

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Annexation of Certain
Real Property to the City of Adrian from
Westside Township {MBA A-8061}

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER REGARDING
ANNEXATION**

Pursuant to Minn. Stat. § 414.031, subd. 1(a)(1) (2016), this matter was initiated by the City of Adrian (City) on June 9, 2017. On the same date, the matter was assigned to Chief Administrative Law Judge Tammy L. Pust for hearing.

At hearing, Brian J. Daiker, Hedeem, Hughes & Wetering, appeared on behalf of the City. Gene DeBeer, Chair of the Board of Supervisors, and Dan Matthiesen, Board of Supervisors, appeared on behalf of the Westside Town Board. Patty and Joan Reisdorfer appeared on behalf of Reisdorfer Family, LLLP; and Jaime and Christalee Castaneda appeared on their own behalf.

Based upon the evidence in the hearing record, and for the reasons set forth in the attached Memorandum, the Chief Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural History

1. For many years, the City has considered various statutory processes for annexing property located in adjacent townships.¹
2. On June 2, 2015, and again on June 2, 2016, the City held a public hearing to discuss a proposal to annex certain property through the orderly annexation process then provided in Minn. Stat. § 414.0325 (2014).²
3. On December 19, 2016, the City adopted two Notices of Intent for Annexation directed at nine identified properties: five located in Olney Township and four located in Westside Township.³

¹ Testimony (Test.) of Bruce Heitkamp; Exhibits (Exs.) 126, 130-134.

² Exs. 132, 136.

³ City of Adrian Resolution No. 531-2016 (Resolution) at Ex. B.

4. On June 9, 2017, the City of Adrian filed its Resolution No. 531-2016 whereby it petitioned the Office of Administrative Hearings for annexation of the nine identified properties.⁴

5. On July 18, 2017, Christalee Castaneda and Reisdorfer Family, LLLP filed Notices of Appearance indicating they were represented in this matter by Reece M. Almond, Davenport, Evans, Hurwitz & Smith, LLP for the purpose of formally opposing the City's proposed annexation.⁵ Also on July 18, 2017, Westside Township formally appeared in the matter and in opposition to the annexation through the filing of a Notice of Appearance designated Mr. Almond as their counsel of record.⁶

6. On August 24, 2017, Reece M. Almond, Davenport, Evans, Hurwitz & Smith, LLP, attorney of record for the Olney Town Board (Olney Township); Larry and Lori Voss; and Sheena and Ryan Eidhammer, withdrew from the representation of these parties. Mr. Almond notified the court that these named parties no longer opposed the requested annexation in that they and the City had agreed to execute an orderly annexation agreement with respect to the five properties located in Olney Township.⁷

7. At the commencement of the hearing held in the matter on August 25, 2017, the City moved for the dismissal of the Olney Township properties from the proceeding based on the parties' agreement that those parcels would be annexed by joint resolution in the future.⁸ The motion was granted.⁹

8. The hearing proceeded with respect to the City's proposal to annex the Westside Township properties only, which proposal was opposed by Westside Township, Reisdorfer Family, LLLP, plus Jaime and Christalee Castaneda.

9. Immediately following the hearing, the Chief Administrative Law Judge toured the involved properties as agreed by the parties to the proceeding and as required by Minn. Stat. § 414.031, subd. 3a (2016).¹⁰

10. On September 5, 2017, the parties submitted post-hearing briefs.

11. Through the January 9, 2018 issuance of an Order Approving Annexation, the Chief Administrative Law Judge approved the annexation of the Olney Township parcels pursuant to a Joint Resolution Authorizing the Orderly Annexation of Privately-

⁴ *Id.*

⁵ Notice of Appearance (July 18, 2017).

⁶ Notice of Appearance (July 7, 2017).

⁷ Notice to Court Regarding Upcoming Hearing (Aug. 24, 2017).

⁸ Hearing Digital Recording (Recording) (Aug. 25, 2017) (on file with the Minn. Office Admin. Hearings).

⁹ Post-Hearing Order (Aug. 30, 2017).

¹⁰ Recording.

