

LAND USE APPLICATION
CITY OF BANKS, WASHINGTON COUNTY, OREGON

ANNEXATION

Tax Lot 600, Map 2N4 36 (30.11 acres) &
Rear Portion of Tax Lot 5200, Map 2N3 31BC (.041 acres)

October 31, 2016

APPLICANT/OWNER: (Tenants in Common, Tax Lot 600)

Wolverine Financial LLC
6770 SW Canyon Drive
Portland, OR 97225
Contact: Bob Bobosky
Phone: 503-292-8261
Email: r.bobosky@comcast.net

APPLICANT/OWNER:

Lone Oak Land and Investment Co. (Tenants in Common, Tax Lot 600)
31345 NW North Avenue
North Plains, OR 97133
Contact: Mike Cropp
Phone: 503-647-5596
Email: loneoakland@msn.com

APPLICANT/OWNER: (Tax Lot 5200)

Landcaster Development Corp.
6770 SW Canyon Drive
Portland, OR 97225
Contact: Bob Bobosky

APPLICANT'S REPRESENTATIVES:

Pioneer Design Group, Inc.
9020 Washington Square Drive, Suite 170
Portland, OR 97223
Contact: Ben Altman
Ph. (503) 643-8286 / Fax (844)-715-4743
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Ph. 503-727-2264 / Fax 502-727-2222
Email: mrobinson@perkinscoie.com

FACT SHEET

Proposed Actions: **Annexation of Property Within the Urban Growth Boundary to the City of Banks, Oregon**

Tax Maps/Lots: Tax Lot 600, Map 2N4 36; and Rear Portion of Tax Lot 5200, Map 2N3 31BC.

Site Size: Approximately 30.15 acres. TL 600 = 30.11 Acres (as Adjusted by PLA), and a portion of TL 5200 = 0.04 Acres.

Location: Contiguous to the West side of the City of Banks.

Address: 42580 NW Cedar Canyon Road

Current County Zoning: FD-10, Washington County. Future City of Banks zoning to be designated by the City of Banks in a future application, including HDSF, HDMF, MU & Industrial based on the city comprehensive plan map.

Comp Plan Map Designations: HDSF, HDMF, MU & Industrial Designations:

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Portland, OR 97225
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Applicant/Owner: (Tax Lot 5200)

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Applicant/Owner: (Tax Lot 600)

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I. INTRODUCTION

The Applicants are requesting annexation into the City of Banks. This annexation request represents a combined ownership involving approximately 30.15 acres, comprised of Tax Lot 600 of Map 2N4 36 and a portion of Tax Lot 5200 of Map 2N3 31BC.

This application is for annexation only. The Applicants will subsequently file a separate application for Zone Map Amendment, consistent with the City of Bank's Comprehensive Plan designations for the property. The Annexation Area is currently zoned FD-10, Future Development (10 acre minimum) by Washington County and will remain zoned FD-10 pending a subsequent application of City Zoning being applied.

The City added an estimated 28.5 acres to the City of Banks Urban Growth Boundary in 2010. The Applicants have prepared a survey of the UGB Expansion Area, which identifies the area added to the UGB as including 30.11 acres, as reflected in **Table 1**. The difference in the two acreage numbers is attributable to four factors:

1. The Primary difference is the City's 28.5 acres did not include the 60 foot strip around extending around Sunset Park for the future road, as shown on the Comprehensive Plan Map;
2. The area added to the UGB included a small portion of the floodplain (the area generally aligned with Market and Depot Streets). This area was included to accommodate the planned West Circulator Street, and includes an area designated for Mixed Use;
3. The survey is a more accurate definition of the area; and
4. Tax Lot 5200 is an existing residential lot, containing 9,270 square feet. The majority of this lot is currently within City Limits. However, approximately the rear 30 feet (.04 ac.) of this lot is not within the City. Therefore the rear portion of this lot is also included in this annexation. This portion of Lot 5200 is included in both the gross and net acres columns, which results in the total area being annexed at 30.11 acres.

The purpose of the annexation is to incorporate this expansion area into the City of Banks in order to access urban services; thereby facilitating planned residential and industrial development.

This application demonstrates the annexation area complies with the requirements for annexation through findings and other key elements of the City's plan as demonstrated below:

- Portions of the area to be annexed are a vital component in the **Banks Vision 2036 Plan**, (currently being formulated), to enhance the city's core area and create a stronger link between uses and activity between the core and regional trails.
- The Vision identifies the annexation area as a prime expansion of the downtown core to encourage mixed use and higher density residential.
- Additionally, the Vision plan includes bicycle and pedestrian linkages through the annexation area to other trails.
- The annexation area provides for a north/south collector road connection adopted within the City's Transportation System Plan ("TSP") which aligns with the bicycle and pedestrian linkages in the Banks 2036 Vision Plan.

- The application for annexation demonstrates compliance with the Comprehensive Plan Map and Urbanization Policies of the Comprehensive Plan.
- The application for annexation demonstrates compliance with the *City of Banks Municipal Code, Chapter 30 – General Provisions*.
- In 2011, through their Urban Growth Boundary Amendment, the City identified the area as needed to meet industrial and residential growth needs.
- The UGB Amendment also identified that services were adequate and capable of supporting annexation of the UGB area.
- The annexation complies with applicable *Oregon Revised Statutes 222.111, Authority and procedure for annexation*.
- Annexation of this area will provide upgrades to the City’s circulation plan and opportunity to enhance pedestrian/bicycle opportunities.
- The annexation will provide an opportunity to upgrade vital City facilities.
- Needed housing will be provided throughout the annexation area.
- Jobs for the local economy will be created through development of and future business operations that will be accommodated within the annexation area.

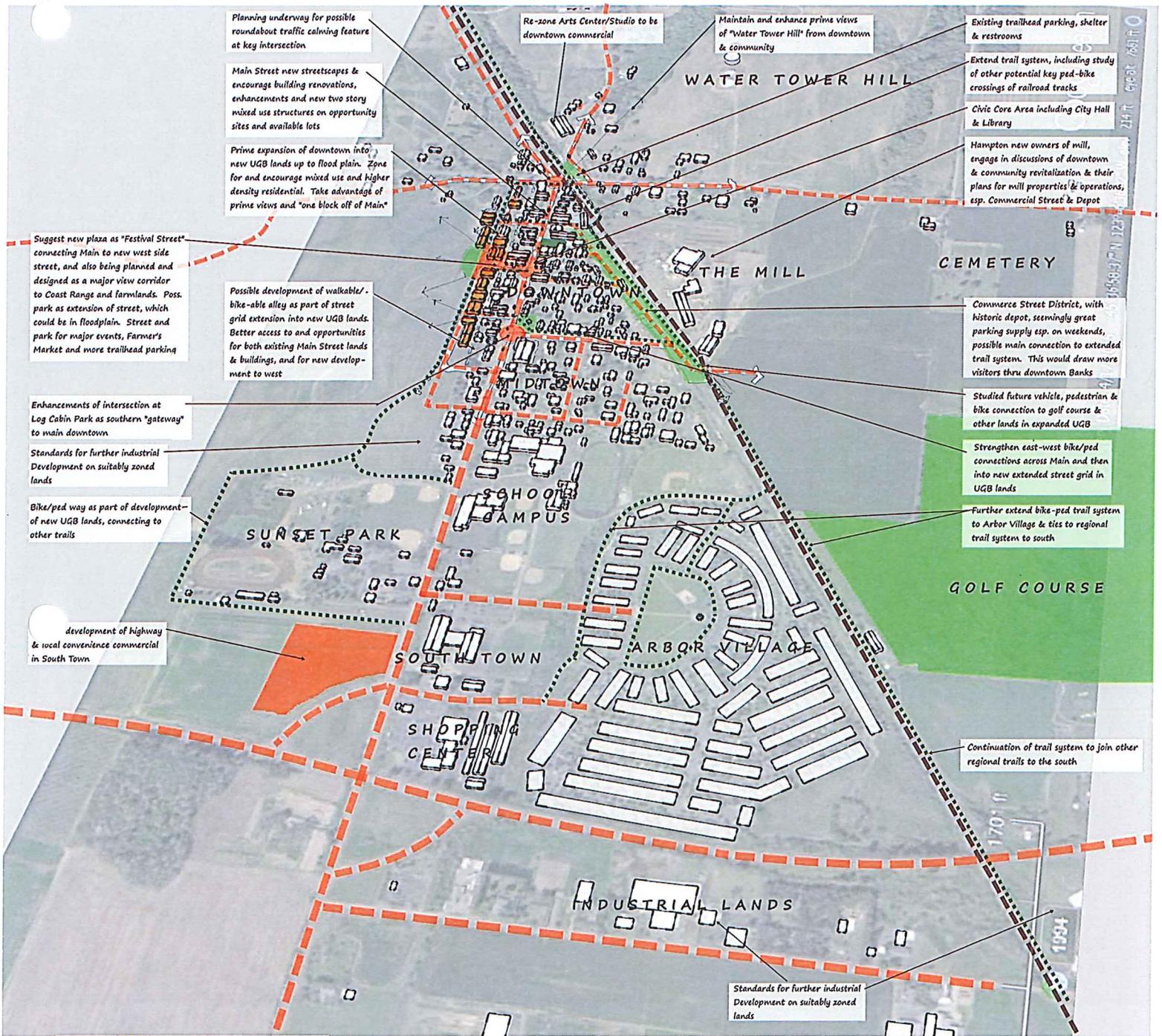
Table 1
GENERAL CONCEPT PLAN
UGB/Comp Plan Allocation comparison to Surveyed Areas

