

CITY OF BANDON

CITY COUNCIL AGENDA DOCUMENTATION

DATE: May 2, 2022

SUBJECT: Ordinance 1643 Annexing Property into the City of Bandon and adopting findings.

ITEM NO. 5.4.1

BACKGROUND:

The City of Bandon has the opportunity to annex approximately 19 acres of land to the City of Bandon. The property is in two parts. The first part generally follows the 20th street right of way from Highway 101 to Rosa Road. The second part consists of approximately 4000 feet of Highway 101 Right of Way. The City Council formally initiated the annexation in Resolution 22-03.

The Planning Commission held a public hearing on the annexation on March 24 and voted unanimously to recommend approval of the annexation.

City Council held a Public Hearing on April 11 and voted unanimously to approve the annexation.

This action is to adopt the annexation ordinance and findings.

FISCAL IMPACT:

See findings.

RECOMMENDATION:

1. Request the City Attorney read Ordinance 1643 by title only.
2. Motion 1: Pass Ordinance to a second reading by roll call vote.
3. If a full Council is present and the motion to pass to a second reading was approved unanimously, request City Attorney read Ordinance 1643 by title only for the second time.
4. Motion 2: Adopt Ordinance 1639 by roll call vote.

SUBMITTED BY:



Dan Chandler City Manager

ORDINANCE NO. 1643

**AN ORDINANCE ANNEXING TERRITORY TO
THE CITY OF BANDON.**

Whereas, ORS 222.170 provides that “The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body ...”; and

Whereas, the owners of a majority of the subject property, comprising a majority of the assessed value have submitted written consent to annex to the city;

Whereas, there are no electors within the area to be annexed; and

Whereas, the property proposed for annexation is entirely within the Urban Growth Boundary of the City of Bandon; and

Whereas, annexation of the subject property will provide consistent jurisdiction over Highway 101 through the City of Bandon:

Whereas notice of public hearing was given as required by the Bandon Municipal Code; and

Whereas, both the Planning Commission and City Council have conducted public hearings on the proposed annexation:

Now Therefore:

THE CITY OF BANDON ORDAINS AS FOLLOWS:

- 1. The property described in the two documents entitled Exhibit A Annexation to City Limits, (the “Annexed Property”) is hereby annexed to the City of Bandon.**
- 2. Pursuant to ORS 215.130, the Annexed Property will retain its current zoning.**

3. **The Annexed Property will remain within all special districts in which it is currently located, including the Bandon Rural Fire Protection District.**
4. **The City adopts the Findings attached hereto as Exhibit B.**

ADOPTED by the Mayor and City Council of the City of Bandon, this 2nd day of May 2022.

Mary Schamehorn, Mayor

Attest:

June Hinojosa, City Recorder

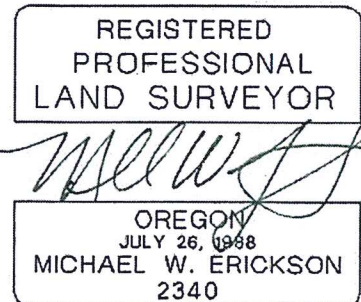
EXHIBIT A
Annexation to City Limits

The purpose of this description is to describe a parcel of land to be annexed into the City Limits of Bandon, being located in portions of Section 31, Township 28 South, Range 14 West; Section 36, Township 28 South, Range 15 West; Section 6, Township 29 South, Range 14 West and Section 1, Township 29 South, Range 15 West of the Willamette Meridian, County of Coos, State of Oregon and is more particularly described as follows:

1. Beginning at the northeast corner of Block 1 of the Smiths First Addition to Bandon as per Plat Map filed in Book 3, Page 25, Plat Records, said point lying on the south line of the City Limits of Bandon;
2. Thence southerly 2,160 feet along the westerly right-of-way of U.S. Highway 101 to the northeast corner of a parcel of land owned by Phillip and Patricia Lehosit as described in Instrument No. 2014-01030, said point also being the northeast corner of the City Limits of Bandon;
3. Thence continuing southerly 2,179 feet along said westerly right-of-way of U.S. Highway 101 and said City Limits to the southeast corner of Parcel 3 of Partition Plat No. 2007-28;
4. Thence East 60 feet to the east right-of-way of U.S. Highway 101;
5. Thence northerly 4,334 feet along the easterly right-of-way of U.S. Highway 101 to where it intersects the existing city limits, being the northwest corner of Block 26 of Portland Addition to Bandon as per Plat Map filed in Book 3, Page 13, Plat Records;
6. Thence westerly 80 feet, more or less, to the point of beginning, all as specified on the attached Exhibits B1 and B2.

