorded in Reel 2473, Page 338, Marion County Deed Records;

thence North 67°28'44" West 262.41 feet along said north line to an angle point thereof;

thence North 72°33'09" West 211.00 feet along said north line of the City of Woodburn property to the northwest corner thereof;

thence South 17°23'29" West 207.41 feet to the most Westerly southwest corner of said City of Woodburn property;

thence South 89°37'02" East 211.54 feet along the south line of said City of Woodburn property to an angle point thereof;

thence South 67°31'30" East 581.52 feet along said south line and its Southeasterly extension thereof;

thence South 17°02'17" West 405.87 feet to a point on the north right of way line of Ben Brown Lane;

thence North 67°32'20" West 319.48 feet along said north right of way line;

thence South 19°01'35" West 155.15 feet to a point on the northeasterly line of Parcel 2 in the aforementioned Partition Plat 94-110;

thence North 67°37'02" West 230.97 feet along said northeasterly line to an angle point thereof;

thence North 89°28'02" West 831.61 feet along the north line of said Parcel 2 and the north line of Parcel 3 in said Partition Plat 94-110 to the northwest corner of said Parcel 3;

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Exhibit A

thence South 0°31'03" West 876.29 feet along the west line of said Parcel 3 and its Southerly extension thereof to a point in the centerline of Parr Road (County Road 517);

thence North 89°39'00" West 1195.31 feet along said centerline;

thence leaving said centerline, South 0°21'00" West 30.00 feet to a point on the south right of way line of said Parr Road;

thence North 89°39'00" West 571.61 feet along said south right of way line to an angle point thereof;

thence North 89°41'09" West 64.99 feet;

thence leaving said south right of way line, North 0°18'51" East 60.00 feet to a point on the north right of way line of said Parr Road;

thence South 89°41'09" East 50.00 feet along said north right of way line to a point on the west right of way line of Stubb Road (County Road 517), said road recorded as being 30 feet wide;

thence North 0°20'21" East 1523.14 feet along said west right of way line to the north terminus of said county road;

thence South 89°39'39" East 27.84 feet to the southeast corner of Parcel 2, Partition Plat 2010-33, as platted and recorded in the Marion County Book of Partition Plats;

thence North 0°24'12" East 471.14 feet along the east line of said Parcel 2 to the northeast corner thereof, said point being on the south line of MONTEBELLO 2, as platted and recorded in Volume 44, Page 108, Book of Town Plats for Marion County, Oregon;

thence along the existing City of Woodburn City Limits boundary on the following 7 courses:

thence South 89°35'22" East 859.57 feet along the south line of said MONTEBELLO 2 and its Easterly extension thereof to an angle point in the north line of the aforementioned Parcel 1, Partition Plat 94-110;

thence North 00°34'49" East 23.62 feet to an angle point in said north line, said point being on the Westerly extension of the south line of WOODBURN SENIOR ESTATES NO. 7, as platted and recorded in Volume 22, Page 42, Book of Town Plats for Marion County, Oregon;

thence South 88°57'41" East 1278.98 feet along said Westerly extension and south line to the southeast corner of said WOODBURN SENIOR ESTATES NO. 7;

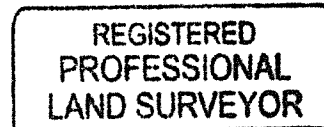
thence North 0°34'30" East 1107.53 feet along the east line of said WOODBURN SENIOR ESTATES NO. 7 to an angle point in the aforementioned north line of Parcel 1, Partition Plat 94-110;

thence South 88°37'48" East 726.07 feet along said north line to an angle point thereof;

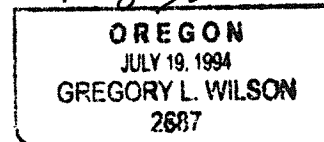
thence North 00°34'33" East 150.18 feet to an angle point thereof;

thence South 88°34'32" East 399.96 feet along said north line to the Point of Beginning, containing 148.57 acres of land, more or less.

