

CITY OF SILVERTON
ORDINANCE
18-23

AN ORDINANCE OF THE SILVERTON CITY COUNCIL ANNEXING 1 ACRE OF LAND LOCATED AT 555 EUREKA AVENUE INTO THE CITY LIMITS OF THE CITY OF SILVERTON, OREGON AND ZONING THE PROPERTY R-1, SINGLE FAMILY RESIDENTIAL. MARION COUNTY ASSESSOR'S MAP 071W03AA TAX LOT 00800.

WHEREAS, the City of Silverton has been petitioned to annex 555 Eureka Avenue into the City Limits of the City of Silverton, Oregon and zone the property R-1, Single Family Residential. Marion County Assessor's Map 071W03AA Tax Lot 00800.

WHEREAS, the area proposed for annexation is described as a tract of land situated in Section 3, T7S, R1W, W.M. Marion County Oregon and more particularly described as follows:

Beginning at the west corner of Lot 7 Block 3 of the Park Terrace 2 Subdivision MCSR S39-072 said point being marked by a 5/8" I.R. with Yellow Cap Wilhelm ENG. OR LS 2413.

- (1) Thence South 45 07' 39" East 150.13 feet;
- (2) Thence South 51 21' 36" West 440.25 feet;
- (3) Thence North 45 07' 00" West 53.00 feet;
- (4) Thence North 51 25' 33" East 220.00 feet;
- (5) Thence North 45 07' 00" West 97.64 feet;
- (6) Thence North 51 25' 33" East 220.14 feet to the point of beginning, containing 1.005 acres more or less

NOW, THEREFORE THE CITY OF SILVERTON ORDAINS AS FOLLOWS:

Section 1. Legislative Annexation. In accordance with ORS 222.120:

- (1) The Silverton City Council cannot submit this proposal for annexation of territory to the electors of the city for their approval or rejection. A public hearing before the Council was held August 6, 2018, at which time the electors of the city had an opportunity to appear and be heard on the question of annexation.
- (2) The area described above and as shown on Exhibit "B" is hereby annexed to the City of Silverton, effective September 5, 2018.

Section 2. Consent to Annexation. In accordance with ORS 222.125 the Council finds there is no need to hold an election in the city or in any contiguous territory proposed to be annexed as all of the owners of land in that territory, and not less than 50 percent of the electors, if any, residing in the territory, have consented in writing to the annexation of

the land in the territory and statement of their consent is filed with the Council.

Section 3. **Timing of Consents.** The Council finds that only statements of consent to annexation which are filed within any one-year period prior to the hearing have been submitted and describes the 1 acre of real property, all located in Marion County, Oregon that shall be annexed to the City of Silverton upon recording with the Secretary of State.

Section 4. **Notice to Utilities.** In accordance with ORS 222.005 the City Recorder shall, no later than 10 working days after passage of this ordinance approving the proposed annexation, provide by certified mail to all public utilities, electric cooperatives and telecommunications utilities operating within the city, each site address to be annexed as recorded on county assessment and tax rolls, a legal description and map of the proposed boundary change and a copy of the City Council's resolution or ordinance approving the proposed annexation.

Section 5. **Notice to County.** In accordance with ORS 222.010, the City Recorder shall report to the Marion County Clerk and County Assessor all changes in the boundaries or limits of the city. The report shall contain a detailed legal description of the new boundaries established by the city. The report shall be filed by the city within 10 days from the effective date of the change of any boundary lines.

Section 6. **Assessor Valuation.** In accordance with ORS 222.030 the Recorder shall request that the Assessor shall furnish within 20 days, a statement showing for the current fiscal year the assessed valuation of the taxable property in the territory to be annexed.

Section 7. **Notice to Secretary of State.** In accordance with ORS 222.177 the City Recorder shall transmit to the Secretary of State:


- (1) A copy of this ordinance proclaiming the annexation.
- (2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.
- (3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.
- (4) A copy of the ordinance issued under ORS 222.120 (4).
- (5) An abstract of the vote upon the referendum, if a referendum petition was filed, with respect to the ordinance adopted under ORS 222.120.

Section 8. **Exhibits.** The City Council adopts the Findings of Fact, attached hereto as "Exhibit A", a map of the area being annexed as Exhibit "B", and by this reference all incorporated herein.

