

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-05-06, SIMONIAN PROPERTY))))))

ORDINANCE BILL NO. 18 for 2005
ORDINANCE NO. 2387

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:

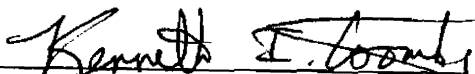
Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B" which is incorporated herein by this reference as if fully set forth at this point.

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 assigned the zoning of Residential Mixed Density (RM).

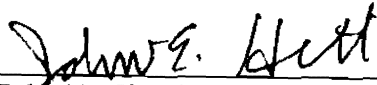
✓
After Recording Please Return To:
City of Lebanon
Community Development
853 Main Street
Lebanon OR 97355

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.

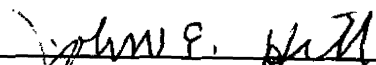
Passed by the Lebanon City Council by a vote of 6 for and 0 against and approved by the Mayor this 9 day of November, 2005.

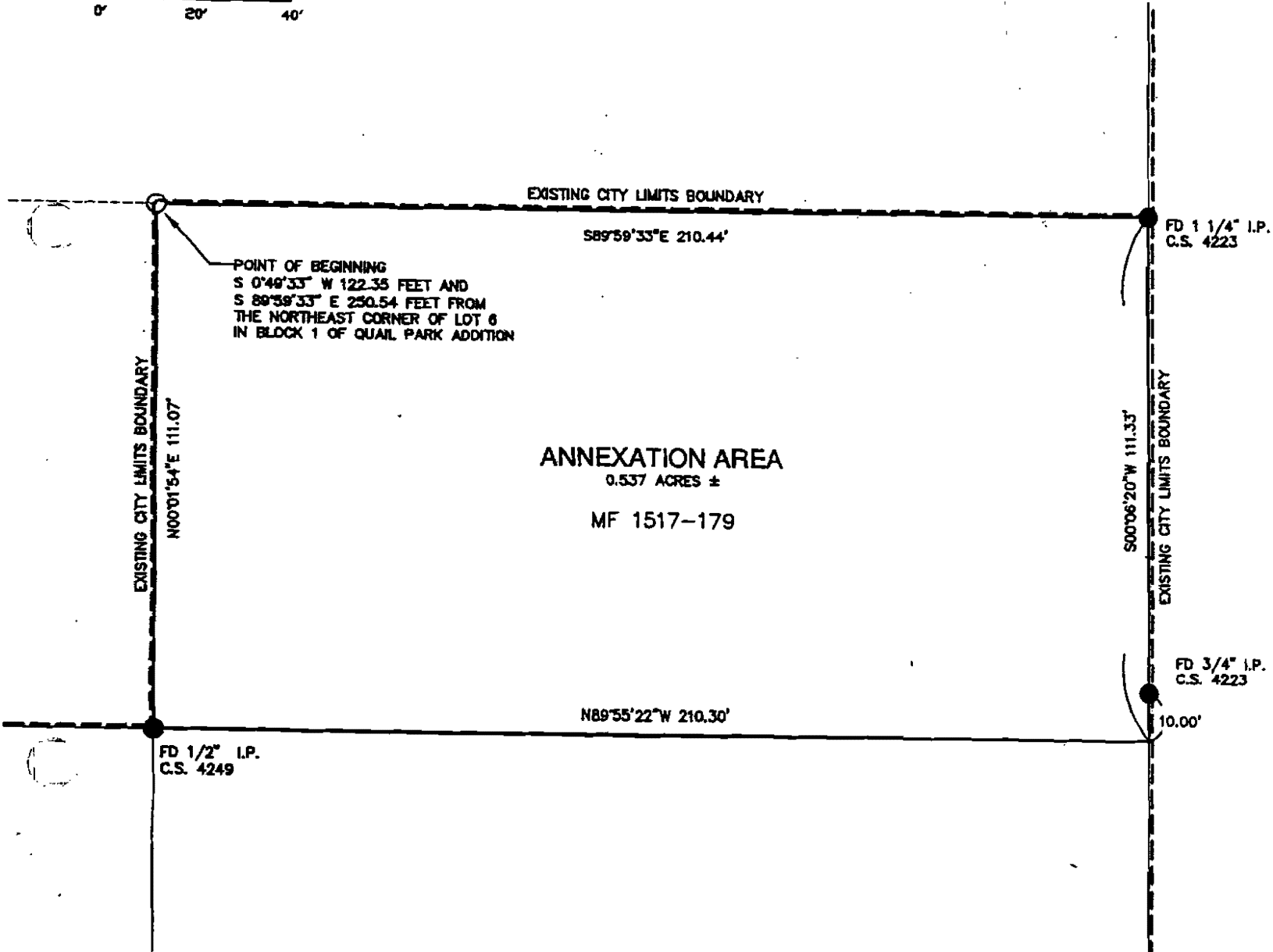
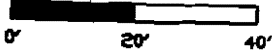
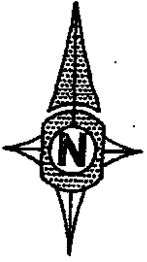

