

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 17-06-22; JEREMY RHOADES)
ORDINANCE BILL NO. 2017-14)
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ORDINANCE NO. 2902)
))
))

WHEREAS, the City of Lebanon has received a submission by written request for annexation of real property to the City of Lebanon, herein described in Exhibit "A"; and,

WHEREAS, on July 19, 2017, the Planning Commission for the City of Lebanon conducted a hearing on Planning File No. 17-06-22, making findings recommending annexation of the subject property and establishment of the Residential Mixed Density (Z-RM) zone; and,

WHEREAS, after conducting the hearing and considering all objections or remonstrance regarding 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 Development Code, and assigned the zoning of Residential Mixed Density (Z-RM).

After Recording Return to:
City Clerk's Office
City of Lebanon
925 S. Main Street
Lebanon, OR 97355

LINN COUNTY, OREGON **2017-15209**
ORD-ORD
08/22/2017 09:55:20 AM
Clt=1 Str=38 K. PETERSON
\$60.00 \$11.00 \$20.00 \$19.00 \$10.00 **\$120.00**



00304454201700152090120122

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

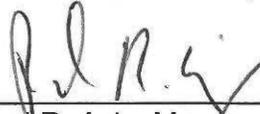
Steve Druckenmiller - County Clerk



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 (Exhibit "A") 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 and executed by the Mayor on this on this 9th day of August, 2017 by a vote of 5 yeas and 0 nays.

CITY OF LEBANON, OREGON



Paul R. Aziz, Mayor
Bob Elliott, Council President

ATTESTED BY:



Linda Kaser, City Clerk

EXHIBIT A

ANNEXATION LEGAL DESCRIPTION & MAP

The lands described in Linn County deed document No. 2016-21680, Linn County deed microfilm records volume 626, page 988 and Linn County deed microfilm records volume 737, page 08 and being in the Southwest corner of Section 10, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon.

Being more particularly described as follows:

Beginning at the northwest corner of the land described in Linn County deed document No. 2016-21680, also being on the east right-of-way of Ninth Street and bearing South 0°00'00" East 64.00 feet along said east right-of-way from the Northwest corner of Lot 21 in Hyland Addition; thence leaving said east right-of-way, along the North line of that land described in said deed document No. 2016-21680, North 89°43'00" East 140.1 feet to the northeast corner of that land described in deed document No. 2016-21680; thence South 0°00'00" East 116.00 feet to the southeast corner that land described in Linn County deed microfilm records volume 626, page 988; thence along the south line of that land described in said deed microfilm record volume 626, page 988, South 89°43' 00" West 70.00 feet to the Northeast corner of that land described in Linn County deed microfilm records volume 737, page 08; thence along the east line of that land described in said microfilm record volume 737, page 08, South 0°00'00" West 112.00 feet to a point on the north right-of- way of B Street, also being the Southeast corner of that land described in said deed microfilm record volume 737, page 08; thence along said north right-of-way, South 89°43'00" West 70.00 feet to the intersection of said north right-of-way with the said east right-of-way of Ninth Street; thence along said east right-of-way, North 0°00'00" East 228 .00 feet to the point of beginning.

This legal description is based on Linn County Survey No. 10418.

