

# Mapleton City Council Staff Report

Meeting Date: August 6, 2013

**Applicant:** Mapleton Heights, LLC

**Location:** Approximately 3000 S Hwy 89

**Prepared by:** Sean Conroy, Community Development Director

**Public Hearing Item:** No

**Zone:** N/A

## **REQUEST**

Consideration of an Annexation Petition to annex approximately 222 acres of property in unincorporated Utah County located at approximately 3000 S Hwy 89 into Mapleton City.

## **BACKGROUND AND PROJECT DESCRIPTION**

On July 15, 2013 Bart Boggess, agent for Mapleton Heights LLC, submitted an annexation petition for 222 acres of property located just south of the Mapleton City limits (see attachment "1"). The annexation area includes 110.3 acres owned by the applicant, 106.46 acres owned by four separate owners and 5.24 acres of unaccounted for gaps between parcels. None of the property is currently developed.

The project sponsor is also requesting that the Mapleton Heights LLC property be zoned Planned Development (PD-4) with the remaining parcels being zoned according to their current General Plan designations.

## **EVALUATION**

**Annexation Process:** Below is a brief summary of the annexation process according to the Utah Municipal Code:

- 1) Submittal of an annexation petition with signatures from the owners of a majority of private real property (section 10-2-403).
- 2) City Council accepts or rejects the petition (must act at the next regular City Council meeting that is at least 14 days after receipt of the petition – section 10-2-405).
- 3) If accepted, within 30 days City reviews petition to determine if it meets the state code requirements. If rejected, the City informs the applicant within five days (section 10-2-405).
- 4) If the City determines that an accepted petition meets applicable standards, the petition is certified by the City Recorder. If it is determined that the petition does not meet applicable standards the petition is rejected (section 10-2-405).
- 5) If the petition is certified, a public notification process takes place (section 10-2-406).
- 6) A protest period occurs (section 10-2-407).
- 7) City Council holds a public hearing or hearings (10-2-407).
- 8) City Council takes final action to grant the petition and by ordinance annex the area, or to deny the petition (10-2-407).
- 9) Within 30 days of adopting an ordinance annexing an area, the City provides the necessary documents to the lieutenant governor's office (10-2-425).
- 10) Upon approval from the lieutenant governor's office, City files appropriate documents with Utah County Recorder and the Department of Health and sends out notices to each affected entity (10-2-425).

The purpose of this agenda item is to comply with step #2. The Council must determine to either accept or reject the petition at this meeting. Failure to take action will result in the petition being considered accepted.

**Accepting the petition does not commit the City to annexing the property, it just allows the process to move forward.** If the petition is accepted, staff will perform a more thorough review to determine whether the application complies with applicable state standards.

**Annexation Policy:** State law requires the City to adopt an annexation plan that includes a map of potential annexation properties and a statement of the criteria that will be used to guide annexation decisions. In accordance with state law, the City adopted an Annexation Policy in 2002. The policy identifies two primary annexation areas, Mapleton West (Big Hollow) and Mapleton South (see attachment “3”). The proposed annexation area is located in the Mapleton South area and is identified as a potential annexation candidate.

**General Plan:** The Land Use Element of the General Plan is designed as a guide to promote sound land use decisions. The Land Use Element includes a Land Use Designation Map that outlines the potential development potential of property throughout the City and within the annexation boundaries. The proposed annexation area contains several General Plan land use designations including Low Density Residential (approximately 1 unit per acre), Medium Density Residential (approximately 3 units per acre), and General Commercial (see attachment “4”). The property owned by the project sponsor contains both General Commercial and Medium Density Residential.

The City Council does not need to agree on a zoning designation(s) for the annexation area or potential densities at this time. These discussions can take place after the Council determines whether to accept the petition.

**Legal Review:** Attachment “2” includes comments from the City Attorney regarding the proposed petition. The Attorney’s recommendation is to deny the petition for the following reasons:

- 1) The petition does not include signatures from a majority of the private land area within the area proposed for annexation (see attachment “2” for more information).
- 2) David Meyer, agent for the Meyer Family Limited Partnership parcel (21.22 acres) located at the north end of the annexation area and Dave Scoville, agent for Arrive Homes (under contract to purchase the 19.99 acre parcel just south of the Meyer parcel), have submitted a separate annexation petition for their combined properties. The project sponsor for Mapleton Heights has indicated that he would prefer not to amend the current petition and that the City could consider both petitions simultaneously (see attachment “1”). However, Utah Municipal Code Section 10-2-403(4) states:

*"A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted."*

Since the Mapleton Heights annexation petition was submitted first, the Meyer/Scoville petition could not proceed separately unless the subject annexation petition is amended by the project sponsor or denied by the City Council (see attachment “2” for more information).