Kenneth I. Toombs, Mayor

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 Ken Toombs, 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



SOUTH MAIN ROAD

ANNEXATION LEGAL DESCRIPTION:

AN AREA OF LAND IN SECTION 22 OF TOWNSHIP 12 SOUTH OF RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT MARKING THE NORTHWEST CORNER OF THE LAND DESCRIBED IN LINN COUNTY DEED REFERENCE MICROFILM VOLUME 1517 - PAGE 179 WHICH BEARS SOUTH 0°49'33" WEST 122.35 FEET AND SOUTH 89°59'33" EAST 250.54 FEET FROM THE NORTHEAST CORNER OF LOT 6 IN BLOCK 1 OF QUAIL PARK ADDITION, CITY OF LEBANON, LINN COUNTY, OREGON; THENCE SOUTH 89°59'33" EAST 210.44 FEET TO A 1 1/4" IRON PIPE ON THE WEST RIGHT-OF-WAY OF SOUTH MAIN ROAD; THENCE SOUTH 00°06'20" WEST 111.33 FEET TO A POINT; THENCE NORTH 89°55'22" WEST 210.30 FEET TO A 1/2" IRON PIPE; THENCE NORTH 00°01'54" EAST 111.07 FEET TO THE POINT OF BEGINNING.

I HEREBY CERTIFY THE ABOVE LEGAL DESCRIPTION CLOSES WITHIN THE TOLERANCE REQUIRED BY ORS 92 AND WITHIN TOLERANCE OF STANDARD SURVEYING PRACTICES.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Brian Vandetta

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

EXPIRES

6-30-06

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 PAGE MF 1789
501

M
20
3
A
71
0

8:30 O'clock a.m.

NOV 18 2005

41

EXHIBIT A
PAGE 2 OF 2

FINDINGS

SIMONIAN ANNEXATION File No. A-05-06

Criteria 1.1.1 – 1.1.7

Annexation Ordinance Findings: *These seven findings constitute the preamble of Lebanon Ordinance Number 17 for 2003, and thereby provide a legal context for the policies that pertain to all annexations to the City of Lebanon.*

Finding # 1:

The proposed annexation complies with all Annexation Ordinance Findings in that this land use hearing is in compliance with the legal context established by this preamble.

Criteria 1.2.1 and 2.3.1

Annexation Ordinance Section 2: *All Annexations shall conform to the requirements of the Lebanon Municipal Code, Annexation Ordinance, Lebanon Land Development Ordinance, City of Lebanon/Linn County Urban Growth Management Agreement, and shall be consistent with applicable State law.*

LCP Chapter 4 (Urbanization) – Annexation Policy #1: *All Annexations shall conform to the requirements of the Lebanon Municipal Code, Annexation Ordinance, Lebanon Land Development Ordinance, City of Lebanon/Linn County Urban Growth Management Agreement, and shall be consistent with applicable State law.*

Finding # 2:

The proposed annexation complies with Annexation Ordinance Section 2 and LCP Annexation Policy #1 in that this proposal is in compliance with the requirements set forth by these provisions. The findings below detail this compliance.