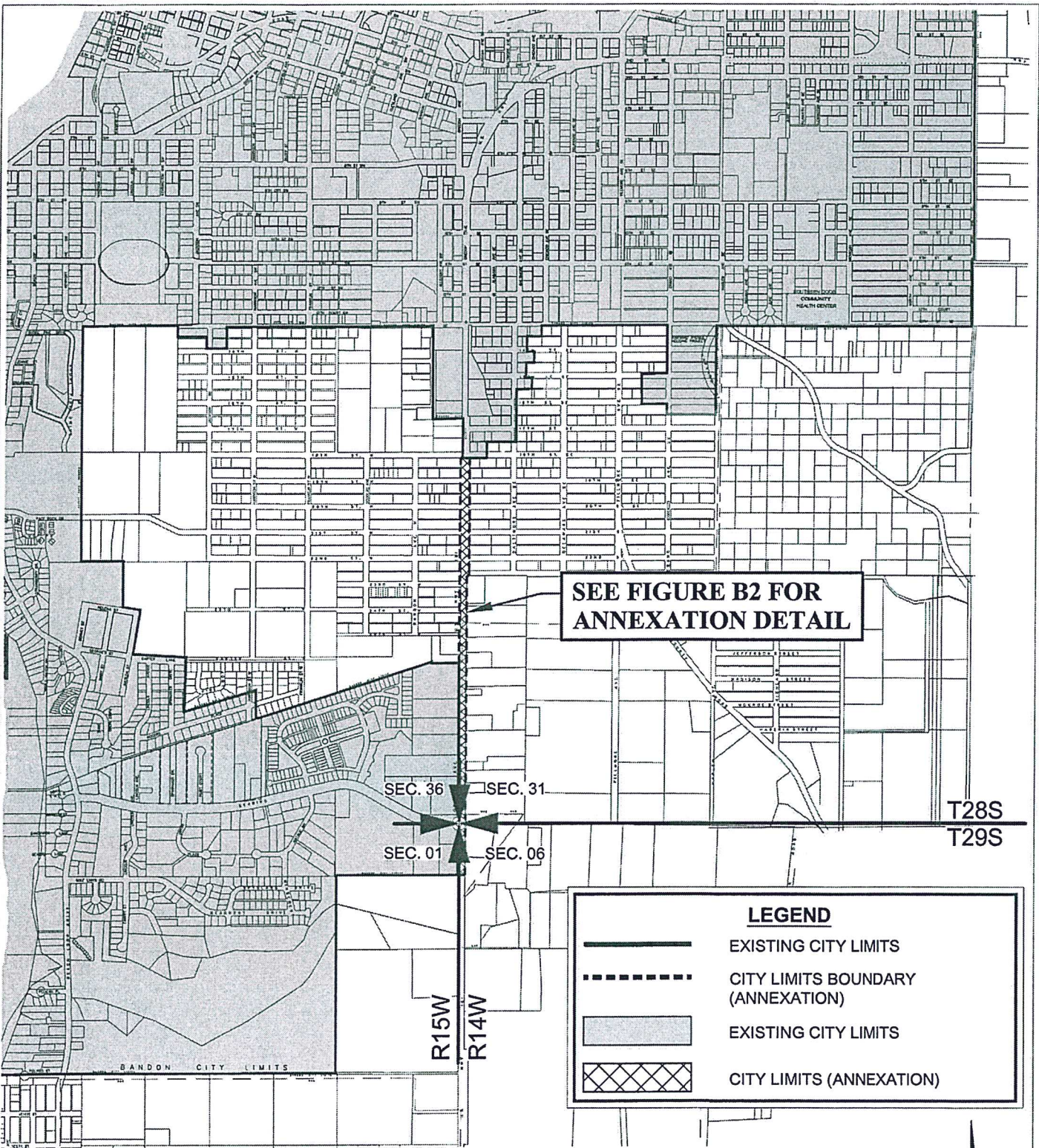
Notes

1. All subdivision plats herein referenced are records of Coos County Plat Records.
2. All deed reference numbers are records of Coos County Clerk's Office.