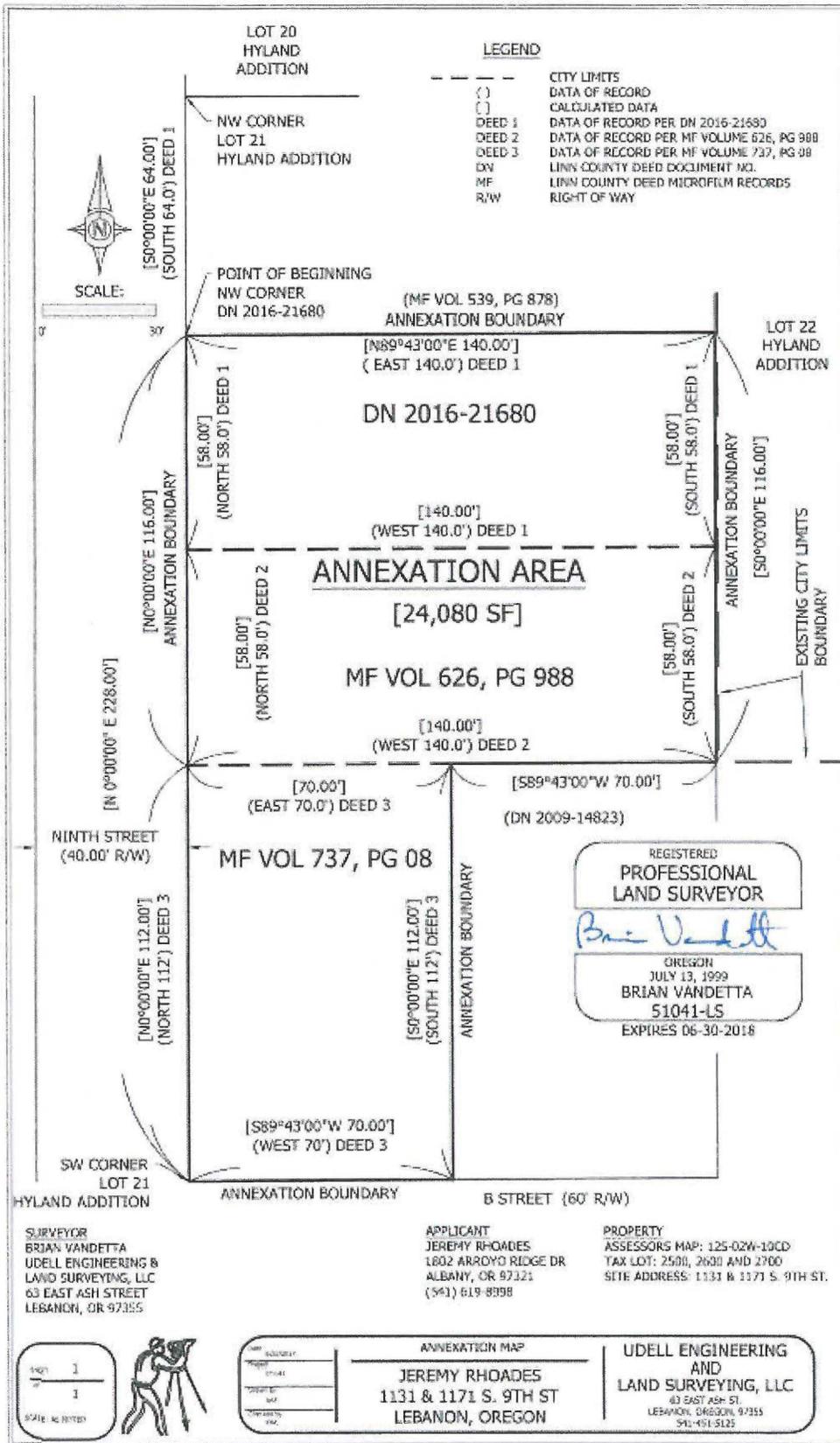


EXHIBIT B

LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of the Jeremy Rhoades 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 consists of three adjacent parcels located at the northeast corner of the intersection of South 9th Street and B Street. The area includes: 1131 South 9th Street (Township 12 South; Range 2 West; Section 10CD; Tax Lot 2500); 1171 South 9th Street (Township 12 South; Range 2 West; Section 10CD; Tax Lot 2700); and, land at Township 12 South; Range 2 West; Section 10CD; Tax Lot 2600.

B. Site Development and Zoning

Both 1131 and 1171 South 9th Street contain a single-family home while Tax Lot 2600 is vacant. All three front a public street and available services are limited to private wells and septic systems. The subject area contains 0.56-acres and is designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan.

C. Adjacent Zoning and Land Uses

Land to the east/northeast is zoned Residential Mixed Density and contains the Lebanon First Assembly of God Church. The remaining adjacent property is located within Linn County, designated Residential Mixed Density and contains single family homes on large lots or parcels.