Criteria 1.2.2 and 2.3.2

Annexation Ordinance Section 3: *All Annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.*

LCP Chapter 4 (Urbanization) – Annexation Policy #2: *All Annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.*

Finding # 3:

The proposed annexation complies with Annexation Ordinance Section 3 and LCP Annexation Policy #2 in that this proposal is consistent with the goals and policies of the Lebanon Comprehensive Plan. The findings below detail this compliance.

Criteria 1.1.2, 1.2.3, 2.2.1 and 2.3.3

Annexation Ordinance Finding B (Criteria 1.1.2): *The original Urban Growth Boundary of the City was established with the adoption and acknowledgment of Lebanon's Comprehensive Plan and Comprehensive Plan Map. This Plan, Map and the corresponding Urban Growth Boundary were accepted by both the City and the State. The acknowledgment of the Comprehensive Plan and Map established that all lands included within the Urban Growth Boundary are eligible for annexation (when they are contiguous to city limits) and urban development (except for minor inclusions of areas with environmental constraints) and other urban uses. The area within the Urban Growth Boundary designated for urban development and other urban uses has therefore been acknowledged as land needed by the City.*

Annexation Ordinance Section 4: *All lands included within the Urban Growth Boundary are eligible for annexation and urban development. Areas within the Urban Growth Boundary with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.*

LCP Chapter 4 (Urbanization) – Flexible Growth Program Policy #1: *All lands included within the Urban Growth Boundary have been determined as suitable for urban development except those areas designated as undevelopable due to environmental constraints such as wetlands, drainage courses, flooding or steep slopes. However, those areas inside the City's Urban Growth Boundary with environmental constraints may be utilized as functional wetlands, parks, open space and related uses.*

LCP Chapter 4 (Urbanization) – Annexation Policy #3: *All lands included within the Urban Growth Boundary are eligible for annexation and urban development. Areas within the Urban Growth Boundary with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.*

Finding # 4:

The proposed annexation complies with the above noted criteria in that the annexation territory is within the City's Urban Growth Boundary, and is therefore eligible for annexation and urban development. This annexation territory has been identified as land needed by the City for nearly a quarter of a century.

Criteria 1.2.4 and 2.3.4

Annexation Ordinance Section 5: *The City shall only annex land that is contiguous to the existing City limits and is within the City's Urban Growth Boundary (UGB).*

LCP Chapter 4 (Urbanization) – Annexation Policy #4: *The City shall only annex land that is contiguous to the existing City limits and is within the City's Urban Growth Boundary (UGB).*

Finding # 5:

The proposed annexation complies with Annexation Ordinance Section 5 and LCP Annexation Policy #4 in that the annexation territory is both contiguous to the existing City limits and within the City's Urban Growth Boundary, and is therefore eligible for annexation and urban development. The annexation territory is contiguous to the existing City Limits on the east, west, and north.

Criteria 1.2.5, 1.2.13, and 2.3.5 (& 1.1.1)

Annexation Ordinance Section 6: *An annexation shall be deemed orderly if the annexation territory is contiguous to the existing City limits. An annexation is efficient if the annexation territory can be developed or redeveloped to an urban use. Urban uses may include functional wetlands, parks, open space and related uses.*

Annexation Ordinance Section 14: *An "urban use" is hereby defined as any land use that is authorized under the terms and provisions of the land use regulations, Zoning Ordinance, Subdivision Ordinance, Comprehensive Plan, and other related documents of the City of Lebanon.*

LCP Chapter 4 (Urbanization) – Annexation Policy #5: *An annexation shall be deemed orderly if the annexation territory is contiguous to the existing City limits. An annexation is efficient if the annexation territory can be developed or redeveloped to an urban use. Urban uses may include functional wetlands, parks, open space and related uses.*

Annexation Ordinance Finding A (Criteria 1.1.1): *Implementation of the City's Annexation Ordinance and its policies ensure the orderly expansion of City Limits and the efficient provision of key City-provided urban utility services, which are hereby defined as water, storm drainage, sanitary sewerage, and streets.*

Finding # 6:

The proposed annexation complies with the above noted criteria. (1) Since the annexation territory is contiguous to the existing City limits the annexation or this territory is deemed orderly. (2) The annexation is efficient since the annexation territory can be developed to an urban use. This territory can be developed according to the provisions of Lebanon Zoning Ordinance Section 4.020 that lists the development opportunities, standards and requirements for the Residential Mixed Density (RM) zone, and this is consistent with all applicable provisions of the Comprehensive Plan.

