

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MUNICIPAL BOUNDARY ADJUSTMENTS UNIT

In Re Petition for Incorporation of
Columbus Township (I-68)
and
Petition by Forest Lake to Annex
Certain Portions of Columbus
Township (A-7371)

**FINDINGS OF FACT,
CONCLUSIONS
AND ORDER**

The above-entitled matter initially came on for hearing before Christine M. Scotillo, Executive Director, Municipal Boundary Adjustments, on October 5, 2005, at Columbus Town Hall, 16319 Kettle River Boulevard, Forest Lake, Minnesota pursuant to In Re Petition for Incorporation of Columbus Township (I-68). The hearing was continued to allow for the gathering of additional evidence.

Another hearing was held before Ms. Scotillo, on December 5, 2005, at Forest Lake City Hall, in the Council Chambers, 220 Lake Street North, Forest Lake, Minnesota pursuant to Petition by Forest Lake to Annex Certain Portions of Columbus Township (A-7371). The hearing was continued to allow for the gathering of additional evidence.

The matters were consolidated, and the hearing on both matters was reconvened before Administrative Law Judge Beverly Jones Heydinger on Monday, April 24, 2006, at Columbus Town Hall, 16319 Kettle River Boulevard, Forest Lake, Minnesota. The hearing continued four subsequent days and ended on April 28, 2006. Public testimony was heard on the evening of April 25, 2006, at Columbus Town Hall; about 60 people signed the Hearing Register, and 38 persons offered comments on the record.¹ At the conclusion of the hearing on April 28, 2006, the parties and the Administrative Law Judge toured Columbus and Forest Lake to view the area.

Following the hearing, the parties submitted written memoranda, reply memoranda, and proposed findings of fact, conclusions of law, and order. The transcript was received by all parties on May 9, 2006. The final written reply memorandum was received on May 30, 2006, and the record closed on that date.

¹ Following the close of the hearing, the parties stipulated to admission of Ex. 92, *Steinke v. Columbus Township*, Anoka County District Court, File Nos. C9-04-011328, C7-04-011330, C9-04-011331, C5-04-11326 (May 2, 2006) (dismissing challenges by four property owners to Columbus's special assessments for construction and installation of sanitary sewer).

John J. Steffenhagen, Esq., and William C. Griffith, Esq., of the firm of Larkin Hoffman Daly & Lindgren, Ltd., 1500 Wells Fargo Plaza, 7900 Xerxes Avenue South, Minneapolis, MN 55431-1194, appeared representing Petitioner Columbus Township (Columbus).

Christopher M. Hood, Esq., and Brandon M. Fitzsimmons, Esq., of the firm Flaherty & Hood, P.A., 525 Park Street, Suite 470, St. Paul, MN 55103, appeared representing Petitioner City of Forest Lake (Forest Lake).

STATEMENT OF THE ISSUES

1. Whether the Petition for Incorporation of Columbus Township (I-68) be granted or denied based upon the factors set out in Minn. Stat. § 414.02²; and

2. Whether the Petition by Forest Lake to Annex Certain Portions of Columbus Township (A-7371) be granted or denied based upon the factors set out in Minn. Stat. § 414.031.

The Administrative Law Judge concludes that the Petition for Incorporation of Columbus Township (I-68) should be granted. The Administrative Law Judge further concludes that the Petition by Forest Lake to Annex Certain Portions of Columbus Township (A-7371) should be denied.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

Procedural History of this Proceeding

On August 12, 2005, property owners in Columbus filed a petition with the Minnesota Office of Administrative Hearings - Municipal Boundary Adjustments ("OAH-MBA") requesting incorporation of all of the Town of Columbus.

1. Columbus is located in Anoka County, Minnesota. Its boundaries are legally described as:

Sections 25-36, Township 33 N, Range 22 W

Sections 1-36, Township 32 N, Range 22 W³

2. A small portion of land lies within East Bethel's boundaries and abuts Coon Lake.⁴

² Unless otherwise specified, references to Minnesota Statutes are to the 2004 edition.

³ Hearing Exhibit ("Ex.") 1 at 8.

⁴ *Id.* at 18.

3. On September 6, 2005, the Executive Director of OAH-MBA set on for hearing on October 5, 2005, the Petition for Incorporation of the Township (I-68) (the "Incorporation Petition"). Notice of the hearing was published in the *Forest Lake Times*.

4. On September 27, 2005, Forest Lake filed a Notice of Appearance with OAH-MBA to appear and participate in the proceedings on the Incorporation Petition.⁵

5. The hearing on the Incorporation Petition was opened on October 5, 2005, and continued to an indefinite date pending completion of the agency review process and delegation for further evidentiary hearing.

6. On October 18, 2005, the Director referred the Incorporation Petition to the Administrative Law Division of OAH.

7. On October 26, 2005, Forest Lake filed a resolution with OAH-MBA petitioning OAH-MBA to annex approximately 655 acres of unincorporated property located in Columbus (the "Annexation Area"). The Annexation Area is described as follows:

All that part of Sections 13, 24, 25, and 36 in the Township of Columbus, Anoka County, Minnesota, lying easterly of the right of way of Interstate Highway 35 E and Interstate Highway 35.⁶

8. On November 9, 2005, the Executive Director of OAH-MBA set on for hearing on December 5, 2005, the Petition by Forest Lake to Annex Certain Portions of The Township (A-7371) (the "Annexation Petition"). Notice of the hearing was published in the *Forest Lake Times*.

9. On November 10, 2005, the Director referred the Annexation Petition to the Administrative Law Division of OAH.

10. On November 10, 2005, the Chief Administrative Law Judge ordered that the proceedings and hearing on the Incorporation Petition and Annexation Petition be consolidated.

11. On November 29, 2005, Forest Lake filed an amended resolution with OAH-MBA amending the vote by which its City Council adopted the Annexation Petition and incorporating by reference the Annexation Petition.⁷

12. The Administrative Law Judge conducted prehearing conferences with the parties on December 8, 2005, February 13, 2006, and April 17, 2006.

⁵ Ex. 308 at P4.

⁶ Ex. 305.

⁷ Ex. 306.

13. Columbus and Forest Lake each published a Notice of Reconvened Hearing in the *Forest Lake Times* on April 6, 2006, and April 13, 2006.⁸

14. Columbus is bordered by Ham Lake, Linwood Township, Wyoming Township, Forest Lake, and Lino Lakes. Forest Lake is located in Washington County. It is bordered by New Scandia Township, May Township, Hugo, Lino Lakes, Columbus, Wyoming Township, and Chisago Lake Township. Forest Lake abuts the entire eastern boundary of Annexation Area.⁹

15. The boundaries of Columbus are rectangular and have been in place for nearly 150 years. The eastern boundary also forms a portion of Anoka County's eastern boundary.¹⁰

16. Both Columbus and Forest Lake are part of the seven-county Twin Cities Metropolitan Area.¹¹ Columbus became an "urban township" in 1963; Forest Lake became a city in 1974.¹²

17. For the purposes of this proceeding, the "I-35 Corridor" is defined as approximately three square miles of land within Columbus on both the east and west sides of Interstate Highway 35, within the existing Municipal Urban Service Area (MUSA). The I-35 Corridor is approximately one mile wide and three miles long. On the east side of I-35, it includes the Annexation Area, and on the west side of I-35, it includes the strip of land about one-half mile wide running between the freeway and the Rice Creek Chain of Lakes Regional Park Reserve. The I-35 Corridor is located at the developing edge of the seven-county metropolitan area in Anoka County, and is strategically located for growth and development just north of the intersection of I-35E and I-35W.¹³

18. The property owners who filed the petition for annexation are generally located in the northeast portion of the I-35 Corridor, east of I-35, and next to the boundary with Forest Lake.¹⁴

⁸ Exs. 91, 590.

⁹ Ex. 578, Fig. 1.3.

¹⁰ Ex. 1 at 4, 7, Fig. 2.

¹¹ Ex. 1 at 13; Ex. 304 at 2.

¹² Exs. 75, 78; Ex. 304 at P6.

¹³ Ex. 578 at 12-13; Exs. 32 and 406 (aerial photos of the I-35 Corridor).

¹⁴ Ex. 578, Fig. 1.5.

Factors for Incorporation, Minn. Stat. § 414.02, subd. 3, and Annexation, Minn. Stat. § 414.031, subd. 4 (a).

Present population and number of households, past population and projected population growth of the subject area and adjacent units of local government.

Population

19. The population of the seven-county Twin Cities metropolitan area grew by over 850,000 people between 1970 and 2000. Most of this growth occurred outward from free standing communities and along major transportation corridors such as Interstate Highway 35 (I-35), Interstate Highway 94, and State Trunk Highways 169 and 61. Between 2000 and 2030, population of the seven-county Twin Cities metropolitan area is projected to grow by nearly 1 million people.¹⁵

20. Washington County grew by about 55,000 people between 1990 and 2000. Anoka County grew by over 54,000 during that same period. Between 2000 and 2030, Anoka County's population is projected to grow from 298,084 to 410,760 (38%), while Washington County's population is projected to grow from 201,130 to 342,620 (70%).¹⁶

21. According to the United States Census Bureau, six of the top 100 fastest growing counties in the United States from 2000 to 2005 are located in and around the Twin Cities Metropolitan Area, including Isanti County (ranked 97th) and Chisago County (ranked 99th). Chisago and Isanti Counties lie immediately north of Columbus and Forest Lake.¹⁷

22. According to the records of the state demographer, Columbus is the 13th most populous of the 1,790 townships located in the State of Minnesota and the fourth most populous in the metropolitan area. In 2000 its population was greater than 709 of the 853 cities in the State of Minnesota.¹⁸

23. Between 1970 and 2000, Columbus's population grew by 1958 people (98%), and Forest Lake's population grew by 8,243 people (133%). In 2004, the estimated population for Columbus was 4,120, exceeding the Metropolitan Council's 2010 forecast, with 44 people in the Annexation Area and the same or fewer on the west side of I-35 Corridor.¹⁹ In 2004, Forest Lake's estimated population was 16,800.²⁰

¹⁵ Ex. 578 at 11; Ex. 589 at P6.

¹⁶ Ex. 578 at 11.

¹⁷ Ex. 1 at 15; Ex. 578 at 12, 13, Table 1.3 and Table 1.4.

¹⁸ Ex. 1 at 15; Ex. 2 at 9; T. 305 (Fifield).

¹⁹ Although there was no direct evidence of the population of the west side of the Corridor, there are about 13 single-family homes or farmsteads. Using the Metropolitan Council estimate of 2.59 persons per household, the estimated population is 34. Ex. 589 at 2; Ex. 1 at 20, Fig. 6.

²⁰ Ex. 578 at 13-15; Ex. 301, Ex. 368 at 2, and Ex. 452; T at 654 (Smith); T. 819-822 (Shardlow).

