

COUNCIL BILL NO. 3077

ORDINANCE NO. 2563

AN ORDINANCE ANNEXING APPROXIMATELY 18 ACRES OF TERRITORY KNOWN AS BROWN STREET PROPERTIES INTO THE CITY OF WOODBURN, LOCATED AT 1490, 1550, & 1636 BROWN STREET, MARION COUNTY, OREGON

WHEREAS, the subject property is owned by Icon Construction and Development, LLC, 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 2018-01); and

WHEREAS, the applicant, Icon Construction and Development, LLC, 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 June 28, 2018 the Woodburn Planning Commission considered the annexation application and, after a duly advertised public hearing, recommended approval of the annexation; and

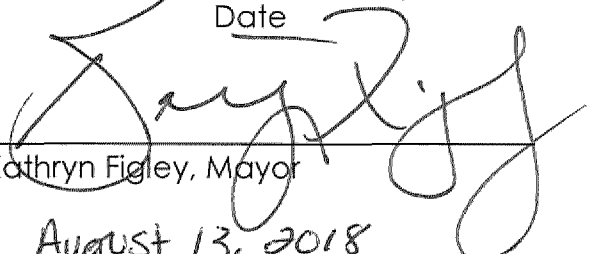
WHEREAS, on August 13, 2018, the Woodburn City Council held a public hearing, reviewed the record, heard all public testimony presented on said application, and upon deliberation concluded that the proposed annexation meets the applicable approval criteria under City of Woodburn Development Ordinance (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:  8/13/2018
City Attorney Date

Approved: 
Kathryn Figley, Mayor

Passed by the Council August 13, 2018
Submitted to the Mayor August 15, 2018
Approved by the Mayor August 15, 2018
Filed in the Office of the Recorder August 15, 2018

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



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

729 Molalla Avenue, Ste. 1 and 2, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "A"
Annexation
Legal Description

A Tract of land being conveyed to Zinalda Toran in Reel 3480, Page 62, Recorded March 8, 2013, along with a Tract of land conveyed to DMHP, LLC in Reel 2867, Page 57, Recorded September 17, 2007, Marion County Deed Records, property recorded in Reel 3250, Page 474, and a portion of Brown Street, conveyed to Marion County by Deed Recorded August 10, 1973, Marion County Deed Records, located in the Southwest 1/4 of Section 18, Township 5 South, Range 1 West of the Willamette Meridian, County of Marion, State of Oregon, being more particularly described as follows:

BEGINNING at the most Easterly Southeast corner of the Peter Raymond Donation Land Claim No. 58, being coincident with the Southeast corner of that Tract of land conveyed to Don Forbes in Reel 3250, Page 474, recorded January 12, 2011, Marion County Deed Records; thence along the Claim line between said Raymond DLC and the Claim line of the Neil Johnson DLC No. 69, S89°41'00"W, 223.43 feet to a 3/4 inch iron pipe, being an angle point in said Raymond Claim line; thence continuing along said Raymond Claim line, S01°16'00"W, 85.12 feet to an 3/4 inch iron pipe; thence along the South line of said Forbes Tract, S90°00'00"W, 200.58 feet to a 5/8 inch iron rod set in Survey No. 18989, Marion County Survey Records, being on the East line of Partition Plat No. 2001-74, Marion County Plat Records; thence along said East line, N01°32'20"W, 293.49 feet to the Northeast corner of said Partition Plat; thence along the North line of said Partition Plat, S89°58'01"W, 30.01 feet to the East line of that Tract of land conveyed to Ivan Tipikin and Vera Tipikin in Reel 977, Page 46, Recorded December August 10, 1992, Marion County Deed Records; thence along said East line of said Tipikin Tract, the East line of that Tract of land conveyed to Ronald H. Southard and Lisa G. Southard in Reel 138, Page 510, Recorded September 8, 1978, Marion County Deed Records, the East line of that Tract of land conveyed to Richard E. Hart and Linda C. Hart in Reel 1659, Page 302, Recorded December 27, 1999, Marion County Deed Records, N01°32'20"W, 600.31 feet to the Northeast corner thereof; thence along

