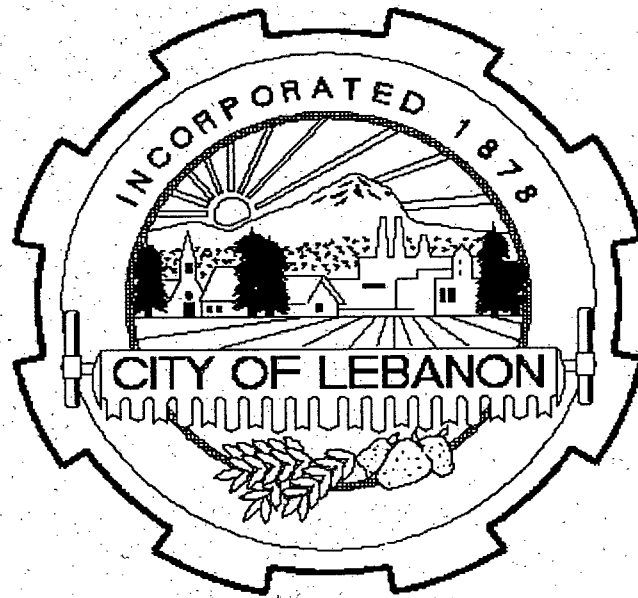


Archive

Council Agenda



July 23, 2003

7:30 p.m.

LEBANON CITY COUNCIL MEETING
Wednesday, July 23, 2003
7:30 p.m.

School District Board Room
485 S. 5th Street

AGENDA

CALL TO ORDER/FLAG SALUTE

ROLL CALL

CONSENT CALENDAR

CITY COUNCIL AGENDA: July 23, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Meeting Minutes – June 25, 2003
- Russell Drive Area Work Session Minutes – June 25, 2003
- Lebanon Tourism Commission Meeting Minutes – May 19, 2003
- Lebanon Tourism Commission Meeting Minutes – June 9, 2003
- Lebanon Tourism Commission Meeting Minutes – July 7, 2003
- Library Advisory Board Meeting Minutes – May 21, 2003
- Library Advisory Board Meeting Minutes – June 19, 2003
- Senior Advisory Board Meeting Minutes – June 18, 2003

IRREVOCABLE PETITION FOR PUBLIC IMPROVEMENTS:

- Petitioner Barbara Tesdal (12S-2W-15BA, Tax Lot 4001)

PUBLIC HEARINGS

1) LIBBY PROPERTY ANNEXATION (Kidco Head Start) - continued

Presented by: Doug Parker, Community Development Manager

Approval/Denial by ORDINANCE

LEGISLATIVE SESSION

2) COMP PLAN UPDATE

Presented by: Doug Parker, Community Development Manager

Discussion Only

3) SMALL WATERLINE REPLACEMENT ANNUAL REPORT

Presented by: Rod Sell, Maintenance Division Manager

Discussion Only

4) CITY PARK USE

Presented by: Mike Healy, Police Chief

Approval/Denial by ORDINANCE

5) CITY OWNED SURPLUS PROPERTY

Presented by: Mike Healy, Police Chief

Approval/Denial by RESOLUTION

6) AUTHORIZATION TO SIGN INVESTMENT DOCUMENTS

Presented by: Mr. Casey Cole, Finance Director

Approval/Denial by RESOLUTION

7) ADOPTION OF ACADEMY SQUARE MASTER PLAN

Presented by: Mr. John Hitt, City Administrator

Approval/Denial by MOTION

8) ACADEMY SQUARE GYMNASIUM UPDATE

Presented by: Mr. Jim Ruef, Public Works Director

Approval/Denial by MOTION

9) CITY ADMINISTRATOR'S REPORT

Presented by: Mr. John Hitt, City Administrator

Discussion Only

CITIZEN COMMENTS - *Those citizens with comments concerning public matters may do so at this time.*

ITEMS FROM COUNCIL MEMBERS

ADJOURNMENT

**MINUTES
LEBANON CITY COUNCIL MEETING**

June 25, 2003

Council Present: Mayor Ken Toombs and Councilors Bob Elliott, Mel Harrington, Ron Miller, Roger Munk, and Dan Thackaberry

Staff Present: City Administrator John Hitt, City Attorney Tom McHill, Public Works Director Jim Ruef, Finance Director Casey Cole, Police Chief Mike Healy, Community Development Manager Doug Parker, Assistant City Planner Terry Lewis, and Administrative Assistant Linda Kaser

CALL TO ORDER/FLAG SALUTE/ROLL CALL

Mayor Toombs called the regular session of the Lebanon City Council to order at 7:35 p.m. in the Lebanon School District Board Room at 485 S. 5th Street. Councilor Scott Simpson was absent.

CONSENT CALENDAR

CITY COUNCIL AGENDA – June 25, 2003

CITY OF LEBANON MEETING MINUTES:

- City Council Meeting Minutes – June 11, 2003
- Planning Commission Meeting Minutes – May 21, 2003
- Senior Advisory Board Meeting Minutes – May 21, 2003

APPOINTMENTS:

- Parks/Tree Board – *Robert Johnson*
- Lebanon Tourism Commission – *Carol Sedlacek and Ray Weldon*

Mayor Toombs noted that an Executive Session would be held at the end of the Council Meeting regarding current litigation. Councilor Thackaberry corrected the Appointments listed on the Agenda. The names had been inadvertently switched with the Board/Commission they were appointed to (listed correctly above).

A motion was made by Councilor Thackaberry, seconded by Councilor Harrington, and passed unanimously that the Consent Calendar be approved as amended.

PUBLIC HEARINGS

1) REEVE'S PROPERTY ANNEXATION (Mid-Valley Healthcare)

Mayor Toombs explained that this hearing is a continuation of the May 28, 2003 City Council meeting. The hearing record was kept open at that time to allow for further *written* testimony. The applicant,

Mid Valley Health Care, Inc., proposed to annex this property (known as Reeves Property) in support of future mixed-use development. The proposed annexation consists of approximately a 53-acre territory comprised of one vacant parcel along Highway 20, plus the adjacent Highway 20 (east) and Reeve's Parkway (north) right-of-way. The property is located on the west side of Highway 20 directly across from the Lebanon Community Hospital (Assessor's Map 12S-2W-3D, Tax Lot 1200).

Mayor Toombs asked the Council to disclose any conflicts of interest or ex parte contacts concerning the application. Hearing none, Mayor Toombs asked if Council had any questions.

Councilor Thackaberry, referring to the Friends of Linn County's (FOLC) written testimony dated June 4, 2003, asked if the Planning Commission composition was in violation of the City Charter. City Attorney McHill stated that the City Charter did not have any application and advised the Council of a case called *Jackman vs. The City of Tillamook*, where LUBA decided that the composition of the Planning Commission is not within the scope of the review of LUBA and was not relevant at this time.

City Attorney McHill read the title of the Ordinance.

Councilor Elliott stated that after reviewing all the material he felt that the City was in compliance of the land use rules and moved to approve the annexation. Councilor Miller seconded the motion.

Councilor Thackaberry stated he was not in support of the annexation and felt that a development proposal should accompany the annexation request. Councilor Munk had concerns about the actual composition of the Planning Commission. If the Council overrides the composition he is fine with it. Councilor Harrington referred to his time on the Planning Commission stating that the Commission didn't always have the volunteers needed to fill the vacant positions. McHill briefed the Council that one of the Planning Commission members moved out of town while holding his current seat on the Planning Commission, after it was noted that the Commission had one too many residing outside the city limits, another Commissioner who also resided outside the city limits resigned to balance out the Commission. McHill stated that the Planning Commission is currently in compliance with the City Ordinance and reiterated that he did not feel that the Planning Commission composition was relevant to a LUBA appeal.

A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170 (File A-03-02). The motion passed with 1 nay (Councilor Thackaberry) and 4 yeas (Councilor Munk, Miller, Harrington, and Elliott)

2) LIBBY PROPERTY ANNEXATION (Kidco Head Start)

Mayor Toombs briefed the Council on the proposed annexation of 3.98 acres, on S. Main and Vaughn Lane submitted by Kidco Head Start and opened the Public Hearing at 7:50 p.m.

City Attorney McHill briefed the Council on the Public Hearing procedures. ORS 197.763 requires that at the commencement of a public hearing, the applicable substantive criteria that have been identified should be listed as staff has done on pages 9 and 10 of the staff report. Attorney McHill read the Relevant Criteria and noted the Intergovernmental Agreement with Linn County allowing the City to designate a zoning policy for property outside the city limits, but within the urban growth boundary (UGB), as long as its consistent with the Comprehensive Plan Map.

Attorney McHill stated that all testimony, arguments, and evidence presented must be directed toward the criteria listed or other criteria specifically identified by the individual presenting the testimony. The

criteria must be listed in the Comprehensive Plan or Land Use Regulations that applies to this decision. A failure to raise an issue with statements and evidence sufficient to allow the Commission and the parties to respond to the issue precludes any appeal on that issue.

Mayor Toombs asked the Councilors if they had any conflicts of interest or ex parte contacts. City Attorney McHill disclosed that he had occasionally acted as general Counsel for Kidco/Head Start, but had not been in contact with anyone regarding the annexation proposal stating he felt there was no legal conflict of interest. There were no Council comments or disclosures.

City Planner Parker briefed the Council on the annexation request of approximately 3.98-acre territory comprised of one parcel at the southwest corner of the intersection of South Main Road and Vaughn Lane. This property is currently developed with a single-family dwelling. The annexation territory also includes the appropriate abutting rights-of-way on Vaughn Lane and South Main Road (approximately .6 acres of the total 3.98 acres). The property location is 3320 South Main Road (Assessor's Map 12-2W-22D, Tax Lot 1000). The applicant is Kids and Company of Linn County (Kidco Head Start). Mr. Parker described the Zone Designation as Residential Mixed Density (upon annexation). The Comp Plan Designation is Mixed-Density Residential.

Mr. Parker explained that upon the conclusion of the June 18, 2003 Planning Commission hearing, the Commission unanimously voted to recommend to the City Council that the annexation proposal and requested zoning be approved.

Mr. Parker explained that Kidco intended to establish a facility on this site and would subsequently go through the Planned Development process.

Mr. Parker confirmed for Councilor Miller that upon annexation a 65-foot right-of-way would be required to widen South Main Road south of Vaughn Lane to city standards.

Mayor Toombs invited the applicant to come forward and present their testimony.

Jo O'Leary, Director of Kidco Head Start Program, provided a brief background on the comprehensive preschool for three and four year old children specifically from low-income families, as well as for special needs children. The program is funded with both Federal and State tax dollars. The Program is in dire need of a new facility. Federal Head Start granted \$300,000 in 2001. Since then, Linn County Head Start has been working on securing property. The proposed Libby site is the only site that would serve all their needs. The federal funds for purchase and development of the property will be forfeited in December 2003 if they cannot secure the property. Ms. O'Leary stated that the failure to secure a facility in a timely manner could force the program to cease services in Lebanon. The community would not only lose the jobs created during the construction phase, but the low-income children and families would lose the program services.

In response to Councilor Elliott, Ms. O'Leary stated that the Head Start Program employed 13 people in the Lebanon facility and another 12 in the Administrative Office that would eventually be moved to the new facility.

Councilor Munk disclosed that his optometrist's office provides vision screening for Lebanon and Harrisburg's Head Start Programs; there are no fiscal benefits. Councilor Munk felt that this would not impact his ability to make an impartial decision.

With no one who wished to speak in favor of the application, Mayor Toombs then invited anyone to come forward who opposed the application.

John Puma, speaking on behalf of Friends of Linn County, 33368 Tennessee Road, Lebanon, Oregon, submitted a letter dated June 25, 2003 regarding the Kidco record of Planning Commission proceedings and asked that it and another letter dated May 21, 2003 submitted to the Planning Commission be made part of the record. Mr. Puma asked that the record be left open for seven days. Staff will review their records for the May 21, 2003 submittal to include it as part of the record.

Councilor Thackaberry asked if it would satisfy Mr. Puma's request to leave the record open if the Council read the two letters submitted at this time. Mr. Puma stated that the FOLC would still like the record left open for additional testimony.

City Attorney McHill explained to the applicant that the record would be left open for seven days with any additional written testimony due by 5:00 p.m. on July 3, 2003. The applicant would then have until 5:00 p.m. on July 10, 2003 for written rebuttal. City Council would then deliberate and reach a decision at its July 23, 2003 City Council Meeting.

Mayor Toombs closed the Public Hearing at 8:12 p.m.

LEGISLATIVE SESSION

3) OMI CONTRACT FEE UPDATE

Public Works Director Ruef explained that the OMI contract has a clause that opens the contract every year to discuss fees. The FY 2003/04 Lebanon Adopted budget has sufficient funds to support the increase if Council approves of the increase.

Mr. Brian Helliwell provided a presentation on the Total Monthly Rainfall, Total Monthly Flows, and Total Monthly KWH for 1999 – 2002. Other documentation included Total Flows vs. Total Energy, and Total Fee Proposal including increased labor and benefits costs (See Attached Presentation).

Councilor Miller moved, Councilor Elliott seconded, to APPROVE THE \$65,522 (6.76%) INCREASE FOR FY 2003/04. The motion passed with 3 yeas (Councilors Miller, Elliott and Munk) and 2 nays (Councilor Thackaberry and Harrington).

4) 2002/03 INTRA-FUND TRANSFERS

Finance Director Cole stated that the Senior Center (General Fund) would exceed its budget for this Fiscal Year due to higher utility costs than anticipated at the Academy Square site, unless an additional appropriation is transferred. The proposed resolution would transfer \$6,000 from the unused portion of the appropriation for insurance (Materials & Services) from General Fund Department 195 to the utilities line item (Materials & Services) in the Senior Center budget.

City Attorney McHill read the title of the Resolution.

Councilor Elliott moved, Councilor Munk seconded, to ADOPT A RESOLUTION AUTHORIZING CERTAIN INTRA-FUND TRANSFERS IN THE 2002-03 BUDGET. The motion passed unanimously.

5) SPECIFIED CRIME PROPERTY

Police Chief Healy explained that the proposed ordinance would give the Police Department a new means to control "problem properties". The proposed ordinance declares that it is unlawful to use a property for delivering or manufacturing of a controlled substance, gambling, or prostitution. If violations are not corrected, the proposed Ordinance would allow for closure of the premises for up to one year. Closure would require a court action. This Ordinance also prescribes the penalty of up to \$500/day for continued operations. This ordinance encourages property owners to work with the City to help eliminate these problems. Mr. Healy stated that the City of Albany has a similar ordinance and has had great success with it.

City Attorney McHill read the title of the Ordinance.

Councilor Munk moved, Councilor Thackaberry seconded, to ADOPT A BILL FOR AN ORDINANCE CREATING CHAPTER 8.10, SPECIFIED CRIME PROPERTY, IN THE LEBANON MUNICIPAL CODE, AND DECLARING PENALTIES FOR VIOLATION. The motion passed unanimously by roll call vote.

6) CITY OWNED SURPLUS PROPERTY

City Administrator Hitt explained that the Senior Meals Program has determined that they do not want to use the Hobart Professional Dishwasher that is currently at the Middle School site. The Program intends to use their own dishwasher and pay for the moving and installation of it. The Senior Center would like to donate the current dishwasher at the site to the Lebanon Soup Kitchen. The Soup Kitchen will pay for the cost of moving the dishwasher.

City Attorney McHill read the title of the RESOLUTION.

Councilor Elliott moved, Councilor Thackaberry seconded, to ADOPT A RESOLUTION AUTHORIZING THE SALE OR DISPOSAL OF CITY-OWNED PERSONAL PROPERTY (HOBART DISHWASHER) AND DONATING IT TO THE LEBANON SOUP KITCHEN. The motion passed unanimously.

7) CITY ADMINISTRATOR'S REPORT

City Administrator Hitt reported on the following:

- ▶ *Report on Status of City Council Goals:* Per Council's request, a handout was distributed on past Council Goals and their status.
- ▶ *Summer City Council Schedule:* The consensus was to hold the next Council Meeting on July 23. There will not be an August 27 Council Meeting. Therefore, a meeting will be held on September 3 for a decision on Project Walden. The regularly scheduled meetings for September will still be September 10 and 24.
- ▶ *City Web Page* can be viewed at www.ci.lebanon.or.us. Water bills can be viewed and paid online; city zoning maps and land use applications can be downloaded; City Council Information, Lebanon Municipal Code, and other community information are also available. This website will continue to be updated and enhanced and any comments and staff welcomes Council's comments.

CITIZEN COMMENTS

Hearing no citizen comments, Mayor Toombs explained the procedures for Executive Sessions and called for a brief recess.

EXECUTIVE SESSION

ORS 192.660(1)(h) To consult with legal counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

Mayor Toombs reconvened the regular order of business of the Lebanon City Council at 9:10 p.m.

Councilor Thackaberry moved, Councilor Miller seconded, TO APPROVE A WRITTEN SETTLEMENT AGREEMENT REGARDING SAFEWAY VS. LENTZ VS. SULLIVAN AND THE CITY OF LEBANON. The motion passed unanimously.

ITEMS FROM COUNCIL MEMBERS

Councilor Thackaberry expressed his concern regarding an email sent to him and Councilor Harrington from City Administrator Hitt regarding the budget hearings and the final adoption of the budget. Councilor Thackaberry felt that the email was not very respectful and he would like to schedule an agenda item discussing the past budget procedure. Councilor Thackaberry felt that staff is using the budget process to set policy. The consensus was to schedule a meeting when all Councilor could attend, prior to the next budget process.

ADJOURNMENT

Mayor Toombs adjourned the meeting at 9:12 p.m.

Meeting recorded and transcribed by Admin. Assistant Linda Kaser

Kenneth I. Toombs, Mayor []
Ron Miller, Jr., Council President []

ATTESTED BY:

John E. Hitt, City Recorder

MINUTES

RUSSELL DRIVE AREA MIXED USE NEIGHBORHOOD PLAN JOINT CITY COUNCIL / PLANNING COMMISSION BRIEFING #4

June 25, 2003

City Council Present: Mayor Ken Toombs, Councilors Bob Elliott, Mel Harrington, Roger Munk, Ron Miller and Dan Thackaberry

Planning Commission: Commissioners Paul Aziz and Peggy Snyder

Staff Present: City Administrator John Hitt, Public Works Director Jim Ruef, Community Development Manager Doug Parker, Asst. City Planner Terry Lewis, and Administrative Assistant Linda Kaser

Guests: Linn County Commissioners Cliff Wooten and John Lindsey and Linn County Planner Robert Weeldon

Presenters: Rick Satre and Terri Harding of Satre Associates

Mr. Parker presented an overview of staff's final presentation of the Russell Drive Area Mixed Use Neighborhood Plan, noting that this area will be designated with a new classification, Neighborhood Mixed Use (NMU).

Mr. Satre and Ms. Harding reviewed the Land Use Plan, Transportation Diagram, Illustrative Plan, Plan and Ordinance Amendments, and Annexation and Infrastructure as outlined in their Final Implementation Plan (attached).

The meeting ended at 7:15 p.m.

Lebanon Tourism Commission
May 19, 2003
Special Meeting
12 Noon at Santiam Travel Station

Members Present: Virginia Franklin, Scott Simpson, Peggy Christopherson, and Ray Watts

Visitors Present: Carol Sedlacek, Ray Weldon, and Shirley Gorman

After Chairperson Peggy Christopherson called the meeting to order at 12:16 P.M., Shirley Gorman showed her pen and ink drawings of the Santiam Travel Station. The members suggested the colors that the depot should be drawn in and the additional detail in the foreground of the picture. Also, they decided on the size of the drawing that will be screen printed onto shirts and sold at the Santiam Travel Station.

Scott Simpson presented information about the cost to screen print shirts if it is done locally. For 50 shirts, the cost will be between \$320-\$350 if only 2-3 colors are used in the printing. The members decided to order shirts in both child and adult sizes.

Also, they decided to have printed under the outline of the train depot the following:

Santiam Travel Station
Built in 1908

The LTC members looked at examples of train stamps that could be gotten and sold at the depot. By a consensus vote, they decided on the Gold Spike stamp that has a locomotive on it and that Scott informed all was readily available.

Both Carol Sedlacek and Ray Weldon were asked if they had been appointed to the Lebanon Tourism Commission yet. Both answered in the negative.

Scott explained the need to have a cash box in the depot, and he found one that lays flat and that sells for \$35 at Staples. The members decided that it should be purchased; Scott volunteered to buy it.

Peggy informed the members that the signs to be put on the sandwich boards will cost \$7 per foot at Kinko"s. She will check locally for the cost of the signs.

Before Peggy adjourned the meeting at 1 P.M., she noted the times that the members were working at the depot during the Memorial Day Weekend.

Virginia Franklin
Recording Secretary

Lebanon Tourism Commission
June 9, 2003
Special Meeting
12 Noon at Santiam Travel Station

Members Present: Peggy Christopherson, Ray Watts, Mel Harrington, Scott Simpson, and Virginia Franklin

Visitors Present: Carol Sedlacek and Ray Weldon

At 12:12 P.M., Chairperson Peggy Christopherson called the meeting to order and instructed the members to read the minutes from the previous meeting, May 19, 2003. They were accepted as read.

Scott Simpson complimented Carol Sedlacek on the size and color of the paper she used to make signs to put in the windows of the travel station.

After a brief discussion on the need to get the covers off the visitor information signs, Mel Harrington volunteered to contact ODOT to request that.

Scott reported that Shirley Gorman needs to make a series of patterns for the screen printer before the design can be printed on the shirts.

Because Carol Sedlacek and Ray Weldon have not been appointed to the Lebanon Tourism Commission yet, Peggy is going to write to Mayor Ken Toombs to request that it be done immediately so that the LTC will have the necessary five voting members to carry out its responsibilities.

Scott informed the members that through AAA, picture post cards could be obtained for 12 cents each. He asked Tony Hayden how much he would charge to make post cards of sights in and around Lebanon. Tony will get back with an estimate.

Peggy explained that the class to obtain a food handler's card is the first Monday of every month at 3:00 P.M. in the Elk's. To obtain a blue card, the cost is \$10. She encouraged each member to get a card.

Six green seven - foot wide umbrellas are needed for the tables that will be outside of the Santiam Travel Station. Members are to look for them when shopping. The cost for each umbrella should be about \$40.00.

Before Peggy adjourned the meeting at 1:00 P.M., she noted the next meeting would be July 7, 2003.

Virginia Franklin
Recording Secretary

Lebanon Tourism Commission
July 7, 2003
Regular Meeting
12 Noon at Santiam Travel Station

Members Present: Peggy Christopherson, Ray Watts, Scott Simpson,
and Virginia Franklin

Visitors Present: Carol Sedlacek and Ray Weldon

As each member arrived, Peggy Christopherson asked him/her to read the minutes of the previous meeting, June 9, 2003. After she called the meeting to order at 12:05 P.M., the minutes were accepted as presented.

Peggy asked Carol Sedlacek and Ray Weldon if they had been appointed to the Lebanon Tourism Commission yet. They answered in the negative. Then, Peggy reported that A.K. Dugan had contacted her to substantiate the appointments of Carol Sedlacek and Ray Weldon to the LTC. Neither Peggy nor Scott Simpson could confirm the appointments. Peggy stated that she would contact John Hitt to learn if the appointments were made and that she would report her findings at the next meeting.

Peggy asked Scott if the Lebanon Chamber had reported their tourism expenditures to the Lebanon City Council. He answered in the negative.

Ray Watts suggested checking in with the Chamber when the Santiam Travel Station opens each Friday. The members supported the idea, and volunteers will be instructed to do so.

Peggy initiated discussion about the design of the signs on the sandwich boards. Peggy will check with the printer about using the sun symbol like on visitor information signs in Oregon. Scott volunteered to contact ODOT about the usage. They will report back at the next meeting.

Since Scott has been on vacation, he could not update the members on the progress of the shirt order. He agreed to make a report at the next meeting.

No member had found any 7-foot wide green umbrellas to purchase for the outside of the Santiam Travel Station. Members were encouraged to continue looking for them.

Carol Sedlacek informed the members that at the LTC meeting, September 8, 2003, Michael Foster would talk about tourism in Astoria. It was suggested that members prepare questions to ask him.

Peggy reported on Thursday night shopping in downtown Lebanon beginning July 17th. She stated that Julie Leonard had coordinated

weekly events. Some activities planned were a car show and quilting demonstrations. It was suggested that Julie Leonard be invited to a LTC meeting to make a presentation.

Ray Weldon showed the design for the shirts for this year's Rollin Oldies cruise-in, September 20th. The members supported the design selected.

After Carol inquired why Lebanon did not have any Fourth of July fireworks, discussion followed on other activities that could take place in Lebanon on that holiday.

The members agreed to hold another meeting next Monday, July 14th, at noon in the train depot.

Peggy adjourned the meeting at 1:17 P.M.

Virginia Franklin
Recording Secretary



LEBANON PUBLIC LIBRARY
626 SECOND ST.
LEBANON, OREGON 97355
(541) 451-7461

LEBANON PUBLIC LIBRARY Meeting Minutes May 21, 2003

The Library Advisory Board meeting was called to order at 5:37 p.m.
Attending: Nancy Eaton, Carol Hiebert, Jane Hutchings, Carolyn Misa, Tom Stewart and Library Director, Denice Lee.

The minutes of the April 9th meeting were approved.

Director's Report:

Circulation:	April 2002 = 6691	April 2003 = 8362
	YTD 2002 = 72,944	YTD 2003 = 80,004

The 2003 Clicker Brigade count of library foot traffic was 66,008 compared with 60,164 for 2002.

Adult Reading Program: The April winner was Lynne Kruskamp.

Budget/Library Hours: The library had Friday's hours of service restored during the budget process. Our book budget for 2003-04 is at a reduced rate of \$26,090, compared to \$32,500 for this year.