Population Growth (1970-2004)²¹

	1970	1980	1990	2000	1970-2000	% Change 1970-2000	2004 (est.)
Columbus Township	1,999	3,232	3,690	3,957	1,958	98%	4,120
Linwood Township	1,004	2,839	3,588	4,668	3,664	365%	
Wyoming Township	1,262	2,313	2,967	4,379	3,117	247%	
Ham Lake	3,327	7,832	8,924	12,710	9,383	282%	
Lino Lakes	3,692	4,966	8,807	16,791	13,099	355%	
Forest Lake*	6,197	9,927	12,523	14,440	8,243	133%	16,800
Hugo	2,669	3,771	4,417	6,363	3,694	138%	
Anoka County	154,712	195,998	243,688	298,084	143,372	93%	
Washington County	83,003	113,571	145,896	201,130	118,127	142%	
Twin Cities Metro	1,874,612	1,985,873	2,288,721	2,642,062	767,450	41%	

*City and Township combined.

24. Between 2000 and 2030, the Metropolitan Council projects that Columbus's population will increase by 723 people (18%). Forest Lake is projected to grow by 19,760 people (137%) during that same period.²²

Projected Population Growth (2000-2030)²³

	2000	2010	2020	2030	Change 2000-2030	% Change 2000-2030
Columbus Township	3,957	4,000	4,240	4,680	723	18%
Linwood Township	4,668	4,920	5,000	5,400	732	16%
Wyoming Township	4,379	5,252	6,320	7,265	2,886	66%
Ham Lake	12,710	15,200	15,200	15,200	2,490	20%
Lino Lakes	16,791	22,500	26,300	30,700	13,909	83%
Forest Lake	14,440	21,700	27,800	34,200	19,760	137%
Hugo	6,363	19,100	29,000	40,000	33,637	529%
Anoka County	298,084	355,170	393,010	410,760	112,676	37%
Washington County	201,130	244,732	296,693	342,620	141,490	70%
Twin Cities Metro	2,642,062	3,028,102	3,376,723	3,608,000	3,608,000	36%

25. In its September 2005 system statement, the Metropolitan Council revised Forest Lake's projected population, household, sewer development, and wastewater flow projections because of the City's increased rate of growth and plans to increase orderly development.²⁴

26. Forest Lake is projected to grow much faster than Columbus, largely because of the natural conditions in Columbus that inhibit development, and the differences in the Comprehensive Plan for each of them, as reflected in the Metropolitan Council's designation of Forest Lake as a Rural Developing Community and Columbus as a Diversified Rural Community.²⁵

²¹ Ex. 578 at 11, Table 1.1, at 13, Table 1.4; Ex. 452; Ex. 589 at P6.

²² Exs. 367 at P2; 368 at P2; 578 at 13-15, Table 1.7; 301; 452; T. 654 (Smith); T. 819-822 (Shardlow).

²³ Ex. 578 at 11, Table 1.1, at 15, Table 1.7; Ex. 589 at 2.

²⁴ Exs. 367 at P2; 332; T. 970-971 (Robinson).

²⁵ Ex. 589 at P26, P31.

Households

27. The Metropolitan Council projects that more than 470,000 households will be added within the seven-county Metropolitan Area between 2000 and 2030.²⁶

28. Anoka and Washington Counties accounted for nearly 30% of the building permits issued in the metropolitan area for 2004. The Metropolitan Council projects that between 2000 and 2030, the number of households in Anoka County is projected to grow from 106,428 to 163,610 (about 54%), while the number of households in Washington County is projected to grow from 71,462 to 138,117 (about 93%).²⁷

29. From 1990 to 2000, the number of households in Columbus grew by 199 (18%). During the same time, Forest Lake's number of households grew by 1,009 (23%). Between 2001 and 2005, 89 new homes were built in Columbus and 1,491 new residential units were built in Forest Lake. In 2004, there were an estimated 1,388 households in Columbus and 6,526 households in Forest Lake.²⁸

30. Between 2000 and 2030, Columbus is projected to add 422 more homes (32%), and Forest Lake is projected to add 8,267 more homes (152%). The Metropolitan Council indicates that the projected household growth for Columbus's "Developing" area along the I-35 corridor, which includes the Annexation Area, will occur at urban densities.²⁹

Household Growth (1990-2000)³⁰

	1990	2000	Change 1990-2000	% Change 1990-2000
Columbus Township	1,129	1,328	199	18%
Linwood Township	1,146	1,578	432	38%
Wyoming Township	934	1,438	504	54%
Ham Lake	2,720	4,139	1,419	52%
Lino Lakes	2,603	4,857	2,254	87%
Forest Lake*	4,424	5,433	1,009	23%
Hugo	1,416	2,125	709	50%
Anoka County	82,437	106,428	23,991	
Twin Cities Metro	875,504	1,021,456	145,952	

* City and Township combined.

²⁶ Ex. 578 at 12, Table 1.3; Ex. 589 at P6.

²⁷ Ex. 578 at 11-12, Table 1.3.

²⁸ Ex. 578 at 14-15; Exs. 301; 366; 414; 452; T. 215-216 (Johnson); T. 820-821 (Shardlow).

²⁹ Exs. 301; 366; 414; 452; Ex. 578 at 14-15; T. at 215-216 (Johnson), 820-821 (Shardlow).

³⁰ Ex. 578 at 14, Table 1.4; Ex. 1 at 14.

Projected Household Growth (2000-2030)³¹

	2000	2010	2020	2030	Change 2000-2030	% Change 2000-2030
Columbus Township	1,328	1,450	1,600	1,750	422	32%
Linwood Township	1,578	1,820	1,950	2,090	512	32%
Wyoming Township	1,438	N/A	N/A	N/A	N/A	N/A
Ham Lake	4,139	5,100	5,300	5,500	1,361	33%
Lino Lakes	4,857	7,100	8,600	10,100	5,243	108%
Forest Lake	5,433	8,500	11,100	13,700	8,267	152%
Hugo	2,125	7,200	11,100	15,600	13,475	634%
Anoka County	106,428	134,980	154,880	163,830	57,402	54%
Washington County	71,462	93,949	116,834	138,117	66,655	93%
Twin Cities Metro	1,021,456	1,213,800	1,386,200	1,513,100	491,644	48%

31. The I-35 Corridor, along with areas south and east of County State Aid Highway (CSAH) 23 (Lake Drive) in Columbus, is located in Traffic Analysis Zone (TAZ) 18 as designated by state and local transportation officials. As of 2000, there were 306 jobs available in TAZ 18. By 2030, there are expected to be 650 jobs available in TAZ 18, over a 112% increase in available jobs. The remainder of Columbus is predicted to have an increase in jobs of 174 by 2030. Forest Lake is predicted to have an increase of 4,041 jobs between 2000 and 2030.³²

Classification by the Metropolitan Council

32. Columbus is classified by the Metropolitan Council as a Diversified Rural Community, with characteristics of a Developing Community. In general, Diversified Rural Communities have large-lot residential development, development of parks, open spaces, green corridor connections, and limited development that serves the region. The Metropolitan Council would anticipate Columbus, as a Developing Community, to develop along the I-35 Corridor.³³ The area in Columbus west of the I-35 Corridor is designated by the Metropolitan Council as "Permanent Rural."

33. Sixteen cities within the Twin Cities Metropolitan Area are, like Columbus, designed as diversified rural by the Metropolitan Council.³⁴ Examples include East Bethel, Oak Grove, Greenfield, Independence, Afton, Dellwood and Lakeland.³⁵ Columbus's 2000 population is greater than ten of those cities.³⁶ An additional 13 cities within the Twin Cities Metropolitan Area are classified dually, diversified rural and urban or partially urban.³⁷

³¹ Ex. 578 at 12, Table 1.3, at 15, Table 1.8; Ex. 1 at 14.

³² Ex. 332; Ex. 367 at P2; Ex. 578 at 15-16; T. 825-826 (Shardlow).

³³ Ex. 589 at P27-P28, P31-P32.

³⁴ T. 123-124 (Johnson).

³⁵ Ex. 589 at P31.

³⁶ T. 123-124 (Johnson).

³⁷ T. 124 (Johnson); Ex. 589 at P26, P28.

34. The Columbus Comprehensive Plan was approved by the Metropolitan Council in 1999, including the development of the I-35 Corridor for commercial/industrial use. The Plan was approved, along with designation of the I-35 Corridor as part of the 2010 MUSA, eligible for regional sewer service.³⁸ Columbus is expected to submit a comprehensive plan update by 2008.³⁹

35. Forest Lake is classified by the Metropolitan Council as a Developing Community, with some area designated as Diversified Rural for development after 2030.⁴⁰

36. The Forest Lake Comprehensive Plan was reviewed initially in March 2000. Following annexation of Forest Lake Township in 2000, a combined Comprehensive Plan was submitted in May 2004. The accompanying map showed existing land use, with the area adjacent to and east of the proposed Annexation Area as either "conservancy," with a density of 1 dwelling per 20 acres or "rural residential," with a density of 1 dwelling per 5 acres.⁴¹ Forest Lake's 2004 Comprehensive Plan and 2005 Amendment do not address either portion of the I-35 Corridor, or anticipate extension of urban services to the adjoining portions of Forest Lake. The Metropolitan Council anticipates that Forest Lake will submit a new plan by 2008.⁴² The area in Forest Lake immediately to the east of the northern half of the I-35 Corridor is largely "Permanent Rural," with a small area of established development. East of the southern half of the I-35 Corridor is designated as part of the "Urban Reserve," for development after 2040.⁴³

37. At the present time, development is beginning in the I-35 Corridor. There is little development immediately to the west of the I-35 Corridor in Columbus, in part because of the intervening Rice Creek Chain of Lakes, a protected area, and, similarly, little development immediately east of the Corridor because of an intervening wetland on the western boundary of Forest Lake.⁴⁴

38. The map of the MUSA staging areas reflects that much of the surrounding area, including large portions of Columbus and eastern Forest Lake, will remain Permanent Rural through 2040 and beyond, in part because of its natural environment and also to preserve areas for future growth.⁴⁵

39. Forty-seven townships remain in the seven county metropolitan area. Three townships remain in Anoka County: Columbus, Burns and Linwood. Columbus has the fourth largest population of townships in the metropolitan area.

³⁸ Ex. 367 at 2; Ex. 368 at P2 and P3.

³⁹ Ex. 368 at P5.

⁴⁰ Ex. 589 at P25-P26.

⁴¹ Ex. 304 at P14, Fig. 2.

⁴² Ex. 367 at P2 and P4; Ex. 343.

⁴³ Ex. 578, Fig. 3.2.

⁴⁴ Ex. 578, Figs. 2.2, 2.3, 2.4, 2.6.

⁴⁵ Ex. 578, Fig. 3.2; Ex. 589 at P14.

Only three metropolitan area townships reported more total expenditures in 2004.⁴⁶

40. As a result of the development throughout the surrounding area, including Forest Lake, Columbus is suburban in character, and the I-35 Corridor is in the process of developing for urban commercial/industrial use. Development of sewer and water in an orderly manner is required to assure the health, safety and welfare of the surrounding area.

Quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.

41. Columbus contains 31,000 acres, 48 sections of land.⁴⁷ The natural terrain in Columbus is generally flat to rolling and predominant natural features include wetlands and surface waters, interspersed with upland wooded areas. About two-thirds of the land in Columbus (over 20,000 acres) is covered with wetlands, lakes and adjacent floodplain areas. Little of this land is likely to be developed. The remaining land in Columbus, about one-third of the area, is suitable for commercial, institutional, residential, and agricultural land uses.⁴⁸

42. The Carlos Avery Wildlife Management Area is approximately 23,000 acres; 9,733 acres are in Columbus. It is the largest natural recreational area in the Twin Cities Metropolitan Area and offers bird watching, wildlife viewing, hiking, cross-country skiing, snow shoeing, fishing, and hunting.⁴⁹ As population densities increase in the surrounding area, the fragility and importance of the area as a natural resource also increase. The Metropolitan Council intends to work with Columbus and Anoka County to conserve, protect and enhance this area.⁵⁰

43. Columbus has worked closely with the Minnesota Department of Natural Resources (DNR) for several decades to manage and protect the natural resources of the community, including portions of the Carlos Avery Wildlife Management Area, Lamprey Pass Wildlife Management Area, the Rice Creek Chain of Lakes Regional Park Reserve, and the Houle Wildlife Management Area.⁵¹ Some of the significant natural resource areas are outside of the presently protected areas but adjacent to them. Crossways Lake, Howard Lake, Little Coon Lake and portions of Higgins Lake, Mud Lake, Coon Lake and Rondeau Lake are located in Columbus.⁵²

⁴⁶ Ex. 2 at 9.

⁴⁷ Ex. 368 at 1; Ex. 1 at 15.

⁴⁸ Ex. 1 at 15-16.

⁴⁹ Ex. 1 at 17; Ex. 578 at 19.

⁵⁰ Ex. 368 at P2, P3.

⁵¹ Tr. 591-94 (Brêmecker); Ex. 1 at 17; Public Exhibit 13.

⁵² Ex. 578, Fig. 1.6.

44. There are three watersheds in Columbus: Rice Creek, Sunrise River and Coon Creek. Very wet organic soils, fine sand and little upland occupy much of the western half of Columbus. Most of the existing residential development is located in the eastern half of Columbus and has sandy, well-drained soils, and some forested areas and wetlands. The soils in the I-35 Corridor range from well-drained sandy soils to poorly-drained loamy soils, generally surrounded by larger wetlands.⁵³

45. Forest Lake has 22,711 acres, including 3,000 acres of wetlands, lakes and floodplain.⁵⁴

46. There is a portion of the Lamprey Pass Wildlife Management Area on the west side of Forest Lake and the Hardwood Creek Wildlife Management Area in the southeast. The predominant physical feature is Forest Lake (2,250 acres), and nearby Sylvan Lake. Clear Lake and a portion of Mud Lake are located on the western side of the city, near the Columbus border.⁵⁵

47. There are six soil types in Forest Lake. Much of the soil is wet on a high water table or percolates slowly. Forest Lake lies within two watersheds, Forest Lake and Rice Creek. Part of the city, particularly near the lakes and Hardwood Creek, is within the 100-year floodplain.⁵⁶

Present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses.

48. The current land use designations in the I-35 Corridor and the adjoining area of Forest Lake are shown in Exhibit 1 at 37, Figure 11. The figure shows the portions of the I-35 Corridor in Columbus designated for commercial/industrial development and the adjacent wetlands. It also shows Forest Lake's plans for development to the east of its border with Columbus.

49. Approximately 37 percent of the acreage within Columbus is publicly owned, largely as parks and state wildlife management areas, including the Carlos Avery Wildlife Management Area which occupies 31% of Columbus.⁵⁷ Approximately another third is wetlands, lakes and adjacent floodplain.⁵⁸

50. About 8,580 acres, 28%, of Columbus is developable. Although scattered throughout the township, the developable acres are predominantly located through the central area, along CSAH 23 (Lake Drive), Kettle River Boulevard, and in the I-35 Corridor.⁵⁹ Development is limited by the natural

⁵³ Ex. 1 at 17, Fig. 5.

⁵⁴ Ex. 367 at 1; Ex. 578 at 22, Fig. 2.6.

⁵⁵ Ex. 304 at P14, P16-17, Fig 2.

⁵⁶ Ex. 304 at P59-P62, Figs. 11 and 12.

⁵⁷ Ex. 30 at C00064.

⁵⁸ Ex. 1 at 15-16 (Fig. 4).

⁵⁹ Ex. 578 at 21, Fig. 2.4.

terrain. The historical development pattern occurred in the central third of Columbus, and most residential development exists in this area, along three major roads, Lake Drive, Kettle River Boulevard and CSAH 18. These residences are served by private sewage systems, and residential development is limited to five acres.⁶⁰

51. Because of its natural limitations and the necessity of preserving the natural resources, land in Columbus outside of the I-35 Corridor is not expected to be developed at urban levels. The Metropolitan Council does not anticipate that sewer service will be installed outside of the corridor, and has classified the rest of the township as permanent rural.⁶¹ Neither Columbus nor Forest Lake anticipate that the portions of Columbus outside of the I-35 Corridor, and outside of the current MUSA line, will be developed at urban services in the foreseeable future.

52. Commercial and light industrial land uses have developed in Columbus along Lake Drive north of the border with Lino Lakes, running through the center, upland corridor of Columbus. The corridor along Lake Drive ranges in width from about one-half mile to less than one-quarter mile.⁶² There are about 200 acres of land available for commercial and light industrial development within that corridor. Businesses along Lake Drive include several that require extensive storage for products, materials or equipment, with relatively few employees. Such businesses do not typically require or request sewer or water service.⁶³

53. During the mid to late 1990's, the Columbus Comprehensive Plan was updated to meet the Metropolitan Council's mandatory planning requirements, and it conforms with the Council's Regional Blueprint and Regional Growth Strategy.⁶⁴

54. Columbus's Comprehensive Plan established the I-35 Corridor as a public utility district, and obtained designation of the area as part of the Municipal Urban Service Area (MUSA). MUSA designation allowed Columbus to develop sanitary sewer access to the I-35 Corridor and to pursue an urban level of development within the corridor.⁶⁵ Columbus is one of only three townships within the MUSA to operate public utilities.⁶⁶

55. During the development of Columbus's Comprehensive Plan and thereafter, Columbus spent several years developing detailed engineering plans to stage the installation of municipal utilities and a detailed land use plan,

⁶⁰ Ex. 1 at 19; Ex. 578, Fig. 1.4.

⁶¹ Ex. 578 at 24-25, Fig. 3.1; T. 840 (Shardlow).

⁶² Ex. 578, Fig. 2.1.

⁶³ Ex. 1 at 19-21, Fig. 6; T. 848-49 (Shardlow).

⁶⁴ Ex. 1 at 26; Ex. 30.

⁶⁵ Ex. 1 at 26.

⁶⁶ Ex. 1 at 32.

including zoning classifications and regulations, to manage growth at urban levels within the I-35 Corridor.⁶⁷

56. The I-35 Corridor contains approximately 800 acres that can be developed at urban densities. Barely half of that land is vacant and available for immediate development; about half of the developable acres are located in the Annexation Area.⁶⁸ There are approximately 28 single-family homes or farmsteads in the I-35 Corridor, about equally divided between the two sides of the interstate.⁶⁹

57. Development is spreading up I-35 into the area of Columbus and Forest Lake as population grows in the area. Development at an urban level of service is consistent with orderly and contiguous development because of the exposure and transportation access provided by the interstate highway and the existing interstate highway interchange at CSAH 23.⁷⁰ Because of its proximity to an existing interstate exchange, the I-35 Corridor is well-suited to commercial and industrial development. It is only a mile in width, bisected by the interstate. Noise generated by the interstate makes the area unattractive for residential development.⁷¹

58. Since 2000, several major developments have occurred in the I-35 Corridor. On the west side, Gander Mountain developed a 100,000 square foot outdoor recreation retail facility, the necessary approval has been given and development begun for a harness track on approximately 160 acres, Coates Trailer Sales developed a site for retail sales and repair of recreational vehicles and trailers, and Crystal-Pierz Marine acquired a site to sell boats and equipment. On the east side, Ziegler Caterpillar, LLC, has acquired an 80-acre site to construct a major facility for the sales, rental and repair of construction equipment, to be constructed in 2006, and Forest Lake Arctic Cat and Trailerland operate commercial sales and repair businesses.⁷²

59. The oldest part of the City of Forest Lake includes a commercial business district and residential neighborhoods along the lakeshore and near the original downtown. Commercial development is concentrated along Highway 61 (Lake Street) north from Trunk Highway 97 (Scandia Trail) to just north of Broadway Avenue, and east of the intersection of Highway 61 and Highway 8. Commercial development is also concentrated around the I-35 interchange with Broadway. The commercial land use near I-35 includes auto dealerships and

⁶⁷ Ex. 1 at 26-28; T. 127-29 (Johnson).

⁶⁸ Ex. 1 at 23; Ex. 578 at 17, Fig. 2.4.

⁶⁹ Ex. 1 at 20, Fig. 6, *see also* page 22, Fig. 7; Ex. 578 at 17; T. 827-829 (Shardlow).

⁷⁰ CSAH 23 becomes TH 97 on the east side of I-35; Ex. 1 at 23.

⁷¹ Ex. 1 at 23; T. 125-26 (Johnson), T. 856-858 (Shardlow).

⁷² Ex. 1 at 21, 22; Ex. 578 at 19, Fig. 2.3

large retail stores. Light industrial use has developed along I-35 south of the Broadway interchange.⁷³

60. The northwestern portion of Forest Lake is developing rapidly, and future growth is likely to extend toward the Columbus border north of the I-35 Corridor, along Trunk Highway 2.⁷⁴ Because of its rapid growth, the Metropolitan Council considers Forest Lake to be a freestanding growth area which is expected to grow outward, particularly toward the south, in an orderly fashion.⁷⁵

61. Although there are areas of dense development, much of Forest Lake is still undeveloped or at low densities. Agriculture and wetlands dominate the southern half of Forest Lake, and the northeastern portion. Scattered throughout the agricultural area is low-density, residential development served by individual sewage treatment systems. In its 2004 Comprehensive Plan, Forest Lake reported that 59% of its land was classified as agricultural or vacant.⁷⁶

62. A thin band of wetlands separates the northern portion of the I-35 Corridor from residential development in Forest Lake. It includes the 78-acre Houle Wildlife Management Area, and a portion of the Lamprey Pass Wildlife Management Area which extends into the I-35 Corridor. Forest Lake has designated this land along the northern two thirds of the Annexation Area as "conservancy," with no scheduled development⁷⁷ because of its environmental sensitivity. A portion of the land to the east of the northern half of the I-35 Corridor is included in the existing MUSA or 2020 MUSA.⁷⁸

63. Approximately 10,450 acres, or 46%, of Forest Lake is developable with large contiguous areas in the southwest quadrant reserved for development as part of the 2040 Urban Reserve.⁷⁹ Most of this land was part of Forest Lake Township prior to its annexation in 2000 into the City of Forest Lake.

