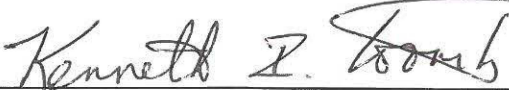


Section 2. Annexation Area. Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated in accordance with the Lebanon Development Code, and assigned the zoning of Residential Mixed Density (Z-RM).

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

Passed by the Lebanon City Council by a vote of 6 for and 0 against and approved by the Mayor this 14th day of November , 2012.



Kenneth I. Toombs, Mayor
Bob Elliott, Council President

Attested:



Linda Kaser, City Clerk / Recorder

EXHIBIT A

Mesecher Annexation Legal Description

An area of land in the Southwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon being more particularly described as follows;

Area A

Beginning at a 5/8" iron rod on the West right-of-way of McKinney Lane marking the Northeast corner of that land described in Linn County deed Microfilm Volume 1070 Page 271, said rod also marking the Lebanon City limits per City of Lebanon Ordinance No. 2742 in the Southwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon; thence South 67°13'50" West 199.81 feet to a 3/4" square iron rod on the East right-of-way of Porter Street; thence North 22°45'40" West 151.41 feet to the South right-of-way of Russell Drive; thence North 89°40'40" East 215.09 feet to the West right-of-way of McKinney Lane; thence South 22°50'00" East 68.90 feet to the point of beginning. Containing 0.51 Acres

Area B

Beginning at a 1" iron rod on the West right-of-way of McKinney Lane marking the Southeast corner of that land described in Linn County deed Microfilm Volume 1070 Page 271, said rod also marking the Lebanon City limits per City of Lebanon Ordinance No. 2742 in the Southwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon; thence North 67°11'47" East 40.00 feet to the East right-of-way of McKinney Lane; thence South 22°50'00" East 537.62 feet to a 3/4" iron rod on the East right of way of McKinney Lane; thence South 89°08'17" West 43.13 feet to the West right-of-way of McKinney Lane; thence North 22°50'00" West 521.50 feet to the point of beginning. Containing 0.49 Acres

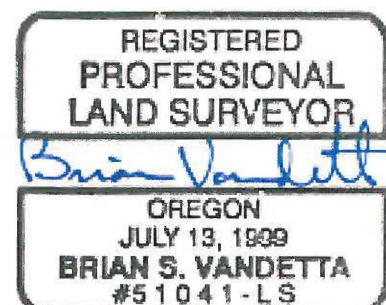


EXHIBIT B

LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of the Robert and Sharla Mesecher, and the City of Lebanon, to annex property and establish the Residential Mixed Density (Z-RM) zone on the newly annexed property.

II. BACKGROUND INFORMATION

A. Site Location

The subject area includes a parcel of land located at the southwest corner of the intersection of Russell Drive and McKinney Lane. The property address is 310 Russell Drive and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 14CB; Tax Lot 6900. The area also includes the southern 537-feet of McKinney Lane right-of-way located adjacent to Lebanon City limits.

B. Site Development and Zoning

The subject area contains approximately 1.00-acre. The 0.51-acre residential property contains a single family home, currently served by a well and septic. The 0.49-acre right-of-way is surfaced but not fully improved. The land is located within the City's Urban Growth Boundary, designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.

C. Adjacent Zoning and Land Uses

Land to the west and south is also located in Linn County and designated C-RM. A majority of the land is developed as small lots with single family homes. Property to the east is located within the City and zoned Residential Mixed Density (Z-RM). The City recently approved the construction of a 60-unit apartment complex on this site. Mixed Use zoned land is located to the north, containing residential and commercial uses.

D. Proposal

The property owner is requesting approval to annex the subject property and to establish the Residential Mixed Density (Z-RM) zone on the newly annexed property. As part of this request, the City wishes to annex a portion of the McKinney Lane right-of-way into the City limits.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was duly held on this application before the Lebanon Planning Commission on October 17, 2012. At the hearing, Planning File 12-09-46 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend the City Council approve the proposed Annexation and establishment of the Residential Mixed Density zone. The Commission found the proposed changes consistent with the applicable decision criteria.

