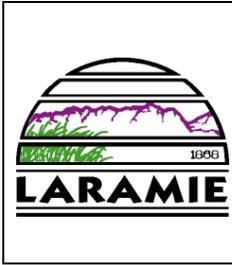


## CITY OF LARAMIE COUNCIL REGULAR MEETING August 20, 2019



### Agenda Item: Orig. Ordinance - 2nd Reading

**Title: Original Ordinance No. 2002, approving and authorizing the annexation of approximately 6 acres of property located in unincorporated Albany County, located at 4503 Bobolink Lane, into the boundaries of the City of Laramie, Wyoming**

### Recommended Council MOTION:

Move to **approve** Original Ordinance No. 2002, on second reading, annexing approximately 6 acres of property located in unincorporated Albany County, located at 4503 Bobolink Lane to the August 20, 2019 City Council regular agenda meeting.

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### Administrative or Policy Goal:

The Comprehensive Plan's future Land Use (FLU) Map (Map 3.2) shows the area as Estate. A companion request (CPA-19-01) proposes the future land use be amended to Auto-Urban Multi-family. The land in question is surrounded by urban growth areas under the Comprehensive Plan's Map 7.2. While the area itself is not included within the urban growth area, the land is described as a Developed Area under Map 7.2 but remains vacant.

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### Background:

Four applications have been submitted related to the Little Valley Subdivision that will be considered by the City Council in upcoming meetings. The 4 applications are;

- Annexation (A-19-01),
- Comprehensive Plan Amendment (CPA-19-01),
- Zoning Amendment (Z-19-01),
- Preliminary Plat (PP-19-01).

All 4 items will be introduced at the July 16, 2019 meeting, however due to the order in which they must be approved and how each are adopted, all 4 items will follow a process as outlined here. At the first meeting on July 16, 2019, all 4 items will be introduced, however at the first meeting due to the Annexation and Zoning Amendments requiring approval by ordinance, these two items will be the only ones acted upon. The other two items, the Comprehensive Plan Amendment and Preliminary Plat will be discussed, but recommendations of postponement will be requested by staff. The reason for this is due to the ordinance process, and the required 3 readings and a public hearing that both the Annexation and Zoning Amendment must go through. Furthermore, both the Comprehensive Plan Amendment and Preliminary Plat, cannot be approved by the Council until after the property is potentially Annexed on 3<sup>rd</sup> reading, bringing the property into the City of Laramie. As these 4 applications move through the process, we anticipate all 4 items will ultimately be considered in a final meeting on August 20, 2019. At that meeting, the Annexation will be considered first, bringing the property into the City. Once Annexed, the Council will consider the Comprehensive Plan Amendment and related Zoning amendment, ultimately then considering the Preliminary Plat.

### Annexation (A-19-01) Background

This request would result in the annexation of an area of approximately 6 acres in size which is generally located at 4503 Bobolink Lane.

The area proposed for subdivision is currently in the county and is requesting Annexation, a Zoning Amendment and a Comprehensive Plan Amendment along with the Preliminary Plat. As proposed the subdivision will develop Block 1, lot 2 of Laramie Plains and plat it into 37 twin home lots with one larger lot to be used as a future development site. The proposed zoning is the R3 (multi-family) District, which requires a the Comprehensive Plan Amendment in order to amend the future land use plan from Estate to Auto-Urban Multi-Family Residential.

This land was previously preliminary platted under Laramie Plains Subdivision Block 1, Lot 2. The preliminary plat generally covered an area between Vista Dr. and Grand Ave. and north of Oriole Lane. The indicated lot was part of one large block that has now been split into 3 different lots.

In 2013, the land had previously been proposed as the site for a student housing complex like “The Pointe” (located on 30<sup>th</sup> and Garfield) but was met with opposition from the surrounding neighbors, due to the large scale of the project and unknow details at the time development proposal. In 2013 the only request was a joint Comprehensive Plan Amendment submitted to both the City and County and no other details were given. Further detail about this decision can be found in the staff reports associate with this project, however this item ultimately failed to be approved.

