

RESOLUTION NO. 5068

**A RESOLUTION ANNEXING LAND TO THE CITY OF EUGENE
(AUDEL AVENUE AND PROPERTY IDENTIFIED AS ASSESSOR'S MAP
17-04-23-20 TAX LOT 122).**

The City Council of the City of Eugene finds that:

A. An annexation application was submitted by Robert Getty and Jacqueline Getty on May 31, 2012, in accordance with the provisions of Section 9.7810(2) of the Eugene Code, 1971, ("EC") for annexation to the City of Eugene of the property identified as Assessor's Map 17-04-23-20, Tax Lot 122.

B. The territory proposed to be annexed is depicted on the map attached as Exhibit A to this Resolution. The legal description of the property described is attached to this Resolution as Exhibit B.

C. The City's Planning Director has submitted a written recommendation that the application be approved based on the criteria of EC 9.7825. The Planning Director's Recommendation is attached as Exhibit C.

D. On June 22, 2012 a notice containing the street and assessor's map and tax lot number, a description of the land proposed to be annexed, and the Planning Director's preliminary recommendation was mailed to the applicants, owners and occupants of property within 500 feet of the subject property, and the River Road Community Organization. The notice advised that the City Council would consider the Planning Director's full recommendation on the proposed annexation on July 23, 2012.

E. ORS 222.111(3) authorizes the City Council to agree to apply a specified percentage reduction to the City's property tax rates for up to ten years in order to lessen the impact of annexation. The Council agrees that the City property tax rates (including the permanent tax rate, any local option levy and any bond levy) should be reduced such that the Gettys are paying 69% of the City property tax rates for the property described in paragraphs A and B. That reduction should continue for ten years unless the property is transferred to someone else.

F. After considering the Planning Director's recommendation, the City Council finds that the application should be approved.

NOW, THEREFORE,

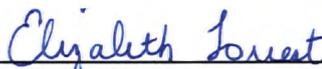
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a
Municipal Corporation of the State of Oregon, as follows:**

Section 1. Based on the above findings and the Planning Director's Recommendation and Findings attached as Exhibit C which are adopted in support of this Resolution, it is ordered that the land identified as Assessor's Map 17-04-23-20, Tax Lot 122 on the maps attached as Exhibit A, and described in the attached Exhibit B, is annexed to the City of Eugene.

Section 2. This Resolution is effective immediately upon its passage by the City Council. The annexation and automatic rezoning of the land from R-1/UL to R-1 pursuant to EC 9.7820(3) shall be effective upon the date a copy of this Resolution is filed with the Secretary of the State of Oregon.

Section 3. Pursuant to ORS 222.111(3), the rate of taxation for the property shall be at 69% of the City property tax rates that otherwise would apply to the property. This reduction shall continue for ten years unless the Gettys transfer the property to someone else. If the Gettys partition the property and transfer one of the lots, then the reduction shall continue on the lot still owned by the Gettys, but not on the other lot.

The foregoing Resolution adopted the 23rd day of July, 2012.



City Recorder

Getty, Robert & Jacqueline (A 12-2)



-  Area Proposed for Annexation
-  Within Eugene City Limits



Exhibit B

Legal Description

Getty Annexation

Lot 8, Block 1, First Addition Audel Estates, as recorded on Book 61, Page 5, Lane County Deeds and Records, Lane County, Oregon



**Planning Director's Recommendations and Findings:
Getty (A 12-2)**

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| Application Submitted: May 31, 2012 | |
| Applicant: Robert and Jacqueline Getty | |
| Map/Lot(s): 17-04-23-20 Lot 122 | |
| Zoning: R-1/UL | |
| Location: North side of Audel Avenue cul-de-sac, west of Lake Drive | |
| Representative: None | |
| Lead City Staff: | Becky Taylor, Associate Planner, (541) 682-5437 |

EVALUATION:

Based on the information provided by the applicant, the City has determined that this request complies with Eugene Code (EC) Section 9.7805 Annexation - Applicability. As such, it is subject to review and approval in accordance with the requirements, application criteria and procedures of EC 9.7800 through 9.7835. The applicable approval criteria are presented below in bold typeface with findings and conclusions following each.

