

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-02-05) )

ORDINANCE BILL NO. 2  
for 2003  
ORDINANCE NO. 2338

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, 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:

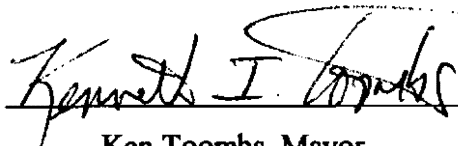
Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", which is incorporated herein by this reference as if fully set forth at this point.

✓  
After recording please return to:  
City of Lebanon  
Public Works Administration  
925 Main Street, Lebanon, OR 97355

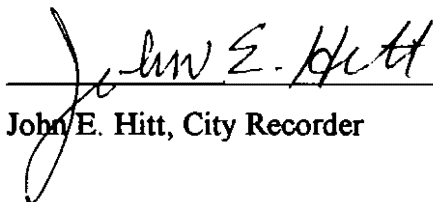
**Section 2. Annexation Area.** Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated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

**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.

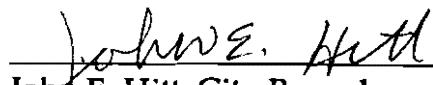
Passed by the Lebanon City Council by a vote of 5 for and 1 against and approved by the Mayor this 26<sup>th</sup> day of February, 2003.

  
Ken Toombs, Mayor

ATTEST:

  
John E. Hitt, City Recorder

I hereby certify that I am the City Recorder for the City of Lebanon, State of Oregon; that the foregoing is a full, true, correct copy of the original; and the J. Scott Simpson, whose signature appears on the original document, was at the time of signing the Mayor of the City of Lebanon.