Banks Zoning	Comp Plan Assigned Area	Gross Annexed Area (Surveyed)	Net Area (Surveyed)	Density	Units Allowed
MU	4.9	4.82	3.56	10/acre	35.6
HDSF	9.2	9.39	7.95	10/acre	79.5
HDMF	1.9	2.40	2.17	24/acre	52.08
				Total Units	167.18
Industrial	12.5	11.77	9.80	40% lot coverage	170,755 sf
Net buildable			23.48		
West Circulator North	*		4.90		
West Circulator South	1.73	1.73	1.73	N/A	
Total	30.23	30.11	30.11		

***Notes Table 1:** The second column UGB/Comp Plan Area does not include a 60 strip (TL 800) for future extension of the west circulator road to the South. The gross and net surveyed area includes a portion of tax lot 5200 (0.04 acres).

Tax Lot 6000 is available for access purposes, but is already within the City. This property is reflected on the General Concept Plan, but is not included in the annexation, and does not affect the available buildable land.

The Net Area also includes deducting out the West Side Circulator road which is approximately 6.63 acres.



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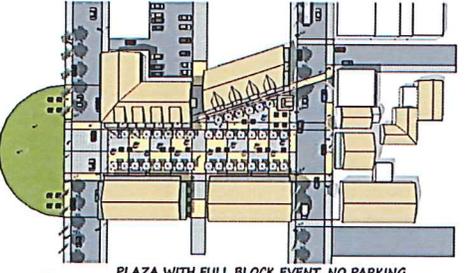
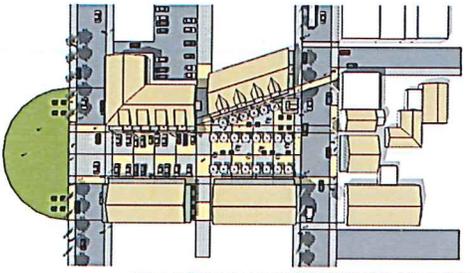
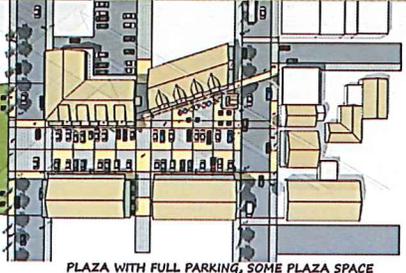
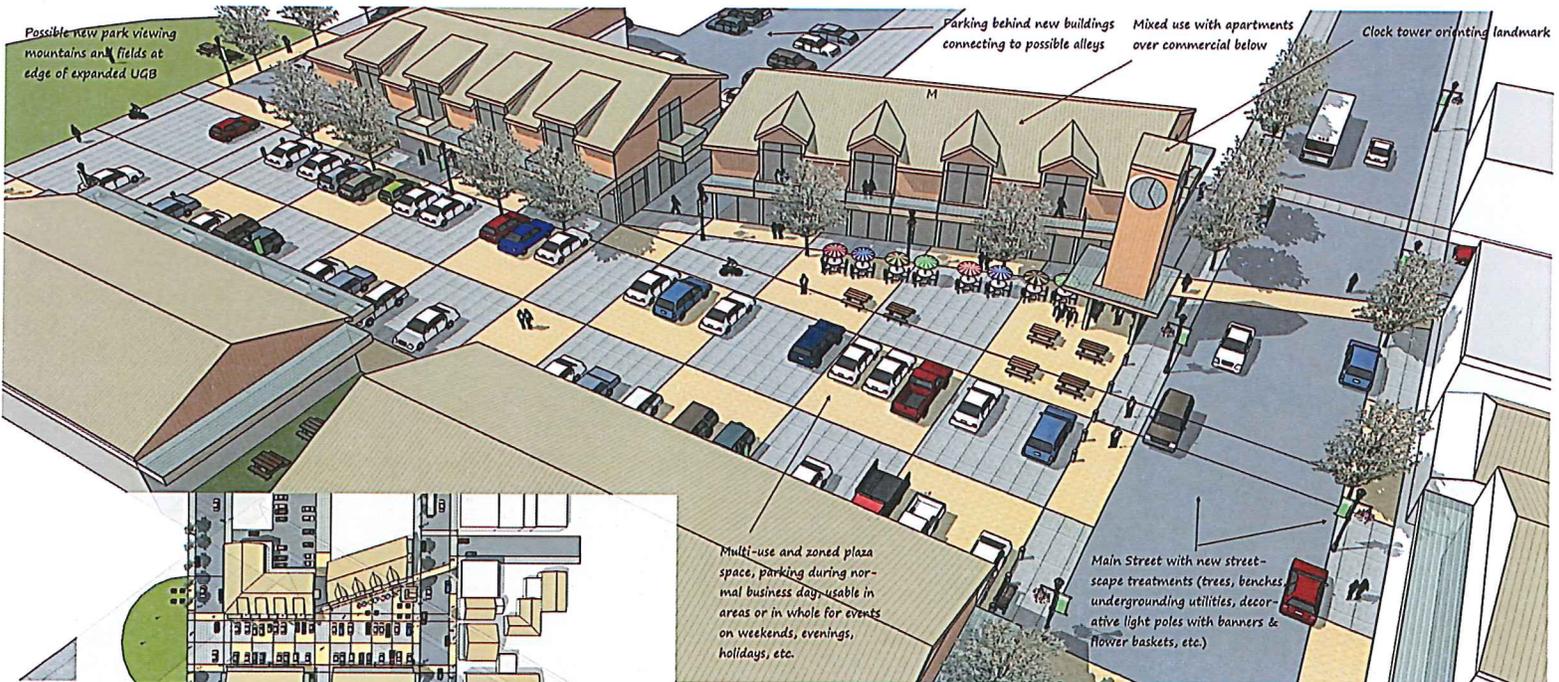
VISION PLAN PROGRESS CONCEPTS 10-5-16

