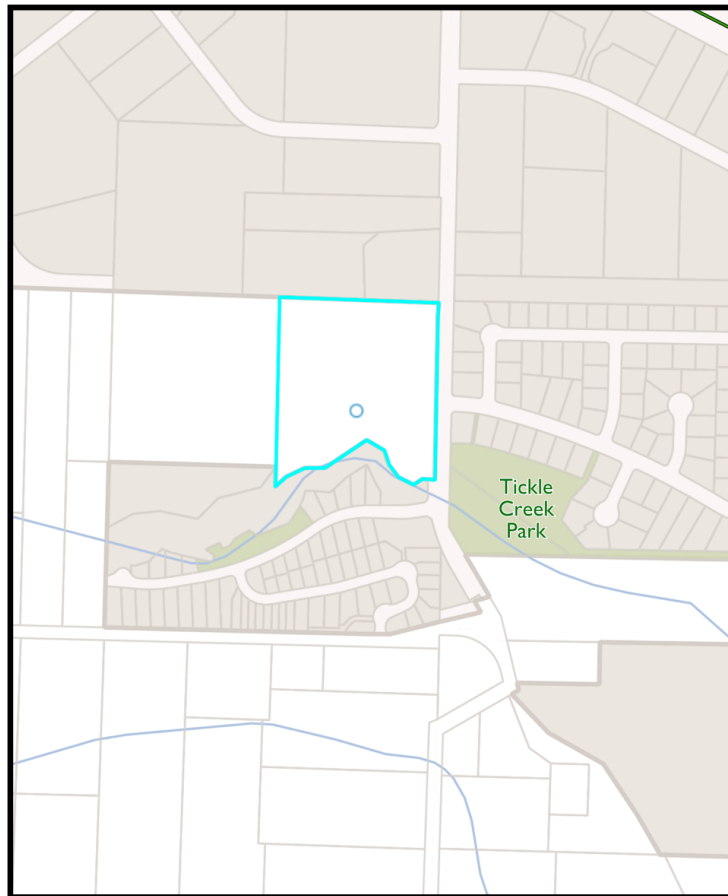


Annexation Request Narrative

for

Schmitz Property
17151 362nd Drive, Sandy



March 2022

I. Project Description

Mac Even, Even Better Homes requests City Council approval to annex the property owned by Alfred Schmitz located at 17151 SE 362nd Drive into the City of Sandy. The annexation area is a single property containing 9.5 acres +/- and is legally described as 24E15AD tax lot 100. The subject property is located within the Sandy Urban Growth Boundary and is contiguous to the existing city limits along its southern and eastern boundaries. The property contains an existing single family home and Tickle Creek flows through the southern portion of the property.

The property is currently zoned by Clackamas County as “RRFF-5” and has a “Rural” county Comprehensive Plan designation. The property carries a conceptual Comprehensive Plan Designation of Medium Density Residential and a conceptual Zoning Designation of Medium Density Residential (R-2). The applicant requests a Type ‘B’ Annexation to annex the subject property, assign the R-2 zoning designation and map the Restricted Development Area and FSH Overlay on the property.

A pre-application conference was held with the city on June 2, 2021 to review the requirements for this application.

II. Items Submitted with this Application

- General Land Use Application
- Supplemental Annexation Application No. 1
- Supplemental Annexation Application No. 2
- Notification Area Map, List, and Mailing Labels
- Project Narrative
- FSH Overlay Map
- Annexation Area Map
- Annexation Area Legal Description

III. Review of Applicable Approval Criteria

17.26.00 ZONING DISTRICT AMENDMENTS

Response: In association with this annexation request, the applicant requests the Medium Density Residential zoning designation be applied to the property as determined the 2040 Plan process. A portion of the property is also affected by the Flood and Slope Hazard (FSH) Overlay associated with Tickle Creek, a perennial stream, a wetland, and steep slopes. The submitted application request approval to refine mapping of this Overlay on the property.

CHAPTER 17.78 ANNEXATION

Chapter 17.78 contains the procedures and standards for reviewing annexation requests.

17.78.10 - Procedural Considerations

- A. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or are modified as provided herein unless mandated by State Law.

- B. The City may annex an island if it is less than 100 acres and has at least 80 percent of its boundary contiguous to the City; or the land is of any size and has at least 80 percent of its boundary contiguous to the City if the area to be annexed existed as an island before October 20, 1997.
- C. The City may annex land for public facilities. Public facilities include but are not limited to schools, senior centers, roads, police and fire stations, parks or open space, and public water, sewer and storm drainage facilities.

RESPONSE: The procedural considerations in this section are not pertinent to the proposed annexation request.