Criteria 1.2.6 and 2.3.6 (& 1.14)

Annexation Ordinance Section 7: *Development proposals are NOT REQUIRED for annexation requests.*

LCP Chapter 4 (Urbanization) – Annexation Policy #6: *Development proposals are NOT REQUIRED for annexation requests.*

Annexation Ordinance Finding D (Criteria 1.1.4): *Annexation proposals do not require site specific development proposals.*

Finding # 7:

The proposed annexation complies with the above noted criteria in that no development proposal was required to be submitted at this time.

Criteria 1.2.7 and 2.3.7 (& 1.1.1 and 1.16)

Annexation Ordinance Section 8: *As part of the annexation process of developed property or properties, the City shall consider the anticipated demands to access key City-provided urban utility services, which are water, storm drainage, sanitary sewerage, and streets, of existing development within the annexation territory.*

LCP Chapter 4 (Urbanization) – Annexation Policy #7: *As part of the annexation process of developed property or properties, the City shall consider the anticipated demands to access key City-provided urban utility services, which are water, storm drainage, sanitary sewerage, and streets, of existing development within the annexation territory.*

Annexation Ordinance Finding A (Criteria 1.1.1), and Annexation Ordinance Finding F (Criteria 1.1.6)

Finding # 8:

The proposed annexation complies with the above noted criteria in that this property currently has one single-family residence with adequate services from both an on-site septic system and well. Access to City-provided services is not sought at this time, and therefore there are no anticipated needs at this time on the key City-provided urban utility services (i.e., are water, storm drainage, sanitary sewerage, and streets). However, this annexation territory is fronted by South Main Road which has recently been constructed to City arterial standards, and could thus provide transportation access to the site. Furthermore, the property could be served by the existing sewer, storm sewer and water line improvements in South Main Road.

Criteria 1.2.8 and 2.3.8 (&1.1.1 and 1.1.6)

Annexation Ordinance Section 9: *As part of the annexation process of developed property or properties, the City shall consider the impacts on key City-provided urban utility services needed to serve these properties, which are water, storm drainage, sanitary sewerage, and streets.*

LCP Chapter 4 (Urbanization) – Annexation Policy #8: *As part of the annexation process of developed property or properties, the City shall consider the impacts on key City-provided urban utility services needed to serve these properties, which are water, storm drainage, sanitary sewerage, and streets.*

Annexation Ordinance Finding A (Criteria 1.1.1), and Annexation Ordinance Finding F (Criteria 1.1.6)

Finding # 9:

The proposed annexation complies with the above noted criteria in that this property currently has one single-family residence with adequate services from both an on-site septic system and well. Access to City-provided services is not sought at this time, and therefore there are no impacts at this time on the key City-provided urban utility services (i.e., are water, storm drainage, sanitary sewerage, and streets). However, when it develops, any foreseeable allowed uses of this property will be well within the capacities of the four key City-provided urban utility services in geographical proximity to the annexation property. However, this annexation territory is fronted by South Main Road which has recently been constructed to City arterial standards, and could thus provide transportation access to the site. Furthermore, the property could be served by the existing sewer, storm sewer and water line improvements in South Main Road.

Criterion 1.2.9

Annexation Ordinance Section 10: *Needed Public rights-of-way, as identified in adopted transportation plans as necessary for the safe and efficient movement of traffic, bicycles and pedestrians, shall be dedicated to the City either with annexation or when the property develops and/or redevelops and thus creates an increased demand for the benefits and utility provided by additional rights-of-way dedication.*

Finding # 10:

The proposed annexation complies with Annexation Ordinance Section 10 in that any additional necessary right-of-way issues will be addressed when this property develops.