Section 9. **Zone Designation.** Upon annexation the property shall have a City of Silverton zoning designation of **R-1 (Single Family Residential)**.

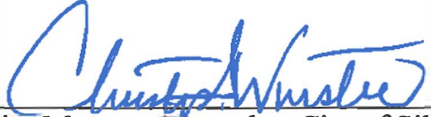
Section 10. **Effective Date.** In accordance with ORS 222.180 the effective date of annexation shall be September 5, 2018.

Ordinance adopted by the City Council of the City of Silverton, this 6th day of August, 2018.



Mayor, City of Silverton
Kyle Palmer

ATTEST:



City Manager/Recorder, City of Silverton
Christy S. Wurster

Exhibit 'A'



City of Silverton
Community Development
306 South Water Street
Silverton, OR 97381

STAFF REPORT

PROCEDURE TYPE IV

FILE NUMBER: AN-18-03

LAND USE DISTRICT:
UT-5, URBAN TRANSITION – 5 ACRE

PROPERTY DESCRIPTION:
ASSESSOR MAP#: 071W03AA
LOTS #: 00800
SITE SIZE: 43,776 SQ. FT.
ADDRESS: 555 EUREKA AVENUE

APPLICANT:
CRAIG POLLEY
4658 GOLDENROD AVE NE
SALEM, OR 97305

PROPERTY OWNER:
CRAIG & LINNA POLLEY
4658 GOLDENROD AVE NE
SALEM, OR 97305

LOCATION: LOCATED ON THE NORTH SIDE OF
EUREKA AVENUE AT 555 EUREKA AVENUE

PROPOSED DEVELOPMENT ACTION: ANNEXATION APPLICATION TO ANNEX 555 EUREKA AVENUE INTO THE CITY LIMITS AND ZONE THE PROPERTY R-1, SINGLE FAMILY RESIDENTIAL. THE PROPERTY IS 43,776 SQUARE FEET IN AREA AND IS VACANT. THE ANNEXATION REQUEST IS TO FACILITATE A HOME TO BE CONSTRUCTED ON THE SITE AND CONNECTED TO CITY WATER.

DATE: JULY 25, 2018

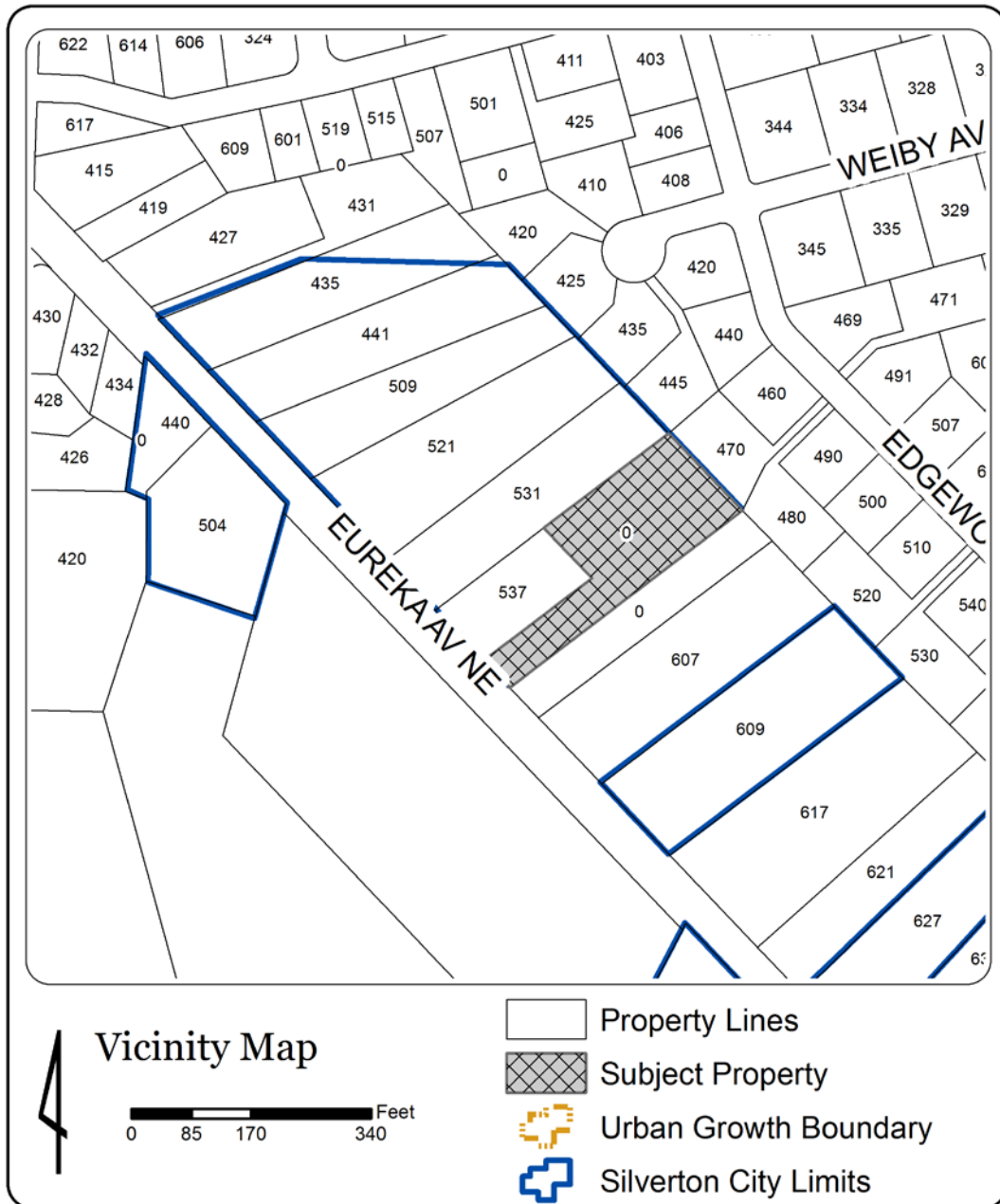
- Attachments
- A. Vicinity Map and Review Criteria
 - B. Applicant’s Findings
 - C. Conditions of Approval
 - D. Staff Report
 - E. Testimony