While staff is recommending denial of the petition based on these two points, staff is supportive of the Mapleton Heights property being annexed into the City. There are at least two benefits of denying the proposed petition at this time. First, it would allow the Meyers/Scoville petition to proceed separately and would allow the Mapleton Heights petition to be resubmitted and meet the statutory requirement of having signatures from a majority of the private land area included in the petition.

The second benefit would be to avoid potential project delays for either the Mapleton Heights petition or the Meyers/Scoville petition. The Meyers/Scoville party is prepared to develop and would like to negotiate an annexation agreement with the City. If they are included in the Mapleton Heights petition, the City would not approve the final annexation until it comes to terms with both the Meyers/Scoville party and the Mapleton Heights party. Failure to come to terms with either party would delay the other party from being annexed into the City. If both parties proceed independently, potential delays could be avoided.

**STAFF RECCOMENDATION**

Deny the Mapleton Heights Annexation petition.

**ATTACHMENTS**

1. Mapleton Heights Annexation Petition.
2. City Attorney's Review.
3. Annexation Policy Map.
4. General Plan Land Use Designation Map.

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MAPLETON CITY



Mapleton City  
Annexation Application

For Office Use Only

Petition Filing Date: 07/08/2013

Annexation Name: Mapleton Ridge

Fee: \$600 (up to 5 acres) \$25 per acre for the next 20 acres, \$14 per acre for the next 75 acres, and \$5 per acre for each additional acre thereafter.

Total Acreage: 222.00 Fee Paid: \_\_\_\_\_ Date Paid: \_\_\_\_\_

Receipt Number: \_\_\_\_\_

Name of Contact Sponsor: Mapleton Heights LLC

Authorized Agent (if applicable): Bart Boggess

Phone #: (801) 916-9900 Fax #: (801) \_\_\_\_\_ Address: 304 South Alpine Drive, Alpine, Utah 84004

Name, Address and Phone Number of Licensed Engineer or Land Surveyor:  
Kyle M. Spencer, 1040 E. 800 N., Orem, UT 84097, (801) 380-2118

Engineer of Land Surveyor's Signature: *Drew O. Steele*

Date of Engineer's Signature: 7/08/2013

General Location of Proposed Annexation: Approximately 3000 South, Highway 89

What percent of the Private Real Property within the proposed Annexation is represented by the signatures of the Owners? \_\_\_\_\_

What percent of the value of Private Real Property within the Annexation Plat is represented by the signatures of the Owners? \_\_\_\_\_

**Annexation Application Continued**

Total number of acres included in Annexation: 222.00 Zoning Requested: See Addendum

Total number of parcels included in Annexation: \_\_\_\_\_

Consisting of the following parcels Tax I.D. Numbers:	Acres:	Owner:
<b>See Addendum</b>	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other Approvals Sought, if any:

Type of Approval	Date of Application	File Number	Date of Approval
General Plan Amendment			
Any Other Approvals			

**Application Submittal Requirements**

All fees, an Annexation Petition, an Annexation Plat (mylar), and the Annexation Information Requirements listed below are required of all proposed annexations regardless of size. In addition to the following information, the applicant may be required to provide additional information if the staff, Plan Review Committee, Planning Commission, or City Council find the information to be necessary to evaluate the merits of the proposed annexation.

**Petition:**

This petition must include the signatures of the owners of a majority of the property included in the Annexation, representing at least 1/3 of the assessed property valuation according to the last County Assessment rolls. The petition must also designate up to five signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

**Plat:**

A Plat of the area proposed to be annexed drawn by a licensed engineer or land surveyor must also accompany this petition. Please identify on the Plat each parcel included in the Annexation and on each parcel label the owner's name, the Tax Identification Number, acreage, and the proposed Zoning. Five (5) copies that are twenty-four by thirty-six (24 x 36) inches.

**Annexation Information Requirements:**

The petition and plat must be accompanied by the Annexation Information Requirements listed below, as required by Mapleton City.

see addendum

\_\_\_\_\_ A description of the area included in the proposal for Annexation, identifying the existing land use(s) including residential and nonresidential uses, and those proposed by the petitioners.

\_\_\_\_\_ Current population of the area.

\_\_\_\_\_ A statement of compliance with the Mapleton City General Plan, including goals, policies and land use, and how the proposed area, and the proposed land use(s) will contribute to the achievement of the goals and policies of the Mapleton City General Plan.

\_\_\_\_\_ An analysis of the tax consequences to residents of the area proposed for annexation, as well as to the residents of Mapleton City and Utah County.

