

# STAFF REPORT

Date: April 15, 2025

To: General Government Committee

From: Brad Medrud, Planning Manager



## 93rd Avenue SW & Case Road SW Ten Percent Annexation Petitions (TUM-25-0128)

The owners of two properties on 93rd Avenue SW currently in Tumwater's urban growth area in unincorporated Thurston County are requesting that they be annexed into Tumwater. The two property owners filed ten percent annexation petition applications with the City on February 5, 2025, which were deemed complete on March 18, 2025, after payment of the necessary application review fees.

The property owners have indicated their willingness to assume their fair share of the City's indebtedness and are willing to accept the City's Comprehensive Plan. Because the two property owners own all the property included in the annexation area, they filed annexation petitions representing both ten percent and 60 percent of the value of the properties proposed for annexation.

At their April 15, 2025, meeting, the General Government Committee will be asked to place the ten percent annexation petitions on the May 6, 2025, City Council consideration calendar for the City Council to decide whether it will accept the proposed annexation and whether the City Council will require the assumption of existing City indebtedness by the area to be annexed.

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## 1 – Background

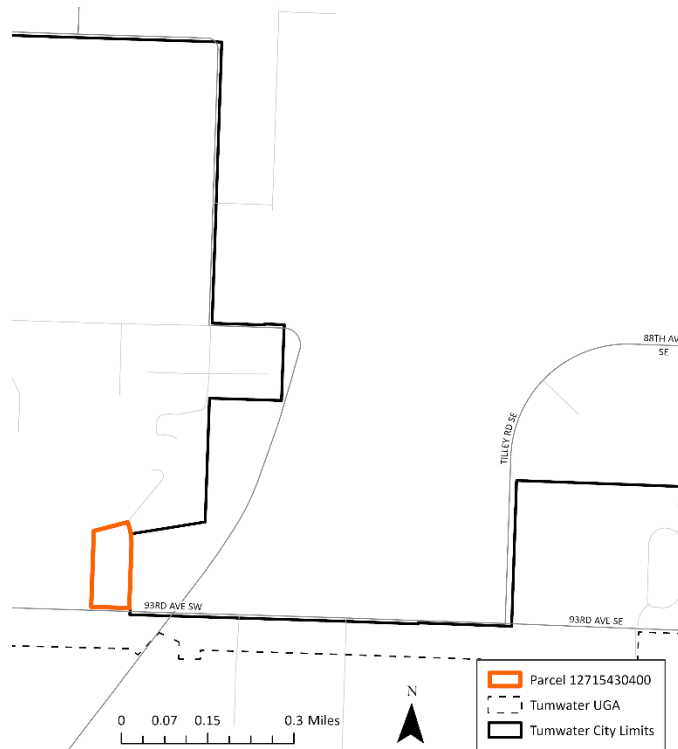
As a non-charter Code City, Tumwater follows the annexation process outlined in Chapter 35A.14 RCW. Cities such as Tumwater that plan under the Growth Management Act may annex only property that is located within their designated urban growth areas.

The two parcels in the proposed annexation area are located northwest of the intersection of 93rd Avenue SW and Case Road SW and are 10.74 acres in size. The proposed annexation area is east of the current city limit and has a Light Industrial zone district designation with the Airport Overlay:

1. The first annexation petition is for the property at 1020 93rd Avenue SW, Thurston County Assessor's parcel number 127125420203, which is approximately 4.87 acres and is owned by Nathan Waunch.



2. The second annexation petition is for a property on 93rd Avenue SW with no site address, Thurston County Assessor's parcel number 12715430400, which is approximately 5.87 acres and is owned by H. John and Diane Elwin.



The properties are undeveloped aside from a house and outbuildings.

The ten percent annexation petitions request that the City Council set a date not later than 60 days after the filing of the ten percent petition for a meeting with the property owners to determine:

- Whether the City Council will accept, reject, or geographically modify the proposed annexation;
- Whether the City Council will require adoption of a comprehensive plan for the area to be annexed [This has been completed already through the Tumwater Thurston County Joint Plan by the City and County.]; and
- Whether the City Council will require the assumption of existing City indebtedness by the area to be annexed.