Criteria 1.2.10, 1.2.11, and 3.1

Annexation Ordinance Section 11: Upon annexation, the annexation territory shall be assigned zoning classifications in accordance with the adopted Comprehensive Plan Map, as shown in the City's Annexation Zoning Matrix. Such zoning assignments in and of themselves are not a zoning map change and shall not require approval of a zoning map amendment, or a separate proceeding.

Annexation Ordinance Section 12: If a zoning designation other than one in accordance with the Comprehensive Plan Map (shown in the Annexation Zoning Matrix) is requested by an applicant, the zoning requested shall not be granted until the Comprehensive Plan Map is appropriately amended to reflect concurrence. Such an amendment shall require a separate application, hearing and decision, which may be held concurrently with an annexation hearing and will not become effective until the annexation is complete.

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 # 11:

This proposed Annexation is in compliance with Annexation Ordinance Sections 11 and 12, and 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 Residential Mixed Density (RM) zoning designation for the subject property. Therefore, a City zoning designation of Residential Mixed Density (RM) can automatically be assigned at this time, without a separate hearing. This action is NOT a zoning map amendment.

Criterion 1.2.12

Annexation Ordinance Section 13: The areas within the Urban Growth Boundary with designated environmental constraints may be annexed and developed as functional wetlands, parks, open space and related uses.

Finding # 12:

The proposed annexation complies with Annexation Ordinance Section 13 in that this property has no designated environmental constraints that would prevent development as Residential Mixed Density (RM) sites.

Criterion 1.2.14 (and 1.1.5)

Annexation Ordinance Section 15: *At the applicant's discretion and with the City's concurrence, a development or redevelopment proposal for an annexation territory may be acted upon by the Planning Commission immediately following the Commission's hearing on the annexation proposal and a decision of recommendation of approval to the City Council. However, any approval of the Planning Commission of such a development or redevelopment proposal must be contingent upon subsequent approval of the annexation by City Council.*

Annexation Ordinance Finding E (Criteria 1.1.5): *Proposals for the development or redevelopment of properties that pertain to annexation proposals are a separate land use process, requiring separate application. Except as specified below in Section 15, the City may not act upon such development or redevelopment proposals related to an annexation territory until the annexation proposal has been approved. These development or redevelopment proposals will be acted upon after approval of the annexation, and thus require a separate hearing or process.*

Finding # 13:

The proposed annexation complies with Annexation Ordinance Section 15 Annexation Ordinance Finding E in that no development proposal has been submitted at this time.

Criterion 2.1.1

LCP Chapter 1 (Introductory Provisions) – Administrative Policies And Recommendations, Policy #8: *The City of Lebanon Comprehensive Plan shall be consistent with the applicable Statewide Planning Goals.*

Finding # 14:

The proposed annexation complies with this policy of the Lebanon Comprehensive plan in that the Comprehensive Plan in its entirety has been accepted and acknowledged by the Oregon Department of Conservation and Land Development (DLCD). Acknowledgement of a Comprehensive Plan is dependent upon DLCD concluding that the Comprehensive Plan is consistent with the applicable Statewide Planning Goals.

Criterion 2.2.2

LCP Chapter 1 (Urbanization) – Flexible Growth Program Policy #2: *The City shall maintain an orderly and efficient, yet flexible, approach to the growth of the City and extension of the City limits through the implementation of the Annexation Policies contained in this Plan, the Lebanon/Linn County Urban Growth Management Agreement, and the City's Annexation Ordinance.*

Finding # 15:

The proposed annexation complies with this policy of the Lebanon Comprehensive plan in that this annexation constitutes an implementation of the Annexation Policies contained in this Plan, the Lebanon/Linn County Urban Growth Management Agreement, and the City's Annexation Ordinance, and therefore this annexation maintains an orderly and efficient, yet flexible, approach to the growth of the City and extension of the City limits.

