

AN ORDINANCE AFFIRMING THE CITY)
OF LEBANON'S LAND USE DECISION)
IN ORDINANCE BILL NO. 11 FOR 2003,)
ORDINANCE 2347, AND ORDINANCE)
BILL NO. 7 FOR 2004, ORDINANCE 2360)
(MID-VALLEYHEALTHCARE) AND MAKING)
FURTHER FINDINGS IN SUPPORT OF)
SUCH DECISION)

ORDINANCE BILL NO. 4
For 2006

ORDINANCE NO. 2695

WHEREAS; the City Council for the City of Lebanon passed Ordinance Bill Number 11 for 2003, Ordinance 2347, on June 25, 2003 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 James Just, LUBA Case Number 2003-106; and

WHEREAS, on June 25, 2004 the City of Lebanon filed notice with LUBA that it was withdrawing the decision that is the subject of said appeal for reconsideration for further proceedings by the City Council; and

WHEREAS, the City Council for the City of Lebanon passed Ordinance Bill No. 7 for 2004, Ordinance 2360, on October 27, 2004, which approved the annexation of that certain real 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 James Just, LUBA Case Number 2003-106; and

WHEREAS, LUBA remanded the City Council's decision back to the City Council on April 12, 2005 directing the City to address and make additional findings concerning transportation related considerations; 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

WHEREAS, after conducting the hearing and considering all objections or remonstrances with reference to the proposed annexation, and further considering the recommendations of the Lebanon Planning Commission, the issues raised in the appeal of this matter in LUBA Case No. 2003-106, including transportation considerations, 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:

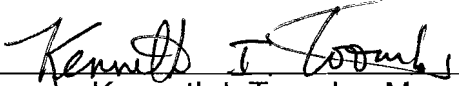
Section 1. Findings. In addition to the findings referred to above, the City Council further adopts and finds those matters contained in Exhibit "B", the findings of the Lebanon Planning Commission, which is incorporated herein by this reference as if fully set forth at this point. In addition thereto, the City Council also adopts and finds those matters contained in Exhibit "C", entitled "Findings" attached hereto and incorporated by this reference which addresses additional transportation considerations.

Section 2. Annexation Area. Based upon the findings contained above and in Exhibits "B" and "C", 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

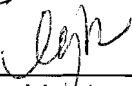
be annexed to the City of Lebanon, Ordinance Bill Number 11 for 2003, Ordinance Number 2347, and Ordinance Bill Number 7 for 2004, Ordinance Number 2360, are hereby affirmed and the subject property is zoned as indicated in accordance with the Lebanon Zoning Ordinance No. 1773, assigned the zoning of Mixed Use (MU).

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. A copy of this ordinance shall also be filed with the Land Use Board of Appeals.

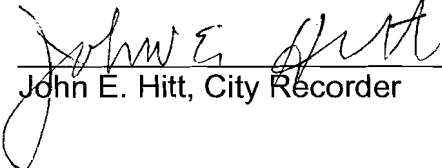
Passed by the Lebanon City Council by a vote of 6 for and 0 against and approved by the Mayor this 8th day of February, 2006



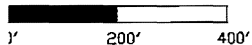
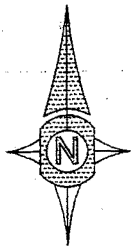
Kenneth I. Toombs, Mayor


~~_____~~
J. Scott Simpson, Council President

ATTEST:



John E. Hitt, City Recorder



PROPOSED ANNEXATION MID VALLEY HEALTH CARE, INC

SE 1/4 SEC. 3, T. 12 S., R. 2 W., W.M.
CITY OF LEBANON, LINN COUNTY, OREGON

FEBRUARY 6, 2003

① (STONE) MARKING THE SE CORNER OF THE WEST ONE HALF OF THE WILLIAM B. GORE DLC NO. 38 HELD FOR NORTH RIGHT-OF-WAY OF REEVE'S PARKWAY ANGLE POINT IN RIGHT-OF-WAY PER C.S. 21373