\_\_\_\_\_ An identification of the demands for City provided facilities and services to the area proposed for annexation, at the existing and proposed land use(s), including potable water, irrigation water, street improvements, storm drainage, fire protection, police and ambulance protection, sewer facilities, parks and recreation, and garbage removal.

\_\_\_\_\_ Water rights conveyance will be at the time of subdivision, building permit, or project approval.

**Applicant Certification:**

I certify under penalty of perjury that this application and all information submitted as a part of this application is true, complete and accurate to the best of my knowledge. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that Mapleton City may rescind any approval, or take any other legal or appropriate action.

Signature: *Paul Puzan*

Title: manager Date: July 15, 2013

Petition for Annexation into Mapleton City, Utah County, State of Utah

Name of Plat Map: MAPLETON RIDGE

Engineer - Surveyor: BRAND D. TUTTLE, P.E. Brand D. Tuttle

Date of Engineer's Signature: 7/08/13

List of Sponsors (maximum of five):

(printed name and address)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

Contact Sponsor (please print):

Name: Mapleton Heights LLC

Address: c/o Bart Boggess, 304 South Alpine Drive, Alpine, Utah 84004

Phone: 801-916-9900

Approximate acreage: 222.00, consisting of the following parcels (Tax ID Number):

Parcel Acres Owner (please print)

1. \_\_\_\_\_ ; \_\_\_\_\_ ; see attached
2. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
3. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
4. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
5. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
6. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
7. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_
8. \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_

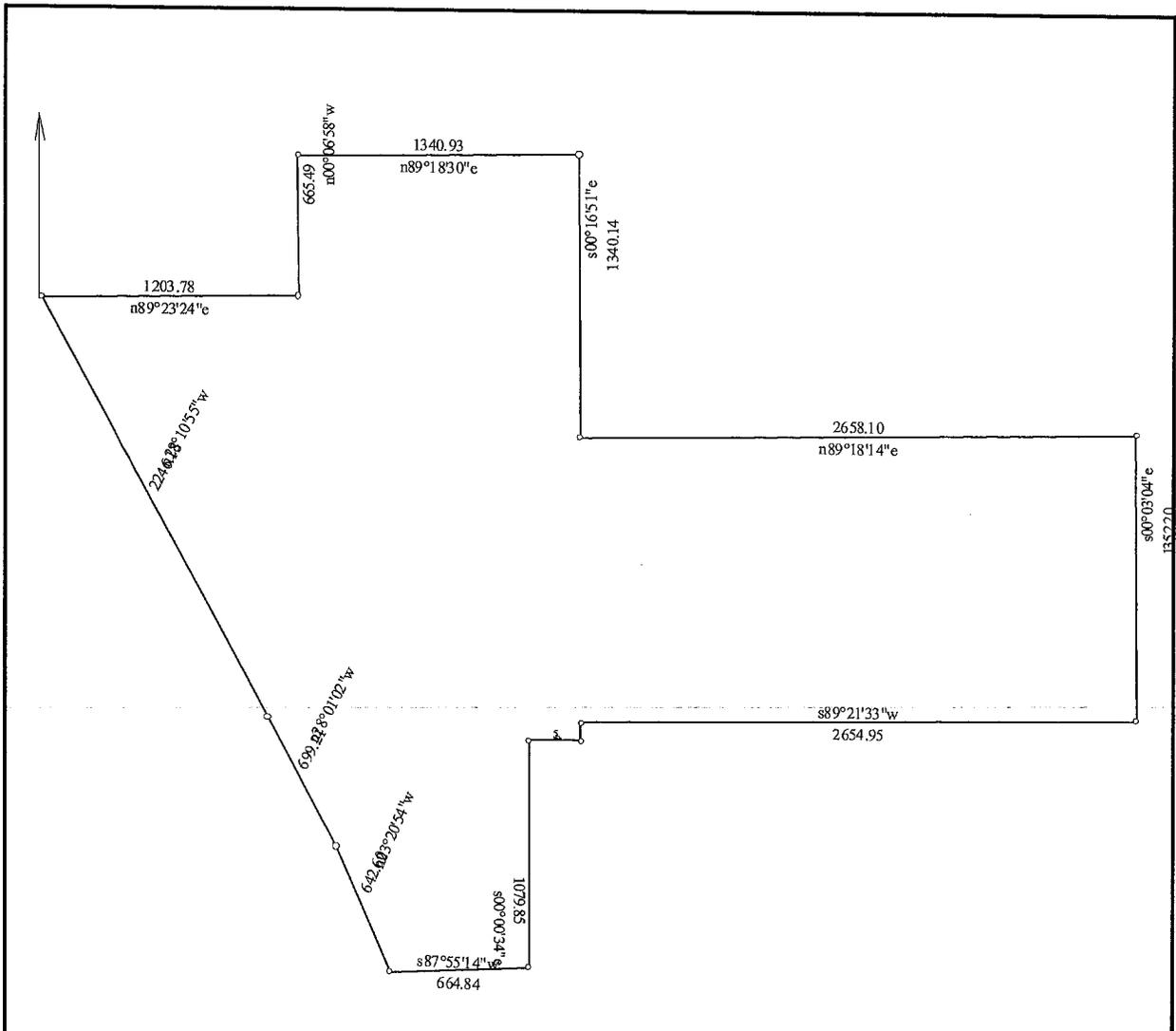
(SEE REVERSE SIDE FOR SIGNATURES)