Owned Properties from Olney Township into the City of Adrian, after which the record in the present matter was considered closed.¹¹

The Subject Parcels

12. Both the City of Adrian and Westside Township are located in the southwestern corner of the state of Minnesota along Interstate 90.¹²

13. The four parcels that are the subject of this annexation proceeding (Subject Parcels), and are outlined in blue below, are located in Westside Township and abut the western boundary of the City, which is illustrated in yellow as indicated below.¹³



14. The Subject Parcels abut the City's current boundaries:

- a. Parcel 1 abuts the City on its east side.
- b. Parcel 2 is abutted on the east by Parcel 3.
- c. Parcel 3 is bordered on the north and south by City boundaries; the remaining sides are abutted by Parcels 2 and 4.
- d. Parcel 4 is surrounded on three sides by City boundaries; the remaining side abuts Parcel 3.¹⁴

¹¹ *In the Matter of the Orderly Annexation of Certain Real Property to the City of Adrian from Olney Township (MBAU Docket OA-1684-1) No. 84-0331-34903, ORDER APPROVING ANNEXATION (Minn. Office Admin. Hearings Jan. 9, 2018).*

¹² Ex. 1.

¹³ *Id.*

¹⁴ *Id.*

15. The Subject Properties are legally described as follows:

Parcel 1

Part of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 13, Township 102 North, Range 43 West in West Side Township, Nobles County, Minnesota, described as follows: Beginning at an existing iron monument at the Southeast corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 13; thence South 89 degrees 26 minutes 40 seconds West, bearings based on Nobles County Coordinate System, a distance of 580.00 feet; thence North 01°24'00" seconds East a distance of 745.00 feet; thence North 89°26'40" East, parallel with the South line of said Southwest Quarter (SW $\frac{1}{4}$), a distance of 566.41 feet, to a point on the East line of said Southwest Quarter (SW $\frac{1}{4}$) and West line of Porter & Mohl's Addition to the City of Adrian, as platted and filed in the Nobles County Recorder's Office; thence South 00°21'16" West, along the East line of said Southwest Quarter (SW $\frac{1}{4}$) and along the West line of said Porter & Mohl's Addition, a distance of 744.66 feet, to the Point of Beginning. The tract contains 9.80 acres and is subject to existing township road easement along the South side of said tract and other easements of record, if any.

Parcel 2

A parcel of land in the Northwest Quarter (NW $\frac{1}{4}$) of Section 24, Township 102 North, Range 43 West of the 5th P.M. described as follows: Commencing in the North East Corner of the Northwest Quarter (NW $\frac{1}{4}$) of Section 24, Township 102 North, Range 43 West of the 5th P.M. and continuing West 580' along the North line of said Section; thence South and parallel to the East line of said Section for a distance of 515'; thence East and parallel to the North Line of said Section for a distance of 580'; thence North along the East line of said section a distance of 515' to the point of beginning. This parcel containing 6.75 acres more or less.

Parcel 3

Commencing at the North One-Quarter corner of Section 24, Township 102, Range 43, thence due East on the North line of said Section 24, 477.0 feet; thence South 1°17' east, 547.5 feet to the point of beginning, containing 6.00 acres, Nobles County, Minnesota.

Parcel 4

Commencing on the north line of Section 24, Township 102, Range 43, 477.0 feet due east on the North One-Quarter corner of said Section 24; thence due east on the north line of said Section 24, 396.9 feet; thence south 1°17' east, 548.5 feet to the point of beginning, containing 5.00 acres, Nobles County, Minnesota.¹⁵

¹⁵ Resolution.

16. Jaime and Christalee Castaneda have owned¹⁶ and resided with their eight children on Parcel 1 since 2014.¹⁷ Parcel 1 consists of 9.8 acres previously used as a dairy farm.¹⁸ The property is improved with two barns – one with an unusable silo, two garages, a machine shed, a woodshed, and a house.¹⁹ The Castanedas raise a variety of animals on Parcel 1 including chickens, ducks, and peacocks, and rent out portions of the property for others to raise cattle.²⁰ Parcel 1 is surrounded by farmland to the north and west, City residential property to the east, and Parcel 2 to the south.²¹