EXPIRES: 12-31-21

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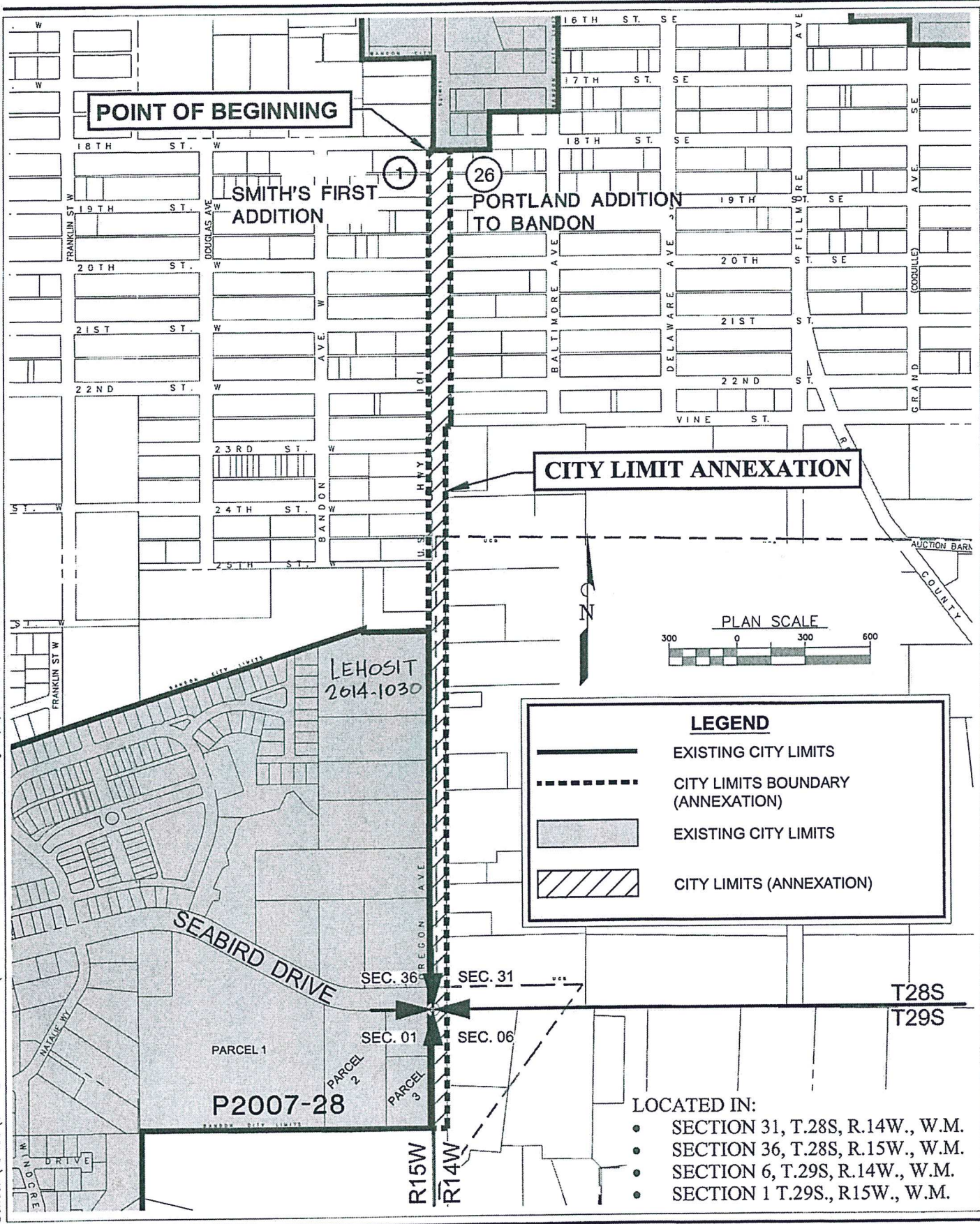


LOCATED IN:

- SECTION 31, T.28S, R.14W., W.M.
- SECTION 36, T.28S, R.15W., W.M.
- SECTION 6, T.29S, R.14W., W.M.
- SECTION 1 T.29S., R.15W., W.M.