② (5/8" IR) C.S. 21373

LEGEND

- MONUMENT FOUND AS NOTED
- MONUMENT SET 5/8"x30" IRON ROD WITH YELLOW PLASTIC CAP STAMPED: JIM UDELL RLS 1366
- FD FOUND
- C.S. COUNTY SURVEY
- () DATA OF RECORD
- [] CALCULATED DATA
- IR IRON ROD
- IP IRON PIPE
- PP PARTITION PLAT
- REFERENCE SURVEYS: C.S. 23018 (PP 2001-24)

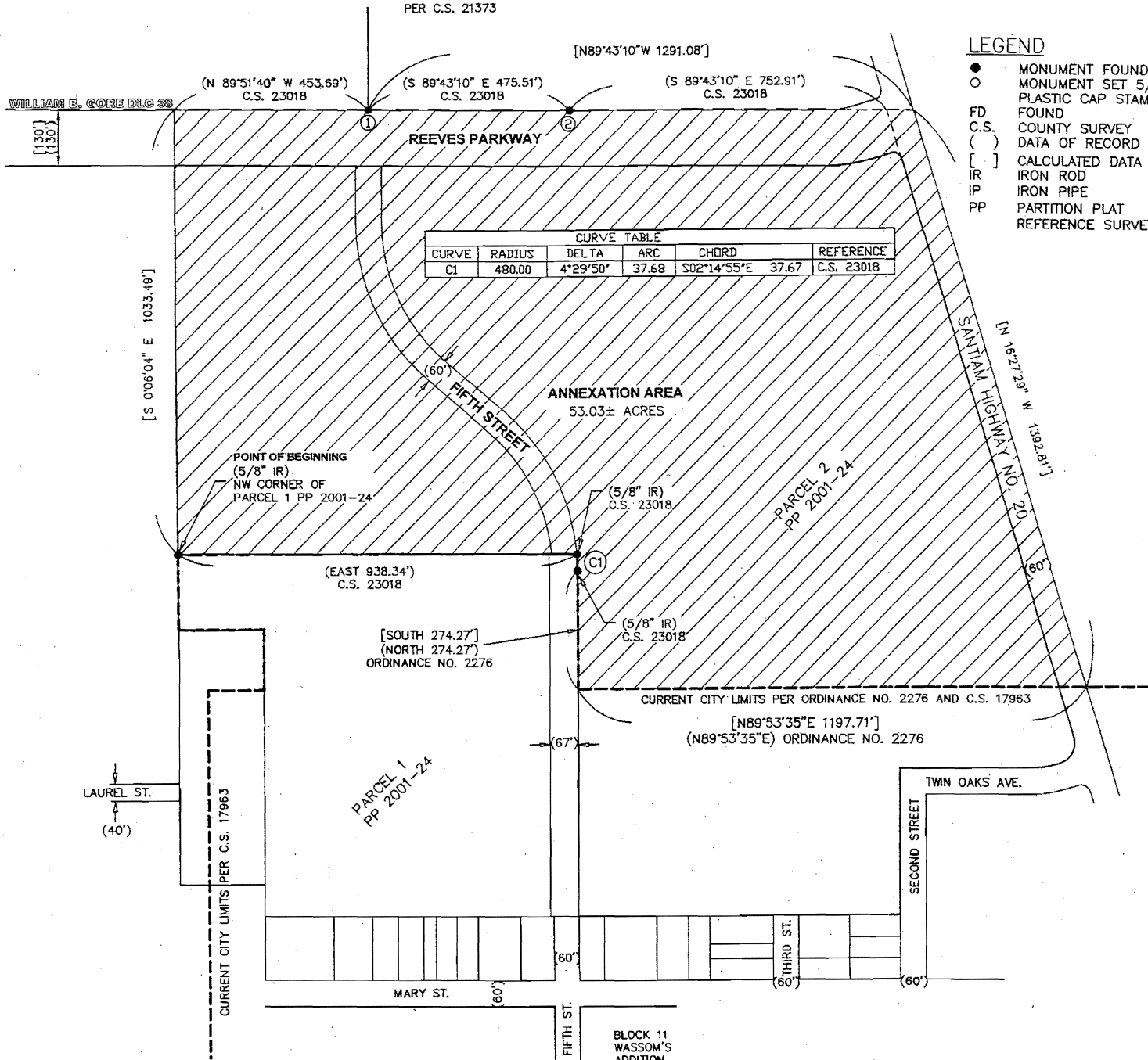


Exhibit A:

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ANNEXATION LEGAL DESCRIPTION

AN AREA OF LAND IN THE SE 1/4 OF SECTION 3 OF TOWNSHIP 12 SOUTH OF RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD MARKING THE NORTHEAST CORNER OF PARCEL 1 OF LINN COUNTY PARTITION PLAT NO. 2001-24; THENCE EAST 938.34 FEET TO THE NORTHWEST CORNER OF SAID PARCEL 1; THENCE SOUTHERLY, ALONG THE ARC OF A 480.00 FOOT RADIUS CURVE TO THE RIGHT, 37.68 FEET (CHORD BEARS SOUTH 2°14'55" EAST 37.67 FEET); THENCE SOUTH 274.27 FEET TO A POINT; THENCE NORTH 89°53'35" EAST 1197.71 FEET TO A POINT ON THE EAST RIGHT-OF-WAY OF U.S. HIGHWAY NO. 20; THENCE NORTH 16°27'29" WEST, ALONG SAID RIGHT-OF-WAY, 1392.81 FEET TO A POINT ON THE SOUTH LINE OF THE WILLIAM B. GORE DLC NO. 38; THENCE NORTH 89°43'10" WEST, ALONG THE SOUTH LINE OF THE WILLIAM B. GORE DLC NO. 38, 1291.08 FEET TO THE SOUTHEAST CORNER OF THE WEST 1/2 OF SAID DLC NO. 38; THENCE NORTH 89°51'40" WEST, CONTINUING ALONG THE SOUTH LINE OF SAID DLC NO. 38, 453.69 FEET TO A POINT; THENCE SOUTH 0°06'04" EAST 1033.49 FEET TO THE POINT OF BEGINNING.



JAMES F. UDELL
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63 EAST ASH ST.
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EXHIBIT B: FINDINGS for A-03-02

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 site currently has City services available. Sanitary sewer is available via the recently constructed West Side interceptor passing through the southern portion of the property; thus, sewer lines could be extended throughout the subject property. City water service is available from water main lines along Highway 20, Reeves Parkway or Fifth Street. Storm drainage in this area is attended to by the large roadside ditch along Reeves Parkway which drains both to the north and west.

Finding # 2:

The proposed annexation complies with City Annexation Policy, Section 2, in that appropriate public right-of-way exist for the current use (a farmed field) and additional local street access 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 subject property is bordered by ample rights-of-way to ensure safe and efficient movement of pedestrian and vehicular traffic. A 60-foot right-of-way exists along the entire east side of the property. A 130-foot right-of-way exists along the entire north side of the property. A 60-foot right-of-way bisects the northwest quadrant of the property. Future public rights-of-way will be dedicated as per the eventual development of the subject property itself.

Finding # 3:

The proposed annexation complies with City Annexation Policy, Section 3, in that the subject property is currently surrounded by major public infrastructure improvements and additional on-site public (and private) 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.

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.