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APR 19 2018

COMMUNITY DEVELOPMENT
DEPARTMENT

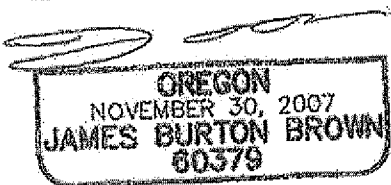
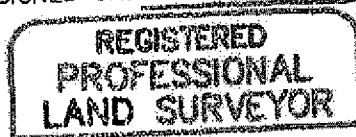
South line of that Tract of land conveyed to DMHP, LLC in Reel 2867, Page 57, Recorded September 17, 2007, Marion County Deed Records, N90°00'00"W,

260.62 feet to the Southwest corner thereof; thence along the West line of said Tract, N00°33'40"W, 411.29 feet to the Northwest corner thereof; thence along the North line of said Tract, S88°57'30"E, 253.77 feet to the Northeast corner thereof; thence along the East line of that Tract of land conveyed to Gertrude Vasquez in Reel 1425, Page 81, Recorded September 12, 1997, Marion County Deed Records, N01°32'20"W, 163.58 feet to the Northeast corner of said Vasquez Tract; thence along the Easterly extension of said North line, S90°00'00"E, 30.01 feet to a point being 30.00 feet West of the West line of that Tract of land conveyed to Martin Edward Fleck and David George Bradley in Reel 2699, Page 359, Recorded August 31, 2006, Marion County Deed Records when measured at right angles; thence Westerly of, Parallel with, and 30.00 feet distant from said West line, N01°32'20"W, 163.78 feet to a point on the South Right of Way line of Vine Avenue; thence along said South line, N90°00'00"E, 30.01 feet to the West line of that Tract of land conveyed to Martin Edward Fleck and David George Bradley in Reel 2699, Page 359, Recorded August 31, 2006, Marion County Deed Records; Thence along the West line of said Fleck and Bradley Tract S01°32'20E, 328.45 feet to the Southwest corner of said Fleck and Bradley Tract; thence along the South line of said Fleck and Bradley Tract, being coincident with the North line of that Tract of Land conveyed to Zinalda Toran in Reel 3480, Page 62, Recorded March 8, 2013, Marion County Deed Records, S88°57'30"E, 658.72 feet to a 5/8 inch iron rod set at the Northeast corner of said Toran Tract, and the East line of said Raymond Land Claim in said Survey No. 18989; thence along said East line, S10°44'38"W, 1222.14 feet to the **POINT OF BEGINNING**.

CONTAINS 842,375 Square Feet More or Less.

Subject to Easements of Record.