Bearings are based on Marion County Survey Record 24089, along the centerline of Parr Road.



Gregory L. Wilson

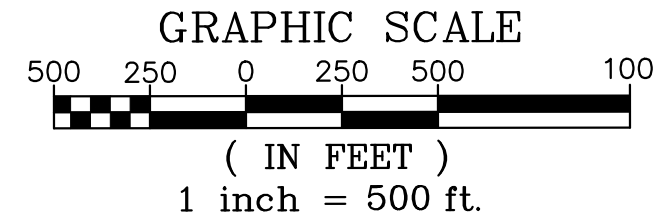
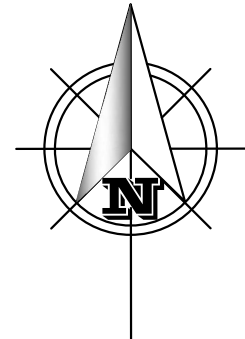
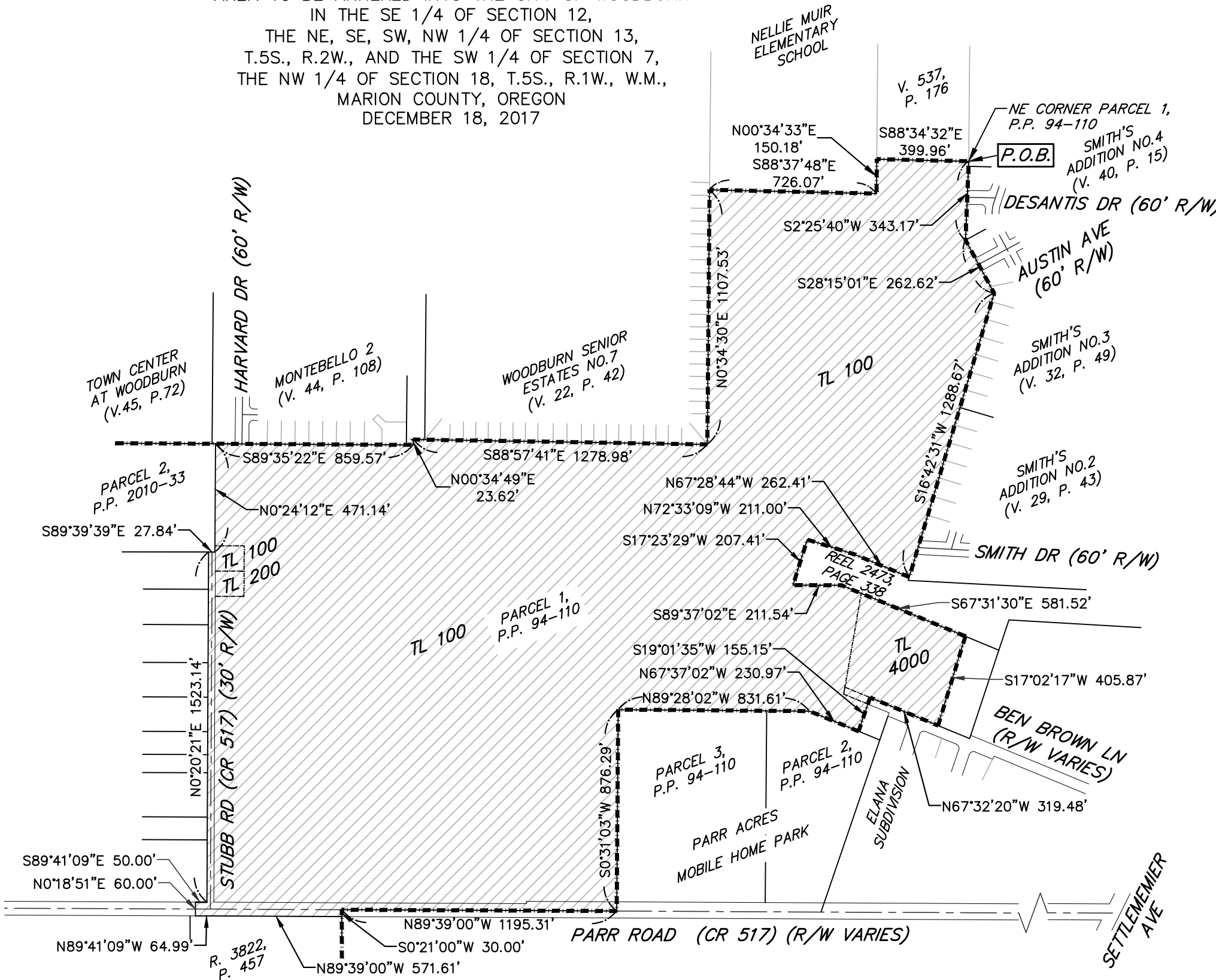


