



ORDINANCE NUMBER 2021-02

**AN ORDINANCE OF THE CITY OF MOLALLA, OREGON
ANNEXING TAX LOT 52E05 02002; A 5.97 ACRE PARCEL LOCATED
NORTH OF TOWN BETWEEN RACHEL LANE AND VICK ROAD, AND ASSIGNING
AN R-1 (LOW DENSITY RESIDENTIAL) CITY ZONING DESIGNATION
TO THE ANNEXED TERRITORY**

WHEREAS, The City of Molalla Charter, Chapter X, Section 38 requires petitions to annex territory into the City limits to be submitted to the electors of the City; and

WHEREAS, ORS 222.127 supersedes City Charters and Ordinances requiring a petition to annex territory into the City limits to be submitted to the electors of the City, and requires cities to follow a separate framework for Annexation under certain circumstances; and

WHEREAS, The circumstances are present in this application that require the City to apply ORS 222.127 in lieu of the City Charter annexation of territory; and

WHEREAS, The property owners submitted an application for Annexation of Tax Lot 52E05 02002; a 5.97 parcel located north of town, within the current Urban Growth Boundary, between Rachel Lane and Vick Road; and

WHEREAS, the City of Molalla is authorized to annex territory under Oregon Revised Statutes (ORS) Chapter 222 and Molalla Municipal Code (MMC) Sections 17-1.2.060, Table 17-4.1.010, and 17-4.1.050; and

WHEREAS, the owners submitted a concurrent Annexation and Zone Change application assigning an R-1 (Low-Density Residential) City zoning designation as prescribed by the Molalla Comprehensive Plan to The Property; and

WHEREAS, Public Notice of the Annexation request and the Zone Change request was separately provided consistent with both MMC Section 17-4.1.050.C and ORS 227.186; and

WHEREAS, the Molalla City Council conducted a legislative Public Hearing on January 27, 2021, where Council heard and considered testimony and evidence presented by the City staff, the Applicant, and those appearing at the Public Hearing; and

Ordinance No. 2021-02: An Ordinance Annexing Tax Lot 52E05 02002, a 5.97 Acre Parcel Located N. of Town

WHEREAS, after the conclusion of the Public Hearing Council determined the annexation is consistent with all applicable legal requirements of state law, and City Ordinances related to annexing property and voted to approve the application; and

WHEREAS, after the conclusion of the Public Hearing Council determined the Zone Change is consistent with all applicable legal requirements of state law, and City Ordinances related to annexing property and voted to approve the application.

Now, Therefore, the City of Molalla does ordain as follows:

Section 1. The Council approves and endorses the annexation application for the Property described in Exhibit 1, and shown in Exhibit 2 and Exhibit 3 (the property);

Section 2. The existing Clackamas County zoning for the Property, Exclusive Farm Use (EFU) is changed to the R-1 (Low-Density Residential) City zoning designation in accordance with the City of Molalla Comprehensive Plan;

Section 3. The findings in support of the annexation and Zone Change, attached as Exhibit 4 and incorporated herein by reference, are hereby adopted.

Section 4. Notice to Utilities. In accordance with ORS 222.005, the City Recorder shall, no later than 10 working days after passage of this Ordinance of the proposed annexation, provide by certified mail to all public utilities operating within the City, each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change and a copy of the City Council's Ordinance approving the annexation.

Section 5. Notice to County. In accordance with ORS 222.010, the City Recorder shall report to the Clackamas County Clerk and County Assessor all changes in the boundaries of limits of the City. The report shall be filed by the City within 10 days from the effective date of this Ordinance.

Section 6. Assessor Valuation. In accordance with ORS 222.030 the City Recorder shall request that the County Assessor furnish within 20 days of official request, a statement showing for the current fiscal year assessed valuation of the Property.

Section 7. Notice to Secretary of State. In accordance with ORS 222.177 the City Recorder shall transmit to the secretary of State:

- a) A copy of this Ordinance proclaiming the annexation.
- b) A copy of the statement of consent for all electors or landowners of the Property who consented to the annexation under ORS 222.170.

Section 8. Effective Date. This Ordinance shall be effective 30 days after adoption by the City Council and approval by the Mayor.