17. Reisdorfer Family, LLLP owns Parcels 2, 3, and 4, which together encompass approximately 17.75 acres of property.²²

e. Parcel 2 contains the Reisdorfer family farmhouse, a cattle shed, a tool shed, two machine sheds, two farrowing barns, four hog houses, a granary and a two-story barn, all of which appear to be well maintained.²³ Though Parcel 2 was previously occupied by the Reisdorfer family and used as a working cattle and hog farm, no animals are currently raised there.²⁴ No one has lived on Parcel 2 for several years though the Reisdorfer family hosts family events on the property.²⁵ Parcel 2 is a tract of approximately 6.75 acres bordered by productive farmland to the west and south, by Parcel 1 to the north across 250th Street, and by Parcel 3 to the east.²⁶

f. Parcels 3 and 4 are zoned Agricultural Preservation and are grass-covered.²⁷ Parcels 3 and 4 have been grass-covered for over ten years and are part of the Farm Service Agency's Conservation Reserve Program.²⁸ Together, the two parcels consist of 11 acres²⁹ bordered by the Adrian Country Club golf course to the south, the Adrian high school football field to the east, and by 6th Street to the north across from City residential properties.³⁰

18. The Subject Parcels have been used and maintained, as described directly above, in approximately the same state for well over a decade. None of the property

¹⁶ Test. of Christalee Castaneda. Note: The tax records indicate that title is held in the name of Jaime Castaneda alone. See Exs. 201-203.

¹⁷ Test. of C. Castaneda.

¹⁸ *Id.*

¹⁹ *Id.*; Exs. 200A-200L; Tour of Subject Parcels.

²⁰ Test. of C. Castaneda.

²¹ *Id.*; Ex. 1.

²² Test. of Joan Reisdorfer; Exs. 205-207, 209-215.

²³ Test. of J. Reisdorfer; Ex. 204; Tour of Subject Parcels.

²⁴ Test. of J. Reisdorfer.

²⁵ *Id.*

²⁶ *Id.*; Ex. 1.

²⁷ Test. of J. Reisdorfer; Exs. 208, 212.

²⁸ Test. of J. Reisdorfer.

²⁹ Exs. 209-215.

³⁰ Exs. 1, 209-215.

owners have any plans to further develop or improve the properties, nor to substantively change their current use.³¹

19. The Subject Parcels are accessed via 6th/250th Street. 6th Street turns into 250th Street just after the driveway into Parcel 2. 6th Street is paved and maintained by the City; 250th Street is unpaved and maintained by Westside Township.³²

Westside Township

20. Westside Township provides snow removal, road and ditch maintenance, and election services to its residents. It also provides fire protection to its residents, through a contract with the City.³³

21. Westside Township provides snow removal to properties within its boundaries, including the Subject Parcels, and maintains 250th Street.³⁴

22. Annexation of the Subject Parcels would have no significant impact on the ability of Westside Township to continue to serve its residents.³⁵

City of Adrian

23. The City's population decreased from 1,234 in 2000 to 1,209 in 2010.³⁶ As of 2017, the City's population had increased to 1,245.³⁷

24. The City's latest new business development consists of a Dollar General store built in 2016, a new gas station, a funeral home, and the City Hall building built in 2006-2007.³⁸

25. The record did not evidence any planned or anticipated business, commercial or industrial development on the western boundary of the City in the vicinity of the Subject Parcels.

26. In 2016, 29 houses were sold in the City to new and existing members of the community.³⁹

27. After annexing into its boundaries City-owned property in November 2015,⁴⁰ in June 2016 the City platted a new 28-lot residential area, the Suedkamp Addition, in the southeast part of the City.⁴¹ Through the Nobles Home Initiative, a county-operated

³¹ Test. of J. Reisdorfer, C. Castaneda.

³² Test. of B. Heitkamp.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Ex. 221.

³⁷ Test. of B. Heitkamp.

³⁸ *Id.*

³⁹ Ex. 5; Test. of B. Heitkamp.

⁴⁰ Ex. 122.

⁴¹ Test. of B. Heitkamp; Ex. 1.

program, the City is marketing the Suedkamp Addition lots as eligible for property tax abatement upon new construction.⁴² Though no lots had been sold at the time of the hearing, the City anticipated constructing the platted access street in September 2017.⁴³

28. The City considers the Suedkamp Addition to be the most likely residential growth area for the community.⁴⁴

29. The Subject Parcels are not located in the area of the Suedkamp Addition.⁴⁵

30. The City has its own police force with two full-time officers and one police vehicle.⁴⁶ The officers patrol within the City limits.⁴⁷

31. The City provides fire protection services to the community through its fire department.⁴⁸

32. The City provides snow removal on public streets. Currently, the City provides snow removal on 6th Street to the City limits but does not plow up to the driveways of the Subject Parcels.⁴⁹ If the Subject Parcels were annexed into the City, the Subject Parcels would receive snow removal provided by the City.⁵⁰