B. City Council Action

On November 14, 2012 the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 12-09-46 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the City Council deliberated on the issue and voted to approve the proposed Annexation and establishment of the Residential Mixed Density zone. The Council found the proposed requests consistent with the applicable decision criteria.

IV. FINDINGS OF FACT-GENERAL

The Lebanon Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following General Findings of Fact:

- A. The applicants are Robert and Sharla Mesecher.
- B. The subject area includes a property located at the southwest corner of the intersection of Russell Drive and McKinney Lane. The property address is 310 Russell Drive and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 14CB; Tax Lot 6900. The area also includes the southern 537-feet of McKinney Lane right-of-way located adjacent to Lebanon City limits.
- C. The subject area contains approximately 1.00-acre of which the Russell Drive property contains 0.51 acres and the right-of-way 0.49 acres.
- D. The 0.51-acre property contains a single family home, currently served by a well and septic. The 0.49-acre right-of-way is surfaced but not fully improved.
- E. The subject area is located within the City's Urban Growth Boundary, designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.
- F. Land to the west and south is also located in Linn County and designated C-RM. A majority of the land is developed as small lots with single family homes. Property to the east is located within the City and zoned Residential Mixed Density (Z-RM). The City recently approved the construction of a 60-unit apartment complex on this site. Mixed Use zoned land is located to the north, containing residential and commercial uses.
- G. The property owner is requesting approval to annex the subject property and to establish the Residential Mixed Density (Z-RM) zone on the newly annexed property. As part of this request, the City wishes to annex the right-of-way into the City limits.
- H. The decision to approve or deny shall be based on criteria contained in the Lebanon Development Code, Chapter 16.26 – Annexations.

V. APPLICATION SUMMARY

- A. The 0.51-acre residential property is located within the City's Urban Growth Boundary but outside City limits. The request would annex the property and establish the Residential Mixed Density (Z-RM) zone. For the record, a single family home is an outright permitted use in the zone (Development Code, Section 16.05.040). The primary purpose for the annexation is to allow a connection to the new public water and sewer lines being installed on Russell Drive.
- B. The annexation also includes approximately 0.49 acres of right-of-way along McKinney Lane. Linn County requested the City annex the property for reasons of road improvements and maintenance. While such actions can occur by resolution (ORS 199.490) incorporating the request into the current application expedites the process.
- C. The Department mailed notice of the application to affected agencies, area property owners and the Department of Land Conservation and Development (DLCD). No agency or area property owner submitted written comments.

VI. CRITERIA AND FINDINGS

- A. The subject area is located within the City's Urban Growth Boundary (UGB) and is eligible for annexation into the City limits. Annexation application and review requirements are contained in Chapter 16.26 of the Lebanon Development Code. Annexations require a hearing before the Planning Commission and City Council. The Commission provides a recommendation regarding the application and the City Council makes the final decision. The purpose of the Commission hearing is to review the request and recommend whether the Council should approve or deny the Annexation.

- B. Chapter 16.26 establishes the Annexation review criteria. Sections 16.26.010 and 16.26.020 establish the purpose of an annexation and the first assignment of zoning. The annexation transfers jurisdiction from Linn County to the City and establishes the appropriate zoning on the property consistent with the Plan Map designation. In this case, the only applicable zone is Residential Mixed Density.
- C. Section 16.26.030 notes an annexation is necessary to establish the appropriate zone, consistent with the zoning matrix (Table 16.26-1). Plan map amendments are only required if there is a corresponding change in the Plan map. Further, proposed amendments to the Plan map (and corresponding zone map) must conform to provisions in Chapter 16.27. For the record, the application does not include a request to change the Plan designation and corresponding zone.
- D. Section 16.26.040 identifies the relationship between annexation and City facility plans. It notes anticipated densities and levels of development are factored into the City's facility plans, including the Transportation System Plan. Therefore, an additional inquiry into the sufficiency of these services is not required.
- E. Section 16.26.050 stipulates all annexations be processed as legislative actions requiring hearings before both the Planning and City Council. The Commission provides a recommendation while the final decision to approve or deny rests with the Council. This Section also lists the application requirements. For the record, the application and process are consistent with the provisions in this Section.
- F. Section 16.26.060 contains the decision criteria for an annexation with specific requirements in Section 16.26.060.A. This Section requires compliance with provisions in the City Annexation Ordinance and Lebanon Comprehensive Plan, Chapter 3 – Urbanization. Essentially, the Annexation Ordinance and Comprehensive Plan decision criteria are the same. To avoid duplication, and where applicable, the findings are combined:

- 1. Annexation Ordinance Section 1. – This Section identifies the document as the Annexation Ordinance for the City of Lebanon and does not contain decision criteria.
- 2. Annexation Ordinance Section 2. - All Annexations shall conform to the requirements of the Lebanon Municipal Code, Annexation Ordinance, Lebanon Land Development Ordinance (i.e., Development Code), City of Lebanon/Linn County Urban Growth Management Agreement, and shall be consistent with applicable State law.

Comprehensive Plan Annexation Policy #P-19: [The City shall] recognize and act on the basis that 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.

FINDINGS: For the purpose of this criterion, the proposed annexation application and process conform to the requirements of the Annexation Ordinance. This annexation is somewhat unusual as it involves both developed property and street right-of-way. The Development Code decision criteria are designed to address only developable property – in this case the 0.51-acre residential parcel - and not right-of-way. However, McKinney Lane is located within the City's UGB and contains an underlying Plan designation. Therefore, while the criteria effectively apply to the residential property, the determination of zoning applies to both the 0.51-acre parcel and 0.49-acre right-of-way.

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

Comprehensive Plan Annexation Policy #P-20: [The City shall] recognize and act on the basis that all annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.

FINDINGS: The Annexation Ordinance policies are consistent with, and often mirror, the Comprehensive Plan Annexation Policies. The State acknowledges that the City's Comprehensive Plan complies with all applicable Statewide Planning Goals and statutes, recognizing the consistency of the Plan goals and policies. Therefore, compliance with the applicable Comprehensive Plan policies ensures compliance with the Annexation Ordinance. Findings in the

following Sections detail this proposal's compliance with all applicable policies.

4. 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.

Comprehensive Plan Annexation Policy #P-21: [The City shall] recognize and act on the basis that all lands included within the Urban Growth Boundary are eligible for annexation and urban development. (Areas within the Urban Growth Boundary (UGB) with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.)

FINDINGS: The proposed annexation complies as the subject area is within the City's UGB. Further, being within the UGB, the City identified the subject property as land needed by the City for future urban development.

5. 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.

Comprehensive Plan Annexation Policy #P-22: [The City shall] only annex land that is contiguous to the existing City limits and is within the City's Urban Growth Boundary (UGB).

FINDINGS: City limits are located to the north and east of the subject area; therefore, the area is eligible for annexation.

6. 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.

Comprehensive Plan Annexation Policy #P-23: [The City shall] deem an annexation orderly if the annexation territory is contiguous to the existing City Limits, and deem an annexation 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).

FINDINGS: The proposed annexation complies with the above noted criteria as follows:

- (a) Since the area is contiguous to existing City limits, the annexation is considered orderly.
- (b) The residential property will contain urban-level development with water and sanitary sewer being extended to serve the property. The McKinney Lane right-of-way will be partially improved as a result of the apartment construction on the adjacent property.
- (c) Based on information contained in the Comprehensive Plan, there are no *designated environmental constraints* associated with the subject area.

7. Annexation Ordinance Section 7. - Development proposals are not required for annexation requests.

Comprehensive Plan Annexation Policy #P-24: [The City shall] recognize and act on the basis that development proposals are not required for annexation requests.

FINDINGS: The residential property is currently developed and the application does not include a concurrent redevelopment proposal.

8. 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.

Comprehensive Plan Annexation Policy #P-25: [The City shall] consider as part of the annexation process of developed property or properties, 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.