The first reading of this Ordinance was held on January 27, 2021 and was passed by a vote of ____ Aye and ____ Nay votes.

The second reading of this Ordinance was held on _____ and was adopted by a vote of ____ Aye and ____ Nay votes.

This Ordinance is hereby adopted this ____ day of _____ 2021.

Scott Keyser, Mayor

ATTEST:

Christie DeSantis, City Recorder

EXHIBIT 1 - Warranty Deed

KNOW ALL MEN BY THESE PRESENTS That FRANCES ALBERTA RUSSELL, also known as FRANCES A. RUSSELL and OTTO RUSSELL, Grantor, for consideration as hereinafter stated to DALE A. BYSTROM and JULIE ANN BYSTROM, hereby grant, bargain, sell and convey unto DALE A. BYSTROM and JULIE ANN BYSTROM

husband and wife, Grantees, as tenants by the entirety, the following described real property, situate in the County of Clackamas and State of Oregon, to-wit:

Part of the Joseph T. Wingfield D.L.C. No. 48, in Sections 4, 5 and 8, T. 5S, R. 2E., of the W.M., in the County of Clackamas and State of Oregon, described as follows:

Beginning at an iron pipe in the North Boundary of said D.L.C. which is North 82° 03' West, 1956.9 feet from the Northeast corner of said D.L.C.; thence South 8° 29' West 2681.00 feet to a point; thence South 82° East 660.00 feet to a point; thence North 8° East to a point on the Southwesterly right of way line of the Southern Pacific Railway; thence Northwesterly along said right of way line to the North boundary of said D.L.C.; thence North 82° West to the point of beginning.

To Have and to Hold the granted premises unto the said Grantees, as tenants by the entirety, their Heirs and Assigns forever.

The Grantor do covenant that they are lawfully seized in fee simple of the above granted premises free from all encumbrances EXCEPT Taxes for the year 73/74: \$430.10 Pd. Code 35-7 A/C #34822. The rights of the public in and to that portion of the above property lying within the boundaries of roads.

and that they will and their heirs, executors and administrators, shall warrant and forever defend the granted premises, against the lawful claims and demands of all persons, except as stated above.

The true and actual consideration for this transfer is \$55,000.00. (*Strike inapplicable phrases—the dollar amount should include all encumbrances to be paid by purchaser.)

Witness my hand and seal this 1 day of August, 1974.

Signatures of Frances Alberta Russell and Otto Russell with seals.

STATE OF OREGON County of Clackamas ss.

STATE OF OREGON County of ss.

On this 1 day of August, 1974, personally appeared the above named Frances Alberta Russell also know as Frances A. Russell and Otto Russell,

I certify that the within instrument was received for record on at o'clock, and was recorded in Book Page Record of Deeds of said county.

and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon My Commission Expires 2-5-77

Recorder of Conveyances By Deputy

UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS: Department of Delinquent Taxes, General Services Building, Salem, Oregon 97306

WARRANTY DEED Tenancy by the Entirety

Return to: Dale Bystrom, 213 24118, 4201 M. GEORGE D. POPPEN, County Clerk

SEAL DOCUMENT

RECORDED AUG 6 - 1974

74 22056 74 22056

EXHIBIT 2 – PROPERTY REPORT



Geographic Information Systems
168 Warner-Milne Rd
Oregon City, OR 97045

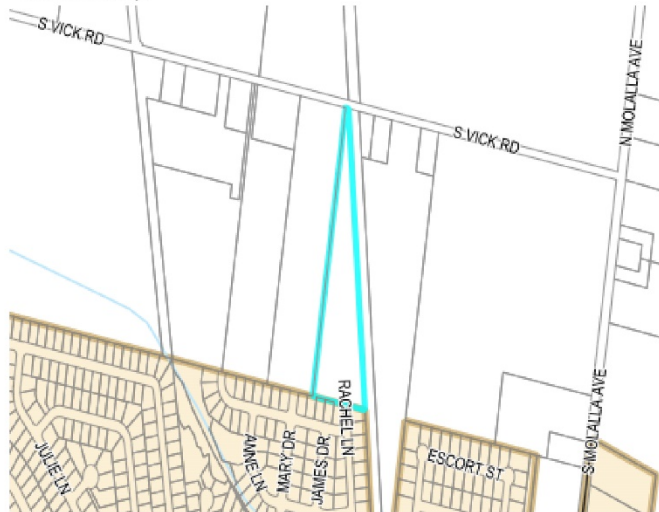
Property Report

BYSTROM DALE A TRUSTEE
38589 S BLAIR RD
MOLALLA, OR 97038

Site Address: **NO SITUS**
Taxlot: **52E05 02002**
Land Value: **522963**
Building Value: **0**
Total Value: **522963**

