

STAFF NOTES

LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION

(Office: 99 East Broadway, Suite 400, Eugene, OR 97401-3111)

Eugene City Hall Council Chamber
777 Pearl Street, Eugene

June 1, 2006
7:00 p.m.

Annexation of Territory to the City of Eugene (BGM Land Development LLC)

V.B. BC File C EU 06 – 35

Initiated by property owner petition

Action under ORS 199.490(1)(c) of the boundary commission law

Received May 2, 2006

Action to be taken by July 31, 2006

Description

As submitted, the annexation area includes one tax lot located in the River Road region of north Eugene, south of Beltline Road, west of River Road, east of the Northwest Express, north of Bushnell Lane, and west of Skipper Street

Property owner: BGM Land Development LLC (395 Walnut Lane, Eugene)

Tax lot: 505, T17S R04W S15 Map 10

Acres: ± 1.70

Estimate of existing population: 0

Existing land use: Vacant

Existing zoning in Lane County: R-1/UL, low-density residential with urbanizable lands overlays

Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in August 1982 and has been subsequently amended)

Existing public services to the annexation area as submitted: Police (Oregon State Police, Lane County Sheriff), schools (Bethel School District 52), roads (Lane County), fire (Lane Rural Fire/Rescue), parks (River Road Park and Recreation District)

Reason for Annexation

The property owner is requesting annexation in order to prepare the property for low-density residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in The Register-Guard on May 11, 2006.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a

resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owner (BGM Land Development LLC, owner of the private property included in the annexation and initiator of this annexation request) on May 19, 2006.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case, notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on May 17, 2006.*

In conformance with OAR 191-005-0065(3), these staff notes are incorporated as part of the record of the boundary commission public hearing of June 1, 2006.

This annexation proposal was filed with the boundary commission in accordance with ORS 199.490(1)(c), initiated by the property owner—BGM Land Development LLC. The annexation area, as submitted, includes one tax lot. The property owner's written consent initiated the annexation request. The proposal was filed on May 2, 2006, and boundary commission action must occur by July 31, 2006 (90-day statutory time frame).

When property owners initiate an annexation, the affirmative decision of the boundary commission made at a public hearing is subject, if requested, to a remonstrance within the affected territory. If, within 45 days of the commission's action, 10 percent or 100 whichever is lesser, of the electors in the affected territory sign a remonstrance petition, an election will be conducted within the territory. "Affected territory" as defined by ORS 199 means the territory described in the petition. In this case, it is tax lot 505, T17S R04W S15 Map 10. The end of the 45-day remonstrance period on this annexation request, if approved, is July 17, 2006. At the time of submittal, there were no electors registered within the annexation area.

As submitted, the proposed annexation area includes one tax lot (tax lot 505, T17S R04W S15 Map 10) totaling approximately 1.70 acres in size (refer to Maps No.V-B-1 and V-B-2). The annexation area is owned by BGM Land Development LLC—William Moody consented on behalf of the LLC. The property owner is requesting annexation in order to prepare the property for low-density residential development.

During the city's review of this annexation request, the city asked that portions of Bushnell Lane, Smithoak Street, and David Avenue rights-of-way be included with the BGM Land Development annexation request. The property owner did not agree to include any right-of-way. After submittal of this annexation application, the City of Eugene submitted a written request asking the boundary commission to modify the annexation area to include the segment of Bushnell Lane from the Northwest Expressway east to Berwin Lane, the segment of Smithoak Street south of Bushnell Lane to its intersection with David Avenue, a short segment of David Lane west of Smithoak Street to the existing Eugene city limits, and a small 1-foot wide tax lot owned by Lane County and used as right-of-way (tax lot 10900, T17S R04W S15 Map 14) (refer to Exhibit V-B-1). The BGM Land Development property is located adjacent to and north of Bushnell Lane.

Another annexation request recently filed with the boundary commission includes property that is adjacent to the portion of Smithoak Street proposed for inclusion in this annexation request (Colombo, BC File EC EU 06 – 39, TL 2500 T17S R04W S15 Map 14).

Bushnell Lane, Smithoak Street, and David Avenue are located in the River Road neighborhood and are located south of Beltline and north of Maxwell. The segment of Bushnell Lane right-of-way proposed for inclusion is approximately 3,000 feet long and connects several previously annexed properties on both sides of Bushnell Lane. This section of right-of-way is a Lane County road and is identified by the city as a medium-volume local street (county designation: urban local). As a county road, the city will not take immediate jurisdictional responsibility of the roadway. A separate jurisdictional transfer of right-of-way under the provisions of ORS 373.270 will be processed after annexation. It is a logical segment because it encompasses the entire right-of-way between the Northwest Expressway and Berwin Lane.

The city's modification request did not provide information on the existing conditions of or road designations for Smithoak Street and David Avenue. The following information is provided based on available public records. Additional information may be provided at the public hearing. The segment of Smithoak Street included in the modification request is approximately 550 feet long and is not improved to city standards. Smithoak Street was dedicated as a public road in the Smith's Oak Hill Addition (Book 36, Page 10; September 7, 1962). If it is included in the annexation area, the entire right-of-way between Bushnell Lane and David Avenue will be included in the city, which will assist in providing urban services to properties inside the city or in the process of annexing to the city.

The segment of David Avenue proposed for inclusions is approximately 150 feet of the northerly one-half of the right-of-way located east of Smithoak Street. All other portions of David Avenue are already in the city. The portion of David Avenue included in the modification request was dedicated as a public road in the Smith's Oak Hill Addition (Book 36, Page 10; September 7, 1962). If it is included in the annexation area, all of David Avenue will be inside the city, which will clarify jurisdictional responsibilities and assist in providing urban services to properties inside the city or in the process of annexing to the city.

Also included in the modification request is a 1-foot wide tax lot owned by Lane County (tax lot 10900, T17S R04W S15 Map 14). This 1-foot strip of land was dedicated as a public reserve strip as part of the Smith's Oak Hill Addition (Book 36, Page 10; September 7, 1962) and is currently existing road right-of-way located along the center of David Avenue west to the west right-of-way line of Smithoak Street. It is included so that the entirety of Smithoak Street and David Avenue will be annexed to the city if approved by the boundary commission.

This proposed roadway modification, together with the BGM Land Development annexation, will result in all of the properties previously annexed adjacent to Bushnell Lane right-of-way being connected to the main body of the city.

The original annexation area and right-of-way proposed for inclusion are located within the urban growth boundary (UGB). The UGB is located approximately 1½ miles to the north and

less than 1 mile to the west. The privately owned portion of the original annexation area is designated low-density residential in the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) and the River Road-Santa Clara Urban Facilities Plan and is zoned R-1/UL, low-density residential with urbanizable lands overlays, in Lane County. Upon the effective date of the annexation, the urbanizing fringe overlay will automatically be removed and the property will be zoned R-1 consistent with the plan designation.