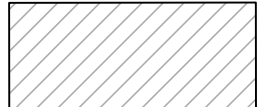

EXPIRES: 6-30-18

E-mail: info@barkerwilson.com

EXHIBIT C-1

AREA TO BE ANNEXED INTO THE CITY OF WOODBURN
 IN THE SE 1/4 OF SECTION 12,
 THE NE, SE, SW, NW 1/4 OF SECTION 13,
 T.5S., R.2W., AND THE SW 1/4 OF SECTION 7,
 THE NW 1/4 OF SECTION 18, T.5S., R.1W., W.M.,
 MARION COUNTY, OREGON
 DECEMBER 18, 2017



 PROPOSED ANNEXATION AREA
 CITY OF WOODBURN CITY LIMITS BOUNDARY



3657 KASHMIR WAY SE
 SALEM, OREGON 97317
 PHONE (503) 588-8800 FAX
 (503) 363-2469
 EMAIL: INFO@BARKERWILSON.COM

Ordinance
 No. 2565
 Exhibit B

Analyses & Findings

This attachment to the staff report analyzes the application materials and finds through statements how the application materials relate to and meet applicable provisions such as criteria, requirements, and standards. They confirm that a given standard is met or if not met, they call attention to it, suggest a remedy, and have a corresponding recommended condition of approval. Symbols aid locating and understanding categories of findings:

<i>Symbol</i>	<i>Category</i>	<i>Indication</i>
✓	Requirement (or guideline) met	No action needed
✗	Requirement (or guideline) not met	Correction needed
⊖	Requirement (or guideline) not applicable	No action needed
▲	<ul style="list-style-type: none"> Requirement (or guideline) met, but might become unmet because of condition applied to meet separate and related requirement that is not met Plan sheets and/or narrative inconsistent Other special circumstance benefitting from attention 	Revision needed for clear and consistent records

Section references are to the [Woodburn Development Ordinance \(WDO\)](#).

“SDA” refers to the site development area that is the whole Smith Creek Development.