Criterion 2.4.1 (and 1.1.7)

LCP Chapter 8 (Public Facilities and Services Policies and Recommendations) -- General Policies, Policy #2: *The city shall consider impacts on key City-provided urban utility services (water, storm drainage, sanitary sewerage, and streets) and any other community facilities that are identified by service providers as substantially impacted by the proposal before-development proposals, or rezoning applications are approved.*

Annexation Ordinance Finding G (Criteria 1.1.7): *The annexation of a territory that is vacant and undeveloped does not represent any change or impact on any City-provided urban utility services, and therefore the annexation of such a territory does not need to consider such issues.*

Finding # 16:

The proposed annexation complies with this Public Facilities and Services Policy of the Lebanon Comprehensive plan in that this annexation does NOT include a development proposal or a rezoning application. Therefore, at this time the City is under no obligation to consider impacts on key City-provided urban utility services (water, storm drainage, sanitary sewerage, and streets) or any other community facilities, which is in compliance with Annexation Ordinance Finding G (Criteria 1.1.7).

However, if at some future time development proposals, and/or rezoning applications regarding this territory are submitted to the City, the City shall at that time consider impacts on key City-provided urban utility services (water, storm drainage, sanitary sewerage, and streets) and any other community facilities that are identified by service providers as substantially impacted by the proposal(s) before-development proposals, and/or rezoning applications are approved.

Yet, it is again worth noting that the four key City-provided urban utility services (water, storm drainage, sanitary sewerage, and streets) are available to serve this site, as noted in Findings 8 and 9 above.

Criterion 2.5.1

LCP Chapter 8 (Public Facilities and Services Policies and Recommendations) -- Sewerage Facilities, Policy #2: *The provision of sewerage service determines the urban development potential. Extension of public sanitary sewer infrastructure shall be in accordance with the City's Facilities Plans, as amended by special studies, or the City's Capital Improvement plans, and/or by official City Council action.*

Finding # 17:

The proposed annexation complies with this policy of the Lebanon Comprehensive plan in that this annexation does NOT include a development proposal. Therefore, at this time the City is under no obligation to consider impacts on sanitary sewerage.

However, if at some future time development proposals regarding this territory are submitted to the City, the City shall at that time consider impacts on sanitary sewerage, and the availability of public sanitary sewer infrastructure in accordance with the City's Facilities Plans (as amended by special studies, or the City's Capital Improvement plans, and/or by official City Council action), before such development proposals are approved.

Yet, it is worth noting that the following sanitary sewerage infrastructure is availability in relatively close proximity to the annexation territory in the South Main Road right-of-way.

Criteria 4.1 and 4.2

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.*

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 # 18:

The City's annexation review procedures on annexation request File # A-04-02 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.

BEFORE THE CITY OF LEBANON
PLANNING DEPARTMENT

In the Matter of the Petition of:)
)
R. Sam and Gloria Simonian)
)
for annexation of .54 acres of property within)
the Lebanon Urban Growth Boundary)

Case No. _____

PETITIONERS' STATEMENT

COMES NOW petitioners, R. SAM and GLORIA SIMONIAN, by and through their attorney, DANIEL B. ATCHISON, of WALLACE W. LIEN, P.C., and hereby submits the following petition in support of annexation.

I. NATURE OF THE APPLICATION

Annexation of approximately .54 acres comprised of a single parcel, identified on Linn County Tax Map 12S-2W-22A, Tax Lot 6500. The subject property contains a dwelling addressed as 3158 South Main Road, Lebanon, Oregon 97355. The dwelling is served by City of Lebanon sanitary sewer, but has an onsite well. The subject property is fully developed. Future development of the subject property and surrounding property may involve a partition and/or property line adjustment for development of the surrounding vacant property. These properties, Map 12S-2W-22A, Tax Lots 6400, 6600, 6699 and 6899 have already been annexed into the city. See Exhibit A - City of Lebanon Resolution No. _____.

II. BACKGROUND INFORMATION

The subject property abuts South Main Road along its eastern border. The subject property is within the City of Lebanon Urban Growth Boundary (UGB) and is designated as Mixed Density Residential by the Lebanon Comprehensive Plan ("Plan"), and will be assigned Residential Mixed Density (RM) zoning upon annexation.

III. INTRODUCTION

Petitioners propose this annexation in support of future residential development. However, this is a petition for annexation only. A development plan will be submitted at a future date.

IV. SITE DESCRIPTION

The subject property is approximately .54 acres and comprised of a single tax lot, Tax Lot 6500. The property contains a single family residence approximately 960 square feet in size. The residence was converted to city sewer service in 2004. However, the residence continues to utilize an on-site well for water. See, Exhibit B - Site Plan.