### Planning Commission Background

Planning Commission recommended denial of A-19-01 at the June 24, 2019 meeting with a vote of Aye: 4. Nay: 3. Absent: 0.

Planning Commission’s motion stated, “City Council deny the project based on findings of denial: from the Overlay District 15.08.040.A.1.b.(i) and (ii), 15.08.040.A.3.g. within the Uniform Development Code; within Chapter 3 of Community Character- under land use policies and goals Paragraph 5; and then Environmental Conciseness, Protection and Sensitive Planning goals and action statements, Paragraph 1.”

Based on the Planning Commission’s motion the following analysis is being provided related to the two sections cited:

#### **Overlay District 15.08.040.A.1.b.(i) and (ii) states:**

**b.** There is continuous residential and commercial development pressure east of Laramie where the Casper Aquifer is recharged. Development in this area increases the risk of contamination in two ways:

#### **(i) New Contamination Sources**

Homes and businesses are new sources of potential contamination to the aquifer (volatile organic compounds from fuels and solvents, nutrient fertilizers and pesticides from lawn care, nitrates and pathogens from septic leachate).

#### **(ii) New Contamination Pathways**

New wells and excavations which weaken the integrity of the confining layer may provide a direct conduit to the Casper Aquifer or reduce the hydraulic barrier provided by the Satanka Shale that overlies the Casper Aquifer.

Although the Planning Commission considered the potential of new contaminate sources as a reason for denial, staff believes that the development does not contain any contaminants that are prohibited within the APO or any household products that would not be present if the land was developed as residential within the County or the City. Only a position of “no development” would result in no change as cited above. Both the Casper Aquifer Protection Plan and Overlay Zone recognize that development may occur in the area, thus regulations and process for development are required. Aside from the section stated by the Planning Commission, further code citations indicate a support for Annexation and should also be considered as support for annexation of this property.

- Under section 15.08.040.A.4.a states this chapter is effective inside the City of Laramie corporate limits, and as delineated in Casper Aquifer Protection Plan (CAPP) and in Map 15.08.060-2 located in subsection 15.08.060.B.
- Residential use is not considered a prohibited use under Table 15.08.040.A. under the Laramie Municipal Code.
- Under the Casper Aquifer Plan, the city’s strategy was to annex as much land into the city that lies within the Aquifer Protection Overlay. “Purchasing land in these areas will ensure protection of the most critical areas within the CAPA. Once purchase is accomplished, annexation of these areas should be a high priority” (p. 115).
- Under the Casper Aquifer Plan, “where it is highly unlikely that all of the CAPA will come under public ownership, the landowners within the CAPA have natural incentives to protect the groundwater in order to protect their investment. These landowners should be viewed as valuable resources in protecting groundwater.
- Once land is annexed into the city, all developments are connected to city sewer and water. In this particular instance, a connection to city sewer and water within the APO runs a much lower risk than the addition of septic’s and wells if left within the county and eliminates one existing septic system and well.
- Under the APO Plan, “Connection to Municipal or District Sewage Collection Lines” (p. 88)  
For those existing areas where septic systems are currently in use, it is recommended that the East Laramie/Albany County Wastewater Feasibility Study be conducted (see section entitled East Laramie/Albany County Wastewater Feasibility Study). Upon completion of the study if municipal or district sewage collection lines are the recommended course of action the following terms should apply.
  - No one-site wastewater treatment systems should be used one year after installation of a municipal sewer collection line in a right of way or easement that is contiguous to the property on which the system is located.
  - No one-site wastewater treatment systems should be used one year after the inclusion of the property containing the on-site system in a district connected to the City of Laramie.Laramie’s wastewater treatment system or another wastewater treatment facility and if the sewage collection line is in a right of way or easement that is contiguous to the property. The provisions for connecting to a City of Laramie sewage collection line in Albany County should be consistent with the existing City of Laramie-Albany County 201 Wastewater Agreement.”
  - This section supports municipal line connections, which can only be provided through annexation and recognizes the importance of reducing the amount of septic systems within the protection area.
- Under the APO Plan “Exception From 100-foot Setback from Vulnerable Features for Infrastructure” (p. 90)