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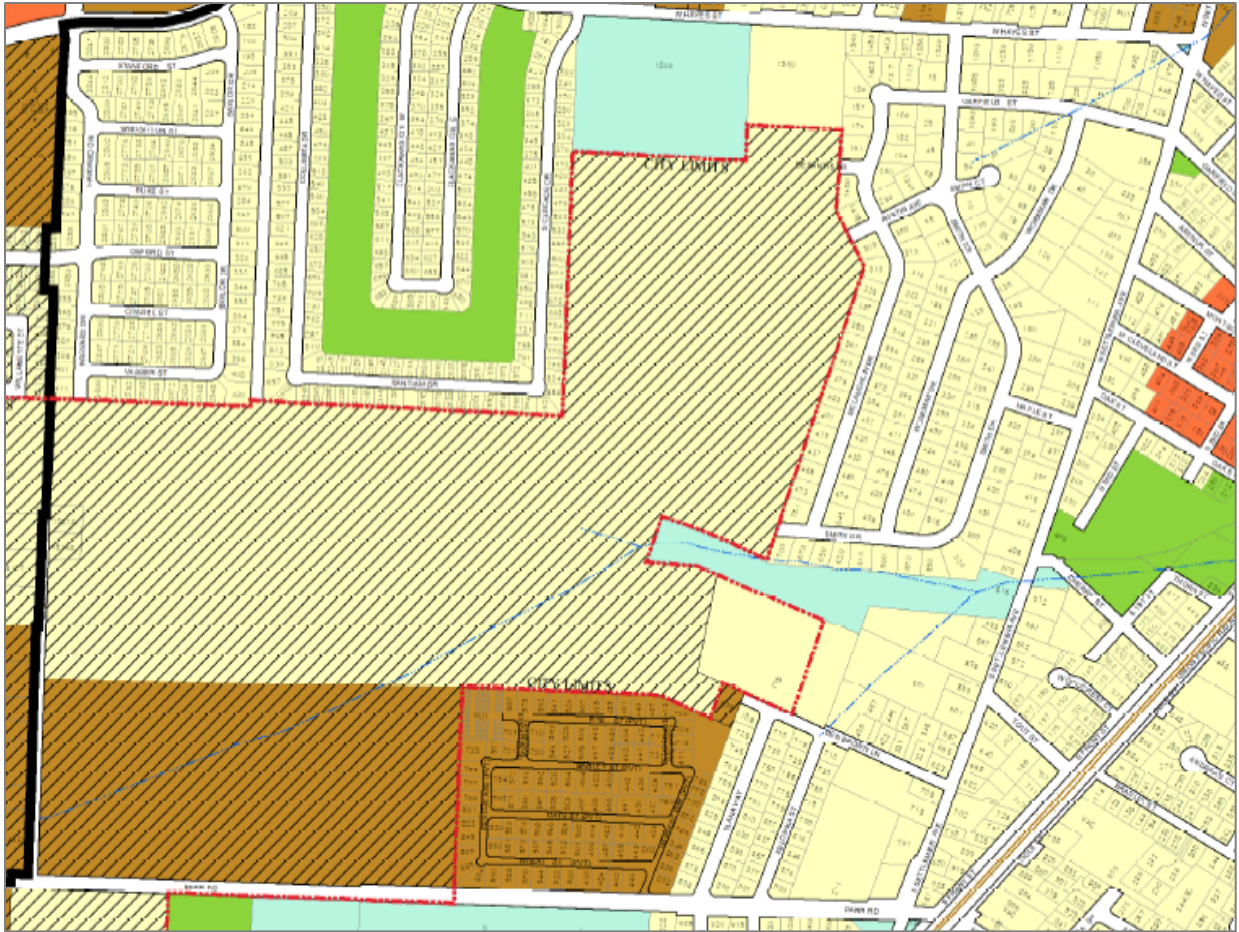
I. Location

<i>Address(es)</i>	690 Ben Brown Lane
<i>Tax Lot(s)</i>	Primary Tax Lot 052W13 00100 with Additional Lots 052W13BD 00100 & 200 and 051W18BC 04000
<i>Nearest intersections (clockwise from north)</i>	<ul style="list-style-type: none"> • McLaughlin and Desantis Drives • McLaughlin Drive and Austin Avenue • McLaughlin and Smith Drives • Ben Brown Lane and Elana Way • Parr and Stubb Roads NE • Harvard Drive and Vasser Street

