



NO. 2021-29

AN ORDINANCE APPROVING ANNEXATION OF ONE PROPERTY TOTALING APPROXIMATELY 15.21 ACRES AND ASSIGNING GENERAL COMMERCIAL ZONING IN CONFORMANCE WITH THE CONCEPTUAL ZONING MAP.

WHEREAS, the City of Sandy submitted the application on behalf of Miller Family Trust and Douglas and Barbara Rebok Revocable Trust (File No. 21-041 ANN) requesting annexation of one parcel approximately 15.21 acres in size and known as 16370 Royal Lane, and requested that General Commercial (C-2) zoning be assigned to the property in conformance with the conceptual zoning map.

WHEREAS, ORS chapter 222 (Boundary Changes) and Sandy Municipal Code Chapter 17.78 (Annexation) identify the procedures to be followed by the City for the proposed annexation;

WHEREAS, pursuant to ORS 222.127, the proposed annexation may not be submitted to the voters;

WHEREAS, notice of the proposed annexation was sent to the Department of Land Conservation and Development on July 29, 2021. A separate notice was sent to the property owners and other property owners within 500 feet of the subject property on August 19, 2021. Notice of the annexation including a legal description of the property was published in the Sandy Post on September 15, 2021;

WHEREAS, the Sandy Planning Commission reviewed the annexation application at a public hearing on September 27, 2021 and recommended City Council approve the annexation with the conditions of approval identified in the staff report; and

WHEREAS, the Sandy City Council reviewed the annexation application at a public hearing on October 18, 2021 and determined the application complies with the criteria in ORS chapter 222 and the Sandy Municipal Code Chapter 17.78.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1: Based on the testimony and evidence in the record, the City Council adopts the findings in the October 18, 2021 staff report as its own, including the conditions of approval and any interpretations of the Sandy Municipal Code set forth therein.

Section 2: The City Council directs staff to amend the city boundary and to provide notice of the annexation to other agencies and organizations as required by state law.

Section 3: Following adoption of this Ordinance, the zoning designation for the subject property will be changed to C-2, General Commercial as shown on the adopted zoning map.

Section 4: A legal description and map of the property are attached to this ordinance as Exhibits A and B.

THIS ORDINANCE IS ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 18TH DAY OF OCTOBER, 2021.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 18 day of October 2021



Stan Pulliam, Mayor

ATTEST:



Jeff Aprati, City Recorder

EXHIBIT "A"

October 11, 2021

Annexation

A parcel of land, as shown on attached Exhibit "B", lying in the Southeast One-Quarter of the Southwest One-Quarter of Section 11, Township 2 South, Range 4 East of the Willamette Meridian, Clackamas County, Oregon, and being all of that tract of land described and conveyed to Douglas E Rebok and Barbara A Rebok, Trustees of the Douglas and Barbara Rebok Revocable Trust, established February 16, 2005, in Quitclaim Deed, recorded February 24, 2020 as Document No. 2020-013007, Clackamas County Deed Records; said parcel being more particularly described as follows;

Beginning at the southeast corner of said Document No. 2020-013007, said point bears S88°58'38"E, as measured along the south line of said Section 11, 2652.94 feet from a 3-1/4" bronze disk marking the section corner common to sections 10, 11, 14 and 15, Township 2 South, Range 4 East of the Willamette Meridian, Clackamas County Oregon.

Thence N88°58'38"W, along the south line of said Document No. 2020-013007, 712.45 feet to the most southerly southwest corner thereof;

Thence N01°27'53"E, along the most southerly west line of said Document No. 2020-013007, 330.01 feet to an interior corner thereof;

Thence N88°58'38"W, along the most westerly south line of said Document No. 2020-013007, 594.02 feet to the most westerly southwest corner thereof;

Thence N01°27'53"E, along the most northerly west line of said Document No. 2020-013007, 329.09 feet to the northwest corner thereof;

Thence S88°50'34"E, along the north line of said Document No. 2020-013007, 1305.09 feet to the northeast corner thereof;

Thence S01°20'44"W, along the east line of said Document No. 2020-013007, 656.02 feet to the Point of Beginning.