MAPLETON RIDGE ANNEXATION PLAT

A PARCEL OF LAND LOCATED IN THE SOUTH 1/2 OF SECTION 22 AND THE NORTH 1/2 OF SECTION 27, TOWNSHIP 8 SOUTH, RANGE 3 EAST, SALT LAKE BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A FOUND BRASS CAP MARKING THE NORTH 1/4 CORNER OF SAID SECTION 27, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF THE HORIZON HEIGHTS SUBDIVISION;

THENCE N.89°18'14"E. ALONG THE SECTION LINE AND THE SOUTH BOUNDARY LINE OF THE HORIZON HEIGHTS SUBDIVISION 2658.10 FEET TO A BRASS CAP MARKING THE NORTHEAST CORNER OF SAID SECTION 27 SAID POINT ALSO BEING AND THE NORTHWEST CORNER OF MAPLETON VILLAGE ANNEXATION; THENCE ALONG THE MAPLETON VILLAGE ANNEXATION FOR THE NEXT SIX CALL, 1) THENCE S.00°03'04"E. ALONG THE SECTION LINE 1352.20 FEET; 2) THENCE S.89°21'33"W. 2654.95 FEET; 3) THENCE S.00°11'08"W 85.75 FEET; 4) THENCE S.89°29'56"W. 245.69 FEET; 5) THENCE S.00°00'34"E 1079.85 FEET; 6) THENCE S.87°55'14"W 664.84 FEET; THENCE N.23°20'54"W. 642.60 FEET; THENCE N.28°01'02"W. 699.21 FEET; THENCE N.28°10'55"W. 2246.13 FEET; THENCE N.89°23'24"E. 1203.78 FEET; THENCE N.00°06'58"W. 665.49 FEET; THENCE N.89°18'30"E. 1340.93 FEET; THENCE S.00°16'51"E. 1340.14 FEET TO THE POINT OF BEGINNING. CONTAINING 222.00 ACRES OF LAND.



Title:		Date: 07-08-2013
Scale: 1 inch = 700 feet	File:	
Tract 1: 221.993 Acres: 9669999 Sq Feet: Closure=n29.1342w 0.00 Feet: Precision >1/999999: Perimeter=16880 Feet		
001=n89.1814e 2658.10	006=s00.0034e 1079.85	011=n89.2324e 1203.78
002=s000304e 1352.20	007=s87.5514w 664.84	012=n00.0658w 665.49
003=s892133w 2654.95	008=n23.2054w 642.60	013=n89.1830e 1340.93
004=s001108w 85.75	009=n28.0102w 699.21	014=s00.1651e 1340.14
005=s892956w 245.69	010=n28.1055w 2246.13	

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MAPLETON CITY

Mapleton Annexation Information

1. Description and Proposed Uses

Introduction & Overview - The proposed annexation includes approximately 216 acres adjacent to the southern boundary of Mapleton City (the “Annexation Area”). Of this area, 110.3 acres will be developed as part of the Mapleton Ridge Master Plan (“Mapleton Ridge”). Mapleton Ridge will incorporate "conservation design principles in its physical layout. By doing so, Mapleton Ridge will be able to preserve the scenic beauty of the area. The remainder of the Annexation Area will be zoned for use in accordance with the current General Plan, which includes low and medium density residential along with some commercial use along Highway 89. Table 1 further identifies the parcels to be annexed, along with their respective size, owners, value, and anticipated zoning classification.