Finding # 5:

The proposed annexation complies with City Annexation Policy, Section 5, in that a public need exists for land development opportunities that can take advantage of nearby major community facilities. The conceptual development strategy identifies single-family and multi-family residential developments to be developed adjacent to a new K-8 school and associated city park on vacant land currently in farm use. These residential developments also represent housing opportunities in immediate proximity to the hospital and affiliated medical offices and the nearby LBCC East Linn campus- all of these facilities being significant employment centers within walking distance of the residential development area. The conceptual development strategy identifies an area for professional offices that will complement the existing nearby hospital and medical offices. The conceptual development strategy identifies an area to be developed as independent senior housing that is well served being in proximity to the hospital, medical offices, and future commercial retail development. The conceptual development strategy identified commercial retail areas will serve existing nearby area businesses and employees (thus reducing needed travel on Highway 20) and will also likely provide shopping opportunities on the north end of town that currently do not exist again thereby reducing the demand on primary travel routes (Highway 20) into and through the downtown and middle of the city. Other benefits include:

- Bringing Reeves Parkway and 5th Street, both city streets, into the City limits;
- Bringing city waterlines along Highway 20, Reeves Parkway and 5th Street into the City Limits;
- Creating the opportunity for the full city standard improvement of 5th Street north of Mary Street as the subject property/ annexation territory subsequently develops.

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, and east southeast are all within the current City limits. Most of the area to the west and northwest is within the City limits including the whole northwest quadrant of the City's Urban Growth Boundary. This annexation is immediately adjacent to or near three major community facilities, namely the hospital, Pioneer School and the LBCC East Linn campus. 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 complementing adjacent major community facilities.

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 land development opportunities that can take advantage of nearby major community facilities. The conceptual development strategy identifies single-family and multi-family residential developments to be developed adjacent to a new K-8 school and associated city park on vacant land currently in farm use. These residential developments also represent housing opportunities in immediate proximity to the hospital and affiliated medical offices and the nearby LBCC East Linn campus- all of these facilities being significant employment centers within walking distance of the residential development area. The conceptual development strategy identifies an area for professional offices that will complement the existing nearby hospital and medical offices. The conceptual development strategy identifies an area to be developed as independent senior housing that is well served being in proximity to the hospital, medical offices, and future commercial retail development. The conceptual development strategy identified commercial retail areas will serve existing nearby area businesses and employees (thus reducing needed travel on Highway 20) and will also likely provide shopping opportunities on the north end of town that currently do not exist again thereby reducing the demand on primary travel routes (Highway 20) into and through the downtown and middle of the city.

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 need exists for land that can be developed for a wide range of uses, including commercial and light industrial uses. Particularly these later two uses will bring much needed opportunities to the community for new jobs. The additional land that may also be allocated to residential development would help ensure that need for residential land is met (as per the 1995 "Periodic Review Work Program – Multi-Family Residential"). Other benefits include:
 - Bringing Reeves Parkway and 5th Street, both city streets, into the City limits;
 - Bringing city waterlines along Highway 20, Reeves Parkway and 5th Street into the City Limits;
 - Creating the opportunity for the full city standard improvement of 5th Street north of Mary Street as the subject property/ annexation territory subsequently develops.
- Third, the proposed annexation promotes an orderly, compact growth pattern in that the areas immediately south, southwest, and east southeast are all within the current City limits. Most of the area to the west and northwest is also within the City limits, including the whole northwest quadrant of the City's Urban Growth Boundary. Fourth, the proposed annexation territory uniquely represents a supply of strategically located vacant in an area developed with major community facilities thereby satisfying the need for additional developable land near these facilities in order to maintain an orderly, compact growth pattern within the City's service capability.

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. Possible developments identified by the applicant as part of a conceptual development strategy include commercial/retail, professional offices, single-family and multi-family housing, independent senior housing, and open space areas, as well as interconnecting streets (& corresponding right-of-ways) and infrastructure improvements. 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.

Finding # 9:

The proposed annexation complies with Comp. Plan Public Facilities and Services Element, General Policy #2, (page 8-P-1) in that the annexation will not result in an adverse impact on community facilities.

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 Special Development District. The corresponding City zoning designation for a Comprehensive Plan designation of Special Development District is Mixed Use (MU). The applicant is requesting a Mixed Use (MU) zoning designation for the subject property.