D. Proposal

The applicant is requesting approval to annex the property, establishing the Residential Mixed Density (Z-RM) zone.

III. PUBLIC HEARING

A. Planning Commission Action

On July 19, 2017, the Lebanon Planning Commission held a public hearing on this application. At the hearing, Planning File 17-06-22 was made a part of the record. The City noticed the hearing 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 August 9, 2017, the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 17-06-22 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 City Council, after careful consideration of the testimony and evidence in the record, adopts the following General Findings of Fact:

- A. The applicant is Jeremy Rhoades.
- B. The subject area consists of three adjacent parcels located at the northeast corner of the intersection of South 9th Street and B Street. The area includes: 1131 South 9th Street (Township 12 South; Range 2 West; Section 10CD; Tax Lot 2500); 1171 South 9th Street (Township 12 South; Range 2 West; Section 10CD; Tax Lot 2700); and, land at Township 12 South; Range 2 West; Section 10CD; Tax Lot 2600.
- C. Total area is 0.56 acres.
- D. Both 1131 and 1171 South 9th Street contain a single-family home while Tax Lot 2600 is vacant. All three front a public street and available services are limited to private wells and septic systems.
- E. The property is designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan.
- F. Land to the east/northeast is zoned Residential Mixed Density and contains the Lebanon First Assembly of God Church. The remaining adjacent property is located within Linn County, designated Residential Mixed Density and contains single family homes on large lots or parcels.
- G. The applicant is requesting approval to annex the property, establishing the Residential Mixed Density (Z-RM) zone.
- 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 request would annex the three parcels and establish the Residential Mixed Density (Z-RM) zone. The purpose of the annexation is to allow eventual development of the property for urban uses.
- B. The Department mailed notice of the application to affected agencies, area property owners and the Department of Land Conservation and Development. City Engineering services reviewed the request and offered no comments. Linn County requested the annexation extend to the center of 9th Street.

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 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, additional inquiries 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. This Section also lists 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. The findings are combined to avoid duplication:

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 (UGMA), and shall be consistent with applicable State law.

FINDINGS: For this criterion, the proposed annexation application and process conform to the requirements of the Annexation Ordinance.

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 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 and can be developed for urban uses.

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 UGB.

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 UGB.

FINDINGS: City limits are located to the east/northeast of the subject property; 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 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) Public utilities are located at the 9th Street/Oak Street intersection to the north and the B Street/South 7th Street intersection to the east. Extension of these services would permit urban levels of development.
- (c) Based on information in the Comprehensive Plan, there are no *designated environmental constraints* associated with the site.

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: This application does not include a concurrent development or 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: Needed City services can be extended to serve the area.

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: Services can be extended to the site and there are no identified *capacity* issues regarding existing or potential development of the property.

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 creates an increased demand for the benefits provided by additional rights-of-way dedication.

FINDINGS: Additional right-of-way dedication and street improvements are unnecessary for the annexation. The County requested the annexation boundary extend to the center of 9th Street. Ninth Street is a County road and will remain under their jurisdiction. Extending the annexation boundary is only reasonable if there is a concurrent transfer of road ownership to the City.

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 Zoning Matrix, the only possible applicable zone is Residential Mixed Density.

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 RM zone and does not include a change in the Plan designation or corresponding zone. Therefore, this Section does not apply.

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 specific to the site.

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 urbanizable parcel 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. The City is not aware of any abatement issues related to the site.

- 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 property.
- I. Upon annexation, Section 16.26.020 requires the subject property to be placed in the appropriate zone. Upon annexation, the territory will automatically be assigned a City zone in accordance with the adopted Comprehensive Plan Map, and Annexation Zoning Matrix (Development Code Table 16.26-1). The only decision criterion in this process 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. Per Table 16.26-1, the only applicable zone is Residential Mixed Density (Z-RM). Therefore, upon annexation, the property will be zoned RM, a zone classification consistent with the Plan designation.

VII. CONCLUSION

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