BANKS

VISION 2036 PLAN

CITY AND COMMUNITY OF BANKS, OREGON

SEDER ARCHITECTURE + URBAN DESIGN LLC



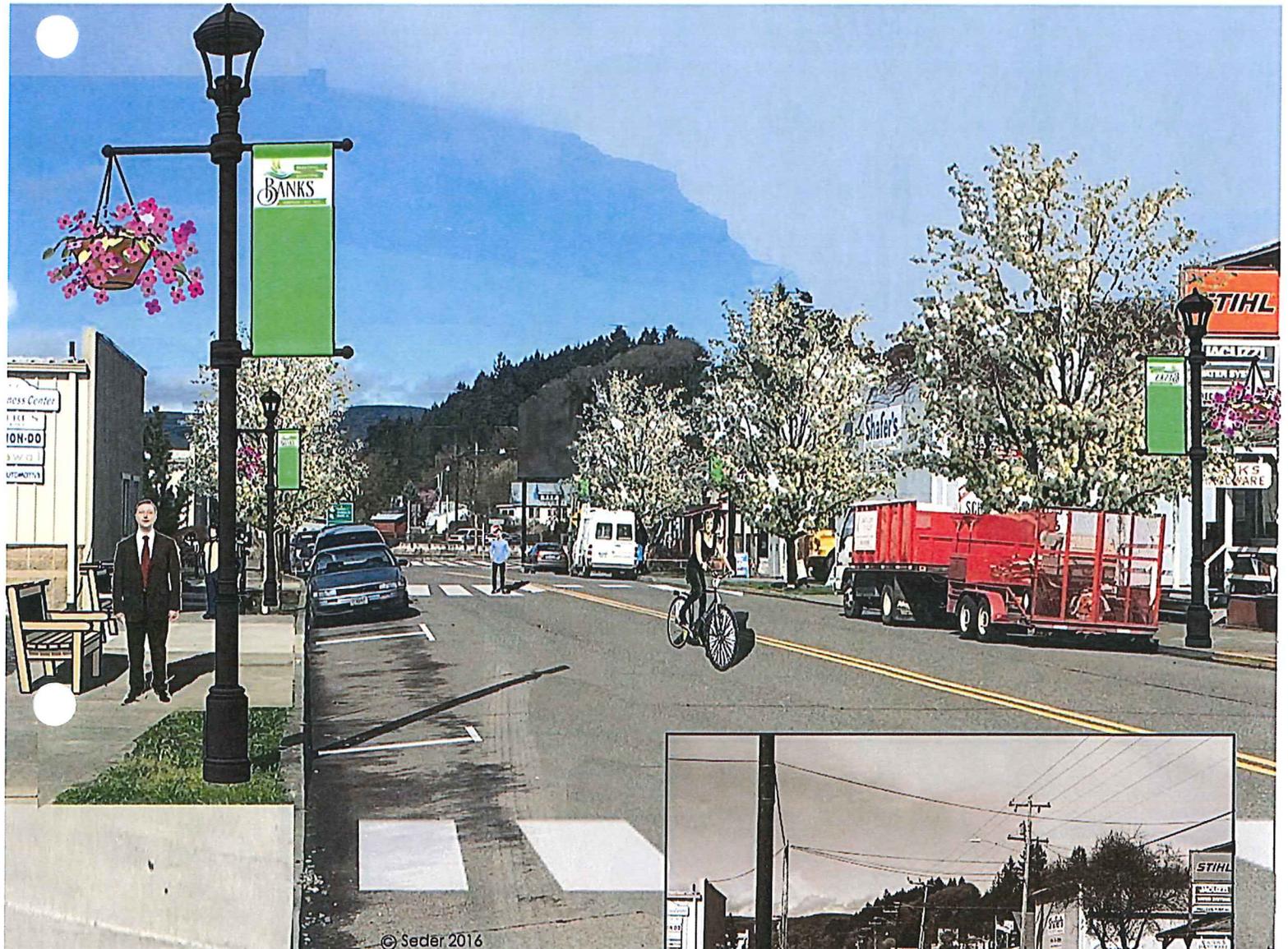
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PLAZA & MIXED USE CONCEPTS

10-5-16

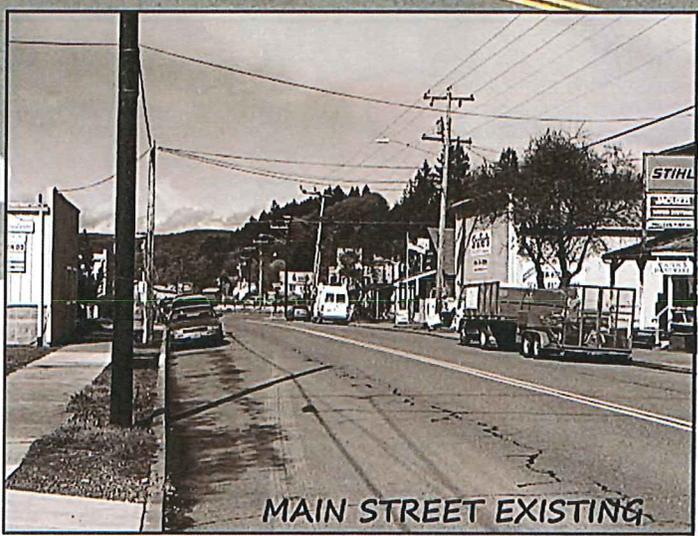
BANKS VISION 2036 PLAN

CITY AND COMMUNITY OF BANKS, OREGON SEDER ARCHITECTURE + URBAN DESIGN LLC



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WITH NEW STREETSCAPES & UNDER-GROUNDED UTILITY LINES



MAIN STREET EXISTING

BEAUTIFUL
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STREETSCAPE VISUALIZATION 10-5-16

BANKS VISION 2036 PLAN

CITY AND COMMUNITY OF BANKS, OREGON SEDER ARCHITECTURE + URBAN DESIGN LLC

Introduction – Background Summary

1. Property Line Adjustment

To properly align existing Tax Lot 600 with the UGB, the Applicants have filed a separate application with Washington County for a Property Line Adjustment (“PLA”). The PLA adjusts the lot boundaries between tax lots 600 and 800 of map 2N4 36, resulting in the adjusted Lot 600 matching the UGB. This PLA will be recorded prior to adoption of the ordinance for this annexation application.

2. Additional Land Included in Annexation

In addition to the adjusted Tax Lot 600, the rear 30 feet of Tax Lot 5200 is being included in the area being annexed. The rear portion of Lot 5200, which is not currently within the city limits, contains approximately 1,800 square feet, or .041 acres. Consequently the total area being annexed is 30.15 acres.

3. Comprehensive Plan Map Designations

The area to be annexed is identified on the City’s Comprehensive Plan Map with five (5) map land use designations:

- SF Residential R5;
- Mixed Use, 10 units/acre;
- HDSF, 6-12 units/acre;
- HDMF, 12-40 units/acre; and
- Industrial.