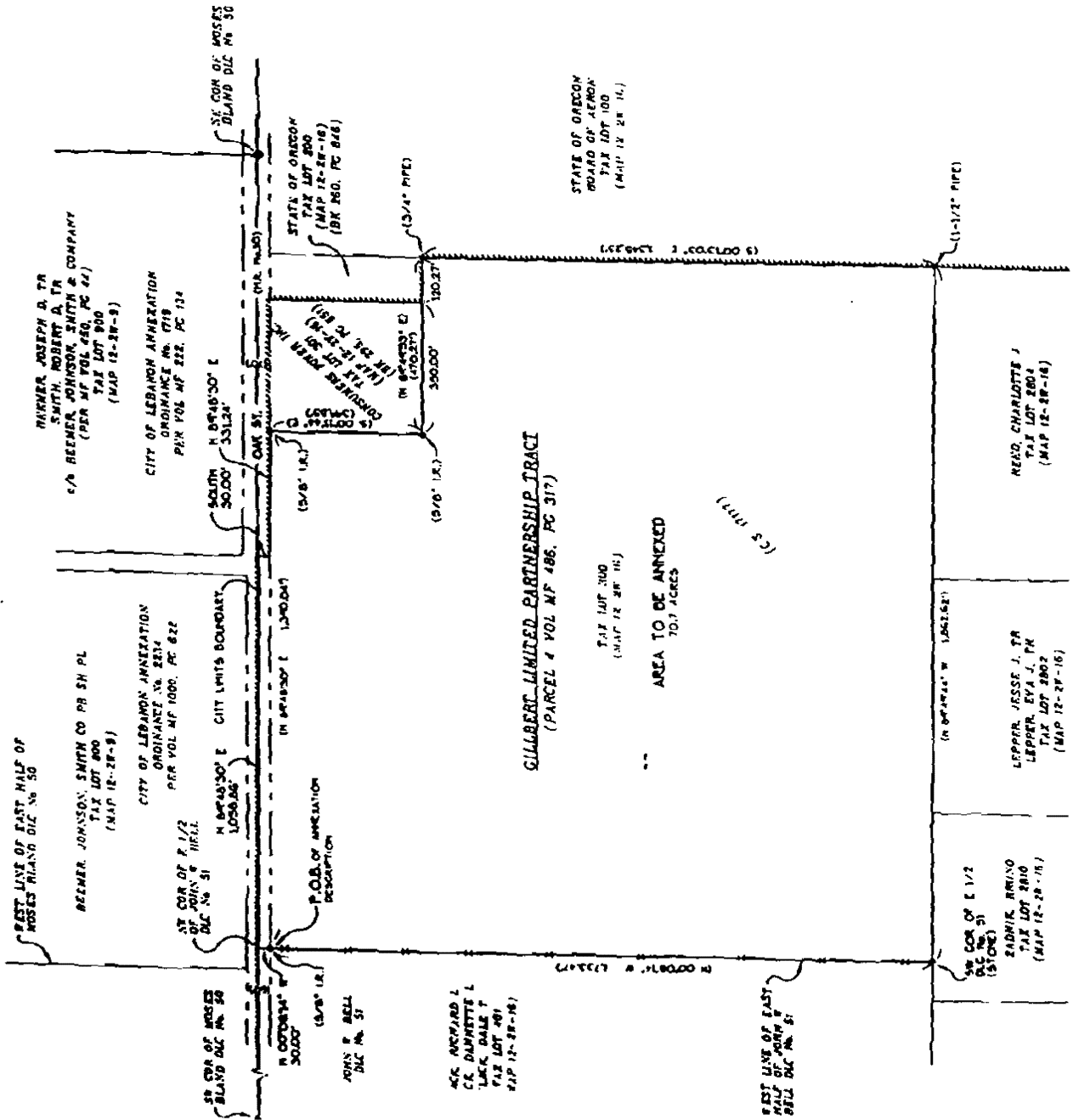
  
John E. Hitt, City Recorder

ANNEXATION MAP - FILE # A-02-05  
T12S-R2W-16, TAX LOT 300

ANNEXATION MAP  
for  
GILBERT LIMITED PARTNERSHIP  
LOCATED IN  
SOUTH 1/2 OF SEC. 4 AND NORTH 1/2 OF SEC. 16  
T. 12 S., R. 2 W., W.1/4  
CITY OF LEBANON, LINN COUNTY, OREGON  
NOVEMBER 1, 2002



SCALE: 1" = 200'



LEGEND

- RECORD MONUMENT PER GS 17177
- D.C. CORNER
- ( ) RECORD DATA PER GS 17177
- P.O.B. POINT OF BEGINNING
- 1/8" IR. IRON ROD
- CITY LIMITS BOUNDARY

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*John R. Bell*  
JOHN R. BELL

RENEWAL DATE 12/31/03

KJD  
Professional Surveyor  
Linn County, Oregon  
12/31/03

ANNEXATION DESCRIPTION

(For Tax Lot 300 [Map 12-2W-16] and a portion of Oak Street)

A portion of Oak Street AND all that Gilbert Limited Partnership Tract identified as Parcel 4 in deed recorded in Volume MF 486, Page 317 of the Linn County Deed Records on November 15, 1988 and being located in Sections 9 and 16, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon, said property being more particularly described as follows:

Beginning at a 5/8 inch iron rod at the intersection of the west line of said Gilbert Limited Partnership Tract with the south right-of-way line of Oak Street, said intersection point bearing South 00°08'14" East 30.00 feet from the northwest corner of the East Half of the John W. Bell Donation Land Claim No. 51 in said township and range; thence North 00°08'14" West 30.00 feet to said northwest corner of the East Half of Bell Claim; thence North 89°48'30" East, along the said north line of said claim, 1058.86 feet, more or less, to the west line of that City of Lebanon Annexation by Ordinance No. 1719 recorded in Volume MF 222, Page 134 of the Linn County Deed Records on January 3, 1979, which point being the southwest corner of that Beemer, Johnson and Smith Company Tract described by deed recorded in Volume MF 450, Page 44 of said deed records on August 3, 1987; thence SOUTH, along the southerly extension of last west line, 30.00 feet to the said south right-of-way line of Oak Street; thence North 89°48'30" East, along said south right-of-way line, a distance of 331.24 feet to the northwest corner of that Consumers Power, Inc. Tract described by deed recorded in Book 295, Page 651 of the Linn County Deed Records on July 11, 1963; thence South 00°11'44" East 399.85 feet to the southwest corner of said Consumers Power, Inc. Tract; thence North 89°49'53" East 350.00 feet to the southeast corner of said Consumers Power Tract, which point being the southwest corner of that State of Oregon Tract described by deed recorded in Book 260, Page 846 of said Linn County Deed Records on August 18, 1958; thence North 89°49'53" East 120.27 feet to the southeast corner of said State of Oregon Tract, which point being on the east line of said Gilbert Limited Partnership Tract; thence South 00°13'03" East 1345.23 feet to the southeast corner of said Gilbert Limited Partnership Tract; thence North 89°49'44" West 1862.62 feet to the southwest corner of said Gilbert Limited Partnership Tract; thence North 00°08'14" West 1733.47 feet to the Point of Beginning. Containing 70.7 acres of land, more or less.

FILED  
PROFESSIONAL  
LAND SURVEYOR  
*Jack R. Bussell*  
JACK R. BUSSELL  
1999  
RENEWAL DATE 12/31/03

November 1, 2002  
Gilbert Limited Partnership  
ANNEXATION DESCRIPTION  
(97-120-B) JRB:ls

STATE OF OREGON  
County of Linn

I hereby certify that the attached  
was received and duly recorded  
by me in Linn County records.

STEVE DRUCKENMILLER  
Linn County Clerk

M 20  
R 10  
S 11  
A 11  
O    

8:30 O'clock a.m. 41

MAR 11 2003

MF 1396

By JD Deputy PAGE 09

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# 2 - Gilbert

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-02-05) )

ORDINANCE BILL NO. 2  
for 2003  
ORDINANCE NO. 2338

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, 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:

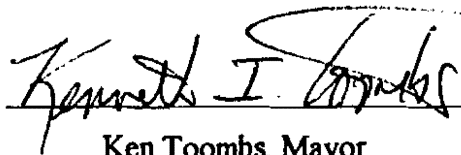
Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", which is incorporated herein by this reference as if fully set forth at this point.

✓  
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City of Lebanon  
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925 Main Street, Lebanon, OR 97355

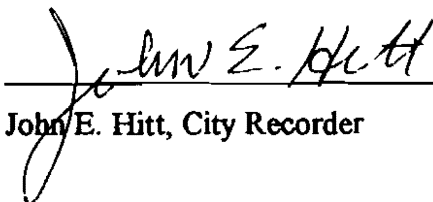
**Section 2. Annexation Area.** Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated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

**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 5 for and 1 against and approved by the Mayor this 26<sup>th</sup> day of February, 2003.

  
\_\_\_\_\_  
Ken Toombs, Mayor

ATTEST:

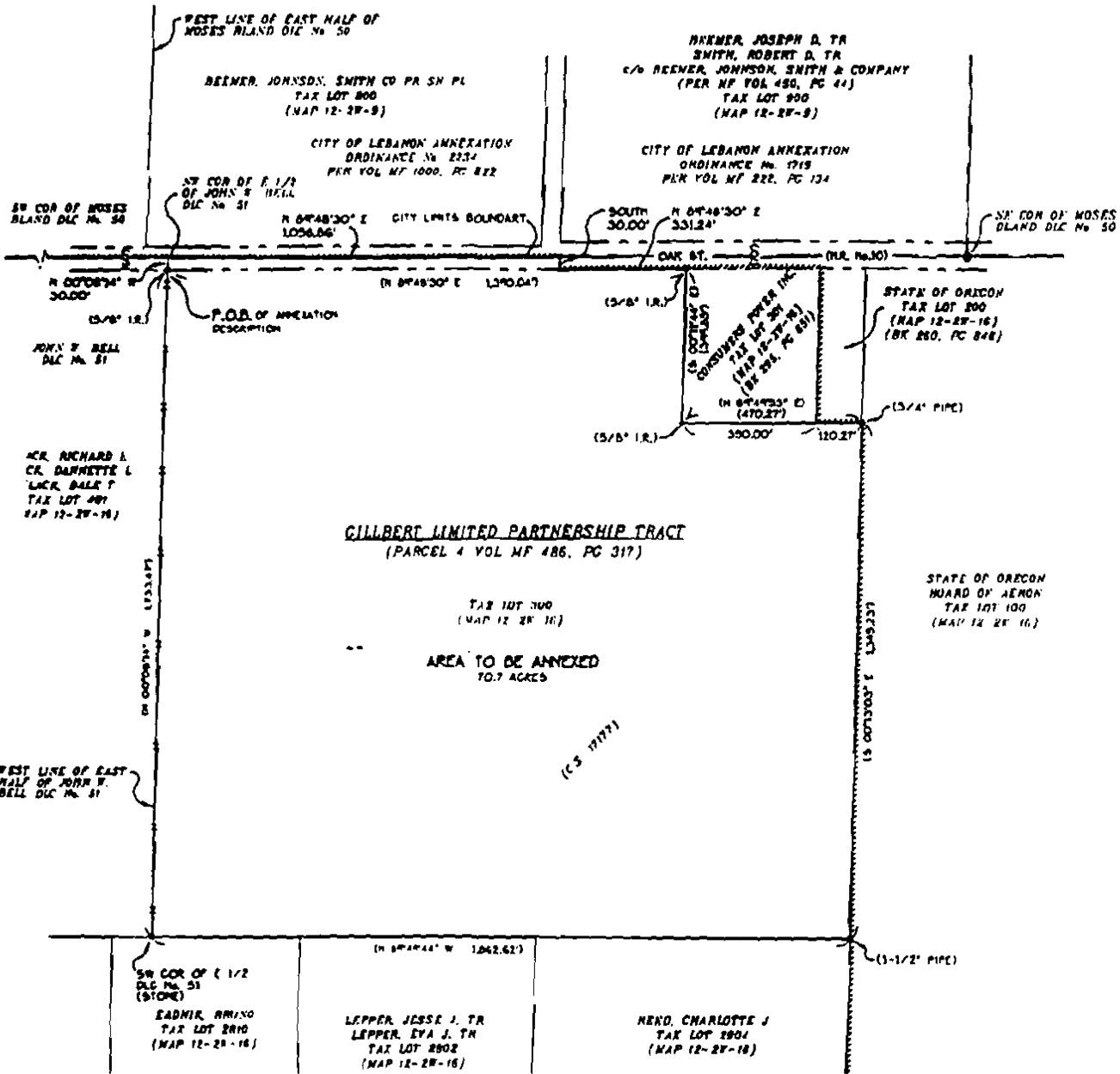
  
\_\_\_\_\_  
John E. Hitt, City Recorder

I hereby certify that I am the City Recorder for the City of Lebanon, State of Oregon; that the foregoing is a full, true, correct copy of the original; and the J. Scott Simpson, whose signature appears on the original document, was at the time of signing the Mayor of the City of Lebanon.

  
\_\_\_\_\_  
John E. Hitt, City Recorder

ANNEXATION MAP  
FOR  
GILBERT LIMITED PARTNERSHIP

LOCATED IN  
SOUTH 1/2 OF SEC. 9 AND NORTH 1/2 OF SEC. 16  
T. 12 S., R. 2 W., W.M.  
CITY OF LEBANON, LINN COUNTY, OREGON  
NOVEMBER 1, 2002



SCALE: 1" = 200'

LEGEND

- RECORD MONUMENT PER GS 17177
- D.C. CORNER
- ( ) RECORDED DATA PER GS 17177
- P.O.B. POINT OF BEGINNING
- I.R. IRON ROD
- CITY LIMITS BOUNDARY

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Jack R. Bussell*  
JACK R. BUSSELL