Acreage: **5.97**
Year Built:
Sale Date: **04/03/2015**
Sale Amount: **0**
Sale Type: **S**

Location Map:



Land Class:

540

Building Class:

Neighborhood:

City of Molalla all other

Taxcode Districts: **035002**

Fire: **Molalla RFPD #73**
Park: **N/A**
School: **Molalla River**
Sewer: **N/A**
Water: **N/A**
Cable: **n/a**
CPO: **City**
Garb/Recyc: **Molalla Sanitary**
City/County: **Clackamas Co.**

Site

UGB:

Flood Zone:

MOLALLA

Not Available

Zoning Designation(s):

Zone

EFU

Overlays:

N/A

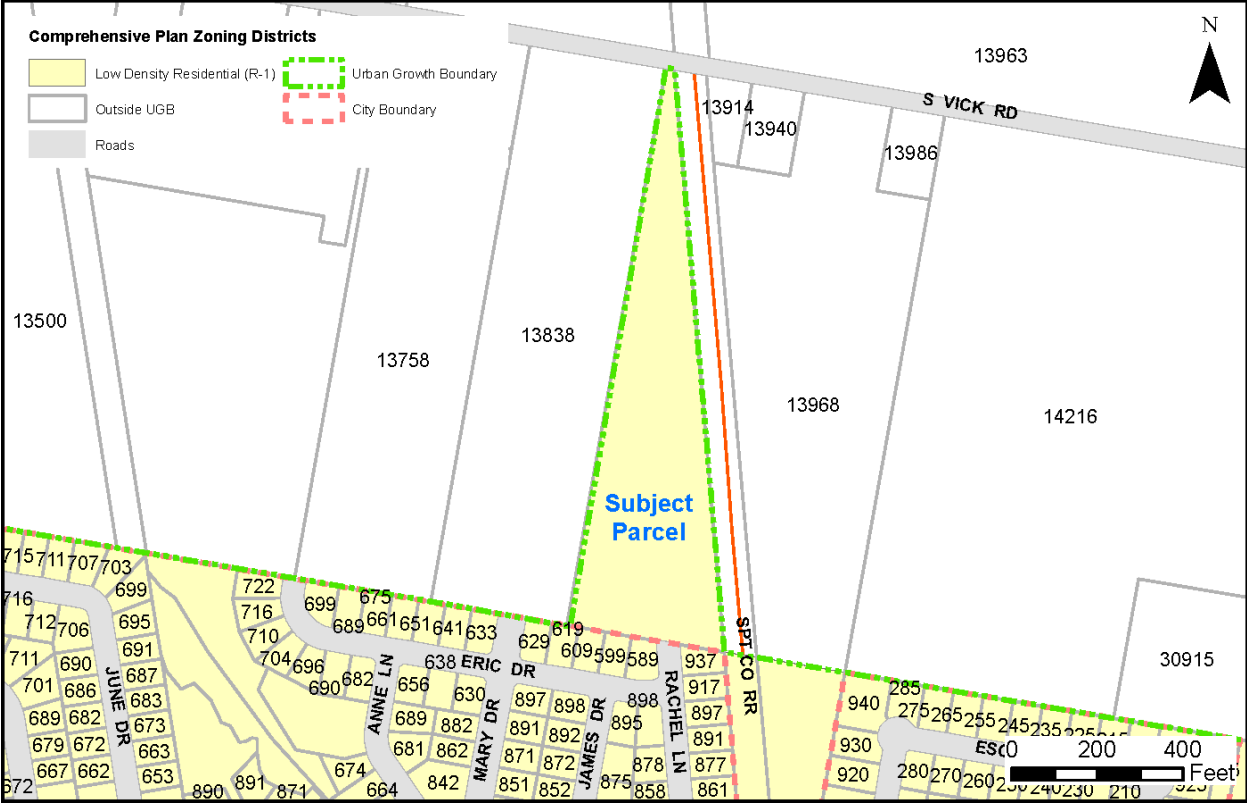
Acreage:

5.97

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before making decisions.