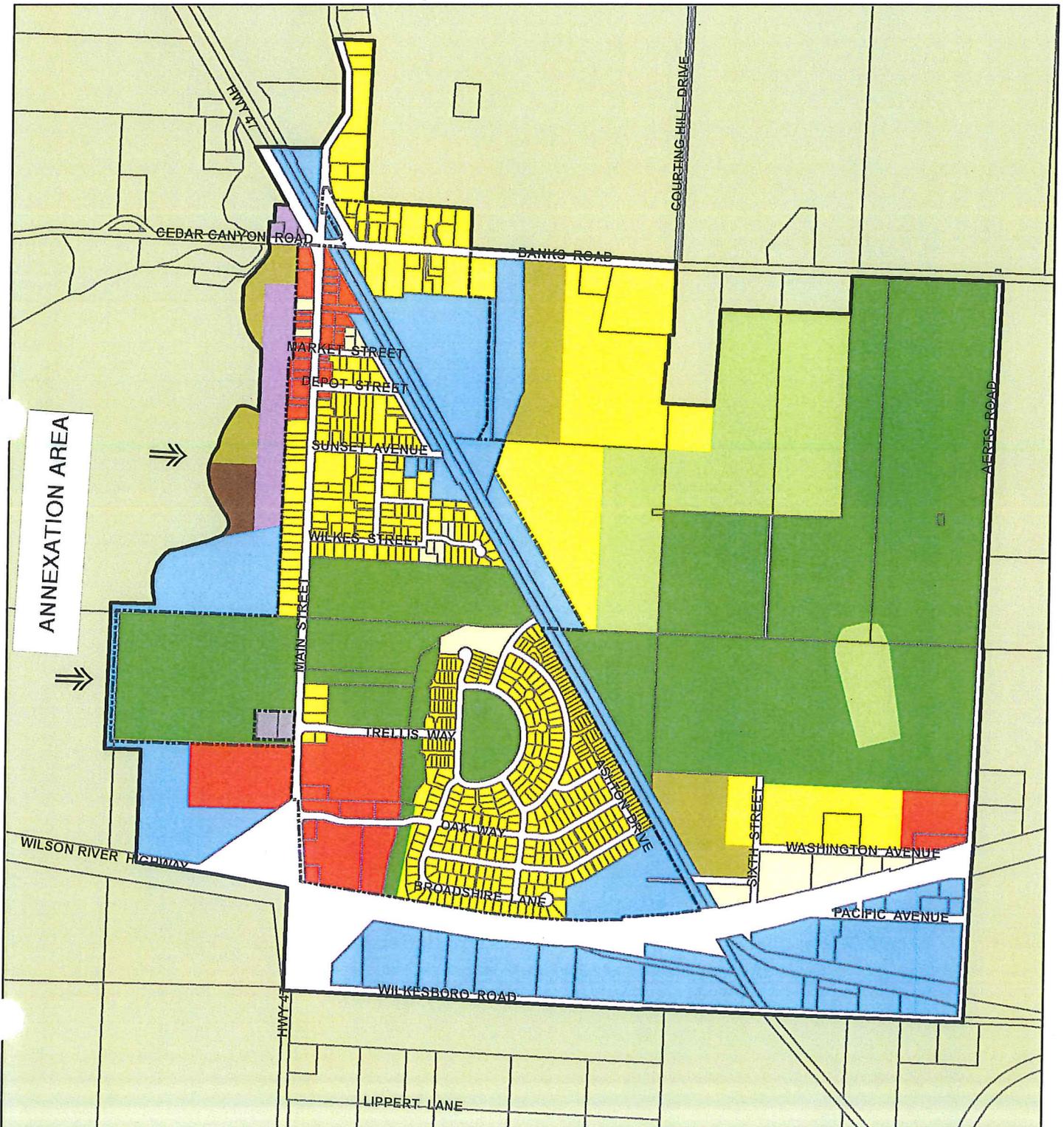
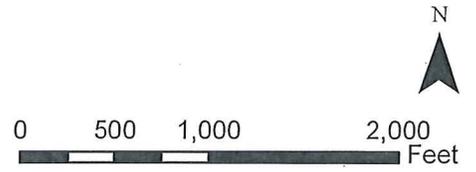
4. General Concept Plan for Future Development of Annexation Area

The Applicants have a general concept plan, based on the Comprehensive Plan designations and applicable densities. As reflected in **Table 1**, the Applicants anticipate that the maximum level of development will be about 167 residential dwelling units in various configurations and about 171,000 square feet of industrial uses.

No specific development plans have been prepared, but the Applicants anticipate development consistent with the Comprehensive Plan for this area. The General Concept Plan reflects the general land use area in the Comprehensive Plan Map designations.

City of Banks Plan Map

- | | | | | | | | |
|---|-------|---|------|---|----|---|-----------------------|
|  | LDSF |  | HDSF |  | MU |  | FD-10 (County) |
|  | R 2.5 |  | HDMF |  | I |  | City Limits |
|  | R 5 |  | C |  | CF |  | Urban Growth Boundary |



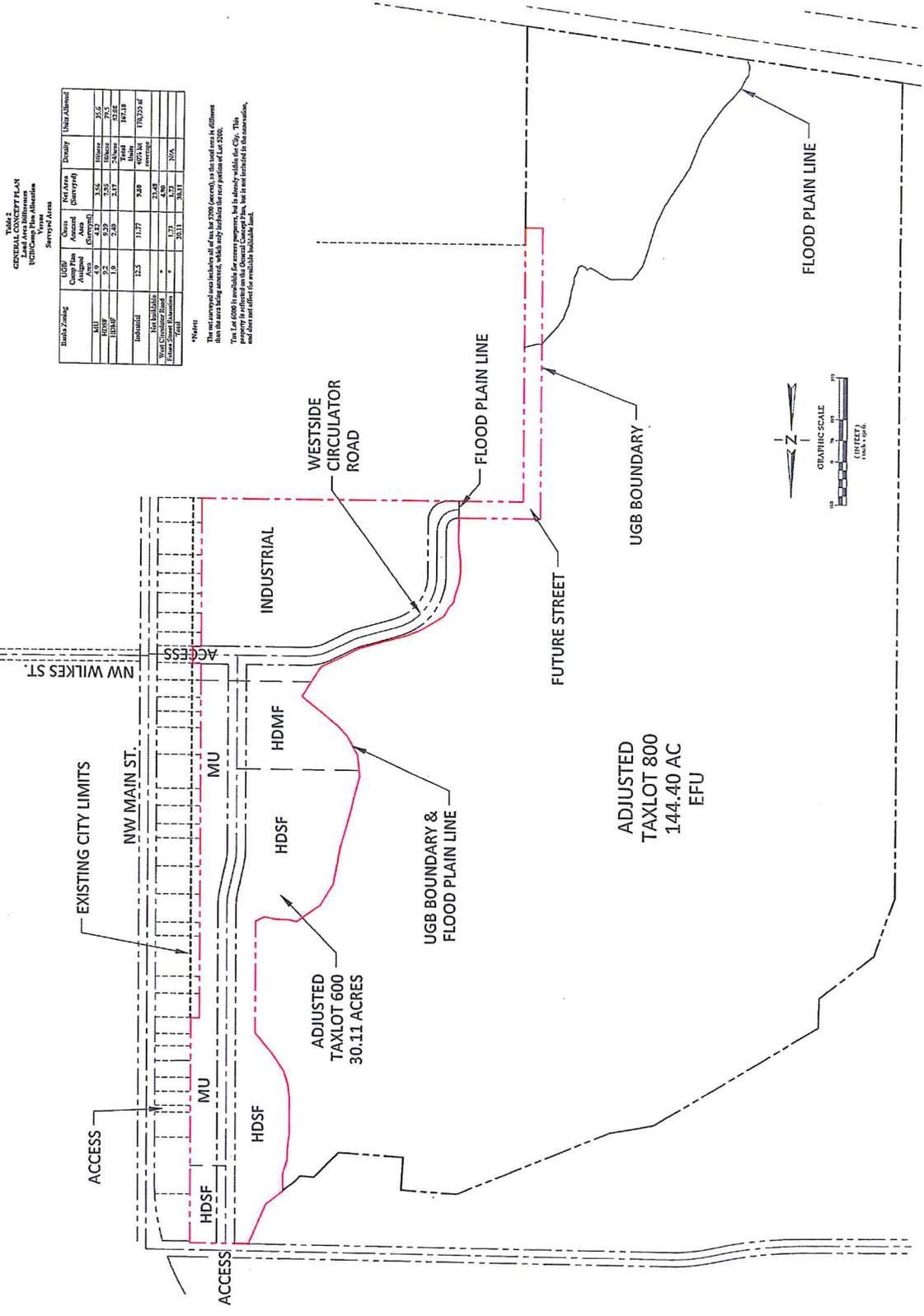
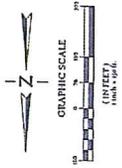


Table 2: GENERAL CONCEPT PLAN Land Area Differences UGB/Comp Plan Alignment Surveyed Areas

Block/Zoning	UGB/Comp Plan Area (Acres)	Net Area (Surveyed)	Density	Units Allowed
MU	2.5	2.5	20	50
HDSF	1.9	2.48	2.17	53.62
HDMF	12.5	11.77	9.88	407.14
Industrial				170,375 sf
Total				

The net surveyed area includes all of the lot (2500 percent) on the total area in difference from the area being annexed, which only includes the error portion of Lot 2500.
*The Lot 6000 is available for access purposes, but is already within the City. This property is not shown on this General Concept Plan, but is not included in the annexation, and is not shown for reference purposes.