<p>THE DYER PARTNERSHIP ENGINEERS & PLANNERS, INC.</p>	<p align="center">CITY OF BANDON COOS COUNTY, OREGON</p> <p align="center">CITY LIMIT ANNEXATION</p>	<p align="center">FIGURE NO. B1</p>
<p>DATE: MAY, 2021 PROJECT NO.: 101.00</p>		

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<p>DATE: MAY, 2021 PROJECT NO.: 101.00</p>		

Exhibit B
FINDINGS IN SUPPORT OF
ORDINANCE 1643

A. Introduction

This is a city-initiated annexation for an area within the Bandon Urban Growth Boundary. The annexation falls under ORS 222.170 as a triple-majority annexation. All property owners have consented to the annexation. Coos County, which has right-of-way in the area has neither consented to the annexation nor opposed. County consent is not necessary.

B. Property Description

The subject property is best described in two parts.

The first part is the Highway 101 right-of-way from 18th Street to just south of the Seabird Drive/Highway 101 intersection. The second area is approximately 19 acres in an irregular shape, between Highway 101 on the west to Rosa Road on the east. The two areas abut and are connected to existing city limits. Maps of the subject property are attached as Exhibit A.

The entire area is in Bandon's Urban Growth Boundary. The area is split-zoned, with commercial zoning on the western portion and Light Industrial to the east. The City has comprehensive plan designations for the property, which are identical to the county zoning.

A significant amount of the property is likely jurisdictional wetland. The owner has obtained a draft wetland delineation that is awaiting a survey to determine wetland boundaries.

The non-highway section is vacant land with no structures or electors.

C. Consent

There is only one non-government "owner" in the area. The Oregon Department of Transportation owns the Highway 101 right-of-way, and South Coast Housing LLC owns the remaining private property. Both have consented to the annexation. There is a city-owned parcel at the corner of the 20th street right-of-way and Rosa Road. Coos County has a right-of-way interest in some of the area, but the City does not have either consent or an objection from Coos County for those areas of county right-of-way included. However, neither the city property nor the county right-of-way are considered for purposes of determining number of owners or value for an annexation under ORS 222.170(4).

D. Approval Criteria and Factors

17.118.030 Approval standards.

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

A. The land is within the City's Urban Growth Boundary.

B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.

C. The land is currently contiguous with the present City Limits.

D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage. Unless the City has declared a moratorium based upon a shortage of water or sewer; it is recognized that adequate capacity exists system-wide for these facilities.

E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

E. Analysis of Code Factors

A. The land is within the City's Urban Growth Boundary.

Finding: The proposed site is within Bandon's Urban Growth Boundary. This criterion is met.

B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.

Finding: The City's comprehensive plan shows the subject property as having the same comprehensive plan designations as the current Coos County designations.

The City is not changing the zoning at this time. Therefore, pursuant to ORS 215.130, the property will retain its current zoning. Once more information is gathered on the amount and configuration of buildable land, we anticipate development of an overall master plan for the property. Potential zoning changes will be considered at that time. It is important to note that under SB 8 (2021), affordable housing may be constructed on land with industrial and commercial zoning. Therefore, it may not be necessary to change the zoning on portions of the property to develop housing.

C. The land is currently contiguous with the present City Limits.

Finding: The subject property is contiguous to city limits to the north and south along the Highway 101 Right-of-Way.

D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage. Unless the City has declared a moratorium based upon a shortage of water or sewer, it is recognized that adequate capacity exists system-wide for these facilities.

Finding: There is an 8-inch water main through the property along the 20th Street right-of-way. There is a sewer line approximately 500 feet to the north of the site in Baltimore Street. Water and sewer can be effectively provided to and through the property. Storm drainage can be addressed through on-site detention.

Attached is a memorandum from Dyer Partnership analyzed wastewater capacity and concluding that there is adequate capacity to serve the system.

There has been no moratorium imposed, adequate system capacity exists for these facilities.

F. Analysis of Comprehensive Plan Factors

Preliminary Note: It is important to note that factors are different than criteria, in that factors should be considered and balanced, but are not individual pass/fail criteria.