II. Land Use & Zoning

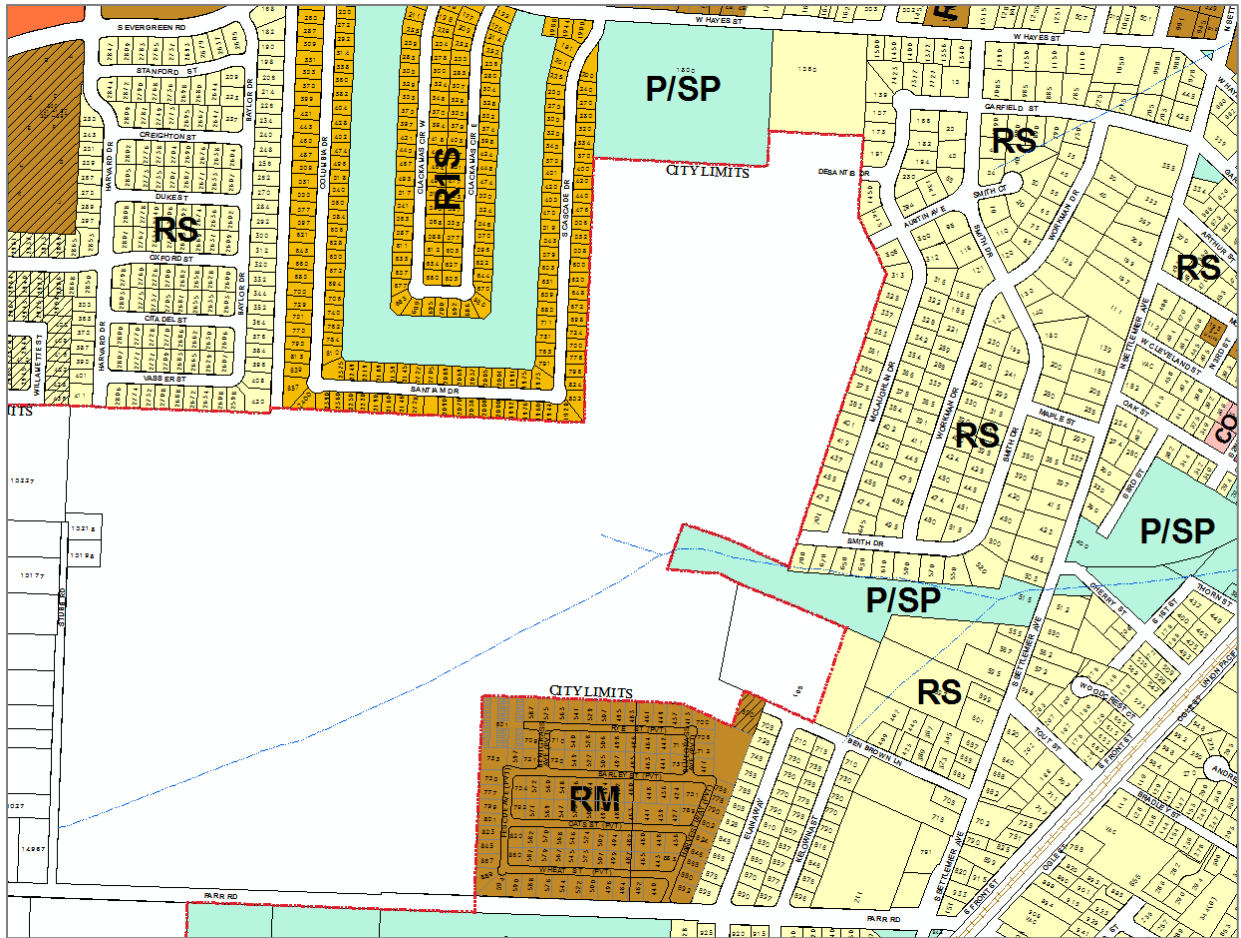
<i>Comprehensive Plan Land Use Designation</i>	In order of greater to lesser land area: Low Density Residential Nodal Development Overlay; Medium Density Residential Nodal Development Overlay; and Low Density Residential
<i>Zoning District</i>	Upon annexation and in order of greater to lesser land area: Nodal Single Family Residential (RSN) Nodal Multi-Family Residential (RMN) Residential Single Family (RS)
<i>Overlay District(s)</i>	Nodal Single Family Residential (RSN)* Nodal Multi-Family Residential (RMN)* Riparian Corridor and Wetlands Overlay District (RCWOD) (*The WDO presents each district as both a base zone in 2.02 and an overlay zone in 2.05.)
<i>Existing Use(s)</i>	Rural dwellings, agriculture