**Table 1: Annexation Area Overview**

Map #	Parcel #	Zone	Owner (s)	Acreage	Acreage Percentage	Taxable Value	Value Percentage
12	27:033:0201	RA-1	Central Bank	19.99	9.24%	\$145,287	3.06%
6	27:033:0202	RA-1	Meyer Family Ltd. Partnership, etal.	21.22	9.81%	\$154,227	3.25%
9	27:037:0012	RA-2	Ludlow Estates, LLC	20.00	9.24%	\$397,900	8.39%
1	27:037:0016	PD-4	Mapleton Heights, LLC	29.94	13.84%	\$1,047,900	22.11%
11	27:037:0030	GC-1	LDS Church, BYU	5.42	2.51%	\$30,976	0.65%
7	27:037:0054	GC-1	Meyer Family Ltd. Partnership	19.23	8.89%	\$552,800	11.66%
3	27:037:0080	PD-4	Mapleton Heights, LLC	20.84	9.63%	\$520,950	10.99%
5	27:037:0082	PD-4	Mapleton Heights, LLC	29.94	13.84%	\$748,500	15.79%
8	27:037:0083	RA-2	Ludlow Estates, LLC	20.22	9.34%	\$402,300	8.49%
2	27:037:0084	PD-4	Mapleton Heights, LLC	20.00	9.24%	\$500,000	10.55%
4	27:037:0090	PD-4	Mapleton Heights, LLC	9.58	4.43%	\$239,592	5.05%
	Total			216.39	100.00%	\$4,740,432	100.00%
	Mapleton Heights Total			110.30	50.97%	\$3,056,942	64.49%

Mapleton Ridge will be primarily comprised of residential uses and open space. A limited commercial component may be Included near Highway 89. It is also anticipated that religious facilities will also-compliment the residential areas.

Current Conditions -Currently most of the acreage is zoned industrial. In addition there is a gravel pit on the property. The remainder of the property on the north end is zoned transitional residential.

Description of Proposed Master Plan - Mapleton Ridge will be comprised of four main areas: estate residential, neighborhood residential, town center, and conservation open space. More detailed descriptions of each area are included below.

These areas are meant to be distinct yet complimentary in their function and create synergistic development patterns. For example, by residents in the neighborhood residential areas will be within easy walking distance of the Town Center area. This will provide these neighborhoods with easy access to the services and amenities that may be found in the town center area. In turn, the town center will benefit by having a substantial number of families nearby that will use the services available.

**Town Center** - Rather than develop a generic, auto-dependent commercial "strip mall," the Town Center has been planned as a walkable neighborhood with a variety of shops, residences, and other amenities for the enjoyment of the community. The area's character will reflect a "Rural Main Street" atmosphere, with shops and services designed at a small, local scale.

The Town Center Area will constitute about 15% to 25% of Mapleton Ridge, and will allow for commercial development. In addition, it will also allow for a maximum density of 8.0 units per acre. Residential styles permitted within the town center will include single-family detached and attached homes (duet homes, mansion homes, and town homes).

While the potential for a large retail center is limited by geographic and demographic factors, commercial use will be permitted to meet local market demand. The Town Center's proximity to State Street will provide maximize visibility and allow easy access for the general public to enjoy the services and character of this area.

In order to establish the type of atmosphere that characterizes a rural Town Center, it is essential that effective zoning regulations guide its development. In many cases, the zoning of a mixed-use neighborhood must address the design of the community as much as its use (if not more so).

**Neighborhood Residential** - The neighborhood residential will cover about 47.5% to 50% of Mapleton Ridge, with a maximum density of 3 units per acre.

As mentioned previously, the residential neighborhood areas will play an essential role in the establishment of the Town Center area. The residents of these neighborhoods will be within a short walk of the services found in the Town Center.

These neighborhoods will be covenanted to ensure the high quality of project envisioned by the city and us as the developers. In addition to this, the street

configuration (sidewalks, street trees, etc.) and setback standards will create an environment that fosters pedestrian activity. Small "pocket parks" will also be included in these neighborhoods for larger gatherings and activities.

It has been found that the "5-minute walk" is the amount most people are willing to walk to get somewhere before turning to alternative modes of transportation. The neighborhood residential configuration is conducive to this principle by providing homes close enough to the services that walking is becomes a viable option.

Large lot neighborhoods reduce the effectiveness of this principle in two ways: 1) The distance required to reach a Town Center is significantly increased for most households, and 2) The sparse spatial relationships of the homes to the street create an atmosphere that discourages walking.

**Estate Residential** - Homes on the larger estates lots will provide both privacy and openness throughout these areas. The Estate Residential Areas will cover about 20% to 30% of Mapleton Ridge, at an average density of approximately 1 unit per acre.

While the Estate Residential Areas will be located at a greater distance from the Town Center, a well-planned trail network will provide opportunity for residents to access all parts of Mapleton Ridge on foot. In addition, the Estate Residential areas will have easy access to the conservation open space areas, providing residents with opportunities to enjoy the natural beauty of the landscape.