33. The City provides the following additional services to members of the community: park maintenance and operation; a municipal pool; campsites; emergency management; street maintenance and repair; weed and mosquito control on public lands; ambulance services; a community billboard; property code enforcement and dilapidated property remediation.⁵¹

34. The City's Public Utilities Commission (PUC) provides sewer, water, and electricity to properties within the area.⁵² The Adrian PUC currently provides electric power to 496 households.⁵³ The annual budget for the Adrian PUC is just over \$2 million.⁵⁴ Maintenance, operations and a reserve fund for future replacement or improvement of the Adrian PUC infrastructure is built into the invoiced use costs through the City's utility rates.⁵⁵

35. Since 1985, Section 3.03, subd. 7, of the City's Code of Ordinances has allowed the City's PUC to "furnish municipal utility service to consumers outside the City

⁴² Test. of B. Heitkamp.

⁴³ *Id.*

⁴⁴ Test. of David Edwards.

⁴⁵ Ex. 1.

⁴⁶ Test. of B. Heitkamp.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Test. of B. Heitkamp.

⁵⁰ *Id.*

⁵¹ *Id.*; Ex. 127.

⁵² Test. of D. Edwards.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

provided, that such consumers specifically agree to all of the terms of the City Code, including, but not limited to, rules, regulations, and rates adopted thereunder and the right to collect delinquent charges.”⁵⁶

36. The Subject Parcels have all received electricity from the City since 1934.⁵⁷

37. Parcels 2, 3, and 4 have received City water services since 1974 and Parcel 1 has received City water services since 1993.⁵⁸ The Reisdorfer family paid to extend the infrastructure necessary to bring City water to Parcels 2, 3 and 4 “50 years ago.”⁵⁹ The prior owners of Parcel 1 paid to extend City water services from Arkansas Avenue to Parcel 1.⁶⁰

38. Parcels 1 and 2 have received City sewer services since the early 1970s.⁶¹

39. Parcel 1 also receives City garbage and recycling collection; Parcel 2 does not as it is unoccupied.⁶²

40. On July 24, 2017, the City adopted Ordinance No. 91, which amends Section 3.03 of City Code by adding the following subdivision:

Subd. 7. Municipal Utility Service Outside the City. The Public Utilities Commission will not furnish municipal utility services to consumers outside the corporate City limits, unless such consumers have received, and can provide, written consent from the respective township(s) that the property to be serviced will be annexed into the City’s corporate limits by means of an orderly annexation process and that such process will take place no later than six (6) months from the date services are requested.

The ordinance was published on August 2, 2017.⁶³

41. According to the Minutes of the July 24, 2017 meeting of the Adrian City Council, the amendment was intended to apply to “future utility customers.”⁶⁴ The City testified that disconnection of the Subject Parcels would be unlawful.⁶⁵

⁵⁶ Ex. 116c.

⁵⁷ *Id.*; Ex. 4.

⁵⁸ Ex. 4; Test. of B. Heitkamp.

⁵⁹ Test. of J. Reisdorfer. Note: The Reisdorfer properties receive City water through a process in which the water is pumped to a pit located on the properties and then pumped from the pit for various uses. See Ex. 4; Test. of B. Heitkamp.

⁶⁰ Test. of C. Castaneda. See Ex. 1.

⁶¹ Test. of D. Edwards; Ex. 4.

⁶² *Id.*

⁶³ Ex. 116a

⁶⁴ Ex. 116b.

⁶⁵ Test. of B. Heitkamp.

42. If the Subject Parcels are annexed, the residents will experience no difference in municipal utility services.⁶⁶

Zoning and Other Controls

43. The City Code prohibits the keeping of roosters, meat-producing or clucking hens, and also regulates the numbers and treatment of allowed chickens.⁶⁷

44. The City's zoning code provides that all properties that are not specifically designated for commercial and industrial uses are included in the City's "Residential District."⁶⁸ The Code further provides that "no yard for the keeping or pasturing of animals or poultry shall be built, or relocated within the City designated Residential District."⁶⁹

45. Although the City testified that it would consider allowing the owners of the Subject Parcels to continue to house animals after annexation,⁷⁰ no lawful authority for that action was offered into the record.⁷¹

46. If the Subject Parcels were annexed into the City, the City would allow the currently applicable zoning designations to apply to the Subject Parcels after annexation.⁷²

47. There are no flood issues implicated by the proposed annexation of the Subject Parcels.⁷³

48. The record did not establish that the grant or denial of the proposed annexation would have any effect on the area's present transportation network or potential transportation issues; existing or potential environmental problems; or the implementation of previous annexation agreements or orders.

