

CITY OF SILVERTON
ORDINANCE
18-10

AN ORDINANCE OF THE SILVERTON CITY COUNCIL ANNEXING 0.56 ACRES OF LAND LOCATED AT 1042 OAK STREET INTO THE CITY LIMITS OF THE CITY OF SILVERTON, OREGON AND ZONING THE PROPERTY R-1, SINGLE FAMILY RESIDENTIAL. MARION COUNTY ASSESSOR'S MAP 061W35AB TAX LOT 05000.

WHEREAS, the City of Silverton has been petitioned to annex the portion of 1042 Oak Street that is outside the City Limits into the City Limits of the City of Silverton, Oregon and zone the property R-1, Single Family Residential. Marion County Assessor's Map 061W35AB Tax Lot 05000.

WHEREAS, the area proposed for annexation is described as a tract of land situated in Section 35, T6S, R1W, W.M. Marion County Oregon and more particularly described as follows:

Beginning at the northwest corner of Lot 1 of the Silverton Heights Subdivision MCSR S44-055 said point being marked by a 5/8" IR YPC Gorman RPLS 2281 set in Partition Plat No. 99-116.

- (1) Thence South 89 51' East 141.104 feet;
- (2) Thence North 22 9' West 374.247 feet;
- (3) Thence South 346.259 feet to the point of beginning, containing 0.56 acres

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 June 4, 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 July 4, 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 0.56 acres 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 July 4, 2018.

Ordinance adopted by the City Council of the City of Silverton, this 4th day of June, 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-18-01

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

PROPERTY DESCRIPTION:
ASSESSOR MAP#: 061W35AB
LOTS #: 05000
SITE SIZE: 3.26 ACRES
ADDRESS: 1042 OAK STREET

APPLICANT:
BRUCE & PATRICIA HARLE
PO BOX 957
SILVERTON, OR 97381

APPLICANT'S REPRESENTATIVE:
GINNI STENSLAND
119 N WATER STREET
SILVERTON, OR 97381

PROPERTY OWNER:
BRUCE & PATRICIA HARLE
PO BOX 957
SILVERTON, OR 97381

LOCATION: LOCATED ON THE SOUTH SIDE OF OAK STREET AT 1042 OAK STREET.

PROPOSED DEVELOPMENT ACTION: ANNEXATION APPLICATION TO ANNEX THE PORTION OF 1042 OAK STREET THAT IS OUTSIDE THE CITY LIMITS. 1042 OAK STREET IS 3.26 ACRES IN SIZE WITH 2.7 ACRES LOCATED INSIDE THE CITY LIMITS AND 0.56 ACRES LOCATED OUTSIDE THE CITY LIMITS. THE APPLICATION IS TO ANNEX THE 0.56 ACRE AREA INTO THE CITY LIMITS AND ZONE THE AREA R-1, SINGLE FAMILY RESIDENTIAL.