1. Annexation Configurations - When considering the specific boundaries of an area to be annexed, the City will add or eliminate property, whenever appropriate, to ensure that the shape of the annexed area conforms to standard blocks, fractional section lines, existing and future street and utility system layouts and plans, natural features, topography, and other considerations, so that the resulting city limits configuration is efficient and sensible.

Finding: The proposed annexation follows existing platted streets and rights-of-way. This factor weighs in favor of the annexation.

2. Leveraging the Annexation of Adjacent Properties - When considering a proposed annexation, the City will determine whether there are any adjacent properties which are in the City's best interest to annex at that same time. If so, those additional desirable properties will be combined with the properties in the annexation request, in a manner and configuration which will maximize the value of the annexation request to leverage the simultaneous or subsequent annexation of those adjacent properties whose owners may

not necessarily be in favor of annexation.

Finding: Much of the adjacent property is developed with either commercial or low-density rural residential property. The residential properties are served by wells and septic systems. It is not in the city’s best interest to annex those properties at this time for several reasons. First, they would provide little benefit to meeting the city’s housing or employment needs, as they are mostly developed. Second, the fiscal benefit of annexing developed property is minimal.

3. Creating County Islands - When determining the final configuration of an annexation, and to leverage the annexation of any desired adjacent properties, the City will consider the benefits of creating islands of County property, which can then be annexed at will, either immediately or in the future,

Finding: The proposed annexation does create an island of county property to the west of Highway 101. However, given the size of the island, the City has no intention of annexing the island. Under case law, the City would need to annex the entire area to qualify as an “island annexation.” The City does not have the need, or the resources to annex the entire area for the foreseeable future. Annexations in that area are likely to happen only in small amounts as petitions are received, and in each case subject to a new analysis of annexation factors.

4. Fiscal Impact of Annexations - Prior to annexing an area, the specific fiscal impacts of that annexation shall be determined, to include a measurement of the effects on City tax revenues, utility revenues, cost of providing services, etc. Absent evidence to the contrary for a particular annexation, it is anticipated that the immediate fiscal impact of any annexation will be negative. However, for undeveloped areas, and areas which have development potential, the immediate negative impacts can be expected to be offset by the positive fiscal impacts of future development. The greater the ratio of undeveloped to developed property, the greater the potential for the fiscal impacts to become positive.

Finding: The entire area is undeveloped, other than the highway right-of-way. Development of the area will provide the following fiscal benefits:

Additional Property Tax Revenue

The proposed annexation area has a combined assessed value of \$300,530. Considering Bandon’s permanent tax rate, local option street tax, the total initial estimated net property tax impact will be a combined increase of \$15.06 per year, as shown below. The land is currently vacant, which accounts for the lower assessed value for the 19 acres. As this property develops, values will increase, and taxes collected will rise. The city intends that the property remain in the Bandon Rural Fire Protection District.

Bandon Permanent Property Tax Rate (\$0.4580 / \$1,000 AV)	\$	137.64
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Local Option Street Tax (\$0.8455 / \$1,000 AV)	\$	<u>254.10</u>
Net Property Tax Impact to the City (pre-development)	\$	391.74

Additional Bond Rate Revenue

The annexation will bring an additional \$300,530 of assessed value into City Limits before development, adding to the current assessed value of all property (excluding Urban Renewal Areas) of \$474,433,882. The City has several bonds with rates that are assessed either by a set annual number divided amongst property owners or based on debt collection that is a flat fee. The addition of additional taxpayers and assessed value will provide a modest decrease to existing payers as the burden will be spread out across these newly annexed properties. This may or may not be affected by Measure 50 limitations.

Additional Municipal Utility Revenue

The proposed property for annexation is currently vacant with no water or sewer service to structures yet. There is a city water main running through the area along the 20th street right-of-way. Development of the property will require the extension of city sewer lines approximately 800 feet along the Baltimore Street right-of-way, which will either be covered by the developers or by using federal grant funding, with no impact to current taxpayers. The new development will yield additional utility customers, which will provide the funding needed to serve the area, and cover some maintenance, staffing, and operations of the expanded service area. In addition, in-city utility customers pay a 10% tax on utilities.