**Conservation Open Space** - Most of the open space within Mapleton Ridge will be kept in the form of "conservation" open space. Due to the varied topography and larger patches of mature scrub-oak in the east part of Mapleton Ridge, these areas will be preserved from the types of improvements characteristic of "improved" open spaces. The only exception will be the trail system, which will weave through these areas for Mapleton residents to enjoy. The conservation open space will total approximately 5% to 7.5% of Mapleton Ridge.

2. **Current Population**

The current population of the area is zero.

3. **Compliance with the General Plan**

Currently, the Mapleton City General Plan anticipates the proposed areas to be incorporated with the majority of the Annexation Area being Medium Density Residential, the portion along Highway 89 being General Commercial, and a portion being Low Density Residential. It is the intent of the applicant to provide a mix of housing types, ranging from large lot single-family housing to some limited multifamily. The average density within the Annexation Area is consistent

with the existing General Plan, but the Town Center portion of Mapleton Ridge contains a pocket of higher density.

**4. Service Demands**

The Annexation Area will require services for between 492 and 561 households depending on use of TDRs. This increase in population will necessitate an expansion of both water and sewer services. To provide these services, upgrades to both the city's sewer and water systems will be required; Mapleton Ridge intends to participate fully in helping provide these services to meet the needs of future residents.

It is anticipated that these facilities will be funded through an impact fee reimbursement plan for the expenditures required of the developer for the new facilities.

**Estimated Culinary Water Demand**

$(492 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 196,800$   
gallons per day, or

$(561 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 224,400$   
gallons per day with use of TDRs

**Estimated Sanitary Sewer Flow**

$(492 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 196,800$   
gallons per day, or

$(561 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 224,400$   
gallons per day with use of TDRs

**Estimated Irrigation Water Flows (Seasonal April-October)**

$(492 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 196,800$   
gallons per day, or

$(561 \text{ units}) \times (4.0 \text{ persons per units}) \times (100 \text{ gallons per person per day}) = 224,400$   
gallons per day with use of TDRs

**Electric**

Properties will connect to Utah Power and Light or Strawberry Power.

**Storm Drainage**

Mapleton Ridge will to connect to the City system.

### **Natural Gas**

Mapleton Ridge will be serviced through Questar Gas

### **Telecommunications**

Telephone: Qwest; High Speed Internet: Qwest D.S.L. AT&T (future), Spanish Fork (future).

### **Garbage**

Mapleton Ridge will be serviced by Mapleton City.

## **5. Analysis of Tax Consequences**

The applicant intends that this project exhibit characteristics of "sustainable growth, not just environmentally, but economically as well. Through impact and development fees, Mapleton Ridge will effectively "pay its own way" by generating the necessary funds to meet its needs.

Additionally, the potential commercial uses within Mapleton Ridge will provide a source of tax revenue for Mapleton City.

## **6. Water Rights**

Water rights, including irrigation company shares and Strawberry Water Users Association shares, will be conveyed to Mapleton City at the time of subdivision, building permit, or project approval, as per Mapleton City ordinance.



## Sean Conroy

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**From:** Gerry Tully <gtully@psomas.com>  
**Sent:** Tuesday, July 30, 2013 4:49 PM  
**To:** Sean Conroy  
**Cc:** Bart Boggess (bart@unionfort.com); Trent Boggess (trent@unionfort.com); Jerry Boggess (jerry@boggess.com); Dan@theranches.com; Bruce Baird; Travis Perry  
**Subject:** Union Fort Annexation Application

Dear Sean:

Thank you for the confirmation regarding the submittal of the Annexation Petition for the two properties on the northern edge of the Union Fort Property parcels. We are glad to hear that these two owners have decided to seek annexation into Mapleton City.

Even though the adjacent owners that were included within the boundary of our annexation request have formally requested annexation into the City we have chosen to keep our present annexation petition in the form and content that was submitted prior to the submittal of this new petition. We are not aware of any reason that the two petitions cannot be considered simultaneously by the City of Mapleton.

We are concerned that if we file an amended petition that does not include the Scoville and Meyers parcels that we will run into a statutory problem if the adjacent owners were to decide to delay or withdraw their current annexation application. If this were to happen we would have to, once again, amend our current petition and restart the process if their petition falters.

In light of how much work we have put in on this, and the timing issues that are looming with respect to utility expansion in this area, we believe it is in the best interest of all of the affected property owners and the City of Mapleton if the annexation discussion resulted in a comprehensive approach to this remaining annexation area.

Accordingly, we would like to proceed with the meeting on the 6<sup>th</sup> of August. We believe that it may be beneficial for the City to, ultimately, consider our comprehensive Annexation Petition for the area rather than for it to consider two individual, non-overlapping, but adjacent petitions. We know that the City will want to consider its options during the early discussions related to our application and we will await further guidance from the City Council on this issue.

