

#3 Herb-Cook

AN ORDINANCE AFFIRMING THE CITY)
OF LEBANON'S LAND USE DECISION)
IN ORDINANCE BILL NO. 34 FOR 2002,)
ORDINANCE 2321, (HERB/COOK))
AND MAKING FURTHER FINDINGS IN)
SUPPORT OF SUCH DECISION)

ORDINANCE BILL NO. 4
For 2003
ORDINANCE NO. 2340

WHEREAS; the City Council for the City of Lebanon passed Ordinance Bill Number 34 for 2002, Ordinance 2321, on August 14, 2002 which approved the annexation of that certain property described herein in Exhibit "A", which is incorporated here by this reference, assigning said property certain zoning; and

WHEREAS, said decision of the City Council was appealed to the Land Use Board of Appeals for the State of Oregon by the Friends of Linn County (FOLC), LUBA Case Number 2002-107; and

WHEREAS, the parties stipulated that such appeal be remanded to the local governing body for further proceedings to allow the issues raised by FOLC to be addressed by the City Council; and

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



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

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 issues raised in the appeal of this matter in LUBA Case No. 2002-107, 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:

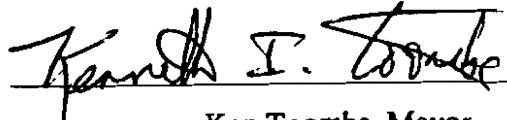
Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", which is incorporated herein by this reference as if fully set forth at this point.

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, again, to be annexed to the City of Lebanon, Ordinance Bill Number 34 for 2002, Ordinance Number 2321 is hereby affirmed and the subject property is zoned as indicated in accordance with the Lebanon Zoning Ordinance No. 1773, given the zoning of Residential Mixed Density (RM) for Linn County Tax Lot 1400 and Residential Low Density (RL) for Linn County Tax Lot 2000.

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, if required by said agencies as a result of this ordinance affirming the Council's prior decision.

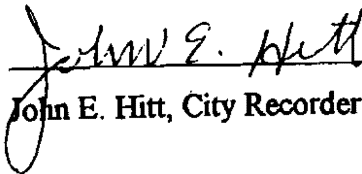
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Passed by the Lebanon City Council by a vote of 5 for and 1 against and approved by the Mayor this 26th day of February, 2003.



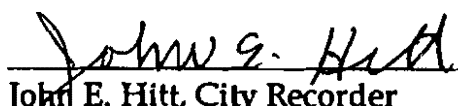
Ken Toombs, Mayor

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

JAMES F. UDELL ENGINEERING & SURVEYING

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

EXHIBIT "A"

PAGE 1 OF 2

HERB -COOK
ANNEXATION

An area of land in Section 23 of Township 12 South of Range 2 West of the Willamette Meridian Linn County, Oregon more particularly described as follows:

Beginning at a 5/8 iron rod marking the Northwest corner of Lot 1 in Block 1 of White Oaks Addition; thence North 63°04'28" East 200.22 feet to the Northern most corner of said Lot 1 and being on the Westerly right-of-way of Cascade Drive; thence along said Westerly right-of-way the following courses and distances North 29°46'25" West 207.61 feet; thence South 60°07'09" West 15.63 feet; thence along the arc of a 909.93 foot radius curve to the left 284.54 feet (chord bears North 38°50'21" West 283.38 feet) to a 5/8" iron rod; thence North 47°47'51" West 20.09 feet; thence South 89°43'06" East 76.83 feet; thence North 29°46'25" West 336.37 feet to the Southwest right-of-way of US Highway No. 20; thence along said US Highway No. 20 right-of-way South 47°43'56" East 194.60 feet to the Easterly right-of-way of Cascade Drive; thence along said Easterly right-of-way South 29°46'25" East 709.08 feet to a 3/8" iron rod marking the Western most corner of Lot 40 in Sturtevant Subdivision; thence leaving said right-of-way North 51°18'41" East 110.58 feet; thence South 38°47'18" East 108.80 feet to a 5/8" iron rod marking the Eastern most corner of said Lot 40; thence South 60°10'38" West 126.29 feet to the Southern most corner of said Lot 40 on the Eastern right-of-way of Cascade Drive; thence South 60°21'44" West 60.00 feet to the Western right-of-way of Cascade Drive; thence following the arc of a 19.02 foot radius curve to the right 30.84 feet to the Northwest right-of-way of Wagon Wheel Drive (chord bears South 16°40'18" West 27.56 feet); thence along said Northwest right-of-way South 63°06'57" West 180.20 feet to a 5/8" iron rod marking the Southwest corner of Lot 2 in Block 1 of White Oaks Addition; thence North 29°46'45" West 199.92 feet to the point of beginning.

