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11/15/96

Inst. No. 9610644

COPY 339

BEFORE THE COMMON COUNCIL OF
THE CITY OF LEBANON, INDIANA

ORDINANCE NO. 95-10

AN ORDINANCE ANNEXING CERTAIN REAL ESTATE
INTO THE CITY OF LEBANON, INDIANA,
AND ASSIGNMENT OF
ZONING CLASSIFICATION

WHEREAS, Herman Associates, Inc. ("Petitioner") has filed a Petition for Annexation and Assignment of Zoning Classification, seeking to annex into the City of Lebanon a certain tract of unimproved real estate which is adjacent and contiguous to the existing boundaries of the City of Lebanon, generally located in the 1600 block of Lafayette Avenue and on the west side of such street consisting of approximately 25.59 acres, more or less, as hereinafter described; and

WHEREAS, the Plan Commission of the City of Lebanon has conducted a public hearing upon said petition pursuant to §27-18(a) of the City Code and recommended that such annexation, if approved by the Common Council, result in the assignment of a zoning classification of the real estate of "UD;" and

WHEREAS, all procedural requirements for said annexation have been satisfied through compliance with the requirements of the City of Lebanon, its Department of Utilities, and others, for the purpose of this voluntary annexation sought by Petitioner; and

WHEREAS, the present owners of the real estate, Dale V. Zinn, Robert C. Truitt and Lebanon Enterprises, Inc. have

DULY ENTERED FOR TAXATION

11-15-96
Thomas J. Thomas
AUDITOR BOONE COUNTY

consented to the petition and join with the request that such real estate be annexed as evidence by their consent and joinder previously tendered to the Council; and

WHEREAS, the Common Council of the City of Lebanon has deemed the petition appropriate and that the annexation proposed by Petitioner should be completed pursuant to the Lebanon City Zoning Code and the Indiana statutes governing municipal annexations; and

WHEREAS, the City of Lebanon has previously adopted a study identifying areas appropriate for annexation, and an overall plan to provide for a policy to serve the areas proposed for annexation with governmental and proprietary services by way of agreements with the property owners seeking annexation. In addition, the City of Lebanon and the property owners seeking annexation have evaluated the proposed costs and methods of implementing the provision of municipal services by the Petitioners with approval by the municipality to the area.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Lebanon, Indiana:

Section 1. The following described real estate, be, and the same is, hereby annexed to and declared a part of the City of Lebanon, Indiana, to-wit:

A part of the South-West Quarter of Section 25 Township 19 North Range 1 West & a part of the South-East Quarter of Section 26 Township 19 North Range 1 West located in Center Township, Boone County, Indiana being bounded as follows:

Commencing @ the North-East corner of the South-East Quarter of Section 26 Township 19 North Range 1 West; thence North 89 degrees 56 minutes 42 seconds West (assumed bearing) 262.47 feet along the North line of said South-East Quarter to a point in The Southwesterly right-of-way line of Lafayette Avenue (I-65 Business Route) as per Indiana State Highway Federal Aid Project #74, Section "A", Sheet #3, Dated 1923, said point being in a curve having a radius of 85968.67 feet & being concave to the North-East, said point being South 49 degrees 26 minutes 34.184 seconds West from the radius point of said curve, said point also being the POINT OF BEGINNING of this description. The next 2 courses are along the Southwesterly right-of-way line of said Lafayette Road (I-65 Business Route) as per Indiana State Highway Federal Aid Project #74, Section "A" Sheet #3, Dated 1923; thence 1.) Southeasterly 871.57 feet along said curve to its point of tangency; thence 2.) South 41 degrees 08 minutes 17 seconds East 222.57 feet to an existing fence line; thence South 89 degrees 47 minutes 17 seconds West 1704.33 feet along said fence line; thence North 00 degrees 30 minutes 53 seconds East 834.21 feet along an existing fence line to a P.K. nail in the top of an existing wood corner post, said point being on the North line of said South-East Quarter; thence South 89 degrees 56 minutes 42 seconds East 980.35 feet along the North line of said South-East Quarter to the POINT OF BEGINNING: Containing 25.59 Acre more or less & being subject to all applicable easements & rights-of-way of record.

Section 2. The boundaries of the City of Lebanon shall be, and the same are, hereby declared to be extended so as to include all of the real estate hereinabove described as part of the City of Lebanon, Indiana, and the City's boundary ordinance shall be amended accordingly.

Section 3. The City of Lebanon has previously adopted a policy on annexation of contiguous real estate as identified in Resolution No. 87-14. In addition, the Council adopts herewith a resolution approving a written fiscal plan establishing a policy

for the provisions of service to areas proposed for annexation which are substantially equivalent in standard and scope to the services furnished by the City of Lebanon to other areas of the City which have characteristics of topography, patterns of land utilization and population density similar to the territory annexed herein.

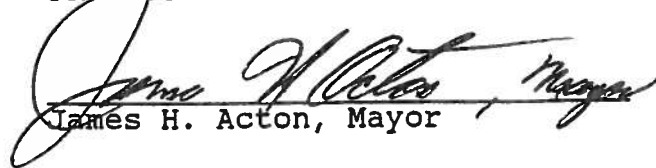
Section 4. Pursuant to the recommendation of the City Plan Commission, the real estate is hereby assigned a zoning classification of UD, pursuant to the provisions of the Zoning Code of the City of Lebanon, Indiana.

Section 5. The newly annexed territory shall be assigned to Council District No. 4, ^{Precinct 2,} as provided by City ordinance.

Section 6. This ordinance shall be in full force and effect from and after its passage, promulgation, approval by the Mayor, legislative body, and publication in accordance with the laws of the State of Indiana.