DATE: MAY 23, 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-18-01

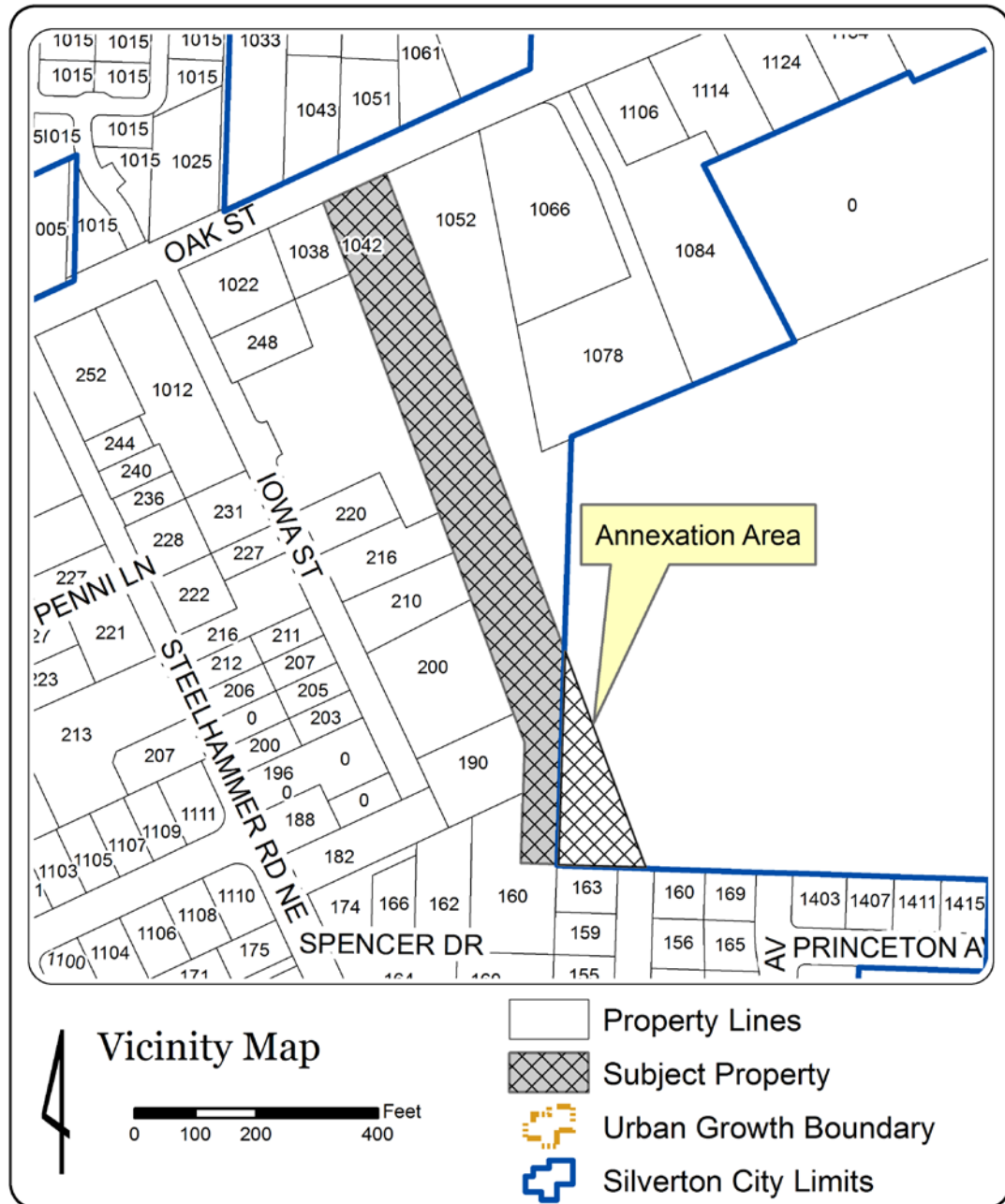
Vicinity Map and Surrounding Land Use Districts

North – UT-5, Urban Transition – 5 Acre

East – R-1, Single Family Residential / UT-5, Urban Transition – 5 Acre

South – R-1, Single Family Residential

West – R-1, Single Family Residential



REVIEW CRITERIA:

4.10.140 Annexation 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

March 12, 2018


City of Silverton,

I am writing to explain the intent of Bruce and Patricia Harle in their proposal to annex a corner of their property at 1042 Oak St and also the proposal to partition the 3.26 acres into two lots. They would like to keep their home and garage located on the 1.26 acres nearest to Oak St. The back of the property connects with the north end of Breyonna (where there is a city barcade). Once they have permission to partition they could offer the back 2 acres for a developer to bring in water and sewer and break into buildable lots.

It has been a hardship on Bruce to maintain the back two acres, but they love the house and the location, so they are hoping they will not have to move, but just cut down the amount of responsibility.

Feel free to call if you have any questions.

Sincerely,



Ginni Stensland, GRI

Ginnistensland@gmail.com

City of Silverton,

The approximate size of the triangle Harle's would like to annex is 333'x335'x146'. The legal description will be coming from a surveyor. The legal description and the deed for the entire 3.26 acres is in this package. Harles have the back two acres listed at the present time, hoping to sell to a builder. However the back triangle will need to be annexed before a sale could close.

Ginni Stensland

Minor Annexation does not have a name.
Harle property has a triangle outside of the city limits.
Site Plan is enclosed.
Map of city utilities nearby is enclosed.
There are no utilities on said property.
Nearest street to said property is Breyonna.
There are no existing structures on said land.
There are no existing water features or standing water on said property.
There are no existing structures, wells, septic tanks or drain fields on the property to be annexed.
There are no trees (over 6" trunks) rock outcroppings, marshes, or wetlands on the property.
The general land use plan is to bring in city utilities and sell as building sites.
Water, sewer, storm drain map is included in this package.
Breyonna would be the connector for a "half-street access into 2 acre piece available for 6-8 homesites.
The city's comprehensive Plan does include a street in this same location. This annexation would need to come into the city for that comprehensive plan.
The new area will meet city standards for public improvements (such as the extension of Breyonna)
The area to be annexed is contiguous to the city and goes in a logical direction.
The area is within the urban growth boundary.
The proposed use is for homes.
Urbanization of the subject property shall not have an adverse effect on the areas identified or designated in the Comprehensive Plan.