EXHIBIT B

V. RELEVANT CRITERIA

The City of Lebanon amended the Comprehensive Plan and adopted a new annexation ordinance on November 12, 2004. However, those changes are currently on appeal to the Oregon Department of Land Conservation and Development (DLCD). If the Ordinance is remanded to the city for further consideration, it may be the case that no local ordinance controls the annexation of territory into the city. OAR 660-014-0060 and OAR 660-014-0070, the statewide planning goals apply directly as relevant criteria in the absence of local ordinances. In response to the possibility of a remand, petitioners hereby apply the relevant criteria of the revised Plan and annexation ordinance, in addition to the statewide planning goals.

A. City of Lebanon Comprehensive Plan

Urbanization Element, Policy 3.0 - Annexations

3.3 The Process And Procedures Of Annexation

3.3.4 - Implementation of the city's annexation ordinance and comprehensive plan address the four factors to be considered when a city converts urbanizable land, within the UGB, to urban uses as set forth in Goal 14, which are:

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

Through compliance with the annexation ordinance as discussed in this petition, the proposed annexation complies with this policy. As recognized in the Plan Policy 3.3.9, the annexation of vacant territory does not represent any change or impact on any city-provided urban utility services. To the extent the subject property is already developed, the existing dwelling on Tax Lot 6500 is already connected to city sewerage. In addition, LUBA has held that "neither Goal 11 nor Goal 14 identifies annexation or application for city zoning as the decision points at which (1) a specific development proposal must be approved and (2) any public service or facility inadequacies at the property must be corrected." *Just v. City of Lebanon*, 45 Or LUBA 179 (2003).

3.3.10 - Public right-of-way. Public right-of-ways can be made available during the development process, once it is initiated.

3.3.11 - The proposed annexation is in compliance with the Lebanon - Linn County Urban Growth Management Agreement (UGMA).

3.3.12 - The petitioners will communicate and coordinate with all applicable service districts during the annexation and development process.

3.4 Annexation and First Assignment of City Zoning

Pursuant to this policy, upon annexation the subject property will automatically be assigned a city zoning designation in accordance with the city's annexation zoning matrix. The matrix provides that the assigned zoning designation is consistent with the comprehensive plan map designation. The subject property is currently designated Mixed Density Residential by the Comprehensive Plan and petitioners request the property be assigned RM zoning, which is in accordance with the zoning matrix.

Assignment of a zoning designation, through the annexation process, does not affect a zoning map change from a land use standpoint. Property within the UGB has already been designated for a particular zone. The assignment of consistent city zoning upon annexation reflects the change in jurisdiction from county to city. See, *Barton v. City of Lebanon*, 45 Or LUBA 214, ___ (2003) ("LUBA will defer to a city council interpretation of its zoning ordinance as not requiring a separate zoning amendment application where city zoning is applied to property inside the city's UGB as part of the annexation process.").

3.4.6 - Areas designated with environmental constraints may be annexed and developed as functional wetlands, parks, open spaces, and related area.

The subject property has no environmental constraints.

3.5 Annexation and the Review of Impacts on City-provided Utility Services and Other Urban Services of Future Development and Development Proposals.

The existing residence is already connected to city provided sewer service. Connection to city water, if required, will be at the expense of petitioners. The increased demand on the city water supply from a single residence is negligible and will have no impact.

B. Annexation Ordinance, adopted November 12, 2003.

Section 3. All Annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.

The proposed annexation complies with City Annexation Policy, in that the property complies with zoning ordinance and Plan policies pertaining to the property and zoning. The city's Plan designation for the subject property is Mixed Density Residential. The requested zoning upon annexation is RM, which is consistent with both the goals and policies of the Plan and Zoning Ordinance.

Section 4. All lands included within the Urban Growth Boundary are eligible for annexation and urban development. Areas within the Urban Growth Boundary with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.

The subject property is within the City of Lebanon UGB and contains no environmental constraints.

Section 5. The city shall only annex land that is contiguous to the existing city limits and is within the city's UGB.