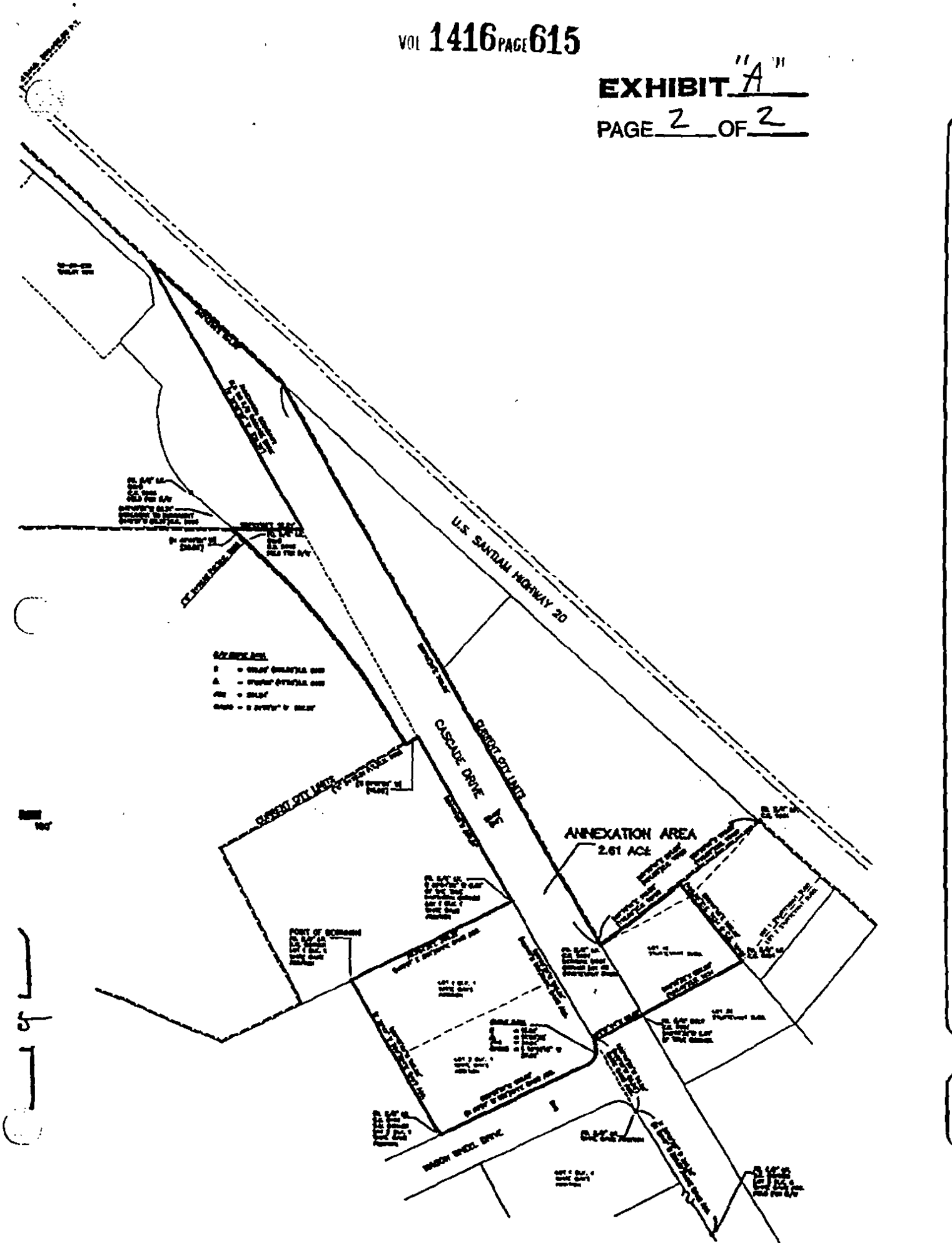
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Vandetta