LSTA: The next LSTA meeting will be May 29th at the Albany Public Library. Michael Gaston, the library consultant hired by Matrix Associates will be presenting at 6:30 p.m. Board members were encouraged to attend.

Armin Lehmann: The lecture by Armin Lehmann, Oregon author of "Hitler's Last Courier" was attended by approximately 50 people. There was a wide range of ages represented.

LMS Site: Mark Seder will be presenting the final conceptual drawing for the LMS Site at the May 28th City Council meeting. It is

anticipated that he will have dollar amounts attached to the buildings on the site.

Parental Supervision Policy: The director gave the board a rough draft of a parental supervision policy which will be discussed at the June meeting.

E-Bay: Stephanie Mathers has volunteered to sell some of the books donated to, or discarded by, the library on E-Bay.

Summer Reading Program: The Summer Reading Program will begin June 17 for kindergarteners through fourth graders, and June 19 for preschoolers through kindergarten. There will be a self-maintained reading program for young adults, fifth grade through high school, which will run through mid-August. Money for prizes was donated by the Friends of the Library.

Issuing Library Cards When Family Members are Restricted: The board began preliminary discussions of a policy regarding parents getting cards for a child when all other cards issued to family members are restricted. The discussion will continue over the coming months.

Lebanon Public Library/Senior Center Foundation: The Foundation has hired a consultant to direct a capital campaign for funds to remodel the Adult Community Center the Senior Center will be moving into, then continue with a drive to fund a new library.

New Business: The director reported that there has been questioning of the standard of service the Lebanon Public Library is providing. The criteria according to the Oregon Benchmarks are: hours of service; number of books; children's programming; and whether or not the director holds a Masters of Library Science.

Adjournment: The meeting was adjourned at 6:29 p.m.

**Next Meeting June 18, 2003
853 Main Street
5:30 – 6:30 p.m.**

LEBANON PUBLIC LIBRARY
Meeting Minutes
June 19, 2003

The Library Advisory Board meeting was called to order at 5:40 p.m.
Attending: Nancy Eaton, Shirley Foulds, Jane Hutchings, Harlan Mastenbrook, Carolyn Misa, Tom Stewart and Library Director, Denice Lee.

The minutes of the May 21st meeting were approved.

Director's Report:

Circulation:	May 2002 = 7958	May 2003 = 7023
	YTD 2002 = 86,936	YTD 2003 = 87,027

Adult Reading Program: The May winner was Joan Daily.

Summer Reading Program: There will be 3 professional performers during the Summer Reading sessions which started June 17th and continue through the month of July. The preschool/toddler group continues to meet on Thursdays at 11 a.m., and the kindergarten through 4th grade group meets on Tuesdays at 1p.m. There is a self-maintained reading program for 5th through high school, which will run through mid-August. Money for prizes was donated by the Friends of the Library. These programs are funded by the Ready to Read grant. The theme is "Read, Discover, Explore". Our program is focused on discovering other cultures. The children will be learning about Russia, Japan, and Mexico.

Library Hours: The library had Friday's hours of service restored during the budget process. We will be open on Fridays beginning July 11, as July 4 is a holiday. We will be operating under summer hours starting in July and ending after Labor Day weekend. This means we'll close one hour earlier Monday – Thursday.

LSTA: The next LSTA meeting will be July 22^h at the Lebanon Public Library. Michael Gaston, the library consultant hired by Matrix Associates will be presenting at 6:30 p.m. Board members were encouraged to attend.

Parental Supervision Policy: The board approved the final draft of the parental supervision policy. Library staff will make handouts, bookmarks and posters to give to patrons and display in the library. The policy was rewritten to include safety, especially parental responsibility for not leaving children unattended at the library.

Children's Services Division Invoice: The library received an invoice of \$100 from the Oregon State Library Children's Services Division for expenses incurred by the OSL promoting and facilitating Summer Reading throughout the state. This fee was unexpected by all libraries. The director asked the Friends of the Library to fund this. They graciously approved at their June meeting.

Temperature: The director reported that the temperature in the library so far this summer, even during the consecutive 90 degree days, is comfortable until the late hours of the day. There have been several comments about the library being "nice and cool". It seems our window air-conditioners are able to keep the temperature down.

Friends report: Shirley Foulds, past president of the Friends of the Library, introduced Harlan Mastenbrook, the newly elected president, to the Library Board members. As president of the Friends, Harlan will serve a 2 year term on the Advisory Board. Harlan reported the Friends book sale in May received \$135.10.

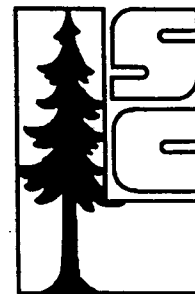
Adjournment: The meeting was adjourned at 6:40 p.m.

**Next Meeting July 9, 2003
853 Main Street
5:30 – 6:30 p.m.**

SENIOR AND DISABLED SERVICES

LEBANON SENIOR CENTER
585 PARK STREET
LEBANON, OREGON 97355

(541) 451-7481 Fax (541) 258-7386



ADVISORY BOARD MEETING

June 18, 2003

MINUTES

Members present: Bob Elliott, Bob Johnson, Linda Learn, Lori McNulty, Bonnie Prince, Remona Simpson, Jim Toftner, Frances West, Susan Tipton and Cheryl Wagner. Guest: Gene Shannon, Margaret Spaeth.

Members absent: Stan Usinger, Jackie Pendleton

MINUTES: Linda Learn moved to accept minutes as written and Remona seconded the motion.

CHAIRPERSON'S REPORT:

Jim had nothing to report.

REPORTS:

- ❖ Cheryl reported that 6 clients who received home delivered meals moved to senior housing and there is a mixed census in the dining room, some new people, and some people doing other things for lunch with the weather nicer.
- ❖ Susan and Cheryl reported on Bingo starting July 1st. Susan bought a new Bingo machine and balls, our old one was falling apart and heavy for volunteers to lug in and out.

CONTINUING BUSINESS:

- ❖ Update on move, Susan reported that Ray Garboden located a volunteer to do excavating on what will be a parking lot that meets ADA requirements. Excavating and hauling away the dirt is holding us back from the city's donation of grindings.
- ❖ Update on move to new center by Susan, work continues. The Lebanon Public Library Senior Center Trust (LPLSCT) has hired Donna Shewey to help with the capital campaign and she is working on a Community Development Block Grant (CDBG). The LPLSCT has hired an architect with money donated from the city to do a walk through to help with the design of the interior of the center. Once the board has architectural concepts Donna will apply for the CDBG money which is \$600,000. The LPLSCT board will establish a priority list and if the grant is awarded begin on the necessary work so the center can move.
- ❖ Updates on volunteer requests. Susan reported that none of the 20 churches she appealed to for help with one potluck a month responded. Lori McNulty said she would contact the women's group in her church to find out their response to the letter Susan sent. Suggestions included writing to the Elketts to see if that group would handle one potluck. Several board members offered to come to help with the June potluck which will be a total potluck, meaning that the center will only provide dessert and participants will bring their own dishes to share.

NEW BUSINESS:

No new business was brought up.

ITEMS FROM THE FLOOR:

Guest Margaret Spaeth distributed a letter she is circulating requesting the return of the second bus which was eliminated as a result of combined state and city shortfalls and a gloomy financial outlook for the state. Members of the board agreed that the bus was needed but all agreed that in these times of tight economies and no increase in funding in sight this is just one segment of the population suffering cuts in state and city programs. If and when the economy improves to the point where states and cities are adding to programs we hope the city is able to add improved transportation to Lebanon.

Bob Elliott spoke of the wonderful job the police department has done on its **Impact** programs. These series of presentations are held at the Lebanon High School Auditorium.

ADJOURNMENT:

Next Meeting: Wednesday, July 16th, 2003

IRREVOCABLE PETITION FOR PUBLIC IMPROVEMENTS

Date 7 July, 2003

PETITIONER(S):

Barbara Tesdal

Petitioner is the owner of the following described real property:

The real property described on **MF1069-262**
Said property is currently assigned the mailing address of 855 F Street, Lebanon, OR
The real property described in MF1069-262 is currently assigned the map number:
12S 2W 15BA Tax Lot 4001

Petitioner hereby irrevocably petitions the City of Lebanon to initiate the following local improvements in accordance with the standard specifications of the City:

City standard street, curb, gutter, sidewalk, storm drainage, and water

This petition is presented to the City of Lebanon so that Petitioner's property may be developed and receive municipal services from the City which will directly benefit Petitioner's property, and shall remain in force and effect for 20 years from the date hereof.

It is understood by Petitioner that:

1. The cost of the improvements shall be borne by the benefited property in accordance with state law, the Charter of the City of Lebanon and its ordinances and policies.
2. The City in its sole discretion may initiate the construction of all or part of the local improvements requested or may join all or part of Petitioner's property with other property when creating a local improvement assessment district.
3. Petitioner and Petitioner's heirs, assigns and successors in interest in the property shall be bound by this irrevocable petition which will run with the property and will be recorded by the City in the deed records of Linn County.
4. Petitioner declares that the public improvements herein sought will directly benefit the described property and will directly benefit the City through improvements to the public way and public utilities serving the property and other properties in the vicinity.
5. Petitioner shall not challenge the formation of a local improvement assessment district by the City and in any proceedings therein will acknowledge this petition of requested to do so by the City.
6. If the City is required to file an action in any court of competent jurisdiction to enforce the language in this petition or to prohibit the violation of any of the covenants contained herein, the prevailing party shall be entitled to recover reasonable attorney fees and costs and disbursements if litigation at trial or on appeal.
7. In construing this petition singular words include the plural.

AFTER RECORDING RETURN TO:

City of Lebanon
Public Works Department
925 Main Street
Lebanon, OR 97355

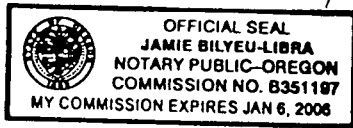
PETITIONER(S):

Barbara Tesdal

STATE OF OREGON)
)
COUNTY OF LINN) ss.

On the 7 day of July, 2003, personally appeared the above named petitioner, Barbara Tesdal, who acknowledged the foregoing instrument to be his/her voluntary act and deed.

Barbara Tesdal



BEFORE ME: *Jamie Bilyeu-Libra*
Notary Public for Oregon
My Commission Expires: 01-06-06

On the _____ day of _____, 2003, personally appeared the above named _____ who acknowledged the foregoing instrument to be his/her voluntary act and deed.

BEFORE ME:
Notary Public for Oregon
My Commission Expires:

CITY OF LEBANON

By: _____
Ken Toombs, Mayor

John Hitt, City Recorder

STATE OF OREGON)
)
COUNTY OF LINN) ss.

On the _____ day of _____, 2003, personally appeared Ken Toombs and John Hitt, who each being duly sworn, did say that the former is the Mayor and the latter is the Recorder for the City of Lebanon, a Municipal Corporation, and that the seal affixed to the foregoing instrument was signed and sealed in behalf of said Corporation by authority of its City Council; and each of them acknowledged said instrument to be its voluntary act and deed.

BEFORE ME:
Notary Public for Oregon
My Commission Expires:

AFTER RECORDING RETURN TO:

City of Lebanon
Public Works Department
925 Main Street
Lebanon, OR 97355

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Agenda Item 1



CITY OF LEBANON

MEMORANDUM

TO: Mayor Toombs and City Council

DATE: July 17, 2003

FROM: John Hitt, City Administrator /jhc

SUBJECT: Libby Annexation (Kidco/Head Start)

As you may recall, the City Council held a Public Hearing on June 25 to hear the proposed annexation of 3.98 acres at South Main and Vaughn Lane.

At that time, a request was made and approved to hold the record open an additional seven days.

Since June 25, two additional submittals were received and are attached to this memo:

1. A letter dated July 2 from Jim Just, Friends of Linn County
2. A response/rebuttal dated July 9 from Jo O'Leary, Director of Kidco/Head Start

In addition, I have attached two documents that are already part of the official record but may have not been reviewed by all City Councilors:

1. A May 21, 2003 letter from Jim Just to the Planning Commission.
2. A June 25 letter from John Puma to the City Council.

I believe that these materials, along with those that you received in your June 25 City Council Agendas represent the entire record concerning this proposed annexation.

No additional public testimony can be received on July 23. It remains only for the City Council to deliberate and then reach a decision concerning this annexation application.

JEH/lgk

A BILL FOR AN ORDINANCE ANNEXING AND)
ZONING PROPERTY FOLLOWING CONSENT)
FILED WITH THE CITY COUNCIL BY)
LANDOWNERS IN SAID AREA PURSUANT TO)
ORS 222.120 AND ORS 222.170 (File A-03-03))

ORDINANCE BILL NO. _____
for 2003

ORDINANCE NO. _____

WHEREAS, the City of Lebanon has received a submission by written request for annexation of real property to the City of Lebanon, signed by more than one-half of the landowners who also own more than one-half of the land in the contiguous territory described in Exhibit "A", which real property represents more than one-half of the assessed value of all real property in the contiguous territory to be annexed; and

WHEREAS, the Lebanon City Council has elected to dispense with submitting the question of the proposed annexation to the electors of the City, initiating the annexation of the territory pursuant to ORS 222.120, calling a hearing and directing that notice be given as required by ORS 222.120(3); and

WHEREAS, after conducting the hearing and considering all objections or remonstrances with reference to the proposed annexation, and further considering the recommendation of the Lebanon Planning Commission, and the parties having requested that the record be kept open, and the City Council further considering submissions to the record, the City Council finds that this annexation is in the best interest of the City and of the contiguous territory.

NOW, THEREFORE, the City of Lebanon ordains as follows:

Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", which is incorporated herein by this reference as if fully set forth at this point.

Section 2. Annexation Area. Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated in accordance with the Lebanon Zoning Ordinance No. 1773, and given the zoning of Residential Mixed Density (RM).

Section 3. Record. The City Recorder shall submit to the Oregon Secretary of State a copy of this Ordinance. The City Recorder is further ordered to send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City of Lebanon within ten (10) days of the effective date of this annexation ordinance to the Linn County Assessor, Linn County Clerk and the Oregon State Department of Revenue.

Passed by the Lebanon City Council by a vote of _____ for and _____ against and approved by the Mayor this 23rd day of July, 2003.

Ken Toombs, Mayor []
Ron Miller, Council President []

ATTEST:

John E. Hitt, City Recorder

EXHIBIT "B"

PROPOSED FINDINGS

Criteria 1:

City Annexation Policy, Section 1: Requires proof that urban services are available or can be made available to serve the property considered for annexation and that the additional demands that would be placed on those services will not overburden their present capacities.

Finding #1:

The proposed annexation complies with City Annexation Policy, Section 1, in that services can be made available to serve the property. The subject property currently has City services available. Sanitary sewer is available via 12-inch main on South Main Road at Vaughn Lane, thus, sewer lines could be extended to serve the subject property. City water service is available from connecting 12-inch water main lines along both Vaughn Lane and South Main Road; City water service could readily be extended to serve the subject property. Storm drainage in this area is attended to by an 18-inch main on South Main Road; piped and/or surface drainage improvements could be made to adequately drain this site.

The opponents to this project, Friends of Linn County (FOLC), argue that there is insufficient evidence to indicate when a water main extension might be placed or financed to connect with the subject property. FOLC also argues that similar improvements must be made for storm drainage. However, the City Council is persuaded that this criteria is met because the staff report provides sufficient evidence that urban services can be made available and that such a criterion does not require a specific plan as to when or how such improvements might be financed. The Council further finds that the provisions of ORS 197.754, which the opponents argue would require annexation only if the City's Capital Improvement Plan establishes that the City can and will provide key urban facilities and services to the area, is not mandatory by the language of said statute. Accordingly, the evidence presented is sufficient, for purposes of the annexation policy criterion, to convince the City that such services can be made available.

Furthermore, with respect to storm drainage, the Council finds that the evidence of the City Engineer is sufficient for satisfying Criteria 1, City Annexation Policy, Section 1. The City finds that further development according to the city's development standards may require further storm drainage improvements, which will prevent adverse drainage impacts to neighboring properties. Therefore, for purposes of annexation, the City finds that the evidence of the City Engineer is sufficient to satisfy this criterion.

Opponents argue that there is insufficient evidence to satisfy this criterion with respect to fire and police protection and "other utilities and public services". However, the opponents present no evidence to convince the City that such considerations are relevant to this proposal. Considering the location of the subject property, within the Urban Growth

Boundary, which provides services for fire and school, and in further consideration of the minimal impact that this proposed annexation shall have on police services, the City finds that consideration of fire and police protection and "other utilities and public services" is satisfied by the evidence in this record. .

Criteria 2:

City Annexation Policy, Section 2: States that *public rights of way necessary for the safe and efficient movement of traffic, bicycles and pedestrians shall be provided with the annexation and without obligation to the City of Lebanon.*

Finding #2:

The proposed annexation complies with City Annexation Policy, Section 2, in that the annexation territory also includes the appropriate abutting Rights-of-Way on South Main Road which provides for the safe travel of pedestrian traffic. Future Right-of-Way to enhance and improve traffic and pedestrian movement and safety is more likely possible with this annexation and would provide connectivity for the dedication associated with a future extension of Joy Street westwards along the southern property boundary. Those further standards will be addressed at the time that access to this future street is proposed. The City finds that addressing future Right-of-Way dedication with respect to Joy Street is more economical and more efficient when addressed with respect to the City's development standards.

Opponents to this annexation argue that the applicant has not complied with various provisions of the Oregon Administrative Rules concerning state mandates about transportation planning. The City finds that the City is in the process of developing its Transportation standards, but that, in the interim, OAR 660-012-0030 do not apply because the City is allowed to use its own standards until adoption of its' TSP, in concurrence with the State of Oregon.

Criteria 3:

City Annexation Policy, Section 3: Specifies that *parties involved in seeking the annexation or who may be included in the annexation shall initiate a program to upgrade any urban services and/or public facilities within the area considered for annexation that do not meet standards as may be established by the City of Lebanon.*

Finding #3:

The proposed annexation complies with City Annexation Policy, Section 3, in that the subject property is currently bordered by the necessary major public infrastructure and that appropriate public infrastructure improvements shall be provided at the time or juncture when the nexus or need is established by an actual development proposal. Mitigation

cannot be required until the impacts of an actual development proposal have been established.

FOLC argues that ORS 197.754 requires a provision of urban services concurrent with zoning for urban uses. The Council finds that the provisions of ORS 197.754 are not mandatory and that, based upon the evidence provided herein, such a requirement is not necessary in this case. The City has established development standards which specifically involve programs to upgrade services, dependant upon the specific development. Therefore, for purposes of annexation, the fact that the subject property herein is bordered by the necessary major public infrastructure, coupled with the development standards which would require additional appropriate infrastructure improvements as the property actually develops is sufficient evidence that the applicant has met the requirements of City Annexation Policy, Section 3. FOLC has presented no evidence to contradict this Finding.

Criteria 4:

City Annexation Policy, Section 4: States that *no annexation shall be considered that does not conform with the Lebanon Comprehensive Plan and its goals and policies.*

Finding #4:

The proposed annexation complies with City Annexation Policy, Section 4, in that the property complies with Zoning Ordinance and Comprehensive Plan policies pertaining to the property and zoning. The submitted conceptual development strategy identifies possible future land uses that conform to the Comprehensive Plan and Zoning Map designations for the property.

Criteria 5

City Annexation Policy, Section 5: States that *it shall be a burden of proof of the applicant that a public need exists for the proposed annexation and that the annexation is in the public's interest.*

Finding #5:

The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists for an affordable and accessible site for a Head Start program in Lebanon, and this annexation is clearly in the public's interest. Head Start is a comprehensive early childhood program for 4-year-old children from low income families and their parents. The program provides a wide range of services in the areas of pre-school education, child health, disability, nutrition, mental health, social services, family involvement, and parenting education. Head Start services are free to families whose income falls below the federal poverty guideline (currently \$18,400 for a family of four), or for families with children who have disabilities or other special needs. In Lebanon, Head Start is currently the only

program that provides this array of vital resources for the community's families that are least able to afford such services. Currently Kidco Head Start serves 54 Lebanon area families and their preschoolers.

Furthermore, the Public Need for this annexation is underscored by the following considerations:

- The applicant notes that over one in four children under age five in Lebanon live in families with incomes below the poverty level. The 2000 Census reported 201 such children who are at risk for later health, education, and crime related problems. Research indicates that Head Start services significantly impact child health, well-being and success in school.
- However, the applicant notes that the Lebanon Head Start Center's ability to continue serving even 54 of these children and families, is in jeopardy because Kidco Head Start currently lacks a permanent location.
- The applicant notes that they have approached Linn County for approval of their Head Start development proposal. However, the Linn County Planning Department will not issue a conditional use permit for a preschool since the subject property is within the City of Lebanon's Urban Growth Boundary.
- The applicant notes that if this property is not annexed and they are not able to utilize their federal grant before the end of 2003, they will lose this funding opportunity.
- If Kidco is unable to find in the very near future an appropriate location to house their program, they could be in jeopardy of no longer being able to serve the above identified community needs.
- Kidco has indicated that no other properties are available that are both affordable and otherwise suitable.

FOLC again argues that particular public need must be identified and quantified with any planning time horizon because of the provisions of ORS 197.754, which FOLC argues are mandatory. The City finds that the provisions of ORS 197.754 are not mandatory and that sufficient public need is found for this proposed annexation, as indicated above. Additionally, FOLC argues that a Head Start facility would be best suited in a central location, without providing any factual support or evidence to support this assertion. On the contrary, the City finds more credible the testimony of the applicant that this property is located within easy commuting distance for Head Start parents, many of whom have limited resources for transportation. Facilities that are located farther from town are hard for parents to access, require longer busing distances for young children, and hinder provision of community field trips. There is sufficient public need to support this annexation request.

The City also finds that notwithstanding FOLC's assertion to the contrary, specific acres of residential land are not required to be identified to support the "public need" under the annexation policies because the 1999 *Analysis of the Regional Economy and Housing for Linn and Benton County* by Echo Northwest was determined to establish a minimum required need, rather than a maximum need. Therefore, considering the evidence presented by the applicant, the City finds that the public need element is satisfied for this specific project.

Criteria 6:

Urbanization Element of the Comprehensive Plan, Phased Growth Program, Policy #1 (page 4-P-1): States that...*the City shall maintain a compact growth pattern that expands the City limits incrementally in an orderly and efficient manner within the service capabilities of the City.*

Finding #6:

The proposed annexation complies with Comprehensive Plan Urbanization Element, Phased Growth Program, Policy #1, (page 4-P-1) in that it would be an orderly and efficient expansion of City limits within City service capabilities. The properties immediately south, southwest, southeast, and northeast are all within the current City limits. The City limits are also within close proximity to the northwest, and north of the subject property. This annexation enables more compact development in this area by helping bridge a narrow gap in the City limits in nearly all directions except the west. Therefore, this annexation represents a timely infill opportunity that will result in a compact growth pattern that expands the City limits incrementally in this area of the City while maintaining and providing the framework for the future expansion of vital pre-school/family educational, health and social services for the community.

FOLC points to this element of the Comprehensive Plan and argues that the applicant has not established that high priority service areas have reached 75% of development capacity. FOLC also argues that the City's 1997 Residential Lands Study and the 1999 "Analysis of the Regional Economy and Housing for Linn and Benton County" by EcoNorthwest indicates that the City has a surplus of residential land. To the contrary, the City finds that such studies establish a minimum of lands available for residential land, rather than a maximum. Accordingly, and in consideration of the location of the subject property in relation to existing city limits, the City finds that this proposal represents an acceptable and orderly compact growth pattern of the city limits.

Criteria 7:

Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (4-P-2): States that...*the City shall annex land only within the Urban Growth Boundary on the basis*

of findings that support the need for additional developable land in order to maintain an orderly, compact growth pattern within the City's service capability.

Finding #7:

The proposed annexation complies with Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2) in that a public need exists for an affordable and accessible site for a Head Start program in Lebanon (See Finding #5 above).

The proposed annexation also complies with Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2) based on the following factors:

- First, the proposed annexation is within the City's Urban Growth Boundary.
- Second, the proposed annexation promotes an orderly, compact growth pattern in that the properties immediately south, southwest, southeast, and northeast are all within the current City limits. The City limits are also within close proximity to the northwest, north, and east of the subject property. This annexation enables more compact development in this area by helping bridge a narrow gap in the City limits in nearly all directions except the west.
- Therefore, this annexation represents a timely infill opportunity that will result in a compact growth pattern that expands the City limits incrementally in this area of the City while maintaining and providing the framework for the future expansion of vital pre-school/family educational, health and social services for the community.

Criteria 8:

Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4-P-2):
States that...Unless otherwise approved by the City, specific development proposals shall be required for annexation requests on vacant land adjacent to the City to insure completion within a reasonable time limit in conformance with a plan approved by the City.

Finding #8:

The City finds that a specific development proposal shall not be required for this annexation request and that the conceptual development strategy or plan and the development of the subject property is sufficient for purposes of determining whether or not the project can be completed within a reasonable time limit in conformance with a plan approved by the City. The City specifically finds that, based upon the evidence of this record, the proposed construction schedule provided by the applicant, and the applicant's indication that there will be future expansion for additional classrooms, can be completed within a reasonable time limit and can be completed in conformance with a plan approved

by the City. The conceptual development strategy identifies uses that comply with the Comprehensive Plan and the Zoning Ordinance and can be served by existing and proposed public and private infrastructure improvements in this area. Therefore, this proposed annexation complies with the Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4-P-2). Furthermore, the conceptual development strategy or plan for the development of the subject property shall be subject to the development standards and further development requirements, which may include appropriate public input.