For context, the two images below illustrate respectively the adjacent comprehensive or “comp” plan designations and zoning districts:



Comp Plan Land Use Map Excerpt

<i>Color</i>	<i>Land Use Designation</i>
pale yellow	Low Density Residential
turquoise	Public Use
brown	Medium Density Residential
medium green	Open Space and Parks



Zoning Map Excerpt

Acronym	Zoning District
RS	Residential Single Family
P/SP	Public and Semi-Public
RM	Medium Density Residential
R1S	Retirement Community Single Family Residential

III. Statutory Dates

Application Completeness	July 23, 2018
120-Day Final Decision Deadline	November 20, 2018 per Oregon Revised Statutes (ORS) 227.178 . (The nearest and prior regularly scheduled City Council date is October 22, 2018.)*

Smith Creek ANX 2017-05, PUD 2017-01, et al. October 29, 2018 City Council Staff Report: Post-Approval Revision to Strike Condition T-A4 (Stop sign removals from W. Hayes St at Oregon Way) and add Note to the Applicant 4b per Council motion 10/29/2018; Attachment 102

*However, the Assistant City Attorney had counseled staff on January 16, 2018 that an annexation request is not subject to the 120-day deadline for final action per 227.178(8).

The following applications constitute the Smith Creek Development consolidated applications package:

- Annexation ANX 2017-05
- Master Plan MP 2017-02
- Planned Unit Development: Conceptual Development Plan PUD 2017-01
- Subdivision, Preliminary SUB 2017-01
- Exception to Street Right of Way and Improvement Requirements (“Street Exception”) EXCP 2017-03
- Variance VAR 2017-14, and
- Phasing Plan PP 2017-01.

Because the consolidated applications package include annexation, which per 5.04.01 is a Type IV review with City Council decision and the highest type among the applications, the Planning Commission recommends upon all the applications and the Council decides upon them. The applicant submitted application materials on October 24, 2017 and revised and additional materials through September 19, 2018 (excerpted within Attachment 103).

Analyses &
Findings pages
unrelated to
Annexation
omitted

M. Energy Conservation

M-1. The goal of the City is to encourage conservation of energy in all forms, and to conserve energy itself in the City's operations, buildings, and vehicular use.

M-1.2 The City shall increase its commitment to energy conservation, including alternative energy vehicles, increased recycling, and reduction in out-of-direction travel. The City shall encourage its citizens and visitors to conserve energy. Where feasible, the City should retrofit City buildings and structures so that they may be more energy efficient.

V. Annexation Provisions

5.04.01 Annexation

A. Purpose: The purpose of this Type IV review is to provide a procedure to incorporate contiguous territory into the City in compliance with state requirements, Woodburn Comprehensive Plan, and Woodburn Development Ordinance.

B. Mandatory Pre-Application Conference: Prior to requesting annexation to the City, a Pre-Application Conference (Section 4.01.04) is required. ...

C. Criteria:

- 1. Compliance with applicable Woodburn Comprehensive Plan goals and policies regarding annexation.**
- 2. Territory to be annexed shall be contiguous to the City and shall either:**
 - a. Link to planned public facilities with adequate capacity to serve existing and future development of the property as indicated by the Woodburn Comprehensive Plan; or**
 - b. Guarantee that public facilities have adequate capacity to serve existing and future development of the property.**
- 3. Annexations shall show a demonstrated community need for additional territory and development based on the following considerations:**
 - a. Lands designated for residential and community uses should demonstrate substantial conformance to the following:**
 - 1) The territory to be annexed should be contiguous to the City on two or more sides;**
 - 2) The territory to be annexed should not increase the inventory of buildable land designated on the Comprehensive Plan as Low or Medium Density Residential within the City to more than a 5-year supply;**