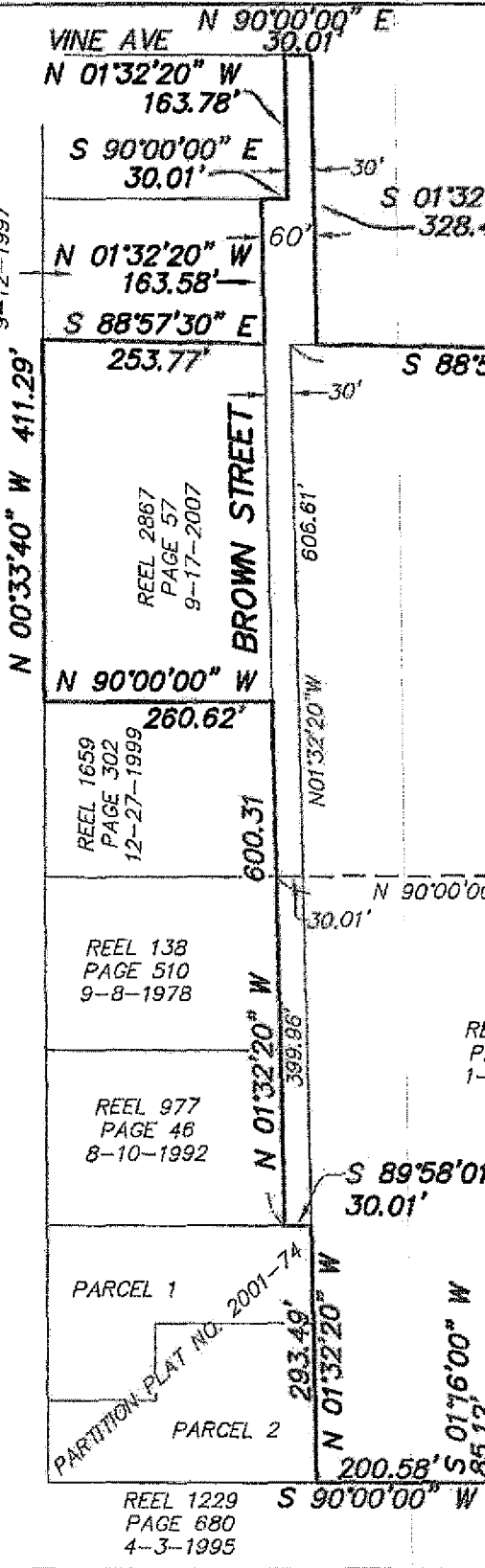
SIGNED ON: 2-13-2018



VALID THROUGH DECEMBER 31, 2017

SOUTHWEST 1/4 OF SECTION 18,
TOWNSHIP 5 SOUTH, RANGE 1 WEST
OF THE WILLAMETTE MERIDIAN.

REEL 1425
PAGE 81
9-12-1997



REEL 2699
PAGE 359
8-31-2006

REEL 3480
PAGE 62
3-8-2013

EAST LINE PETER
RAYMOND DLC NO. 58

REEL 1554
PAGE 151
12-30-1998

POINT OF
BEGINNING
MOST EASTERLY
SE CORNER PETER
RAYMOND DLC NO. 58

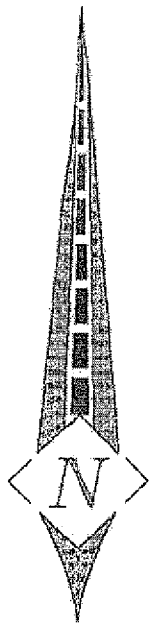
SIGNED ON: 2-13-2018

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
NOVEMBER 30, 2007
JAMES BURTON BROWN
60379

VALID THROUGH DECEMBER 31, 2019

NEIL JOHNSON
DLC NO. 69



CLIENT: ICON
ORIG. DATE: JANUARY 23, 2018
DRAWN BY: JBB
SHEET No. 1 of 1

EXHIBIT "B"
ANNEXATION
MARION COUNTY, OREGON
Scale: 1"=200'

CENTERLINE CONCEPTS
LAND SURVEYING, INC.
729 MOLALLA AVE., SUITE 1 & 2
OREGON CITY, OREGON 97045
PHONE 503.650.0188 FAX 503.650.0189

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

Section references are to the Woodburn Development Ordinance (WDO).

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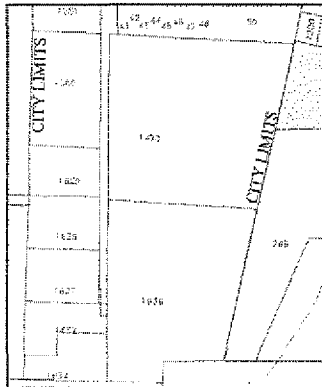
Location

<i>Address(es)</i>	1490, 1550, & 1636 Brown St
<i>Tax Lot(s)</i>	052W12BC 06600
<i>Nearest intersection</i>	Brown Street and Vine Avenue

Land Use & Zoning

<i>Comprehensive Plan Land Use Designation</i>	Low Density Residential
<i>Zoning District</i>	Residential Single Family (RS), upon annexation
<i>Overlay District(s)</i>	none
<i>Existing Use(s)</i>	Rural dwellings

For context, the zoning is illustrated and tabulated below:



Zoning Map Excerpt

<i>Cardinal Direction</i>	<i>Adjacent Zoning</i>
North	No City zoning because not yet annexed; would be RS
East	Northerly: Public and Semi-Public (P/SP) [Mill Creek and wetlands]; Southerly: RS
South	Easterly: No City zoning because not yet annexed; would be Medium Density Residential (RM) Westerly: N/a because outside the Urban Growth Boundary (UGB)
West	RS

Statutory Dates

<i>Application Completeness</i>	May 15, 2018
<i>120-Day Final Decision Deadline</i>	September 15, 2018 per Oregon Revised Statutes (ORS) <u>227.178</u> . (The nearest and prior regularly scheduled City Council date is September 10, 2018.)*

*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).

Annexation Provisions

Because the proposal is for annexation, per 5.04 it requires a Type IV review with City Council decision. The applicant submitted application materials on April 19, 2018 and revised and additional materials on May 17, 2018 (excerpted within Attachment 103).

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 2017-04) on May 31, 2017.