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| <p>EC 9.7825(1) The land proposed to be annexed is within the city's urban growth boundary and is: (a) Contiguous to the city limits; or (b) Separated from the city only by a public right of way or a stream, bay, lake or other body of water.</p> | |
| <p style="text-align: center;">Complies</p> <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> | <p>Findings: The annexation area is within the City's urban growth boundary (UGB). With regard to the subject property's contiguity to City limits, the subject property is not contiguous to City limits; however, a recent amendment to ORS 222.115 (see Attachment 1 to this Exhibit, excerpt of Chapter 46, approved by the Governor on March 16, 2012) supersedes the above Eugene Code criteria. The subject application meets the requirements of this ORS amendment, as discussed below.</p> <p>Section 1 of ORS 222.155(2) states that "...the governing body of the city may extend the boundaries of the city by the annexation of noncontiguous territory if: (a) The owner of the noncontiguous territory to be annexed has signed a contract containing the landowner's consent to eventual annexation in exchange for provision of an extraterritorial service...; (b) The city to which the territory will be annexed was under the jurisdiction of a boundary commission formed under ORS 199.410 to 199.534 as of January 1, 2007; (c) Any portion of the territory to be annexed is within 200 feet of the existing boundary of the city to which the territory will be annexed; and (d) The owner of the territory to be annexed first acquired an interest in the property prior to January 1, 1973."</p> <p>Subsection (a) does not apply in this case because the request does not require any extraterritorial extension of urban services (which are already provided in the adjacent</p> |

street). Consistent with subsection (b), the City of Eugene was under the jurisdiction of a boundary commission as of January 1, 2007. As required by subsection (c), the subject property is within 200 feet of City limits (see map attached to Resolution as Exhibit A, which identifies the subject property relative to city limits). The applicant has demonstrated compliance with subsection (d) by submitting a Warranty Deed dated December 3, 1971 (see Attachment 2 to this Exhibit).

EC 9.7825(2) The proposed annexation is consistent with applicable policies in the Metro Plan and in any applicable refinement plans.

Complies

YES **NO**

Findings: The proposed annexation area is within the UGB. Several policies from the Metro Plan generally support this annexation by encouraging compact urban growth to achieve efficient use of land and urban service provisions within the UGB, including the following:

C. Growth Management, Goals, Findings and Policies:

Policy 8. Land within the UGB may be converted from urbanizable to urban only through annexation to a city when it is found that:

- a. A minimum level of key urban facilities and services can be provided to the area in an orderly and efficient manner.*
- b. There will be a logical area and time within which to deliver urban services and facilities. Conversion of urbanizable land to urban shall also be consistent with the Metro Plan. (page II-C-4)*

Policy 10. Annexation to a city through normal processes shall continue to be the highest priority. (page II-C-4).

Policy 16. Ultimately, land within the UGB shall be annexed to a city and provided with the required minimum level of urban facilities and services. While the time frame for annexation may vary, annexation should occur as land transitions from urbanizable to urban. (page II-C-5)

The Metro Plan designates the annexation area as appropriate for residential use. The River Road Santa Clara Urban Facilities Plan (RR/SC UFP) is the adopted refinement plan for the subject properties and also designates the area for residential uses. If the annexation is approved, per EC 9.7820(3), the annexation area will remain zoned R-1, and the /UL overlay will be automatically removed from the annexation area.

With regard to applicable policies of the RR/SC UFP, the subject property is not within an identified subarea; of the general "Residential Land Use Policies" at Section 2.2, none appear to be directly applicable to the subject request. The "Public Facilities and Services Element" policies of the RR/SC UFP are directed at local government; however, the premise of these policies for the provision of urban services is the assumption that the properties within the UGB will be annexed.