- 3) **The territory proposed for annexation should reflect the City's goals for directing growth by using public facility capacity that has been funded by the City's capital improvement program;**
 - 4) **The site is feasible for development and provides either:**
 - a) **Completion or extension of the arterial/collector street pattern as depicted on the Woodburn Transportation System Plan; or**
 - b) **Connects existing stub streets, or other discontinuous streets, with another public street.**
 - 5) **Annexed fulfills a substantial unmet community need, that has been identified by the City Council after a public hearing. Examples of community needs include park space and conservation of significant natural or historic resources.**
- b. **Lands designated for commercial, industrial and other uses should demonstrate substantial conformance to the following criteria: ...**
- D. Procedures:**
1. **An annexation may be initiated by petition based on the written consent of:**
 - a. **The owners of more than half of the territory proposed for annexation and more than half of the resident electors within the territory proposed to be annexed; or**
 - b. **One hundred percent of the owners and fifty percent of the electors within the territory proposed to be annexed; or**
 - c. **A lesser number of property owners.**
 2. **If an annexation is initiated by property owners of less than half of property to be annexed, after holding a public hearing and if the City Council approves the proposed annexation, the City Council shall call for an election within the territory to be annexed. Otherwise no election on a proposed annexation is required.**
- E. Zoning Designation for Annexed Property: All land annexed to the City shall be designated consistent with the Woodburn Comprehensive Plan, unless an application to re-designate the property is approved as part of the annexation process.**
- F. The timing of public improvements is as follows:**
1. **Street dedication is required upon annexation.**
 2. **Dedication of public utility easements (PUE) is required upon annexation.**
 3. **Street improvements are required upon development.**
 4. **Connection to the sanitary sewer system is required upon development or septic failure.**
 5. **Connection to the public water system is required upon development or well failure.**
 6. **Connection to the public storm drain system is required upon development.**

Regarding subsection B., staff hosted the pre-application conference (Pre-App 2017-02) on February 2, 2017 as well as an additional meeting with staff on August 8, 2017 prior to application.

Regarding the criteria of subsection C.:

Smith Creek ANX 2017-05, PUD 2017-01, et al. October 29, 2018 City Council Staff Report: Post-Approval Revision to Strike Condition T-A4 (Stop sign removals from W. Hayes St at Oregon Way) and add Note to the Applicant 4b per Council motion 10/29/2018; Attachment 102
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1. The City comprehensive or “comp” plan, Section G. Growth Management and Annexation contains growth management policies.
 - Staff references Goal G-2.2, as does the applicant in the narrative (Exhibit B). Staff concurs with the applicant and summarizes that the territory can benefit the City through land supply for housing and parkland and fosters an efficient pattern of urban development by developing a larger finger of southwest rural land that lies close to central Woodburn to the east and the developed highway corridor to the north of the territory. Lastly, the applicant submitted the master plan required for any application for annexation within the Nodal Development Overlay comp plan map designation.
 - Staff references Goal G-2.3, as does the applicant. Staff concurs with the applicant and adds that staff and the applicant have negotiated the corollary development applications to propose a development that well directs, shapes, and patterns urban development, transitions smoothly to, from, and along existing development, and efficiently completes City facilities and services, namely street connectivity; potable water, sanitary sewer, and storm water sewer; public parkland; and the Mill Creek Greenway trail.

The applicant cites additional goals, and staff concurs.