The parcel of land to which this description applies contains 662,586 square feet or 15.20 acres more or less.

This legal description, along with the Basis of Bearings thereof, is based on the Oregon State Plane Coordinate System-North Zone. The South Line of Document No. 2020-013007, Clackamas County Deed Records was Held to be N88°58'38"W.

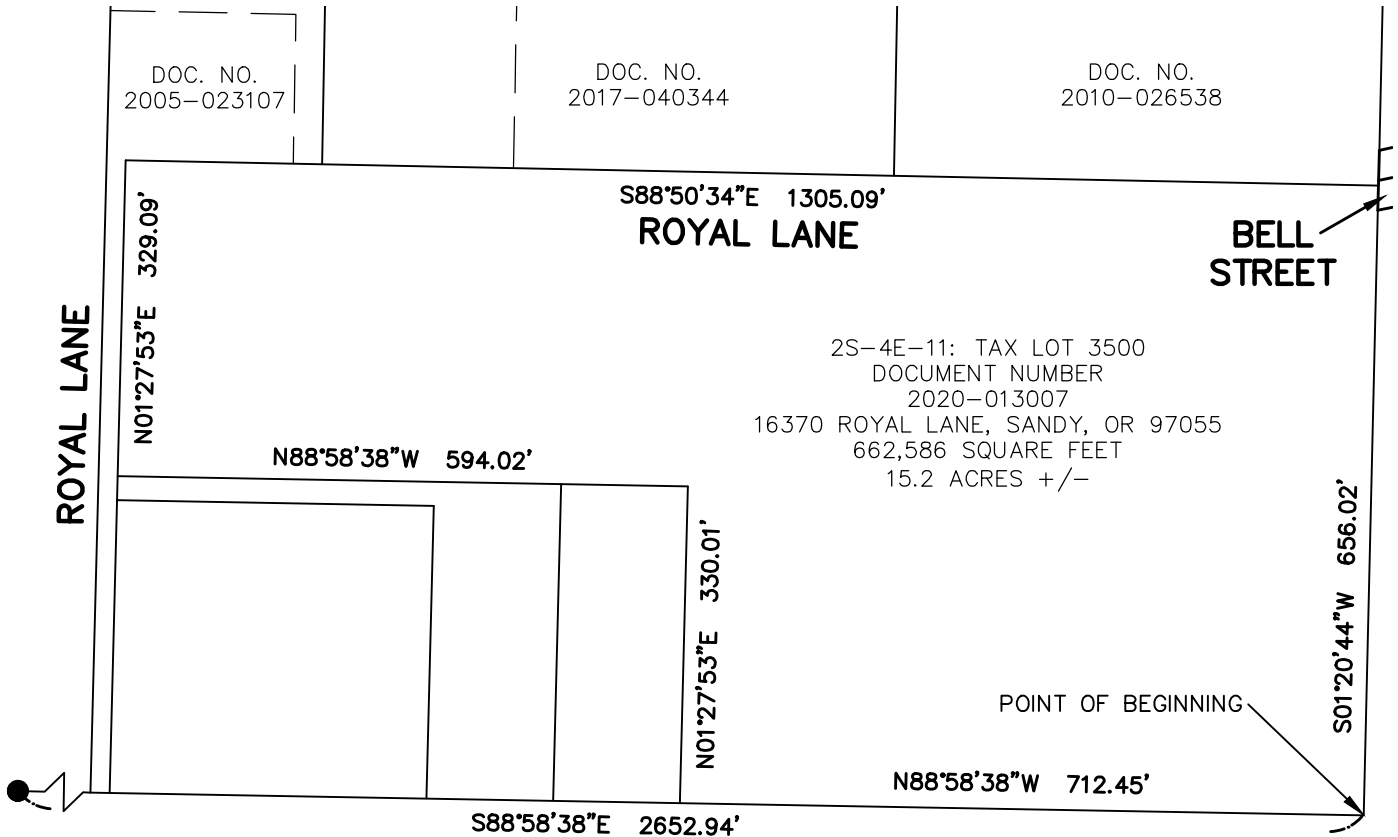


RENEWS: 12/31/2021

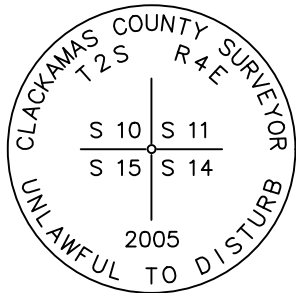
EXHIBIT "B"

