



CITY OF LEE'S SUMMIT, MISSOURI Administration

**TO: Mayor and City Council
Steve Lewis, City Administrator**

FROM: Stephen Arbo, Assistant City Administrator

SUBJECT: Voluntary Annexation of Effertz Property, Cass County, MO

DATE: December 8, 2004

Introduction

The City has received a petition (Exhibit A) from Michael A. Effertz and Effertz Properties, L.L.C. for voluntary annexation of their 318 acres generally located south of County Line Road and west of Ward Road.

The purpose of this memorandum is to review the recent legislative history of this property and the impact the annexation would have on the City of Lee's Summit.

Historical Background

- Current Ownership – Michael Effertz and Effertz Properties, L.L.C. (shared 50% ownership)
- Current Use – Agricultural / Approximately 318 Acres
- **June 2003** – Pulte Homes submits 1,138 unit residential development and rezoning application to Cass County
- **July 10, 2003** – City of Lee's Summit adopts Resolution No. 03-11 expressing an intent to annex the Effertz property
- **July 22, 2003** – Cass County Planning and Zoning Commission posts for public hearing on rezoning and development application, but postpones due to technical posting issues brought forward by the City of Lee's Summit
- **October 7, 2003** – Cass County Planning and Zoning Commission conducts public hearing on rezoning and proposed development, City of Lee's Summit provides extensive analysis regarding impact to surrounding area
- **November 25, 2003** – Cass County Planning and Zoning Commission recommends "approval" of rezoning and development to Cass County Commission, but denies the preliminary plat
- **December 3, 2003** - Cass County Commission denies application
- **January 22, 2004** – Pulte Homes (development applicant for Effertz property) meets with city staff and begins discussing development conditions for annexation
- **July 22, 2004** – City Council reviews details relating to pre-annexation development agreement concepts and directs staff to proceed with finalizing agreement
- **October 14, 2004** – City Council reviews final draft of pre-annexation development agreement and directs staff to prepare ordinance to accept document
- **November 18, 2004** – City Council adopts Ordinance No. 5842, approving the pre-annexation development agreement between the City of Lee's Summit and Effertz
- **November 18, 2004** – Effertz submits petition to the City of Lee's Summit for Voluntary Annexation of Property in Cass County, MO

- **December 16, 2004** – City of Lee’s Summit conducts public hearing regarding voluntary annexation

Location and Surrounding Properties

Land to the west, across Prairie Lane, is in unincorporated Cass County and the land use is agricultural; to the east, across Ward Road, is The Fountains at Raintree, a single family residential community in Lee’s Summit; to the north, across County Line Road, is the Stoney Creek single family subdivision, the proposed Country Glen subdivision, and some agricultural land, all in Lee’s Summit; to the south, in unincorporated Cass County, is the Mullendike mobile home park (east side) and agricultural land (west side). The property is generally bounded by Prairie Lane Road to the west, Ward Road to the east, and County Line Road to the north. Please reference the attached location map (Exhibit B).

This property is included in the area described in the Resolution of Intent to Annex adopted by the City Council on July 10, 2003. This Resolution is attached as Exhibit C.

Voluntary Annexation Process

The State Statute requires that the public hearing be not less than fourteen (14) days but not more than sixty (60) days after presentation of the petition to the governing body. The public hearing is scheduled for December 16, 2004, for a voluntary annexation petition. The City Council must conclude the public hearing process within sixty (60) days of the filing. Because there is a fourteen (14) day period following the public hearing during which an objection to the annexation may be filed, if the Council directs staff to draft an ordinance approving the annexation, the ordinance can not be adopted for a minimum of two weeks following conclusion of the public hearing process.

In this case, the Council must conclude the public hearing process no later than January 20, 2005; and the ordinance could be placed on the January 6, 2005 meeting agenda. In evaluating the annexation petition, State Statute requires that the City find:

- The property is contiguous and compact to the existing City limits (minimum of 15% shared boundary)
- Annexation is reasonable and necessary for the proper development of the City; and,
- The City has the ability to furnish normal municipal services to the area to be annexed within a reasonable period of time

Analysis

The original development proposal presented to Cass County in June 2003 created significant concern to the City of Lee’s Summit and surrounding residents and property owners in Cass County. Please reference the attached November 24, 2003 memorandum (Exhibit D) to the Cass County Planning and Zoning Commission outlining the City’s position regarding the Cass County development proposal. The key issues identified were: a) compliance of development plan with proposed zoning regulations, b) water supply and sewer capacities, c) poor internal traffic pattern and lack of off-site traffic improvements, d) increased demand on public safety agencies, and e) general land-use planning concepts. The City of Lee’s Summit filed a protest petition (Exhibit E) opposing the proposed Cass County development and zoning application.

Upon Cass County’s denial of the application, Pulte Homes, the developer who was positioned to purchase the Effertz property if it was zoned Planned Development (PD) by the County, contacted the City of Lee’s Summit. City staff and Pulte Homes discussed the outstanding issues that would need to be resolved in order for the City to consider annexing the property and

allowing the development. Please review the February 20, 2004 memorandum to Steve Lewis that describes this conversation with Pulte Homes (Exhibit F).