64. Since 2000, development has extended towards the south and west of the original city. Planning is underway for a large new development, Headwaters, in the former township, adjacent to Highway 61 and extending west toward Columbus.⁸⁰

65. Forest Lake has worked with Washington County to develop a master plan for growth in the southwestern portion. The Southwest Development Area Alternative Urban Areawide Review (AUAR) was completed in September 2005, the City Council approved an amendment to Forest Lake's Comprehensive Plan on February 6, 2006, and that amendment is subject to the review and

⁷³ Ex. 304 at P12-P13, Figs. 2 and 3; Ex. 578 at 22, Fig. 2.6.

⁷⁴ Ex. 578, Fig. 3.6; T. 804, 831-832

⁷⁵ T. 844-846 (Shardlow); *but see* T. 1408 (Johnson).

⁷⁶ Ex. 304 at P12-13, P16, Table 8.

⁷⁷ Ex. 304 at P35, Fig. 4, P39. See also, Ex. 343, Fig. 4 and Fig. 9

⁷⁸ Ex. 578, Fig. 3.2; Ex. 304.

⁷⁹ Ex. 578, Fig. 3.1.

⁸⁰ Ex. 578 at 22, Figs. 2.3 and 2.6.

approval of the Metropolitan Council. The western edge of the area included in the Comprehensive Plan amendment abuts a small section of the I-35 Corridor. However, that area is planned for parks and recreation, and not for residential, commercial or industrial development. The effect of the plan is to reallocate the areas designated for parks and recreation and relocate the area designated as public/industrial. It does not appear to alter the timing of development south of the midpoint between 200th Street North and 190th Street North.⁸¹ The plan amendment does not extend utilities into the area adjoining the southern portion of the I-35 Corridor.⁸²

66. The Southwest Development Area AUAR states: "Planned commercial/industrial development in Columbus Township would be adjacent to conservancy and park areas in the development scenarios. These open space and recreational areas will provide a buffer from the commercial/industrial development in Columbus Township to planned residential areas in the AUAR area."⁸³

67. In its 2004 Comprehensive Plan, Forest Lake compared land use trends from 2000 to 2020, and projected that in 2020 it would have an increase from 5.8% to 16.1% in Rural Residential Land, a decrease from 59% to 12.6% in Agriculture/Vacant, an increase in Urban Residential (including Multiple Family and Mobile Home) from 9.3% to 21.3%, and an increase in the Commercial/Industrial land use from 2.4% to 7.4%. Forest Lake also projected that the increased Conservancy land and most of the 2,786 acres designated for Future Urban Residential would remain agriculture/open space until 2020 and beyond.⁸⁴

68. In 2005, Forest Lake amended its Sewer Policy Plan, revising the acres to be served and projected flowage. However, this amendment did not project utility staging into the area immediately adjacent to the I-35 Corridor.⁸⁵

69. Forest Lake will submit an amendment to its Comprehensive Plan in 2008, requesting an extension of the MUSA line south of 190th Street, but leaving the southern portion of the City that adjoins the Annexation Area part of the 2040 urban reserve.⁸⁶

The present transportation network and potential transportation issues, including proposed highway development.

70. CSAH 23 (Lake Drive) runs through the center of Columbus to the I-35 interchange and becomes Trunk Highway (TH) 97 going east into Forest

⁸¹ Compare Ex. 578, Fig. 3.5 and Fig. 3.7; Ex. 342.

⁸² Ex. 578, Fig. 3.8.

⁸³ Ex. 342 at P27.

⁸⁴ Ex. 304 at P41, Table 11.

⁸⁵ Ex. 343, Fig. 9 and Map 1.

⁸⁶ T. 1129 (Gravel); See Ex. 578, Fig. 3.5; City of Forest Lake's Final Memorandum at 27.

Lake. CSAH 23 also connects with County Road 62 (Kettle River Boulevard), which runs north to connect with CSAH 18, which in turn becomes CSAH 2 (Broadway Avenue). Broadway Avenue intersects with I-35 and is heavily developed as it runs east into the downtown area of Forest Lake. CSAH 19 also connects CSAH 23 and CSAH 18 in the center of Columbus. CSAH 21 (West Freeway Drive) serves as a frontage road along the west side of I-35 within the I-35 Corridor. The I-35 interchange with CSAH 23 and TH 97 is at the northern border of the I-35 Corridor. I-35W and I-35E merge within the Corridor, but there is no interchange at that point. Because of extensive public waters and wetlands, it is unlikely that major new roadway corridors will be developed in Columbus.⁸⁷

71. At the present time, the east side of the I-35 Corridor is served by Hornsby Street which connects at the north with TH 97 and serves as frontage road for the northern part of the eastern portion of the corridor, south to 145th Avenue.⁸⁸

72. I-35 is classified as a principal arterial. Five county roads serve Columbus. Three are classified as minor arterials (CSAH 19, CSAH 18, CSAH 23) and two are classified as county collectors (County Road 62 and CSAH 21).⁸⁹

73. For several years, Columbus staff has fully participated in area highway corridor studies, including analysis of current highway use, future development and potential improvements.⁹⁰ In particular, Columbus staff has participated in discussion of improvements to the I-35 interchange and frontage roads, including the CSAH 21 intersection with CSAH 23 west of the I-35 interchange,⁹¹ relocation of the current park-and-ride facility, and the redesign of the Hornsby Street intersection with TH 97, just east of the I-35 interchange. Staff has also worked with other cities to review CSAH 14 and the minor arterial network to reduce pressure on the interstate system, and to plan improvements to I-35 between I-694 and Hinckley.⁹² Columbus has retained a professional planner and engineer to assist with its transportation planning,⁹³ and assembled updated traffic information to develop the Harness Race Track Environmental Assessment Worksheet.⁹⁴

74. Two principal arterial roads serving Forest Lake are I-35 and U.S. Highway 8. Minor arterial roads include U.S. Highway 61 and TH 97. Highway 61 runs parallel to I-35, and TH 97 and U.S. Highway 8 run east and west, intersecting with both Highway 61 and I-35. Other minor arterials include

⁸⁷ Ex. 578, Figs. 2.2, 2.4; Ex. 1 at 22-25, Fig. 7.

⁸⁸ Ex. 1 at 22, Fig. 7.

⁸⁹ Ex. 1 at 23-24.

⁹⁰ Ex. 1 at 23; T. 421-425 (Garwood).

⁹¹ Ex. 37.

⁹² Ex. 1 at 25; Ex. 3 at 4.

⁹³ T. 421-22 (Garwood).

⁹⁴ Ex. 1 at 23, 25.

CSAH 2 (West Broadway), County Highway 83 (SW 11th Avenue) from I-35 to U.S. Highway 61, CSAH 34 (SE 11th Avenue), and three additional segments.⁹⁵ In its 2004 Comprehensive Plan, Forest Lake did not project development of any additional minor arterial roads.⁹⁶

75. Columbus and Forest Lake participated with Anoka County, Washington County, the Minnesota Department of Transportation (MnDOT), Metropolitan Council and the Town of Scandia to develop a detailed plan for improvements to TH 97 and portions of parallel east-west roadways.⁹⁷ Columbus is working with MnDOT to redesign the Hornsby Street intersection with Trunk Highway 97, near the east I-35 interchange ramps.⁹⁸

76. Forest Lake and MnDOT own an airport with a single 2,725-foot turf runway. At the present time, take-offs and landings are visual, and there are no runway lights. Forest Lake has plans to improve the airport and the adjoining area, but it is not currently designated as one of the "reliever airports" to the Minneapolis-St. Paul International Airport.⁹⁹

Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land controls.

77. Both Columbus and Forest Lake have Comprehensive Plans, submitted to and approved by the Metropolitan Council.¹⁰⁰ Both intend to submit revised plans by 2008.¹⁰¹

78. In 1963, seven townships in Anoka County, including Columbus, began to exercise urban town powers pursuant to Minn. Stat. § 368.01. Among those powers are the ability to establish and maintain sewers and waterworks, the power of eminent domain, and ability to establish a fire department. Four of the seven townships have subsequently incorporated into cities.¹⁰²

79. Anoka County controls shoreland floodplain areas; Columbus is responsible for platting, building permits and inspections, conditional use permits, interim use permits and administrative services. Incorporation would eliminate

⁹⁵ SE 8th Street from SE 11th Avenue to SE 16th Avenue; SE 16th Avenue from SE 8th Street to SE 11th Street; and SE 11th Street from SE 16th Avenue to TH 97

⁹⁶ Ex. 304 at P47.

⁹⁷ Ex. 371.

⁹⁸ Ex. 1 at 25.

⁹⁹ Ex. 304 at P55.

¹⁰⁰ Exs. 30 and 304.

¹⁰¹ Ex. 1 at 29; Exs. 367, 368.

¹⁰² Ex. 2 at 9; Ex. 74; T. 350 (Sivaraijah).

some overlap with the services provided by Anoka County.¹⁰³ In the past five years, Columbus has updated its Zoning and Subdivision Regulations.¹⁰⁴

80. The current Columbus Comprehensive Plan was effective in 1999 and included the establishment of a public utility district within the I-35 Corridor, with MUSA designation.¹⁰⁵ Columbus entered into a Joint Powers Agreement with what was at that time the Town of Forest Lake to allow sanitary sewer access from Columbus through the Town of Forest Lake to the Metropolitan Interceptor. Thereafter, Columbus developed engineering plans to establish and stage municipal utilities, a detailed land use plan and zoning classifications and regulations to allow urban level of development within the I-35 Corridor.¹⁰⁶ The new zoning regulations allow existing businesses to be expanded or modified and access public utilities as the utilities become available.¹⁰⁷ Columbus also has an ordinance governing its sewer and water service.¹⁰⁸

81. Forest Lake has zoning ordinances that address six types of residential districts. It updated its subdivision ordinances in 2000, and is attempting to develop one subdivision ordinance, combining the City's ordinance with the ordinance enacted by the Township of Forest Lake, prior to its annexation.¹⁰⁹ Because of its higher level of development, Forest Lake has more types of ordinances that could be applied within the I-35 Corridor. However, Columbus has Light Industrial, Commercial Retail and Commercial/Showroom zoning regulations in place that can be applied within the I-35 Corridor, with the small portion in the Corridor that is within the Lamprey Pass Wildlife Management Area zoned for Rural Residential.¹¹⁰

82. Columbus has conducted its affairs in a manner similar to a city for several years and has a professional staff familiar with and competent to administer city functions.¹¹¹

83. Columbus has developed its plans and development controls with the specific purpose of managing development in the I-35 Corridor. Development of the corridor is consistent with its plans. Forest Lake has the necessary zoning and development tools to handle development in the I-35 Corridor, but it has not included development of that area in its planning prior to receiving the Annexation Petition from a group of landowners.