## **2 – Growth Management Act and Annexations**

The Growth Management Act (GMA) establishes the framework for Tumwater's annexation authority. A major goal of GMA is to reduce urban sprawl by encouraging development in urban areas where adequate public facilities already exist or where such facilities can be more efficiently provided (RCW 36.70A.020(1) and (2)). To help implement this goal, GMA requires

that counties designate urban growth areas “within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature” (RCW 36.70A.110(1)).

Tumwater’s urban growth area includes land sufficient to accommodate the 20-year population growth projected for the City. In addition, GMA states that “it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas” (RCW 36.70A.110(3)). Consistent with the goal of controlling the spread of urban growth, GMA limits the territory Tumwater may annex to that which lies within its urban growth area (RCW 35A.14.005). The Tumwater Thurston County Joint Plan provides the necessary Comprehensive Plan policies dealing with land use, housing, capital facilities, utilities, and transportation in Tumwater’s urban growth area.

### **3 – General Guidelines for Evaluating Proposed Annexations**

The Municipal Research and Services Center of Washington prepared the updated guidebook *Annexation by Washington Cities and Towns* in 2020.

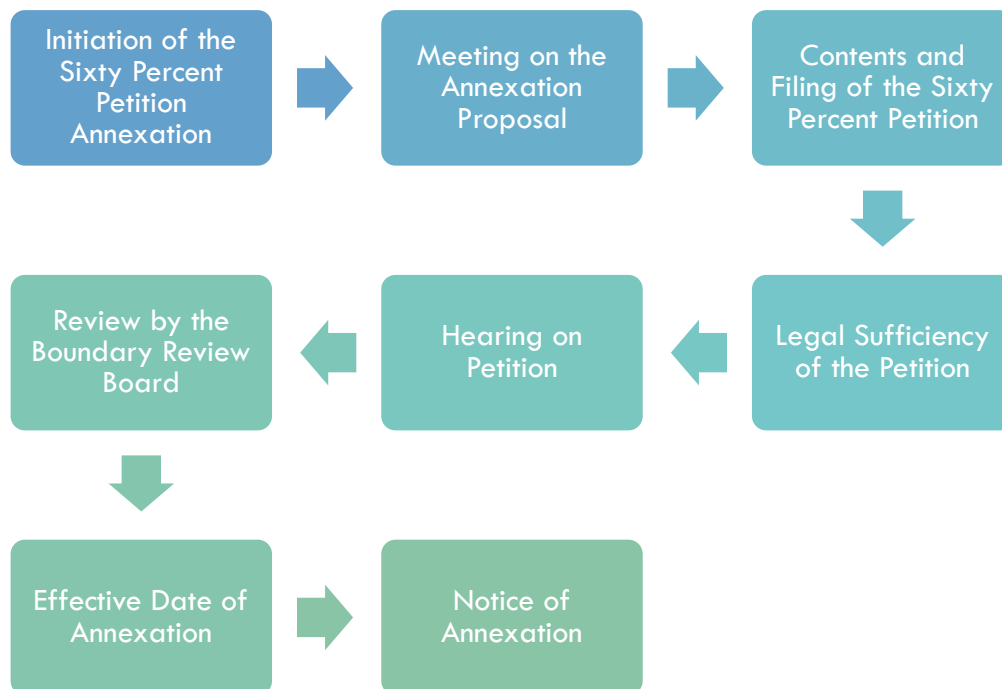
The Guidebook suggested consideration of the following basic principles when considering an annexation to ensure that the chances of a successful completion of the annexation would be increased and the effect upon the City would be positive.