17.78.15 - Types of Annexation

- A. Type A: Annexation in conformance with conceptual zoning designation
- B. Type B: Annexation + zone change
- C. Type C: Annexation + plan map change + zone change

RESPONSE: The applicant requests a Type B annexation to assign the R-2 zoning designation in conformance with the city's conceptual zoning for the property. In addition, the applicant also requests approval of a zone change to refine FSH Overlay mapping on the property as part of the annexation process.

17.78.20 - Conditions for Annexation

The following conditions must be met prior to beginning an annexation request:

- A. The requirement of Oregon Revised Statutes, Chapters 199 and 222 for initiation of the annexation process are met;
- B. The site must be within the City of Sandy Urban Growth Boundary (UGB); and
- C. The site must be 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.
- D. The site has not violated Section 17.78.25.

RESPONSE: The proposed annexation complies with the requirements of Chapters 199 and 222 and the Oregon Revised Statutes as allowed by the provisions of Senate Bill 1573. As shown on the official Zoning Map for the, the subject property is located within the City of Sandy Urban Growth Boundary. The proposed annexation area is contiguous to the existing city limits along its southern and eastern boundaries. As shown on the Annexation Area Map submitted with this application, a 20 foot strip of land exists to the north of the subject property that is not legally part of the property and for this reason it is not included in the annexation request. Following extensive research, it was determined the owner of the subject property does not own this 20 foot strip and it has been incorrectly mapped as the same tax lot by Clackamas County. As discussed below, the applicant is not aware of any tree removal on the property and the tree retention requirements of Section 17.78.25 have not been violated. The proposed annexation meets all of the conditions in this section required prior to annexation.

17.78.25 - Tree Retention

The intent of this section is to treat property with annexation potential (in the UGB) as if it had been subject, prior to annexation, to the tree retention provisions of the City's Urban Forestry Ordinance (Chapter 17.102) and Flood and Slope Hazard (FSH) Overlay District (Chapter 17.60), to discourage property owners from removing trees prior to

annexation as a way of avoiding Urban Forestry Ordinance provisions, and to prevent unnecessary tree removal for future subdivision layout. In accordance with ORS 527.722, the State Forester shall provide the City with a copy of the notice or written plan when a forest operation is proposed within the UGB. The City shall review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

- A. Properties shall not be considered for annexation for a minimum of ten years if any of the following apply:
1. Where any trees six inches or greater diameter at breast height (DBH) have been removed within 25 feet of the high water level along a perennial stream in the ten years prior to the annexation application.
 2. Where more than two trees (six inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 80 feet of the high water level of Tickle Creek in the ten years prior to the annexation application.
 3. Where more than two trees (six inches or greater DBH) per 500 linear feet have been removed in the area between 25 feet and 50 feet of the high water level along other perennial streams in the ten years prior to the annexation application.
 4. Where any trees six inches or greater DBH have been removed on 25 percent or greater slopes in the ten years prior to the annexation application.
 5. Where more than ten trees (11 inches or greater DBH) per gross acre have been removed in the ten years prior to the annexation application, except as provided below:
 - a. Sites under one acre in area shall not remove more than five trees in the ten years prior to the annexation application.
 - b. Sites where removal of ten or fewer trees will result in the site not meeting the minimum tree retention requirements of Chapter 17.102, Urban Forestry.
 - c. For properties in or adjacent to the Bornstedt Village Overlay (BVO), tree removal must not result in fewer than six healthy 11 inch DBH or greater trees per acre. For properties in or adjacent to the BVO and within 300 feet of the FSH Overlay District, tree removal must not result in fewer than nine healthy 11 inch DBH or greater trees per acre.

Rounding: Site area shall be rounded to the nearest half acre and allowed tree removal shall be calculated accordingly. For example, a 1.5 acre site will not be allowed to remove more than 15 trees in the ten years prior to the annexation application. A calculation of 1.2 acres is rounded down to one acre and a calculation of 1.8 is rounded up to two acres.

Cumulative Calculation: Total gross acreage includes riparian areas and other sensitive habitat. Trees removed under Sections 17.78.25.A.2. and A.3. shall count towards tree removal under Section 17.78.25.A.5.

RESPONSE: *The applicant is not aware of any tree removal that has occurred on the subject property within the last ten years. For this reason, the subject property is eligible for annexation per this section.*

- B. *Exceptions.* The City Council may grant exceptions to this section where:
1. The property owner can demonstrate that Douglas Fir, Western Red Cedar, or other appropriate native trees were planted at a ratio of at least two trees for every one tree removed no less than ten years prior to the submission of the annexation application, and at least 50 percent of these trees have remained healthy; or
 2. The Council finds that tree removal was necessary due to hazards, or right-of-way or utility facilities or access; or
 3. The trees were removed because they were dead, dying, or diseased and their condition as such resulted from an accident or non-human cause, as determined by a certified arborist or other qualified professional; or
 4. The trees removed were nuisance trees; or
 5. The trees were removed as part of a stream restoration and enhancement program approved by the Oregon Department of Fish and Wildlife as improving riparian function; or
 6. The trees removed were orchard trees, Christmas trees, or commercial nursery trees grown for commercial purposes; or
 7. The application of this section will create an island of unincorporated area.
- RESPONSE:** *The requirements of this section are not applicable.*

