

ORDINANCE BILL NO. 6 FOR 2022

ORDINANCE NO. \_\_\_\_

AN ORDINANCE ANNEXING TERRITORY WITHIN THE URBAN GROWTH BOUNDARY AND AMENDING THE OFFICIAL ZONING MAP AND DECLARING A NEED FOR AN EXPEDIENCY CLAUSE

WHEREAS, the applicant, Katherine E. Thrash, applied for Annexation and Zone Change, application AX ZC22-01, and requested a zone map change for an area consisting of 174,896 square feet (3.97 acres) located at 1118 47<sup>th</sup> Avenue, Sweet Home, OR 97386. The Sweet Home Zoning Map is proposed to change from Linn County's Urban Growth Area-Farm/Forest Zone to the City of Sweet Home's Low Density Residential (R-1) Zone. The subject property is identified on the Linn County Assessor's Map as 13S01E33D Tax Lot 03800; and

WHEREAS, the Planning Commission of the City of Sweet Home held a public hearing on September 1, 2022 with due notice of such public hearing having been given and provided an opportunity for public comments and testimony. The Planning Commission deliberated at their September 1, 2022 meeting, and recommended that the City Council approve this application; and

WHEREAS, the City Council held a public hearing on this matter on September 13, 2022, with due notice of such public hearing having been given and provided an opportunity for public comments and testimony. The City Council approved this application by motion at their September 13, 2022 meeting; and

WHEREAS, the proposed annexation and R-1 zoning is needed to connect the subject property to City water and sewer services;

Now, Therefore,

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

Section 1: The City of Sweet Home adopts the findings of fact in support of annexation and zone change application AX ZC22-01 included as Exhibit A.

Section 2: The City of Sweet Home amends the Official Zoning Map, identified in SHMC 17.20.020 as the City Zoning Map including all subsequent amendments, for an area consisting of 174,896 square feet (3.97 acres) located at 1118 47<sup>th</sup> Avenue, Sweet Home, OR 97386.; and identified on the Linn County Assessor's Map as 13S01E33D Tax Lot 03800. The Official Zoning Map shall be amended from Linn County's Urban Growth Area-Farm/Forest Zone to the City of Sweet Home's Low Density Residential (R-1) Zone for the subject property as shown on Exhibit B.

Section 3: Expediency Clause. Whereas there is a possibility of a failed septic system, it is in the best interest of the residents of the City to complete the annexation of the subject property in an expedient manner. It is hereby adjudged and declared that an emergency exists, and existing conditions are such that this ordinance is needed to be immediately enforced upon its passage. Therefore, this ordinance shall take effect and be in full force and effect from and after its passage and approval.

Passed by the Council and approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

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Mayor

ATTEST:

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City Manager - Ex Officio City Recorder

## Exhibit A

### Findings of Fact in Support of Annexation and Zone Change Application AX ZC22-01

#### Exhibit A to Order of Approval for AX ZC22-01

The review and decision criteria for a conditional use permit are listed below in bold. Staff findings and analysis are provided under each review and decision criterion.

##### Criteria for Annexation Request: AX 22-01

- A. Upon receiving any petition for annexation of territory to the city, or before initiating any such action on its own motion, the Council shall refer the proposal for annexation to the Planning Commission for its consideration and recommendation. [SHMC 17.104.010(A)]**

Staff Findings: The subject property is located with the City's UGB, and annexation would bring the subject property into the City limits. The Planning Commission will consider this matter on September 1, 2022.

- B. The Planning Commission shall review the proposal for annexation, hold such hearings as it deems proper, make such finding of facts as it deems proper and make recommendations to the Council. [SHMC 17.104.010(B)]**
- C. ORS 222.120. Procedure for annexation without election; hearing; ordinance subject to referendum. [Relevant Sections]**
- a. Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection. [ORS 222.120(1)]**
  - b. When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation. [ORS 222.120(2)]**
  - c. The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period. [ORS 222.120(3)]**
  - d. After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question: [ORS 222.120(4)]**
    - i. Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125 or 222.170, prior to the public hearing held under subsection (2) of this section; [ORS 222.120(4)(b)]**

Staff Findings: The provisions of SHMC 17.104.010 do not require that this annexation proposal be submitted to the electors of the City for their approval or rejection. The Planning Commission will hold a public hearing on September 1, 2022 and will make a recommendation to the City Council. The City Council will hold a hearing on this matter on September 13, 2022 at 6:30 PM.

Notice of both public hearings will be published in the New Era Newspaper on July 20, 2022 and August 31, 2022. Notice of the public hearing was posted in four city locations: City Hall, City Library, Post Office, and the community bulletin board at the northeast corner of 18<sup>th</sup> Ave and Long Street.

If this annexation is approved, the City will follow the procedures for adopting an ordinance and providing notification to affected parties as describes in the SHMC and ORS 222.

- D. In the event that the Council finds that immediate action is necessary to initiate proceedings for annexation, either before the proposal is referred to the Planning Commission, or before recommendations are received from the Planning Commission, the Council may proceed, but the Planning Commission shall be promptly advised, so that it may have an opportunity to make recommendations to the Council during the Council proceedings. [SHMC 17.104.010(C)]**

Staff Findings: The Planning Commission will review this application and make a recommendation to City Council. The applicant did not request that immediate action be taken under this section. Staff recommends that the Planning Commission make a recommendation on this matter at their September 1, 2022 meeting so that the City Council may consider the recommendation at their September 13, 2022 hearing.