ATTACHMENT A: VICINITY MAP & REVIEW CRITERIA

Case File: AN-18-03

Vicinity Map and Surrounding Land Use Districts

- North – R-1, Single Family Residential
- East – R-1, Single Family Residential
- South – R-1, Single Family Residential
- West – UT-5, Urban Transition – 5 Acre



REVIEW CRITERIA:

4.10.140 Review Criteria. When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

1. Adequacy of access to the site; and
2. Conformity of the proposal with the city's comprehensive plan; and
3. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. If extension or upgrading of any improvement is necessary to serve the area, such extension must be consistent with the city's infrastructure plans and must be an orderly and efficient arrangement for the extension of public services; and
4. The new area will meet city standards for any public improvements which may be necessary to serve the area (including but not limited to streets, including sidewalks, sanitary sewer, water, storm drainage); and
5. The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and
6. The area is within the urban growth boundary, unless a health hazard due to failing septic systems or groundwater supplies is found to exist; and
7. The proposed use of the property is consistent with the applicable comprehensive plan designation; and
8. The proposed annexation shall be consistent with all applicable goals and policies of the Silverton comprehensive plan; and
9. Shall be in compliance with applicable sections of ORS Chapter 222; and
10. Natural hazards identified by the city, such as wetlands, floodplains and steep slopes, have been addressed by applicant's conceptual development plan; and
11. Urbanization of the subject property shall not have a significant adverse effect on areas identified or designated in the comprehensive plan as open space or as significant scenic, historic or natural resource areas; and
12. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole; and
13. If the proposed area for annexation is to be residentially zoned, there must be less than a five-year supply of vacant and redevelopable land in terms of dwelling units per acre within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the housing element of the comprehensive plan. If there is more than a five-year supply but less than an eight-year supply, the city may consider additional factors, such as the likelihood of vacant parcels being developed in the near future, to

determine if the public good would be served by the annexation. Properties proposed for annexation that have a current or probable public health hazard due to lack of full city water or sanitary sewer may be exempt from this criterion; and

14. Promotes the timely, orderly and economic provision of public facilities and services; and
15. The annexation is reasonable and that the public interest, present and future, will be best served by annexing the property.

ATTACHMENT B: APPLICANT'S FINDINGS

Type of Annexation:

Minor (Does not meet the description provided for a major annexation and contains less than two (2) acres.)