Criteria 9:

Public Facilities and Services Element of the Comprehensive Plan, General Policy #2 (page 8-P-1): States that *the City shall consider impacts on community facilities before...annexation requests are approved.*

Finding #9:

The proposed annexation complies with Comprehensive Plan Public Facilities and Services Element, General Policy #2, (page 8-P-1) in that the annexation in and of itself will not result in an adverse impact on community facilities. Furthermore, the conceptual use proposed for this property would impose minimal new additional burdens on the infrastructure and services in the immediate vicinity, and almost no new burdens on the overall infrastructure and services of the City simply because this is a relocation of an already existing community facility. Opponents to this annexation request have presented no credible evidence that this annexation, in and of itself, would result in an adverse impact on community facilities, specifically any issues which will not be reasonably addressed by the development standards of the City.

Criteria 10:

Zoning Ordinance Section 3.050 – Zoning of Annexed Areas: *All areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan. If a zoning designation other than one in accordance with the Comprehensive Plan is requested by an applicant, the zoning requested shall not be granted until the plan is amended to reflect concurrence.*

Finding #10:

This proposed Annexation is in compliance with Zoning Ordinance Section 3.050. Currently, the subject property does not have a City zoning designation because it is not within the City limits. However, since the property is within the City's Urban Growth Boundary, the current Comprehensive Plan designation on the subject property is Mixed

Density Residential. The corresponding City zoning designation for a Comprehensive Plan designation of Mixed Density Residential is Residential Mixed Density (RM). The applicant is requesting a zoning designation for the subject property of Residential Mixed Density (RM).

The City further finds that the criteria addressed in the process for annexation has been considered, with appropriate opportunity for public input, in assigning a zone to this subject property. Because the subject property was outside of the City limits prior to annexation, there has been no City zone attached to said property. Therefore, under the authority of the City's agreement with Linn County, the process of assigning a city zoning designation of Residential Mixed Density does not require a zone change or further process. The process followed in this matter is in compliance with the City process for assigning a zone. The City also finds that an "assigning" is not the same as "changing" a zone for purposes of the City process. Having a separate process for a zone change, pursuant to Zoning Ordinance Section 9.010 et seq., is not required in this case and would provide nothing for the public benefit if such process should be required. Zoning Ordinance Section 3.050 specifically applies to annexations and is the appropriate process in this case.

Moreover, opponents to this annexation have not presented any evidence, nor have they made any argument that the proposed zone is in any way inconsistent with the Comprehensive Plan designation of Mixed Density Residential. Therefore, the City finds that the process required by the Lebanon Municipal Code has been followed and that the designation of this property as Residential Mixed Density (RM) is appropriate. The provisions of Lebanon Zoning Ordinance Sections 9.010 and 9.020, contrary to the argument of opponents, are not relevant to the annexation process.

Criteria 11 and 12:

City of Lebanon/Linn County – Urban Growth Management Agreement

11. *Section 2: Delineation of Authority in the Urban Growth Area (UGA), 2nd paragraph:*

The Lebanon Comprehensive Plan designates the future zoning UGA lands will receive upon annexation to the City.

12. *Section 5: Annexations*

The UGA identifies land that may be subject to future City annexation. The City may annex land using its own procedures in accordance with state law. Only land within UGA will be considered for a nnextation. The City will notify t the County of a ny proposed annexations. Upon annexation, the City assumes all jurisdiction for land use actions.

Finding #11:

The City's annexation review procedures on annexation request File #A-03-03 have complied with the City of Lebanon/Linn County Urban Growth Management Agreement, Sections 2 and 5 regarding city authority to annex lands within the urban growth area and assign city zoning in accordance with the Lebanon Comprehensive Plan Map. The applicant has followed the procedure set forth in the Lebanon Zoning Code 3.050 and the UGA (Urban Growth Agreement) which the City finds is the appropriate method of assigning zoning to areas of land outside of the city limits, but within the Urban Growth Boundary and therefore subject to the UGA. The City finds that the proposal has complied with state law because the requisite parties and sufficient majority of parties have filed their consent to this annexation and, therefore, the City has dispensed with an election and proceeded under the authority of ORS 222.120 and ORS 222.170 in reaching a decision on this application.



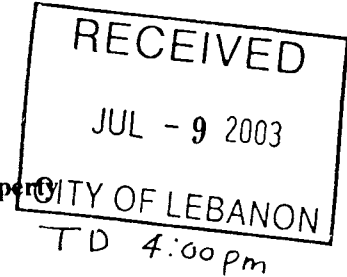
Kidco Head Start

Administration Office

300 Market St., Suite 200 Lebanon, OR 97355 (541) 451-1581 FAX (541) 259-1581

July 9, 2003

Lebanon City Council
925 Main Street
Lebanon OR 97355



RE: Annexation A-03-03, Kidco Head Start – Libby Property

Mayor Toombs and City Councilors:

This is submitted in response to the Friends of Linn County (FOLC) opposition document dated July 2, 2003.

FOLC cite proposal deficiencies in the following areas: streets, water, storm drainage and sanitary sewer. Please refer to the expert testimony of city staff recorded in official minutes and the city staff report included in the attached City of Lebanon Planning Commission Agenda pages 1 through the top of page 9 dated May 21, 2003.

Kidco Head Start has followed all guidelines set forth by the City of Lebanon in this annexation process.

Kidco Head Start will be submitting for comprehensive review by the Lebanon Planning Commission a Planned Development Application as required by Lebanon Zoning Ordinance. The Planned Development Application addresses the development issues raised by Friends of Linn County.

As stated in the April 21, 2003 Petition for Annexation – Applicant's Narrative, the more than 20 properties explored since 2001 have not proved viable either due to lack of overall acreage, unsuitability of the particular property, asking price out of range of Head Start's monetary constraints, expense of renovation, undesirability of the location, or a combination of those factors. The Libby property meets all the necessary criteria, and the program could be operating from the site within a reasonable amount of time without disruption of services to the Lebanon area children and families.

The consequences of Kidco Head Start not receiving timely resolution of this issue are significant, including the following:

- Failure to secure a facility would force the program to cease services in Lebanon.
- \$302,155 of federal funds for purchase and development of property will be forfeited in December 2003.
- Lebanon could lose an additional \$980,000 of funding that would be generated for future stages of the project.
- Services to the neediest population in Lebanon, already suffering cutbacks in resources due to state budgetary issues, could be further impacted.

Please consider this information during your deliberations.

Respectfully submitted,

Jo O'Leary
Jo O'Leary
Director

Sweet Home - Sunnyside
44829 Quartzville Rd.
Foster, OR 97345
(541) 367-8070

Sweet Home - Crawfordsville
38429 Glass Ave.
P.O. Box 202
Crawfordsville, OR 97336
(541) 367-3361

Lebanon
30581 Sodaville Mtn. Home Rd.
Lebanon, OR 97355
(541) 259-2227

Albany - Waverly
425 Columbus SE
Albany, OR 97321
(541) 926-8499

Albany - Riverside
35140 Meadow Lane SW
Albany, OR 97321
(541) 967-1044

Albany - Sunrise
730 19th Ave. SE
Albany, OR 97321
(541) 917-3875

Corvallis
110 SE Alexander
Corvallis, OR 97333
(541) 758-1164

Philomath
1123 Main St.
P.O. Box 487
Philomath, OR 97370
(541) 929-7595

South Benton
25114 Alpine Rd.
P.O. Box 573
Monroe, OR 97456
(541) 424-5437

Central Linn
331 E. Blakely Rm L
P.O. Box 582
Brownsville, OR 97327
(541) 466-3604

Harrisburg
885 Sommerville Lane
P.O. Box 14
Harrisburg, OR 97446
(541) 995-8270

Jefferson
615 N. 2nd St.
P.O. Box 1271
Jefferson, OR 97352
(541) 327-7924

CITY OF LEBANON PLANNING COMMISSION

May 21, 2003

6:30 P.M.

A G E N D A

Lebanon School District
Admin. Office Board Room
485 S. 5th Street, Lebanon

MEMBERS: Chairman Don Robertson, Vice-Chairman Barry Scott, Commissioners Paul Aziz, John Brown, Jon Davis, Robyn Carson, Tom Owen, Peggy Snyder and Mike Wells.

1. CALL TO ORDER / ROLL CALL
2. APPROVAL OF MINUTES - April 30, 2003
3. CITIZEN COMMENT (restricted to items not on Agenda) -
4. PUBLIC HEARING

A. Planned Development PD-02-01, General Development Plan, Wal-Mart Superstore

A request to develop a 25.40 acre site currently containing the Lebanon Motor Vu Drive-in Theater and formerly containing the Champion Tree Nursery site into a new 187,173 square foot Wal-Mart superstore as well as a 904 space parking lot, a public road and four additional lots. The subject property is the former Champion Tree Nursery site and the Motor Vu Drive-in Theater site located on the west side of U.S. Highway 20 (Santiam Highway), south of Market Street and northwest of the Cascade Drive intersection. Assessor's Map 12-2W-23B, Tax Lots 1001, 1600, 1800 and 1901.

B. Annexation A-03-03 (KIDCO Head Start – Libby Property)

Initiated per property owner's request, this approximately 3.4 acre annexation territory is comprised of one vacant parcel at the southwest corner of the intersection of South Main Road and Vaughn Lane. The subject site is designated as Mixed Density Residential on the City of Lebanon Comprehensive Plan Map and will be assigned a Residential Mixed Density (RM) zoning designation upon annexation. The annexation territory also includes the abutting Rights-of-Way on both Vaughn Lane and South Main Road. The property is located at 3320 South Main Road. Assessor's Map 12-2W-22D, Tax Lot 1000.

C. Subdivision S-03-02 (Mountain River Village - Phase 3)

A subdivision request for the third phase of a large, planned subdivision. This proposal is to divide 8.44 acres into 44 residential lots and public streets. Located in a Residential Mixed Density (RM) zone due east of Mountain River Village Phase 2, south of Riverview School and Mountain River Drive. Assessor's Maps 12-2W-14D, Tax Lot 100.

D. Planned Development PD-03-03, Preliminary Devm't Plan, David Hunter Company

A request to construct an industrial equipment parts repair and refinishing facility. This proposed facility is planned to be a single 67,000 square foot building designed to support Dave Hunter Company's business of sales and repair of logging and timber processing equipment. The proposed development area is approximately 5.7 acres in size. The subject property (1600 12th Street) is located on the west of the intersection of 12th Street and "F" Street. Assessor's Map 12-2W-16A, Tax Lot 800.

5. **NEW BUSINESS**

A. TSP renewal

6. **OLD BUSINESS**

A. Comprehensive Plan update

B. Annexation Policy update

7. **OTHER BUSINESS**

A. LUBA Appeals update

B. Meeting Schedule – June 18 and July 16, 2003

8. **COMMISSIONER COMMENTS**

9. **ADJOURNMENT**

**CITY OF LEBANON
PLANNING COMMISSION STAFF REPORT
ANNEXATION REQUEST**

NATURE OF REQUEST: Annexation of approximately a 3.98 acre annexation territory comprised of one parcel at the southwest corner of the intersection of South Main Road and Vaughn Lane. This property is currently developed with a single family dwelling. The annexation territory also includes the appropriate abutting Rights-of-Way on Vaughn Lane and South Main Road (approximately .6 acres of the total 3.98 acres).

APPLICANT: Kids and Company of Linn County (Kidco Head Start)
(Owners: Douglas R. & Jeannie L. Libby)

PROPERTY LOCATION: 3320 South Main Road; Assessor's Map 12-2W-22D; Tax Lot 1000.

ZONE DESIGNATION: Residential Mixed Density (RM) -- upon annexation

COMP PLAN DESIGNATION: Mixed Density Residential

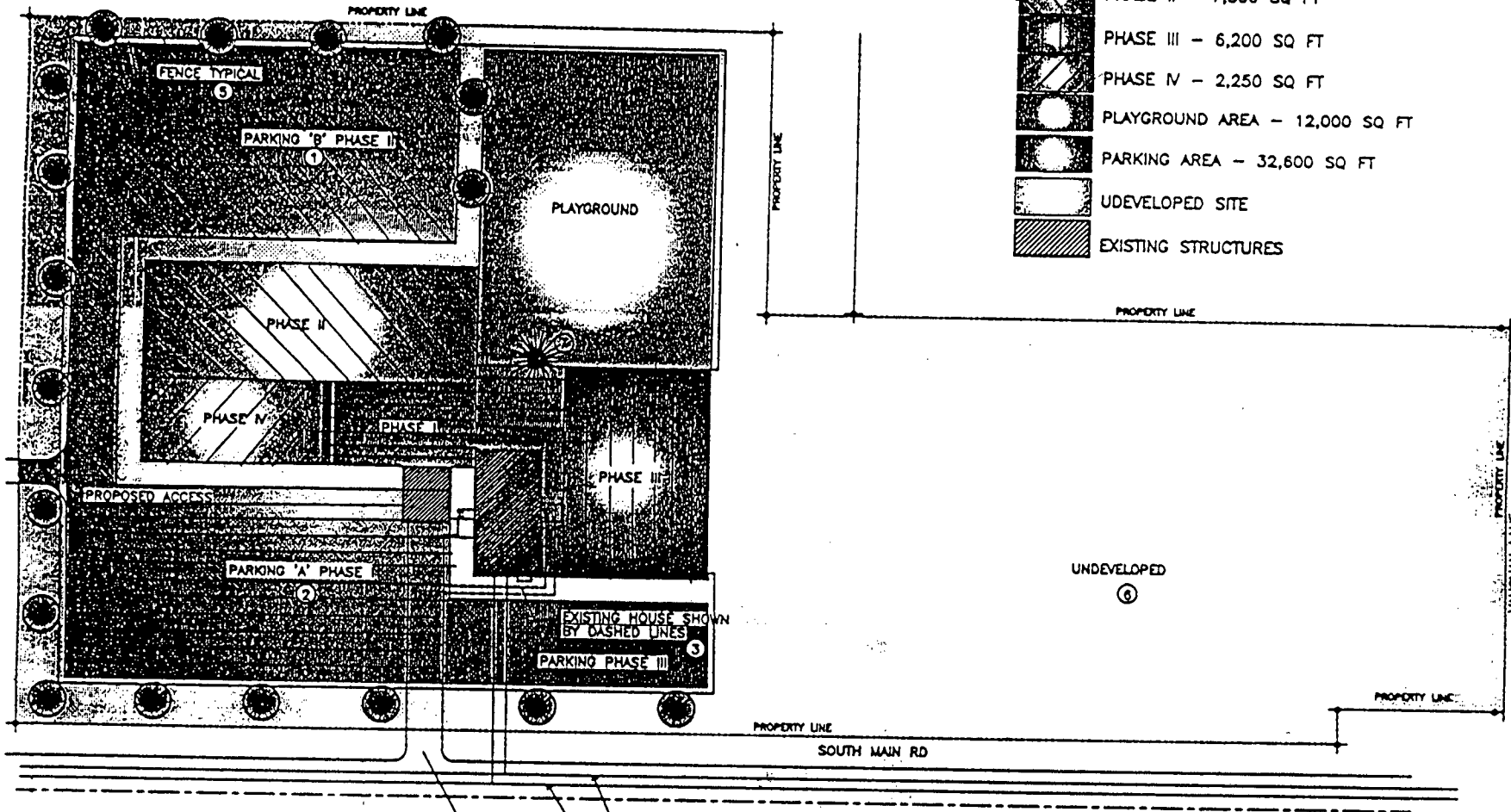
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INTRODUCTION

This annexation territory, approximately 3.98 acres in size, is comprised of one parcel at the southwest corner of the intersection of South Main Road and Vaughn Lane. This property (3320 South Main Road) is currently developed with a single family dwelling. The annexation territory also includes the appropriate abutting Rights-of-Way on Vaughn Lane and South Main Road. The applicant proposes to annex this property in support of the immediate development of Phase 1 of the new site for the Kidco Head Start pre-school education program. Currently 54 Lebanon families and their preschoolers receive Head Start services. Over the years, the Lebanon Community School District has supported the Kidco Head Start program by supplying space in district-owned buildings. Head Start has rented space for classroom, offices, a meeting room, kitchen, and gymnasium. However, in recent years the availability of space from the School District has become problematic, causing the Kidco program to relocate four times since 1997. In order to curtail these disruptions and expensive relocations, Kidco obtained a grant from federal Head Start to build a facility as part of the Green Acres Elementary School, but the costs were prohibitive. Kidco was able to retain the funding to secure a new site and facilities with the condition that the funds must be expended before the end of 2003. Without a new facility Kidco may be forced to not only forfeit the grant, but also cease operations in Lebanon altogether.

LEGEND

	PHASE I - 3,830 SQ FT
	PHASE II - 7,800 SQ FT
	PHASE III - 6,200 SQ FT
	PHASE IV - 2,250 SQ FT
	PLAYGROUND AREA - 12,000 SQ FT
	PARKING AREA - 32,600 SQ FT
	UNDEVELOPED SITE
	EXISTING STRUCTURES



NOTES:

1. BUS LOADING/UNLOADING PHASE I - PARKING 'A'
2. BUS LOADING/UNLOADING PHASE II - MOVES TO PARKING 'B'
3. EXISTING HOUSE WILL REMAIN FOR PHASE I
4. CONNECTION TO PUBLIC WATER AND SEWER WILL BE REQUIRED PRIOR TO OCCUPANCY (WELL RETAINED FOR IRRIGATION ONLY)
5. CHAIN LINK FENCE AROUND BUILDINGS/PLAYGROUND AND PARKING
6. RESERVED FOR FUTURE
7. EXISTING TREE TO REMAIN

SITE CRITERIA

PROPERTY ADDRESS: 3320 S MAIN RD, LEBANON, OR 97355

CURRENT ZONE DESIGNATION - UTM10
 REQUESTED ZONE DESIGNATION - RM

OCCUPANCY - E-1
 BUILDING AREA ALL PHASES = 19,880 SQ FT
 FIRE SEPARATION - 4 SIDES
 CONSTRUCTION TYPE - VN (SPRINKLED)

TOTAL SITE AREA = 148,525 SQ FT (3.4 ACRES)
 PAVED AREA = 32,600 SQ FT
 OPEN AREA = 84,045 SQ FT

CONCEPTUAL SITE PLAN



PROJECT DESCRIPTION

PHASED DEVELOPMENT FOR KIDCO HEAD ST.

PROJECT LOCATION: 3320 S. MAIN RD. LEBANON, OR

DATE: 6/28/03
 PREPARED BY: J. J. ARCHITECTS
 CHECKED BY: J. J. ARCHITECTS
 DESIGNED BY: J. J. ARCHITECTS



S1.1

Project No. -
 Project Name -
 Issue Date -

The Libby property is particularly well-suited for a Head Start facility. Excerpts from the applicant's narrative (Attachment A) explains this. The Libby property...

"satisfies the federal Head start guidelines for facility purchase as well as meets the needs of the local program in many other ways, as follows:

- The 3.4 acres is adequate to accommodate current needs for center space as well as for future growth. There is room for off-street parking for staff, parents and two small school buses; a sizeable playground that can be utilized by the entire community during off-school hours; and future expansion for additional classrooms and administrative offices. No other available properties within proximity to the city center offer this amount of acreage or are otherwise suitable.*
- The property is located within easy commuting distance for Head Start parents, many of whom have limited resources for transportation. Facilities that are located farther from town are hard for parents to access, require longer busing distances for young children, and hinder provision of community field trips.*
- The location on a main thoroughfare is advantageous for directing visitors. Lebanon is the geographic hub of the program, and this property is readily accessible and easy to find from all the communities the program serves.*
- The [existing] house can, without excessive renovation, be used to accommodate the immediate need for center offices, a parent lounge and a kitchen. The only immediate addition to the property would be a two-classroom modular. Both of these steps can be completed with the funding that is already in place and within a timeline that would allow for occupancy in the near future."*

Kidco Head Start has submitted a conceptual plan for phased development over roughly a seven year period of time (if funding becomes available). As noted above, current funding would provide for the acquisition of the property, minimal retrofits to the existing home and the addition of a two-classroom modular unit. These Phase One actions, projected for the remainder of 2003, would enable the program to keep functioning in order to continue serving the current community need. An additional three phases, potentially beginning in 2005, would enhance the program's quality and ability to serve the future needs of the community. (Please see Attachment A for further details.)

SITE DESCRIPTION

The 3.98-acre annexation territory is comprised of one parcel at the southwest corner of the intersection of South Main Road and Vaughn Lane. This property (3320 South Main Road) is currently developed with a single family dwelling on the southern portion of the parcel. The northern portion of the property is currently undeveloped and is primarily an open field. Access to the property and the existing single family dwelling is currently from South Main Road. The eventual extension of Joy Street to the west would run along the southern boundary of the subject property.

Surrounding uses are residential and agricultural. The properties within the City limits northeast, southeast, and south of the subject property are zoned Residential Mixed Density (RM). The unannexed territory immediately north, east and west has a City of Lebanon Comprehensive Plan Map designation of Mixed Density Residential, and would be assigned a Residential Mixed Density (RM) zoning designation upon annexation. The properties to the northwest of the subject property is within the City limits and is zoned Residential Low Density (RL). All of the properties in the area that are developed contain single family dwellings. The area to the south and southwest of the subject property is undeveloped and comprised primarily of open pasture fields with a large stand of oaks in the western part. This area is the site of the proposed Heather Estates subdivision project.

PLANNING AND ZONING CONSIDERATIONS

The Comprehensive Plan Map identifies the designation of the subject property as Mixed Density Residential on the City of Lebanon Comprehensive Plan Map, and will be assigned a Residential Mixed Density (RM) zoning designation upon annexation. City of Lebanon Resolution No. 11 for 1982, a Resolution Establishing an Annexation Policy, contains the factors and conditions that the City considers in evaluating an annexation request. Lebanon Zoning Ordinance Section 4.020 lists the development opportunities, standards and requirements for the Residential Mixed Density (RM) zone.

STAFF COMMENTS

1. Planning:

- A. The legal description and a map describing the entire annexation area have been submitted and are included in this report.

2. Engineering:

Urban services are or can be made available to serve the proposed annexation area. The following comments review the city's infrastructure. Redevelopment of this area may require additional infrastructure improvements.

- A. Streets – South Main Road, currently improved to a county standard, borders the proposed annexation on the east. South Main Road is designated as a future City arterial and has been improved to City standard with a center turn lane, bike lanes and sidewalks north of the proposed annexation. Vaughn Lane is adjacent to the proposed annexation on the north. It is also currently improved to a county standard but is designated as a future City collector. At the southern boundary of the proposed annexation, Joy Street intersects with the east side of South Main Road. This local street is proposed to extend west to South 5th Street adjacent to the proposed annexation.

When South Main Road was reconstructed in 1999, the City acquired an additional 15 feet of right-of-way adjacent to South Main Road in the northeast corner of the proposed annexation. In order to provide for future street improvements, an additional 15 foot right-of-way dedication along the remaining South Main Road frontage is required as a condition of this annexation. Future development of the site may require participation in improvements to South Main Road, Vaughn Lane, and/or Joy Street.

- B. Water – There is a 12-inch water main located on Vaughn Lane that connects to another 12-inch main on South Main Road. Participation in a water main extension on South Main Road may be required with future site development. Connection to a new city water main will also involve costs for service lines, meters, plumbing permit fees, and a water system development charge.
- C. Drainage – The nearest storm drain pipe is an 18-inch main on South Main Road at Vaughn Lane. Piped and/or surface drainage improvements will be required with site development in order to convey site storm drainage and to prevent adverse drainage impacts to neighboring properties.

POINT OF BEGINNING
N 0°03' E 1458.60' AND
S 89°42' EAST 1442.20'
FROM THE NORTHWEST CORNER
OF THE SAMUEL CARROLL DLC NO. 64

(N89°42'00"V 158.55')

(S00°03'V 20.00')

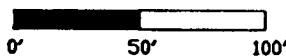
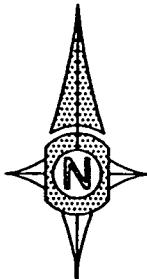
(65')

(N 0°)

VAUGHN LANE (CR. 713)

(N 89°)

(65')



SCALE

(S00°03'V 328.25')

SOUTH MAIN STREET (CR. 777)

(N00°12'E 640.0')

(N89°42'00"V 120.00')

ANNEXATION AREA

3.98 AC

(S00°03'00"V 311.75')

(50')

(S89°42'00"E 326.82')

CURRENT CITY LIMITS BOUNDARY
PER ORDINANCE NO. 2259 AS
RECORDED IN MF 1103-463

ANNEXATION MAP - LEBANON FILE #
A-03-03
T125-R2W-22 D,
TAX LOT 1000

(50')

JAMES F. UDELL ENGINEERING & SURVEYING

DDIDDEDIT

63 EAST ASH STREET
LEBANON, OREGON 97355
PHONE (541) 451-5125
FAX (541) 451-1366

LEBANON FILE #
A-03-03

T12S-R2W-22D,
TAX LOT 1000

Kidco Head Start Annexation Legal

An area of land in the Southeast $\frac{1}{4}$ of section 22 in Township 12 South of Range 2 West of the Willamette Meridian, Linn County, Oregon described as follows:

Beginning at a point which bears North $0^{\circ}03'$ East 1458.60 feet and South $89^{\circ}42'$ East 1442.2 feet from the Northwest corner of the Samuel Carroll DLC NO. 64 in Township 12 South of Range 2 West, said point also being the Northeast corner of a tract of land deeded to Mark Colvin by deed recorded November 7, 1979 in MF volume 249 page 406; thence South $0^{\circ}03'$ West, along the East line of the Colvin tract, 328.25 feet to the most Easterly Southeast corner of a tract of land conveyed to Robert E. Colvin, et al by contract recorded July 20, 1973 in MF volume 67 page 534; thence following the East line of said Robert E. Colvin tract North $89^{\circ}42'$ West 120.0 feet; thence South $0^{\circ}03'$ West 311.75 feet to the most Southerly Southeast corner of said Robert E. Colvin tract; thence South $89^{\circ}42'$ East 326.82 feet to a point on the East right-of-way of South Main Street (County Road no. 777); thence North $0^{\circ}12'$ East, along the said East right-of-way 640 feet to a point South $89^{\circ}42'$ East of the point of beginning; thence North $89^{\circ}42'$ West 50.00 feet to a point; thence North $0^{\circ}12'$ East 20.00 feet to a point on the North right-of-way of Vaughn Lane; thence North $89^{\circ}42'$ West, along said North right-of-way, 158.55 feet to a point; thence South $0^{\circ}03'$ West 20.00 feet to the point of beginning.