ANNEXATION EXHIBIT MAP

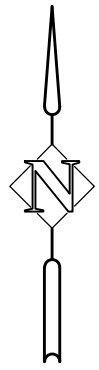
LOCATED IN THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 11,
TOWNSHIP 2 SOUTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON



2S-4E-11: TAX LOT 3500
DOCUMENT NUMBER
2020-013007
16370 ROYAL LANE, SANDY, OR 97055
662,586 SQUARE FEET
15.2 ACRES +/-



3-1/4" BRONZE DISK
SECTION CORNER COMMON
TO SECTIONS 10, 11, 14 AND 15,
T.2S., R.4E., W.M.
CLACKAMAS COUNTY, OREGON
PER USBT ENTRY 2005-065



SCALE
1" = 200'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

John T. Campbell
OREGON
JULY 15, 2003
JOHN T. CAMPBELL
60070 LS

EXPIRES 12-31-21



Harper
Houf Peterson
Righellis Inc.

ENGINEERS ♦ PLANNERS
LANDSCAPE ARCHITECTS ♦ SURVEYORS

205 SE Spokane Street, Suite 200, Portland, OR 97202
phone: 503.221.1131 www.hhpr.com fax: 503.221.1171

SDY-06 TMW 10/11/2021 PAGE 1 OF 1

SEE ATTACHED
LEGAL DESCRIPTION

**CITY COUNCIL STAFF REPORT
TYPE IV LAND USE PROPOSAL**

This proposal was reviewed as a Type IV Annexation. The following exhibits and findings of fact explain the proposal and support the staff recommendation.

MEETING DATE: October 18, 2021

FILE NO.: 21-041 ANN

PROJECT NAME: Annexation of 16370 Royal Lane

APPLICANT: City of Sandy

OWNER: Miller Family Trust, Douglas and Barbara Rebok Revocable Trust

LEGAL DESCRIPTION: 24E11, Tax Lot 3500

TABLE OF CONTENTS:

EXHIBITS..... 2

FINDINGS OF FACT..... 3

GENERAL FINDINGS..... 3

ANNEXATION – CHAPTER 17.78 5

RECOMMENDATION..... 7

CONDITIONS OF APPROVAL 7

EXHIBITS

Applicant's Submittals:

- A. Land Use Application from Miller Family Trust
- B. Authorization Letter from Rebok Revocable Trust
- C. Supplemental Annexation Form
- D. Supplemental Land Use Application Form
- E. Project Narrative
- F. Preliminary Title Report
- G. Legal Description
- H. Pre-application Notes

Agency Comments:

- I. Fire District No. 72 Fire Marshal (August 24, 2021)

Public Comments:

- J. Joe and Teresa Smith (August 24, 2021)

Additional Documents:

- K. Planning Commission Staff Report from September 27, 2021

FINDINGS OF FACT

GENERAL FINDINGS

1. These findings are based on the applicant's submittal received on July 1, 2021. This report is based upon the Exhibits listed above as well as an agency comment from the Fire District (Exhibit I).
2. The subject site is approximately 15.21 acres. The site is located at 16370 Royal Lane.
3. The parcel has a Comprehensive Plan Map designation of Retail/Commercial and a conceptual zoning map designation of General Commercial (C-2). The property has a County zoning designation of RRFF-5 (Rural Residential Farm Forest, 5 acre).
4. The City of Sandy is requesting annexation of 16370 Royal Lane on behalf of the Miller Family Trust and Douglas and Barbara Rebok Revocable Trust. The annexation area includes 15.21 acres and the conceptual zoning designation for the property is General Commercial (C-2). The primary reason for the annexation is to accommodate the future extension of Bell Street, but the annexation will also allow the 15.21 acres to develop as an urban use.
5. On page 5 of the project narrative (Exhibit E) the applicant asked to elevate this annexation request directly to City Council and bypass the Planning Commission recommendation. The Development Services Director did not agree to this request and scheduled hearings before the Planning Commission and City Council in compliance with Section 17.78.70.
6. The project narrative (Exhibit E) includes information on the FSH Overlay that is located on the subject property. Since this application is for annexation and not development, an FSH Overlay review is not relevant at this time but will be applicable upon future development of the property. In accordance with the submission requirements in Section 17.78.60 (F)(3) the applicant may submit either an approximate or surveyed location of the FSH Overlay boundaries to fulfill the annexation application submission requirement; however, a surveyed location of the FSH overlay will be required at the time of development. The existing mapped FSH overlay on the zoning map details the approximate boundaries of the FSH and will be applied as part of the zone change that will occur with the annexation; however, the existing FSH overlay is not based on a survey. Surveying the exact location of existing streams and wetlands is important to define setback requirements. The existing conceptual location of Bell Street is crossing a wetland on the subject property and the conceptual location of Kate Schmitz appears almost entirely in a wetland on the subject property. Because the applicant is proposing to only submit an approximate FSH location with this annexation application, the Planning Commission recommended adding the following condition in compliance with Section 17.78.60(F.3): **The applicant and/or property owner shall survey the FSH boundaries prior to any road construction (Bell Street or Kate Schmitz Avenue) and prior to any further development of the subject property. If the survey determines that the existing FSH Overlay boundary is correct then no map corrections are needed, but if the survey reveals that the existing FSH Overlay boundary is incorrect then a zone map amendment shall be required.** A zone map amendment is a Type IV process. If the FSH Overlay boundary needs to be updated in the future based on the survey, staff recommends the applicant consider applying for the zone

change separate from any development proposals to avoid elevating the entire development proposal to a Type IV review.

7. Notification of the proposed application was mailed to affected agencies on August 17, 2021 and to surrounding property owners within 1,000 feet of the subject property on August 18, 2021. The proposal was submitted to DLCD on July 29, 2021.
8. A legal notice was printed in the Sandy Post on September 15, 2021.
9. According to the Fire District No. 72 Fire Marshal (Exhibit I), **all future construction activities shall comply with the applicable Oregon Fire Code. Fire apparatus access and fire protection water supply shall be reviewed and approved by the Sandy Fire District. All other requirements submitted by the Fire Marshal shall be conditions for future development.**
10. As of publication of this staff report, one public comment has been received. The public comment from Joe and Teresa Smith (Exhibit J) was supportive of this annexation request.
11. On September 27, 2021 the Planning Commission reviewed the proposed annexation. The Planning Commission added a condition related to surveying the FSH Overlay boundary and forwarded a recommendation of approval to the City Council by a vote of 7:0.