Narrative:

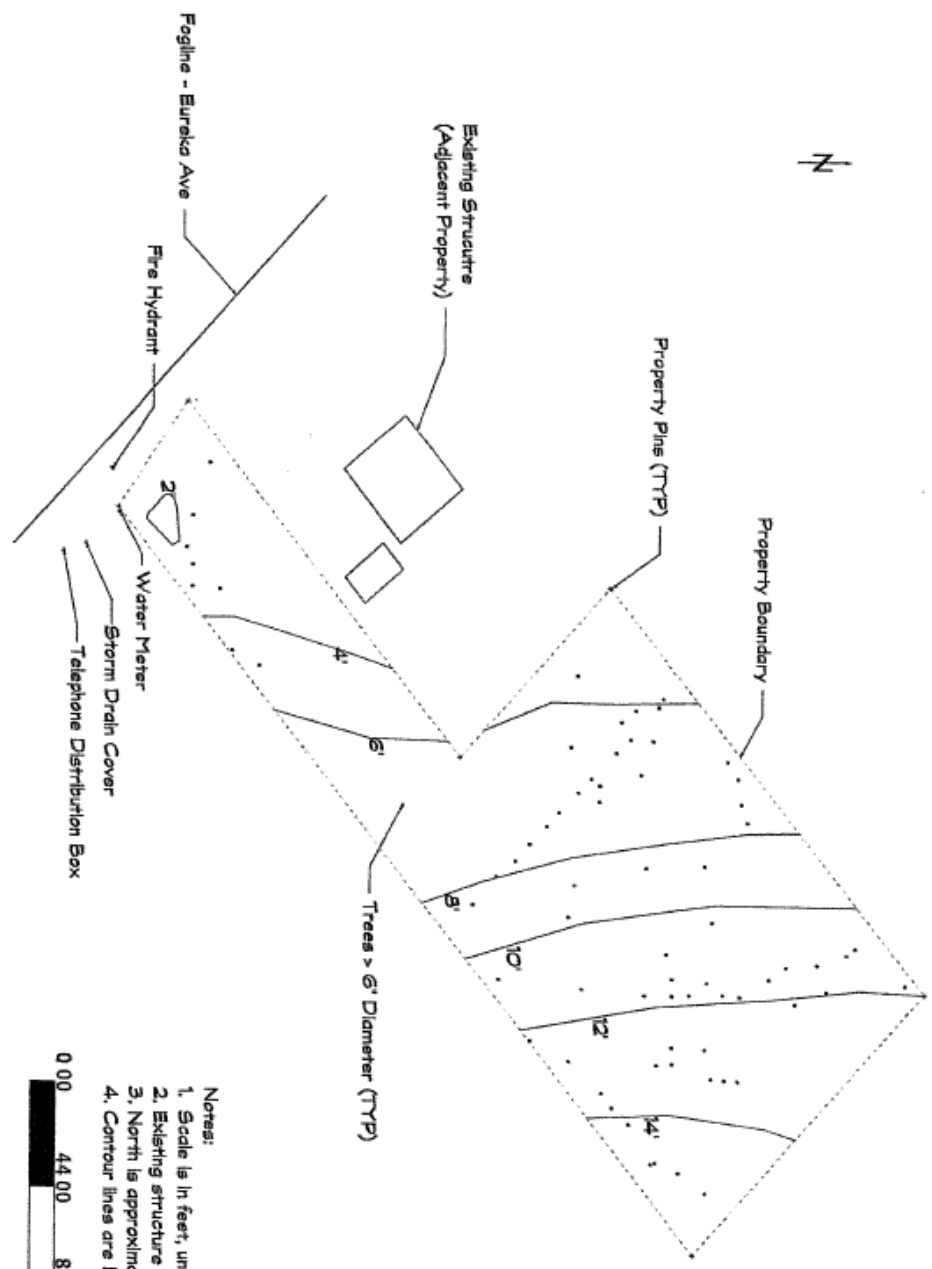
The annexation application is to annex 555 Eureka Avenue into the City Limits. The property is zoned R-1, Single Family residential. The purpose of the annexation is to allow a proposed single family dwelling to be able to connect to the City water system.