Contains 3.98 acres.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Vanetta

OREGON
JULY 13, 1999
BRIAN S. VANETTA
51041-LS

D. Sanitary Sewer –There is a 12-inch sanitary sewer main on South Main Road at Vaughn Lane. Participation in a sewer main extension on South Main Road may be required with future site development. The area is served by the existing Westside Interceptor which currently overflows further downstream during heavy rainfall events. A review of available sewer capacity will be made at the time of a development proposal. Limitations in sewer discharge and/or downstream improvements to the collection system may be required at that time. Connection to city sanitary sewer will involve costs for service lines, plumbing permit fees, and a sanitary sewer system development charge.

Connection to a city utility or building permit issuance will also cause to be due all remaining street and drainage system development charges.

All of the above permits, fees, and processes are detailed in the city's Site Development Guide.

RELEVANT CRITERIA

City Annexation Policy (City Of Lebanon Resolution #11 For 1982) Criteria

1. Section 1, requires *proof that urban services are available or can be made available to serve the property considered for annexation and that the additional demands that would be placed on those services will not overburden their present capacities.*
2. City Annexation Policy, Section 2, states that *public rights of way necessary for the safe and efficient movement of traffic, bicycles and pedestrians shall be provided with the annexation and without obligation to the City of Lebanon.*
3. City Annexation Policy, Section 3, specifies that *parties involved in seeking the annexation or who may be included in the annexation shall initiate a program to upgrade any urban services and/or public facilities within the area considered for annexation that do not meet standards as may be established by the City of Lebanon.*
4. City Annexation Policy, Section 4, states that *no annexation shall be considered that does not conform with the Lebanon Comprehensive Plan and its goals and policies.*
5. City Annexation Policy, Section 5, states that *it shall be the burden of proof of the applicant that a public need exists for the proposed annexation and that the annexation is in the public's interest.*

Comprehensive Plan Criteria

6. Urbanization Element of the Comprehensive Plan, Phased Growth Program, Policy #1 (page 4-P-1) states that . . . *the City shall maintain a compact growth pattern that expands the City limits incrementally in an orderly and efficient manner within the service capabilities of the City.*
7. Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2) states that . . . *the City shall annex land only within the Urban Growth Boundary on the basis of findings that support the need for additional developable land in order to maintain an orderly, compact growth pattern within the City's service capability.*

8. Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4-P-2) states that Unless otherwise approved by the City, specific development proposals shall be required for annexation requests on vacant land adjacent to the City to insure completion within a reasonable time limit in conformance with a plan approved by the City.
9. Public Facilities and Services Element of the Comprehensive Plan, General Policy #2 (page 8-P-1) states that the City shall consider impacts on community facilities before ... annexation requests are approved.

Zoning Ordinance Criteria

10. Section 3.050 – Zoning of Annexed Areas: *All areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan. If a zoning designation other than one in accordance with the Comprehensive Plan is requested by an applicant, the zoning requested shall not be granted until the plan is amended to reflect concurrence.*

City of Lebanon/Linn County – Urban Growth Management Agreement

11. Section 2: Delineation of Authority in the Urban Growth Area (UGA), 2nd paragraph:
The Lebanon Comprehensive Plan designates the future city zoning UGA lands will receive upon annexation to the City.
12. Section 5: Annexations
The UGA identifies land that may be subject to future City annexation. The City may annex land using its own procedures in accordance with state law. Only land within the UGA will be considered for annexation. The City will notify the County of any proposed annexations. Upon annexation, the City assumes all jurisdiction for land use actions.

RECOMMENDATION

Unless the public hearing identifies hitherto unknown reasons why the proposed annexation would be to the detriment of surrounding properties, the neighborhood or the City, staff recommends that the Planning Commission recommend to the City Council that the proposed annexation and Residential Mixed Density (RM) zoning be approved.

PROPOSED FINDINGS

Criteria 1:

City Annexation Policy Section 1: Requires proof that urban services are available or can be made available to serve the property considered for annexation and that the additional demands that would be placed on those services will not overburden their present capacities.

Finding # 1:

The proposed annexation complies with City Annexation Policy, Section 1, in that services can be made available to serve the property. The subject property currently has City services available. Sanitary sewer is available via 12-inch main on South Main Road at Vaughn Lane; thus, sewer lines could be extended to serve the subject property. City water service is available from connecting 12-inch water main lines along both Vaughn Lane and South Main Road; City water service could readily be extended to serve the subject property. Storm drainage in this area is attended to by an 18-inch main on South Main Road; piped and/or surface drainage improvements could be made to adequately drain this site.

Criteria 2:

City Annexation Policy Section 2: States that *public rights of way necessary for the safe and efficient movement of traffic, bicycles and pedestrians shall be provided with the annexation and without obligation to the City of Lebanon.*

Finding # 2:

The proposed annexation complies with City Annexation Policy, Section 2, in that the annexation territory also includes the appropriate abutting Rights-of-Way on South Main Road. Future Right-of-way dedication associated with a future extension of Joy Street westwards along the southern property boundary would be addressed at the time that access to this future street is proposed.

Criteria 3:

City Annexation Policy, Section 3: Specifies that *parties involved in seeking the annexation or who may be included in the annexation shall initiate a program to upgrade any urban services and/or public facilities within the area considered for annexation that do not meet standards as may be established by the City of Lebanon.*

Finding # 3:

The proposed annexation complies with City Annexation Policy, Section 3, in that the subject property is currently bordered by the necessary major public infrastructure and that appropriate public infrastructure improvements will be provided as the property actually develops. Recent case law dictates that such public infrastructure improvements shall be provided at the time or juncture when the nexus or need is established by an actual development proposal. Mitigation cannot be required until the impacts of an actual development proposal have been established.

Criteria 4:

City Annexation Policy, Section 4: States that *no annexation shall be considered that does not conform with the Lebanon Comprehensive Plan and its goals and policies.*

Finding # 4:

The proposed annexation complies with City Annexation Policy, Section 4, in that the property complies with Zoning Ordinance and Comprehensive Plan policies pertaining to the property and zoning. The submitted conceptual development strategy identifies possible future land uses that conform to the Comprehensive Plan and Zoning Map designations for the property.

Criteria 5:

City Annexation Policy, Section 5: States that *it shall be the burden of proof of the applicant that a public need exists for the proposed annexation and that the annexation is in the public's interest.*

Finding # 5:

The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists for an affordable and accessible site for a Head Start program in Lebanon, and this annexation is clearly in the public's interest. Head Start is a comprehensive early childhood program for 4-year-old children from low income families and their parents. The program provides a wide range of services in the areas of pre-school education, child health, disability, nutrition, mental health, social services, family involvement, and parenting education. Head Start services are free to families whose income falls below the federal poverty guideline (currently \$18,400 for a family of four), or for families with children who have disabilities or other special needs. In Lebanon, Head Start is currently the only program that provides this array of vital resources for the community's families that are least able to afford such services. Currently Kidco Head Start serves 54 Lebanon area families and their preschoolers.

Furthermore, the Public Need for this annexation is underscored by the following considerations:

- The applicant notes that over one in four children under age five in Lebanon live in families with incomes below the poverty level. The 2000 Census reported 201 such children who are at risk for later health, education, and crime related problems. Research indicates that Head Start services significantly impact child health, well-being and success in school.
- However, the applicant notes that the Lebanon Head Start Center's ability to continue serving even 54 of these children and families, is in jeopardy because Kidco Head Start currently lacks a permanent location.
- The applicant notes that they have approached Linn County for approval of their Head Start development proposal. However, the Linn County Planning Department will not issue a conditional use permit for a preschool since the subject property is within the City of Lebanon's urban growth boundary.
- The applicant notes that if this property is not annexed and they are not able to utilize their federal grant before the end of 2003, they will lose this funding opportunity.
- If Kidco is unable to find in the very near future an appropriate location to house their program, they could be in jeopardy of no longer being able to serve the above identified community needs.
- Kidco has indicated that no other properties are available that are both affordable and otherwise suitable.

Criteria 6:

Urbanization Element of the Comprehensive Plan, Phased Growth Program, Policy #1 (page 4-P-1): States that . . . *the City shall maintain a compact growth pattern that expands the City limits incrementally in an orderly and efficient manner within the service capabilities of the City.*

Finding # 6:

The proposed annexation complies with Comprehensive Plan Urbanization Element, Phased Growth Program, Policy #1, (page 4-P-1) in that it would be an orderly and efficient expansion of City limits within City service capabilities. The properties immediately south, southwest, southeast, and northeast are all within the current City limits. The City limits are also within close proximity to the northwest, and north of the subject property. This annexation enables more compact development in this area by helping bridge a narrow gap in the City limits in nearly all directions except the west. Therefore, this annexation represents a timely infill opportunity that will result in a compact growth pattern that expands the City limits incrementally in this area of the City while maintaining and providing the framework for the future expansion of vital pre-school/family educational, health and social services for the community.

Criteria 7:

Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2): States that...*the City shall annex land only within the Urban Growth Boundary on the basis of findings that support the need for additional developable land in order to maintain an orderly, compact growth pattern within the City's service capability.*

Finding # 7:

The proposed annexation complies with Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2) in that a public need exists for an affordable and accessible site for a Head Start program in Lebanon (see finding # 5 above).

The proposed annexation also complies with Urbanization Element of the Comprehensive Plan, Annexation Policy #1 (page 4-P-2) based on the following factors:

- First, the proposed annexation is within the City's Urban Growth Boundary.
- Second, the proposed annexation promotes an orderly, compact growth pattern in that the properties immediately south, southwest, southeast, and northeast are all within the current City limits. The City limits are also within close proximity to the northwest, north, and east of the subject property. This annexation enables more compact development in this area by helping bridge a narrow gap in the City limits in nearly all directions except the west.
- Therefore, this annexation represents a timely infill opportunity that will result in a compact growth pattern that expands the City limits incrementally in this area of the City while maintaining and providing the framework for the future expansion of vital pre-school/family educational, health and social services for the community.

Criteria 8:

Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4-P-2): States that
Unless otherwise approved by the City, specific development proposals shall be required for annexation requests on vacant land adjacent to the City to insure completion within a reasonable time limit in conformance with a plan approved by the City.

Finding # 8:

The proposed annexation complies with Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4-P-2). The applicant has provided a conceptual development strategy or plan for the development of subject property. The conceptual development strategy identifies uses that comply with the Comprehensive Plan and Zoning Ordinance and that can be served by existing and proposed public and private infrastructure improvements in the area.

Criteria 9:

Public Facilities and Services Element of the Comprehensive Plan, General Policy #2 (page 8-P-1): States that *the City shall consider impacts on community facilities before ... annexation requests are approved.*

Finding # 9:

The proposed annexation complies with Comprehensive Plan Public Facilities and Services Element, General Policy #2, (page 8-P-1) in that the annexation in and of itself will not result in an adverse impact on community facilities. Furthermore, the conceptual use proposed for this property would impose minimal new additional burdens on the infrastructure and services in the immediate vicinity, and almost no new burdens on the overall infrastructure and services of the City simply because this is a relocation of an already existing community facility.

Criteria 10:

Zoning Ordinance Section 3.050 – Zoning of Annexed Areas: *All areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan. If a zoning designation other than one in accordance with the Comprehensive Plan is requested by an applicant, the zoning requested shall not be granted until the plan is amended to reflect concurrence.*

Finding # 10:

This proposed Annexation is in compliance with Zoning Ordinance Section 3.050. Currently the subject property does not have a City zoning designation because it is not within the City limits. However, since the property is within the City's Urban Growth Boundary, the current Comprehensive Plan designation on the subject property is Mixed Density Residential. The corresponding City zoning designation for a Comprehensive Plan designation of Mixed Density Residential is Residential Mixed Density (RM). The applicant is requesting a zoning designation for the subject property of Residential Mixed Density (RM).

Criteria 11 and 12:

City of Lebanon/Linn County -- Urban Growth Management Agreement

11. Section 2: Delineation of Authority in the Urban Growth Area (UGA), 2nd paragraph:

The Lebanon Comprehensive Plan designates the future city zoning UGA lands will receive upon annexation to the City.

12. Section 5: Annexations

The UGA identifies land that may be subject to future City annexation. The City may annex land using its own procedures in accordance with state law. Only land within the UGA will be considered for annexation. The City will notify the County of any proposed annexations. Upon annexation, the City assumes all jurisdiction for land use actions.

Finding # 11:

The City's annexation review procedures on annexation request File # A-03-03 have complied with the City of Lebanon/Linn County Urban Growth Management Agreement, Sections 2 and 5 regarding city authority to annex lands within the urban growth area and assign city zoning in accordance with the Lebanon Comprehensive Plan Map.

Attachment A
Applicant's Narrative

PETITION FOR ANNEXATION

(Created April 21, 2003 by Kidco Head Start)

Kids and Company of Linn County is a private non-profit that has been operating the local Head Start program since 1978 with a combination of federal and state funds. Acting as agent for Douglas Libby and Jeannie Libby, Kids and Company is petitioning for annexation of the Libby property to use for providing Head Start services in Lebanon. Because this property is within the City of Lebanon's urban growth boundary, the Linn County Planning Department will not issue a conditional use permit for a preschool.

Head Start is a comprehensive early childhood program for 4-year-old children from low-income families and their parents. The program provides a wide range of services in the areas of preschool education, child health, disability, nutrition, mental health, social services, family involvement, and parenting education. Head Start services are free to families whose income falls below the federal poverty guideline (an annual income of not more than \$18,400 for a family of four) or for families with children who have disabilities or other special needs. Furthermore, Head Start is the only program in Lebanon that provides this array of vital resources for the most needy families in the community.

Kidco Head Start began serving Lebanon area children in 1979. Today, 54 Lebanon area families and their preschoolers receive Head Start services each year. Lebanon Community Schools has consistently supported the program by supplying room in district-owned buildings, sometimes in operating elementary schools and sometimes in vacated elementary schools. Head Start rents space not only for the classrooms, but also for offices, a parent lounge/meeting room, kitchen, and gymnasium.

Since 1997, however, the Lebanon center has been forced to move four times because of changing use or ownership of the buildings that housed the program. Each move presents financial hardship for the program: Moving equipment and supplies for three classrooms, offices, kitchen and gym proves costly. In addition, each new site is required to conform to Head Start federal facility standards, so the program repeatedly incurs the costs of painting classrooms, installing fencing, and creating suitable playground areas. Constant moving also impacts effectiveness in serving the Lebanon community: People can't be certain from one year to the next if Head Start will find a facility, and there is considerable confusion about center location. The lack of continuity also wreaks havoc on the morale of the 13 staff who provide services to the children and families. Head Start urgently needs to alleviate the constant expense, turmoil and uncertainty caused by these moves, and the best interests of the public would be served in doing so.

In 2001, Kids and Company began actively searching for a solution to Lebanon's facility issues. Addressing that concern, the program submitted an application for federal Head Start funds to support the creation of a permanent Lebanon Head Start facility. That request was granted, and initially, Head Start worked with Lebanon Community Schools to become part of the renovation plan at Green Acres Elementary School. That plan failed because of the disproportionate expense that would have been incurred by Head Start's addition. When the Green Acres project failed to materialize, the funds for that project were "rolled over" into 2002 and the program was given additional time to put together a plan for Lebanon. It is imperative that the program locates and settles on a permanent facility before the end of 2003 in order to maintain the use of those vital and hard-to-access funds.

Subsequent to the Green Acres plan, many other properties have been explored and have not proved viable either due to lack of overall acreage, unsuitability of the particular property, undesirability of the location, asking prices that are out of range of Head Start's monetary constraints, expense of renovation, or a combination of those factors. Queen Anne Park Elementary School, from which Head start is operating this school year, is a good example: Although the building is currently for sale, the facility does not meet the requirements for purchasing property with federal Head Start funds. To modify the building to meet those requirements would be cost prohibitive, especially because all the renovations would need to be accomplished at the outset. In addition, the property has been divided in a manner that leaves inadequate acreage to meet our needs for playground, parking, and expansion.

The Libby property for which this petition is being filed is particularly well-suited for a Head Start facility. It satisfies the federal Head Start guidelines for facility purchase as well as meets the needs of the local program in many other ways, as follows:

- The 3.4 acres is adequate to accommodate current needs for center space as well as for future growth. There is room for off-street parking for staff, parents and two small school buses; a sizeable playground that can be utilized by the entire community during off-school hours; and future expansion for additional classrooms and administrative offices. No other available properties within proximity to the city center offer this amount of acreage or are otherwise suitable.
- The property is located within easy commuting distance for Head Start parents, many of whom have limited resources for transportation. Facilities that are located farther from town are hard for parents to access, require longer busing distances for young children, and hinder provision of community field trips.
- The location on a main thoroughfare is advantageous for directing visitors. Lebanon is the geographic hub of the program, and this property is readily accessible and easy to find from all the communities the program serves.
- The property provides ample opportunity to create a spacious and natural outdoor environment for Head Start children, who often live in small houses or apartments with little access to carefully designed outdoor play spaces that are geared toward preschoolers.
- The house can, without excessive renovation, be used to accommodate the immediate need for center offices, a parent lounge and a kitchen. The only immediate addition to the property would be a two-classroom modular. Both of these steps can be completed with funding that is already in place and within a timeline that would allow for occupancy in the near future.

RECEIVED
JUL 02 2003

July 2, 2003

Lebanon City Council
925 Main Street
Lebanon OR 97355

RE: Annexation A-03-03, Kidco

Mayor Toombs and Councilors:

Friends of Linn County (FOLC) and I strongly support of the Head Start Program in general and the Lebanon program in particular. Kidco performs a very valuable and important function in the community, and is deserving of widespread and generous community support. However, such support cannot be blind and cannot be offered in neglect of other important community objectives, including sound community planning and design.

Land is an all-or-nothing resource: once paved or otherwise built upon, it is irreversibly damaged. For this reason, FOLC and I are concerned about the conversion of land at the edge of cities. The quantity of acres converted to development is directly linked to patterns of growth. The more compactly a city grows, the less land is used. Further, the design of communities guides human behavior, with consequences for both the natural and the human environment. Development at the edge of the City rather than infill development or redevelopment leads to increased economic and social segregation, to near-total reliance on the automobile for transportation, to the draining of City coffers for construction and maintenance of infrastructure projects, and to the irreversible destruction of agricultural, open space and wildlife habitat lands at the urban edge.

This annexation request involves the conversion of urbanizable land to urban land. FOLC and I believe a brief review of the statutory and Statewide Planning Goal framework governing this process will be useful.

ORS 197.752 provides:

"Lands within urban growth boundaries shall be available for urban development *concurrent with the provision of key urban facilities and services* in accordance with locally adopted development standards." (Emphasis added.)

The annexation of urbanizable land and the application of an urban zoning designation converts urbanizable land to urban land, making it available for urban development. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998).

Therefore annexation and rezoning for urban uses must concurrently insure provision of key urban facilities and services. The City's Plan, Annexation Policy and Zoning Ordinance implement ORS 197.752, and cannot be interpreted or applied in a manner inconsistent with the statutory directive.

ORS 197.754 provides, in relevant part:

"(1) A local government may identify land inside an urban growth boundary for which the local government intends to provide urban services within the next five to seven years. The local government may evidence its intent by adopting a capital improvement plan reasonably designed to provide the urban services.

"(2) A local government that identifies an area for planned urban services and adopts a capital improvement plan may zone the area for urban uses. A city that identifies land that is outside the city's boundary but inside the urban growth boundary shall coordinate with the appropriate county to zone the area for urban uses."

ORS 197.754 authorizes a local government to identify land within a UGB for which it intends to provide urban services *within the next five to seven years*. A capital improvement plan reasonably designed to provide urban services must be adopted. Only then may a city zone the area for urban uses. The City, within the three-year period examined, has never asserted or established that sites annexed and zoned for urban uses were identified as those for which it intended to provide urban services as reflected in its capital improvement plan.

The City of Lebanon Resolution #11 for 1982 is City of Lebanon Annexation Policy mandated by and established to implement the Lebanon Comprehensive Plan (Plan). The Lebanon Annexation Policy, in conjunction with relevant goals and policies of the Urbanization and Public Facilities and Services Elements of the Lebanon Comprehensive Plan, implement Goals 11, 12 and 14.

To have been acknowledged, the Plan incorporated "conversion" standards for converting urbanizable land to urban land, standards which meet the conversion standards of Goal 14. Land which is not "urban": (1) may exist within a UGB and even within cities; and (2) is required to remain in an urbanizable status until it can be shown to satisfy either the conversion criteria in Goal 14 (prior to acknowledgment) or the conversion standards in the Plan itself (after acknowledgment). *Phillippi v. The City of Sublimity*, 4 Or LUBA 291(1981). *Phillippi* also held that the conversion of urbanizable land to urban land constitutes "development."

Plan provisions that, read together, comprise a city's urban growth management program are clearly designed to implement Goals 11, 12 and 14, and ORS 197.752. ORS 197.829(1)(d) means that plan provisions or land use regulations clearly designed to implement a statute, land use goal or rule may not be interpreted by a local government in a manner inconsistent with the statutes, goals or rules it implements. *DLCD v. City of Donald*, 27 Or LUBA 208, 213 (1994).

The relevant provisions of Lebanon's Plan and Annexation Policy are designed to insure that annexations are accompanied by concurrent provision of urban services. Services are required to be available or to be made available without overburdening the City's existing capabilities; and plans for necessary upgrades, to be initiated by those requesting annexation, are to accompany the annexation. Rights-of-way necessary and adequate for safe and efficient movement of traffic, bicycles and pedestrians are also to be provided concurrently with the annexation, at no obligation to the City. The purpose of these provisions is to insure that facilities and services necessary to serve the annexation site are made available in a timely and efficient manner, consistent with Goals 11, 12, 14, ORS 197.752 and ORS 197.754. The City's annexation policies reinforce that urban services and facilities must be provided for, concurrent with annexation, without imposing an undue financial burden on the City or its taxpayers.

FOLC and I believe this proposal is deficient in the following specific respects:

1. City Annexation Policy (City of Lebanon Resolution #11 for 1982) Section 1 requires "proof that urban services are available or can be made available to serve the property considered for annexation and that the additional demands that would be placed on those services will not overburden their present capabilities."

Streets

The staff report discussion of streets indicates that South Main Road, bordering the subject property on the east, is currently constructed to a county standard. It has two travel lanes, roadside ditches, and no sidewalks. To the north of the subject property, it has been improved to City standards with a center turn lane, bike lanes and sidewalks. Vaughn Lane borders the property to the north, is also constructed to a county standard. Joy Street intersects with the east side of South Main Road at the southern boundary of the proposed annexation, and is proposed to extend west the South 5th Street. Neither the functional classifications of South Main Road, Vaughn Lane and Joy Street nor the level functioning of those streets and their intersections are provided. The Staff Report notes that the City in 1999 acquired a right-of-way for future street improvements at the northeast corner of the subject property. The Staff Report further states that an additional right-of-way dedication along South Main Road will be required as a condition of annexation and that participation in improvements to South Main Road, Vaughn Lane and Joy Street may be required in the future.

Unless necessary street, sidewalk and bicycle lane improvements to city standards are required concurrently with annexation, it cannot be established that urban levels of transportation services, including pedestrian and bicycle facilities, are or can be made available to serve the property. No indication is given of the current capacity of the existing transportation system in the area or additional demands that will be placed on that system as a result of development of the annexation area. Lacking such information, it cannot be established that the additional demands that would be placed on those services will not overburden their present capabilities.

Proposed Finding 1 fails to address or consider Plan Transportation Element General Policy 1; Streets and Highways Policies 1, 2, 9, 12 and 15; Mass Transit Policies 2 and 3; or Bicycle and Pedestrian Ways Policies 5 and 6.

General Policy 1 requires development of a balanced transportation system. The proposed location of the Head Start facility will make the development of a balanced transportation system more difficult, as the site's location at the edge of the city is not convenient for access by foot, bicycle or public transportation.

The proposal does not include any extension of Joy Street between South Main and 5th Street. Consequently, the circulation network will fail to provide for the convenient movement of traffic, pedestrians and bicycles or a circulation network that will encourage compact community development, as required by Streets and Highways Policies 1 and 2.

It has not been established that the proposed use will not conflict with the safe and efficient movement of traffic, as required by Streets and Highways Policy 9. The current level of function of the intersection at South Main Street and Vaughn Lane is not indicated. No estimates of increased usage of that intersection by employees going to and from work, parents dropping off and picking up students, busses, or other increases in traffic due to the facility are provided. The safety or functionality of driveway access to the facility is not addressed.

While the extension of Joy Street is mentioned, no finding is made that it is "logical," as required by Streets and Highways Policy 12. No timetable is adopted for the provision of this facility. No determination is made or steps taken to insure that the necessary right-of-way is protected from encroachment, as required by Streets and Highways Policy 15.

The proposed site is not accessed by mass transit, as required by Mass Transit Policies 2 and 3. Consequently, the transportation needs of the entire community, including those who are transportation-disadvantaged because of their age, income, or physical or mental disability; and the energy, air pollution and livability goals of the community, are not met.

The proposal does not include consideration of pedestrian and bicycle needs or provide for sidewalks and pedestrian ways, as required by Bicycle and Pedestrian Ways Policies 5 and 6. No provision is made for construction of bicycle lanes and sidewalks along South Main Road or Vaughn Lane.