- *The boundaries of the annexation area should be drawn in accordance with the ability (both from a geographic and economic standpoint) of the city to provide services. The need for services should be taken into account.*
- *The population and assessed valuation of the area should be sufficient to allow the area to pay its fair share of the cost of providing services.*
- *The area should contribute to the logical growth pattern of the city and should encourage orderly growth. Where possible, irregular boundaries should be avoided.*
- *It should be no larger than what the city is able to service adequately with capital improvements and services within a reasonable time.*
- *The area should be adaptable to anticipated expansion requirements of the city for residential or commercial/industrial purposes.*
- *The boundaries of an area should be drawn to include residents who are generally favorable toward annexation or where annexation can be demonstrated to be advantageous to the residents of both the fringe area and the city.*
- *In drawing boundaries of an annexation area, due regard should be given to special districts in the area (see Special Districts).*

### **4 – Sixty Percent Annexation Method Process**

The most frequently used method of annexing unincorporated territory is by petition of the owners of at least 60 percent of the property value in the area, computed according to the

assessed valuation of the property for general taxation purposes. The steps in the 60 percent annexation method process are as follows:



#### A. Initiation of the Sixty Percent Petition Annexation

Under RCW 35.14.120, prior to circulating a petition for annexation, the owners of property representing not less than ten percent of the assessed value of the property for which annexation is sought must give written notice to the City Council of their intention to commence annexation proceedings. This process was completed on March 18, 2025, when the 10 percent petition applications were deemed completed after payment of the necessary application review fees.

#### B. Meeting on the Annexation Proposal

Following RCW 35A.14.120, after being notified of the proposed annexation, the City Council is to set a date not later than 60 days after the filing of the 10 percent petition for a meeting with the initiating parties to determine:

- Whether Tumwater will accept, reject, or geographically modify the proposed annexation;
- Whether it will require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed (as provided for in RCW 35A.14.330 and 35A.14.340); and
- Whether it will require the assumption of all or any portion of existing City indebtedness by the area to be annexed.

This meeting with the City Council is proposed for May 6, 2025. If the City Council requires the adoption of a proposed zoning regulation and/or the assumption of all or any portion of

indebtedness as conditions to annexation, it is to record this action in the minutes of the meeting. City Council acceptance of the proposed annexation is a condition precedent to circulation of the petition. There is no appeal from the City Council's decision.

### C. Contents of Petition

Under RCW 35A.14.120, if the City Council accepts the initial annexation proposal, the 60 percent petition may be drafted and circulated. The 60 percent petition must:

- Describe the property according to government legal subdivisions or legal plats.
- Be accompanied by a map that outlines the boundaries of the property sought to be annexed.
- If the City Council has required the assumption of all or any portion of City indebtedness and/or the adoption of a proposed zoning regulation for the area to be annexed, set forth these facts clearly, together with a quotation of the minute entry of that requirement.
- Be signed by the owners of not less than 60 percent of the assessed value of the property for which annexation is petitioned.
- Comply with the rules for petitions in RCW 35A.01.040 (RCW 35A.14.130).

The applicants have submitted complete 60 percent annexation petition applications. So if the City Council approves the ten percent petitions, then this step will have been completed.

### D. Filing of Sixty Percent Petition

The completed 60 percent annexation petition is to be filed with the City Council (RCW 35A.14.120). Although there is no time limit specified in the annexation statutes as to when a petition needs to be filed with the City Council after it has begun circulating for signatures, the signatures on a petition are valid only if signed no later than six months prior to the filing date. Any signatures older than six months are to be stricken from the petition by the officer certifying petition sufficiency (RCW 35A.01.040(8)).

The applicants have submitted complete 60 percent petition applications. So if the City Council approves the ten percent petitions, then this step will have been completed.

### E. Legal Sufficiency of the Petition

The annexation petitions must be certified as sufficient (i.e., as having valid signatures representing the required 60 percent of property value). Within three working days of the filing of the 60 percent petition, the officer with whom the petition is filed must transmit the petition to the county assessor, who makes the determination of the sufficiency of the petition. The county officer whose duty it is to determine petition sufficiency must file with the officer receiving the petition for filing a certificate stating the date the determination of sufficiency was

begun. The officer determining petition sufficiency must do so “with reasonable promptness” (RCW 35A.01.040(4)).

This will be the next step if the City Council approves the ten percent petitions.

## F. Hearing on Petition

Under RCW 35A.14.130, when a legally sufficient annexation petition is filed, the City Council may consider it and:

- Fix a date for a public hearing, and
- Provide notice specifying the time and place of the hearing and inviting interested people to appear and voice approval or disapproval of the annexation. The notice is to be:
  - Published in one or more issues of a newspaper of general circulation in the City; and
  - Posted in three public places within the territory proposed for annexation.