II. VICINITY & SITE INFORMATION

1. Site Location

The annexation area is located on the west side of the City, south of Cedar Canyon Road, west of Main Street (State Hwy 47 (herein referred to as Main Street) and north of the Wilson River Highway (State Hwy 6).

Access to the site is from NW Cedar Canyon Road. In addition, an extension of NW Wilkes Street through Tax Lot 5200 will provide local street connectivity. The Transportation System Plan (“TSP”) calls for the new circulator road to extend generally north/south through the property, parallel to Main Street.

2. Surrounding Land Uses

The annexation area is located at the west side of the City. The land to the west is zoned exclusive Farm Use (“EFU”) and is in farm use in unincorporated Washington County. The zoning and development pattern for land surrounding the annexation area is as follows:

- The abutting properties to the east, fronting Main Street are zoned “R-5,” Single Family Residential or “C,” General Commercial. These properties are generally developed with commercial uses and single family homes;
- To the southeast across Main Street is the Banks School District offices and Elementary, Junior High and High Schools;
- To the south is the Sunset Park ball fields and race track, zoned “CF,” Community Facility;
- To the north, is the west fork of Dairy Creek, and across Cedar Canyon Road, is land zoned “MU,” Mixed Use and “I,” Industrial.

III. COMPLIANCE WITH APPLICABLE CODE

1. Comprehensive Plan Compliance

The City’s Acknowledged Comprehensive Plan contains certain Goals and Policies for Land Use and Urbanization, which apply to annexation applications, ORS 197.175(2).

The Land Use Policies section include the following policy:

2. *“The comprehensive plan is the basis for all land use decisions and action. Specific implementation measures shall be consistent with the Comprehensive Plan.”*

RESPONSE: The properties proposed for annexation were added to the UGB in 2011. The City found the land to be necessary to support continued growth based on the 2005 Housing and Residential Land Needs, adopted by City Ordinance 110.30, and further based on the October 2010 City of Banks Urban Growth Boundary Expansion Justification Technical Report, prepared by CH2MHill.

The Urbanization section of the Plan states as follows:

“Urbanization

Urbanization is the process of converting rural land, that is basically undeveloped and within the urban growth boundary, to urban use with supporting public facilities and services.

Urbanization needs explanation because it is at the heart of the comprehensive plan. There are several phases of work which consider many variables and which are discussed in this section.

The urbanization element is divided into determined by three phases (et sic) items: population, existing land use, and developable lands.

Population projections determine total need for growth over a period of time. Need for growth translates primarily into land needed for development. The difference between existing urban land and future land needs leaves a balance of land needed for urban growth.

These “developable lands” are determined as to location and use by reviewing available land by criteria as restrictive features, economics or natural resources. Lands, determined to be “developable” were put into primary and secondary use categories by reason of economic cost to the city and developer. Developed lands and needed developable lands together determined the size and location of the Urban Growth Boundary consistent with the seven factors of Statewide Planning Goal 14, Urbanization.”

RESPONSE: The area proposed for annexation is consistent with the needed land identified by the City and was added to the UGB for development. This area is shown in the Plan as a “Primary Developable Area.”

The Urbanization Policies section includes the following two (2) applicable policies:

1. *“The City has established an urban growth boundary; growth and development will be directed and encouraged within this area on developable lands (as shown and defined in the plan element section). Development will be consistent with the capacity and capability of public services.”*

RESPONSE: The City determined in 2011 that it was necessary and appropriate to expand the UGB to include the properties now proposed for annexation. The 2011 Comprehensive Plan amendment included a determination of buildable land, consistent with the Plan’s Urbanization policies and provided land use designations for the subject property, as addressed below in this application.

3. *“Upon request, the City will annex lands with the urban growth boundary when it is demonstrated that such annexations are consistent with the Comprehensive Plan policies, are within the capabilities of the City’s services and facilities, and about the city limits.”*

RESPONSE: The availability of urban services is addressed in the following section of this application, and in **Appendix A**.

The City can find that this application is consistent with relevant Plan policies, that services and facilities are within the City’s capabilities to be provided and that the area to be annexed abuts the City Limits.

Annexation

Areas can be annexed to the City upon request, consistent with the Plan policies. Additionally, annexations must also comply with statewide goals...

RESPONSE: The Applicants are not required to comply with the applicable Statewide Planning Goals (“The Goals”).

First, the City’s Plan is acknowledged as consistent with the Goals. ORS 197.175(1) requires the City to exercise its planning and zoning responsibilities, including annexation, consistent with ORS Chapter 197 and the Goals, ORS 197.175(2)(d) provides that the Goals are not applicable to a land use decision if the City’s Plan and land use regulations are acknowledged. Therefore the Goals are not applicable because the City has an Acknowledged Plan and land use regulations.

Second, OAR 660-014-0060 applies to annexations. This administrative rule provides that an annexation made in compliance with an acknowledged Plan is deemed to comply with the Goals as long as the Plan and implementing ordinances control the annexation. The City can find that the relevant Plan policies, Banks Code Chapter 30.01-30.06 and Banks Zoning Ordinance Section 151.025 control the annexation. Therefore, the Goals do not apply to this Application.

2. ***City of Banks Municipal Code Chapter 30 – General Provisions***

A.30.01. Generally

- (A) *Purpose. When annexations are properly timed, they may allow for the orderly expansion of the City of Banks’ boundaries and may contribute to the logical extension of public infrastructure. The city also recognizes that the development of lands at urban density must include the provision of an adequate level of required urban services such as sewer, water and roads. Policies and procedures adopted in the subchapter are intended to carry out the directives of the citizens of Banks, and to ensure that annexation of lands to the city is incorporated into a process of providing a timely and orderly conversion of lands to urban uses.*

RESPONSE: The Applicants understand the requirements and procedures for annexing property into the City and the application addresses all relevant criteria within this application.

(B) Election required. Upon the Banks City Council’s legislative determination of an applicant’s eligibility to annex, the Council must set the matter for a citywide vote. Annexation must be approved by a majority of those voting.

RESPONSE: The City Code requires voter approved annexations. However, the 2016 Oregon Legislature enacted SB 1573, which became law upon the Governor’s signature on March 16, 2016. The Law provides as follows:

SECTION 2. (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.
(2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if:
(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;
(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city;
(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and
(d) The proposal conforms to all other requirements of the city’s ordinances.
(3) The territory to be annexed under this section includes any additional territory described in ORS 222.111 (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.
(4) When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed.

Governor Brown signed the Bill into law on March 16, 2016. The law became effective on that date. The law requires Cities to take action on annexation applications meeting certain criteria without requiring a vote of the City electorate, regardless of the City’s required annexation procedures.

Compliance with Senate Bill 1573

This law supersedes local laws requiring voter-approved annexation. The City Council’s decision regarding this annexation application is the final decision by the City.