- E. When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies. [ORS 222.111(1)]**
- F. A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. [ORS 222.111(2)]**
- G. A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [OAR 660-014-0060]**

Staff Findings: The subject property is contiguous to the city limits of Sweet Home to the south and to the north. The north property line borders Kalmia Street, which is within the jurisdiction of the City of Sweet Home; however, the southern portion of the subject property is located in Linn County. This is considered contiguous under ORS 222.111(1).

The SHMC does not provide specific criteria for annexations; however, as discussed below, the City of Sweet Home Comprehensive Plan requires that upon annexation that the zoning of the subject property be changed to a City zoning classification that is consistent with the Sweet Home Comprehensive Plan Map. This application for an annexation is therefore linked to the application for a zone change. For this reason, staff recommends that these applications be either both approved, or both denied. This annexation proceeding was initiated at the request of the property owner.

This annexation decision will be made in conformance with the City’s acknowledged comprehensive plan; and therefore, would comply with the Oregon Statewide Planning Goals pursuant to OAR 660-014-0060.

**Criteria for Zone Change Request: ZC 22 -01**

- H. An amendment to the official zoning or comprehensive plan map may be authorized provided that the proposal satisfied all relevant requirements of this title and also provided that the applicant demonstrates the following:**
  - a. The proposed amendment is consistent with the goals and policies of the comprehensive plan; [SHMC 17.12.025(A)]**
    - i. Upon annexation, all lands shall be zoned consistently with the Comprehensive Plan and its designations and should be based on public need, special studies or other information which will serve as the factual basis to support the change. [SHCP Chapter 2; Land Use Element, Policy 16]**
    - ii. Table 1. Summary of Comprehensive Plan Land Use Designations**

Land Use Designation	Purpose
Low Density Residential	To provide appropriate lands for low density, single-family homes. This category has the lowest density of the residential designations, providing larger lots for single-family homes.

**The Zoning Code implements the Comprehensive Plan by providing specific development guidelines for each Land Use Designation. The general nature of each Comprehensive Plan Land Use Designation will guide the uses and standards for the corresponding zone in the Zoning Code.** [SHCP Chapter 2; Land Use Element, Portion of Table 1: Summary of Comprehensive Plan Land Use Designations]

Staff Findings: The Comprehensive Plan Map Designation of the subject property is Low Density Residential. See Attachment B. The goals and polices of the Comprehensive Plan are implemented through the application of zoning that implements the Comprehensive Plan Map designation of the property. The Low Density Residential (R-1) Zone implements the Low Density Residential Comprehensive Plan Map designation.

Based on a review of the Sweet Home Local Wetlands Inventory Map and the National Wetlands Inventory Map, the subject property does not contain inventoried wetlands. As a result, it would not be appropriate to apply the Natural Resources Zone to the property. The subject property is located outside of the 100-year floodplain.

Based on the above findings, the application of the R-1 Zone to the subject property would be consistent with the goals and policies of the Comprehensive Plan. The application complies with this criterion.

- b. The proposed amendment is orderly and timely, considering the pattern of development in the area, surrounding land uses, and any changes which may have occurred in the neighborhood or community to warrant the proposed amendment;** [SHMC 17.12.025(B)]

Staff Findings: The subject property is located within the City's Urban Growth Boundary, which has been identified as the planned location for urban development in the City. The subject property is contiguous to the Sweet Home City Limits. For these reasons, staff finds that the application complies with this criterion.

- c. Utilities and services can be efficiently provided to serve the proposed uses or other potential uses in the proposed zoning district; and** [SHMC 17.12.025(C)]

Staff Findings: The Engineering Department provided comments to this annexation and zone change proposal which are included in Section II of the Staff Report. The subject property is currently served by City sewer. The applicant is seeking to include Russell Tract 31, property described in Tax Lot 3800 and connect to City water. Costs associated with the extension of water and other services would be the responsibility of the property owner. The staff engineer's comments were amended on September 2, 2002 as follows: In the Annexation request for 1118 47<sup>th</sup> Avenue, CEDD-ES needs to clarify that the property has city sewer service available in 47<sup>th</sup> Avenue. At this time however, the property is not connected for use, and is on a private septic system. Water is available also at the corner of 47<sup>th</sup> Avenue and Kalmia Street, but also is not currently connected.

The subject property contains approximately 3.97-acres; and if approved, it would be possible to divide the property into lots as small as 8,000 square feet through a future subdivision or partition application process. The applicant has not requested a subdivision or partition at this time. If the applicant seeks to divide the property in the future, approval of those applications may require sidewalk or road improvements as required under the Sweet Home Municipal Code. A host of other development permits may also be required upon future development of the property; however, no specific development has been proposed at this time.

The subject property contains one single-family dwelling and accessory structures. Utilities and services could be efficiently provided to the subject property.

- d. The proposed amendment to the comprehensive plan map is consistent with Oregon's statewide planning goals.** [SHMC 17.12.025(D)]

Staff Findings: This criterion does not apply to a zone change, because the proposal does not require an amendment to the City's Comprehensive Plan Map. The Comprehensive Plan Map designates the subject property as Low Density Residential, and the applicant is proposing to apply the corresponding

Low Density Residential (R-1) zone. The proposed zoning is consistent with the City's Comprehensive Plan; which has been acknowledged to be consistent with the Statewide Planning Goals.