There are no statutory requirements concerning the actual hearing, other than to give proponents and opponents an opportunity to speak.

## G. Decision

Because Tumwater may not annex territory without prior Thurston County Boundary Review Board approval, an annexation ordinance passed following a hearing but before board review cannot yet be effective. Consequently, the City Council will be asked to approve a resolution of intent to annex. If the review board approves the annexation, the City Council will adopt the formal annexation ordinance.

## H. Review by the Boundary Review Board

Under RCW 36.93.090 and .100, Tumwater must file a “notice of intention” with the Thurston County Boundary Review Board within 180 days of when the annexation is proposed. For the purposes of 60 percent annexation petition, an annexation is “proposed” when the annexation petition is filed with the Tumwater.

If the proposal includes annexation of the territory of a fire district, in this case the East Olympia Fire District, Tumwater must provide notice to the district of the proposed annexation simultaneously when notice of the proposed annexation is provided to the Thurston County Boundary Review Board.

The board may assume jurisdiction over the annexation if, within 45 days of filing the notice of intention, a request for review is made by:

- Thurston County or any other affected governmental unit; or
- Petition of registered voters or property owners.

If jurisdiction is not invoked within 45 days, the proposed annexation is deemed approved by the Thurston County Boundary Review Board.

The board must act within 120 days of the review request unless the board and the annexation initiators agree to an extension. If no decision is made within 120 days and no extension is granted, the proposal is deemed approved.

## I. Effective Date of Annexation

The annexation, together with any provision relating to application of a proposed zoning regulation, is effective on the date fixed in the annexation ordinance. The relevant statute, RCW 35A.14.150, does not specify any date by which the annexation must be made effective. Note, however, that there are important timing issues as to when an annexation occurs with respect to when the City's property tax levy can be effective in the newly annexed area and with respect to receipt of state-shared revenues, sales tax, and, if applicable, sales tax equalization payments.

## J. Notice of Annexation

### 1) **Notice to State (Office of Financial Management Certification)**

Tumwater must submit an annexation certificate and additional supporting documents to the state Office of Financial Management within 30 days of the effective date of annexation specified in the annexation ordinance (RCW 35A.14.700).

The Office of Financial Management files the approved annexation certificates on a quarterly basis. Filing dates are the last working days of November, February, May, and August. Annexations are not approved and filed until all of OFM's requirements are met. Revenues may be lost as a result of problems in the certification process because revenue distributions are not backdated.

### 2) **Notice to County, Light and Power and Gas Distribution Businesses, and, Where Applicable, to Fire Protection and Library Districts**

At least 60 days before the effective date of the annexation, Tumwater is required by RCW 35A.14.801 to provide to the county treasurer and assessor and to light and power and gas distribution businesses, by certified mail or electronic means, notice of the annexation that includes a list of annexed parcel numbers and street addresses.

If Tumwater annexes territory within a fire district, which in this case is the East Olympia Fire District, it is required to provide the same notice to the district. The county treasurer is required to remit to the City only those road taxes and, where applicable, fire district and library district property taxes collected 60 days or more after receipt of the notice. Light and power businesses and gas distribution businesses are only required to remit to the City those utility taxes collected 60 days or more after receipt of the notice.



### **3) Notice to Department of Revenue**

Sales tax changes may take effect only on January 1, April 1, or July 1. The term “sales tax changes,” for purposes of this legislation, includes changes resulting from annexation (RCW 82.14.055(4)). The City must provide notice to the Department of Revenue at least 75 days before the change takes place.

### **4) Notice to City Departments.**

Although any annexation will impact some City departments more than others, all will be advised of the annexation.

## **5 – Staff Recommendation and Request**

- Accept the proposal to annex, with no modifications.
- Do not propose any amendments to the existing land use designations or zone districts.
- Require the annexed area to assume City indebtedness.
- Ask the General Government Committee to place the ten percent annexation petitions on the May 6, 2025, City Council consideration calendar for the City Council to discuss with the applicants.