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

EXPIRES

6-30-2002



SUBDIVISION MAP

City of

FINDINGS

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.

1. The proposed annexation complies with City Annexation Policy, Section 1, in several respects. First, some sanitary services, namely a sanitary sewer, are being made available to serve the property upon annexation, as shown in the staff report. Also, there was conflicting testimony on the adequacy of storm sewer drainage at the prior hearing. Friends of Linn County testified that the existing ditch system may not be adequate. Mr. Brian Vandetta of Udell Engineering testified that there is no history during normal flood periods of any flooding of the storm sewer system. Mr. Vandetta testified that the subject property drains northeasterly to an inlet through the highway drainage system across the highway into Cheadle Lake. The council finds that the testimony of Mr. Vandetta is accurate and credible, and hereby finds that the existing storm sewer system of the open ditch leading to Cheadle Lake is adequate for the purpose of the city's annexation policy.

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.

2. The proposed annexation complies with City Annexation Policy, Section 2, in that adequate existing public right of way is provided. This is not a proposal of development, but rather a proposal of annexation. Cascade Drive runs along the eastern side of the proposed annexation area. Cascade Drive is a county standard road. The Council hereby finds that this allows for adequate right of way for annexation.

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.

3. The proposed annexation complies with City Annexation Policy, Section 3, in that public infrastructure, namely sanitary sewer, improvements are currently under construction to comply with City Standard, as shown by the staff report. Friends of Linn County testified that there needs to be evidence of a program to upgrade the storm drainage system, but as previously found by this council, the existing storm sewer system is adequate to serve the annexation subject property, as testified to by Mr. Vandetta.

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.

4. Based upon all of the Findings, the proposed annexation has complied with the Lebanon Comprehensive Plan and its goals and policies as they relate to annexations. Therefore, the proposed annexation complies with City Annexation Policy, Section 4.

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.

5. The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists for lots that can be developed to support new housing development. The subject property allows for infill and redevelopment potential. The Council further finds that because of the deteriorated condition of the subject property's septic system, annexation is in the best interest of the public's health and well being because it will allow for the subject property to connect to city sewer services. Finally, the subject property is nearly surrounded by property within the city limits, and its annexation is an orderly and rational extension of the city limits. It is in the best interest of the public to annex such properties to allow for continuous and defined city borders, increased revenue and consistent development of city services, such as sewer.

Urbanization Element of the Comprehension 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.

6. The proposed annexation complies with the Comprehensive Plan Urbanization Element, Phased Growth Program, Policy #1 in that it would be an orderly and efficient expansion of city limits within city capabilities. As noted earlier, the proposed annexation area is nearly surrounded by city land, or land within the city limits. Annexation of such properties is an orderly and efficient expansion of city limits. Further, there are public improvements underway to serve the annexation area, making it within city capabilities to annex the area. Finally, the annexation area is very minuscule in comparison with the size of the City and will have minimal or no impact upon city services.

Comprehensive Plan Public Facilities and Services element, General Policy #2 (page 8-P-1): States . . . The city shall consider impacts on community facilities before building, rezoning, or annexation requests are approved.