“It is recommended that the construction of sewer and water lines that are connected to either a centralized wastewater or water system or the City of Laramie’s Wastewater or

Water system, be allowed within the APO in order to protect water quality. Sewer lines should be engineered in such a way as to limit the possibility of an undetected leak; this may include double walled pipes and regular pressure testing or other engineering techniques and leak detection systems that reduce the possibility of undetected leaks. Exceptions may also include other general utilities used specifically to serve local developments such as electric lines, gas lines for heating, cable television, and telephone lines. Roads may also be excepted if appropriate stormwater drainage and management is included.”

- This section support annexation as necessary to allowing for connections to sewer lines all while allowing for development to occur, thus eliminating the need for septic systems.
- Under the Comprehensive Plan, “Environmental Consciousness, Protection and Sensitive Planning (p. 3-5)  
“This tool allows sites that are constrained environmentally, such as that within the aquifer protection zone, to develop with a character that is consistent with other neighborhoods and the rest of the community while, at the same time, safeguarding the environment. No matter the subdivision design, clustering, conservation or preservation, annexation should be required so the city can exact control over the type, scale, pattern and density of new development.”
- Recognizes environmental concerns, specifically the aquifer, but supports annexation so that City control the development and place protection measures on the development through the Preliminary Plat Subdivision process. In this case, through annexation, the potential for additional wells and septic systems are completely eliminated.
- Under the Comprehensive Plan, “Environmental Consciousness, protection and Sensitive Planning Goals and Action Statements (p.3-24)
  1. “The City should consider annexation of a defined critical area for the Casper Aquifer that is subject to increased development pressure. The boundaries of the “critical area” must be defined, but are intended for those areas that are highly vulnerable to increased development.””
  2. “Any development or subdivision within the aquifer protection zone contiguous to the city should be considered for annexation with the approval of development or subdivision.”
- Both Goals and Action Statements suggest that annexation should occur within this area and are two of the goals and action statements of the Comprehensive Plan related to annexation of land within the APO. The direction provided by these two statements points to a clear path for the reason of annexation of this land into the city.

Based upon these additional sections stated above, staff recommends that the property still be annexed and that the benefits of annexation and direction given to staff by code and the plans, support staff’s decision.

The second section cited by Planning Commission states:

**15.08.040A.3.g. Definition of Development**

““Development” means the preliminary and final platting of land, construction, reconstruction, conversion, structural alteration, relocation, enlargement of any structure, or project requiring site plan review; any mine excavation, landfill; and/or any change in use, or alteration or extension of the use of land; excluded from this definition are additions to single-family residences that do not increase the amount of wastewater effluent, above the capacity of the permitted small wastewater system (effluent amount determined by number of bedrooms), residential accessory buildings, construction of a single-family home on an existing lot that will be attached to a municipal or

centralized sewer collection line, or construction that does not require a building permit, or construction that requires a building permit which is wholly interior, involves no use change and is not a pre-existing non-conforming use. (Ord. 1728 § 11, 2017; Ord. 1671 § 21, 2014; Ord. 1596 § 28, 2011)”

Staff is unclear why the Planning Commission provided this section of code as a basis for denial. Based off of the definition of development, the proposed development for 4503 Bobolink Lane is required to comply with the regulations as outline in the Aquifer Protection Overlay Zone, including the requirement for a Site Specific Investigation. The definition of development does not provide facts that contradict a recommendation of annexation, but instead state a fact that this development is within the Aquifer Protection Overlay Zone and must comply with the regulations, which it has done. Per LMC, and the sections cited below, development as proposed has followed requirements as required.