OAR 660-012-0055(4)(b) requires that cities that do not have acknowledged TSPs apply relevant sections of the Transportation Planning Rule directly to land use decisions. OAR 660-012-0060(1) requires decisions that significantly affect a transportation facility "shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility." No determination has been made that the proposed development would not significantly affect the functionality of South Main Road, Vaughn Lane, or Joy Street; or that of any of their intersections. Pursuant to

OAR 660-012-0030(3)(b) and 660-012-0035(3)(e), measures adopted by the City must encourage reduced reliance on the automobile.

Transportation facilities must be provided that satisfy the criteria of OAR 66-012-0045(3), the purposes of which are "to provide for safe and convenient pedestrian, bicycle and vehicular circulation consistent with access management standards and the function of affected streets, to ensure that new development provides on-site streets and accessways that provide reasonably direct routes for pedestrian and bicycle travel in areas where pedestrian and bicycle travel is likely if connections are provided, and which avoids wherever possible levels of automobile traffic which might interfere with or discourage pedestrian or bicycle travel." OAR 660-012-0045 (6) requires facilitation of pedestrian and bicycle trips; (7) requires streets and accessways that minimize pavement consistent with operational needs. None of the criteria of OAR 660-012-0045 have been identified or addressed.

Water

The staff report discussion of water indicates that there is a 12-inch water main on Vaughn Lane that connects to another 12-inch main on South Main Road. There is no indication of when a water main extension to connect with the subject property might take place or how it is to be financed. No estimate is provided of increased demands to be placed on the existing water system. The existing capacity of the water supply and distribution system is not noted. Without such information, it cannot be proved that water service is or can be made available or that increased demands resulting from the annexation will not overburden the existing system.

Storm Drainage

The staff report discussion of drainage indicates that the nearest storm drain pipe is an 18-inch main on South Main Road at Vaughn Lane, and that piped and/or surface drainage improvements will be required with site development in order to convey site storm drainage and to prevent adverse drainage impacts to neighboring properties. It is not explained what such improvements might be, how they are to be financed, or when the improvements might be initiated or completed. No estimate is given of runoff that will be generated by development of the site. The current capacity of existing facilities is not noted. Without such information, it cannot be established that adequate drainage facilities are or can be made available to serve the site, without overburdening the existing systems.

Sanitary Sewer

The Staff Report indicates that there is a 12-inch sanitary sewer main on South Main Road at Vaughn Lane, and that participation in a sewer main extension may be required at some time in the future. The area is served by the existing Westside Interceptor that currently overflows further downstream during heavy rainfall events. The capacity of the City's sewage treatment facility and this collection facility are not noted, nor is the degree of utilization of these facilities. The Staff Report concedes

that limitations in sewer discharge and/or downstream improvements may be required.

The city engineer has previously stated that the 10th Street pipe can handle development of 70 additional residential acres, and that the existing Westside Interceptor is "a little bit more stressed" than that. See Attachment 1. Annexations to the City have made the following acreages available for development which would utilize the Westside Interceptor:

A-99-6	25.90 RM	A-02-04	10.59 MU
A-00-1	30.49 RM	A-02-05	70.00 ML
A-02-01	5.84 RM	A-02-06	61.05 RM
A-02-02	2.54 RM	A-02-07	3.50 RM
A-02-03	2.61 RM	A-02-08	2.19 RM

These annexation areas total 214.71 acres, of which 144.71 allow for residential development. No estimates have been made of potential system demands for A-02-05. In addition, the Wal-Mart SuperCenter and the Lebanon Community Foundation's Strawberry Festival site, with its related and as yet unspecified developments, will utilize the same limited Westside Interceptor capacity. Given that lands already made available for development and development already contemplated would over-utilize the existing Westside Interceptor capacity, it cannot be established that sewer service is or can be made available to the annexation area.

No estimates are made of additional demands that will be placed on sewerage facilities as a result of the annexation and related development. Without some quantification of available capacity and additional system demands, it cannot be established that adequate sewer facilities are available or can be made available without overburdening the existing system.

The proposed Finding #1 that "services can be made available to serve the property" is conclusory, is not accompanied by any timetable or financing plan for the provision of services, and is not supported by evidence in the record.

Other urban facilities and services

Neither the Staff Report nor Proposed Finding #1 address urban services other than streets, water, drainage and sewer.

Goal 11 defines urban facilities and services:

"Urban Facilities and Services – Refers to key facilities and to appropriate types and levels of at least the following: police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services."

The Plan at 4-11 states that "public facilities" includes "schools, parks, water and sewerage facilities, storm drainage, solid waste facilities, fire and police protection, and other utilities and public services." Other urban facilities and services that must be addressed include: accommodations for pedestrians and bicycles, water, fire protection, police protection, planning and administration, parks, schools, libraries, public transportation, health services and senior services. Are these facilities and services available or being made available to serve the annexation area, without the additional demands overburdening present capacities? Unless and until these questions can be answered in the affirmative, City Annexation Policy Section 1 has not been satisfied.

ORS 197.754 requires that the annexation area can be rezoned for urban uses only if the City's Capital Improvement Plan establishes that the City can and will provide key urban facilities and services to the area within the next five to seven years. No evidence has been presented to establish that the City's Capital Improvement Program provides for urban facilities and services in the annexation area within a 5- to 7-year planning horizon.

2. City Annexation Policy, Section 2 requires that "public rights of way necessary for the safe and efficient movement of traffic, bicycles and pedestrians shall be provided with the annexation and without obligation to the City of Lebanon." This Policy implements Goal 12 and the City's Transportation Plan.

The Staff Report states that additional an additional right-of-way dedication along South Main Road will be required as a condition of annexation, and that participation in improvements to South Main Road, Vaughn Lane and Joy Street may be required in the future. The Staff Report does not indicate whether dedications of rights-of-way for improvements to Vaughn Lane or for the extension of Joy Street will be necessary to complete the improvements and extension. If the rights-of-way currently available for Vaughn Lane improvements and the Joy Street extension are inadequate, those additional rights-of-way must also be required with the annexation.

While an extension of Joy Street is mentioned it is not required, as mandated by Streets and Highways Policies 1 and 2; nor is a timetable adopted for its provision of this facility. No determination is made or steps taken to insure that the necessary right-of-way is protected from encroachment, as required by Streets and Highways Policy 15.

The proposal does not include consideration of pedestrian and bicycle needs or provide for sidewalks and pedestrian ways, as required by Bicycle and Pedestrian Ways Policies 5 and 6. No provision is made for construction of bicycle lanes and sidewalks along South Main Road or Vaughn Lane.

Unless the necessary rights-of-way are provided concurrent with the annexation, it cannot be established that rights-of way necessary for the safe and efficient movement of traffic, bicycles and pedestrians will be provided with the annexation and without obligation to the City.

Proposed Finding #2 is inadequate in failing to require rights-of-way dedication for Vaughn Lane improvements and the Joy Street extension concurrent with the annexation. It ignores the requirement of Annexation Policy Section 2, and concedes that the requirement that necessary rights-of-way be provided "with the annexation" is not met.

3. City Annexation Policy, Section 3 requires that "parties involved in seeking the annexation or who may be included in the annexation shall initiate a program to upgrade any urban services and/or public facilities within the area considered for annexation that do not meet standards as may be established by the City of Lebanon." As discussed in 1 and 2 above, this proposal does not initiate or include any program to upgrade streets, sidewalks, bicycle lanes, water, drainage or the sewage system. Adequacy of facilities and services including planning and administration, public transit, schools, parks, police, fire, libraries, senior and health services are not addressed at all. Consequently, this criterion is not met.

The assertion in Proposed Finding #3 that public infrastructure improvements cannot be required prior to development ignores the fact that the development of the property is proposed. The annexation application is predicated upon the development of the Kidco Head Start facility.

The finding that "[r]ecent case law dictates that such public infrastructure improvements shall be provided at the time or juncture when the nexus or need is established by an actual development proposal" is not supported by any citation. Presumably the reference is to the *Nollan* and *Dolan* cases. That "takings" doctrine is predicated on a governmental exaction of real property. Requiring an expenditure of money for provision of urban services does not fall under this doctrine.

The City's interpretation of this criterion so as to allow it to be ignored is not consistent with ORS 197.752 and would violate ORS 197.754, which require provision for urban services concurrent with zoning for urban uses.

The proposed Finding 3 fails to consider Urbanization Element of the Comprehensive Plan, Annexation Policy #3, which requires that a specific development proposal accompany a request for annexation; and suggests that City Annexation Policy, Section 3, requiring initiation by the applicant of a program to provide or upgrade urban facilities and services to City standards, can be ignored. In suggesting that mitigation measures cannot be determined until the impacts of an actual development proposal have been established fails to note that the development proposal submitted is sufficient to evaluate probable impacts. In suggesting that this criterion can only be met by disregarding it, the proposed Finding 3 compels the conclusion that the criterion is not satisfied and the application must be denied.

4. City Annexation Policy, Section 4 requires that "no annexation shall be considered that does not conform with the Lebanon Comprehensive Plan and its goals and policies."

Proposed Finding #4, stating that “[t]he proposed annexation complies with Zoning Ordinance and Comprehensive Plan policies pertaining to the property and zoning” cannot be supported, as no zoning map amendment is proposed and the relevant standards and criteria have not been identified or addressed. The proposed finding that “[t]he submitted conceptual development strategy identifies possible future land uses that conform to the Comprehensive Plan and Zoning Map designations for the property” cannot be supported, as no zoning map amendment is proposed and the relevant standards and criteria have not been identified or addressed.

Administrative Policies and Recommendations Policy #8 at 1-P-1 states:

“The City of Lebanon hereby adopts the applicable Statewide Planning Goals as they apply to the community, and reinforces them through specific goals, objectives, and policies in response to community needs.

Goal 14 requires, in relevant part:

“Land within the boundaries separating urbanizable land from rural land shall be considered available over time for urban uses. Conversion of urbanizable land to urban uses shall be based on consideration of:

- (1) Orderly, economic provision for public facilities and services;
- (2) Availability of sufficient land for the various uses to insure choices in the market place;
- (3) LCDC goals or the acknowledged comprehensive plan; and
- (4) Encouragement of development within urban areas before conversion of urbanizable areas.”

Factor (1) is implemented by several sections of the Plan. An overall Plan urbanization goal at 4-P-1 is: “To provide conservation and development policies for the orderly and efficient development of the community.” Phased Growth Program Policy (1) requires: “the city shall maintain a compact growth pattern that expands the city limits incrementally in an orderly and efficient manner within the service capabilities of the city.” Annexation Policy 1 also requires that the city “maintain an orderly compact growth pattern within the city’s service capabilities.”

The fact that public facilities and services are not to be provided in conjunction with annexation means that orderly and economic provision of urban facilities and services cannot be assured. The City’s Capital Improvement Program at Plan 9-5 states: “It is essential that long-range financial planning, based on available and anticipated resources, be maintained by the city.” The Capital Improvement Program calls for a priority list of proposed capital improvements and a five-year capital improvements budget, coordinated with the availability of funds and integrated with the annual operations budget. To be consistent with Goal 14, ORS 197.752 and 197.754 and the Plan, an area can be annexed and zoned for urban uses only if urban facilities and services are already available or will be made available within the five-year planning horizon of the City’s Capital Improvement Program.

It has not been established by any market study or other evidence that Lebanon suffers from a lack of choices for residential land, that additional residential land is needed to insure choices in the market place, or that the proposed annexation will provide for choices that are not currently available.

The feasibility of developing land within the existing City limits to meet any identified need has not been adequately addressed. It is noted in the Staff Report that "Kidco obtained a grant from federal Head Start to build a facility as part of the Green Acres Elementary School, but the costs were prohibitive." The applicants' narrative also indicates that modification of the available Queen Anne Park Elementary School, from which Head Start is currently operating, to meet federal requirements would be cost prohibitive especially because all renovations would have to be accomplished at the outset. The possibility of arranging financing for the necessary improvements has not been discussed. If the costs of providing urban facilities and services to the annexation area as required by City Annexation Policy Sections 1-3 were to be considered, it might be that the proposed site is at least as expensive to develop as the Green Acres or the Queen Anne Park sites would be to renovate and modify.

The applicant has addressed none of the Plan Transportation Element policies identified and discussed above at 1. Other relevant Comprehensive Plan criteria will be discussed below. See 6-9.

5. City Annexation Policy, Section 5 states: "It shall be the burden of proof of the applicant that a public need exists for the proposed annexation and that the annexation is in the public's interest."

Implementing Goal 2, Land Use Planning, the Plan Administrative Policies and Recommendations Policy 1 at 1-P-1 requires:

"The Lebanon Comprehensive Plan shall be maintained as an ongoing decision-making guideline for planning and development actions within the Lebanon Urban Growth Boundary."

Plan provisions thus are relevant to defining the scope and meaning of the term "public need" with regard to annexation of land to a city. *Neuenschwander v. City of Ashland*, 20 Or LUBA 144, 150 (1990). As discussed above, the Plan adopts and implements Goal 11 and 14 provisions pertaining to the conversion of urbanizable land to urban land.

The particular public need must be identified and quantified within a planning time horizon. ORS 197.754(1) establishes a planning time horizon of 5-7 years. Land within the existing city limits available to meet the need must be identified and inventoried. Only if the need cannot be met by utilizing land within the existing city limits can land be considered for annexation.

No need for additional Residential Mixed Density land, based on population projections in the Comprehensive Plan, has been established, nor have population

projections or any inventory of residential land within the existing city limits available to meet any such need been presented.

The City's 1997 Residential Lands Study concludes: "Needed acreage and housing projections reveal that if the current housing density and mix remains constant Lebanon will need only 390 acres or approximately 25% of its 1,1331 available vacant residential acres to support residential development over the next 20 years." See Attachment 2. The 1999 Analysis of the Regional Economy and Housing for Linn and Benton County by EcoNorthwest indicates that Lebanon has a year 2020 976.7-acre surplus of residential land. See Attachment 3.

Neither the City's study nor the Econorthwest study identifies land available within the city limits separately from land within the UGB. However, it is the burden of the applicant to provide evidence that there is a need for additional residential land within the city limits. Available information suggests that a substantial surplus of residential land exists, and therefore that no public need exists.

In addition, the City of Lebanon has in the recent past approved many annexations, adding to the City's surplus of residential land. Annexations approved in June 1999 or later include:

A-99-01	2.245 acres	RM	A-00-04	4.98 acres	RM/RL
A-99-04	1.08 acres	RM	A-01-01	6.1 acres	MU
A-99-05	1.8 acres	RM	A-01-04	1.85 acres	RM
A-99-06	21.8 acres	RM	A-01-05	.68 acres	RM
A-00-01	30.49 acres	RM	A-02-01	5.84 acres	RM
A-00-02	60.61 acres	MU	A-02-02	2.54 acres	RM
A-00-03	13.25 acres	MU			

More recently approved and considered annexations include:

Herb-Cook	A-02-03	2.61 acres	RM and RL
Lebanon Theatres, Inc.	A-02-04	10.59 acres	MU
Cornell	A-02-06	61.05 acres	RM
Schwindt/Borman	A-02-07	3.50 acres	RM
Simonian	A-02-08	2.19 acres	RM
Mid-Valley Healthcare	A-03-02	53.00 acres	MU

All together, these annexations total 286.205 acres. This is 73% of the total estimated 20-year usage, within the first six years (30%) of the twenty-year planning period.

A Head Start facility would best be sited in a central location convenient to all parts of the city and in particular to the served population, and be accessible by pedestrians and bicyclists. The annexation territory is on the fringes of the city, is conveniently accessible only by automobile, and lacks pedestrian and bicycle facilities. Lacking any demonstration of need for additional residential land and any determination that

an identified need is best served at the subject site, it cannot be established that the annexation is in the public's interest.

6. Comprehensive Plan Urbanization Element, Phased Growth Program Policy 1, page 4-P-1 requires that "the City shall maintain a compact growth pattern that expands the City limits incrementally in an orderly and efficient manner within the service capabilities of the City."

The Plan at 4-12 states, in relevant parts:

"Ensuring the maximum efficiency of land use means that land is put to its highest and best use. One of the things which this implies within the existing urban area is utilizing existing vacant land resources. The adopted phased extension policies on public facilities particularly will encourage utilization of vacant land resources. Sewer extensions to areas of medium and low priority will not be made until high priority service areas reach at least 75 percent of development capacity.

"Efficient land use also implies clearly defined and stable areas for residential, commercial and industrial use.

"On the fringes of the urban area, achieving maximum efficiency of land use is dependent on maintaining a clear separation between rural and urban uses."

These Plan requirements collectively serve to define "compact growth pattern." It has not been established that high-priority service areas have reached 75 percent of development capacity. Annexations that encroach into areas with rural uses blur the definitions between urban and rural uses, fail to maintain the stability of existing residential areas, and fail to maintain a clear separation between rural and urban uses.

To maintain a compact growth pattern and orderly and efficient development in compliance with Goals 11 and 14, land within the existing city limits must be developed first, before annexing additional land. If a need for additional land were to be established, a compact growth pattern and orderly and efficient development would be better served by first annexing land that is more centrally located. Many such areas can be identified. See Attachment 4.

It cannot be asserted that annexing the subject property, currently outside the city limits, allows for infill opportunities. The staff report points to no Plan or other provision that encourages "infill" of *urbanizable* land. The Plan at 4-12 states: "Ensuring the maximum efficiency of land use means that land is put to its highest and best use. One of the things which this implies *within the existing urban area* is *utilizing existing vacant land resources*." (Emphasis added.) In the context of the City's plan, infill means developing properties already within the city limits.

As discussed in 1-3 above, it has not been demonstrated that the annexation is within the service capabilities of the city.

7. Urbanization Element, Annexation Policy 1, page 4-P-2, states that "the City shall annex land only within the Urban Growth Boundary on the basis of findings that support the need for additional developable land in order to maintain an orderly, compact growth pattern within the City's service capability." This provision must be interpreted in a manner consistent with ORS 197.752, Goal 11 and Goal 14, and approval of an application requires findings of compliance with the planning horizon and urban facilities provisions of ORS 197.754.

As discussed in 5 above, no public need for the annexation of additional residential land has been demonstrated, nor has it been established that the public need for a Head Start facility cannot be met within the existing city limits.

As discussed in 6 above, the proposed annexation will fail to maintain an orderly, compact growth pattern. It is incorrect to assert, as does proposed Finding #7, that annexing an area currently outside the city limit allows for more compact development within the city limits or represents a timely infill opportunity. As previously discussed, "infill" means developing areas already within the City.

As discussed in 1-3 above, it has not been demonstrated that the annexation is within the service capabilities of the city.

8. Urbanization Element, Annexation Policy 3, page 4-P-2, states, in relevant part: "Unless otherwise approved by the City, specific development proposals shall be required for annexation requests on vacant land adjacent to the City to insure completion within a reasonable time limit in conformance with a plan approved by the City." This criterion, in conjunction with other Plan and Annexation Policy criteria, implements the requirement of ORS 197.752 that urbanizable land be made available for urban development "concurrent with the provision of key urban facilities and services."

A conceptual development proposal accompanies the request for annexation. Proposed Finding #8 states that the proposed annexation complies with the policy in that "[t]he applicant has provided a conceptual development strategy or plan for the development of subject property." A conceptual development strategy is not a specific development proposal, and is not been subjected to any public review or approval process. No development plan is being considered by the city for approval. A conceptual development strategy is not binding and does not commit the applicant or his successors to any specific proposal. A conceptual development strategy plan does not insure completion within a reasonable time limit in conformance with a plan approved by the City.

In order to comply with this criterion the annexation proposal would have to be accompanied by a development proposal that gave some assurance that phases of an approved project, with concomitant urban services, would be initiated and completed in a timely manner.

9. Public Facilities and Services Element, General Policy 2, page 8-P-1, requires that "the city shall consider impacts on community facilities before . . . annexation requests are approved." This criterion implements Goal 11.

As discussed in 1-3 and 6 above, impacts on community facilities have not been adequately considered. Proposed Finding #9 notes only that additional burdens will be "minimal" without any itemization, quantification or discussion. The finding that the proposed use of the property would impose "almost no new burdens on the overall infrastructure and services of the City simply because this is a relocation of an already existing community facility" fails to consider the impacts on the area surrounding the specific location, and fails to consider that the existing Head Start site will certainly be put to other uses in the future.

10. LZO Section 3.050 requires:

"All areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan. If a zoning designation other than one in accordance with the Comprehensive Plan is requested by an applicant, the zoning requested shall not be granted until the plan is amended to reflect concurrence."

Proposed Finding #10 states in a conclusory manner that "[t]his proposed annexation is in compliance with Zoning Ordinance Section 3.050. * * * The corresponding City zoning designation for a Comprehensive Plan designation of Mixed Density Residential is Residential Mixed Density (RM). The applicant is requesting a zoning designation of Residential Mixed Density (RM)"

The City apparently interprets LZO Section 3.050 to mean that an area can be "placed" in a zoning classification when the area is annexed without following any procedures or complying with any criteria, as long as the requested zoning designation is one that is allowed under the existing Plan Map designation. However, LZO 3.050 cannot mean that the Plan Map designation is the only relevant consideration. By its very language – "[a]ll areas annexed to the City shall be placed in a zoning classification in accordance with the adopted Comprehensive Plan" - LZO 3.050 does not exclude the application of other relevant provisions of the Plan, and cannot exclude application of the LZO and state law. The "placing" of a site in a city zone must be consistent with the Plan Map, and *in addition* must comply with relevant provisions of statute, the Goals, the Plan and the LZO.

That LZO 3.050 means a zoning designation must *also* be in accord with the Plan Map designation is reinforced by other provisions of the Plan and the LZO.

LZO 3.030 provides:

"The boundaries for the zones listed in this ordinance are indicated on the Lebanon Zoning Map of 1980 which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference."

LZO 3.040 provides:

"A zoning map or zoning map amendment adopted by Section 3.030 of this ordinance or by an amendment thereto shall be prepared by authority of the City Council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the City Recorder as long as this ordinance remains in effect."

LZO 3.050 does not identify the procedure to be followed in "placing" an area in a zoning classification. That procedure is established by LZO 9.010:

"An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the City Planning Commission or by application of a property owner. The request by a property owner for an amendment shall be accompanied by filing an application with the Planning Official using forms prescribed pursuant to Section 2.070. A filing fee in accordance with the provisions of Section 2.080 shall accompany an application by a property owner for an amendment."

LZO 9.020, implementing ORS 227.170, establishes procedures for public hearings on zoning map amendments.

The applicant has requested a Residential Mixed Density zoning designation, which will indisputably require a zoning map amendment. See Staff Report, p. 14, Finding #10. The LZO at Appendix A-1 establishes a fee for a "zone change map." LZO 2.070(1) provides that "applications . . . provided for in this Ordinance shall be made on forms prescribed by the City." The form provided for a zoning map amendment is referred to as a "zone change application." The Plan itself uses the terms "zone change" and "zoning amendment" interchangeably. See Plan at 9-2:

"It is important that zone change proposals be considered in relation to the policies and aims of the Comprehensive Plan. Amendments to the zoning ordinance that are consistent with the Comprehensive Plan can proceed as provided within the zoning ordinance. However, zoning amendments that are contrary to the intent of the Comprehensive Plan should be so amended before action on the zoning amendment proceeds. This procedure should guarantee essential coordination between the two planning instruments."

A site cannot be annexed and "placed" in a zone without amending the city's zoning map to reflect the enlarged city boundaries. "Placing" a site in a zone therefore requires a zoning map amendment and is a zone change pursuant to LZO 9.010 and LZO 2.070(1).

The form provided for a zoning map amendment establishes and lists Review Approval Criteria and specifies:

"It is the applicant's responsibility to demonstrate the following:

- That there is a demonstrated community based need for the proposed Zoning Map Amendment
- That the property described in this application is the site that best addresses this community based need.
- That the proposed amendment is consistent with the goals and policies of the Comprehensive Plan.
- That the amendment is orderly and timely, considering the pattern of development in the area.
- That utilities and services can be efficiently provided to serve the proposed uses.”

The criterion concerning community based need has not been addressed. Substantial evidence of a community based need for the zone map amendment has not been provided. Alternative sites have not been identified or evaluated, and no evidence has been introduced into the record establishing that the proposed site is the site that best addresses the identified community based need. No assertion has been made that the zone amendment is orderly and timely, considering the pattern of development in the area. The proposed zone map amendment is not consistent with the Comprehensive Plan, as discussed in 5-9, above.

The Plan at 1-15 states that minor changes in the Plan and its implementing measures should be based on special studies or other information which will serve as the factual basis to support the change. The Zoning Map is an implementing measure for the Plan. There have been no special studies or other information provided which serve as the factual basis to support the requested zoning map amendment.

LZO 3.050, LZO 9.010 and LZO 9.020 are not complied with because the request for annexation is not accompanied by an application for a zoning map amendment, no notice of and hearing on the zoning request have been provided, and the applicable decision criteria have not been addressed or satisfied.

Properties within the UGB and outside the city limits carry a city comprehensive plan map designation. A city plan map designation can allow for more than one zoning designation. With no clear one-to-one correspondence between plan and zone designations there can be no simple "assignment" of zones.

Removing a property from a county zoning designation and "placing" it in a city zoning designation is a zone change governed by statute. ORS 227.170 authorizes and requires cities to establish procedures for zone changes. ORS 227.170(1) requires: "the city council shall prescribe one or more procedures for the conduct of hearings on permits and zone changes." ORS 227.170(2) requires: "The city council shall prescribe one or more rules stating that all decisions made by the council on permits and zone changes will be based on factual information, including adopted comprehensive plans and land use regulations." ORS 215.130(2)(a) provides that county provisions continue to apply to a site "unless, or until the city by ordinance or other provision provided otherwise[.]" Assigning a site a city zoning designation thus

requires a decision by the city, and is a land use action that must follow prescribed hearing procedures applying relevant decision criteria.