System Development Charges

City services cannot be extended to these properties until they are annexed into the City. Once annexed, development may occur at the owner’s expense, and payment of System Development Charges (SDCs) will be required for connections to City water, sewer, storm drainage, and transportation systems. These numbers will vary based on the type and intensity of development proposed (taking into account equivalent dwelling units, square footage, impervious surface, water meter, etc). SDCs are meant to cover the anticipated cost of future expansion of the city’s utility systems, as well as pay “reimbursement” to systems that were installed to serve future growth. Our SDC methodology is based on master plans for each of the utilities listed above.

Conclusion

The financial impact of the proposed annexation will be modest initially as the changes in tax collected and reduction to bond assessments is minimal. However, over time, development of the property will increase assessed value, add utility customers, and pay for needed capital improvements through payment of SDCs.

5. Development Control Issues - While the fiscal impacts of annexation are important, they will not necessarily be the overriding factor. Consideration must also be given to the overall impact the annexation will have on the community by virtue of its being subjected to City development control, including comprehensive planning, zoning, regulating nonconforming uses and structures, and subdivision regulations. Those benefits may outweigh any projected negative fiscal impacts.

Finding: There are significant benefits to bringing this property under city development control. First, the city can master plan the property in a fashion tailored to meet the city's need for affordable and workforce housing. There are few, if any properties currently on the market of a size and nature sufficient to have any impact on the city's affordability crisis.

If the property remains outside the city, it will likely remain undeveloped, and will thus provide no contribution to either the city housing stock or economic base. Annexation will allow the property to be served by city services and developed to meet the community's needs. This factor strongly weighs in favor of the subject annexation.

6. Sufficiency of Infrastructure Systems - When considering an annexation, the City will ensure that the existing infrastructure systems can or will meet the needs and demands of the area proposed to be annexed. An analysis of the existing street, water, sewer, storm drain, and other infrastructure systems will be undertaken to determine whether capacity exists to serve the subject area. If not, a determination will be made regarding whether anticipated system development revenues, other funding mechanisms such as a local improvement district (LID), or direct funding from the petitioner or property owners, will be necessary and sufficient to adequately finance the required infrastructure improvements. All utility and infrastructure improvements shall be consistent with the City's adopted master plans.

Streets

Finding:

Streets: The property has frontage and a right-of-way connection to both Highway 101 and Rosa Road, which is designated as a collector in the City's Transportation System Plan (TSP). Twentieth Street is designated as a Future Collector Cross Street in the TSP (TSP, Fig.,1)

The property is adequately provided with right-of-way in its current configuration and can be efficiently served with streets.

Water: The City's water plant has existing capacity for a population of 4000 persons, and with minor additions can serve double that number. The City is in the process of working on climate and potential drought mitigation strategies for the water supply to the plant, which comes from

Ferry and Geiger Creeks. However, those issues exist with or without annexation of the subject property. The city has adequate water rights to serve the city and has never had to make a “call” on junior water right holders upstream. The proposed annexation is only a 1% increase in the size of the city.

Sewer: Bandon’s treatment facility “was designed for a population equivalent of 5068 persons.” *City of Bandon Wastewater Master Plan, p. 3-14.* Bandon’s current population is just over 3300 persons. The City’s Wastewater Master Plan predicted a 2021 population of 4241 persons. *Id. P. 2-12.* Actual population is well under this figure. Adequate plant capacity is available. This factor militates in favor of the proposal. The City’s engineers have submitted a calculation of system wastewater capacity, and conclude that adequate capacity is available.

Storm drainage: Between stormwater SDCs and the ability to incorporate on-site detention into existing wetlands, there is sufficient stormwater capacity to serve the property.

7. Street Paving - As long as a street paving tax is in effect, which will be immediately imposed on a newly annexed area, the City will pave all existing, unpaved, open streets in that annexed area, as soon as sufficient funds are available from that resource. If no such tax is in effect, the City will determine whether it is appropriate to finance that paving from another City resource, or whether the residents or property owners of the annexed area should be required to pave those streets, as a condition of annexation approval. Prior to the annexation, the City will determine whether reduced street widths, drainage, and sidewalk requirements will be allowed for those existing streets. In no case will the City annex an area containing existing, unpaved, open streets, unless some source for funding the street paving has been identified. Once an area has been annexed, all future streets will be subject to the same street opening and construction standards as would apply to any other area within the City.