If the annexation area is modified to include the Bushnell Lane, Smithoak Street, and David Avenue rights-of-way and then approved, the annexation will create four islanded areas consisting of 20 properties that will remain outside of the city limits. The properties are identified in Exhibit V-B-1 and shown on Map No. V-B-3. **None of these lots are included in the proposed annexation.** All of the property owners were sent a copy of this staff report.

Eugene planning staff made the following comments regarding the islanded area. The River Road and Santa Clara areas have a long, unique history of development, incremental annexations to the city, and provision of urban services. The city tries to respect this unique history while allowing growth according to current regional policies. The area is within Eugene's portion of the urban growth boundary and, thus, is expected to urbanize over time. Metro Plan policies give priority to annexation as the means to provide urban services needed for new development. Thus, if a property owner wants to build new dwellings or a new business, or divide property to facilitate new dwellings and businesses, then annexation to the city is required. Currently, it is the practice of the city to not pursue annexation of properties where development is not proposed and where the owners have not requested annexation. It is the city's current practice to allow "island" annexations and annexations that result in islands of unincorporated or unannexed properties. Because these unconnected islands make it awkward to provide certain services, such as emergency response and street maintenance, the city welcomes annexation of properties adjacent to a proposed island annexation if desired by the owners, and the city will support action by the boundary commission to expand the annexed area to include willing properties at little or no additional expense to those owners. At this time, the city does not encourage annexation of unincorporated islands against the will of the owners. Typically, contractual arrangements among service providers smooth the irregularities caused by the incremental annexation practices.

Additionally, city staff indicated that Oregon law allows a city to initiate the annexation of "island" areas without the consent of the property owners or electors. Annexation of existing road rights-of-way (Bushnell Lane, Smithoak Street, and David Avenue) will create four islanded areas consisting of 20 properties that will remain outside of the city limits. The City of Eugene favors voluntary annexations by the property owner and is not proposing to initiate annexation of the unincorporated island. The city provided written notice of the right-of-way annexation to each of the properties within the unincorporated island.

BOUNDARY COMMISSION REFERRALS

Boundary commission referrals were sent to the Lane County Land Management Division, Lane County Environmental Health Division, Lane County Board of Commissioners, River Road Water District, River Road Park and Recreation District, and Lane Rural Fire/Rescue.

No referral responses were received as of May 24, 2006.

BOUNDARY COMMISSION STANDARDS - STAFF ANALYSIS

In this section of the staff notes, each applicable boundary commission standard is addressed. These standards are derived from ORS 199 and the boundary commission's policy administrative rule (OAR 191, Division 30).

Provide an impartial forum for resolution of local jurisdictional questions. Consider the effects of the boundary change on other units of governments. ORS 199.410(1)(b) and 199.410(3)(c)

The original annexation request was filed in accordance with provisions in ORS 199 and was determined to be a valid filing in accordance with OAR 191-006 (adopted administrative rule on boundary commission filing requirements). The item was placed on the boundary commission's agenda for June 1, 2006. Notice of the boundary commission's public hearing has been published in accordance with Oregon law. Any person may attend and will be given a reasonable opportunity to be heard.

The original annexation area and a portion of the roadway modification area are within Lane Rural Fire/Rescue. Upon the annexation effective date, the portion of the annexation area in the Lane Rural Fire/Rescue fire district will be automatically withdrawn in accordance with ORS 199.510(2)(a) and the city will provide fire protection and emergency medical services to the proposed annexation area. Prior to July 1, 2002, the district and the City of Eugene had an intergovernmental agreement (IGA) that provided for an in-lieu-of tax payment to the district when properties were withdrawn due to annexation to the city. Under that agreement, the district provided fire protection services to city annexed properties that had formerly been in the district. This IGA was terminated when the city placed an engine company at the station at 119 Santa Clara Avenue and began providing this service directly to annexed properties.

Lane Rural Fire/Rescue provides fire protection and first response emergency medical service to all properties within its boundaries, while the City of Eugene provides the corresponding services to all annexed properties that were formerly in the district. The two agencies have adopted an automatic aid agreement providing for joint coverage of all properties currently in the portion of the district within Eugene's portion of the urban growth boundary and all properties currently in the city, but not contiguous with the main body of the city that were formerly in the district. This response agreement applies to all structure fires and wildland fires. Medical first response and other single-unit responses are handled by the agency of the respective jurisdiction.

A portion of the roadway modification area is within the River Road Water District. The water district contracts with the Eugene Water and Electric Board (EWEB) for operation and maintenance of the district's distribution facility. EWEB also provides the water supply to the district and is responsible for providing installation and maintenance of street lighting through contract with the water district.

The water district contracts with the City of Eugene for fire protection services within its boundaries. This annexation proposal will not impact the continued provision of fire service by the City of Eugene. Tax revenues received by the water district cover the fire service contract with the city. Water revenues are derived through user fees. If the annexation is approved, the portion of the roadway modification area in the water district will subsequently be withdrawn from the district in accordance with ORS 222. Since the withdrawal area is roadway, withdrawal will have little financial impact on the water district. After annexation and withdrawal from the water district, water and fire services will be provided directly by the City of Eugene.

The original annexation area and roadway modification area are within the River Road Park and Recreation District. In accordance with the intergovernmental agreement between the district and the city, the city pays the district an in-lieu-of tax payment and the district continues to make park and recreation facilities and programs available to annexed properties in the River Road area. The current intergovernmental agreement pays the district \$100,000 per fiscal year. The agreement is reviewed each year by the district and the city. Following annexation, the annexed area will remain in this district until withdrawn through separate proceedings by the City of Eugene in accordance with ORS 222.

If the proposal area and modification area are withdrawn from the park district through subsequent action by the City of Eugene, the property owner will not be taxed by both the park district and the city for the same service.

The intergovernmental agreement, which exists with the park district, is in keeping with the boundary commission's administrative rule of policies [(OAR 191-030-0020(20))]:

(20) This policy encourages cities to enter into intergovernmental agreements with special districts on the urban fringe to mitigate the negative financial impact of city annexation on those districts.

The Metro Plan identifies the city as the ultimate provider of urban services within the UGB. Policy #18, page II-B-6, in the Metro Plan recognizes that as annexations to the city occur, existing special service districts within the UGB will be dissolved. The continued annexation of properties to the City of Eugene is consistent with the Metro Plan, which likely will result in the elimination of special districts within the urbanizable area. Perhaps in the future, the city and districts will be able to develop intergovernmental agreements addressing transition issues including the orderly dissolution of the district.

Upon annexation, the annexed area will be annexed automatically into the Lane County Metropolitan Wastewater Service District [ORS 199.510(2)(c)]. This special district was formed to provide the financing for the regional wastewater treatment plant serving wastewater users within the cities of Eugene and Springfield and other users within the urbanizable area.

The annexation as submitted, as well as a modified annexation area, is consistent with this standard.