¹⁰³ Ex. 1 at 26; T. 350-51 (Sivarajah).

¹⁰⁴ Ex. 1 at 29; Ex. 578, Fig. 4.2 (Current Columbus Zoning map depicts shoreland areas, land included in the National Wetland Inventory, as well as current zoning districts). See also Ex. 578, Fig. 4.1.

¹⁰⁵ Ex. 1 at 26.

¹⁰⁶ Ex. 1 at 26, Figs. 9, 10.

¹⁰⁷ Ex. 1 at 26; T. 178 (Johnson).

¹⁰⁸ Ex. 505.

¹⁰⁹ Exs. 310; 369; 578 at 32-33; T. 807 (Shardlow).

¹¹⁰ Ex. 578, Fig. 4.1.

¹¹¹ T. 170-171 (Johnson); T. 878 (Shardlow).

Existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services.

Sewer and Water

84. Because of its terrain and sparse level of development, all of Columbus outside of the I-35 Corridor is served by Individual Sewage Treatment Systems (ISTS), and will be for the foreseeable future. Columbus has adopted the rules promulgated by the Minnesota Pollution Control Agency that govern ISTS, and has supplemented the rules with additional requirements.¹¹²

85. Columbus employs a full-time building official who is certified to inspect and review the design of septic systems and to inspect plumbing connections to the municipal sewer and water system.¹¹³

86. In about 1996, in preparation for submission of its Comprehensive Plan to the Metropolitan Council, Columbus began to research and plan for development of the I-35 Corridor.

87. In 1999, the Metropolitan Council approved sewer service in the I-35 Corridor, as part of its approval of the Columbus Comprehensive Plan, conditioned upon entering into a Joint Powers Agreement with the Town of Forest Lake (now part of the City of Forest Lake) to connect to the interceptor sewer located one and one-quarter mile east of the Columbus/Forest Lake boundary. A Joint Powers Agreement was signed in 2000.¹¹⁴

88. Columbus retained engineers and developed proposals to stage installation of sewer infrastructure in the I-35 Corridor; both sides of the corridor were planned as one unit.¹¹⁵ In the past five years, Columbus has invested heavily in the design and early phases of construction of a sewer and water system for the I-35 Corridor. Its Board of Supervisors conducted public hearings and hired experts¹¹⁶ to evaluate the feasibility, financing and implementation of public utilities in that portion of the township.

89. Columbus received the "Final Report: Sewer Cost Feasibility Study for Sanitary Sewer Service Within the I-35 Corridor" in July 2000.¹¹⁷

90. Columbus and Forest Lake cooperated on two projects. The first project was completed in 2000 and extended a shared-use gravity sanitary sewer from the interceptor to Fenway Avenue. The second project extended a separate

¹¹² Ex. 391 at P5-P14; T. 171 (Johnson).

¹¹³ Ex. 2 at 6.

¹¹⁴ Ex. 33; Ex. 1 at 26; T. 50 (Mettler).

¹¹⁵ T. 127-29 (Johnson).

¹¹⁶ See e.g. Ex. 57; Exs. 432, 473, 474, 475, 497.

¹¹⁷ Ex. 443.

forcemain in 202nd Street from Fenway Avenue to Enfield Avenue. Both of these projects are within Forest Lake.

91. In 2004, Columbus began the last portion of the sewer project needed to serve the I-35 Corridor. A main pumping station was installed in Columbus on Hornsby Street on the east side of the I-35 Corridor and along a forcemain to the intersection of Enfield Avenue and 202nd Street in Forest Lake. The pumping station and forcemain will collect and pump 100% of the sewage generated in the I-35 Corridor to the metropolitan interceptor. This system became fully operational in 2005 at a cost of \$1,315,475, assessed proportionally across all buildable property in the I-35 Corridor.¹¹⁸

92. Upon request, properties on the west side of the I-35 Corridor have been connected to the sanitary sewer system via pipes extended west from the main pump station, under I-35, and south along Freeway Drive, and assessed proportionally for the extensions and connection.¹¹⁹ Exhibit 88 depicts the existing sewer system and proposed extensions within the I-35 Corridor. At the present time, none of the property owners in the Annexation Area have requested hook-up to the sewer.¹²⁰ Columbus anticipates that sewer service will be expanded throughout the I-35 Corridor in stages, through 2015.¹²¹

93. Forest Lake conceded that the sewer infrastructure in the I-35 Corridor is adequate, and that it would maintain it if annexation were granted.¹²²

94. Columbus assessed the trunk sewer cost at \$1,556 per buildable acre and the costs for direct connection in the southwest portion of the I-35 Corridor were assessed at \$5,462 per buildable acre.¹²³

95. Columbus has a public works supervisor who holds a Class D wastewater license to operate the system of gravity sewers and pumping station. He is working on his Class C operator's license, and other public works staff are also being trained to obtain necessary licensure.¹²⁴

96. At the present time, all of Columbus is served by individual water wells. Properties outside of the I-35 Corridor will continue to rely on individual wells in the future.¹²⁵

97. In 2001, Columbus asked Forest Lake to participate in discussion about the development of a municipal water system, as contemplated by the joint

¹¹⁸ Ex. 3 at 5; Ex. 88; T. 373-75 (Bohrer); see also Exs. 440, 441.

¹¹⁹ Ex. 3 at 5.

¹²⁰ T. 53 (Mettler).

¹²¹ Ex. 1 at 28 (Fig. 10).

¹²² Forest Lake's expert agreed with the general design of the sewer system, but disagreed with Columbus's financing method. T. 1077, 1079 (Gravel).

¹²³ Ex. 3 at 6; T. 376-79 (Bohrer).

¹²⁴ Ex. 3 at 6.

¹²⁵ Ex. 3 at 7.

powers agreement. Forest Lake acknowledged the request but did not pursue discussion.¹²⁶ Its engineers reviewed Forest Lake's capacity to provide water service and concluded that the city would need to construct a new water treatment plant to provide service to Columbus at that time, which the city did not choose to do.¹²⁷

98. In 2003, Columbus approached Forest Lake about providing temporary water service to the west side of the I-35 Corridor while Columbus studied development of a water system, but Forest Lake denied Columbus's request because it did not want to supply water on a short-term basis.¹²⁸ At that point, Columbus retained an engineering firm to conduct a water feasibility study, which was completed in September 2003.¹²⁹

99. The water system was designed to serve both sides of the I-35 Corridor, with two interconnected loops.¹³⁰

100. Columbus conducted public hearings concerning the establishment of a municipal water system in January 2004,¹³¹ and then started the process of locating a site for and constructing a test well.¹³² On June 23, 2004, Columbus received a petition from property owners along West Freeway Drive for full water service. The Town Board ordered an engineering report and held another public hearing.¹³³ Because of the apparent strong public support, Columbus moved ahead with plans to install a municipal well and pumphouse.

101. Prior to incurring the cost for the land purchase and construction of the well, Columbus contacted Forest Lake again to discuss the possibility of operating a joint water supply. However, on October 14, 2005, Forest Lake declined to pursue joint development because the Columbus incorporation petition was pending.¹³⁴ Columbus moved forward with its plan to purchase land and contract for a well.

102. The costs of the initial land purchase, well and pumphouse system, which is estimated to be \$1,067,500, will be assessed proportionally across all buildable property in the I-35 Corridor, in the same manner as the sanitary sewer assessment. Additional wells, elevated tanks and a treatment tank will be built as the I-35 Corridor develops, at an estimated cost of \$4,385,00, to be assessed as a connection charge payable as new users connect. Similarly, watermains that provide direct service to the property will be installed as petitioned, and

¹²⁶ T. 433 (Bohrer).

¹²⁷ T. 787 (Robinson).

¹²⁸ T. 434 (Bohrer); T. 787 (Robinson).

¹²⁹ Ex. 58.

¹³⁰ Ex. 58, App. Figure 1; T. 129-30 (Johnson).

¹³¹ Ex. 59.

¹³² See e.g. Ex. 60.

¹³³ Ex. 3 at 7; Ex. 61; Exs. 429, 430.

¹³⁴ Ex. 356; T. 788 (Robinson).

assessed to the benefiting properties at a cost of \$4,381 per buildable acre. The total charges for installed service are \$11,021 per buildable acre.¹³⁵

103. At the time of the hearing, the first water well was under construction and negotiations were underway for acquisition of property to install a second well and additional facilities, and approximately one and one quarter miles of watermain had been installed.¹³⁶ The water system is expected to become operational by the end of 2006. Columbus will contract with a licensed water system operator until the public works supervisor obtains the necessary water operator's license.¹³⁷ Although Forest Lake's expert questioned the water well location, he did not believe that the Columbus water system presented any public health, safety or welfare issues.¹³⁸

104. Columbus has completed a Comprehensive Water Management Plan and has contracted with the Rice Creek Watershed District to prepare the Comprehensive Wetland portion of its Surface Water Plan. It is estimated that the Watershed District will complete the Wetland portion in 2006, and that Columbus will complete the Surface Water Plan thereafter. Columbus has allocated \$19,000 to begin wetland monitoring. Development in Columbus is subject to review by the respective watershed district.¹³⁹

105. Forest Lake has a developed water system that serves most of its residential neighborhoods. About 80 percent of Forest Lake residents have sewer service and 60 to 70 percent are connected to its water system.¹⁴⁰ Forest Lake's municipal water infrastructure comes within 1200 feet of the Annexation Area near its north end.¹⁴¹

106. Forest Lake's 2004 Comprehensive Plan included utility staging. At that time, Forest Lake projected that utilities would be extended to an area extending south from 200th Street North about halfway to 190th Street North, toward Forest Lake's western border, but stopping at the wetland to the east of the I-35 Corridor. It included no plan to extend utilities to the Columbus border or to the I-35 Corridor.¹⁴² The Southwest Area AUAR is consistent with this plan.¹⁴³

107. Although Forest Lake recently amended its Comprehensive Plan, it did not propose to deliver water to the Annexation Area or the western portion of the I-35 Corridor, or to bring its utilities up to a point where the utilities could

¹³⁵ Ex. 3 at 8-9.

¹³⁶ T. 436-37, 448-49 (Bohrer).

¹³⁷ Ex. 3 at 9.

¹³⁸ T. 1109 (Gravel).

¹³⁹ Ex. 3 at 9-10.

¹⁴⁰ T. 994 (Robinson).

¹⁴¹ T. 671, 674, 995 (Robinson); T. 1065 (Gravel).

¹⁴² Ex. 304 at P57 (Fig. 10).