FINDINGS: With development of the 60-unit apartment complex to the east, City services will be available to serve the 0.51-acre property as well as upgrade McKinney Lane with a "3/4" street improvement. The residential property also fronts an improved public street, which is adequate to serve the existing residence.

9. 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.

Comprehensive Plan Annexation Policy # P-26: [The City shall] Consider as part of the annexation process of developed property or properties, the impacts on the capacities of key City-provided urban utility services needed to satisfy the anticipated demands of the properties discussed in P-25 above.

FINDINGS: Public services will be extended to the residential property and a "3/4" street improvement is planned for McKinney Lane.

10. 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.

FINDINGS: The residential property fronts an improved public street (Russell Drive) and additional improvements are planned for McKinney Lane. As there are no changes planned to the existing single family use, additional right-of-way dedication and street improvements are unnecessary.

11. 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.

FINDINGS: This subject area is designated Residential Mixed Density by the Comprehensive Plan. Consistent with the adopted Matrix, the only possible applicable zone is Residential Mixed Density; the Residential High Density zone is not an alternative as the land is not adjacent to the downtown business district.

12. 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.

FINDINGS: This application is limited to the proposed annexation and establishment of the Residential Mixed Density zone and does not include a change in the Plan designation or corresponding zone. Therefore, this Section does not apply to the request.

13. 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.

FINDINGS: This Section does not apply, as the subject property does not include environmentally constrained property.

14. 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 (i.e., Development Code), Subdivision Ordinance, Comprehensive Plan, and other related documents of the City of Lebanon.

FINDINGS: This Section does not apply as the provisions in this Section provide a definition and not a decision criterion.

15. 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.

FINDINGS: The request is limited to the proposed annexation and does not contain a development or redevelopment proposal. Therefore, provisions in Section 15 do not apply.

16. Comprehensive Plan Annexation Policy # P-27: Expand the City Limits as necessary to accommodate development, including housing, commercial, industrial, and services (that will in turn accommodate population growth).

FINDINGS: This Policy does not directly apply as the proposal simply incorporates an existing urban-type uses (both residential and a local street right-of-way) into the City limits.

- G. Section 16.26.060.B allows the City to require the abatement of non-conforming uses and/or structures prior to hearing an annexation request. Other provisions of this Code and the Lebanon Municipal Code may require abatement of certain kinds of situations before an annexation request can be approved. This Section does not apply as the residential property is developed and the existing residential use is allowed in the applicable Residential Mixed Density zone. Further, McKinney Lane, as a right-of-way, does not contain structures will only be improved as a local street.
- H. Section 16.26.060.C, allows the City to identify additional site-specific evaluation criteria based on the Lebanon Comprehensive Plan, the provisions of this Code, and the Lebanon Municipal Code. Site-specific criteria could include, but not be limited to, the following: steep slopes, natural hazards, riparian zones, wetlands water bodies, overlay zones, infrastructure development, existing conditions and failing on-site services. Such site-specific criteria do not affect the eligibility of properties for annexation, but serve as an advisory to applicants of factors that may affect future development. There are no site-specific, evaluation criteria that apply to the subject area.
- I. Upon annexation, Section 16.26.020 requires the subject property to be placed in the appropriate zone. Accordingly, upon annexation, an annexation territory will automatically be assigned City Zoning Classifications in accordance with the adopted Comprehensive Plan Map, per the City's Annexation Zoning Matrix (Development Code Table 16.26-1). The *only decision criterion* in this process of first assignment of City Zoning is that the Zone Classification shall be consistent with the adopted Comprehensive Plan Map (Section 16.26.020.D).

FINDINGS: The subject property is designated Residential Mixed Density (C-RM) by the City's Comprehensive Plan. According to Table 16.26-1, the only applicable zone is the Residential Mixed Density (Z-RM) zone. Therefore, upon annexation, the property will be zoned Residential Mixed Density. As noted, the Residential High Density zone is not an alternative as the property is not located adjacent to the downtown business district.

VII. CONCLUSION

The City Council concludes the proposed Annexation, including establishment of the Residential Mixed Density zone, complies with the applicable decision criteria.