7. The proposed annexation complies with Comprehensive Plan Public Facilities and Services Element, General Policy #2 in that annexation will not result in an adverse impact on community facilities. As stated in other findings, there are city service extensions under construction to serve the area adjacent to the annexation area. Further, the size of the annexation area is very minuscule compared to the overall size of the city. The existing storm sewer system is adequate to serve the annexation area. When these

factors are combined, the overall impact on community facilities is non-existent or negligible.

Urbanization Element of the Comprehensive Plan, Annexation Policy #3 (page 4–2): 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.

8. The proposed annexation complies with the Urbanization Element of the Comprehensive Plan, Annexation Policy #3 in that the Council finds that there is no need for a development proposal for the annexation of the vacant land involved in the annexation area, namely Tax Lot 2000. The proposed annexation area is made up of two Tax Lots; Tax lot 1400 is a developed residential lot and Tax Lot 2000 is bare land. The one parcel that is not developed is limited in its development potential by the characteristics of the properties and the surrounding uses. Tax Lot 2000 will be zoned for Residential Low Density. Any development of this property will be subject to the requirements of this zone. As there is no evidence of a planned development in the remaining two parcels, the Council hereby finds that any development of these parcels shall be dealt with by the Planning Department should any development plan arise.

Comprehensive Plan Urbanization Element, Annexation Policy #1: States . . . 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.

9. The proposed annexation complies with Comprehensive Plan Urbanization Element, Annexation Policy #1, in that the annexation property is within the Urban Growth Boundary, within the city's service capability, and will avail housing development opportunities in proximity to a nearby public school, city park, retail shopping facilities and professional services.

Urbanization Element of the Comprehensive Plan, Annexation Policy #2 (page 4-P-2): States . . . The city shall give priority to annexation of built-up residential areas adjacent to the city that are in need of public facilities, services, and utilities to prevent potential health and safety hazards.

10. The proposed annexation complies with the Urbanization Element of the Comprehensive Plan, Annexation Policy #2, in that the proposed annexation will allow for the inclusion of built-up residential areas adjacent to the city that are in need of public facilities, services, and utilities to prevent potential health and safety hazards to residents. Specifically, the proposed annexation allows for the inclusion of a parcel in need of sewer services which are readily available due to the fact that the annexation area is nearly surrounded by property within the city limits. By approving the proposed annexation, the city is preventing the potential public health hazards inherent in a failing septic system.

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.

- 11: The proposed annexation complies with Comp. Plan public Facilities and Services Element, general Policy #2, in that the annexation will not result in adverse impacts on community facilities.

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.

- 12. The proposed Annexation is in compliance with Zoning Ordinance Section 3.050. Currently the subject properties (Tax Lots 1400 and 2000) do not have City zoning designations because they are not within the City limits. However, since the properties are within the City's Urban Growth Boundary, the current comprehensive Plan designations are Mixed-density Residential for Tax Lot 1400, and Single-family Residential for Tax Lot 2000. The corresponding City zoning designation for a Comprehensive Plan designation of Mixed-density Residential is Residential Mixed Density (RM), and the corresponding city zoning designation for a Comprehensive Plan designation of Single-family Residential is Residential Low Density (RL). The applicants are requesting upon annexation a Residential Mixed Density (RM) zoning designation for Tax Lot 1400, and Residential Low Density (RL) zoning designation for Tax Lot 2000.

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

- 13. The City's annexation review procedures on annexation request File #A-02-03 have complied with the City of Lebanon/Linn County Urban Growth Management Agreement, Section 2 regarding city authority to annex lands within the urban growth area and assign city zoning in accordance with the Lebanon Comprehensive Plan Map.

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

- 14. The City's annexation review procedures on annexation request File #A-02-03 have complied with the City of Lebanon/Linn County Urban Growth Management Agreement, Section 5 regarding city authority to annex lands within the urban growth area and assign city zoning in accordance with the Lebanon Comprehensive Plan Map.

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

By [Signature] Deputy MF 1416
PAGE 611

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