Criteria For Approval:

1. Adequacy of access to the site – the property is a 1 acre parcel located on the North side of Eureka Avenue with street access to be approved thru Marion County.
2. The Zoning/Comprehensive Plan Designation is UT-5, Urban Transition – 1 Acre/Single Family
3. Adequate public facilities, services and transportation networks are already in place and provided concurrently with the development of the property. No extensions or upgrading of any improvement is necessary to serve the area.
4. The new area will meet city standards for any public improvement. Septic system approval has already been granted for the site.
5. The area to be annexed is contiguous to the city and represents a logical city expansion and
6. The expansion is within the Urban Growth Boundary.
7. The proposed use of the property is to build a Single Family Residence and is consistent with the applicable comprehensive plan designation (UT-5, Urban Transition – 1 Acre/Single Family)
8. The proposed use of the property is consistent with goals and policies of Silverton Comprehensive Plan.
9. The proposed annexation is less than 2 acres and in compliance with applicable sections of ORS Chapter 222.
10. There are no natural hazards identified by the City, such as wetlands, floodplains and steep slopes for this parcel.

11. Urbanization of the subject property does not have a significant adverse effect on any areas designated as an open space or significant scenic, historic or natural resource areas in the Comprehensive Plan.
12. The overall economic impacts shall not have a significant adverse effect on the economic social and physical environment of the community, as a whole.

**555 Eureka Ave
Silverton, OR 97381**



- Notes:
1. Scale is in feet, unless otherwise noted
 2. Existing structure is approximated
 3. North is approximated
 4. Contour lines are best fit within 2' elevation changes



EXHIBIT 'A'Legal Description:

Beginning at a point in the center of a public road which is 18.19 chains South and 159.06 feet North 60°35' West and 721.37 feet North 45°07' West from the Northeast corner of Section 3 in Township 7 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence North 45°07' West, a distance of 53 feet; thence North 51°24' East, a distance of 220 feet; thence North 45°07' West a distance of 84 feet; thence South 51°24' West, distance of 220 feet to a point in the center of the public road; thence North 45°07' West, a distance of 13 feet to the Southeast corner of a tract of land conveyed to Donald L. Reed and Virginia A. Reed, by deed recorded in Volume 534, Page 233, Deed Records of Marion County, Oregon; thence North 51°24' East, along the Easterly line of said Reed tract 439.88 feet to the Northeast corner thereof, being also at point on the Northerly line of a tract of land conveyed to Earl R. Lee, et ux, By deed recorded in Volume 534, Page 144, Deed Records for Marion County, Oregon; thence South 45°16' East, a distance of 150 feet to the Northwest corner of a tract of land conveyed to Eureka Acres, Inc. by deed recorded in Volume 534, page 232, Deed Records for Marion County, Oregon; thence South 51°24' West, a distance of 440.40 feet, more or less, to the Southwest corner of said tract, being the place of beginning of the herein described tract.

EXCEPTING THEREFROM:

Beginning at the southeast corner of a tract of land conveyed to Donald L. Reed and Virginia A. Reed, by deed recorded in Volume 534, Page 233, Deed Records for Marion County, Oregon, which point is also the most westerly corner of Parcel #2 of Volume 669, Page 617, Deed Records for Marion County, Oregon, and running thence North 51°25'33" East along the easterly line of said Reed tract 220.00 feet to a 5/8" iron rod; thence South 45°07'00" East 13.64 feet to a 5/8" iron rod at the northerly corner of Parcel #1 of Volume 669, Page 617, Deed Records for Marion County, Oregon; thence South 51°25'33" West along the northwesterly line of said Parcel #1, a distance of 220.00 feet to the most westerly corner of said Parcel #1; thence North 45°07'00" West 13.64 feet to the point of beginning.

Subject to:

The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.

ATTACHMENT C: CONDITIONS OF APPROVAL

1. Utility work in the public right-of-way requires permits from MCPW Engineering and an Access Permit is required from Marion County for access to Eureka Avenue.
2. A Petition for Improvement / Waiver of Remonstrance for roadway improvements along the site's frontage of Eureka Avenue including a half street improvement with curbs and sidewalks shall be signed prior to the signing of the Ordinance.