RENEWAL DATE 12/31/03

STATE OF OREGON  
JACK R. BUSSELL  
1100 N. W. 10TH ST.  
LEBANON, OREGON 97036  
KAD

ANNEXATION MAP  
T12S-R2W-16, TAX LOT 300

FILE # A-02-05

EXHIBIT 'A'

VOL 1416 PAGE 623



ANNEXATION DESCRIPTION

(For Tax Lot 300 [Map 12-2W-16] and a portion of Oak Street)

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FILED  
PROFESSIONAL  
LAND SURVEYOR  
*Jack Russell*  
JACK RUSSELL  
1999  
RENEWAL DATE 12/31/03

November 1, 2002.  
Gilbert Limited Partnership  
ANNEXATION DESCRIPTION  
(97-120-B) JRB:ls

## 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 some services can be made available to serve the property. Water and sanitary service can be extended west to the subject property along Oak Street from the Airway/Oak Street intersection area. The land uses identified in the preliminary development plan represent minimal or limited demand on infrastructure capacity.

The property consists of approximately 71 acres of land. The land is currently employed for grass seed farming. The land makes no impact on the urban services since it does not demand any urban services.

Allen Dannen, City Engineer for the City of Lebanon Community Development Center submitted a written statement stating that an extension of the Oak Street water main could provide up to approximately 2,500 gallons per minute for the subject property. This is more than enough to accommodate the proposed future development project along with many more future developments in the area.

Jim Ruef, from the City Public Works Department stated wastewater treatment system has significant capacity to accommodate the proposed future development. Mr. Ruef also stated the sewage system can reach overcapacity during times of intense flooding. To the best of the City's knowledge, the system hit overcapacity only once, during the high flooding in 1996. However, the system will hit overflow regardless of the proposed development on the property. During the 1996 flood, the overflow was city-wide, not specific to the area around the annexed property. In other words, Mr. Ruef stated, the proposed development will not impact the system's ability to avoid overflow during times of high flooding. Mr. Ruef noted that the flooding overflow was acceptable practice under standards set by DEQ. Therefore, the system is not deemed overburdened simply because intense flooding may cause it to overflow.

Any inadequacies urban services caused by future development are mitigated via building permit and site plan review process. The Comprehensive Plan requires the City to "insure that adequate public facilities capability exists, including adequate public water supply and sewerage capability, to handle all development proposals within its jurisdiction as part of the city's building permit and site review procedures." Comprehensive Plan, 4-P-2. The subject property is zoned "Light Industrial." Under the Lebanon City Zoning Code for Light Industrial, all new development is subject to the conditional use process and requires the submission of a site plan. Both the site plan review and conditional use process give the City authority to ensure that the

development provides for adequate urban services. Consequently, the City ordinance can ensure that any development after annexation will not overburden City services.

The applicant has also submitted letters from City fire, police, school, library, parks, public works, and community development stating that the proposed annexation that these respective services can accommodate the proposed annexation and subsequent development.

Further, any inadequacies in current water, sanitary, or transportation services caused by future development can be alleviated by the allocation of City finances to meet additional demand on these services.

The annexation criteria does not require the city to project water, sanitary, or transportation demands from future development of the subject property. It only requires an analysis of how the current existing development on the property (none) affects urban services. The annexation process only requires that the City find that urban service can meet the demands of the annexed property. It does not require that the City or property owner provide infrastructure to the property prior to actual development. If future development creates an overburden of urban services, the Comprehensive Plan requires the owner to mitigate any overburden.

## **Criteria 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 appropriate public right-of-way will be provided as the property actually develops. Recent case law dictates that public right-of-way shall be dedicated at the time or juncture when the nexus or need is established by an actual development proposal. The future public right-of-way that will be dedicated is for the proposed Reeve's Parkway that will eventually run north south near the center of this property, as per the City's Adopted Transportation Master Plan and draft Transportation System Plan (TSP).

The property consists of approximately 71 acres of bare land. Oak Street currently abuts the northern portion of the property. Oak Street is already designated a truck route by the City. The amount of bicycle and pedestrian traffic in this area is minimal. Oak Street currently provides the safe and efficient movement of traffic, bicycles, and pedestrians along the property.