SECTION 2. (1) This section applies to a city whose laws require a petition proposing annexation of territory to be submitted to the electors of the city.
(2) Notwithstanding a contrary provision of the city charter or a city ordinance, upon receipt of a petition proposing annexation of territory submitted by all owners of land in the territory, the legislative body of the city shall annex the territory without submitting the proposal to the electors of the city if:
(a) The territory is included within an urban growth boundary adopted by the city or Metro, as defined in ORS 197.015;

Finding: The territory proposed for annexation is within the City's acknowledged UGB. The City is not within Metro's jurisdiction.

(b) The territory is, or upon annexation of the territory into the city will be, subject to the acknowledged comprehensive plan of the city.

Finding: The territory proposed to be annexed is subject to the City's acknowledged Plan.

(c) At least one lot or parcel within the territory is contiguous to the city limits or is separated from the city limits only by a public right of way or a body of water; and

Finding: Both parcels comprising the area proposed for annexation are contiguous to the current city limits.

(d) The proposal conforms to all other requirements of the city's ordinances.

Finding: This application complies with other applicable requirements of the City's ordinances.

(3) The territory to be annexed under this section includes any additional territory described in ORS 222.111 (1) that must be annexed in order to locate infrastructure and right of way access for services necessary for development of the territory described in subsection (2) of this section at a density equal to the average residential density within the annexing city.

Finding: No additional territory is required to be annexed as density requirements can be met in the UGB expansion area, and all services can be provided without requiring additional areas to be annexed.

(4) When the legislative body of the city determines that the criteria described in subsection (2) of this section apply to territory proposed for annexation, the legislative body may declare that the territory described in subsections (2) and (3) of this section is annexed to the city by an ordinance that contains a description of the territory annexed.

Continuation of City of Banks Municipal Code Chapter 30 – General Provisions

(C) *Application for annexation. The applicant must complete the application form provide by the City of Banks Planning Commission. Application procedures, including application materials, fees, costs, (i.e. staff costs, elections costs and the like), and filing deadlines are to be established by resolution of the Council.*

RESPONSE: The Applicants have filed a complete application, including the form provided by the City, the fee (deposit of \$2,500) and all necessary supporting documentation demonstrating compliance with applicable Banks Code provisions.

(D) Urban Planning Area Agreement. Annexation proposals will be consistent with the policies and provisions of the City's Urban Planning Area Agreement with Washington County entered into on 10-25-1988 (Ordinance 102500) or as later amended and the provisions of any intergovernmental agreement or agreement with any agency providing public services to the City of Banks.

RESPONSE: This application demonstrates that the proposed annexation is consistent with the Urban Planning Area Agreement ("UPAA") in effect with Washington County, (*see* Index Tab). The City adopted the latest version of the UPAA September 18, 2012 (Ord. 753). The Agreement reflects the amended UGB for the City. The UPAA provides for notice of pending land use actions, including annexations, which may affect either of the two (2) agencies.

3. Chapter 30.02 – Review Criteria

(A) Eligibility Criteria. The Council must determine that property is eligible for annexation based on the following criteria:

- 1. The property is contiguous to the existing city limits;*
- 2. The property is located within Banks Urban Growth Boundary; and*
- 3. Any other prerequisite requirement that may be applicable under the Oregon Revised Statutes.*

RESPONSE: The area proposed for annexation is contiguous to the existing western and a portion of the northern city limit boundary (See the General Concept Plan included)

The properties proposed for annexation were added to the City of Banks UGB in 2011. The City found that the land was necessary to support continued growth based on the 2005 Housing and Residential Land Needs, adopted by City Ordinance 110.30, and also based on the October, 2010 City of Banks Urban Growth Boundary Expansion Justification Technical Report, prepared by CH2MHill.

The City did not identify any other prerequisite requirements applicable under State Law in any of four (4) prior annexations.

The Applicants have reviewed ORS 222.111, which sets forth the authority and procedures for annexation within the State of Oregon. The proposed annexation is consistent with these provisions and does not find that any additional prerequisite requirement that is not being addressed and met through compliance with the Banks Code.

(B) Timelines Criteria. The Council must determine that it is timely to annex property based on the following criteria:

- (1) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.*

(a.) *Adequate Level* means conforms to adopted plans and ordinances, or as may be determined by the agency that provides the service or infrastructure.

RESPONSE: In approving the UGB expansion in 2011, the City found that adequate levels of urban services and infrastructure existed to support development of the expansion areas. In support of the proposed annexation the applicant has provided additional analysis and documentation of service capacities (See Appendix A.)

Existing Streets

The annexation area has about 200 feet of frontage on NW Cedar Canyon Road along the northern boundary. The applicant also owns tax lot 5200 abutting Main Street. Tax Lot 5200 can provide for an extension of NW Wilkes Street into the annexed area. One of the petition signers also owns Tax Lot 600, which is a 30 foot wide strip of land. This strip may provide some level of additional access from Main Street.

Utilities Systems Analysis

The Applicant’s Concept Plan reflects potential development of the annexed property, consistent with the Comprehensive Plan designations, including approximately 167 residential units and about 171,000 square feet of industrial development.

Existing City Utilities

The City has existing infrastructure, adjacent or nearby, which is available to serve development of the annexation area as summarized in **Table 1**. **Table 2** summarizes existing utilities capable of serving the site.

Additional detail regarding evaluation of the City’s infrastructure systems is provided in **Appendix A**. The following is a summary of the **Appendix A** findings.

**Table 2
Existing Utilities**

Service	Provider	Size	Location	Distance from Site
Water	City	12-14 inch	Main Street	Adjacent
Sanitary Sewer	CWS	8 inch	Cedar Canyon Rd., CWS pump station	Adjacent
Storm Drainage	CWS	N/A	Discharge to W. Fork Dairy Ck.	Adjacent

Water System

The 2011 Water Master Plan update specifically addresses the UGB Expansion Areas and includes a list of 15 capital improvement projects totaling \$8,990,000 to meet long term needs through 2028.

When the subject property is developed and supply issues mitigated, water service will be extended from the line in Main Street and looped through the development in the annexation area, with connections through Tax Lot 5200 and possibly Lot 6000.

Water System Maps for the City have been included in this application.

The City's Water System Master Plan calls for a main line connection between the 12 inch line in Main Street and the 15 inch line in Cedar Canyon Road, which extends through the subject properties.

Sanitary Sewer System

Sanitary sewer is provided by Clean Water Services ("CWS"). A CWS pump station is located near the northern boundary of the Annexation Area, just south of NW Cedar Canyon Road, on Tax Lot 601. The elevation of the pump station is sufficient to accommodate gravity flow sanitary sewer from the annexed property.

Storm Drainage System

Storm drainage services are also provided by Clean Water Services. Based on the topography of the annexed property storm drainage will be directed into the floodplain of the West Fork of Dairy Creek, consistent with CWS standards.

The 2010 UGB Expansion Technical Report found that the expansion areas can be efficiently served by sanitary sewer and storm drainage conveyance provided by Clean Water Services (CWS).

Based on prior annexations, the applicant understands that the subject property must also be annexed into the Clean Water Service District prior to development.

Transportation Infrastructure

Arterial Access

Arterial street access is provided by State Highway #6, south of the site and State Highway 47 (Main Street) east of the site, both under ODOT jurisdiction. No direct site access is required or proposed from either of these two state highways.

The annexation area has frontage on NW Cedar Canyon Road, which is classified as a Collector Street and is located one row of lots west of Main Street.

Collector Circulation

The TSP identifies the need for a new street connection that will generally extend north-south through the annexation area. This street is intended to provide circulation parallel to Main Street from NW Cedar Canyon Road at the north and back to Main Street at the south.