The subject property is completely within the City of Lebanon UGB and contiguous with the city limits along the property's east, north and west borders. Therefore, the subject property complies with this criteria. See, Exhibit C - City of Lebanon Zoning Map.

Section 6. An annexation shall be deemed orderly if the annexation territory is contiguous to the existing city limits. An annexation is efficient if the annexation territory can be developed or redeveloped to an urban use. Urban uses may include functional wetlands, parks, open space and related uses.

The subject property is within the City of Lebanon UGB and contiguous to the city limits. Therefore the annexation is deemed orderly. See, Exhibit C - City of Lebanon Zoning Map. The subject property, as described above, may be developed for urban uses consistent with RM zoning.

Section 7. Development proposals are NOT REQUIRED for annexation requests.

Petitioners are requesting annexation only at this time.

Section 8. As part of the annexation process of developed property or properties, the City shall consider the anticipated demands to access key city-provided urban utility services, which are water, storm drainage, sanitary sewerage, and streets, of existing development within the annexation territory.

The existing dwelling is already connected with city sewer service. Annexation of this property along with the existing development will create no additional impact on city public facilities. Consideration of the potential impact of future development on the property will be conducted at the time development is proposed.

Section 9 As part of the annexation process of developed property or properties, the City shall consider the impacts on city-provided urban utility services needed to serve these properties, which are water, storm drainage, sanitary sewerage, and streets.

As previously stated, the existing development on the subject property is already served by city-provided services, except for city water. Adding a single residence to the city water system will create little if any impact. Therefore, annexation of the subject property will create no new impact on public facilities or services.

Section 10 Needed public rights-of-way, as identified in adopted transportation plans as necessary for the safe and efficient movement of traffic, bicycles and pedestrians, shall be dedicated to the City either with annexation or when the property develops and/or redevelops and thus creates an increased demand for the benefits and utility provided by additional rights-of-way dedication.

Public rights-of-way will be dedicated as necessary at the time development of the subject property is proposed and the type and location of rights-of-way can be determined. The subject property contains an

existing residence which already utilizes city streets. No new development is proposed at this time, therefore, this annexation will create no new impact.

Section 11 Upon annexation, the annexation territory shall be assigned zoning classifications in accordance with the adopted Comprehensive Plan Map, as shown in the City's Annexation Zoning Matrix. Such zoning assignments in and of themselves are not a zoning map change and shall not require approval of a zoning map amendment, or a separate proceeding.

The subject property has a current zoning designation of Mixed Density Residential and will acquire a city zoning designation of RM upon annexation, pursuant to the annexation zoning matrix. See, Exhibit C for City of Lebanon Zoning Map.

C. City of Lebanon/Linn County UGMA

The UGMA provides: 1) only land within the city UGB may be considered for annexation; 2) the city annexation procedures dictate the method of annexation; 3) the Comprehensive Plan identifies the future zoning designation the subject land will receive; and, 4) upon annexation the city assumes all jurisdiction for land use actions for the subject land.

As previously stated, the subject properties within the city UGB, and is eligible for annexation and will receive a zoning designation of RM pursuant to the annexation zoning matrix. Therefore, this application is in compliance with the UGMA.

D. Statewide Planning Goals

The City of Lebanon approved an annexation ordinance on November 12, 2003. However, this ordinance is currently being appealed. In the event the new annexation ordinance is remanded to the city, the petitioners will apply the Statewide Planning Goals as alternative relevant criteria.

Goal 1 - Citizen Involvement

Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." This petition for annexation is a quasi-judicial land use decision subject to the notice and hearing requirements of ORS Chapter 195. Pursuant to those requirements consideration of this petition will be conducted by public hearing, and affected citizens and property owners will receive prior notice and an opportunity to be heard.

Goal 2 - Land Use Planning

Goal 2 states land use decisions are to be made in accordance with local land use regulations. If the local Comprehensive Plan and Zoning Ordinance do not control the annexation, OAR 660-014-0060 and OAR 660-014-0070 require the annexation to comply with Statewide Planning Goals. In this case, the city has adopted an annexation ordinance, however that ordinance is on appeal to DLCD. If the annexation