The subject site currently carries a Linn County zoning designation of UGA-UGM-10. It is suggested that the site will be "placed" in a city zoning designation as a consequence of the annexation. "Assigning" a site a city zoning designation – or, more accurately, replacing a county zoning designation with a city zoning designation – requires a decision by the city council and is a zone change for purposes of ORS 227.170.

11. Proposed Finding #11 refers to two sections from the Urban Growth Management Agreement between Linn County and the City of Lebanon. Section 2, Delineation of Authority in the UGA, states, in relevant part:

"The Lebanon Comprehensive Plan designates the future city zoning UGA lands will receive upon annexation to the City."

Section 5, Annexations, provides:

"The UGA identifies land that may be subject to future City annexation. The City may annex land using its own procedures in accordance with state law. Only land within the UGA will be considered for annexation. The City will notify the County of any proposed annexations. Upon annexation, the City assumes all jurisdiction for land use actions."

The Urban Growth Management Agreement between Linn County and the City implements ORS 197.752, ORS 197.754 and ORS 215.130. It cannot take precedence over the statutory provisions it implements or be interpreted and applied in a manner inconsistent with those provisions.

Section 2 simply means that it is the Lebanon Comprehensive Plan that controls future city zoning, not the Linn County Comprehensive Plan. The Lebanon Comprehensive Plan establishes the possible zoning designations. It does not specifically identify all of the zoning designations found in the LZ0, nor does it establish a unitary plan and zoning map. It is not, and cannot be, the decision-maker that actually assigns a zone to a particular piece of property as a result of a land use action. Section 2 does not identify the *procedure* to be followed in determining which zoning designation a site will receive. That procedure is established by LZ0 sections 9.010 and 9.020, and by ORS 227.170.

Section 5 requires that land be annexed in accord with the City's own procedures and in compliance with state law. LZ0 3.050 requires that a site be given a zoning designation concurrently with annexation. LZ0 3.030 establishes that such action requires a zoning map amendment. LZ0 9.010 requires that an application be submitted for a zoning map amendment. LZ0 9.020 requires public notice and a public hearing, implementing ORS 227.170. ORS 227.170 also requires any decision to be based on factual information, including adopted comprehensive plans

and land use regulations. LZO 2.070(1) establishes standards and criteria for zoning map amendments.

None of the requirements of LZO 3.030, 9.010, 9.020, 2.070(1) or ORS 227.170 have been addressed.

Conclusion

Because this proposal does not adequately address the decision criteria as discussed above, the City Council must deny the application.

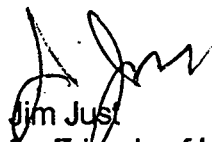
Additional Considerations

As currently constituted, the Planning Commission does not comply with the City Citizen Involvement Program or with City Charter provisions governing occupation and residency. See letter dated May 21, 2003 from Friends of Linn County to the Lebanon Planning Commission titled "RE: Composition of the Planning Commission." Consequently, any recommendation by the Planning Commission for approval of the proposed annexation and zoning request will not be in compliance with Goal 1, and any approval of the application by the City would be in violation of its Citizen Involvement Program and thus Goal 1.

Request for notice of decision

On behalf of FOLC and myself as an individual, I request notice of any decision and copies of the decision and accompanying findings.

Respectfully submitted,



Jim Just
for Friends of Linn County



Jim Just
as an individual

Planning Commission Hearing
December 18, 2002
A-02-06, Cornell annexation

Testimony of City Engineer Allen J. Dannen, P.E.

[BEGINNING OF DANNEN TESTIMONY]

Dannen: Urban services are or can be made available to serve the proposed annexation area. I'll review the available city infrastructure, and, as Doug pointed out before, development of this area may require additional infrastructure improvements.

So moving on to streets, Doug pointed out South 5th Street on the east corner of the site. Currently county standard. Reeves Parkway, as identified in the draft transportation system plan, would eventually go through the site to connect up with Crowfoot Road. So a right-of-way dedication for the Parkway would be required with future development. In addition, improvements, construction of the Parkway and local street extensions could also be required.

Water. There's a 16-inch water main that runs the length of South 5th up to the two million gallon reservoir on the hill further to the south that's available to serve the site. Water main extensions will be required with future site development, and of course connection to the city water main involves costs for services, meters, _____ system development charges.

Drainage. The surface drainage from the property flows to Oak Creek. A right-of-way dedication along Oak Creek will be required with site development for city maintenance of the drainage way there. Piped and/or surface drainage improvements will be required with site development in order to convey the site drainage and to prevent adverse drainage impacts to neighboring properties.

Sanitary sewer. The nearest sanitary sewer main is a 10-inch main on 10th Street. ___ Vaughan Lane. That's a ways away. The new West Side Interceptor eventually will provide sewer service to this site. In the interim, a substantial combination of pumped and gravity sewer extensions may be required to convey the sewer flows to the existing sewer collection system.

I want to take a minute here just to talk about what we looked at whenever we looked at sewer service to the site. A substantial improvement would be required, probably involving pumping, to get across Oak Street, to get on-site sewer flows to 10th Street. That pipe eventually connects to the existing West Side Interceptor, we've talked about before. To kind of get at Commissioner Wells' question from before, we looked at that pipe on 10th Street anyway,

Attachment 1 p. 1

just to see if the flows that the applicant proposes in their narrative even fits there, or if we're looking at an impossible-type situation. What we found, if we look at the 10th Street pipe only, is that there's room for about 70 acres of development, residential-type development, under the densities allowed, zoning down in that south part of town. So, I think they're proposing that about fifty acres of this site could eventually be built out to residential. So it looks like, at least at the nearest point in the system, there's capacity.

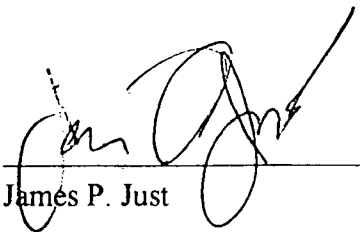
Again, I want to emphasize, further down, we get to the existing West Side Interceptor, we know there are areas that are a little bit more stressed in terms of capacity. So, at the time of development, we'd have to look at that, what flows exactly are coming in, and could be looking at limitations in discharge and/or improvements downstream. We know that there's at least one choke point around the area of 6th and Walker, and if improvements could be made in that area it might allow for more build-out to the south.

The other thing I want to point out, this comment's consistent with the other annexations that have happened recently in this area, I think most recently was the Shannon property in about 2000. We made a similar comment that we know there's, the existing West Side Interceptor has limited capacity left, and we're going to have to look at that at the time of development. So this is what we're been doing, especially at the south end of town, knowing that that issue's out there.

The only other thing to say is that connection to the sanitary sewer will also involve costs for services, _____ permits, system development charges. And of course connecting to that city utility or issuing a building will cause all the remaining system development charges to come due.

[END OF DANNEN TESTIMONY]

I certify that the above is, to the best of my knowledge and ability, a true and accurate transcript of the relevant portion of the tape of Planning Commission hearing of December 12, 2002.


James P. Just

Attachment 1 p. 2

Periodic Review Work Program Multi-Family Residential

Executive Summary:

This study is intended to review Lebanon's comprehensive plan policies and zoning ordinance regulations that influence residential development, especially multi-family. It analyzes the need and effect of various text amendments made to the Lebanon Zoning Ordinance in support of the City's Periodic Review Work Task regarding multi-family housing.

The analysis includes a complete inventory of the City's undeveloped and underdeveloped vacant lands and a review of the State's House Bill 2709 Workbook. As a result of the study the city had done extensive modification of the Lebanon Zoning Ordinance, Residential Mixed and Residential High Density zones. The various zoning text amendments allow smaller lots, increase residential development opportunities, reduce minimum site area requirements, add new site enhancing density bonuses for multi-family, reduce setback requirements, increase maximum permitted lot coverage with buildings, reduce and refine open space requirements, permit taller buildings as a conditional use, and increase off site parking requirements for multi-family residential.

Needed acreage and housing projections reveal that if the current housing density and mix remains constant Lebanon will need only 390 acres or approximately 25% of its 1,331 available vacant residential acres to support residential development over the next 20 years. Given the historic growth rate residentially designated land within the UGB could sustain growth through the middle of the next century. Comparisons show that the above mentioned zoning text amendments will effectively reduce the needed acreage for residential development by approximately 16% over the next 20 years and provide more multi-family housing opportunities.

This report has demonstrated that Lebanon's UGB contains enough residentially zoned and/or designated vacant acreage to support residential development well beyond the 20 year planning period, and that this land is properly distributed amongst zoning designations to handle future housing needs.

Attachment 2

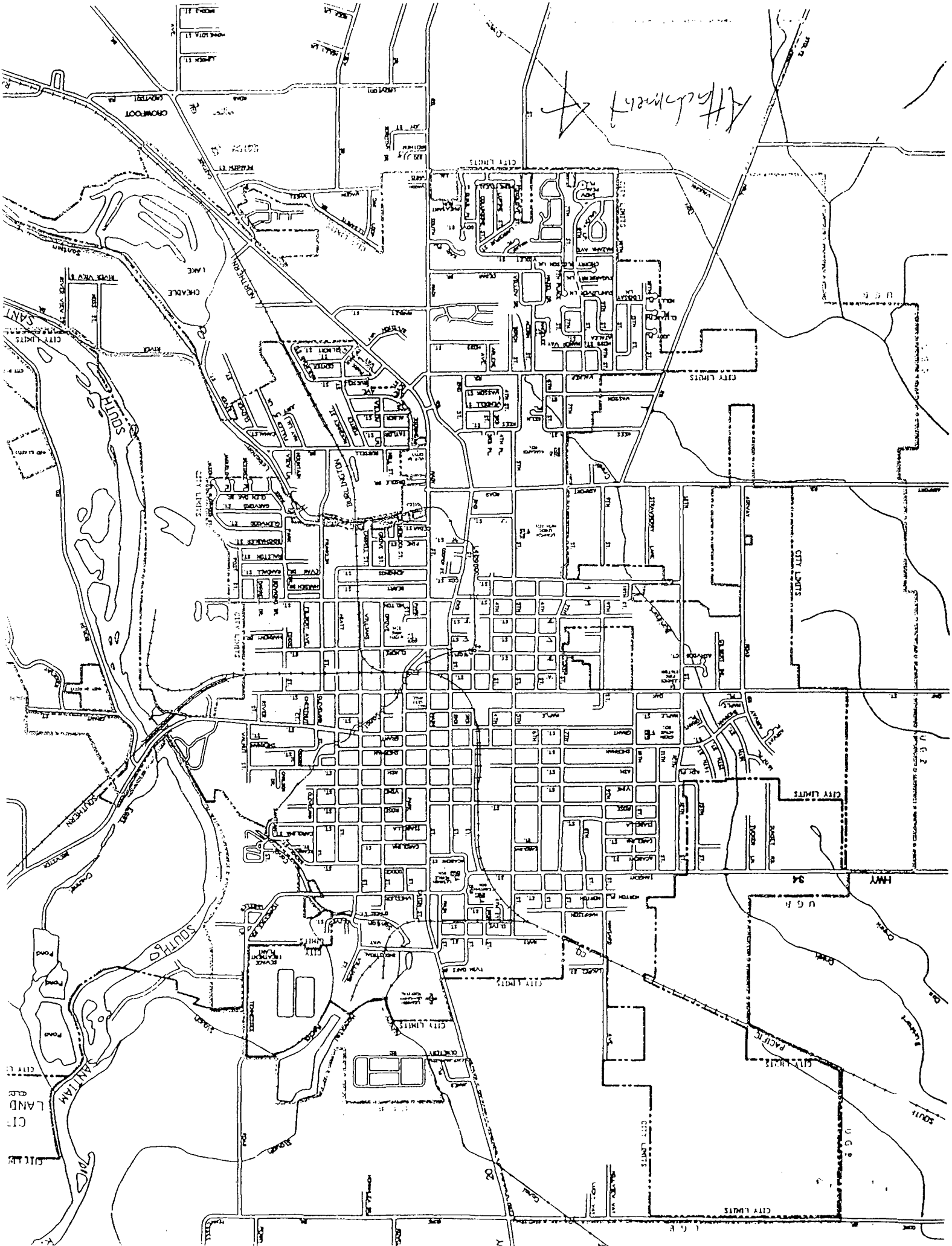
Table 4-25. Land Need by Plan Designation by Jurisdiction, 1998-2020

City	Need based on 1990-1997 Permits				Based on 1998 DU Mix			
	Plan Designation			Total	Plan Designation			Total
	Low Density	Medium Density	High Density		Low Density	Medium Density	High Density	
Benton County								
Corvallis								
Res Land Need	365.8	275.2	122.6	763.5	414.3	310.4	95.7	820.4
Res Land Supply	3,664.0	656.0	253.0	4,573.0	3,664.0	656.0	253.0	4,573.0
Surplus (deficit)	3,298.2	380.8	130.4	3,809.5	3,249.7	345.6	157.3	3,752.6
Monroe								
Res Land Need	33.5	13.3	-	46.8	24.9	9.1	-	34.0
Res Land Supply	151.2	38.1	-	189.3	151.2	38.1	-	189.3
Surplus (deficit)	117.7	24.8	-	142.5	126.3	29.0	-	155.3
Philomath								
Res Land Need	71.2	42.2	2.4	115.9	62.2	31.1	4.9	98.3
Res Land Supply	713.6	50.1	24.5	788.2	713.6	50.1	24.5	788.2
Surplus (deficit)	642.4	7.9	22.1	672.3	651.4	19.0	19.6	689.9
Linn County								
Albany (Includes N. Albany)								
Res Land Need	648.4	273.5	119.8	1,041.7	715.4	226.2	126.5	1,068.0
Res Land Supply	5,005.0	547.0	109.0	5,661.0	5,005.0	547.0	109.0	5,661.0
Surplus (deficit)	4,356.6	273.5	(10.6)	4,619.3	4,289.6	320.8	(17.5)	4,593.0
Lebanon								
Res Land Need	167.9	142.9	43.4	354.3	223.9	151.7	30.4	406.1
Res Land Supply	612.0	353.0	366.0	1,331.0	612.0	353.0	366.0	1,331.0
Surplus (deficit)	444.1	210.1	322.6	976.7	388.1	201.3	335.6	924.9
Millersburg								
Res Land Need	22.7	17.4	-	40.1	23.3	17.0	-	40.3
Res Land Supply	920.8	100.0	-	1,020.8	920.8	100.0	-	1,020.8
Surplus (deficit)	898.1	82.6	-	980.7	897.5	83.0	-	980.5
Sweet Home								
Res Land Need	141.8	65.8	8.6	216.2	146.4	56.4	6.8	209.5
Res Land Supply	165.5	699.8	108.5	973.9	165.5	699.8	108.5	973.9
Surplus (deficit)	23.7	634.0	99.9	757.7	19.1	643.5	101.6	764.4
Tangent								
Res Land Need	37.7	21.4	-	59.2	42.2	22.5	-	64.6
Res Land Supply	90.4	149.7	-	240.1	90.4	149.7	-	240.1
Surplus (deficit)	52.7	128.3	-	180.9	48.2	127.2	-	175.5

Source: ECONorthwest, 1999; land need is based on county coordinated population projections.

Attachment 3

Attachment A



June 25, 2003

Lebanon City Council
925 Main Street
Lebanon OR 97355

RE: A-03-03, Kidco; record of Planning Commission proceedings.

Mayor Toombs and Councilors:

It has come to our attention that it is not City practice to include material included in the record of Planning Commission proceedings resulting in recommendations to the City Council in the material provided to the Council. Material before the Planning Commission in annexation and zone change proceedings will be considered part of the record in any appeal to the Land Use Board of Appeals. Since such material will be deemed to be part of the record on appeal, that material ought, as a matter of course and practice, to be presented to the Council, be considered by the Council in reaching its decision, and be included in the record of the City Council proceedings.

LUBA has held that, where the planning commission's hearing was part of the city's overall process, any evidence that was presented to the planning commission was necessarily part of the city council's record as well. *No Tram OHSU, Inc. v. City of Portland*, ___ Or LUBA ___ (LUBA No. 2002-099, December 10, 2002). LUBA has concluded that certain provisions governing local government actions implicitly require that the record of the lower body be incorporated into the record of the city council. *Union Gospel Ministries v. City of Portland*, 21 Or LUBA 557, 560. Provisions of the Lebanon City Charter govern both annexation proceedings and zone change proceedings. Those provisions require that the Planning Commission conduct hearings that give the public the opportunity to review and comment, and prepare recommendations for the city council. These provisions are similar to those discussed by LUBA in *No Tram OHSU* and *Union Gospel Ministries*. Consequently, the entire record of the proceedings before the planning commission is deemed to be part of the city council record in this proceeding.

The Lebanon Municipal Code at 2.24.110 identifies the power and duties of the Lebanon Planning Commission and states that the Commission is to:

"B. Investigate and make recommendations regarding the implementation of the comprehensive plan;

"F. Review and submit recommendations to the council regarding any proposed major (e.g., merger, consolidation or dissolution involving the city) or

minor (e.g., annexation or withdrawal of territory to and from the city) boundary changes[.]”

The Lebanon Comprehensive Plan at 1-16, discussing minor changes to the Plan or implementing measures, states:

“The citizens in the area and affected governmental units should be given an opportunity to review and comment prior to changes in the plan and implementation ordinances. There should be at least 30 days notice of the public hearing on the proposed change.”

The Plan at 1-9 states:

“(1) The Planning Commission is designated as the Committee for Citizen Involvement.”

and:

“[The Citizen Involvement] program is intended to assure that all citizens have an opportunity to be involved in all phases of the planning process.”

Thus the Planning Commission is to investigate, review and make recommendations to the City Council regarding annexations and zone changes, and fulfill its function as the City’s Citizen Involvement Program in so doing by holding hearings at which the public has the opportunity to review and comment.

The language found in the Lebanon Municipal Code is similar to that found by LUBA to implicitly require that material in the record before the lower body be carried into the record before the final decision maker. The language discussed by LUBA required a “public hearing by the designated commission” to “provide opportunities for public comment and input,” and a “report and recommendation [to] be forwarded to the City Council.” Therefore the effect of Lebanon’s Code and Plan are similar, and require that the record generated by the lower proceeding be carried forward and included in the record of the City Council proceeding.

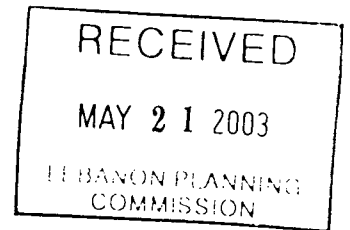
Friends of Linn County and I offer this memorandum in the hope that future disputes and litigation over this issue can be avoided.

Respectfully submitted,

John Puma
Land Use Chair

John Puma
as an individual





May 21, 2003

Lebanon Planning Commission
925 Main Street
Lebanon OR 97355

RE: Annexation A-03-03, Kidco

Chair Robertson and members of the Commission:

Friends of Linn County (FOLC) and I strongly support of the Head Start Program in general and the Lebanon program in particular. Kidco performs a very valuable and important function in the community, and is deserving of widespread and generous community support. However, such support cannot be blind and cannot be offered in neglect of other important community objectives, including sound community planning and design.

Land is an all-or-nothing resource: once paved, it is irreversibly damaged. For this reason, FOLC and I are concerned about the conversion of land at the edge of cities. The quantity of acres converted to development is directly linked to patterns of growth. The more compactly one builds, the less land is used. Further, the design of communities guides human behavior, with consequences for both the natural and the human environment. Development at the edge of the City rather than infill development or redevelopment leads to increased economic and social segregation, to near-total reliance on the automobile for transportation, to the draining of City coffers for new infrastructure projects, and to the irreversible destruction of agricultural, open and habitat lands at the urban edge.

This annexation request involves the conversion of urbanizable land to urban land. FOLC and I believe a brief review of the statutory and Statewide Planning Goal framework governing this process will be useful.

ORS 197.752 provides:

"Lands within urban growth boundaries shall be available for urban development *concurrent with the provision of key urban facilities and services* in accordance with locally adopted development standards." (Emphasis added.)

The annexation of urbanizable land and the application of an urban zoning designation converts urbanizable land to urban land, making it available for urban development. *Citizens for Florence v. City of Florence*, 35 Or LUBA 255 (1998). Therefore annexations must concurrently insure provision of key urban facilities and

services. The City's Plan, Annexation Policy and Zoning Ordinance implement ORS 197.752, and cannot be interpreted or applied in a manner inconsistent with the statutory directive.

ORS 197.754 provides, in relevant part:

"(1) A local government may identify land inside an urban growth boundary for which the local government intends to provide urban services within the next five to seven years. The local government may evidence its intent by adopting a capital improvement plan reasonably designed to provide the urban services.

"(2) A local government that identifies an area for planned urban services and adopts a capital improvement plan may zone the area for urban uses. A city that identifies land that is outside the city's boundary but inside the urban growth boundary shall coordinate with the appropriate county to zone the area for urban uses."

ORS 197.754 authorizes a local government to identify land within a UGB for which it intends to provide urban services *within the next five to seven years*. A capital improvement plan reasonably designed to provide urban services must be adopted. Only then may a city zone the area for urban uses. The City, within the three-year period examined, has never asserted or established that sites annexed and zoned for urban uses were identified as those for which it intended to provide urban services as reflected in its capital improvement plan.

The City of Lebanon Resolution #11 for 1982 is City of Lebanon Annexation Policy mandated by and established to implement the Lebanon Comprehensive Plan. The Lebanon Annexation Policy, in conjunction with relevant goals and policies of the Urbanization and Public Facilities and Services Elements of the Lebanon Comprehensive Plan, implement Goals 11, 12 and 14, ORS 197.752 and ORS 197.754.

Plan provisions that, read together, comprise a city's urban growth management program are clearly designed to implement Goals 11, 12 and 14. ORS 197.829(1)(d) means that plan provisions or land use regulations clearly designed to implement a statute, land use goal or rule may not be interpreted by a local government in a manner inconsistent with the statutes, goals or rules it implements. *DLCD v. City of Donald*, 27 Or LUBA 208, 213 (1994).

The relevant provisions of Lebanon's Plan and Annexation Policy are designed to insure that annexations are accompanied by concurrent provision of urban services. Services are required to be available or to be made available without overburdening the City's existing capabilities; and plans for necessary upgrades, to be initiated by those requesting annexation, are to accompany the annexation. Necessary rights-of-way are also to be provided concurrently with the annexation, at no obligation to the City. The purpose of these provisions is to insure that facilities and services necessary to serve the annexation site are made available in a timely and efficient manner, consistent with Goals 11, 12, 14, ORS 197.752 and ORS 197.754. The

City's annexation policies reinforce that urban services and facilities must be provided for, concurrent with annexation, without imposing an undue financial burden on the City or its taxpayers.

FOLC and I believe this proposal is deficient in the following specific respects:

1. City Annexation Policy (City of Lebanon Resolution #11 for 1982) Section 1 requires "proof that urban services are available or can be made available to serve the property considered for annexation and that the additional demands that would be placed on those services will not overburden their present capabilities."

Streets

The staff report discussion of streets indicates that South Main Road, bordering the subject property on the east, is currently constructed to a county standard. It has two travel lanes, roadside ditches, and no sidewalks. To the north of the subject property, it has been improved to City standards with a center turn lane, bike lanes and sidewalks. Vaughn Lane borders the property to the north, is also constructed to a county standard. Joy Street intersects with the east side of South Main Road at the southern boundary of the proposed annexation, and is proposed to extend west the South 5th Street. The Staff Report notes that the City in 1999 acquired a right-of-way for future street improvements at the northeast corner of the subject property. The Staff Report further states that an additional right-of-way dedication along South Main Road will be required as a condition of annexation and that participation in improvements to South Main Road, Vaughn Lane and Joy Street may be required in the future.

Unless necessary street, sidewalk and bicycle lane improvements to city standards are required concurrently with annexation, it cannot be established that urban levels of transportation services, including pedestrian and bicycle facilities, are or can be made available to serve the property. No indication is given of the current capacity of the existing transportation system in the area or additional demands that will be placed on that system as a result of development of the annexation area. Lacking such information, it cannot be established that the additional demands that would be placed on those services will not overburden their present capabilities.

Water

The staff report discussion of water indicates that there is a 12-inch water main on Vaughn Lane that connects to another 12-inch main on South Main Road. There is no indication of when a water main extension to connect with the subject property might take place or how it is to be financed. No estimate is provided of increased demands to be placed on the existing water system. The existing capacity of the water supply and distribution system is not noted. Without such information, it cannot be proved that water service is or can be made available or that increased demands resulting from the annexation will not overburden the existing system.

Storm Drainage

The staff report discussion of drainage indicates that the nearest storm drain pipe is an 18-inch main on South Main Road at Vaughn Lane, and that piped and/or surface drainage improvements will be required with site development in order to convey site storm drainage and to prevent adverse drainage impacts to neighboring properties. It is not explained what such improvements might be, how they are to be financed, or when the improvements might be initiated or completed. No estimate is given of runoff that will be generated by development of the site. The current capacity of existing facilities is not noted. Without such information, it cannot be established that adequate drainage facilities are or can be made available to serve the site, without overburdening the existing systems.

Sanitary Sewer

The Staff Report indicates that there is a 12-inch sanitary sewer main on South Main Road at Vaughn Lane, and that participation in a sewer main extension may be required at some time in the future. The area is served by the existing Westside Interceptor that currently overflows further downstream during heavy rainfall events. The capacity of the City's sewage treatment facility and this collection facility are not noted, nor is the degree of utilization of these facilities. The Staff Report concedes that limitations in sewer discharge and/or downstream improvements may be required.