¹⁴³ Ex. 342 at 7; see also Ex. 343, 2004 Amendment to Comprehensive Sewer Policy Plan, Revised July 2005, Figs. 4 and 9.

connect to the Columbus utilities.¹⁴⁴ The Forest Lake City Council did not receive engineering reports concerning delivery of water to the Annexation Area prior to its vote to pursue annexation.¹⁴⁵

108. For the purposes of this proceeding, Forest Lake contracted for an engineering report that included a plan to provide water and sewer service to the Annexation Area, but did not include a plan for providing water and sewer service to the western portion of the I-35 Corridor. Forest Lake would extend sewer service to the northern end of the Annexation Area as development occurs, connecting to the existing infrastructure installed by Columbus.¹⁴⁶ Forest Lake foresees future development that could extend to the southern portion of the Annexation Area from the east. At two points, the proposed extensions would stop at the east side of the Annexation Area because of the presence of wetlands. The two southernmost extensions toward the Annexation Area would appear to be years away since the proposed trunk sewers would cross land for which there are no development plans.¹⁴⁷

109. The proposed lines south of 145th Avenue NE cannot be constructed until Forest Lake obtains an approved amendment to its Comprehensive Plan from the Metropolitan Council. In order to reach the I-35 Corridor at this time, the amended plan would require "leap-frogging" over an area that is not currently planned for development and not currently within the MUSA.¹⁴⁸

110. Forest Lake relies on area charges to properties as they develop to cover its investment in infrastructure. In Columbus more of the area-wide charges are assessed when the infrastructure is developed, regardless of when the property is connected. Additional charges are tied to connection.¹⁴⁹

111. For the purpose of this proceeding, Forest Lake has proposed an extension of its water system to serve the Annexation Area, extending along TH 97 and south down Hornsby Street. It has no plan to serve the western portion of the I-35 Corridor.¹⁵⁰

112. The parties disputed the relative costs per buildable acre in Columbus and Forest Lake for sewer and water, in part because the method of assessing and assigning the costs differ.¹⁵¹ Initially some of the property owners who petitioned for annexation to Forest Lake were mistaken about the costs of

¹⁴⁴ Ex. 367; T. 1015-16 (Robinson).

¹⁴⁵ T. 157 (Young).

¹⁴⁶ Ex. 577 at 14 and Fig. 2.1; Ex. 334; T. 1079 (Gravel).

¹⁴⁷ Ex. 577 at Fig. 2.1; T. 1388 (Bohrer).

¹⁴⁸ T. 390-91 (Bohrer).

¹⁴⁹ Ex. 577 at 15-16.

¹⁵⁰ Ex. 577, Fig. 3.1; Ex. 333. See also Ex. 339 (Planning for expansion of water system in 2004 did not include extension into the Annexation Area.)

¹⁵¹ Compare Ex. 3 at 12, 13; Ex. 577 at 16, 20; Ex. 505; T. 1057-68 (Gravel); T. 376-79, 384-90, 445-48 (Bohrer).

obtaining water from Forest Lake. They later learned of the error but most of them continued to seek annexation, in part because they preferred Forest Lake's method of allocating the water development costs.¹⁵²

Fire Rating and Protection

113. Fire protection in Columbus and Forest Lake and a portion of Wyoming Township is provided under the terms of a Fire Protection Agreement, entered into by those three governmental units, and operated by the "Forest Lake Area Joint Fire Board," with representation from the three communities. There are two fire stations – one in Columbus and one in Forest Lake. Forest Lake is responsible for the daily administration and management of the Fire Department's approved budget, but ownership of equipment and allocation of costs is proportional to the members. The allocation is determined by the market valuation that the property of each member bears to the total market valuation of all three.¹⁵³ Neither Columbus nor Forest Lake anticipates that incorporation or annexation would affect the terms of the Fire Protection Agreement.¹⁵⁴

114. At the present time, the Insurance Service Organization (ISO) fire rating in Columbus and in the portions of Forest Lake not served by municipal fire hydrants is 7 or 10, depending on the distance of the property from the nearest fire station. The fire rating in Forest Lake for areas served by municipal fire hydrants is 5. It is anticipated that the fire rating in the I-35 Corridor will improve once a municipal water system is installed, whether operated by Forest Lake or Columbus. The ISO rating is used for insurance underwriting and to calculate premiums. Lower numbers indicate better fire protection.¹⁵⁵

Law enforcement

115. Columbus currently contracts with the Anoka County Sheriff for patrol coverage for eight hours a day, five days a week, generally from 3 p.m. to 11 p.m., from a base in Columbus, at a cost of \$150,000 per year. The Sheriff also provides a police liaison officer to the Columbus elementary schools and additional services when school is not in session. At other times the Sheriff's Department responds to calls, investigates crimes and patrols the area. The Sheriff's Department has 119 sworn officers, including 66 sworn officers in its patrol division, and responded to 1,770 calls for service in Columbus in 2005. The County Sheriff and Columbus periodically review the terms of the contract, and the level of the contract can be increased as needed.¹⁵⁶ If incorporated, Columbus will continue to contract for services from the County Sheriff.¹⁵⁷

¹⁵² T. 1175-1179 (Steinke); see also Ex. 92.

¹⁵³ Ex. 35; Ex. 482; T. 28-29 (Mettler); T. 790-91 (Robinson).

¹⁵⁴ Ex. 2 at 6; Ex. 395.

¹⁵⁵ Exs. 395, 399, 579 at 7-8; T. 963-69 (Robinson).

¹⁵⁶ Ex. 381, at 1-4; Ex. 444; Ex. 579 at 7; T. 395, 402, 416 (Andersohn).

¹⁵⁷ Ex. 2 at 7.

116. Whether Columbus is incorporated or not, Anoka County will retain the authority to handle all criminal prosecutions within the three wildlife management areas located in Columbus, on behalf of the DNR. If incorporated, Columbus would assume responsibility for criminal prosecutions in other parts of the city at a cost estimated to be between \$12,000 and \$24,000 per year.¹⁵⁸

117. Forest Lake has a full-time Director of Public Safety who is a licensed police officer, 21 full-time and eight part-time sworn officers, and three support staff. The patrol division is staffed 24 hours each day and responded to 13,795 calls in 2005. From time to time, Forest Lake officers drive through the eastern portion of the I-35 Corridor to check the rest stop on I-35 or to conduct business in that area.¹⁵⁹ Forest Lake officers will respond to Mutual Aid calls in the I-35 Corridor upon request of the Anoka County Sheriff.¹⁶⁰

118. Annexation of the eastern portion of the I-35 Corridor would not significantly affect Forest Lake's ability to provide police protection and would cost approximately \$23,500 per year.¹⁶¹ There was no evidence concerning its ability to serve the western side of the corridor.¹⁶² Some increased Forest Lake staff time would be required to travel to the City of Anoka to book persons arrested in either portion of the I-35 Corridor and to attend Anoka County court proceedings.¹⁶³

119. Both the Anoka County Sheriff and the Forest Lake Police have the training and capacity to provide law enforcement to the I-35 Corridor.¹⁶⁴

Street Improvements and Maintenance

120. Columbus employs three full-time employees and two seasonal employees for public works including street maintenance, and maintains 50.53 miles of Township roads.¹⁶⁵ Columbus has adopted engineering standards for road construction. The public works staff, under direction of the Town Manager and with advice from the Public Works Committee, recommends capital improvements which exceed \$5,000. When its population reaches 5,000, Columbus will qualify for state aid for road maintenance.¹⁶⁶

121. Forest Lake currently provides street maintenance to 116 miles of city streets. Its Public Works Department has a full-time director and maintenance shop employee, and the street maintenance staff includes eight full-

¹⁵⁸ Ex. 5 at 9.

¹⁵⁹ T. at 1205-1206, 1230-1231 (Quiring).

¹⁶⁰ Ex. 328 at 2; Ex. 381 at 1-3; Ex. 579 at 7; T. 1205-07, 1210, 1229-31 (Quiring).

¹⁶¹ Ex. 579 at 8-9.

¹⁶² See T. 1233 (Quiring).

¹⁶³ Ex. 579 at 7-8.

¹⁶⁴ T. 404, 407-08 (Andersohn); T. 1233, 1235 (Quiring).

¹⁶⁵ Ex. 2 at 7-8; Ex. 3 at 3; Ex. 579 at 12.

¹⁶⁶ Ex. 3 at 3-4 (estimated at \$115,000 to \$149,000 per year); Ex. 6 at C003551; Ex. 80.

time and four part-time employees.¹⁶⁷ Forest Lake budgets an amount annually for maintenance and capital improvements to its road system.¹⁶⁸ Forest Lake could take over the responsibility for the streets in the Annexation Area without adding significantly to its staff or budget; no evidence was offered about the costs to take over the streets on the western side of the I-35 Corridor.¹⁶⁹

122. Hornsby Avenue in the Annexation Area is in poor repair, and Columbus is working with MnDOT and Anoka County to develop a plan to reconfigure its intersection with TH 97 and then improve the road.¹⁷⁰ Lyons/Elmcrest is shared by Columbus and Forest Lake and serves a largely undeveloped area. It is also in need of improvement.¹⁷¹ In general, Columbus maintains its rural roads well.¹⁷²

123. If the streets in the I-35 Corridor were included in Forest Lake, Forest Lake may be able to qualify for some slight increase in its municipal state aid, but would see a gross increase of about \$39,755 in its street maintenance costs.¹⁷³

Administrative Services

124. Columbus employs a full-time town manager, town clerk, office assistant and building inspector, and a part-time treasurer. It contracts for a city engineer and city planner, and assessment, audit, and legal services as needed. Its general government budget for 2006 is \$638,345, and its staff is supported by several commissions, boards and committees.¹⁷⁴

125. Columbus has a master plan to develop a new Public Works Building and Town Hall.¹⁷⁵

126. Because of its larger population and more dense development, Forest Lake has a larger city staff than Columbus. It employs 57 full-time and 35 part-time employees,¹⁷⁶ and is supported by several commissions, boards and committees.¹⁷⁷

127. Forest Lake has seven employees who provide general governmental services, including financial services, and three full-time employees in the community development department. It does not anticipate

¹⁶⁷ Ex. 328 at 1-3.

¹⁶⁸ Ex. 579 at 12-13.

¹⁶⁹ Ex. 577 at 9-11.

¹⁷⁰ T. 454-55 (Bohrer); T. 1099-1100 (Gravel).

¹⁷¹ T. 1098-99 (Gravel).

¹⁷² Ex. 3 at 4; T. 453 (Bohrer); T. 1097 (Gravel).

¹⁷³ Ex. 579 at 12, 25-26; T. 1262-63, 1268 (Ruff); T. 1383-86 (Bohrer).

¹⁷⁴ Ex. 1 at 30; Ex. 2 at 8-9; Ex. 6; Ex. 579 at 17, App. C at 1-3; T. 32-33 (Mettler).

¹⁷⁵ Ex. 413.

¹⁷⁶ Ex. 328 at 1-3.