2. The territory is contiguous with city limits. The territory would link to planned public facilities with adequate capacity to serve the few existing rural homesteads. Through proposed development and with conditions of approval for the development applications corollary to the annexation application, the territory would guarantee that public facilities have adequate capacity to serve development of the property.
3. The annexation shows a demonstrated community need for additional territory and development based on the following considerations:
 - 1) It is contiguous to the City on at least two sides, generally north and east.
 - 2) The comp plan land use map designates the territory a combination of Low and Medium Density Residential of which the vast majority has also the Nodal overlay. The applicant’s request to annex indicates anticipated market need for housing types such as detached houses and row houses that would be permitted upon application of the RS, RSN, and RMN zoning districts or zones. Also, there is no oversupply of annexed Low or Medium Density Residential because the vast

majority of Low Density Residential land is under active land use entitlement – such as for planned unit development and subdivisions – or building permit reviews or is undergoing construction, such that the supply with the annexation would not exceed five years, and the annexation includes a small portion of Medium Density Residential land within the urban growth boundary (UGB).

Though the project covers a large area, the undeveloped residential land within the UGB is much larger. The annexation does not increase the inventory of buildable land designated on the comp plan map as Low or Medium Density Residential to more than a 5-year supply, meaning more than a quarter of the 20-year total residential supply within the UGB.

Lastly, the narrative (Exhibit B, p. 59) indicates a project build-out of at least five to eight years, meaning development would not saturate the housing market in a single year or two and would provide a supply equal to that timeframe.

- 3) The corollary development will extend two streets major thoroughfares that the City plans for through Transportation System Plan (TSP) Figure 7-1 “Functional Classification Designations” (Attachment 104C): the Ben Brown Lane extension as Access Street Class to a joined Harvard Drive and Stubb Road, Harvard Drive itself also extending to join Stubb Road as Access Street class.
- 4) The territory is feasible for development, being relatively flat former farmland having no obvious physical constraints (other than a broad and shallow depression channeling stormwater to the west tributary of Mill Creek), and is adjacent to existing City infrastructure and Marion County roads and, as described above in 3), both extends and completes the arterial/collector street pattern as TSP Figure 7-1 depicts and connects six existing stub streets (Desantis Drive, Austin Avenue, Smith Drive, Ben Brown Lane, Stubb Road, and Harvard Drive) with extended and new public streets. The annexation includes right-of-way (ROW) of portions of Ben Brown Lane, Parr Road, and Stubb Road. Major infrastructure for the three major utilities – potable water, sanitary sewer, and stormwater management – follow mostly along or under streets. Additionally, the comp plan above and beyond the TSP plans for utility infrastructure through Section I. Public Facilities. Upon development, the City requires improvements of developers to upgrade and extend planned infrastructure.
- 5) The applicant asserts no unmet community need. Because these analyses and findings come before the first public hearing by the Planning Commission, it is yet unknown if annexation fulfills a substantial unmet community need because the

City Council has not yet identified such a need. Examples of community needs include park space and conservation of significant natural or historic resources, and the corollary development does include much Mill Creek greenway area that the developer is to improve and dedicate as park space.

Regarding D., the applicant obtained the requisite written consent and such that no election is needed.

Regarding E., the applicant confirms the proposal includes no request to amend the land use designation or rezone the territory to zones other than those compatible with the comp plan map designations per comp plan Policy Table 1 (Attachment 104B).

Regarding F., the applicant addresses subsection 1. by transferring portions of adjacent ROWs to the City. Regarding subsection 2., Public Works staff indicated that dedication of public utility easements (PUEs) is deferred until the corollary development.

As a single concluding and summarizing statement:

- the territory is within the UGB;
- the territory is designated for low and medium density housing – i.e. houses, manufactured dwellings, corner duplexes, row houses, and multi-family dwellings (colloquially thought of as apartments and condos);
- the applicant’s request to annex and develop indicates market need for new housing stock; and
- Per City plans, the WDO, and conditions of approval, the proposed corollary development will provide needed public facilities benefiting itself and the city at large.

✓ The criteria are met.

VI. Master Plan Provisions

Because the proposal is for annexation of territory that the comp plan map designates as Nodal Development Overlay, 2.05.04C. requires that the applicant present a master development plan to the City Council for its approval. The applicant is the first ever to present a Nodal master development plan.

Analyses &
Findings pages
unrelated to
Annexation
omitted