49. As both the City of Adrian and Westside Township are part of the Adrian School District, annexation of the Subject Parcels would have no financial or other effect on the Adrian School District.⁷⁴

⁶⁶ *Id.*; Test. of J. Reisdorfer.

⁶⁷ Ex. 123.

⁶⁸ Ex. 129 at 206.

⁶⁹ *Id.*

⁷⁰ Test. of B. Heitkamp

⁷¹ *Id.* Note: The City's Zoning Code does not appear to include the raising of farm animals as a conditional use in any zoned district, nor do the nonconforming use provisions clearly apply to the facts in the record. See Ex. 129.

⁷² Test. of B. Heitkamp.

⁷³ *Id.*

⁷⁴ *Id.*

Tax Considerations

50. With respect to Parcel 1, the Castanedas paid \$814 in property taxes in 2017 and \$1,088 in 2016.⁷⁵

51. For Parcel 2, Reisdorfer Family, LLLP paid \$6,118 in property taxes in both 2017 and 2016.⁷⁶

52. For Parcel 3, Reisdorfer Family, LLLP paid \$50 in property taxes for 2017 and \$52 in 2016.⁷⁷

53. For Parcel 4, Reisdorfer Family, LLLP paid \$226 in property taxes in both 2017 and 2016.⁷⁸

54. Upon annexation, the Subject Parcels would experience an increase in taxes in the following approximated amounts:⁷⁹

a. Parcel 1 - \$682.87⁸⁰

b. Parcels 2, 3, and 4 combined - \$1,255.86.⁸¹

Based upon these Findings of Fact, the Chief Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Chief Administrative Law Judge has jurisdiction in this matter pursuant to Minn. Stat. §§ 414.01, .031, .12 (2016).

2. Minn. Stat. § 414.031 sets forth a process whereby a municipality may seek to annex “unincorporated property abutting a municipality.”⁸²

3. The City of Adrian fully complied with all notice and other procedural requirements of Minn. Stat. § 414.031 such that this annexation proceeding is lawfully before the Office of Administrative Hearings for determination

4. Minn. Stat. § 414.031 sets forth 17 factors that must be considered in deciding whether an annexation is appropriate under law.⁸³ The Chief Administrative Law

⁷⁵ Exs. 202, 203.

⁷⁶ Exs. 206, 207.

⁷⁷ Exs. 210, 211.

⁷⁸ Exs. 214, 215.

⁷⁹ Test. of B. Heitkamp.

⁸⁰ *Id.*; Ex. A.

⁸¹ Ex. A.

⁸² Minn. Stat. § 414.031, subd. 1.

⁸³ *Id.*, subd. 4(a)(1)-(17).

Judge has considered all 17 factors as germane to this proceeding and as noted in the above findings.

5. The record establishes that the Subject Parcels are all located outside of and adjacent to the City's current, legal boundaries, and so constitute "unincorporated properties"⁸⁴ appropriate for annexation pursuant to the City's Resolution.

6. As the Subject Parcels have existed in approximately their current state, with their current uses, for decades and are not located in an area of the City in which residential, business or commercial development is occurring, planned or anticipated, the Subject Parcels are rural in character and are not, nor are they becoming, urban or suburban in character.

7. There was no persuasive evidence presented to establish that annexation of these parcels is required to protect the public's health, safety, or welfare, or that annexation would be in the best interest of the Subject Parcels.

8. There was no evidence presented to establish that annexation would result in monetarily valuable benefits being conferred upon the Subject Parcels, nor that the modest increase in revenue to the City upon annexation bears any relationship to the existing benefits the property owners enjoy and, with respect to municipal utilities, pay for in accordance with the City's Code.

Based upon these Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

1. The City's Petition for Annexation is **DENIED**.

2. Pursuant to Minn. Stat. § 414.12, subd. 3, the cost of these proceedings shall be divided as follows: 50% to the City; 10% to Westside Township; and 40%, jointly and severally, the owners of Parcels 1, 2, 3 and 4. An itemized invoice for costs will be send under separate cover.