¹⁷⁷ Ex. 402; T.798-802 (Robinson).

that it will need to increase staff if the Annexation Area is added to it.¹⁷⁸ It is not clear whether annexation of the entire I-35 Corridor would require additional staff. Forest Lake's budget for general government is \$1,423,007 for 2006.¹⁷⁹

128. Both Columbus and Forest Lake would see an impact on their governmental operations as a result of development in the I-35 Corridor, including land planning, infrastructure development and construction, building and site construction and expansion to meet new service requirements. Although Forest Lake has a larger staff to absorb the increase, the Columbus staff has demonstrated its ability and capacity to manage the growth.¹⁸⁰

Recreational Facilities

129. Columbus operates four public parks and has three designated undeveloped sites. The parks are maintained by the public works staff; no staff member is assigned exclusively to park maintenance.¹⁸¹

130. Forest Lake operates 21 public parks. It has one full-time and 15 part-time employees.¹⁸²

131. Youth sports programs in the area are operated by the Forest Lake School District.¹⁸³ Columbus operates a senior center with a part-time coordinator and plans to enhance its facilities.¹⁸⁴

132. The parks in Columbus and Forest Lake are used by residents of both communities.¹⁸⁵ Increased population in Columbus and Forest Lake will place additional pressure on the park system, but both communities have plans for park expansion. Development of the I-35 Corridor is likely to increase employment, and employees may seek out recreational activities in the surrounding area, but neither Columbus nor Forest Lake project an increase in recreational facilities as a direct result of development of the Corridor.¹⁸⁶ Forest Lake does anticipate developing additional community facilities, including a community center and recreational area as part of the Headwaters Development.¹⁸⁷

¹⁷⁸ Ex. 328 at 1; Ex. 579 at 17-19; T. 950-951 (Robinson).

¹⁷⁹ Ex. 579 at 18.

¹⁸⁰ Ex. 1 at 29-30; T. 300 (Fifield); T. 903 (Shardlow).

¹⁸¹ Ex. 579 at 15 and App. C at 5.

¹⁸² Ex. 579 at 15.

¹⁸³ Ex. 579 at 15.

¹⁸⁴ Ex. 2 at 8.

¹⁸⁵ Ex. 579 at 15.

¹⁸⁶ T. 309-10 (Fifield); T. 947 (Robinson); Ex. 579 at 15-16.

¹⁸⁷ T. 938-39 (Robinson).

Impact of Proposed Action on the Delivery of Services

133. In 2004, the Columbus Board of Supervisors included funding for a study of incorporation in the 2005 budget, and an Incorporation Committee was formed in April 2005. That Committee met with several county officials, its engineer, attorney, planner and a city finance specialist. At the August 2005 Annual Meeting, residents requested that Columbus include money to pursue incorporation in the 2006 budget, and \$100,000 was approved for that purpose.¹⁸⁸ A fiscal analysis of incorporation was prepared,¹⁸⁹ and the Incorporation Report was prepared and presented to the Town Board on December 14, 2005.¹⁹⁰ Columbus engaged in a deliberative, planned process to develop the I-35 Corridor and to pursue incorporation as a city.¹⁹¹ Its petition for incorporation was filed on August 10, 2005.

134. A five member Board of Supervisors elected at-large currently makes decisions for Columbus. Conversion to a city will not require a change in the number or method of electing local officials. Columbus also has a seven-member Planning Commission, Park Board, Road and Bridge Committee and an Economic Development Committee that could continue to function.

135. In the event that Columbus is incorporated, it will assume the cost of misdemeanor criminal prosecutions, estimated to be \$12,000 to \$24,000 per year, with offsetting revenue from collection of fines.¹⁹²

136. Columbus has exercised urban town powers since 1963. In most respects it operates as a small city government, lacking only the powers of tax increment financing and municipal state aid (highway) funding. If incorporated, it would assume shore-land management functions and tobacco and liquor licensing now performed by Anoka County.¹⁹³ If Columbus incorporates, its sewer, water, fire protection, law enforcement street maintenance and administrative services will not be significantly affected.

137. Columbus currently exercises jurisdiction over planning and zoning, under the supervision of the town manager, with the assistance of the town planner, pursuant to contract. Columbus has an economic development committee that assists in marketing and promoting development in Columbus with a focus on the I-35 Corridor. It currently has access to several types of economic development tools and would have access to tax increment financing in the event that it were incorporated.¹⁹⁴

¹⁸⁸ Ex. 5 at 5; T. 563-566 (Stein).

¹⁸⁹ Ex. 6.

¹⁹⁰ Exs. 4, 5.

¹⁹¹ See also public comments of Ethel ("Effie") Stein, T. 563-66; Ex. 5 at 2; T. 37-38 (Mettler): T. 131 (Johnson).

¹⁹² Ex. 2, pp. 8-9; Ex. 6.

¹⁹³ Ex. 5 at 7, 8; Ex. 1 at 30; T. 298-306 (Fifield).

¹⁹⁴ Ex. 5 at 8.

138. Columbus employs a full-time building inspector to inspect and enforce the State Building Code. Incorporation will not affect inspection or enforcement.¹⁹⁵ If the I-35 Corridor were annexed to Forest Lake, the inspector's duties would decrease, but it is not clear that a part-time inspector would be adequate to meet the needs of the balance of Columbus.

139. Since the 1990's, Columbus's land use planning, zoning changes, development of the water and sewer infrastructure, and transportation planning have all focused on integrating services on both the east and west side of the I-35 Corridor and treating it as an integral unit.¹⁹⁶

140. Columbus has begun to successfully plan and implement the development of the I-35 Corridor.¹⁹⁷ Incorporation will allow Columbus to continue to develop and implement long-range planning for the I-35 Corridor, as well as for other portions of the Township, and to assure that protection of its natural resources and additional residential and commercial development are carefully coordinated. Columbus will not incur any unusual administrative or service delivery changes as a result of incorporation or by development of the I-35 Corridor.¹⁹⁸

141. Columbus has done the planning and has the resources to complete the development of utilities in the I-35 Corridor. Annexation of all or a portion of the I-35 Corridor would undercut the systematic planning process that Columbus has undertaken.¹⁹⁹

142. Forest Lake has had no planned process to develop the Annexation Area or the I-35 Corridor, and no articulated explanation for its attempt to annex only the eastern portion of the Corridor. In March 2005, the mayor of Forest Lake was contacted by landowners in the I-35 Corridor about whether Forest Lake might have an interest in annexation of that area. The mayor and city administrator met with about six residents who asked a number of questions about city policies and practices, and the process for requesting annexation. A second meeting was held in late March or early April. Forest Lake provided information about taxes and its water system, and its long range plan. In early August, a group of landowners in the Annexation Area notified Forest Lake of its intent to file a petition for annexation.²⁰⁰

143. Prior to receiving a petition from some residents of the Annexation Area in August 2005, Forest Lake had no plans to extend public utilities into the area, had conducted no public meetings addressing annexation, had not engaged Columbus or the surrounding communities in discussion of annexation,

¹⁹⁵ Ex. 5 at 7.

¹⁹⁶ T. 131 (Johnson).

¹⁹⁷ See e.g. T. 594-97 (Barrett); T. 607-12 (McCarver); T. 613-16 (Miller); T. 631-635 (Derus).

¹⁹⁸ Ex. 1 at 29-30.

¹⁹⁹ See T. 307-09 (Fifield).

²⁰⁰ T. 670-73 (Smith).

and had not included any discussion of the possible expansion into Columbus in its submissions to the Metropolitan Council. Its evidence concerning the delivery of services to the western portion of the I-35 Corridor was incomplete.²⁰¹

144. Forest Lake has the capacity to take over the sewer development previously installed by Columbus and to expand it, but it has not discussed the timing of future development with the property owners or developed a staging plan. Forest Lake has no reasonable plan or timetable to extend water service to the I-35 Corridor, and preliminary plans would require that the Metropolitan Council approve expansion of Forest Lake's water service through an area that does not currently have MUSA designation. There is no evidence that development of the I-35 Corridor is a priority for Forest Lake. Its Capital Improvement Plan would require updating to address the additional roads and capital expenditures needed in the annexed area.²⁰²

145. Annexation of the Annexation Area or the entire I-35 Corridor by Forest Lake would disrupt on-going services and implementation of the sewer and water system by Columbus.

Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.

146. There are no known environmental problems in Columbus. The Town provides on-going monitoring of Individual Sewage Treatment Systems (ISTS), and has adopted standards that exceed the Minnesota Pollution Control Standards. There have been no recent failures of ISTS in Columbus. Its restrictions on lot size and cooperation with the DNR have aided in the protection of its natural resources and wetland management.²⁰³ In conjunction with the Rice Creek Watershed District, Columbus is developing a surface water management plan.²⁰⁴ New development requires the approval of the affected watershed district. Neither incorporation nor annexation is likely to improve or resolve existing or potential environmental problems in the I-35 Corridor or in Columbus.

147. There are some identified potential environmental hazards within the AUAR area to the east of the I-35 Corridor in Forest Lake. There is no evidence that those potential hazards would affect the I-35 Corridor or other portions of Columbus.²⁰⁵

²⁰¹ T. 740 (Smith); T. 930 (Shardlow); T. 976-79, 1015-16, 1021 (Robinson); 1091 (Gravel).

²⁰² Ex. 312; Ex. 577 at 10; Ex. 578 at 22.

²⁰³ Ex. 1 at 30.

²⁰⁴ Ex. 3 at 9-10.

²⁰⁵ Ex. 342 at P27.

Fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues.

148. Columbus uses a general fund and special revenue funds for key service areas. Sanitary sewer and water systems will operate as separate enterprise funds, which enables Columbus to set user charges to meet its costs. Both Columbus and Forest Lake have adequate fund balances to meet future operating and investment demands, manage cash flow, respond to unexpected expenditures and increase financial stability.²⁰⁶

149. Since 2001, both Columbus and Forest Lake have had a steady increase in their property market value and tax capacity, which forms the basis for generating property tax revenue. Property tax is based on the estimated market value of the property, and the conversion of that value to the tax capacity value, which is dependent upon the class of property. Columbus has developed the I-35 Corridor in order to increase the amount of commercial and industrial property and diversify its tax base.²⁰⁷

150. At the present time, the tax rate in Columbus exceeds the tax rate in Forest Lake.²⁰⁸

151. If the Annexation Area were annexed to Forest Lake, its tax base would increase by less than 1 percent; Columbus would lose 3.4 percent of its tax base.²⁰⁹ There was no evidence of the impact of annexation of the entire corridor, but it would be a significantly greater loss to Columbus.

152. Springsted Incorporated conducted a fiscal analysis for Columbus of the impact of incorporation, including a detailed analysis of the potential fiscal impact. It concluded that, if incorporated, Columbus would:

- a. Lose about \$20,000 of county road aid, but could qualify for state highway aid funds when its population increased to 5000;
- b. Be required to assume the annual costs of prosecution of crimes, currently covered by the county, and estimated to be \$12,000 to \$24,000 per year;
- c. Be eligible to collect fee and fine revenue of approximately \$15,000 annually;

²⁰⁶ Ex. 2 at 10-12; Ex. 579 at 32-33.

²⁰⁷ Ex. 2 at 12-14; Ex. 579 at 27, Tables 3.3 and 3.4; T. 1308 (Ruff).