ATTACHMENT D: STAFF REPORT, AN-18-03

FINDINGS OF FACT

A. Background Information:

1. The applicant submitted an application on May 8, 2018 to annex 555 Eureka Avenue into the City Limits and zone the property R-1, Single Family Residential. The property is 43,776 square feet in area and is vacant. The annexation request is to facilitate a home to be constructed on the site and connected to City water.
2. Notice was mailed to all property owners within 700 feet of the subject area on June 20, 2018. As of this writing, July 3, 2018 no written testimony has been received. The notice was published in the Silverton Appeal on June 27, 2018. The site was posted on June 29, 2018. The Planning Commission reviewed the application at their July 10, 2018 meeting and recommends the Council approve the request.
4. The City Council passed Resolution 18-06 on February 5, 2018 that stated in part, When annexation applicants refuse to authorize the City to submit the annexation proposal to the City electorate, and the area proposed for annexation is greater than two (2) acres in size, the City shall place a hold on consideration of the proposed annexation for the sooner of one year after the date of said refusal or the final adjudication of SB 1573. The subject area is less than two acres in size and not subject to the hold.

B. Silverton Development Code (SDC):

1. Article 4 – Administration of Land Use and Development

Section 4.1.500

Type IV Procedure

A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications

Findings: This application is being reviewed through a Type IV procedure. The applicant submitted an application on May 8, 2018 meeting Criterion A. A public notice for this request was mailed to all property owners within 700 feet of the site on June 20, 2018. The notice was published in the Silverton Appeal on June 27, 2018. The site posted on June 29, 2018. The application will be before the Planning Commission July 10, 2018 and will be before the City Council August 6, 2018.

Unless mandated by state law, annexation, delayed annexations, and/or extension of city services may only be approved by a majority vote among the electorate. On March 15, 2016, the State enacted SB 1573 that states that the legislative body of a city shall annex a territory petitioning annexation without submitting the proposal to the electors of the city if the territory is within the Urban Growth Boundary, the territory upon annexation will be subject to the acknowledged comprehensive plan, the territory is contiguous to the city limits and the proposal conforms to all other requirements of the city's ordinances. The

territory is within the UGB, is contiguous to the city limits and would be subject to the comp plan upon annexation.

The City Council passed Resolution 18-06 on February 5, 2018 that stated in part, When annexation applicants refuse to authorize the City to submit the annexation proposal to the City electorate, and the area proposed for annexation is greater than two (2) acres in size, the City shall place a hold on consideration of the proposed annexation for the sooner of one year after the date of said refusal or the final adjudication of SB 1573. The subject property is less than two acres in size and not subject to the hold. City Staff were directed in all other regards to comply with the Charter, Comprehensive Plan, Development Code and all other applicable land use laws in processing annexation proposals. This staff report will review the proposal for conformity with all other requirements of the city's ordinances.

Section 4.10.140

Review Criteria – Annexation

When reviewing a proposed annexation of land, the Planning Commission and City Council will consider the following standards and criteria:

- 1. Adequacy of access to the site; and*

Findings: The site is located on the north side of Eureka Avenue. The site is 43,776 square feet in area and has the potential to be partitioned into two parcels in the future if sewer is extended down Eureka Avenue. Eureka Avenue is under Marion County jurisdiction.

Utility work in the public right-of-way requires permits from MCPW Engineering and an Access Permit is required from Marion County for access to Eureka Avenue (**Condition 1**). Criterion 1 is met.

- 2. Conformity of the proposal with the City's Comprehensive Plan; and;*

Findings: The parcel to be annexed is located within the UGB and is designated Single Family. The zoning of the site will be R-1, Single Family Residential. A single family is proposed on the site in conformance with the Comprehensive Plan (Comp Plan).

The Goal of the Urbanization Element of the Comprehensive Plan is to: "Provide adequate land to meet anticipated future demands for urban development in a logical and orderly manner." And has Objectives to, maintain a supply of buildable residential, commercial and industrial land within the City's UGB as allowed by state law; Continue to work with Marion County to manage land development between the city limits and UGB; and Consistently apply and enforce the City' development policies, codes, and standards.

The Goal of the Air, Water and Land Resources Quality seeks to "Maintain and improve the quality of the area's air, water, and land resources." The area proposed for annexation is vacant and is requesting annexation in order to connect to the City water system versus drilling a well in an area that has ground water issues. As such, this annexation and subsequent connection to the City's water system will comply with the goals and policies within the Air, Water and Land Resources Quality and will not lead to the degradation of the natural resources.