Finding: All streets will be paved by property owners and developers, possibly aided by state or federal grants and other funds. There are no unpaved open streets.

8. Timing of Annexations - Unless determined otherwise on an individual case by case basis, it can generally be assumed that annexing property sooner rather than later will minimize the negative impacts and maximize the positive impacts of that annexation.

Finding: “Now” is sooner than later. This factor militates in in favor of the proposed annexation.

9. Sewer Connection Requirements - For any existing home, business, or other use within an annexed area at the time of the annexation, which is served by an approved, properly functioning septic or other on-site sewage disposal system, the City will waive any requirements for connecting to the municipal sanitary sewer system, as long as the on-site

system continues to function properly. In the event of a failure of the on-site system, any City requirements for connection to the municipal sanitary sewer system will apply, as they would for any other property within the City limits. As a condition of this waiver, the subject property owner will be required to provide documentation to the City regarding the location of the septic or alternative sewage disposal system, and all components thereof. Annually, each property owner shall provide proof to the City that their septic or alternative sewage disposal system is properly operating in conformance with all Department of Environmental Quality (DEQ) requirements. If the City is unsure about whether it is operating properly, the DEQ will be contacted for assistance in making that determination. All costs for providing the proof of proper operation and for inspections shall be the responsibility of the property owner. This waiver applies only to City sewer connection requirements, but does not apply to any DEQ requirements, which the City has no authority to waive.

Finding: Under the Bandon Municipal Code, all development will be served by City sewer.

10. Comprehensive Plan and Zoning - Annexation petitions shall be accompanied by applications for a Comprehensive Plan Amendment and a Zone Change. Those applications will be processed and considered concurrent with consideration of the annexation request, so that the provisions of the City's Comprehensive Plan and zoning regulations will immediately apply to the annexed area upon approval of the annexation.

Finding: This annexation is council-initiated, rather than being initiated by petition. The factor does not apply. The property already has a city comprehensive plan designation, which is consistent with the county plan. The area will retain its current zoning designation pursuant to ORS 215.130.

11. Annexation Ordinance - The City shall adopt Annexation Regulations as part of the Bandon Municipal Code, specifying the specific requirements for preparing, submitting, and processing an application for annexation. Those regulations will reference, and ensure compliance with, these Annexation Policies, as well as State Statutes governing annexations.

Finding: This is a policy to be implemented by the city, and is not a factor for approval of an individual annexation.

12. Annexation Priorities - In an effort to help ensure that future urbanization is timed and coordinated to best meet the needs and resources of the City of Bandon, the priorities for annexing areas within the UGB are as follows.

Finding: The subject property is in the Second Priority Area for annexation--East Bandon. The comprehensive plan says this about the area:

The Second Highest Priority area for annexation is the "East Bandon" area. (This area is bounded on the north by the City limits at approximately 13th Street, on the west by Highway 101, on the east by the extended Harlem Avenue/Harvard Street, and on the south by Vine Street. County zoning is a mix of Residential, Commercial, and Industrial.) The City will look favorably upon any requests for individual annexations within this area, but will not actively pursue annexation, unless a specific benefit to the City can be identified for a particular annexation.

Response: This is a city-initiated annexation. In this instance, there is a significant specific benefit to the City from this project. Bandon has a critical housing affordability problem. This annexation provides an opportunity to provide affordable housing that simply cannot be replicated anywhere else in the City. The property owner in this instance has committed to developing the site in a manner that support housing affordability for the City. The city retains control over the provision of infrastructure and zoning in order to provide extra assurance that the area will develop as anticipated. This factor strongly weighs in favor of the proposal

G. Summary of Comprehensive Plan Factors.

It is important to recognize the difference between criteria and factors. Criteria generally need to be met individually. They generally entail a yes/no decision. Factors on the other hand, generally need to be weighed and balanced. A low "score" on a particular factor does not preclude approval of a proposal. Case law simply requires a showing that all of the factors have been weighed and considered.

The City Council finds that in this case, the applicable factors balance strongly in favor of the proposal.

H. Reasonableness Standard.

For the reasons set forth above, and incorporated here by reference, the City finds that the annexation satisfied the "reasonableness" standard for a cherry-stem annexation, to the extent that it applies here.