17.78.30 - Zoning of Annexed Areas

- A. All lands within the urban growth boundary of Sandy have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The zoning classification shall reflect the city land use classification as illustrated in Table 17.26.20.
- B. Where only a single city zoning designation corresponds to the comprehensive plan designation (Type A) and the rezoning decision does not require the exercise of legal or policy judgment on the part of the city council, amendment of the zoning map shall be a ministerial decision of the director made without notice or any opportunity for a hearing.
- RESPONSE:** *The annexation area is identified on the City’s Comprehensive Plan Map to have a Medium Density Residential (MDR) designation and on the City’s Zoning Map to have a R-2 Medium Density Residential (R-2) zoning designation. The applicant requests these designations be applied with annexation.*

Section 17.78.40 - Existing use, activity or structure

- A. As of the effective date of annexation, no use or activity shall be considered non-conforming if the use or activity: (1) violates or conflicts with county zoning regulations and (2) is not classified as non-conforming under county zoning regulations. Any such use or activity shall constitute a violation of this chapter.
- B. Any use, activity or structure that is existing at the effective date of annexation, under a Clackamas County use permit with a time limit imposed, shall not be a non-conforming use, but may continue for the extent of the time limit. Such use permits may not be extended without City approval.
- C. Any lot or parcel of land duly recorded in the Clackamas County Recorder’s Office prior to the effective date of the ordinance from which this chapter is derived and having an area, width, depth, or street frontage less than that required in the Zoning

District regulations in which such lot or parcel is situated, shall be deemed to be a lot and may be used as a building site, provided that all other regulations for the Zoning District shall apply.

RESPONSE: *These sections are not applicable. No use on the subject property is considered non-conforming or violates any Clackamas County regulations.*

17.78.50 - Annexation Criteria

Requests for annexation shall not have an adverse impact on the citizens of Sandy, either financially or in relation to the livability of the city or any neighborhoods within the annexation area.

- A. Except as provided in subsection B. of this section, an application to annex property into the city shall meet the following criteria:
1. The application demonstrates how the property will be served by adequate public facilities and services, including sanitary sewer, domestic water, transportation, internet and parks. Public facilities and services must be provided in a manner consistent with the City's adopted public facility plans, comprehensive plan, transportation system plan, parks and trails master plan, and any applicable area plan or master plan. The application must demonstrate how the public facilities and services will be provided to the property in an orderly, efficient, and timely manner.

RESPONSE: *As reviewed below, public facilities and services will be provided to the property in an orderly, efficient, and timely manner.*

Sanitary Sewer - *An existing sanitary sewer line is located on the east side of 362nd Avenue and along the southern boundary of the subject property. This facility has adequate capacity to serve future development.*

Water - *An existing water line is located in 362nd Avenue to serve development on the subject property. This facility has adequate capacity to serve future development.*

Transportation - *Development of the site will be accessed by an internal street system platted with subdivision approval. As shown on the City's 2011 Transportation System Plan, an extension of Dubarko Road/Champion Way is located on the property will need to be included. The applicant will submit a traffic impact study with submittal of a subdivision application as required.*

Internet - *Internet service will be extended to the subject property with development of the property.*

Other Utilities - *Natural gas and electrical service is readily available to serve development of the property.*

Parks - *An existing park is located in the Salmon Creek Estates Subdivision across Tickle Creek south from the subject property. This facility appears to be adequate to serve a proposed development on the property. A final*

determination of park needs will be evaluated as part of a future subdivision application process.

2. The application demonstrates how impacts to existing City public facilities and services (sewer, water, stormwater, and transportation) from development of the property will be mitigated, if necessary. Mitigation may include construction of on-site or off-site improvements or improvements to existing infrastructure to City standards and specifications. The application must demonstrate adequate funding for the mitigation. If the financing requires City funds, the funding must be approved by the City Council prior to annexation. The City may rely on the standards and criteria of SMC Chapter 17.84 (Improvements Required with Development) and other relevant standards and criteria in the comprehensive plan or development code to analyze an applicant's proposed mitigation of impacts. In order to ensure adequate public facilities and services will exist to serve property annexed to the City, an applicant may be required to enter into an agreement with the City that governs the extent and timing of infrastructure improvements.