Dated: July 10, 2018



TAMMY L. PUST
Chief Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

⁸⁴ Minn. Stat. § 414.011, subd. 3 (2016).

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.031, .07, .09, .12 (2016). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Nobles County District Court by filing an Application for Review with the Court Administrator within 30 days of the date of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Findings of Fact, Conclusions of Law, and Order Regarding Annexation within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2015). No request for amendment shall extend the time of appeal from this Order.

MEMORANDUM

The City argues that the Subject Parcels are appropriate for annexation because the City is growing and the properties are already urban or suburban. The City argues that it is experiencing growth and development and the Subject Parcels are needed to support a growing community. The City also argues that the Subject Parcels already receive City utilities and so are already urban or suburban in character.

The Reisdorfers and Castanedas argue that their properties are rural in character and are used for agricultural purposes in the main. They also argue that the increase in taxes would be a financial hardship.

The City's positions are not supported by the relevant facts. As explained below, both the facts and the law support the conclusion that annexation should be denied.

Legal Standard

Minn. Stat. § 414.031, subd. 4(b) authorizes the Chief Administrative Law Judge to grant annexation only upon finding:

- (1) that the subject area is now, or is about to become, urban, or suburban in character;
- (2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or
- (3) that the annexation would be in the best interest of the subject area.

The Chief Administrative Law Judge finds that the City has not sufficiently established any of these factors.

Urban or Suburban in Character

The Chief Administrative Law Judge finds that the Subject Parcels are rural in character. Although the terms “urban, suburban, or rural” are not defined in Chapter 414, the policy goals embedded in the Municipal Boundary Adjustment Act (Act) provide reliable touchstones for the application of these terms.⁸⁵ In relevant part, the Act provides that townships are the most efficient form of government for “areas used or developed for agricultural, open space, and rural residential purposes,”⁸⁶ and so allows these properties – identified as those that are “rural in character”⁸⁷ - to avoid annexation into a city in favor of remaining part of a township. Relatedly, the Act directs that city government is the most efficient form for “areas intensively developed for residential, commercial, industrial, and governmental purposes”⁸⁸ and so allows cities to annex such properties, statutorily identified as those that are or about to become “urban or suburban in character.”⁸⁹

Under Chapter 414, judicial and administrative courts have examined the subject properties’ use, zoning restrictions, proximity to other uses as a harbinger of impending development, density and access to or use of city services to determine whether a specific property should be considered to be urban or rural.⁹⁰ The correct determination turns on the specific facts of each case. Those facts always include consideration of the overall structure and economy of the relevant community or communities. The intensity of development must be scrutinized relative to the community at issue. As such, the categorizations of “urban” and “suburban” are not limited to large metropolitan areas within the state; small communities also may contain properties that are urban and suburban in character.

The Chief Administrative Law Judge finds that the Subject Parcels in this case are rural in character. The Subject Parcels long have been used and continue to be used for agriculture related purposes. The properties are both still improved with numerous

⁸⁵ Minn. Stat. § 645.16 (2016); *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 385-86 (Minn. 1999).

⁸⁶ Minn. Stat. § 414.01, subd. 1a(2).

⁸⁷ Minn. Stat. § 414.06, subd. 1 (2016).

⁸⁸ Minn. Stat. § 414.01, subd. 1a(2).

⁸⁹ Minn. Stat. § 414.031, subd. 4(b)(1).

⁹⁰ *City of Lake Elmo v. Nass*, No. A12-2008, 2013 WL 3491161, at *1, *8 (Minn. Ct. App. Sept. 25, 2013); see also *State ex rel. Town of White Bear v. City of White Bear Lake*, 255 Minn. 28, 36-38, 95 N.W.2d 294, 300-01 (1959); *State ex rel Copley Twp. v. Village of Webb*, 250 Minn. 22, 25-30, 83 N.W.2d 788, 793-94 (1957); *In re Exsted v. City of Hutchinson*, No. 43-CV-15-1048 (Minn. Dist. Ct. June 13, 2016); *In re the Detachment of Certain Real Property from the City of Cambridge to Isanti Twp.*, OAH Docket No. 84-0330-32927, FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER DENYING DETACHMENT (May 11, 2016); *In re the Petition for the Detachment of Certain Land from the City of Wabasha*, OAH Docket No. 68-0330-32004, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (Aug. 20, 2015); *In re the Detachment of Certain Real Property from the City of Hutchinson*, OAH Docket No. 84-0330-32284, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING DETACHMENT (June 18, 2015); *In re the Petition for Annexation to the City of Oslo A-7886*, OAH Docket No. 82-0330-31515, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER (Mar. 16, 2015); *In re the Petition of the City of Pine River*, OAH Docket No. 2-0330-19393-BA, FINDINGS OF FACT, CONCLUSIONS AND ORDER at 10, 26 (Jan. 13, 2009); *In re the Petition of the City of Bovey*, OAH Docket No. 2-0330-18032-BA, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER at 5 (July 5, 2007); *In re the Petition of Dawson Grain Coop., Inc.*, OAH Docket No. 12-2900-15004-2, FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER at 8 (Feb. 12, 2003).