Site Development - Access

In addition to the land proposed for annexation, the Applicants own property along Main Street, (TL 5200) is available to provide access to the annexed property. Tax Lot 5200 is in line with NW Wilkes Street. As the annexation area is developed, a system of local streets will be constructed providing access and circulation throughout the site, with primary access from Main Street and Cedar Canyon Road.

The UGB area includes a 60 foot wide strip along the east boundary of Tax Lot 800. This area is required for a future road to provide circulation to Tax Lot 1101 and back out to Main Street. Access to Cedar Canyon Road may also be considered as development plans are refined. Therefore, development of the annexed property will provide this north-south collector street identified in the TSP and reflected on the Conceptual Development Plan.

Prior Annexation Agreements

In response to the water system requirements, for the prior annexations, the City has required those applicants to execute an Annexation Agreement. These agreements restrict development of the annexed property until evidence of satisfactory urban services are available to support the level of proposed development, including public potable water, sanitary sewer, transportation system infrastructure and storm drainage facilities.

The applicants anticipate execution of a similar Annexation Agreement.

(b) Urban Services means police, fire, school facilities, parks and recreation facilities, greenways and open spaces and other city-provided services.

RESPONSE: The Applicants have contacted all urban service providers, including City of Banks Water Department, Banks Fire Department, Banks School District, Washington County

Sheriff's office and Clean Water Services. All agencies have submitted Service Provider Letters which confirm adequate services are available or can be made available to support the annexed property.

Fire Services

The Banks Fire District #13 provides fire and rescue services to this area, including the annexation area. The District has confirmed adequate service capability, through their Service Provider Letter.

Police Services

The City of Banks contracts with the Washington County Sheriff. Under current service agreements and budget allocations the Washington County Sheriff's Office has assigned two (2) deputies to the City. The Sherriff has confirmed adequate service capability, through their Service Provider Letter.

Schools

The Banks School District Complex is across Main Street from the Annexation Area. The Complex includes Administrative offices, Elementary, Jr. High and High School facilities. Funding for the District is provided by separate property tax base from the City of Banks. The District has confirmed adequate service capability, through their Service Provider Letter.

Parks

Banks has a large amount of existing parks, open spaces and recreational facilities. These facilities are in a combination of public and private ownerships including:

1. Log Cabin Park;
2. Greenville City Park;
3. Sunset Park, ball fields and race track (private);
4. Banks-Vernonia State Trail Trailhead;
5. School District Complex, with ball fields and gym (public);
6. Arbor Village Path; and
7. Quail Valley Golf Course (private).

(c) Infrastructure means sanitary sewer, water, storm drainage, and streets.

RESPONSE: The Applicants have prepared an infrastructure systems analysis, and has coordinated with CWS regarding sanitary sewer and storm drainage requirements. CWS has indicated they have facilities in the area, but have not developed any specific system plans to serve the area being annexed. Such system planning will be initiated upon annexation, but CWS has not identified any system deficiencies relative to serving the proposed annexed properties, per their email response, see **Appendix A**.

The Applicants have also coordinated with the City Water Department and has provided an analysis of water services consistent with the 2011 Water Master Plan, See **Appendix A**.

Provision of street improvements to serve the annexed property can be provided consistent with the current TSP.

(d) Be Made Available in a Timely Manner means that improvements needed for an adequate level of urban services and infrastructures will be provided in a logical, economical, and efficient manner and are made available in accordance with the development agreement or other funding mechanism at that time of approval. Improvements for the needed infrastructure and urban services must be secured by a development agreement or other funding mechanism that places the primary economic burden on the annexed property and not on the city.

RESPONSE: At the time of site development, the developer will enter into a development agreement with the City to ensure that required and adequate infrastructure is available in a timely manner to support site development.

(2) Sufficient planning and engineering data must be provided, and all necessary studies and reviews must be completed in such a manner that there are no unresolved issues regarding development of the annexed property. It may be timely to annex property if the appropriateness of the proposed use could be altered by plans or studies that are underway, or are needed, to update, clarify, or provide additional specificity to the property use. Examples of needed studies may include, but are not limited to, public infrastructure plans, buildable lands inventories, area refinement plans, park study, or any related planning study pertaining to growth management.

RESPONSE: The applicants reviewed City records related to the 2011 UGB expansion and contacted the urban service providers to determine any infrastructure deficiencies which might affect the timing of annexation. Records and document reviews included the following:

- City findings in support of the 2011 UGB expansion;
- City's 2010 Buildable Lands Inventory;
- Updated 2016 Land Needs Analysis prepared by PNW Economics, LLC;
- City's 2010 Water System Master Plan, and discussion with City Public Works Director;
- City's 2010 TSP;
- Clean Water Services Storm and Sanitary Systems maps
- City's 2010 UGB Expansion Technical Report;
- Aerial identification of Existing Parks;
- School District SPL
- Fire District SPL;
- Washington County Sheriff SPL

Conclusions from this Service Provider research are as follows:

1. There are no pending studies that might result in a determination that the property is not appropriate for annexation. The City's findings in support of the 2011 UGB Expansion confirmed that infrastructure and services can be timely and efficiently provided.
2. The City's 2011 Water Master Plan was updated to acknowledge the addition of the UGB Expansion areas. The City has approved prior annexations, subject to an annexation agreement linking determination of adequate water supply with specific site development.
3. Clean Water Services has not identified any system deficiencies, as confirmed by the UGB Expansion findings. And, all other urban service providers have confirmed that adequate service capabilities exist to serve the annexed area.
4. Other urban service providers including school district, fire district; county sheriff and CWS have provided SPL indicating adequate services are available to support the annexed property.

(3) The Council may consider, at its discretion, any other factors that effect the timeliness or wisdom of any particular annexation petition.

RESPONSE: This is a standard granting the City Council discretion in reviewing annexation applications and no response is necessary.

(4) The burden for providing the findings and cost thereof for this section and Section 30.03 is placed upon the applicant.

RESPONSE: The Applicants have provided documentation to support timely delivery of adequate services and infrastructure; and is prepared to accept the financial burden of delivering required infrastructure improvements to support development of the annexed property.

CHAPTER 30.03 APPLICATION REQUIREMENTS.

An application for annexation must be made on forms provided by the Commission and must include the following information:

(A) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both within the area to be annexed, as provided by state law;

RESPONSE: All three (3) property owners have consented to the annexation by their signatures.

(B) A metes and bounds legal description or acceptable alternative legal description of the territory to be annexed as certified by the Washington County Assessor's office;

RESPONSE: The application includes a metes and bounds legal description of the property to be annexed. The legal description has been certified by the County Assessor's office.

(C) The County Assessor's office quarter section map(s) showing the proposed annexed area and adjacent city territory;

RESPONSE: The application includes a copy of the County Assessor's office quarter section map(s) showing the proposed annexed area and adjacent city territory.

(D) General land use plan indicating types and intensities of proposed development, transportation corridors, water courses, significant natural features, open space, freeways, and adjoining development;

RESPONSE: The application includes a General Concept Plan reflecting land use types and intensities consistent with the Comprehensive Plan. Street circulation consistent with the TSP is also shown.

(E) A detailed statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced;

RESPONSE: The Applicants have provided a General Concept Plan depicting how the property may develop. The northern portion of the site, approximately sixteen and six tenths (16.6) acres, is planned for a mixture of residential use, at various densities and unit types. An estimated total of about 167 residential dwelling units are anticipated. There is approximately three and one half (3.5) net acres designated for mixed-use, which can potentially create limited commercial use, within mixed-use structures.

The southern portion of the site, approximately twelve (12) acres will be zoned for industrial development.

Consistent with the City's 2011 UGB Expansion, the site was identified to assist the city in meeting 20 year supply needs for residential and industrial land.

The residential development will provide housing options for future residents. The overall development will provide construction jobs, while the industrial development will provide long term employment opportunities.