Consider the orderly determination and adjustment of local government boundaries to best meet the needs of Lane County and Oregon. Consider alternative solutions where intergovernmental options are identified and make decisions based on the most effective long-range option among identified alternatives. ORS 199.410(1), 199.410(2), and 199.410(3)(a) and (e)

The original annexation area and the roadway modification area are located within the acknowledged urban growth boundary of the Metro Plan. Territory within the UGB ultimately will be within the City of Eugene. Eugene is the unit of government identified in the Metro Plan to provide urban services to territory in this area. The annexation area as submitted is not contiguous to the main body of the City of Eugene. However, if the proposal is modified as requested, the annexation area is contiguous to the main body of the City of Eugene. Annexation of this property and road rights-of-way fulfills the policies adopted in the Metro Plan of annexing out to the urban growth boundary.

The incremental process of annexation causes short-term boundaries to be established. The acknowledged comprehensive plan in this area identifies the City of Eugene as the unit of government that will provide urban services to this urbanizable area within the UGB. In the long term, territory within this geographic area will be annexed to Eugene.

This annexation is consistent with boundary commission administrative rule implementing policies (1), (2), (5), and (7) which recognize annexation to an existing city as the preferred method of servicing urbanizable land.

- (1) This policy recognizes cities as the logical providers of urban levels of service within urban growth boundaries when consistent with the comprehensive plan.
- (2) This policy expresses the commission's preference for providing urban services through annexation to a city in order to provide urban services to urbanizable lands.
- (5) This policy encourages the provision of urban levels of service within urban growth boundaries.
- (7) This policy expresses the commission's preference for annexation to an existing city over all other alternatives as a means of extending services to urbanizable lands.

Implementing policy (3) recognizes that in order to meet the long-term objectives of annexing out to an acknowledged urban growth boundary, short-term boundaries are created which are logical within the context of the future service boundary. Four areas totally surrounded by the City of Eugene (“islands”) will be created if the annexation area is modified to include existing roadways as requested by Eugene. Properties within the islanded areas will eventually be annexed to the city fulfilling the Metro Plan growth policies of annexing out to the urban growth boundary. The properties in the islanded areas are not being annexed as part of this request. At present, annexations continued to be initiated at the request of the property owners.

The annexation as submitted, as well as a modified annexation area, is consistent with boundary commission policies and this standard.

Make boundary commission determinations which are consistent with acknowledged local comprehensive plans. Assure an adequate quality and quantity of public services required in the comprehensive plan to meet existing and future growth. For major boundary changes, there must be assurance that the proposed unit of government is financially viable. ORS 199.410(1)(d), 199.410(3)(b) and (d)

The original annexation area and the roadway modification area are within the Metro Plan urban growth boundary. The Metro Plan was acknowledged by the Land Conservation and Development Commission (LCDC) in August 1982 and has been subsequently amended. The Metro Plan recognizes annexation as the highest priority for extending the minimum level of key urban facilities and services to urbanizable areas (policies #8 and #10, page II-B-4) and recognizes that ultimately, all territory within the urban growth boundary will be annexed to an existing city (policy #16, page II-B-6).

Annexing road rights-of-way implements the Metro Plan goal (page II-A-2) of creating a street system to serve the existing and future arrangement of land uses with efficient, safe, convenient, and economic transportation systems for the movement of people and goods. The city notes that the practice of allowing noncontiguous annexations, which is necessary to accommodate planned growth in a manner consistent with the Metro Plan, has resulted in a fragmented and inefficient service delivery system. The city wants to provide more logical relationships between the streets and properties being annexed to the city. Streets provide physical access to the annexing property and often contains easements for water, wastewater, electric, cable, and other urban services necessary to serve the developing property. Therefore, the city recommends that appropriate street segments be annexed with the developing property, with the expectation that urban services will be provided in a more coordinated and connected system.

The privately owned portion of the annexation area is designated low-density residential with urbanizing fringe overlay in both the Metro Plan and the River Road-Santa Clara Urban Facilities Plan. If the annexation is approved, the annexed area will be rezoned to city R-1, low-density residential, zoning district consistent with the plan designation.

The annexation area as submitted or if modified will take advantage of urban service delivery systems that are already in place to serve this area. Inclusion of existing road rights-of-way will help fulfill the policies in the Metro Plan of annexing out to the urban growth boundary. The following facilities and services are either available or can be extended to the annexed area.

Water – The original annexation area is not within a water district (tax lot 505). The city indicates there is an existing 4-inch water main located in Bushnell Lane that can provide water service to new development occurring on tax lot 505. A portion of the roadway modification area (approximately the easterly 800 feet of Bushnell Lane) is within the River Road Water District. If the roadway modification is approved and following the effective date of the annexation, the City of Eugene will withdraw the portion of the annexed area from the River Road Water District in accordance with ORS 222.

Electricity – EWEB provides electric service to developed properties in this area of north Eugene. New development on tax lot 505 will be served by EWEB.

Police services – Police protection can be extended to the annexed area consistent with service provision throughout the city. Police currently provide service to other properties in this general area already inside the city. Service will be provided to the annexed area consistent with the call and response method used by the city. The annexed area will receive police services on an equal basis with properties inside the city. Infill annexations and development in this area will increase the efficiency of service delivery to this area.

Inclusion of Bushnell Lane, Smithoak Street, and David Avenue in the city will aid in the delivery of police services to properties within the City of Eugene. Annexing full segments of rights-of-way (e.g., from intersection to intersection) will clarify the jurisdictional responsibility for dispatching the appropriate responder and will provide a consistent level of police services to properties inside the city, including incidences occurring within the rights-of-way.

Fire and emergency services – The original annexation area (tax lot 505) is within Lane Rural Fire/Rescue. The roadway modification area is partially in Lane Rural Fire/Rescue and the River Road Water District (approximately the easterly 800 feet of Bushnell Lane). If approved and upon the effective date of the annexation, the proposal area will be withdrawn automatically from the fire district in accordance with ORS 199.510(2)(a) and the city will provide fire protection to the annexation area. The intergovernmental agreement that existed between the city and the fire district for approximately 20 years terminated June 30, 2002.

The City of Eugene purchased property on Santa Clara Avenue in the Santa Clara area and has built a permanent fire station there. A City of Eugene fire engine, staffed 24 hours a day, has been in place at that location since July 1, 2002, for the purpose of providing primary fire and emergency medical first response to the annexed properties in the Santa Clara area. In addition, the city and the districts have negotiated an automatic mutual aid agreement that provides for each agency to respond to emergency calls in the other's jurisdiction in the event the primary engine company is already committed on another call or otherwise unavailable for service.

A portion of the roadway modification area is within the River Road Water District, which contracts with the City of Eugene for fire services. If the roadway modification area is included in the annexation area, it will remain in the district until it is withdrawn from the water district by the City of Eugene in accordance with ORS 222. The city will provide fire protection services directly to the annexed territory. Eugene fire stations are located at 2nd and Chambers and on Santa Clara Avenue.

Inclusion of Bushnell Lane, Smithoak Street, and David Avenue in the city will aid in the delivery of fire services to properties within the City of Eugene. Annexing full segments of rights-of-way (e.g., from intersection to intersection) will clarify the jurisdictional responsibility for dispatching the appropriate responder and will provide a consistent level of fire services to properties inside the city, including incidences occurring within the rights-of-way.