Finding # 11:

The City's annexation review procedures on annexation request File # A-03-02 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.

Only those criteria implicating transportation are addressed in these findings. These findings are further limited to issues specifically related to the Transportation Planning Rule and remanded by LUBA. All other issues and criteria were adequately addressed previously. If a criterion is not expressly addressed below, the previous findings are adopted.

Criterion 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.

Findings # 1:

The proposed annexation complies with City Annexation Policy, Section 1, in that urban services can be made available to serve the property. The only service addressed in this remand is transportation.

1. Applicant has provided a Traffic Impact Analysis addressing traffic projected to result from development of the annexed property. This analysis identified three intersections that may potentially be “significantly affected” by the development.

2. The four intersections on Olive Street identified by LUBA do not need to be addressed under the Transportation Planning Rule (TPR) because they are completely city owned. However, based on the evidence contained in the traffic analysis submitted by Applicant, it is clear that the zone change on the annexed property will not result in any significant affect on those intersections. The areas contributing to traffic on Olive Street are largely built-out in residential use.

3. Highway 20 and James Place will be eliminated as an intersection upon development that would result in a significant affect on the intersection. The mitigations identified for other intersections will address the traffic that would have used this intersection.

4. Highway 20 at Reeves Parkway will likely be significantly affected by development on the annexed property. This intersection has been identified for signalization since 1991 and this development does not raise any unforeseen issues. There is no purpose in deciding upon a particular mechanism that can be used for funding signalization of that intersection at this time. However, it is necessary to place a condition on development of the annexed property that any signalization that becomes necessary as a result of that development is the responsibility of the Applicant. This condition does not place any responsibility for mitigation on the Applicant for development other than on the annexed property and does not prevent the City or any other entity from signalizing the intersection prior to development.

5. Highway 20 at Twin Oaks Drive will likely be significantly affected by development on the annexed property. This intersection has been identified as being scheduled for realignment and improvement as part of an upcoming ODOT project. Regardless of that project, development of the annexed property is conditioned upon Applicant being responsible for any mitigation made necessary as a result of development of the annexed property. Such mitigation will be for the sole purpose of assuring the performance standards of the intersection. This condition does not place any responsibility on the Applicant for mitigation resulting from development other than on the annexed property and does not prevent the City or any other entity from taking other mitigation action.

6. Highway 34 at Fifth Street will likely be significantly affected by development on the annexed property. Potential mitigations consist of simple and inexpensive options, including parking restrictions, re-striping, or stop signs. Development of the annexed property is conditioned upon Applicant being responsible for any mitigation necessary as a result of that development.

7. Conditions of development placed on the annexed property must be in general terms. Specific mitigations cannot currently be identified or required because the City does not have complete control over these intersections and cannot unilaterally determine specific requirements; there is no binding development proposal in place for the annexed property and any determination of specific mitigation must wait until an actual development plan is in place; and, surrounding development may change the mitigations that are necessary at the time of development of the annexed property. The general conditions requiring mitigation ensure that no development will occur that will result in a failure of the performance standards of the identified intersections.

8. The Council further finds that the three intersections addressed herein are outside of interstate interchange areas. In addition, the development plan for the annexed property is approximately equal to the assumed development in the TSP currently being developed by the City. Each intersection has an identified funding plan for improvements made necessary as a result of the development of the annexed property. Therefore, these mitigations or improvements are planned improvements. When considering these planned improvements, it is clear that development of the annexed property will have no significant affect on the identified transportation facilities.

9. No other transportation facilities need be addressed in this proceeding.

Criterion 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.*

Findings # 2:

The City relies upon the findings under Criterion 1 and the findings from the previous proceedings in support of meeting this criterion.

Criterion 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.*

Findings # 3:

The City relies upon the findings under Criterion 1 and the findings from the previous proceedings in support of meeting this criterion.