Regarding the criteria of subsection C.:

1. The City comprehensive or “comp” plan, Section G. Growth Management and Annexation contains growth management policies, but none that address annexation directly. The territory to be annexed is within the Woodburn Urban Growth Boundary (UGB) and so in this way is consistent with the comp plan. The applicant cites policies including G-2.2(b) as relevant and met:

“G-2.2 Woodburn will achieve more efficient utilization of land within the City by: ...
(b) Providing the opportunity for the urban in-fill of vacant and under-utilized property that is currently unincorporated and surrounded by the City.”

Staff concurs. The territory of approximately 18.0 acres contains three houses and is part of a lacuna in city limits. Annexation meets the goal for filling in much of the gap and allowing redevelopment from rural to urban residential density. Assuming a developer’s rule of thumb that net acreage entails a loss of 30% of gross acreage, and with the comp plan establishing for single-family houses a minimum density of 5.2 dwelling units per net acre, the territory could accommodate approximately 65 houses.

2. The territory is contiguous to the City. Per the comp plan and with implementation through the WDO, upon development of the territory the City would require improvements that guarantee that public facilities have adequate capacity to serve such development. The Public Works Department identified no impediments to serve the existing three houses, which remain dependent on septic tanks.

Additionally, regarding the western context of the territory, the applicant’s narrative (p. 2) states:

“The subject property needs to be annexed to the City to allow for the most efficient use of public facilities planned for this area. Storm sewer to service future phases of the Boones Crossing subdivision needs to cross this site. Boones Crossing Phase 4 is located adjacent to and west of the subject property. A needed pump station to service these future phases of Boones Crossing is proposed to be located on the subject property and would also provide for sewer service to the proposed annexation area.”

Staff concurs. Attachment 104 illustrates the location of adjacent Boones Crossing Phase IV, and p. 19 of Attachment 103 is the “shadow plat” illustrating an east-west linear open space and stormwater management tract with a public sewer pump station to serve a region including Boones Crossing and potential development of the territory.

3. Examining the considerations under subsection a.:

- 1) The territory to be annexed is contiguous to city limits on two sides – east and west.
- 2) The comp plan land use map designates the territory Low Density Residential. The applicant’s request to annex indicates anticipated market need for housing types such as detached houses and corner duplexes that would be permitted upon application of the RS zone. Also, there is no oversupply of annexed Low Density Residential because the vast majority of such 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.
- 3) The annexation includes Brown Street right-of-way (ROW) and extends City limits along this major thoroughfare. Major infrastructure for the three major utilities – potable water, sanitary sewer, and stormwater management – follow along or under streets. The Transportation System Plan (TSP), Figure 7-1 (Attachment 105) indicates long-range planning for Brown Street to extend south to the edge of the UGB along which an as-yet-unnamed southern Minor Arterial class road would connect west to Butteville and east across Mill Creek to U.S. 99E / N. Pacific Highway. 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. In turn, the City capital improvement plan (CIP) correspondingly budgets for such planned infrastructure.

Additionally, regarding the western context of the territory and sanitary sewerage in particular, the applicant’s narrative (p. 2) states:

“The public facilities in this area are either available or, in the case of a sanitary sewer pump station needed to service Boones Crossing and the subject property, will be fully funded under the terms of an adopted development agreement, specifically the ‘Statutory Development Agreement for Phases 3, 4, 5, and 6 of the Boones Crossing Planned Unit Development between City of Woodburn, Oregon; Premier Development, LLC; Woodburn Development, LLC; Nancy Bocchi; and Faye Zimmer’ executed December 12, 2016 with recordation dated December 20, 2016 as Marion County Reel 3893, Page 245.”

Staff concurs.

- 4) The mostly flat site with no obvious physical constraints (other than a northerly broad and shallow depression channeling stormwater east towards Mill Creek) is

physically feasible for urban residential redevelopment. Regarding subsection a), development would extend Brown Street, which TSP Figure 7-1 classifies as a Service Collector. Subsection b) is not applicable.

- 5) The applicant asserts no unmet community need, and the Council has not yet identified such a need.

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 a zone other than RS.

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

✓ The criteria are met.

Applicant Identity

<i>Applicant</i>	Mark Handris, Owner & Residential Project Manager Icon Construction and Development, LLC
<i>Applicant's Representative</i>	Rick Givens, Planning Consultant
<i>Landowner(s)</i>	Woodburn Development LLC (all three lots); Icon Construction and Development, LLC (also for Tax Lot 200 only)