Economic impacts from the annexation shall be evaluated and the development shall not have a significant adverse effect on the economic or physical environment of the community.

There is no one leasing or renting said property.

Legal description of triangle property to be annexed is to follow.

Copy of Deed.

Exhibit "A"

Beginning on the East line of the James Brown Donation Land Claim No. 47, in Township 6 South, Range 1 West of the Willamette Meridian, Marion County, Oregon at a point which is 8.610 chains North from the Southeast corner of said Claim; thence North along the East line of said Claim 2.970 chains to a n angle corner in the East line of premises conveyed to Paul Casper, et ux by deed recorded in Book 295, Page 309, Deed Records for Marion County, Oregon; thence North 22°09' West 14.353 chains to the Southerly line of a County Road; thence North 63°11' East along the Southerly line of said county Road 1.720 chains; thence South 22°09' East 18.406 chains to the North line of a 10 acre tract; thence North 89°51' West along the North line of said 10 acre tract 3.064 chains to the place of beginning.



ATTACHMENT C: CONDITIONS OF APPROVAL

1. The applicant shall sign a Petition for Improvement / Waiver of Remonstrance for roadway improvements along the site's frontage of Oak Street.

ATTACHMENT D: STAFF REPORT, AN-18-01

FINDINGS OF FACT

A. Background Information:

1. The applicant submitted an application on March 23, 2018 to annex the portion of 1042 Oak Street that is outside the City Limits. 1042 Oak Street is 3.26 acres in size with 2.7 acres located inside the City Limits and 0.56 acres located outside the City Limits. The application is to annex the 0.56 acre area into the City Limits and zone the area R-1, Single Family Residential.
2. The site is currently developed with a single family dwelling.
3. Notice was mailed to all property owners within 700 feet of the subject area on April 18, 2018. As of this writing, May 1, 2018 no written testimony has been received. The notice was published in the Silverton Appeal on April 25, 2018. The site was posted on April 27, 2018. The Planning Commission reviewed the application at their May 8, 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 March 23, 2018 meeting Criterion A. A public notice for this request was mailed to all property owners within 700 feet of the site on April 18, 2018. The notice was published in the Silverton Appeal on April 25, 2018. The site was posted on April 27, 2018. The application was reviewed by the Planning Commission May 8, 2018 and will be before the City Council June 4, 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 south side of Oak Street, an arterial street under ODOT jurisdiction. The site also has frontage along the northern terminus of Breyonna Way, a local street under Silverton jurisdiction that is planned to extend to the north through the site. 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 dwelling currently exists 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, standards and other

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." This annexation will allow subsequent development to connect to the City's water and sewer system to 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 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, sewer system, and transportation network exist adjacent to the site.

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 potentially develop single family homes, which will require additional review through the partition or subdivision process. Public facilities are adjacent to the site and would have to be planned to be provided to serve the site during any subsequent review process; 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: There are no identified Master Plan projects identified to serve the site. The water system, storm water system, sewer system, and transportation network exist adjacent to the site. The applicant shall sign a Petition for Improvement / Waiver of Remonstrance for roadway improvements along the site’s frontage of Oak Street (**Condition 1**). 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 majority of 1042 Oak Street is within the City Limits and the site abuts the City Limits along the northern, southern, western, and most of the 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 continue to be used as a single family dwelling, a permitted use. And development of the site would be reviewed for conformance with the Silverton Development Code, 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. There are no steep slopes on the site. 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 0.57 acres of land to the City Limits with the potential for four additional single family dwellings. The overall impact of the annexation will be minimal given the small scale of the proposed development. 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 55 and the amount of redevelopable land amounts to 613 lots for a total supply of 668. 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 four 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 develop with residential uses. Public facilities already exist fronting the site.

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 property that is already mostly in the City to annex the portion that is not within the City which would allow it in the future to be developed in accordance with Silverton Development Code standards. 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'