The annexation criteria only requires a finding of whether the current existing right-of-way on the property services the movement of traffic, bicycles and pedestrians. Future development proposed by the applicant accommodates a future Reeves Parkway right-of-way extension as contemplated by the City Transportation Plans. Sidewalks are likely to be required along the Oak Street portion of the property. Without future development of the property, the City would be unable or could not afford to extend the Reeves Parkway right-of-

way and extend the sidewalks on Oak Street. Annexation and development of the property will serve a community based need for traffic access and improvements in the area.

**Criteria 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 public infrastructure improvements will be provided as the property actually develops. Recent case law dictates that public right-of-way shall be dedicated 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.

Because the annexed property merely contains bare land, it will not create a demand for urban services. Therefore, no program is needed at this time to upgrade urban services for the property.

Future development must provide adequate urban services. The Comprehensive Plan requires the City to “insure that adequate public facilities capability exists, including adequate public water supply and sewerage capability, to handle all development proposals within its jurisdiction as part of the city’s building permit and site review procedures.” Comprehensive Plan, 4-P-2. After annexation, when the applicant submits their final site plan, the City building and site review ordinances will require the applicant to initiate any program to upgrade any urban services and/or public facilities that otherwise cannot accommodate the planned development. Consequently, the City ordinances and Comprehensive Plan create a “program” to ensure that any development after annexation will not overburden City services.

**Criteria 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.

**Findings # 5:**

The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists to expand the Lebanon State Airport and other airport-related development. As noted in a Lebanon Express article of September 4, 2002 (See Attachment B-2) and in a letter (See Attachment B-1), the Oregon Department of Aviation views the upgrading and expansion of the

airport facility and related adjacent uses as essential to the long-term interest of this local transportation facility.

In addition to the need expressed in the above letters, the Lebanon Comprehensive Plan states that light industrial areas are needed to encourage economic growth and bring new industry into the community. Comprehensive Plan, 5-17. The objective of light industrial areas is to “attract new diversified light non-polluting industry. With the existing economic base so heavily reliant on the wood products industry, there is an obvious need for diversification.” *Id.* Economic development is a key component to the City’s Goal 9 objectives. Ensuring that adequate light industrial property exists to attract potential businesses is a critical component to ensuring Goal 9 objectives. Providing for the annexation also serves the airport overlay objectives and community need that the property provide for consistent and compatible land use application with surrounding properties.

The applicant proposes to use the property for airport related development and for light industrial industry. Doug Parker, the City Planning Director, noted that this site is one of the four biggest industrial sites in the community. The site is one of five industrial sites adjacent to the truck route and the biggest along the truck route for the City. Mr. Parker stated that the other industrial land in the City does not contain this type of access or the acreage needed for a large-scale distribution center like the subject property can provide. Doug Parker testified that the property’s proximity to the airport and the improved Highway 34 and Interstate 5 makes it an ideal location for further industrial and commercial development.

Mr. Parker noted that the property is part of the Comprehensive Plan’s West-side Light Industrial Reserve. The West-Side Light Industrial reserve provides excellent air, highway and arterial access, has water and other utilities easily available, and is compatible and comparable with airport activities. Annexation of the subject property fulfills the goals of the City’s Comprehensive Plan.

The council also heard testimony from the Oregon Development Group President and CEO, Larry Walsh. Mr. Walsh testified that the subject property has distinct advantages that satisfy the public need for adequate light industrial property. First, the property is one of a limited amount of properties at least 50 acres and near I-5. The property is on flat level ground, easy to develop to suit and has with ready water and sewage access. Mr. Walsh indicated that this size and location are crucial for the development needs for many potential businesses wishing to locate in Oregon. The only other large tracts in the immediate Willamette Valley, includes (1) 150 acres near Millersburg, (but this property is not desirable due to current violations with DEQ standards); (2) the Gore site, which is too close to rail (rail traffic hinders the ability of high-tech companies from placing manufacturing facilities nearby due to damage caused by the vibration of rail traffic) and tied up by multiple owners; and (3) along Highway 99 between Junction City and Eugene, (this property lacks the infrastructure to support light industrial application). Consequently, Mr. Walsh stated that this property is the only adequate site for many potential businesses who wish to come to the area.