Thank you for your professional assistance with our efforts to join the community of Mapleton City. Please contact me if you require any additional information prior to the meeting on August 6<sup>th</sup>. I would appreciate receiving an email with a copy of the Agenda for that meeting as soon as one is available.

Sincerely,

**Gerry Tully** | Landscape Architect, LEED AP

**PSOMAS** | *Balancing the Natural and Built Environment*

Associate  
Planning, Sustainability and Community Development  
4179 Riverboat Road  
Salt Lake City, Utah 84123  
Direct Line: 801-284-1303  
[gtully@Psomas.com](mailto:gtully@Psomas.com)  
[www.Psomas.com](http://www.Psomas.com)



**Attachment “2”**  
**NOTES ON ANNEXATION PETITION OF**  
**MAPLETON HEIGHTS (BOGCESS) 222 acres July 2013**  
**By Eric Johnson**

1. APPLICANT. Applicant is Mapleton Heights, LLC. The Utah Dept. of Commerce lists the applicant is an active domestic company, meaning a Utah LLC whose address is 44 Red Pine Dr., Alpine, Utah 84004. The registered agent is Trent Stevens Boggess at the same address. However, on the map accompanying the petition it lists the address for the property owner of the same name at 671 S. Ocean Blvd., Boca Raton, FL 33432-6220. The petition is signed by Bart Boggess as an authorized agent at 304 S. Alpine Drive, Alpine, Utah 84004, telephone number (801) 916-9900. Bart Boggess is listed as the manager of the LLC at the address 44 Red Pine Dr., in Alpine, UT.

The foregoing information is important because of Utah Code requirements related to annexation petitions. Section 10-2-401(3) reads in relevant part as follows:

- (3) For purposes of each provision of this part that requires the owners of private real property covering a percentage or majority of the total private land area within an area to sign a petition or protest:
  - (a) a parcel of real property may not be included in the calculation of the required percentage or majority unless the petition or protest is signed by:
    - (i) except as provided in Subsection (3)(a)(ii), owners representing a majority ownership interest in that parcel; or
    - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel;
  - (b) the signature of a person signing a petition or protest in a representative capacity on behalf of an owner is invalid unless:
    - (i) the person's representative capacity and the name of the owner the person represents are indicated on the petition or protest with the person's signature; and
    - (ii) the person provides documentation accompanying the petition or protest that substantiates the person's representative capacity; and
  - (c) subject to Subsection (3)(b), a duly appointed personal representative may sign a petition or protest on behalf of a deceased owner

The highlighted portions require the person signing the petition on behalf of a company to provide documentation that substantiates the person's authority to act for that company. The petition is signed by Bart Boggess who asserts he is the authorized representative for Mapleton Heights, LLC, but the petition

lacks any documentation substantiating his power to act for that company, as required by Utah law. Our office has done additional research that shows that Bart Boggess is the Manager of the LLC. We believe this is sufficient to show that Bart Boggess can sign the petition.

The City should ask why the map accompanying the petition lists an address for the LLC in Boco Raton, Florida, when the LLC appears to be a domestic Utah LLC with its business address in Alpine, Utah. While it is at it, the City should clarify what address the City should use as a business address for the LLC because the address on the petition is different from the business address submitted to the State of Utah.

2. SUFFICIENCY – Section 10-2-403(3)(b) of the Utah Code requires that the petition contain the signatures of the owners of private real property that covers a **majority** of the private land area within the area proposed for annexation. This annexation petition fails this requirement. According to the petitioner’s surveyor the area proposed for annexation is 222 acres. The only signature of an owner of private real property is that of Bart Boggess on behalf of 110.30 acres. This is only 49.69% of the property in the proposed area to be annexed. None of the property proposed to be annexed is owned or claimed by any governmental entity. Section 10-2-401(g) defines “private” real property as any property that is not owned by a governmental entity and enumerates what those entities may be. All of the property proposed to be annexed is private real property unless owned by a governmental entity. The surveyor’s map and petition do not assert that any of the property proposed to be annexed is owned by a governmental entity. Instead, the petition asserts that 5.24 acres are unclaimed. While there may be gaps in property line descriptions, it does not appear that resolution of any of those property lines will result in any property within the proposed annexation area being owned by any governmental entity.

Because the petition fails to meet statutory minimum requirements, I recommend that the petition be denied.

3. SIMULTANEOUS PETITIONS – Mapleton first received an annexation petition from Bart Boggess including land owned by Meyers and Scoville, but lacking signatures for those property owners. Since receiving the Bart Boggess petition the City has received an annexation petition for the Meyers and Scoville property. Pursuant to Section 10-2-403(4) does not allow the City to entertain two petitions proposing to annex all or part of the same property at the same time, as follows:

"A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted."