(F) A detailed statement of additional facilities required to meet any increased demand and a plan for the phasing in of any such facilities in accordance with the projected demand;

RESPONSE: Appendix A provides an analysis of the existing facilities capacities and identifies systems deficiencies. The City has indicated an increase in water supply will be necessary and has identified alternatives for providing that supply thus finding that services can be made to be adequate for future development. The City is reviewing those alternatives and will make a decision on the best course for the City to increase supply. Once the City makes their decision, they will provide direction for development of the subject property in terms of water improvements or phased water improvements the developer can complete to ensure adequate supply.

Sanitary sewer, storm drainage and transportation systems are all adequate, although specific site development related improvements will be required.

(G) A detailed statement outlining method and source of financing required will be made available in a timely manner to the hearing body to show how the applicant plans to provide any required additional facilities;

RESPONSE: No specific additional utilities systems will be needed as a result of the annexation. Actual systems impacts will not occur until such time as specific site development is proposed.

The city has previously required Annexation Agreements to be executed by the Petitioner/Owners. These agreements restrict development of the annexed property until evidence of satisfactory urban services are available to support the level of proposed development, including public potable water, sanitary sewer, transportation system infrastructure and storm drainage facilities.

(H) A detailed statement of availability, capacity, and status of existing water, sewer, drainage, transportation, park and school facilities;

RESPONSE: The applicant has obtained Service Provider Letters from the various service providers, which indicate that the facilities listed in the section are all generally adequate to support development of the annexed area. Water supply is the only potential exception, depending upon when actual site development is proposed.

The City has indicated an increase in water supply will be necessary and has identified alternatives for providing that supply thus finding that services can be made to be adequate for future development. The City is reviewing those alternatives and will make a decision on the best course for the City to increase supply. Once the City makes their decision, they will provide direction for development of the subject property in terms of water improvements or phased water improvements the developer can complete to ensure adequate supply. Annexation of the property alone does not directly increase the demand for water. The demand for additional water supply only results from actual site development.

(I) Comprehensive narrative of potential negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller subcommunity or neighborhood that it will become part of; and proposed actions to mitigate the effects;

RESPONSE: Construction of new homes and industrial development are generally considered a positive improvement for communities because they provide needed housing and new jobs. The City added this area to the UGB for the purpose of providing additional residential and industrial development.

The City's development review process requires the applicant to demonstrate that the transportation and utilities systems serving the site are adequate to support the development related impacts. Clean Water Services requires developments to design projects consistent with

their systems capacities and construction design standards. Any necessary systems mitigation will be conditioned as a development related cost as part of the development approvals. These processes will mitigate infrastructure related impact.

When site improvements are proposed, the community will have opportunities to review and comment. As part of the UGB amendment process, the City considered mitigating impacts on adjacent properties with their placement of zoning districts on the comprehensive plan.

- (J) *Narrative demonstrating need for the urban development proposed for the annexation area; need should be demonstrated based upon factual analysis of the following factors:*
- (1) *Availability within the current city limits of undeveloped land designated for proposed urban development;*
 - (2) *Analysis of immediate, short-term (1-5 years) demand for proposed urban development; and*
 - (3) *Probable phasing of proposed urban development consistent with projected demand for the period that the annexation area is expected to be developed.*

RESPONSE: The Applicants have provided an update to the Needs Analysis prepared by PNW Economics for the Quail Valley Gold Course Annexation. This analysis demonstrates the need for the land, consistent with the findings the City adopted for the UGB Expansion.

- (K) *List of property owners (printed on self-adhesive labels) within 300 feet of the exterior boundary of the annexation property; the list shall be based on the latest tax assessment records at the Washington County Department of Assessment and Taxation and legible scale drawing of the site.*

RESPONSE: The application documents submitted include mailing labels for property owners within 300 feet of the perimeter of the area to be annexed, as provided by Washington County, per their property tax records.

4. OREGON REVISED STATUTES – 222.111, Authority and procedure for annexation

“(1) 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 (Authority and procedure for annexation) to 222.180 (Effective date of annexation) or 222.840 (Short title) to 222.915 (Application of ORS 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.”

RESPONSE The area proposed to be annexed into the City, more specifically described with the attached legal description is contiguous to parts of the existing city limits.

The relevant criteria do not require complete contiguity. No local or state law prohibits approval of annexations that create islands. In this case, an island will be created. Subsequent to the annexation of the property within this application, the applicant will pay staff time for a subsequent application prepared by the City for annexation of the island created.

“(2) 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.”

RESPONSE: This annexation has been initiated by the owners of the real property proposed to be annexed.

“(3) The proposal for annexation may provide that, during each of not more than 10 full fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city purposes on property in the annexed territory shall be at a specified ratio of the highest rate of taxation applicable that year for city purposes to other property in the city. The proposal may provide for the ratio to increase from fiscal year to fiscal year according to a schedule of increase specified in the proposal; but in no case shall the proposal provide for a rate of taxation for city purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for city purposes to other property in the city. If the annexation takes place on the basis of a proposal providing for taxation at a ratio, the city may not tax property in the annexed territory at a rate other than the ratio which the proposal authorizes for that fiscal year.”

RESPONSE The Applicant will coordinate and cooperate with the City in determining the applicable tax rates, and any phasing-in of higher rates.

“(4) When the territory to be annexed includes a part less than the entire area of a district named in ORS 222.510 (Annexation of entire district), the proposal for annexation may provide that if annexation of the territory occurs the part of the district annexed into the city is withdrawn from the district as of the effective date of the annexation. However, if the affected district is a district named in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district), the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district).”

RESPONSE The Applicant understands that prior to any site development of the annexed properties to urban densities and connection to sanitary sewer infrastructure, the area must also be annexed into the Clean Water Services district by Washington County.

“(5) The legislative body of the city shall submit, except when not required under ORS 222.120 (Procedure without election by city electors), 222.170 (Effect of consent to annexation by territory) and 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915) to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 (Procedure without election by city electors) or 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915) to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.”

“(6) The proposal for annexation may be voted upon by the electors of the city and of the territory simultaneously or at different times not more than 12 months apart.”

“(7) Two or more proposals for annexation of territory may be voted upon simultaneously; however, in the city each proposal shall be stated separately on the ballot and voted on

separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.”

RESPONSE The 2016 Oregon Legislature has enacted SB 1573, which became law upon the Governor’s signature in March 2016. This law was effective immediately. The law requires Cities to take action on annexation applications meeting certain criteria without requiring a vote of the City electorate, regardless of the City’s required annexation procedures.

Senate Bill 1573 supersedes any local jurisdiction requirement for voter-approved annexation. The City Council’s decision regarding this annexation application is the final decision by the City.

CONCLUSION

Based on the findings presented herein, the Applicants have demonstrated compliance with the applicable provisions of ORS 222-111.

ZONING OF ANNEXED PROPERTY

BANKS ZONING ORDINANCE, “151.025 ZONING OF ANNEXED AREAS.”

- (A) Zoning regulations applicable to an area prior to annexation to the city shall continue to apply and shall be enforced by the city until a zone change for the area has been adopted by the City Council. The city may, in an ordinance annexing property to the city or ratifying annexation action of the Portland Metropolitan Area Boundary Commission, conduct. The procedures as may be necessary to conform the zoning and land uses of the property to the requirements of the city’s zoning code and comprehensive plan.*
- (B) The Council may also be ordinance place the property or any part thereof in a zoning classification hereunder, provided the resolutions, ordinance, and notices required to be given in the annexation proceedings include a declaration of the city’s intention to place the annexed property or the part thereof in the zoning classification.*

RESPONSE: At the pre-application conference, City staff indicated rezoning consistent with the Comprehensive Plan designations is typically concurrent with the annexation. However, concurrent re-zoning is not required and the Applicants prefer to defer zoning to a later date following approval of the annexation.