Emergency medical transport (ambulance) services are provided on a regional basis by Eugene, Springfield, and Lane Rural Fire/Rescue to central Lane County, including the River Road area. The area will continue to receive this service consistent with the adopted ambulance service area (ASA) plan. Mutual aid agreements have been adopted by the three regional ASA providers (Eugene, Springfield, and Lane Rural Fire/Rescue) to provide backup coverage for each other's jurisdictions.

Parks and recreation – A minimum level of park services can be provided as prescribed in the Metro Plan. Emerald Park, a community park and recreational facility, is located between Howard Avenue and Horn Lane off Lake Drive. An additional regional park system, West Bank Willamette Greenway Open Space, is located on the west side of the Willamette River in the River Road area. The original annexation area and the modification area are within the River Road Park and Recreation District. Following annexation, the annexed area will remain in this district until withdrawn through separate proceedings by the City of Eugene in accordance with ORS 222.

Schools – Bethel School District 52 serves the original annexation area and a portion of the roadway modification area. Existing schools—Irving elementary, Shasta middle, and Willamette high—serve this neighborhood and can accommodate students resulting from new development occurring within the developable portion of the annexed area. Approximately the easterly 800 feet of Bushnell Lane are in the Eugene School 4J. Annexation of this roadway will have no impact on the school district.

Wastewater – The city indicates there is an existing 8-inch public system within Bushnell Lane adjacent to tax lot 505. Service to new development can be provided from this line. Upon the annexation effective date, the annexed area will be annexed automatically to the Lane County Metropolitan Wastewater Service District [ORS 199.510(2)(c)].

Stormwater – Currently, there are no public stormwater facilities available to serve the annexation area. Site plans for all new development must provide for drainage to an approved system consistent with the adopted Comprehensive Stormwater Management Plan (CSWMP). The city indicates that during the development process an acceptable stormwater proposal will be

required. Private drywells may be an option, provided that the applicant: has a civil engineer certify the use and design with supporting information such as field-verified soil types and percolation rates; and registers the drywells as an underground injection control facility with the Department of Environmental Quality (DEQ).

Streets – The original annexation area (tax lot 505) has frontage on Bushnell Lane to the south, an unimproved Lane County road. The annexation area also has 200 feet of frontage on Smithoak Street to the west, which is already in the city. The nearest arterial or collector street is Northwest Expressway to the west. According to Lane County public works staff access to the annexation area is from Bushnell Lane, which is a Lane County maintained road (LCR). It is functionally classified as an urban local road within the Eugene UGB. This section is paved, but has no curbs, gutters, nor sidewalks. It is noted that the westerly margin of the annexation area also has frontage on a strip of land that has been deeded to the City of Eugene for public purposes, including streets and utilities. County public works staff has no objection to the annexation of tax lot 505, and would support annexation of the roads serving, and adjacent to, the tax lot proposed for annexation.

Until such time as jurisdiction of Bushnell Lane is transferred to Eugene, a Lane County facility permit will be required for placement of facilities within its right-of-way. Facilities and development includes, but is not limited to, road improvements, sidewalks, new or reconstructed driveway or road approach intersections, utility placement, excavation, clearing, grading, culvert placement or replacement, stormwater facilities, or any other facility, thing, or appurtenance.

Eugene public works staff indicates Bushnell Lane is functionally classified as a medium-volume local road, currently under Lane County jurisdiction. Additional road right-of-way and street improvements will likely be required to further develop the annexing property. The segment of Bushnell Lane in the modification request is not improved to city standards and, beyond what may be required as a result of new development, no local improvements are planned at this time. Unimproved and partially improved rights-of-way are subject to street improvement assessments when 50 percent or more of the adjacent property owners initiate a local improvement district (LID).

Smithoak Street and David Avenue are paved roads but are not improved to city standards. Unimproved and partially improved rights-of-way are subject to street improvement assessments when 50 percent or more of the adjacent property owners initiate a local improvement district (LID).

The City of Eugene is requesting that segments of Bushnell Lane, Smithoak Street, and David Avenue be included in the annexation area. If added to the annexation, the entire segment of Bushnell Lane from the Northwest Expressway east to Berwin Lane would be inside the city; the entire segment of Smithoak Street from Bushnell Lane south to David Avenue would be inside the city; the last remaining segment of David Avenue not currently in the city would be annexed to the city; and a Lane County tax lot used as right-of-way (TL 10900, T17S R04W S15 Map 14) would be annexed to the city. Having the entire segments inside the city will assist with the delivery of urban services. Many urban services and facilities are provided within the street

rights-of-way in addition to transportation services, such as water, wastewater collection, stormwater, cable and other communication networks, fire hydrants, and street lights. Emergency service providers also operate within the rights-of-way, including police and fire and emergency medical services. The jurisdictional transfer from Lane County to Eugene will be accomplished more efficiently once the entire segments of the roadways are in the city. It will also connect noncontiguous city properties to the main body of the City of Eugene and will assist in fulfilling Metro Plan policies of annexing out the urban growth boundary.

As a county road, the City of Eugene will not take immediate jurisdictional responsibility of Bushnell Lane after annexation to the city. A separate jurisdictional transfer of rights-of-way under the provisions of ORS 373.270 will be processed after annexation. The method of jurisdictional transfer of Smithoak Street and David Avenue will be determined based on the designation of the roads (e.g., Lane County road or local access road).

Annexation to Eugene does not change the “operational maintenance” responsibilities for roadways in the modification area. A 2005 intergovernmental agreement between the City of Eugene and Lane County recognizes a need to meet requirements to safeguard public welfare and increase efficiencies in public facility maintenance. The agreement describes the responsibilities for operational maintenance of the street system within the Eugene area. Generally, the agreement requires Lane County to provide operational maintenance for all streets east of River Road and north of Beltline Road, and west of River Road and north of Maxwell Road. Operational maintenance includes any shoulder and surface maintenance, drainage maintenance, bridge and structure maintenance, snow and ice control, guard rails, right-of-way permitting authority and enforcement, and maintenance of existing markings, signing, and operations of traffic signals.

Solid waste management – Private firms and individuals collect and transport solid waste to the Lane County administered landfill.

Communication facilities – Various providers offer both wire and wireless communication services in the Eugene-Springfield metropolitan area. Existing providers and those entering the market have the capability to provide service to future development in this area.

Land use controls – The original annexation area and the modification area are within Eugene’s portion of the urban growth boundary. Through an intergovernmental agreement between Lane County and the City of Eugene, the city already has planning and building jurisdiction for this property. The city will continue to administer land use controls after annexation.

The minimum level of key urban facilities and services, as defined on page V-3 of the Metro Plan, are either immediately available or can be provided within a reasonable future time frame as needed. The annexation as submitted, as well as a modified annexation area, is consistent with boundary commission policies and this standard.

Consider the comprehensive plan's economic, demographic, and sociological trends and projections and its environmental policies, pertinent to the proposal. ORS 199.410(3)(d) and 199.462(1)

The original annexation area and the roadway modification area are consistent with the Metro Plan, as an incremental step in implementing the long-range plan for this area. The urban growth boundary, land uses, and policies in the Metro Plan were developed to meet the future needs of the metropolitan community. The existing and proposed uses are consistent with the long-range plan for the area

The annexation as submitted, as well as a modified annexation area, is consistent with boundary commission policies and this standard.