The City has previously determined in its Findings in A-02-06 that the existing Westside Interceptor is adequate to handle development of 70 additional residential acres. See Attachment 1. Annexations to the City have made the following acreages available for development:

A-99-6	25.90 RM	A-02-04	10.59 MU
A-00-1	30.49 RM	A-02-05	70.00 ML
A-02-01	5.84 RM	A-06-06	61.05 RM
A-02-02	2.54 RM	A-02-07	3.50 RM
A-02-03	2.61 RM		

These annexation areas total 212.52 acres, of which 142.52 allow for residential development. No estimates have been made of potential system demands for A-02-05. In addition, the Wal-Mart SuperCenter will utilize the same limited Westside Interceptor capacity. Given that lands already made available for development and development already contemplated would over-utilize the existing Westside Interceptor capacity, it cannot be established that sewer service is or can be made available to the annexation area.

No estimates are made of additional demands that will be placed on sewerage facilities as a result of the annexation and related development. Without some quantification of available capacity and additional system demands, it cannot be established that adequate sewer facilities are available or can be made available without overburdening the existing system.

LZO 3.050 does not identify the procedure to be followed in "placing" an area in a zoning classification. That procedure is established by LZO 9.010:

"An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the City Planning Commission or by application of a property owner. The request by a property owner for an amendment shall be accompanied by filing an application with the Planning Official using forms prescribed pursuant to Section 2.070. A filing fee in accordance with the provisions of Section 2.080 shall accompany an application by a property owner for an amendment."

LZO 9.020, implementing ORS 227.170, establishes procedures for public hearings on zoning map amendments.

The applicant has requested a Residential Mixed Density zoning designation, which will indisputably require a zoning map amendment. See Staff Report, p. 14, Finding #10. The LZO at Appendix A-1 establishes a fee for a "zone change map." LZO 2.070(1) provides that "applications . . . provided for in this Ordinance shall be made on forms prescribed by the City." The form provided for a zoning map amendment is referred to as a "zone change application." The Plan itself uses the terms "zone change" and "zoning amendment" interchangeably. See Plan at 9-2:

"It is important that zone change proposals be considered in relation to the policies and aims of the Comprehensive Plan. Amendments to the zoning ordinance that are consistent with the Comprehensive Plan can proceed as provided within the zoning ordinance. However, zoning amendments that are contrary to the intent of the Comprehensive Plan should be so amended before action on the zoning amendment proceeds. This procedure should guarantee essential coordination between the two planning instruments."

A site cannot be annexed and "placed" in a zone without amending the city's zoning map to reflect the enlarged city boundaries. "Placing" a site in a zone therefore requires a zoning map amendment and is a zone change pursuant to LZO 9.010 and LZO 2.070(1).

The form provided for a zoning map amendment establishes and lists Review Approval Criteria and specifies:

- "It is the applicant's responsibility to demonstrate the following:
- That there is a demonstrated community based need for the proposed Zoning Map Amendment
 - That the property described in this application is the site that best addresses this community based need.
 - That the proposed amendment is consistent with the goals and policies of the Comprehensive Plan.
 - That the amendment is orderly and timely, considering the pattern of development in the area.

- That utilities and services can be efficiently provided to serve the proposed uses.”

The criterion concerning community based need has not been addressed. Substantial evidence of a community based need for the zone map amendment has not been provided. Alternative sites have not been identified or evaluated, and no evidence has been introduced into the record establishing that the proposed site is the site that best addresses the identified community based need. No assertion has been made that the zone amendment is orderly and timely, considering the pattern of development in the area. The proposed zone map amendment is not consistent with the Comprehensive Plan, as discussed in 5-9, above.

The Plan at 1-15 states that minor changes in the Plan and its implementing measures should be based on special studies or other information which will serve as the factual basis to support the change. The Zoning Map is an implementing measure for the Plan. There have been no special studies or other information provided which serve as the factual basis to support the requested zoning map amendment.

LZO 3.050, LZO 9.010 and LZO 9.020 are not complied with because the request for annexation is not accompanied by an application for a zoning map amendment, no notice of and hearing on the zoning request have been provided, and the applicable decision criteria have not been addressed or satisfied.

Properties within the UGB and outside the city limits carry a city comprehensive plan map designation. A city plan map designation can allow for more than one zoning designation. With no clear one-to-one correspondence between plan and zone designations there can be no simple "assignment" of zones.

Removing a property from a county zoning designation and "placing" it in a city zoning designation is a zone change governed by statute. ORS 227.170 authorizes and requires cities to establish procedures for zone changes. ORS 227.170(1) requires: "the city council shall prescribe one or more procedures for the conduct of hearings on permits and zone changes." ORS 227.170(2) requires: "The city council shall prescribe one or more rules stating that all decisions made by the council on permits and zone changes will be based on factual information, including adopted comprehensive plans and land use regulations." ORS 215.130(2)(a) provides that county provisions continue to apply to a site "unless, or until the city by ordinance or other provision provided otherwise[.]" Assigning a site a city zoning designation thus requires a decision by the city, and is a land use action that must follow prescribed hearing procedures applying relevant decision criteria.

Two recent cases support the position that an annexation must be accompanied or followed by a zone change to impose a city zoning designation on a property. *Stallcamp v. City of King City*, ___ Or LUBA ___ (LUBA No. 2002-082, November 27, 2002) addressed a situation in which an area annexed to the city kept its county zoning designation until the city initiates a zone change. City ordinances did not require the assignment of a city zoning designation concurrent with annexation.

Dimone v. City of Hillsboro, 41 Or LUBA 167 (2001), *rev'd on other grounds*, 182 Or App 1 (2002) similarly reflects that county zoning remains in effect unless and until a zone change to a city zoning designation is accomplished. In this instance the subject site carried a "shadow" city zoning designation in addition to a county zoning designation; under the city and county memorandum of understanding, the county was to change its zoning to be consistent with the city "shadow" zone. The county failed to do so. The Court of Appeals explained:

"As a result, the Arrington property retained the county's R-6 residential designation when the city eventually annexed the property in November 2000. After annexation of the property subject to the MOU, the city sought to apply the SCPA zone that it had recommended in Ordinance No. 4545. The city's planning department requested that the Hillsboro Planning Commission approve a resolution to initiate a zone change from the county's R-6 zone to the city's SCC-MM zone. The planning commission initiated the zone change and referred the change request to the City Planning and Zoning Hearings Board (the PZHB)." *Supra*, p. 4.

The subject site currently carries a Linn County zoning designation of UGA-UGM-10. It is suggested that the site will be "placed" in a city zoning designation as a consequence of the annexation. "Assigning" a site a city zoning designation – or, more accurately, replacing a county zoning designation with a city zoning designation – requires a decision by the city council and is a zone change for purposes of ORS 227.170.

11. Proposed Finding #11 refers to two sections from the Urban Growth Management Agreement between Linn County and the City of Lebanon. Section 2, Delineation of Authority in the UGA, states, in relevant part:

"The Lebanon Comprehensive Plan designates the future city zoning UGA lands will receive upon annexation to the City."

Section 5, Annexations, provides:

"The UGA identifies land that may be subject to future City annexation. The City may annex land using its own procedures in accordance with state law. Only land within the UGA will be considered for annexation. The City will notify the County of any proposed annexations. Upon annexation, the City assumes all jurisdiction for land use actions."

The Urban Growth Management Agreement between Linn County and the City implements ORS 197.752, ORS 197.754 and ORS 215.130. It cannot take precedence over the statutory provisions it implements or be interpreted and applied in a manner inconsistent with those provisions.

Section 2 simply means that it is the Lebanon Comprehensive Plan that controls future city zoning, not the Linn County Comprehensive Plan. The Lebanon Comprehensive Plan establishes the possible zoning designations. It does not

specifically identify all of the zoning designations found in the LZO, nor does it establish a unitary plan and zoning map. It is not, and cannot be, the decision-maker that actually assigns a zone to a particular piece of property as a result of a land use action. Section 2 does not identify the *procedure* to be followed in determining which zoning designation a site will receive. That procedure is established by LZO sections 9.010 and 9.020, and by ORS 227.170.

Section 5 requires that land be annexed in accord with the City's own procedures and in compliance with state law. LZO 3.050 requires that a site be given a zoning designation concurrently with annexation. LZO 3.030 establishes that such action requires a zoning map amendment. LZO 9.010 requires that an application be submitted for a zoning map amendment. LZO 9.020 requires public notice and a public hearing, implementing ORS 227.170. ORS 227.170 also requires any decision to be based on factual information, including adopted comprehensive plans and land use regulations. LZO 2.070(1) establishes standards and criteria for zoning map amendments.

None of the requirements of LZO 3.030, 9.010, 9.020, 2.070(1) or ORS 227.170 have been addressed.

Conclusion

Because this proposal does not adequately address the decision criteria as discussed above, the Planning Commission must recommend denial of the application.

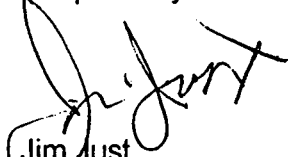
Additional Considerations


As currently constituted, the Planning Commission does not comply with the City Citizen Involvement Program or with City Charter provisions governing occupation and residency. See letter dated May 21, 2003 from Friends of Linn County to the Lebanon Planning Commission titled "RE: Composition of the Planning Commission." Consequently, any recommendation by the Planning Commission for approval of the proposed annexation and zoning request will not be in compliance with Goal 1.

Request for notice of decision

On behalf of FOLC and myself as an individual, I request notice of any decision and copies of the decision and accompanying findings.

Respectfully submitted,


Jim Just
for Friends of Linn County


Jim Just
as an individual

services. See Finding D.4.e.

4. Alternatively, the applicant meets the second interpretation because it has shown that urban services are available or can be made available to serve the property when it is developed. In this case the policy does not require services to be available at the time of annexation but rather when the development takes place. The City finds that urban services are or can be made available to serve the proposed annexation area if developed in the future for residential use.

4a. Streets - South 5th Street, currently a county standard road, borders the site on the east. The street provides current connectivity with the City's transportation network. The proposed alignment for Reeves Parkway identified in the city's draft Transportation System Plan runs through the site. Future development of the site will require a right-of-way dedication for the parkway and is a condition of approval of this application. For future residential development, additional improvements as needed to 5th Street, Reeves Parkway, and local street extensions will be determined by planning staff and public works as part of any development plan and site plan review.

4b. Water - A 16-inch water main runs the length of South 5th Street and has ample capacity to serve the site in the event of future residential development. The City's two 2,000,000 gallon reservoirs, one of which is on 5th Street, are sufficient to supply water to the Cornell property and the City's treatment facility on 2nd Street has more than enough capacity to treat any additional water used by a 50 acre residential development. Additional water main extensions and connection to City water as required for future site development will be determined by planning staff and public works as part of any development plan and site plan review.

4c. Drainage - Surface drainage from the subject property flows to Oak Creek that runs through the site. Drainage for future residential development can be handled on site if necessary, but Oak Creek also has sufficient capacity to handle such storm drainage. Upon review of any future development plan and site plan review, the City shall require a right-of-way dedication along Oak Creek in order to facilitate City maintenance of the drainage way, and piped and/or surface drainage improvements as determined by planning staff and public works.

4d. Sanitary Sewer - The nearest sanitary sewer main is a 10-inch main on 10th Street that terminates at Vaughan Lane. The new Westside Interceptor will eventually provide sanitary sewer service to this site. The current sewer system has capacity to serve residential development of the Cornell property, based on staff's estimate that the current system is adequate to handle development of at least 70 additional residential acres. Properties previously annexed into the City that have not been developed are irrelevant to this determination since they do not currently use any sewer capacity. A review of available sewer capacity will be made at the time of a specific development proposal. Limitations in sewer discharge and/or downstream improvements to the collection system may be required at that time, as well as imposition of costs for service lines, plumbing permit fees, and a sanitary sewer system development charge. These costs and conditions shall be determined by planning staff and public works as part of any development plan and site plan review.

4e. Other Urban Services - One purpose for establishing the UGB was to plan for needed services, such as housing, parks, schools, etc. Urban services were planned for and discussed in the

ATTACHMENT 1

Periodic Review Work Program Multi-Family Residential

Executive Summary:

This study is intended to review Lebanon's comprehensive plan policies and zoning ordinance regulations that influence residential development, especially multi-family. It analyzes the need and effect of various text amendments made to the Lebanon Zoning Ordinance in support of the City's Periodic Review Work Task regarding multi-family housing.

The analysis includes a complete inventory of the City's undeveloped and underdeveloped vacant lands and a review of the State's House Bill 2709 Workbook. As a result of the study the city had done extensive modification of the Lebanon Zoning Ordinance, Residential Mixed and Residential High Density zones. The various zoning text amendments allow smaller lots, increase residential development opportunities, reduce minimum site area requirements, add new site enhancing density bonuses for multi-family, reduce setback requirements, increase maximum permitted lot coverage with buildings, reduce and refine open space requirements, permit taller buildings as a conditional use, and increase off site parking requirements for multi-family residential.

Needed acreage and housing projections reveal that if the current housing density and mix remains constant Lebanon will need only 390 acres or approximately 25% of its 1,331 available vacant residential acres to support residential development over the next 20 years. Given the historic growth rate residentially designated land within the UGB could sustain growth through the middle of the next century. Comparisons show that the above mentioned zoning text amendments will effectively reduce the needed acreage for residential development by approximately 16% over the next 20 years and provide more multi-family housing opportunities.

This report has demonstrated that Lebanon's UGB contains enough residentially zoned and/or designated vacant acreage to support residential development well beyond the 20 year planning period, and that this land is properly distributed amongst zoning designations to handle future housing needs.

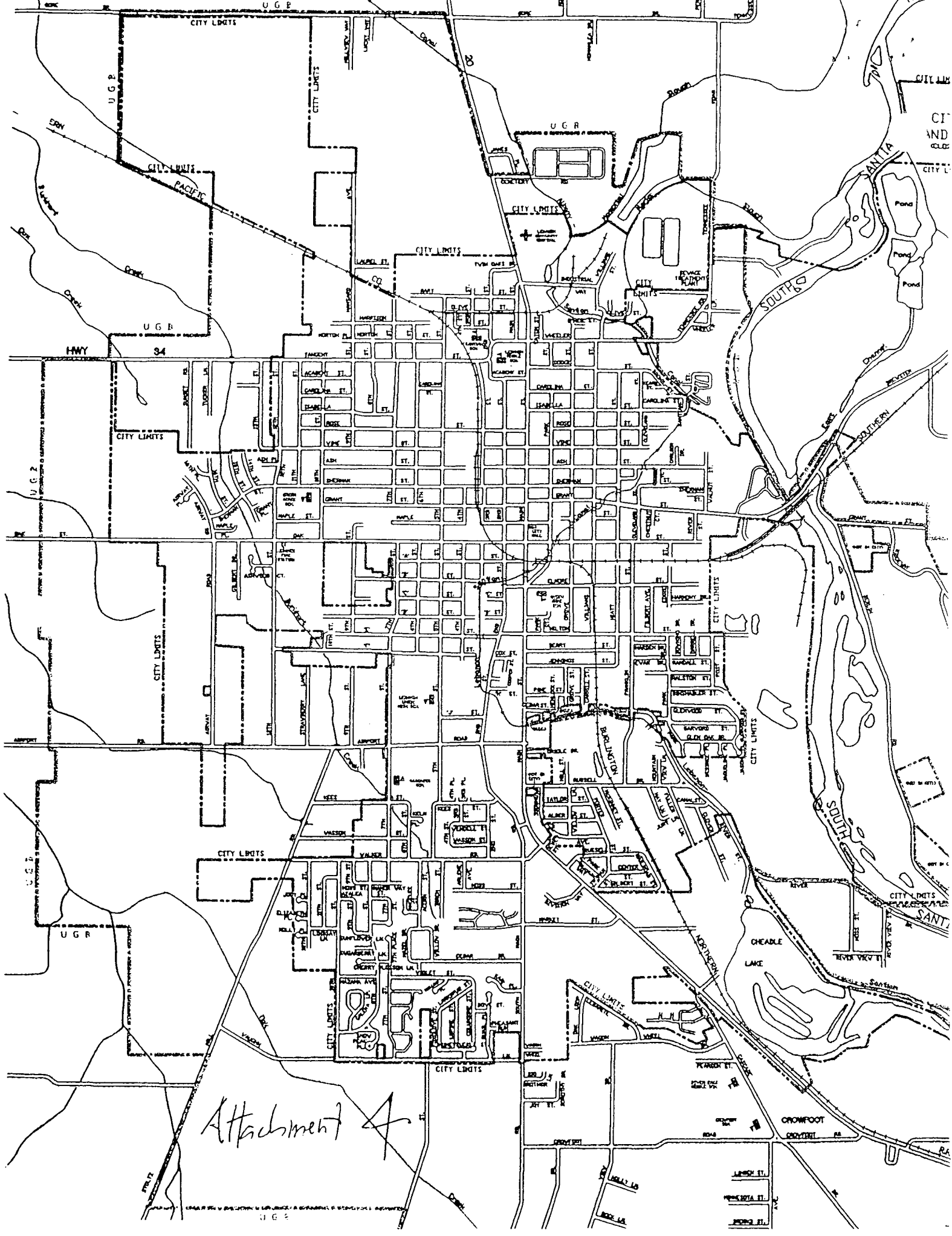
Attachment 2

Table 4-25. Land Need by Plan Designation by Jurisdiction, 1998-2020

City	Need based on 1990-1997 Permits				Based on 1998 DU Mix			
	Plan Designation			Total	Plan Designation			Total
	Low Density	Medium Density	High Density		Low Density	Medium Density	High Density	
Benton County								
Corvallis								
Res Land Need	365.8	275.2	122.6	763.5	414.3	310.4	95.7	820.4
Res Land Supply	3,664.0	656.0	253.0	4,573.0	3,664.0	656.0	253.0	4,573.0
Surplus (deficit)	3,298.2	380.8	130.4	3,809.5	3,249.7	345.6	157.3	3,752.6
Monroe								
Res Land Need	33.5	13.3	-	46.8	24.9	9.1	-	34.0
Res Land Supply	151.2	38.1	-	189.3	151.2	38.1	-	189.3
Surplus (deficit)	117.7	24.8	-	142.5	126.3	29.0	-	155.3
Philomath								
Res Land Need	71.2	42.2	2.4	115.9	62.2	31.1	4.9	98.3
Res Land Supply	713.6	50.1	24.5	788.2	713.6	50.1	24.5	788.2
Surplus (deficit)	642.4	7.9	22.1	672.3	651.4	19.0	19.6	689.9
Linn County								
Albany (Includes N. Albany)								
Res Land Need	648.4	273.5	119.8	1,041.7	715.4	226.2	126.5	1,068.0
Res Land Supply	5,005.0	547.0	109.0	5,661.0	5,005.0	547.0	109.0	5,661.0
Surplus (deficit)	4,356.6	273.5	(10.8)	4,619.3	4,289.6	320.8	(17.5)	4,593.0
Lebanon								
Res Land Need	167.9	142.9	43.4	354.3	223.9	151.7	30.4	406.1
Res Land Supply	612.0	353.0	366.0	1,331.0	612.0	353.0	366.0	1,331.0
Surplus (deficit)	444.1	210.1	322.6	976.7	388.1	201.3	335.6	924.9
Millersburg								
Res Land Need	22.7	17.4	-	40.1	23.3	17.0	-	40.3
Res Land Supply	920.8	100.0	-	1,020.8	920.8	100.0	-	1,020.8
Surplus (deficit)	898.1	82.6	-	980.7	897.5	83.0	-	980.5
Sweet Home								
Res Land Need	141.8	65.8	8.6	216.2	146.4	56.4	6.8	209.5
Res Land Supply	165.5	699.8	108.5	973.9	165.5	699.8	108.5	973.9
Surplus (deficit)	23.7	634.0	99.9	757.7	19.1	643.5	101.8	764.4
Tangent								
Res Land Need	37.7	21.4	-	59.2	42.2	22.5	-	64.6
Res Land Supply	90.4	149.7	-	240.1	90.4	149.7	-	240.1
Surplus (deficit)	52.7	128.3	-	180.9	48.2	127.2	-	175.5

Source: ECONorthwest, 1999; land need is based on county coordinated population projections.

Attachment 3



Attachment A

Agenda Item 2



CITY OF LEBANON

MEMORANDUM

TO: Mayor Toombs and City Council

DATE: July 17, 2003

FROM: John Hitt, City Administrator

SUBJECT: Comp Plan Update

Community Development Manager Doug Parker will provide an oral update on the progress of the Comp Plan Update Committee Meetings.

JEH/lgk

Revised Timeline for Comp Plan Update and Steering Committee Tasks

(July 23, 2003)

Stage	Date	Main Themes for SC Work Session or Other Key Event	TH
Initial Local Review of 1999 Draft Comp Plan and Suggestions for Basic Revisions	SC Mtg July 15 th	Main Focus: Chapter 1: Intro Provisions; Chapter 2: Natural Environment; Chapter 3: Population and Economy	7/22
	SC Mtg August 19 th	Main Focus: Chapter 6: Land Use	8/26
		Second [Brief] Review of Chapters 1-3 (Intro, Nat. Environ., Pop. Econ.)	
	SC Mtg September 16 th	Main Focus: Chapter 7: Housing	9/9
		Second Review of Chapter 6 (Land Use)	
		Third [Brief] Review of Chapters 1-3 (Intro, Nat. Environ., Pop. Econ.)	
	SC Mtg September 30 th	Main Focus: Begin Chapter 5: Urbanization, and Chapter 9: Public Facilities and Services	9/9
		Second Review of Chapter 7 (Housing)	
		Third [Brief] Review of Chapter 6 (Land Use)	
	SC Mtg October 14 th	Main Focus: Continue Reviewing Chapter 5: Urbanization, and Chapter 9: Public Facilities and Services; Begin Chapter 8: Transportation	10/7
Third [Brief] Review of Chapter 7 (Housing)			
SC Mtg October 28 th	Main Focus: Chapter 8: Transportation	10/7	
	Third [Brief] Review of Chapters 5, 9 (Urb. & Pub Facilities/Service)		
SC Mtg November 18 th	Main Focus: Continue Reviewing Chapter 8: Transportation, and Begin Chapter 4: Neighborhood Development	11/5	
	Fourth [Brief] Review of Chapters 5, 9 (Urb. & Pub Facilities/Service)		
SC Mtg December 16 th	Main Focus: Continue and complete Review of both Chapter 4: Neighborhood Development, and Chapter 10: Implementation	X	
	Fourth [Brief] Review of Chapter 8 (Transportation)		
Local Review of New Draft Comp Plan and Prep of Final Draft	SC Mtg January 13 th	Begin Review of New draft of Comp Plan compiled by staff during December	X
	SC Mtg January 27 th	Complete Review of New draft of Comp Plan before opening it up for review at Town Halls (2/3 & 2/17) and to general public (City Webpage)	X
	SC Mtg February 24 th	Review of Input from Town Halls and general public – Final “Tweaks” and “Word-smithing” – Staff then prepares Final Draft	2/3 & 2/17
Initiation of Formal Hearing Process	March 12 th	DLCD Notice for April 21 st Planning Commission Hearing	X
	SC Mtg April 13 th	Last Minute Update before Planning Commission Hearing on April 21 st	X
	SC Mtg May 5 th	Last Minute Update before May City Council Hearing	X

SC Mtg = Steering Committee Meeting/Work Session

TH = Town Hall Meeting

Agenda Item 3



CITY OF LEBANON

PUBLIC WORKS DEPARTMENT

MEMORANDUM

TO: John Hitt, City Administrator

DATE: March 20, 2003

FROM: Jim Ruef, Director of Public Works *JPR*

SUBJECT: Small Waterline Program Update

We are preparing some waterline construction cost comparisons for the July 23rd City Council meeting. The need to include some last minute information means that the comparison will not be ready in time to include in the City Council packet. The materials should be ready by the end of day on Monday to send to each Council member.



CITY OF LEBANON
MEMORANDUM

TO:	Jim Ruef, Public Works Director	DATE:	7/21/2003
FROM:	Rodney Sell, Maintenance Services Division Manager		
SUBJECT	Small Water Line Replacement Update and Cost Survey Results		

Beginning in May of 1997 the Small Diameter Water Line Replacement Program started replacing small diameter water transmission lines in varying locations within the City. In the past 6 years the Program completed thirty-three projects representing the replacement of 21,808 feet of water mainline, new water services to each adjoining property and new fire hydrants in many locations where previously none existed. The projects were completed for \$348,957 under the engineers estimate and \$24,176 over the Maintenance Divisions preconstruction estimates.

The following information documents the progress and improvements the program has made to the City of Lebanon's drinking water system and demonstrates how this In-house program has stayed cost effective. Three spreadsheets are included with this memo for your review.

Comparison Data Sheet
(Attachment #1)

The "Comparison Data Sheet" utilized bid tab information from 13 actual projects completed in several communities around Oregon not including Lebanon. Twenty-three communities in Oregon were contacted for the survey. Three communities provided recent and similar projects that contained 6" and 8" pipe size installations for comparison.

To establish the percentage of savings, the averaged bid tab items were totaled at the bottom of Columns 1 & 2. Forty bid tab items were used in the comparison. The average of all unit costs was as follows:

(Totals as per columns #1 and #2)

All Unit Costs ¹	Lebanon		
(Column #1)	(Column #2)		
<u>Average</u>	<u>In-House (only)</u>	<u>Savings</u>	<u>Difference</u>
\$12,249	\$10,885	\$1,364	12.5 %

The City realized an averaged savings of over 12% when using "In-house" crews to construct small waterline projects, compared to what the 3 other cities paid for average unit construction costs when employing private contractors.

¹ This represents the average unit cost paid including Salem, Albany, Roseburg & both Lebanon In-house & Contractor costs.

Cost Comparison Spreadsheet
(Attachment #2)

The "Cost Comparison Spreadsheet" includes two columns.

1. The engineer's contract estimate column is based on historical costs for contracted projects completed within the City of Lebanon and is used as a planning tool, for cost comparison, and to estimate the construction costs of contracted projects.