ALL OF WHICH IS PASSED AND ADOPTED by the Common Council of the City of Lebanon, Boone County, State of Indiana, on the 24th day of July, 1995.

PRESIDING OFFICER:


James H. Acton, Mayor

COUNCILPERSONS:

Jack Bland
Jack Bland

Anne Good
Anne Good

Douglas W. Campbell
Douglas W. Campbell

David L. Leuck
David L. Leuck

John W. Lasley
John W. Lasley

James K. Urban
James K. Urban

Eric D. Hungate
Eric D. Hungate

ATTEST:

Laurie Gross
Laurie Gross, Clerk-Treasurer,
City of Lebanon

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

BEFORE THE COMMON COUNCIL OF
THE CITY OF LEBANON, INDIANA

PETITION FOR ANNEXATION AND
ASSIGNMENT OF ZONING CLASSIFICATION

In support of its petition, Herman Associates, Inc., ("Petitioner") by its authorized counsel, states as follows:

1. Petitioner is an Indiana corporation with its principal place of business located at 777 East 86th Street, Indianapolis, Indiana, 46240, primarily engaged in the business of real estate development.

2. Petitioner is the contract owner of a certain tract of real estate containing approximately 25 acres, generally located along the west side of Lafayette Avenue just north of its intersection with Riley Road in Boone County, Indiana, which real estate is contiguous to the corporate boundaries of the City of Lebanon, Indiana, and is more particularly described as follows:

A part of the South-West Quarter of Section 25 Township 19 North Range 1 West & a part of the South-East Quarter of Section 26 Township 19 North Range 1 West located in Center Township, Boone County, Indiana being bounded as follows:

Commencing @ the North-East corner of the South-East Quarter of Section 26 Township 19 North Range 1 West; thence North 89 degrees 56 minutes 42 seconds West (assumed bearing) 262.47 feet along the North line of said South-East Quarter to a point in The Southwesterly right-of-way line of Lafayette Avenue (I-65 Business Route) as per Indiana State Highway Federal Aid Project #74, Section "A", Sheet #3, Dated 1923, said point being in a curve having a radius of 85968.67 feet & being concave to the North-East, said point being South 49 degrees 26 minutes 34.184 seconds West from the radius point of said curve, said point also being the POINT OF BEGINNING of this description. The next 2 courses are along the Southwesterly right-

of-way line of said Lafayette Road (I-65 Business Route) as per Indiana State Highway Federal Aid Project #74, Section "A" Sheet #3, Dated 1923; thence 1.) Southeasterly 871.57 feet along said curve to its point of tangency; thence 2.) South 41 degrees 08 minutes 17 seconds East 222.57 feet to an existing fence line; thence South 89 degrees 47 minutes 17 seconds West 1704.33 feet along said fence line; thence North 00 degrees 30 minutes 53 seconds East 834.21 feet along an existing fence line to a P.K. nail in the top of an existing wood corner post, said point being on the North line of said South-East Quarter; thence South 89 degrees 56 minutes 42 seconds East 980.35 feet along the North line of said South-East Quarter to the POINT OF BEGINNING: Containing 25.59 Acre more or less & being subject to all applicable easements & rights-of-way of record.

(hereinafter the "Real Estate").

3. Petitioner desires that the Real Estate be annexed into the City of Lebanon pursuant to the provisions of IND. CODE § 36-4-3-1, et seq., and states that the legal requirements for annexation of the Real Estate are satisfied in the following respects:

- (a) The Real Estate is contiguous to the boundaries of the City of Lebanon as defined and required by IND. CODE § 36-4-3-1.5;
- (b) The Real Estate is not inside the corporate boundaries of any other municipality pursuant to IND. CODE § 36-4-3-2; and
- (c) The legal owners of the Real Estate have consented to and joined in this petition as evidenced by Exhibit A attached hereto, and as required by IND. CODE § 36-4-3-5.

4. Petitioner intends to use the Real Estate for the development and construction of residential apartments, duplexes, and single family residences pursuant to a preliminary plan which is being submitted to the Common Council contemporaneously with the filing of this petition.

5. It is necessary that the Real Estate be annexed into the City in order to secure municipal services such as utility, sewage disposal, public safety protection, etc.

6. Pursuant to Section 27-18 of the Zoning Code of Lebanon, Petitioner proposes that the Real Estate be assigned a zoning classification of "UD," representing unit development plan for the reason that the Real Estate is well-suited to such classification and the proposed use to be made of the Real Estate best fits within such zoning classification.

WHEREFORE, Petitioner requests the Common Council to take such steps as are necessary to annex the Real Estate into the municipal boundaries of the City of Lebanon, assign such Real Estate a zoning classification of "UD," and for all other proper relief in the premises.

PARR RICHEY OBREMSKEY & MORTON

Attorneys for Petitioner
Herman Associates, Inc.

By



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STATE OF INDIANA)		BEFORE THE COMMON COUNCIL OF
)	SS:	
COUNTY OF BOONE)		THE CITY OF LEBANON, INDIANA

CONSENT OF JOINDER

Come now Dale G. Smith, Robert C. Truitt, and Dale V. Zinn, and state under penalties of perjury that they are the legal owners of a certain tract of real estate located in Boone County, Indiana, containing approximately 25 acres, which is more particularly described and identified in the Petition for Annexation and Assignment of Zoning Classification filed by Herman Associates, Inc., with the Common Council of the City of Lebanon, Indiana.

The undersigned state they have entered into a contract with Herman Associates, Inc. to sell such real estate and they hereby consent to and join with the petition to have it annexed into the City of Lebanon and assigned a zoning classification as may allow Petitioner to construct residential apartments, duplexes, and single-family dwellings on the real estate.

LEBANON ENTERPRISES, INC.

By _____
 Dale G. Smith, President

 Robert C. Truitt

 Dale V. Zinn