A Goal of the Transportation Element is to “Provide a safe, convenient, aesthetic and economical transportation system.” Any development of the site will be required to meet transportation, access and circulations, and roadway standards.

The Goal of the Housing element to “Meet the projected housing needs of citizens in the Silverton area.” The Objectives of the Housing Element are to, Encourage a “small town” environment; Encourage preservation, maintenance and improvement of the existing housing stock; Encourage new housing in suitable areas to minimize public facility and service costs and preserve agricultural land; and Encourage an adequate supply of housing types necessary to meet the needs of different family sizes and incomes.

The requested annexation will be consistent with the goals and policies of the Economy element of the Comprehensive Plan. This element largely speaks to encouraging the diversification of the local economy and the proposed annexation and construction of a single family home will not have an impact upon this element.

With the public hearing held before the Planning Commission and City Council the requested annexation will satisfy the goal and policies of the Citizen Involvement element of the Comprehensive Plan. The purpose of the public hearing is to solicit and involve the public in the decision making process. The public hearing was published, posted, and notices were mailed in accordance with all requirements.

The Goal of the Public Facilities and Services Elements of the Comprehensive Plan is to “Provide orderly and efficient public facilities and services to adequately meet the needs of Silverton residents.” The water system, storm water system, and transportation network exist adjacent to the site. A sanitary sewer mainline exists at 700’ northwest of the property in Eureka Avenue.

3. *Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property. If extensions or upgrading of any improvement is necessary to serve the area, such extension must be consistent with the city’s infrastructure plans and must be an orderly and efficient arrangement for the extension of public services; and*

Findings: The property is requesting annexation in order to connect to city water facilities. There are no identified Master Plan projects identified to serve the site. The water system, storm water system, and transportation network exist adjacent to the site. A sanitary sewer mainline exists 700 feet northwest down Eureka Avenue, as such it not defined as physically available as it is located further than 300 feet from the site. Each of the utilities is the standard size for residential development. Public facilities are planned to be provided to serve the site; thereby meeting Criterion 3.

4. *The new area will meet city standards for any public improvements which may be necessary to serve the area (including but not limited to streets, including sidewalks, sanitary sewer, water, storm drainage); and*

Findings: The property is requesting annexation in order to connect to city water facilities. There are no identified Master Plan projects identified to serve the site. The water system, storm water system, and transportation network exist adjacent to the site. A Petition for

Improvement / Waiver of Remonstrance for roadway improvements along the site's frontage of Eureka Avenue including a half street improvement with curbs and sidewalks shall be signed prior to the signing of the Ordinance (**Condition 2**). Development of the site will require the public facilities to be extended into the site in accordance with Public Works Design Standards to serve the home. Therefore Criterion 4 is met.

5. *The area to be annexed is contiguous to the city and represents a logical direction for city expansion; and*

Findings: The area is contiguous to the City. The site abuts the City Limits along the northern, southern, and eastern property lines. The annexation represents a logical direction for city expansion, meeting Criterion 5.

6. *The area is within the urban growth boundary, unless a health hazard due to failing septic systems or groundwater supplies is found to exist; and*

Findings: The area considered for annexation is inside the Urban Growth Boundary. The criterion is met.

7. *The proposed use of the property is consistent with the applicable comprehensive plan designation; and*

Findings: The use of the property will be a single family dwelling, a permitted use. It is designated Single Family of the Comprehensive Plan Map and will be zoned R-1, Single Family Residential, thereby meeting Criterion 7.

8. *The proposed annexation shall be consistent with all applicable goals and policies of the Silverton Comprehensive Plan; and*

Findings: The proposed annexation has been reviewed for conformity with the city's comprehensive plan earlier in the report.

9. *Shall be in compliance with applicable sections of ORS Chapter 222; and*

Findings: ORS 222 provides for a means of annexation by election or by action of the governing body. However, as noted above the City is no longer allowed to submit proposals for annexation to the electors of the city for their approval or rejection.

The proposal is following the Type IV procedure, consistent with ORS 222 for annexation procedures.

This application has been found to be in compliance with the applicable sections of ORS Chapter 222 and will follow all applicable state and local procedures. Therefore, this criterion has been met.