- This style of development is not prohibited within the APO under **Table 15.08.040.A Prohibited Activities.**
- Under Section **15.08.040.A.9.a-b.:**
  - **a.** No development shall be permitted in the APO zone unless the effects of such development meet the following criteria.
    - **(i)** The proposed type of development and area in which the development and area in which the development is proposed meets the standards of this ordinance.
    - **(ii)** No vulnerable feature, as defined in subsection 15.08.040.A.7.a, exists within 100 feet of the proposed development.
    - **(iii)** A site-specific investigation, as defined in subsection 15.08.040.A.8 has been performed for the property and a written report, including maps, of the site-specific investigation has been submitted to the city.
    - **(iv)** A professional engineer (the city engineer or other licensed professional engineer), geologist, hydrologist, or other qualified designee who by experience and/or by training has the required skills in the areas of groundwater evaluation, geologic formation analysis, and the science of contaminant transport, other than the professional that performed the site-specific investigation, must review the site-specific investigation and verify that the proposed development meets the requirements of this ordinance. If review of the site-specific investigation is conducted by anyone other than the city engineer, the city may be reimbursed for the cost of review.

In review of the site-specific investigation, the qualified professional will assess and determine whether the site and development plans meet the overall objectives of the Casper Aquifer Protection Plan and this ordinance.

**b.** The city may attach conditions of approval to ensure the protection of the groundwater quality, including, but not limited to, further evaluation, reasonable technical improvements, monitoring or other mitigation measures. All conditions of approval shall be reviewed and evaluated by the professional engineer, geologist, hydrologist, or other qualified designee who reviews the site-specific investigation to ensure that the condition(s) of approval are of sound scientific and technical reasoning.

In conclusion, specific to Annexation, Annexation of the property does not increase the risk to the Aquifer by annexing the property into the City of Laramie. Instead, Annexation brings the property under the rules and regulations required by the City, allowing for development under specific protection measures outline by the Overlay Zone and Plan. Based on State Statues and findings of fact as originally recommended by the City, staff believes all annexation criteria has been met.

Public Comment

During the Public Comment segment of the Planning Commission meeting on June 24<sup>th</sup>, there were multiple members of the public, including residents adjacent to the property at 4503 Bobolink lane. The comments made by the public were generally concerned about the effect of the development on their neighborhood in relation to an increased traffic count on their road and the damage it may do to the remaining gravel sections. The other concerns dealt with the density of the development and the harmful impact it could have on the Casper Aquifer.

Chris Moody, a local geologist, was concerned about the minimum setback length from the identified fault line. Moody, made a comment that the fault line is not the correct feature to setback from, but instead should be a fault zone that stretches 75-100' in each direction from the fault line. This fault zone should then have the 100' setback from vulnerable features required under the Casper Aquifer Plan.

Note: Staff has included all documents related to the Site Specific Investigation (SSI) including the original SSI, Peer Review and City Response.

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**Legal/Statutory Authority:**

- Laramie Municipal Code: Title 15 (Unified Development Code)
- Wyoming State Statutes Title 15 Cities and Towns, Article 4 Annexation
- Wyoming State Statutes Title 15 Cities and Towns, Article 5 Planning
- Wyoming State Statutes Title 15 Cities and Towns, Article 6 Zoning
- Laramie Comprehensive Plan

**BUDGET FISCAL INFORMATION:**

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**REVENUE**

Source	Amount	Type
Fees/Charges for Service	\$0.00	Application Fee (Pursuant to Resolution No. 2010-44 adopted May 18, 2010; no fees are required for Annexation Applications)
Grant		
Loan		
Other		
Total	\$0.00	

**Responsible Staff:**

Todd Feezer, Assistant City Manager,  
721-5304  
Matthew Cox, Associate Planner,  
721-5344

Future dates are subject to change

Advertised	
Public Hearing (PH) Held	August 20, 2019
PH Advertised	July 20, 2019
Introduction/1 <sup>st</sup> Reading	July 16, 2019
2 <sup>nd</sup> Reading	August 20, 2019
3 <sup>rd</sup> Reading	September 3, 2019

Attachments:

- Proposed Ordinance No. 2002
- Planning Commission Staff Report (June 24, 2019)
- Public Comments
- Ryan Athey Response Letter (7.22.19)
- Darren Parkin Memo
- Councilor O'Doherty Questions