Based on the foregoing the City cannot consider the annexation petition for the Meyers and Scoville properties, unless it first denies or rejects the Boggess annexation petition. It would be untoward to require a property owner to annex under a petition they would not join when they desire to annex under their own petition.

I recommend that the Boggess petition be denied to allow the Meyer and Scoville petition to proceed forward. Then the Boggess petition can be amended to exclude these neighbors, which would then mean the Boggess petition would contain the signature of a majority of the private real property within the Boggess petition.

# Mapleton

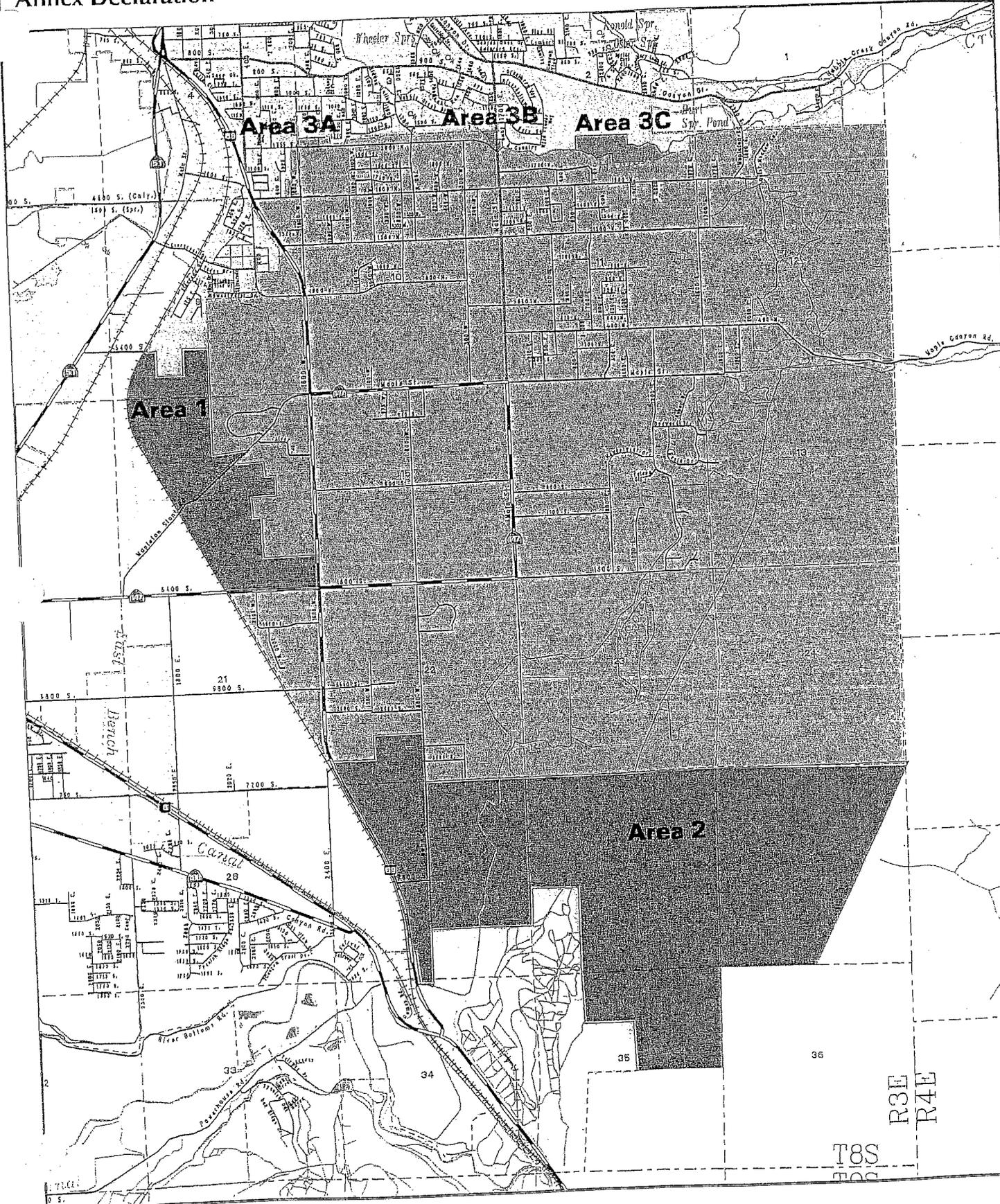
## Attachment "3"

### Annex Declaration

-  Annexation Declaration
-  De-annexation Declaration
-  Incorporated Cities



Scale 1:40000



R3E  
R4E

T8S

# Attachment "4"

## General Plan Land Use Designations