structures intended and used to support agriculture: barns; grain silos; agricultural equipment storage sheds; animal housing units.⁹¹ Parcel 1 currently hosts animals and Parcels 3 and 4 are maintained as grasslands.⁹² Further, Parcels 1 and 2 are bordered to the west by wide swaths of farmland.⁹³ While Parcels 3 and 4 are located across 6th Street from residential properties, Parcels 3 and 4 are also bordered by wide open spaces to the south and east, being used as a golf course and football field.

The Subject Parcels do receive City utilities, and have for over 50 years. That fact alone is not determinative of whether parcels are urban, suburban, or rural. According to the record, the City's most likely area for development is located in the southeast portion of the City with the Suedkamp Addition, not on the City's westernmost edge. The City introduced no evidence indicating that development was planned or anticipated in the area of the Subject Parcels. Thus, there is no evidence upon which to base a finding that the Subject Parcels are urban, suburban or about to become such.

Protection of Public Health, Safety, and Welfare

The City's only argument for the protection of public health, safety, and welfare was that raising animals on the Subject Parcels was inconvenient for City residents because of the smells of animals. The City provided no concrete evidence of any resident complaints, nor any evidence that the City's elected officials have ever discussed the public's health, safety, and welfare in the context of the smells associated with agricultural uses of the property. To the contrary in fact, City Administrator Bruce Heitkamp testified that the City would allow the Subject Parcels to retain their zoning designations and would consider allowing animal raising to continue on a permitting basis.⁹⁴ This testimony suggests that annexation is not necessary for the protection of public health, safety, or welfare.

Best Interest

The only discernable benefit that the Subject Parcels would receive upon annexation is the potential for increased road maintenance and snow removal. Given the location of the Subject Parcels, the monetary value of this benefit would be insubstantial. The City already plows 6th Street up to 250th Street, and Parcel 1 is the only parcel that even touches 250th Street. Thus, the Subject Parcels would not receive any measurable benefit from annexation.

The City would clearly benefit from the annexation. For years, the City has discussed its intent to annex the Subject Parcels, and any other township properties currently receiving City utilities, as a matter of equity and fairness. The City seeks to spread the municipal tax burden among more individuals and potentially lower taxes for existing taxpayers.⁹⁵ The City deems it to be inequitable that the Subject Parcels do not

⁹¹ Test. of C. Castaneda; Test. of J. Reisdorfer; Exs. 200, 204, 208.

⁹² Test. of C. Castaneda; Test. of J. Reisdorfer.

⁹³ Ex. 1.

⁹⁴ Test. of B. Heitkamp.

⁹⁵ Exs. 126, 130-134.

pay for municipal infrastructure costs but are allowed to use and enjoy municipal infrastructure at will, and believes that annexation will rebalance this inequity.⁹⁶ This argument loses force given the City's acknowledgement that the owners of the Subject Parcels currently pay for the municipal utilities they access (electricity, water, sewer) through invoiced billings, all of which include reserves calculated to support infrastructure repair and replacement.

More importantly, however, is the fact that the Municipal Boundary Adjustment Act does not allow for annexation merely to serve the best interests of the annexing municipality. The Act requires that annexation serve the best interests of the Subject Parcels in this proceeding.⁹⁷ Nothing in the record supports a finding to that effect. Accordingly, the City has failed to meet its statutory burden and the annexation must be denied.

T.L.P.

⁹⁶ Test. of B. Heitkamp.

⁹⁷ See Minn. Stat. § 414.031, subd. 4(b)(3).