Finally, Mr. Walsh concluded, the site’s proximity to community colleges and major universities of the University of Oregon and Oregon State University, its proximity to available city services,

and available housing in Lebanon for its employees make this site the most desirable large tract of land for potential light industrial development in the area. The City finds these arguments persuasive in demonstrating a need for annexation of this site.

The applicant also submitted a letters from Keith L Miller, from the Linn County Business Development Center, Daren A. Griffin, State Airports Manage for the Oregon Department of Aviation, John E. Hitt, City Administrator, and Greg Nervino of Consumer Power Inc. Each many similar points to those raised by Mr. Walsh. Each believe the annexation serves an important public need. Each conclude that the proposed annexation is either beneficial to the community, the City, or the region.

A copy of a Lebanon (OR) Express newspaper article dated September 4, 2002 detailing the need for annexation of the property to service the needs of the airport and commercial needs of business and individuals in the area.

Additionally, truck and other traffic servicing this site will not have to travel through the center of town. This may help eliminate current traffic congestion and ensure that truck traffic does not unnecessarily travel through residential districts or the heart of the City. Mr. Parker says the site is ideal for its intended purpose in that it minimizes traffic impacts on the rest of the cities by assuring that truck traffic does not travel through town or residential areas. Other existing industrial sites in the City cannot provide these assurances.

**Criteria 8:**

States that unless otherwise approved by the City, specific development proposals shall be required for annexation request 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:**

**Add:**

Although the City finds that the conceptual development proposal will be implemented within a reasonable time based on assurances from the applicant, the City also finds that such a proposal is unneeded. The Comprehensive Plan provides the City with discretion to require specific development proposals when considering annexation of vacant land. Therefore, the City has discretion to apply criteria 8 if it so chooses.

New case law regarding the types of exactions and conditions that may be placed on the annexed property makes submission of a specific development proposal unnecessary. Additionally, the Comprehensive Plan and the City zoning ordinances requires review of development proposals when an actual site plan is submitted. The City believes that until the property is annexed and under City jurisdiction, conditions and mitigation requirements for future development cannot be required by the City. The City cannot force an owner to develop his property despite the

submission of specific development proposals. Therefore, the City finds that a specific development proposal is not required for this annexation.

**Criteria 11 & 12:**

Section 2: Delineation of Authority in the Urban Growth Area (UGA), 2<sup>nd</sup> paragraph: The Lebanon Comprehensive Plan designates the future city zoning UGA lands will receive upon annexation of the City.

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.

**Findings # 11, 12**

The Comprehensive Plan designates the subject property for Light Industrial. The designation was created on when the Comprehensive plan was enacted. Light Industrial zoning is the only zone the subject property can fit into under its current zone designation. No other City zone could apply without creating a zone change and Comprehensive Plan Map amendment. Therefore, no zone map amendment or zone change is needed for the property because the City zoning designation is consistent with the property's designation in the Comprehensive Plan.

The City's Comprehensive Plan and annexation ordinance have already been acknowledge and are in conformance with state law.

Assuming that a zone map amendment is needed, the annexation process already provides sufficient notice, review, and findings provided herein to comply with City criteria for zoning changes. Therefore, a separate proceeding to allow for the zone change is unneeded.

STATE OF OREGON  
County of Linn

M. 50  
R. 70  
S. 71  
A. 71  
O. —

8:30 O'clock a.m. 71

I hereby certify that the attached was received and duly recorded by me in Linn County records.

APR 28 2003

STEVE DRUCKENMILLER  
Linn County Clerk

MF 1416

By *[Signature]* Deputy PAGE 621