Based upon the conditions established in the development agreement approved by the City Council on November 18, 2004 and subsequently executed by Effertz (Exhibit G), staff believes all of the issues raised during the Cass County process have been resolved by Effertz and Pulte Homes. A complete analysis of these issues was presented to the City Council at the October 14, 2004 meeting. Please review the written staff reports and presentations provided to the City Council the evenings of October 14, 2004 and July 22, 2004 (Exhibit H). (Please note that the draft pre-annexation development agreement dated October 7, 2004 was removed from the attached information to reduce the possible confusion with the approved agreement.) It should also be noted that based upon conversation with the City Council at the October 14, 2004 meeting, the Ward Road improvement condition was modified. The approved development agreement requires that along the current unimproved portion of Ward Road, the eastern two lanes of the planned arterial Ward Road be constructed by the developer. Where possible, the existing Ward Road will remain in place for later improvement by the City.

Although a formal development proposal has not been presented for consideration by the City Council, a lotting plan has been presented to the Council for discussion purposes when considering the merits of the annexation petition. A copy of this lotting plan has been attached as Exhibit I and will be used for the remaining comments of this section. If no development occurs on this property, it will remain in its current agricultural use. The conditions established in the pre-annexation development agreement would apply to any development application (Pulte or a different, subsequent developer):

Public Works Services

The main consideration for the Public Works Department is providing access to the development and adequate public infrastructure improvements and right-of-way. The pre-annexation development agreement requires that all public infrastructure be built in accordance with the most recent Design and Construction manual.

The proposed development presented by Pulte Homes indicates there are approximately 18 lane miles of internal public road network. Except for the improvements made to Ward Road and some turning lanes, there will not be substantial additional lane miles created off-site of the proposed development. The maintenance of the additional lane miles will be absorbed by the current Public Works departmental structure.

Several significant off-site transportation improvements are required in order to meet the conditions outlined by the City's transportation staff report dated July 15, 2004 and included in Exhibit H.

Fire and Emergency Medical Services

The proposed area is currently served by Fire District South Metropolitan Fire District. Section 321.320 of the Missouri State Statutes addresses property currently located within a fire protection district that is subsequently annexed by a municipality with a city fire department. This section provides that the property is automatically excluded from the fire protection district upon annexation and no buyout provisions apply for cities with a population exceeding 40,000. The City of Lee's Summit does not anticipate any problems with providing emergency fire protection to the proposed annexation area, if the City's Fire Codes and adequate water supply requirements are met. (Water supply will be discussed in another section.)

A site has been reserved for possible public safety use of approximately 5 acres in the lotting plan. This site will revert for park land use if it is determined that it is not required for future public safety needs.

Police Services

The Police Department believes that it will have adequate capacity to provide normal services to this area if it remains residential in character. Again, a site of approximately 5 acres has been set aside for possible public safety use, such as a satellite station, if necessary.

Water Services

The pre-annexation development agreement requires the developer to build install a 12" water line along County Line Road. This looped connection will improve the water pressure and create redundancy in supply lines to the south area of Lee's Summit. However, the proposed annexed area is currently served by Cass County Water District No. 3. If annexed and developed for residential use, Water District No. 3 will require that an elevated tank be built on site to provide adequate water supply and pressure to meet the City of Lee's Summit fire flow standards.

Sewer Services

The sewer infrastructure, including an excess flow holding basin, will be built in accordance with the City's most recent design and construction standards. An intergovernmental agreement will be negotiated between Water District No. 3 and the City of Lee's Summit regarding shared issues. As an example, the Water District will terminate water services at the City's request when dealing with a resident that has not paid sewer bills on a timely basis. This type of agreement already exists between the City of Raymore and Water District No. 3.

Parks and Recreation

The lotting plan and the pre-annexation development agreement indicate that a 20+ acre site will be reserved for public park land use. The lotting plan also provides significant amounts of open space locations, a homeowners' association club/pool amenity center, and an interconnected public trail system throughout the development. City Administrative and Parks Department staff have met with Dr. McGehee, School Superintendent, Ray-Pec School District. We have reviewed the district's proposed time schedule to build a new facility on this site. The School District and City staff have agreed to develop use plans that share park amenities, play fields, and parking lots in a way that will maximize the public benefit.

Public Comments

The City Council has received public comments during the conceptual consideration of this annexation prior to adopting the pre-annexation development plan. These comments have included, but are not limited to: Glen Jones, Developer of "The Fountains" subdivision, due east of the proposed annexation area; Dan Turkisher, representative of the surrounding unincorporated Cass County residents; and Rachelle Vandiver, General Manager of the Raintree Property Owners Association. Staff will make certain that each of these individuals is advised of the December 16, 2004 public hearing.

Exhibit J includes a written document dated February 16, 2004 from the Raintree Property Owners Association regarding the proposed annexation.

Staff Recommendation

The City has conducted a full development review, of the proposed annexation and development area. All of the key issues raised by staff have been addressed in the pre-annexation development agreement.

With regard to this specific annexation petition, staff recommends the Council find that:

- **The area proposed to be annexed is contiguous and compact to the city limits (meets the minimum 15% requirement)**
- **The annexation is reasonable and necessary to the proper development of the City of Lees Summit.**
- **The area proposed for annexation may be provided with normal municipal services within a reasonable time. Other than those issues addressed in the pre-annexation and development agreement, the development of the specific plans for such services must be determined through the normal development plan review process and, as with development throughout the City, the property owner may be responsible for construction of infrastructure necessary to serve the site.**

Attachments: Exhibits A thru J