Customary charges from items such as, "Change Orders" and "Changed Conditions" during a project (which traditionally incur additional costs on contracted projects and lead to "Just Compensation" for extra labor, materials and equipment costs) are *not* included in the Engineering Contract estimate. These extra charges along with; developing contract bid documents, advertising, inspections, profit, construction signing, mobilization, project staking, site cleanup, erosion control are customarily added to the cost of each contracted project. **However these charges are absorbed and included in the total cost for construction of all completed In-house Small Waterline Projects.**

2. The actual cost column reflects the actual cost to build the project using City staff. This column includes all costs for administration, employee benefits including vacation pay, holiday pay and sick leave, salaries, materials, equipment, and incidentals.

Project Cost Comparison Spreadsheet
(Attachment #3)

The Project Cost Comparison spreadsheet (attachment 3) compares total project costs to the total footage of the largest quantity of pipe installed on various projects in 3 other cities and Lebanon. Customary charges "as noted above", that are normally individual bid tab items on contracted projects, are absorbed and included in the total cost for construction on all completed In-house Small Waterline Projects.

The average project cost per lineal foot for 6" installations in those cities utilizing contractors was only fractionally more than the average lineal cost of our In-house installations, (Once again, however, the contracted projects did not account for the administrative overhead and design cost for the three contracting cities.)

For 8" pipe installations, however, the average lineal cost savings were quite dramatic, amounting to nearly 90 % or \$96.63 per lineal foot.

Summary

The replacement of almost 22,000 feet of water mainline has increased the water flow and fire protection in each adjacent neighborhood where small waterline replacement projects have been constructed. Dead-end waterlines have been looped, improving water quality, quantity and fire suppression opportunities. The amount of time spent by staff on repairing leaks and answering water quality complaints has drastically dropped in these areas. Water flow at the customer's water meters went from as low as 9 gallons per minute (gpm) to an average high of 50 gpm. Neighborhoods have also benefited by receiving new concrete sidewalks, driveways and improved paved streets over the new mainline.

The Small Waterline Replacement Program, through an efficient 3 man crew, eliminates many of the expenses encountered on contracted projects. Some of these expenses include: change orders, changed conditions, developing contract bid documents, advertising, inspections, prevailing labor rates, profit, construction signing, mobilization, project staking, site cleanup, and erosion control.

The savings created by replacing small diameter waterlines with In-house construction crews (\$350,000) represents an additional 4000 feet of small waterline replacement projects that can be completed to better serve our customers at no additional expense. The three spreadsheets demonstrate that the Small Waterline Replacement crew performs quality work at costs lower than average contractor costs. The Small Waterline Replacement Program continues to provide a substantial cost savings while improving water quality and service levels to the Citizens of Lebanon.

Comparison Data Sheet (Attachment #1) City of Lebanon, Small Diameter Waterline Cost Comparison

Bid tab information from recent projects completed in Oregon Cities.

Total Project Costs			COLUMN 1	COLUMN 2															
			Average of all Unit Costs	All City of Lebanon SWL projects In-House	All City of Lebanon Waterline projects Contracted	WL02-04 Albany \$202,370 Contract	WL02-02 Albany \$323,325 Contract	WL01-03 Albany \$440,006 Contract	WL01-02 Albany \$884,743 Contract	ST0202 Albany \$856,374 Contract	701008 Salem \$415,712 Contract	701002 Salem \$481,433 Contract	701001A Salem \$226,730 Contract	702004 Salem \$315,885 Contract	702000 Salem \$162,492 Contract	02WA17 Rosburg \$831,678 Contract	01WA21 Rosburg \$149,370 Contract	01WA15 Rosburg \$116,674 Contract	
No.	Bid Items	Units		Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost	Unit Cost
1	Mobilization	%	7.41%	0.00%	8.0%	12.0%	17.0%	12.00%	12.00%	10.00%	3.80%	4.50%	2.50%	3.00%	7.00%	4.00%	4.00%	4.00%	
2	Temporary Protection & Direction of Traffic	%	1.98%	0.00%	4.0%	2.5%	0.2%	1.70%	1.70%	1.00%	2.00%	2.00%	0.70%	1.50%	1.00%	4.00%	3.00%	2.50%	
3	Street Work																		
	Asphalt Concrete Street Patch	SY	\$18.94	\$29.40	\$32.00	\$16.00					\$13.00		\$36.00				\$16.29	\$26.28	
	Asphalt Concrete Saw out	LF	\$1.28	\$1.87	\$2.00							\$1.42				\$3.00	\$0.45	\$0.83	
4	Concrete Work																		
	4" P.C.C. Paving	SY	\$41.28	\$28.50	\$30.00	\$45.00	\$45.00	\$40.00	\$40.00	\$29.00						\$63.00	\$56.25	\$36.00	
	6" P.C.C. Paving	SY	\$44.00	\$31.00			\$45.00	\$50.00	\$50.00										
	Sidewalk Access Ramp	SY	\$42.50	\$45.00	\$40.00														
	Standard Driveway	SY	\$33.40	\$24.60	\$25.00	\$50.00				\$34.00									
	Curb & Gutter	LF	\$26.29	\$13.35	\$12.00	\$20.00	\$25.00		\$30.00			\$15.00				\$75.00	\$25.30	\$21.00	
5	4" Waterline																		
	4" Class 52 Ductile Iron	LF	\$25.88	\$26.20				\$28.55				\$22.63	\$28.00	\$24.00					
	4" FLG Gate Valve	EA	\$402.58	\$300.00				\$750.88			\$300.00	\$282.00	\$400.00						
	4" FLG x MJ Reducer	EA	\$175.00	\$175.00															
6	6" Waterline																		
	6" Class 52 Ductile Iron	LF	\$30.99	\$29.50	\$30.00		\$21.00	\$28.55	\$28.55		\$86.00	\$22.62		\$21.00		\$35.00	\$19.43	\$19.19	
	6" Gate Valve	EA	\$509.68	\$380.00					\$1,031.00		\$400.00	\$337.40		\$400.00					
	6" Blind Flange	EA	\$75.00	\$75.00															
7	8" Waterline																		
	8" Class 52 Ductile Iron	LF	\$34.32	\$36.40	\$37.00	\$28.00	\$24.60	\$22.50	\$32.50	\$27.00	\$88.00	\$25.42	\$36.00	\$22.60	\$25.50	\$38.00		\$27.11	
	8" FLGxMJ Gate Valve	EA	\$447.11	\$480.00	\$475.00	\$500.00	\$500.00	\$958.00	\$1,059.00	\$500.00	\$500.00	\$521.80	\$800.00	\$550.00	\$530.00				
	8" 45° Elbow	EA	\$147.50	\$145.00	\$150.00														
8	Mainline Connection																		
	8" x 6" Hot Tap	EA	\$2,581.89	\$990.00		\$4,500.00	\$1,750.00	\$2,928.44	\$2,740.00										
	12"x8" Hot Tap	EA	\$1,220.00	\$1,220.00															
	2" Service Saddle	EA	\$95.00	\$95.00	\$95.00														
	2" Corp. Stop	EA	\$42.50	\$35.00	\$50.00														
	2" Copper	LF	\$21.00	\$19.50	\$22.50														
	2" Brass Straight Coupling	EA	\$45.00	\$25.00	\$65.00														
	4" D.I. Spool	LF	\$26.60	\$26.20	\$27.00														
	4" Transition Coupler	EA	\$87.50	\$75.00	\$100.00														
	4" MJ Tee	EA	\$292.50	\$285.00	\$300.00														
	4" MJ Plug	EA	\$87.50	\$75.00	\$100.00														
	4" MJ 90° Elbow w/Retainer Gland	EA	\$100.00	\$100.00	\$100.00														
	6" Tapped Blind Flange	EA	\$87.50	\$75.00	\$100.00														
	6"x4" FLGxMJ Reducer	EA	\$187.50	\$150.00	\$225.00														
	6" FLG Gate Valve	EA	\$402.50	\$380.00	\$425.00														
	6" MJ Plug	EA	\$87.50	\$75.00	\$100.00														
	12"x6" Flg Hot Tap	EA	\$1,095.00	\$1,090.00	\$1,100.00														
	8" MJ Plug	EA	\$100.00	\$100.00															
	8"x6" FLG Cross	EA	\$475.00	\$450.00	\$500.00														
9	Water Service																		
	5/8" x 3/4" Meter Assembly	EA	\$371.60	\$318.00	\$400.00		\$170.00	\$485.00	\$485.00										
	1" Copper Service Line	LF	\$14.28	\$19.50	\$20.00	\$30.00	\$7.00	\$7.90	\$7.90	\$7.50									
10	Fire Hydrant Assembly																		
	Fire Hydrant Assembly	EA	\$1,980.20	\$2,075.00	\$2,655.00	\$2,500.00	\$2,000.00	\$1,880.00	\$1,480.00	\$2,200.00	\$1,800.00	\$1,761.00	\$1,800.00	\$1,800.00	\$2,100.00	\$2,100.00	\$1,730.00	\$2,032.00	
11	Blow-off Assembly																		
	2" Blow-off Assembly	EA	\$702.31	\$1,315.00	\$1,350.00			\$703.44	\$750.00		\$700.00	\$335.80	\$400.00	\$400.00	\$266.00	\$700.00	\$725.00	\$792.50	
12	Sanitary Laterals																		
	4" C-900 Sanitary Sewer Pipe	LF	\$42.92	\$43.75	\$45.00						\$40.00								
	8" C-900 Sanitary Sewer Pipe	LF	\$46.88	\$46.75	\$47.00														
TOTAL			\$12,249.19	\$10,884.52															

NOTE 1 Bid tab items were not included where different units of measure prevented accurate accounting. Such as LF instead of SY or visa-Vera.
 2 Lowest bidders on all projects were used for comparison, regardless of a successful bid award.
 3 In-house City bid tab items include many bid tab items that are separate on contract quotes. These include but are not limited to; Change Orders, Demobilization, Erosion control, Construction Staking, Temporary street patch, Site cleanup
 4 In-house City bid tab items include all overtime, leave time, benefits, workers compensation leave, materials, equipment depreciation, inspections, water testing, apportioned Capital expenses, and administrative costs.
 5 Contracted projects do not include the cost of engineering the projects, Creating bid documents, and Administering the contract.

Note 1 Albany #WL0204 - 50% of the project did not require the more expensive granular backfill in 8" LF cost.
 2 Albany #WL0202 - 50% of the project did not require the more expensive granular backfill in 8" LF. Cost
 3 Albany # ST0202 - the project did not require more expensive granular backfill over the watermain.

Cost Comparison Spreadsheet

(Attachment #2)

City of Lebanon

Small Water Line Replacement Program

		ENGINEERING CONTRACT	IN-HOUSE ACTUAL COST
PROJECT	Project #	ESTIMATE	As of 6-30-03
Carlson Drive	96476	\$52,704.48	\$50,578.84
Ralston Drive	96482	\$77,789.04	\$64,863.86
Rose Street	96483	\$81,065.97	\$73,951.70
3rd Street A to B	96473	\$28,160.28	\$18,934.94
B Street 3rd to 5th	96474	\$70,278.72	\$45,868.94
Eaton Street	96472	\$77,289.72	\$55,059.71
Binshadler Street	96475	\$122,040.99	\$66,513.44
Carolina, Park to Williams	96470	\$91,371.57	\$90,159.91
Cleveland, E. Sherman, Walnut	96477	\$155,260.59	\$129,674.29
Dodge	96471	\$118,654.05	\$110,237.25
Santiam, Isabell to Bromil	96779	\$54,144.87	\$37,993.68
Williams and Maple	96784	\$104,951.27	\$88,291.91
Park St, Milton to D	99706	\$27,816.57	\$27,009.35
B Street 6th to 7th	98747	\$57,583.60	\$71,606.03
Elmore, Eddie to Dead end	96780	\$53,711.10	\$47,956.45
Ash, 5th to 7th	99704	\$76,408.50	\$49,232.55
Sherman, 10th to 8th	99709	\$9,598.80	\$7,900.17
D Street, 5th to 4th	99710	\$74,632.38	\$45,955.29
Ceder and Hemlock	99711	\$74,268.72	\$77,845.30
D St., 2nd west to deadend	99712	\$22,253.71	\$17,424.92
Dodge St., Hwy20 to Park	99713	\$67,112.20	\$63,198.48
Grant, 7th to 5th	99714	\$96,256.47	\$65,109.61
Pine Street, Hwy 20 to Hemlock	99715	\$56,883.15	\$52,577.73
3rd Street, Vine to Ash	99716	\$51,272.07	\$32,267.72
O'Neil, Grove to Dead End	706	\$22,634.13	\$25,021.06
D Street, 5th to 7th	707	\$85,217.28	\$82,269.42
Pine (Hemlock to Carroll)	708	\$102,079.02	\$69,018.97
Ash (Main to 2nd)	709	\$47,656.56	\$43,255.37
Kees (2nd to 5th)	710	\$100,581.06	\$91,181.55
Walnut (E Sherman to Ash)	711	\$84,813.15	\$80,690.63
Morton (6th to DE 5th)	1703	\$61,455.69	\$65,721.21
C (5th to 4th)	1704	\$42,331.05	\$55,200.81
4th (A to C) Included with 1704	1707	\$3,251.28	\$0.00
TOTAL SINCE 5-97		\$2,251,528.04	\$1,902,571.09
Total Engineers Estimate			\$2,251,528.04
Total cost of In-house construction			\$1,902,571.09
Difference			\$348,956.95
TOTAL SAVINGS UNDER ENGINEERS ESTIMATE AS OF 6/30/2003			\$348,956.95

Project Cost Comparison Spreadsheet

(Attachment #3)

7/18/2003

City of Lebanon, Small Waterline Replacement Program

The total cost of the project was divided by the lineal feet of the major pipe installed on the project.

Location	Project #	Project cost	Major pipe size installed Ductile Iron	Footage	Project total cost per Lineal footage	Average Costs			
						6 inch Pipe		8 inch Pipe	
						In-House	Contracted	In-House	Contracted
Lebanon In- House	1704	\$55,201	6	384	\$143.75				
	1703	\$65,721	6	530	\$124.00				
	711	\$80,691	8	732	\$110.23				
	710	\$91,182	6	852	\$107.02				
	709	\$43,255	8	348	\$124.30				
	708	\$69,019	8	487	\$141.72				
	707	\$82,269	6	746	\$110.28				
	706	\$25,021	4	275	\$90.99				
	99716	\$32,268	8	385	\$83.81				
	99715	\$52,578	8	490	\$107.30				
99714	\$65,110	8	844	\$77.14					
Albany Contracted	WL02-04	\$202,370	8	2500	\$80.95				
	WL02-02	\$323,325	8	3400	\$95.10				
	WL01-03	\$440,006	8	2400	\$183.34				
	WL01-02	\$884,743	8	1480	\$597.80				
	ST0202	\$856,374	8	1375	\$622.82				
Salem Contracted	701006	\$415,712	8	3818	\$108.88				
	701002	\$461,433	6	2340	\$197.19				
	701001A	\$226,730	8	3705	\$61.20				
	702004	\$315,865	8	3822	\$82.64				
	702000	\$162,492	8	2692	\$60.36				
Roseburg Contracted	02WA17	\$831,678	8	5640	\$147.46				
	01WA21	\$149,370	6	2740	\$54.51				
	01WA15	\$115,674	6	1020	\$113.41				

NOTE:


- 1) Contracted projects total costs do not include administrative costs which include but are not limited to project design, advertising, site survey and project staking, and job site inspections. These run from 20 % to 40 % of the overall project cost.
- 2) In-house projects total costs include and/or eliminate the need for change orders, elaborate construction plans, contract documents, advertising, and site inspections for quality control.

Agenda Item 4



LEBANON POLICE DEPARTMENT MEMORANDUM

TO: John Hitt, City Administrator

FROM: Michael D. Healy, Chief of Police 

DATE: July 15, 2003

RE: Proposed Ordinance - Parks

Attached, you will find a copy of the proposed ordinance I would like to put before the Council at their July 23, 2003 meeting. I will be attending the meeting and intend on presenting the background information on the proposal.

As you are aware the disorderly activity in some of our neighborhood parks has, again this year, been very disruptive for the public in and around these parks. Most of the negative behavior seems to be occurring at Ralston Park this year. The activity last year was mainly in Century Park.

In brief the proposed ordinance will:

1. Closes all neighborhood parks from 11:00 p.m. through 6:00 a.m. and establishes a permit process should a citizen want to use a park after the closed hours.
2. Prohibits various disorderly acts within the City's parks.
3. Establishes the authority for police officers to exclude persons from the parks for thirty (30) days under certain conditions.
4. Establishes the authority for police officers to close any parks under certain emergency circumstances.

I feel the proposed ordinance will offer the police department a few more tools we can use to mitigate the problems we respond to each summer as well as during other times of the year.

"Integrity. Professionalism and Teamwork"

Inasmuch as the provisions of this Ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

Passed by the City Council on the 23 day of July, 2003 by a vote of ____ for and ____ against.

Kenneth I. Toombs, Mayor	[]
Ron Miller, Council President	[]

ATTEST:

John E. Hitt, City Recorder

Agenda Item 5



LEBANON POLICE DEPARTMENT MEMORANDUM

TO: John Hitt, City Administrator
FROM: Michael D. Healy, Chief of Police *MDS*
DATE: July 16, 2003
RE: Surplus Property and Vehicles

I would like to have the Council declare the below listed City property as surplus. The vehicles are either wrecked, out of service or of no further use to the department. The radios had been retired approximately ten years ago after approximately ten to fifteen years' use. When they were retired they had been placed into storage instead of being declared surplus. My intent is to see that all of the property is transferred to the State surplus property system for disposal through the auction.

Unit #71	1997 Ford Crown Victoria	2FALP71W9VX189055	Out of Service
Unit #10	1988 Jeep Wagoneer	1JCNE15U3JT182199	No Further Use
Unit #91	1999 Ford Crown Victoria	1FAFP71W1XX141856	Wrecked
Radio	G.E. Mobile Radio	SN#1363083	(No Asset Tag)
Radio	G.E. Mobile Radio	SN#7791824	(No Asset Tag)
Radio	G.E. Mobile Radio	SN#7367651	(Asset Tag #01323)
Radio	G.E. Mobile Radio	SN#7367646	(Asset Tag #01327)



CITY OF LEBANON

MEMORANDUM

TO: John Hitt, City Administrator **DATE:** July 14, 2003

FROM: Jamie Bilyeu-Libra *JB*
Community Development Secretary

CC: Doug Parker; Allen Dannen

SUBJECT: SURPLUS PROPERTY

Attached is a Resolution declaring surplus property. The property was offered to other City Departments and no responses were received.

Therefore, please submit the attached Resolution to City Council for approval so that the property can be sold through State surplus or by other methods.

If you have any questions, please contact me at x458.

**A RESOLUTION AUTHORIZING THE
SALE OR DISPOSAL OF CITY OWNED
PERSONAL PROPERTY**

) **RESOLUTION NO. _____**
)
) **For 2003**

WHEREAS, the attached Exhibit "A," incorporated herein at this point, lists personal property owned by the City of Lebanon for public purpose; and

WHEREAS, the City of Lebanon wishes to sell such item at auction to the highest bidder or otherwise dispose of the item listed on Exhibit "A"; and

WHEREAS, such action is deemed to be reasonable and in the public interest of the City of Lebanon;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LEBANON AS FOLLOWS:

The item listed upon the attached Exhibit "A," incorporated herein, is hereby declared surplus personal property which has ceased to be used by the public of the City of Lebanon, and the City Administrator, or his designee, is hereby authorized and directed to offer for public auction the sale of such item and the City Administrator, or his designee, is authorized to dispose of any item not sold at public action as the City Administrator deems reasonable and in the best interests of the City of Lebanon.

PASSED by the Council of the City of Lebanon by a vote of _____ for and _____ against, and approved by the Mayor this _____ day of _____, 2003.

ATTEST:

Kenneth I. Toombs, Mayor []
Ron Miller, Jr., Council President []

John E. Hitt, City Recorder

EXHIBIT "A"

ITEM	FIXED ASSET NO. or VIN NUMBER	DEPARTMENT
Panasonic FP-7117 Copy Machine	03649	Community Development/ Public Works
G.E. Mobile Radio	01323	Police
G.E. Mobile Radio	01327	Police
G.E. Mobile Radio	No asset tag	Police
G.E. Mobile Radio	No asset tag	Police
1997 Ford Crown Victoria	2FALP71W9VX189055	Police
1988 Jeep Wagoneer	1JCNE15U3JT182199	Police
1999 Ford Crown Victoria	1FAFP71W1XX141856	Police

Agenda Item 6



CITY OF LEBANON
FINANCE DEPARTMENT
MEMORANDUM

TO: John E. Hitt, City Administrator
FROM: Casey Cole, Finance Director *CC*
SUBJECT: Authorization to sign investment documents

DATE: July 16, 2003

In attempting to set up an account with UBS Paine Webber for City investments, I have found that we do not have a resolution on file that authorizes the City Administrator, or the Finance Director to sign such documents.

Our investment policy, approved by motion of City Council, allows the Finance Director and the City Administrator to manage investment of funds. This is not sufficient authorization for the legal department of UBS Paine Webber, they require a resolution approved by Council. This may be required by other banks as well if we wish to open new accounts. Attached is a resolution modeled after one the City of Newport approved.

Action requested:

Approval of resolution

A RESOLUTION AUTHORIZING)
SIGNATORIES FOR FINANCIAL)
DOCUMENTS)

RESOLUTION NO. _____
FOR 2003

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LEBANON AS FOLLOWS:

Section 1. The Council of the City of Lebanon, Oregon authorizes the City Administrator and the Finance Director, or any one of them acting individually, to sell, assign, and endorse for transfer, certificates representing investments authorized by ORS 294.935 and the investment policy of the City of Lebanon registered or hereafter registered in the name of this municipal corporation.

Section 2. This resolution is effective immediately upon passage.

Passed by the Lebanon City Council by a vote of ___ for and ___ against on this 23rd day of July, 2003.

Kenneth I. Toombs, Mayor []
Ron Miller, Jr., Council President []

ATTEST:

John E. Hitt, City Administrator

Agenda Item 7



CITY OF LEBANON

MEMORANDUM

TO: Mayor Toombs and City Council

DATE: July 17, 2003

FROM: John Hitt, City Administrator *JHitt*

SUBJECT: Adoption of Academy Square Master Plan

As of the writing of this memo, we are not in possession of the final written Academy Square Master Plan. This plan was conceptually approved by the City Council in May.

Assuming the written report is delivered prior to the Council Meeting, it will be provided to you then.

JEH/lgk

Agenda Item 8



CITY OF LEBANON

PUBLIC WORKS DEPARTMENT

MEMORANDUM

TO: John Hitt, City Administrator

DATE: July 16, 2003

FROM: Jim Ruef, Director of Public Works *JRR*

SUBJECT: The Future of the Academy Square Gyms

As requested by City Council, staff has evaluated the gym buildings which were formally part of the Lebanon Middle School. There are two attached gyms on the main tax lot located east of Hwy 34. This building needs repair to its walls in numerous locations due to water damage. The main roof is in good repair; however, the small awnings over the doorways are in need of complete replacement. This building also has the boiler room attached to it. The Draft Academy Square master plan shows that these gyms would eventually be torn down to make room for the future building and parking areas.

The other, stand-alone gym (Santiam Gym) is on the lot where the old Santiam Elementary School was located, west of Hwy 34. The gym has no restroom or locker room facilities but there is space in the building for both. There is one wall which has deteriorated and needs to be rebuilt. The floor is uneven and, in its present condition, should be considered unsafe for most sports activities. The cause of the floor problem and its remedy is unknown at this time. The building also is without a power connection. The Draft Academy Square Master Plan shows this gym remaining on-site and being used by the Lebanon Police Department and possibly others.

There are three main options which staff feels Council should consider.

1 - OPEN FOR PUBLIC USE

This option would have all three gyms opened for use by the citizens of Lebanon. The Lebanon Boys and Girls Club have indicated that the community is deficient in gym space. Staff's own experience supports this claim. We have had numerous inquiries about possible use of the gyms. In this option, I am assuming a heating level of 55 degrees and the locker rooms would be available for use.

Main Gyms

Costs:

Initial Repair	\$158,000
Annual Cost	\$ 31,200

Santiam Gym

Costs:

Initial Repair	\$ 83,200 (does not include floor repair)
Annual Cost	\$ 5,500

2 – PRESERVE THE BUILDINGS FOR FUTURE USE

In this option, the buildings would be closed to Public use but would be maintained to minimize deterioration and the cost of opening them in the future. This would include maintaining minimum heat level (45 degrees), routine maintenance of the HVAC system, and other repairs to prevent further deterioration of the buildings. This option assumes that we would wait until Budget Year 2004-05 to install electricity and activate the heat in the Santiam Gym.

Main Gyms

Costs:

Initial Repair	\$ 4,200
Annual Cost	\$ 8,350

Santiam Gym

Costs:

Initial Repair	\$ 0 – First year, \$2,400 electrical service the second year
Annual Cost	\$ 0 – First year, \$2,000 gas and electricity each year thereafter

3 – NO FURTHER USE OF THE BUILDINGS

With this option, City Council would declare that we would never open the buildings to public use and would authorize the removal of the buildings when financially feasible. The buildings would retain security lighting only and would have the windows boarded up. All other utilities would be disconnected.

Main Gyms

Costs:

Initial Repair	\$200
Annual Cost	\$ 0

Santiam Gym

Costs:

Initial Repair	\$ 0
Annual Cost	\$ 0



Agenda Item 9



CITY OF LEBANON

MEMORANDUM

TO: Mayor Toombs and City Council

DATE: July 17, 2003

FROM: John Hitt, City Administrator *JH*

SUBJECT: City Administrator's Report

At the July 23 City Council Meeting I will provide an oral update on the following matters:

1. LUBA Appeals
2. Proposed City Administrator's Vacation
3. Senior Center
4. Miscellaneous Matters

JEH/lgk