STAFF RECOMMENDATION

The boundary commission has the following options regarding this annexation request.

1. The commission can approve the annexation as submitted. The area annexed would include only tax lot 505, T17S R04W S15 Map 10, owned by BGM Land Development LLC.
2. The commission can modify the original annexation area to include segments of Bushnell Lane, Smithoak Street, David Avenue, and a Lane County owned tax lot (TL 10900 T17S R04W S15 Map 14) used as right-of-way and approve the annexation as modified.

If the commission approves the modification as requested, four islanded areas consisting of 20 properties will be created. The islanded areas are being annexed and will remain outside of the city limits. In the past, the boundary commission has approved other annexations that have created islanded territory. Over the past 16 years, the City of Eugene has not used provisions in Oregon law that allows the city to initiate the annexation of an islanded area. The provisions initiating the annexation of an area totally surrounded by the corporate boundaries of a city can be used without the consents of the property owners. The city is aware that the island provisions exist in Oregon law and have previously testified before the boundary commission that it may at sometime in the future use all of the annexation tools available in Oregon law.

The boundary commission staff recommends that the commission modify the original annexation area to include the rights-of-way of Bushnell Lane, Smithoak Street, and David Avenue (including a Lane County owned tax lot used as right-of-way; tax lot 10900, T17S R04W S15 Map 14) and approve the annexation as modified. Inclusion of the existing road rights-of-way provides for connectivity with other contiguous portions of the city and continues to create a logical and coordinated system of urban services including transportation and public safety infrastructure.

The boundary commission staff recommends that the proposed annexation to the City of Eugene (BC File C EU 06 – 35) be modified as requested by the City of Eugene (see option 2 above) and approved as modified based on the following findings and reasons.

The findings are organized to respond to boundary commission standards outlined in ORS 199, the boundary commission law. The following findings and reasons are based on approval of the request as modified. If the boundary commission does not modify the request as recommended or denies the proposal, the findings and reasons would need to be adjusted.

Findings:

1. This proposal was initiated with the Lane County Local Government Boundary Commission by the property owner on May 2, 2006, in accordance with ORS 199.490(1)(c). The proposal was found to be a valid filing under OAR 191-006.
2. The proposed annexation, as submitted, included one tax lot (T17S R04W S15 Map 10 tax lot 505) consisting of about 1.70 acres owned by BGM Land Development LLC. Tax lot 505 was undeveloped and was not contiguous to the main body of the City of Eugene.
3. At the request of the City of Eugene, the original annexation area was modified to include existing right-of-way segments of Bushnell Lane, Smithoak Street, David Avenue, and a small tax lot owned by Lane County used for right-of-way (tax lot 10900, T17S R04W S15 Map 14) totaling approximately 4.10 acres. As modified, the annexation area totaled about 6.80 acres.
4. The land use designation for the privately owned portion of the modified annexation area was low-density residential in both the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) and the River Road-Santa Clara Urban Facilities Plan.
5. The tax lotted portion of the modified annexation area was zoned R-1/UL, low-density residential with urbanizable lands subdistrict, in Lane County. After the annexation effective date, the tax lotted property would be rezoned to R-1 consistent with the land use designation.
6. Approval of the modified annexation, 20 tax lots (tax lots 401, 504, 1100, 1200, and 1201, T17S R04W S15 Map 10; and tax lots 400, 500, 600, 700, 1800, 1900, 2000, 2100, 2200, 2300, 2400, 2500, 2600, 2700, and 2800, T17S R04W S15 Map 14) were totally surrounded by the Eugene city limits. These tax lots were not included in the annexation area.

Provide an impartial forum for resolution of local jurisdictional questions. Consider the effects of the boundary change on other units of government. ORS 199.410(1)(b) and 199.410(3)(c)

7. The boundary commission held a public hearing on June 1, 2006. Notice of the public hearing was given in accordance with ORS 199 provisions. All interested parties were given a reasonable opportunity to be heard.
8. A portion of the modified annexation area was within the River Road Water District and River Road Park and Recreation District. After annexation, the territory would be withdrawn from the districts by the City of Eugene consistent with ORS 222. Water, fire, and park and recreation services would then be provided directly by the City of Eugene.
9. A portion of the modified annexation area was within Lane Rural Fire/Rescue. Upon the effective of the annexation, the area was automatically withdrawn from the fire district consistent with ORS 199.510(2)(a). Fire services were provided directly by the City of Eugene.
10. Upon the effective date of the annexation, the modified area was annexed automatically to the Lane County Metropolitan Wastewater Service District in accordance with ORS 199.510(2)(c).
11. This request was consistent with this standard.

Consider the orderly determination and adjustment of local government boundaries to best meet the needs of Lane County and Oregon. Consider alternative solutions where intergovernmental options are identified and make decisions based on the most effective long-range option among identified alternatives. ORS 199.410(1), 199.410(2), and 199.410(3)(a) and (e)

12. Annexation to the City of Eugene was identified in the acknowledged Metro Plan as the preferred method for providing key urban facilities and services to the River Road-Santa Clara area in policies in Chapter II, sections B and D.
13. Annexation to an existing city was the method for extending urban facilities and services to urbanizable land in the boundary commission's policy administrative rule, implementing policies (1), (2), (5), and (7).
14. The proposed annexation was the means of boundary change outlined in the Metro Plan and the boundary commission administrative rules for ultimately providing urban facilities and services to this territory. Annexation of privately owned property and existing road rights-of-way assisted to fulfill the Metro Plan policies of annexing out to the urban growth boundary.
15. This request was consistent with boundary commission policies and this standard.

Make boundary commission determinations which are consistent with acknowledged local comprehensive plans. Assure an adequate quality and quantity of public services required in the comprehensive plan to meet existing and future growth. For major boundary changes, there must be assurance that the proposed unit of government is financially viable. ORS 199.410(1)(d), 199.410(3)(b), and (d)

16. The modified annexation area was within the urban growth boundary of the acknowledged Metro Plan [Land Conservation and Development Commission (LCDC) action in 1982 and as subsequently amended]. Annexation of privately owned property and existing road rights-of-way assisted in fulfilling the Metro Plan policies of annexing out to the urban growth boundary.
17. The Metro Plan recognized annexation to the City of Eugene as the highest priority for extending the minimum level of key urban facilities and services to urbanizable areas.
18. The existing and proposed uses (residential and road rights-of-way) were consistent with the policies in the Metro Plan and River Road-Santa Clara Urban Facilities Plan requiring urban levels of development within the urban growth boundary.
19. The City of Eugene indicated that the required services outlined in Metro Plan policy #8, page II-B-4 and defined on page V-3, were either available or could be provided in a timely manner.
20. This request was consistent with this standard.