ANNEXATION – Chapter 17.78

12. Section 17.78.15 explains the types of annexation. Because the applicant is proposing to defer the FSH overlay survey to the time of development and, therefore, is not proposing any changes to the existing mapped FSH overlay at this time, this proposal qualifies as a Type A annexation, which is an annexation in conformance with the City’s conceptual zoning designations.
13. Section 17.78.20 details conditions for annexation.
 - a. Subsection (A) requires that ORS standards for annexation be met. Staff has determined that the process that Sandy uses to annex properties meets state requirements.
 - b. Subsection (B) requires that the property be within Sandy’s Urban Growth Boundary (UGB). The subject property is located in the UGB.
 - c. Subsection (C) explains that the site must be contiguous to the city or separated from it only by a public right-of-way. The site is surrounded by city limits. Page 4 of the project narrative (Exhibit E) includes diagrams detailing how the city limits line would be modified if the subject property is annexed.
14. Section 17.78.25 outlines requirements for tree retention and prohibits certain properties from being annexed if their respective property owners removed a certain number of trees within ten years of the application. Staff has not identified any significant tree removal from the subject property within the last ten (10) years. **Prior to any future tree removal on the subject property the applicant shall apply and receive approval for a tree removal permit in compliance with Chapter 17.102 and potentially Chapter 17.60. Removal of trees without a permit after annexation shall be enforced in compliance with Chapter 17.06.**
15. Section 17.78.30 explains that all lands within the urban growth boundary have been classified according to the appropriate city land use designations as noted on the Comprehensive Plan map. The applicant requests that the current Comprehensive Plan map of Retail/Commercial and the conceptual zoning designation of General Commercial (C-2) be applied to the property upon annexation.
16. Section 17.78.40 includes information on existing uses and structures. The subject property has an existing house and associated accessory building. If the subject property is annexed these structures will be existing non-conforming uses. Once located in city limits, any future development of the property would need to adhere to the uses in the General Commercial (C-2) zoning district.
17. Section 17.78.50 details annexation criteria. On pages 16-19 of the project narrative (Exhibit E) the applicant explains how the subject annexation request meets the applicable annexation criteria. While this analysis completed by the applicant is appreciated by staff, Section 17.78.50(B.2) allows for “island” annexations under ORS 222.750 without completing the analysis in Sections 17.78.50 (A.1.) and (A.2.). Currently, the subject property is within an unincorporated island. Generally, it is good planning practice to annex land within unincorporated islands. Furthermore, since this property was located inside the UGB at the

time of the last Transportation System Plan (TSP) adoption this subject property is not subject to TPR finding requirements in Section 17.78.50 (A.3).

18. In conformance with Section 17.78.50 (A.4.c.) the proposed annexation is in the best interest of the City of Sandy as it provides for a needed transportation connection (i.e., Bell Street) as defined in the Transportation System Plan.
19. Section 17.78.60(F.3) requires the applicant to submit a site plan detailing the 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. As previously addressed in Finding #6, the subject property already has an approximate location of the FSH overlay mapped on the City's zoning map. The applicant is not proposing to survey the FSH boundaries as part of the annexation process; therefore, the FSH boundaries will need to be surveyed prior to future development. At the September 27, 2021 Planning Commission hearing, the Commission recommended adding a condition of annexation as follows in compliance with Section 17.78.60(F.3): **The applicant and/or property owner shall survey the FSH boundaries prior to any road construction (Bell Street or Kate Schmitz Avenue) and prior to any further development of the subject property. If the survey determines that the existing FSH Overlay boundary is correct then no map corrections are needed, but if the survey reveals that the existing FSH Overlay boundary is incorrect then a zone map amendment shall be required.**

RECOMMENDATION

The Planning Commission recommends the City Council **approve** this Type IV Annexation request subject to the conditions of approval below.

CONDITIONS OF APPROVAL

1. The zoning map designation for this property shall be General Commercial (C-2) with the Flood and Slope Hazard (FSH) Overlay on a portion of the property as identified on the zoning map.
2. The comprehensive plan map designation for this property shall be Retail/ Commercial.
3. The applicant and/or property owner shall survey the FSH boundaries prior to any road construction (Bell Street or Kate Schmitz Avenue) and prior to any further development of the subject property. If the survey determines that the existing FSH Overlay boundary is correct then no map corrections are needed, but if the survey reveals that the existing FSH Overlay boundary is incorrect then a zone map amendment shall be required.
4. Any future development shall meet the Sandy Municipal Code requirements.
5. Stormwater treatment and detention conforming to Chapters 13.18 and 13.20 of the Sandy Municipal Code shall be required upon further development of the property.
6. Prior to any future tree removal on the subject property the applicant shall apply and receive approval for a tree removal permit in compliance with Chapter 17.102 and potentially Chapter 17.60. Removal of trees without a permit after annexation shall be enforced in compliance with Chapter 17.06.
7. All future construction activities shall comply with the applicable Oregon Fire Code. Fire apparatus access and fire protection water supply shall be reviewed and approved by the Sandy Fire District. All other requirements submitted by the Fire Marshal shall be conditions for future development.