As previously discussed in this subsection, and further detailed under subsection (3) below, the proposed annexation is consistent with Metro Plan growth management policies and can be served by the minimum level of key urban services. The annexation procedures beginning at EC 9.7800 are consistent with State law and therefore, as found throughout this report, the annexation is consistent with State law.

EC 9.7825(3) The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services, as defined in the Metro Plan, can be provided in an orderly, efficient, and timely manner.

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| <p>Complies</p> | <p>Findings: The proposed annexation will result in a boundary in which the minimum level of key urban facilities and services can be provided in an orderly, efficient, and timely manner as detailed below:</p> |
| <p><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</p> | <p>Wastewater Referral comments from Public Works staff confirm that there is an existing eight-inch public wastewater line located within Audel Avenue cul-de-sac, adjacent to this site.</p> <p>Stormwater Referral comments from Lane County confirm that stormwater runoff from the subject property cannot be directed to the adjacent street. On-site infiltration may be an option, provided the infiltration facility is sized to store and infiltrate the Flood Control Design Storm and on-site tests demonstrate the viability of infiltration. Stormwater management will be more precisely determined at the time of development.</p> <p>Streets The adjacent street is a cul-de-sac off Audel Avenue, which is under Lane County jurisdiction. Referral comments from Lane County indicate no issues with the subject property accessing the abutting street, which is paved.</p> <p>Solid Waste Collection service is provided by private firms. Regional disposal sites and the Short Mountain Landfill are operated by Lane County.</p> <p>Water Eugene Water and Electric Board (EWEB) staff notes that the subject properties are served by the River Road Water District (RRWD). There is an existing 4-inch cast iron water main in Audel Avenue. Future development of the site will need to comply with Fire Marshal requirements concerning fire protection for building permits.</p> |

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| | | <p>Electric EWEB staff confirms that the subject property can be served with underground electric utilities from an existing secondary box located at the southwest property corner.</p> <p>Public Safety Police protection can be extended to this site upon annexation consistent with service provision through the City. Fire protection services and ambulance services are currently provided to the subject property by the City of Eugene. Emergency medical services are currently provided on a regional basis by the cities of Eugene and Springfield to central Lane County and will continue in the same manner upon annexation.</p> <p>Parks and Recreation A minimum level of park service can be provided to the proposal area as prescribed in the <u>Metro Plan</u>. The property is currently located in River Road Park and Recreation District. Once withdrawn from the district, parks staff confirm that park service will continue to be provided by the City with the property becoming part of the River Road – Santa Clara parks planning district.</p> <p>Planning and Development Services Planning and building permit services are provided for all properties located within the urban growth boundary by the City of Eugene. The Eugene Code, Chapter 9, will provide the required land use controls for future development of the subject property upon annexation.</p> <p>Communications Qwest communications and a variety of other telecommunications providers offer communications services throughout the Eugene/Springfield area.</p> <p>Public Schools The subject property is within the Eugene 4J School district and is served by Howard Elementary School, Kelly Middle School and North Eugene High School.</p> |
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CONCLUSION:

Based on the above findings, the proposed annexation is found to be consistent with the applicable approval criteria. The Planning Director recommends that City Council approve this annexation proposal. The effective date is set in accordance with State law.

INFORMATION:

- ◆ Approval of this annexation does not relieve the applicant from complying with applicable codes and statutory requirements.
- ◆ Future development of the property will require a feasible stormwater proposal and demonstration that all applicable stormwater management standards have been met.

CHAPTER 46

AN ACT

HB 4089

Relating to annexation of noncontiguous territory; creating new provisions; amending ORS 222.115; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 222.115 is amended to read:

222.115. (1) A contract between a city and a landowner *[relating to extraterritorial provision of service and consent to eventual annexation of property of the landowner shall]* containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

(a) Must be recorded; and,

(b) When recorded, *[shall be binding on all successors with an]* is binding on successors in interest in that property.