Consider the comprehensive plan's economic, demographic, and sociological trends and projections and its environmental policies, pertinent to the proposal. ORS 199.410(3)(d) and 199.462(1)

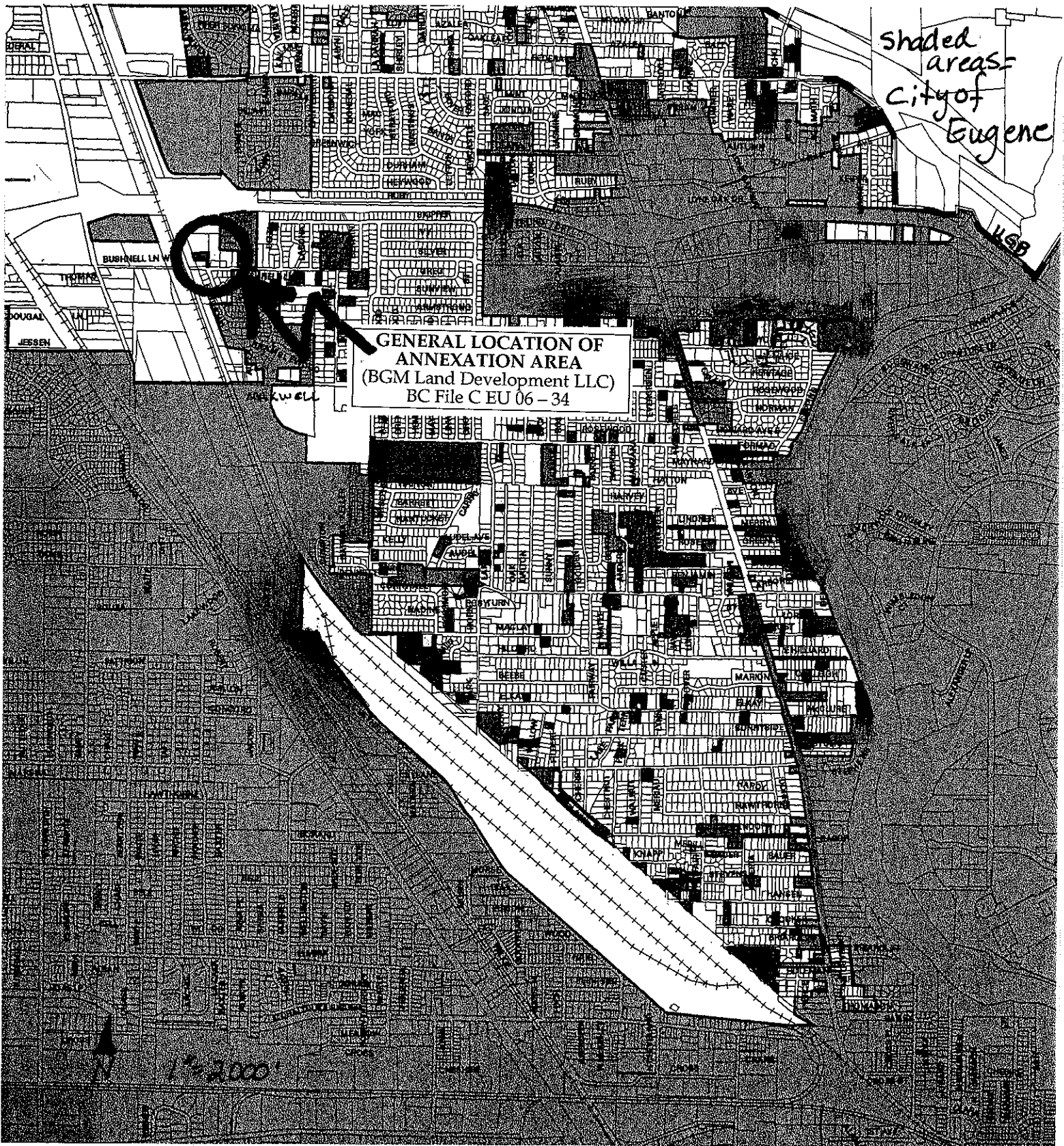
21. The modified annexation proposal was consistent with the Metro Plan, as it was an incremental step in implementing the long-range plan for this area. The urban growth boundary, land uses, and policies in the Metro Plan were developed to meet the future needs of the metropolitan community. The proposed residential use was consistent with the long-range plan for the area. Annexing existing road rights-of-way facilitated the provision of urban facilities and services to fulfill the growth policies in the Metro Plan and in Oregon law.
22. This request was consistent with this standard.

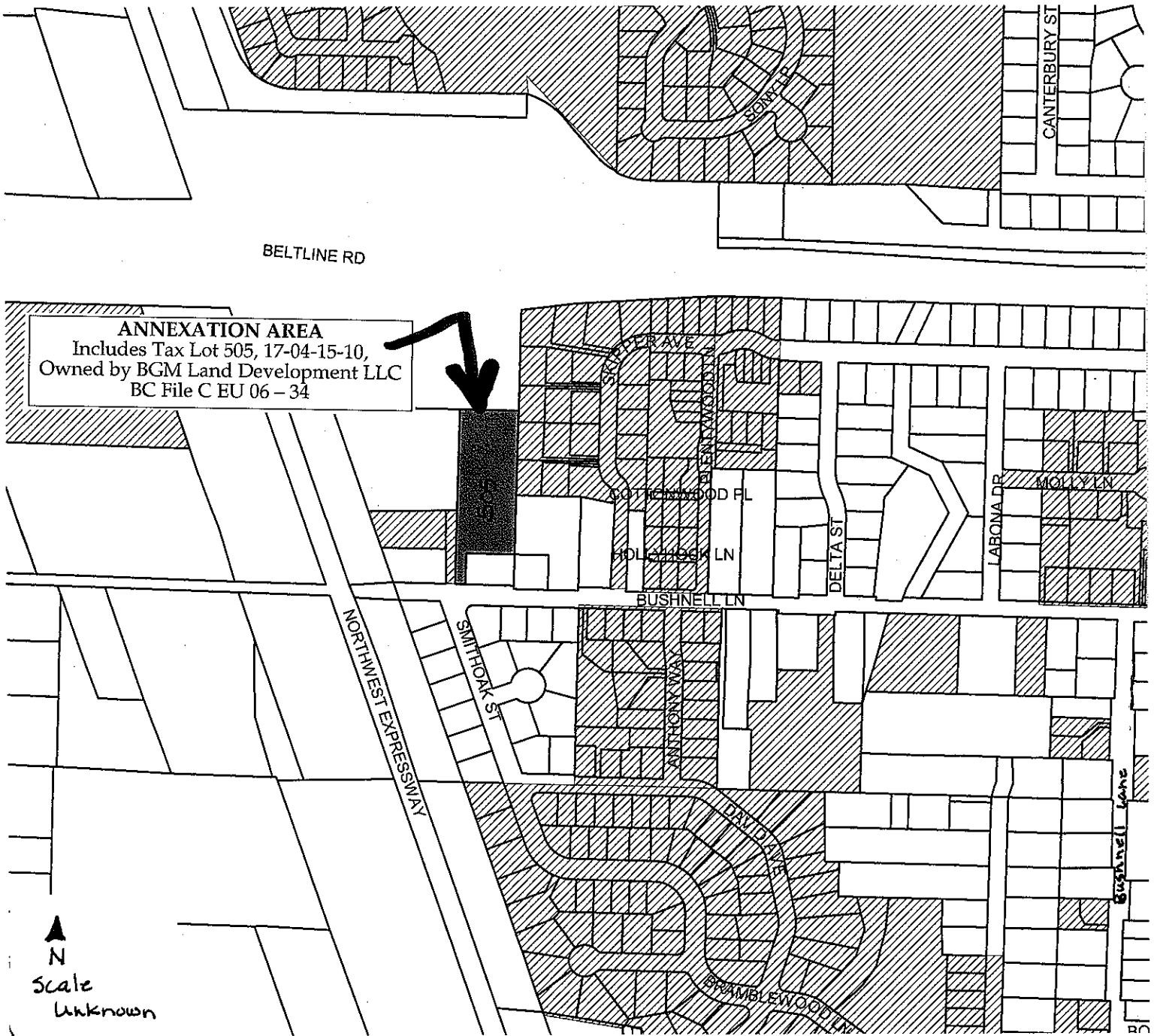
Reasons:

1. The proposal was supported by the City of Eugene and the property owner.
2. The proposal was consistent with the LCDC acknowledged Metro Plan.

3. The services required in the Metro Plan were either available or could be provided in a timely manner when needed.
4. The proposal was consistent with past boundary commission actions supporting annexation of territory in River Road and Santa Clara to the City of Eugene.
5. The proposal was consistent with boundary commission administrative rule policies.

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Last Saved: May 26, 2006







Annexation of these sections of rights of way will create a 22-lot island of properties that will remain outside of the city limits. The City of Eugene favors voluntary annexations by the property and is not proposing to initiate annexation of the unincorporated island. The City will be providing written notice of the right of way annexation to each of the properties within the unincorporated island.

Annexation of rights of way adjacent to developable property under consideration for annexation to the City of Eugene is consistent with the following principles identified in the Eugene-Springfield Metro Plan:

The Metropolitan Plan is based on the premise that Eugene and Springfield, the two existing cities, are the logical providers of services accommodating urban levels of development within the urban growth boundary.

Metropolitan Goals (p.II-A-2) further provides that transportation services: Serve the existing and future arrangement of land uses with efficient safe, convenient, and economic transportation systems for the movement of people and goods. Our practice of allowing noncontiguous annexations, which is necessary to accommodate planned growth in a manner consistent with the Metro Plan, has resulted in a fragmented and inefficient service delivery system. The city wants to provide more logical relationships between the streets and properties being annexed to the City. Streets provide physical access to the subject property and often contain easement for the water, wastewater, electric, cable, and other urban services necessary to serve the property. Therefore the City recommends that appropriate street segments be annexed with the developing property, with the expectation that urban services will be provided in a more coordinated and connected manner.

The City's current expectation of an "appropriate" street segment would be, at a minimum, the full street width adjacent to the property being annexed, with logical termini, usually street intersections or logical block lengths. The City reviews each application for logical connections to other City streets and previously annexed areas. Annexation of Bushnell Lane, Smithoak and David is an appropriate and a logical connection of the existing transportation and stormwater systems serving this area. Inclusion of Bushnell Lane, Smithoak and David rights-of-way will result in annexation of 4.10 total acres.

Exhibit V-B-1
Eugene Modification Letter
Annexation to Eugene (BGM Land
Development LLC)
CEU 06 - 35



MEMORANDUM

MAY 18 2006

Date: May 17, 2006

To: Paula Taylor, Executive Officer, Lane County Boundary Commission

From: Peggy *Peggy Taylor* Engineering Development Review Manager

Subject: Modify BGM Land Development Annexation (A06-10) to include Bushnell Lane, Smithoak, and David Rights-of-Way

The City of Eugene is requesting annexation of the Bushnell right of way from Berwin Lane west to Northwest Expressway, Smithoak from Bushnell south to David, and David from Smithoak east to existing city limits. Portions of these streets are also adjacent to two properties requesting annexation, city applications A06-11 BGM Land Development and A06-12 Columbo.

Bushnell Lane, Smithoak, and David are located in the River Road Neighborhood and are located south of Beltline and north of Maxwell. This segment of right of way is approximately 3000 feet long and connects several previously annexed properties on both sides of Bushnell Lane, Smithoak, and David. This proposed annexation, together with the BGM Land Development annexation, would result in all of the properties previously annexed adjacent to this right of way being connected to the main body of the city. This segment of right of way is a local access road and is identified by the city as a medium volume local street (county designation: urban local). As a local access road, the city will take immediate jurisdictional responsibility of the road. It is a logical segment because it encompasses the entire right of way between Northwest Expressway and Berwin Lane.

Annexation does not change the "operational maintenance" responsibilities. A 2005 Intergovernmental Agreement between the City of Eugene and Lane County recognizes a need to meet requirements to safeguard public welfare and increase efficiencies in public facility maintenance. The agreement describes the responsibilities for operational maintenance of the street system within the Eugene area. Generally, the agreement requires Lane County to provide operational maintenance for all streets east of River Road and north of Beltline Road, and west of River Road and north of Maxwell Road. Operational maintenance includes any shoulder and surface maintenance, drainage maintenance, bridge and structure maintenance, snow and ice control, guard rails, right-of-way permitting authority and enforcement, maintenance of existing markings, signing, and operations of traffic signals.

These segments of road ways are not improved to city standards and no local improvements are planned for these roads at this time. Unimproved and partially improved rights of way are subject to street improvement assessments when 50% or more of the adjacent property owners have initiated a need for a local improvement district (LID).



Frequently Asked Questions Annexations in Eugene



Planning & Development
Planning

City of Eugene
99 West 10th Avenue
Eugene, Oregon 97401
(541) 682-5377
(541) 682-5572 FAX
www.eugeneplanning.org

Date: May 16, 2006

To: Owners of Property on Smithoak Street and Bushnell Lane

Re: Opportunity to Annex to the City of Eugene

A property owner for property on Smithoak Street has applied to annex said property to the City of Eugene. A public hearing for that annexation will be held by the Lane County Boundary Commission. The Boundary Commission will send you notice of a public hearing regarding that annexation.

It is City policy to include logical and appropriate street segments during the annexation process to provide city street access and facilitate the extension of urban services to properties located inside the city limits. Sometimes the annexation of properties or streets, or the combination of both, results in an "island" of unincorporated (county) property surrounded by properties that are in the city limits of Eugene. The proposed annexation on Smithoak Street will result in an island of unincorporated property that includes your property.

Because your property is either adjacent to the proposed annexation site or will be an unincorporated property surrounded by city, you have the opportunity to annex to the City of Eugene more easily and at less cost than if you applied later as an individual property. If requested by you, the City can ask the Boundary Commission to include your property with the scheduled annexation. It could save you a considerable amount of money if you were interested in annexing to the City because the fees could be waived. The City would need a legal description of your property to complete the task. If you are interested in annexing to the City at this time, please contact me at the number or e-mail address below.