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EXHIBIT 3 – Proposed Zoning As Dictated By The Molalla Comprehensive Plan



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EXHIBIT 4 – FINDINGS OF FACT

Oregon Revised Statute 222.127 – Applies only to Annexation

1. *This section applies to a City whose laws require a petition proposing annexation of territory to be submitted to the electors of the City.*

Staff Response: ORS 222.127 applies to this application and, by its language supersedes Chapter X, Section 38 of the City of Molalla's charter, which requires that petitions for annexation be submitted to the electors of the City.

2. *Notwithstanding a contrary provision of the City charter or a City ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the City shall annex the territory without submitting the proposal to the electors of the City if:*

Finding: The City is in receipt of a petition proposing annexation of the territory described in Exhibits 1-3 of Ordinance 2021-02. The petition was filed by all of owners of land in the described territory.

This criterion is met.

- a. *The territory is included within an urban growth boundary adopted by the City or Metro, as defined in ORS 197.015;*

Finding: The subject property is within the current City of Molalla urban growth boundary.

This criterion is met.

- b. *The territory is, or upon annexation of the territory into the City will be, subject to the acknowledged comprehensive plan of the City;*

Finding: The territory in question is anticipated and included in the current City of Molalla Comprehensive Plan. Upon annexation the property will be subject to Molalla's current Comprehensive Plan.

This criterion is met.

- c. *At least one lot or parcel within the territory is contiguous to the City limits or is separated from the City limits only by a public right of way or a body of water;*

Finding: The southern border of the subject property is contiguous to the City limits.

This criterion is met.

d. *The proposal conforms to all other requirements of the City's ordinances.*

Finding: The subject property is currently vacant. Any development shall comply with the City's Municipal Code.

This criterion is met.

3. *The territory to be annexed under this section includes any additional territory described in ORS 222.111 (Authority and procedure for annexation) (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing City*

Finding: No additional territory is required. The territory in question is sufficient to locate infrastructure and right of way access for services necessary to develop the territory at issue in Ordinance 2021-02.

This criterion is met.

4. *When the legislative body of the City determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the City by an ordinance that contains a description of the territory annexed. [2016 c.51 §2]*

Finding: The criteria described subsection 2 apply to the territory proposed for annexation. Therefore, the City Council shall annex the territory without submitting the proposal to the electors of the City. Ordinance 2021-02 contains the required description of the territory annexed.

This criterion is met.

17-4.3.070 Zone Change Criteria – Applies to Annexation and Zone Change Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code, or Comprehensive Plan shall be based on all of the following criteria:

A. *If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;*

Finding: Neither the annexation or zone change action amends the Comprehensive Plan.

This criterion is not applicable.

B. *The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);*

Finding: The Molalla Comprehensive Plan includes the territory at issue with a zoning designation of R-1, Low-Density Residential, as proposed. The proposal is consistent with the Comprehensive Plan.

This criterion is met.

C. *The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code;*

Finding: The proposed zone change is in the public interest with regard to community conditions. The most recent buildable lands inventory showed a deficit in needed residential lands, this deficit has continued to grow as the population has grown, but buildable lands have not been added. This annexation and zone change will add buildable lands to the residential inventory.

The proposal responds to changes in the community and corrects an inconsistency with the comprehensive plan. The territory in question is being annexed under ORS 222.127 and is currently zoned Exclusive Farm Use (EFU). The addition of this land will increase the residential buildable lands inventory that was already at a deficit when conducted and is at more of a deficit now due to population increases. Additionally, the EFU designation of this territory is not consistent with the Comprehensive Plan. The zone change will cure that inconsistency.

This criterion is met.

D. *The amendment must conform to Section 17-4.6.050 Transportation Planning Rule Compliance*

Finding: The City of Molalla would be the applicable roadway authority for the subject parcel as it is developed. The proposal does not significantly affect the existing or planned transportation system because future development will be consistent with the adopted Comprehensive Plan and Transportation System Plan which already contemplates the territory at issue in this application.

This criterion is met.

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