(2) Notwithstanding any provision of ORS 195.205 to 195.225, 222.111 to 222.180, 222.750 or 222.840 to 222.915 or any conflicting city charter or ordinance, the governing body of the city may extend the boundaries of the city by the annexation of noncontiguous territory if:

(a) The owner of the noncontiguous territory to be annexed has signed a contract containing the landowner's consent to eventual annexation in exchange for provision of an extraterritorial service pursuant to subsection (1) of this section or another consent to annexation;

(b) The city to which the territory will be annexed was under the jurisdiction of a boundary commission formed under ORS 199.410 to 199.534 as of January 1, 2007;

(c) Any portion of the territory to be annexed is within 200 feet of the existing boundary of the city to which the territory will be annexed; and

(d) The owner of the territory to be annexed first acquired an interest in the property prior to January 1, 1973.

SECTION 2. ORS 222.115, as amended by section 1 of this 2012 Act, is amended to read:

222.115. *[(1)]* A contract between a city and a landowner containing the landowner's consent to eventual annexation of the landowner's property in return for extraterritorial services:

[(a)] (1) Must be recorded; and

[(b)] (2) When recorded, is binding on successors in interest in that property.

[(2)] Notwithstanding any provision of ORS 195.205 to 195.225, 222.111 to 222.180, 222.750 or 222.840 to 222.915 or any conflicting city charter or ordinance, the governing body of the city may extend the boundaries of the city by the annexation of noncontiguous territory if:

[(a)] The owner of the noncontiguous territory to be annexed has signed a contract containing the landowner's consent to eventual annexation in exchange for provision of an extraterritorial service pursuant to subsection (1) of this section or another consent to annexation;

[(b)] The city to which the territory will be annexed was under the jurisdiction of a boundary commission formed under ORS 199.410 to 199.534 as of January 1, 2007;

[(c)] Any portion of the territory to be annexed is within 200 feet of the existing boundary of the city to which the territory will be annexed; and

[(d)] The owner of the territory to be annexed first acquired an interest in the property prior to January 1, 1973.

SECTION 3. The amendments to ORS 222.115 by section 2 of this 2012 Act become operative on January 1, 2013.

SECTION 4. This 2012 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect on its passage.

Approved by the Governor March 16, 2012
Filed in the office of Secretary of State March 19, 2012
Effective date March 16, 2012

83111

WARRANTY DEED

CT 103 246

FOR VALUE RECEIVED A. T. FRAEDRICK and ELOISE FRAEDRICK, husband and wife,

herein referred to as grantors, hereby grant, bargain, sell, and convey unto

ROBERT W. GETTY and JACQUELINE E. GETTY, husband and wife,

herein referred to as grantees, the following described real property, with tenements, hereditaments, and appurtenances, to wit:

Lot 8, Block 1, FIRST ADDITION TO AUDEL ESTATES, as platted and recorded in Book 61, Page 5, Lane County Oregon Plat Records, in Lane County, Oregon.

Except easements, restrictions, reservations and conditions of record.

TO HAVE AND TO HOLD the said premises unto said Grantees, their heirs and assigns forever. And the said Grantors hereby covenant that they are lawfully seized in fee simple of said premises; that they are free from all incumbrances,

and that they will warrant and defend the above granted premises against all lawful claims whatsoever, except as above stated.

The true and actual consideration for this transfer is \$ 3,500.00

Dated December 3 19 71

(Seal) A. T. Fraedrick (Seal) E. Fraedrick (Seal)

STATE OF OREGON, County of Lane, ss. Personally appeared the above named

A. T. FRAEDRICK and ELOISE FRAEDRICK, husband and wife,

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

Dated December 3 A.D. 19 71 My Commission Expires 7-75 Notary Public for Oregon

83111

Compliments of CASCADE TITLE COMPANY Eugene, Oregon WARRANTY DEED

State of Oregon, County of Lane—ss. I, D. M. Penfold, Director of the Department of Records and Elections, in and for the said County, do hereby certify that the within instrument was received for record at

1972 JAN 24 AM 10 41 3

Reel 570 R Lane County OFFICIAL RECORDS. D. M. PENFOLD, Director of the Department of Records & Elections. By Deputy C29-083-05

Return To: 200