10. *Natural hazards identified by the City, such as wetlands, floodplains and steep slopes have been addressed; and*

Findings: There are no wetlands on the site and the site is not located within the floodplain. The site is very flat. Natural hazards of the site have been addressed. The criterion is met.

- 11. Urbanization of the subject property shall not have a significant adverse effect on areas identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas; and*

Findings: There are no areas on the site identified or designated in the Comprehensive Plan as open space or as significant scenic, historic or natural resource areas. The criterion is met.

- 12. Economic impacts which are likely to result from the annexation shall be evaluated in light of the social and physical impacts. The overall impact which is likely to result from the annexation and development shall not have a significant adverse effect on the economic, social and physical environment of the community, as a whole.*

Findings: The annexation will add one single family home to the City Limits. The request is to be able to connect a proposed dwelling to city water facilities. The applicant will be required to connect to the water system to serve the property and will pay the Water System Development Charge for the impact to the system. The standard is met.

- 13. If the proposed area for annexation is to be residentially zoned, there must be less than a five-year supply of vacant and redevelopable land in terms of dwelling units per acre within the current city limits. "Redevelopable land" means land zoned for residential use on which development has already occurred but on which, due to present or expected market forces, there exists the likelihood that existing development will be converted to more intensive residential uses during the planning period. The five-year supply shall be determined from vacant and redevelopable land inventories and by the methodology for land need projections from the housing element of the comprehensive plan. If there is more than a five-year supply but less than an eight-year supply, the city may consider additional factors, such as the likelihood of vacant parcels being developed in the near future, to determine if the public good would be served by the annexation. Properties proposed for annexation that have a current or probable public health hazard due to lack of full city water or sanitary sewer may be exempt from this criterion; and*

Findings: The most recent adopted Comprehensive Plan amendments have used a growth rate of 2% over the 20 year planning horizon. Given a 2% growth rate over the next 5 years with an average household size of 2.65 per the 2010 census, the 5 year supply of vacant and redevelopable land is 412 lots and the 8 year supply is 680 lots. The current amount of shovel ready lots in Silverton is 52 and the amount of redevelopable land amounts to 613 lots for a total supply of 665. The City is between the 5 year and 8 year supply which allows the City to consider additional factors when reviewing the annexation. The annexation is small in scale and is in an area that is nearly surrounded by the City Limits. The majority of the site is already annexed into the City Limits. Adding a development that would only create the potential of one or two additional parcels would not harm the public good. This review criterion is subjective in nature and the Planning Commission is able to make its own interpretation as to if it is met or not. If there is evidence in the record that could support approval and evidence that could support denial, and where the review criteria are subjective, the Planning Commission gets to decide which evidence they find more persuasive. As long as a reasonable trier of fact could believe the

evidence relied on for a decision, the approval or denial will stand.

14. Promotes the timely, orderly and economic provision of public facilities and services; and

Findings: The property is requesting annexation to connect to the water system to facilitate the construction of a single family home, making the annexation timely.

15. The annexation is reasonable and that the public interest, present and future, will be best served by annexing the property.

Findings: The annexation will allow a lot in an area with ground water issues to connect to the existing water system adjacent to the property versus drilling a well. Annexing a property adjacent to the City Water system versus drilling a well in a groundwater withdrawn area is in the public interest. Oregon Water Resources prefer dwellings to hook up to municipal water in this area, as the groundwater supply is sensitive to any more use. This review criterion is subjective in nature and the Planning Commission is able to make its own interpretation as to if it is met or not.

III. SUMMARY AND CONCLUSION

Findings have been made for all of the applicable Code sections. The proposed annexation may meet applicable Silverton Development Code Review Criteria and Standards.

The Planning Commission held a public hearing to evaluate the proposed annexation and recommends the City Council approve the application.

Once the City Council receives Planning Commission's recommendation on the annexation, the Council will review the findings and the recommendation in a public hearing.

Staff and the Planning Commission finds the application, as presented, meets or can meet the applicable City codes and requirements.

City Council Options:

The City Council shall:

- a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to the application, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;
- b. Consider the recommendation of the planning commission; however, the city council is not bound by the commission's recommendation; and
- c. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

ATTACHMENT E: TESTIMONY

None Received.

Exhibit 'B'