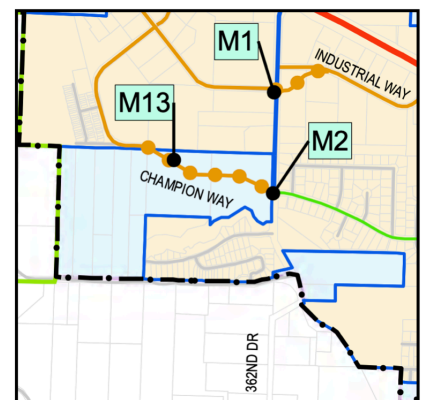
RESPONSE: *Impacts associated with development of the property will be evaluated as part of a future development application. No mitigation to any public facilities and services has been identified. Costs associated with serving future development on the site will be paid for by the development and through the collection of system development charges.*

3. The application demonstrates that the annexation and proposed zoning is consistent with the Transportation Planning Rule (TPR) or explains that the TPR analysis is not required.

RESPONSE: *The subject property was brought into the Urban Growth Boundary and has been planned for future urbanization since at least 1997 with adoption of the 2040 Plan by Ordinance No. 11-97. Therefore, the city has indicated that TPR findings are not required as part of this application.*

4. The annexation is in the best interest of the City. Generally, the annexation is in the best interest of the city if it meets one or more of the following criteria:
 - a. A needed solution for existing problems, resulting from insufficient sanitation, water service, or other urban service related problems; or
 - b. Land for development to meet urban needs and that meets a logical growth pattern of the city and encourages orderly growth; or
 - c. Needed routes for utility and transportation networks.

RESPONSE: *All annexation requests are required to meet one or more of the above criteria. The proposed annexation area is contiguous to the existing city limits along its southern and eastern boundaries and the subject property has been located within the UGB since at least 1997. The location of the proposed annexation area represents a logical*



growth pattern of the city limits in compliance with Criteria B. Figure 15, Motor Vehicles System Plan, of the 2011 Transportation System Plan above shows the conceptual location of a future collector street identified as project M13 on the subject property. Annexation and future development of this property will help to ensure construction of this “needed” transportation facility as detailed in the TSP. As detailed in this section, the proposal complies with both Criteria B and C of this section.

- B. The standards described in paragraphs A.1. and A.2. above do not apply to:
1. An application to annex property that is smaller than one acre.
 2. An "island" annexation under ORS 222.750.
 3. An annexation for which the City has executed an annexation agreement and the agreement allows for A.1. and A.2. to be delayed until development is proposed.
- RESPONSE:** *The exceptions in this section do not apply to the proposal.*

Section 17.78.60 - Application submission requirements

Requests for annexation shall be made on forms provided by the city for such purposes and shall be accompanied by all of the following:

- A. Written consent form to the annexation signed by the owners of all land to be annexed.
- B. A legal description certified by a registered surveyor or engineer.
- C. The application fee established by the city.
- D. A list of property owners within 1,000 feet of the subject property and two sets of mailing labels.
- E. Vicinity map showing the area to be annexed including adjacent city territory.
- F. Site Plan drawn to scale (not greater than one inch = 50 feet), indicating:
 1. The location of existing structures (if any);
 2. The location of streets, sewer, water, electric and other utilities, on or adjacent to the property to be annexed;
 3. Approximate or surveyed location of areas subject to regulation under Chapter 17.60, Flood and Slope Hazard (FSH) Overlay District, including, but not limited to, wetland boundaries, streams, top of bank, buffers, areas of 25 percent or greater slope, restricted development areas, and the FSH analysis area. If the applicant wants to avoid an additional zone map modification request at time of development, then these areas will need to be surveyed at the time of annexation application submittal.
- G. Narrative Statement Explaining the Proposal and Addressing.
 1. Availability, capacity and status of existing water, sewer, drainage, transportation, fire, and park facilities;
 2. Additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand;
 3. Ability to adhere to adopted City plans including, but not limited to, the Transportation System Plan, Parks and Trails Master Plan, Comprehensive Plan, and Specific Area Plans; this analysis may be deferred if the applicant enters into an annexation agreement as provided in Section 17.78.50.B.; and,
 4. Method and source of financing required to provide additional facilities, if any.
- H. Transportation Planning Rule Findings, if Applicable.

RESPONSE: All applicable items in this section are included with the annexation application package.

V. Conclusion

Mac Even, Even Better Homes as applicant requests a Type 'B' Annexation to annex the property owned by Alfred Schmitz in conformance with the city's conceptual Comprehensive Plan and Zoning Map. In addition, the applicant proposes to refine the FSH Overlay mapping on the property as part of this application. The annexation area is a single property located at 17151 SE 362nd Dive, containing 9.5 acres +/- and legally described as 24E15AD tax lot 100. The subject property is located within the Sandy Urban Growth Boundary and is contiguous to the existing city limits along its southern and eastern boundaries. As reviewed in this narrative the proposal meets the city's conditions for annexations in Section 17.78.20, does not violate the tree retention requirements of Section 17.78.25, and complies with both criteria B and C of Section 17.78.50. The applicant respectfully requests this application be approved.