If you do not contact me, or if you do not wish to annex at this time, the City will not ask the Boundary Commission to include your property with this application.

If you have questions about how annexation may affect your taxes, you will need to contact the Lane County Tax assessor's office for that information.

I have enclosed a Frequently Asked Questions sheet that addresses other issues related to annexation. If you have any remaining questions, please feel free to call or e-mail me.

Kurt Yeiter
Principal Planner
Phone: 541/682-8379 or email: kurt.m.yeiter@ci.eugene.or.us

Enclosure: Frequently Asked Questions, Annexations in Eugene

1. What is annexation?

Annexation (sometimes also called "incorporation") is the legal process by which properties become part of a city. After annexation, a property will be inside the city limits and is no longer just under county jurisdiction. In Lane County, annexations must be approved by the Lane County Local Government Boundary Commission.

2. Why do properties annex to the City?

Typically, annexations to the City of Eugene are initiated by the property owner to obtain a service or right that the City provides. The comprehensive plan for Eugene, the *Eugene-Springfield Metropolitan Area General Plan* (or "Metro Plan"), says that Eugene will be the ultimate provider for urban services for all areas inside the Eugene Urban Growth Boundary. If a property owner wants to divide or develop a property, or wants to have new City services, the property must be first annexed to the City. Typical services requested include sanitary sewer, city police or fire protection, library services, and the ability to vote in city elections.

3. Who approves annexations?

The Lane County Local Government Boundary Commission must approve all annexations in this county. The Boundary Commission is a state agency consisting of seven citizens appointed by the governor. The Boundary Commission contracts with the Lane Council of Governments for staff support. Applications for annexation must be approved by the city before the Boundary Commission will consider the application.

4. Why would the City help me annex?

In some areas, like the River Road and Santa Clara neighborhoods, there is a long history of individual and unconnected annexations that results in a discontinuous pattern of City areas. This leads to inefficient service delivery, including response to emergency calls. The City will help owners annex properties if it results in a more logical pattern of providing services and development.

5. Will my taxes go up if I annex to the City?

Yes. City taxes are higher than the taxes in unincorporated areas, but the level of services is higher, too. To find out how your particular taxes may change, you should contact the Lane County Office of Assessment and Taxation.

6. Why does the City look for logical and appropriate street segments to annex?

Since the Metro Plan indicates that all lands inside the Eugene Urban Growth Boundary will some day be part of the city, it makes sense to have city streets provide access and utilities to properties within the city limits. Having streets within the city limits allows the city greater control over water and sewer line extension and repair, storm drainage, traffic speed control, and traffic enforcement. The City also provides a higher level of emergency services from the police and fire departments to incidents occurring in the road rights-of-way. As urban development continues and properties are

annexed, there is more opportunity and a greater public need for assuring connectivity and access, rather than isolated and incremental efforts to acquire road rights-of-way as in the past.

7. Will the City charge properties along a street for improvements if the street is annexed?
No, not as a result of annexation. The City usually initiates the type of street improvements that result in assessments of adjacent properties only if the owners of property representing more than 50 percent of the improvement costs request the improvements. Assessments are only approved by the City Council after the public has had a chance to testify at a public hearing.

8. What is an island of unincorporated property?
One or more properties not annexed to the City, or "unincorporated," that are completely surrounded by properties that are annexed (or "incorporated") in the city limits. The Boundary Commission notifies property owners if proposed annexations will create islands that include their property.

9. If my property becomes an island of unincorporated property, does something change?
Yes. Under state law, the City can initiate annexation of properties in an unincorporated island without the provision of remonstrance (or vote) by the residents living in the island. In other words, the City could ask the Boundary Commission to approve the annexation of the island of unincorporated property. The Boundary Commission will provide a public hearing where anybody can testify before the Boundary Commission takes action. If the Boundary Commission approves the annexation, it is final.

10. Does that happen often?
No, the City has policies that favor voluntary annexations by the property owners. The City of Eugene has not initiated an annexation of an unincorporated island in many years.

11. Where can I get more information about annexations?
There are several sources for information, as listed below:

City of Eugene website: www.eugeneplanning.org > Forms/Applications

City Planning: Kurt Yeiter, Principal Planner
(541)682-8379
kurt.m.yeiter@ci.eugene.or.us

Lane County Boundary Commission: Paula Taylor, Executive Manager
(541)682-4425
PTaylor@lcoog.org

Lane County Boundary Commission website: <http://www.lcoog.org/lgs/bound.html>

River Road-Santa Clara Transition Plan website: <http://www.rtrstransition.info/>

Oregon Law: Oregon Administrative Rules 191-030-0000 et al

Prepared by the City of Eugene Planning and Development Department, March 2006

Exhibit V-B-2List of Possible Islanded Property Owners
Annexation to Eugene (BGM Land
Development LLC)

C EU 06 – 35

MAP/LOT NO.	PROPERTY OWNER	ADDRESS
17-04-15-10-00401	DANNY & LYNDA J STINCHCOMB	651 BUSHNELL LN EUGENE, OR 97404
17-04-15-10-00504	JEFFREY & JENNIFER STUTZ	37234 IMMIGRANT RD PLEASANT HILL, OR 97455
17-04-15-10-01100	URBAN & ALYCE GANGLE	615 BUSHNELL LN EUGENE, OR 97404
17-04-15-10-01200	JAMES & LOIS LAMB	661 BUSHNELL LN EUGENE, OR 97404
17-04-15-10-01201	MONTE & TRACEY ANDERSON	675 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-00400	LEROY & CONNIE SMITH	528 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-00500	COLETTE & JAMES GREY	530 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-00600	WAYNE & SHERYL MOSS	550 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-00700	CARRIE NEWELL	560 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-01800	AL & JUDITH TURNIPSEED	753 IMPALA AVE EUGENE OR 97404
17-04-15-14-01900	SCOTT CHATHAM	674 BUSHNELL LN EUGENE, OR 97404
17-04-15-14-02000	HARRIETT SMITH	1320 DALTON DR EUGENE, OR 97404
17-04-15-14-02100	ARCHIE JONES JR & HELEN JONES	340 HATTON AVE EUGENE, OR 97404
17-04-15-14-02200	CURTIS IRVING REALTY INC	3070 ALYNDALD DR EUGENE, OR 97404
17-04-15-14-02300	KURT & DEBBIE SCHILLING	2013 SMITHOAK ST EUGENE, OR 97404
17-04-15-14-02400	BETTY PHILLIPS	1995 SMITH OAK ST EUGENE, OR 97404
17-04-15-14-02500	ANTHONY COLOMBO	15465 SW ALABASTER BEAVERTON OR 97007
17-04-15-14-02600	WILLIAM & MARGIE PERRY	1943 SMITHOAK ST EUGENE, OR 97404
17-04-15-14-02700	LAWRENCE & C A WATSON	1385 DAVID AVE
17-04-15-14-02800		EUGENE, OR 97404