²⁰⁸ Ex. 2 at 14.

²⁰⁹ Ex. 579 at 28, Table 3.5.

- d. Be eligible for local government aid from the state, approximately \$24,720 annually; and
- e. Property taxes would likely decrease from 5.98% to 8.49% in the first year following incorporation (largely because of the elimination of one-time incorporation costs).²¹⁰

153. Moody's Investors Services has assigned Columbus an A3 credit rating and expects its financial position to remain sound "due to prudent management, growing property tax and fee revenues, and the maintenance of favorable reserves;"²¹¹ Columbus has General Fund reserves estimated to be 84% of General Fund revenues.²¹² White Bear Township is the only other township in the metropolitan region that has a bond rating.

154. As recently as 2003, Forest Lake's bond rating was BAA2, a lower level than the current Columbus rating.²¹³ Forest Lake currently has an A1 credit rating, two steps higher than the Columbus rating. This could allow Forest Lake to borrow money at more favorable rates than Columbus. Columbus has bonded indebtedness of \$5,386,218, from bonds issued in 2003, 2004 and 2005, largely to fund the development of the sewer system, water system and some road improvements. Several of the bonds will be paid in whole or part from special assessments.²¹⁴

155. Both Columbus and Forest Lake have additional capacity to incur debt to support public improvements.²¹⁵ Columbus has retained Springsted Incorporated to assist its future debt planning, and evaluate future financing options.²¹⁶

156. At the time of the hearing, Forest Lake had no plan for assuming any of the Columbus debt obligation or for compensating Columbus for its investment in infrastructure.²¹⁷ If Forest Lake annexes all or a portion of the I-35 Corridor it would obtain the improvements financed by the bonds and the properties that have benefited from the investment in infrastructure. The properties in the Annexation Area represent 44% of the total assessments from the 2004A Bonds that financed the trunk sanitary sewer system. Similar issues are raised about payment of some of the bonds issued in 2005.²¹⁸ In the event that annexation were ordered, it would be necessary to calculate a reasonable

²¹⁰ Ex. 6 at C 003547, C 003560.

²¹¹ Ex. 2 at 15, quoting Moody's Investors Service credit report, May 23, 2005.

²¹² Ex. 6 at C 003554.

²¹³ T. 289-292 (Fifield).

²¹⁴ Ex. 2 at 16-17.

²¹⁵ Ex. 579 at 29-31, Tables 4.1 and 4.2.

²¹⁶ Ex. 2 at 17.

²¹⁷ T. 740 (Smith); T. 977-78 (Robinson).

²¹⁸ Ex. 2 at 18-19.

method for reimbursing Columbus for its investment and receiving current and deferred assessment income.²¹⁹

157. Loss of the Annexation Area to Forest Lake could increase Columbus's property tax rate by 3.17% to 7.7% in 2007.²²⁰ Annexation would increase Forest Lake's property tax by less than one percent in the same year, but decrease the taxes of persons living in the annexation area.²²¹ There is no evidence of the effect of annexation of the entire I-35 Corridor. In its analysis of the proposed annexation, Forest Lake assumed that the western portion of the I-35 Corridor would be developed and provide an increased tax base for Columbus, and based its estimate of lost tax base on annexation of only the eastern portion.²²² However, its expert conceded that if both sides of the I-35 Corridor were annexed, the loss of tax base to Columbus and increase to Forest Lake would be greater because more of the property on the west side has been developed.²²³

158. In the short term, the benefit to Forest Lake from revenues from taxes and state aid in the Annexation Area will be offset by increased costs to serve the area.²²⁴ Forest Lake has not analyzed the revenues and expenses for the I-35 Corridor as a whole. Neither Columbus nor Forest Lake could predict with any degree of certainty what the increased tax base would be in the I-35 Corridor over the next 20 to 40 years as the water and sewer infrastructure is completed and commercial and industrial development occurs, but both parties anticipate that there will be significant growth.²²⁵ In general, the overall tax base in both Columbus and Forest Lake is likely to increase because of the growth in the metropolitan area.

159. At the present time, Columbus does not expend a great deal to provide the I-35 Corridor with police, fire, recreation, street maintenance or other services, and thus will not realize much savings, nor will Forest Lake incur significant expense, if the I-35 Corridor is annexed in whole or in part.²²⁶ As the area develops, costs will increase, regardless of whether the area is annexed, incorporated or remains as it is. The speed of development, rather than the type of governance, is more likely to affect the costs.

160. Columbus has the resources necessary to efficiently and economically operate as a city.²²⁷

²¹⁹ T. 1308 (Ruff).

²²⁰ Ex. 2 at 20; Ex. 579 at 37.

²²¹ Ex. 579 at 36, 38.

²²² Ex. 579 at 24, 28.

²²³ T. 1355 (Ruff).

²²⁴ Ex. 579 at 39.

²²⁵ T. 1329, 1331-1336 (Ruff); T. 702-03, 726 (Smith).

²²⁶ T. 1258-67 (Ruff).

²²⁷ T. 278-79 (Fifield); *but see* T. 1341 (Ruff does not directly respond to the question).

161. The proposed incorporation or annexation would have no direct impact on the County, School District or other taxing districts.²²⁸ Annexation is not likely to alter the facility needs of the School District, but development in the I-35 Corridor will increase the tax base.²²⁹ There was no conclusive evidence that either annexation or incorporation would speed that development.

162. The nearby cities of Lino Lakes and Hugo are not likely to be directly affected by either annexation or incorporation because they do not provide services or derive income from the I-35 Corridor. Annexation or incorporation may decrease the likelihood that either of those cities would annex a portion of Columbus in the future.²³⁰

163. Both Columbus and Forest Lake are financially stable and have the financial capacity to adequately and effectively deliver services.²³¹ Forest Lake has greater resources because of its greater size, but there are also has several areas within the city where development is occurring that are competing for its resources.

164. Columbus would lose tax base and infrastructure, as well as the benefits of its comprehensive planning, if Forest Lake annexed either the Annexation Area or the I-35 Corridor.

Relationship and effect of the proposed action on affected and adjacent school districts and communities.

165. Schools in Columbus and Forest Lake are not expected to be affected by either annexation or incorporation.

166. Several surrounding communities have expressed support for Columbus incorporation, including Anoka County, East Bethel, Linwood Township, Hugo, Wyoming Township, Ham Lake, and Blaine.²³²

167. Anoka County opposes annexation of the Annexation Area to Forest Lake.²³³

168. Neither incorporation nor annexation is likely to have an effect on the City of Lino Lakes.²³⁴

²²⁸ Ex. 6 at C 003560.

²²⁹ Ex. 579 at 4.

²³⁰ Ex. 579 at 4.

²³¹ T. 298 (Fifield); Ex. 579 at 29-31, Tables 4.1 and 4.2.

²³² Ex. 7, 9, 10, 11, 12, 13 and 85.

²³³ Ex. 8.

²³⁴ Ex. 357.

Whether delivery of services to the subject area can be adequately and economically delivered by township government or would be best provided through incorporation, annexation or another type of boundary adjustment.

169. For the past 25 years, Columbus has increasingly functioned as a small city, and not as a township. It has taken over virtually all aspects of local government and hired a professional staff to manage its affairs. It has conscientiously complied with regulations concerning protection of the abundant natural resources in its area and enacted its own regulations to enhance and protect those resources and its rural character. Although Columbus has retained the township form of government to this point, it has in effect operated as a city. If incorporation were denied, Columbus could continue to exercise its stewardship of the area, but would be susceptible to continued encroachment of and annexation by the surrounding cities. By incorporating, Columbus will be better able to commit to long-range planning for development within its boundaries and the protection of its natural resources.²³⁵

Applicability of the State Building Code.

170. Columbus complies with the State Building Code and employs a full-time building inspector to administer it.²³⁶ Neither incorporation nor annexation will affect its applicability.

Additional Factors Applicable to Proposed Annexation, as set forth in Minn. Stat. § 414.031, subd. 4.

Plans and programs by the annexing municipality for providing needed governmental services to the subject area.

171. Prior to the time that the City Administrator and Mayor met with some property owners in March 2005, Forest Lake had not done any analysis of proposed annexation. Thereafter, prior to filing the petition for annexation, it did a "quick and dirty" study of its ability to provide services to the annexation area.²³⁷ In response to the Petition for Annexation, Forest Lake has developed some plans to serve the Annexation Area. Because of Forest Lake's size and financial stability, the relatively small size of the Annexation Area and the entire I-35 Corridor, it is likely that Forest Lake could plan for and provide services to the area. However, it does not have a timeline, budget or capital plan to do so. Police Chief Quiring, Mr. Ruff and Mr. Gravel all testified that they were not aware of any specific plans to serve the Annexation Area.²³⁸

²³⁵ See also discussion of Impact of Proposed Action on the Delivery of Services, *supra*.

²³⁶ Ex. 1 at 31.

²³⁷ T. 1004, 1021 (Robinson); Ex. 350. See also Exs. 349.

²³⁸ T. 1079-80 (Gravel); T. 1242 (Quiring); T. 1359 (Ruff).

172. There was no evidence that Forest Lake discussed the proposed annexation of a portion of Columbus with Anoka County or Washington County or neighboring communities.²³⁹

If only a part of the township were annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

173. There is no justification for annexing just the Annexation Area to Forest Lake. The I-35 Corridor is being planned and developed as one area, and the freeway is the unifying feature rather than a natural boundary. On both sides of the I-35 Corridor, wetlands provide a buffer to residential neighborhoods, as reflected in Forest Lake's plan for a conservancy or parks and recreation to the east of the I-35 Corridor, and the natural boundary created by the Rice Creek Chain of Lakes on the west side.

174. If the entire I-35 Corridor were annexed to Forest Lake, Columbus could be incorporated, but it would lose the benefits of the planning it has completed and the potential commercial/industrial tax base in the Corridor. Although Columbus would still have a small amount of developable commercial/industrial land along Lake Drive, it would have less incentive to manage and develop that land in a manner that complemented the I-35 Corridor and the surrounding residential areas because of its small size and development potential.

175. Although Columbus could continue to provide a rural level of service in the short-term, as the population and development increase in several adjoining communities, pressure will continue to grow on the road system, recreational facilities, and developable land in Columbus. Without the I-35 Corridor, Columbus will have little additional tax base to support the demand for increased services required by the increasingly urban and suburban development of the entire region.

176. Incorporation will allow Columbus to continue to develop as a rural residential area, which will help protect the boundaries of the large wildlife management areas and maintain a level of development consistent with their intended uses including hunting, and protect critical habitat and wetlands.²⁴⁰

177. There will be little effect on Forest Lake if the annexation is denied except for the loss of the potential tax base from future development of commercial/industrial land within the I-35 Corridor. Its Comprehensive Plan does not rely upon or plan for the development of the Annexation Area, the I-35 Corridor, or the land immediately contiguous to it. Its plans for commercial/industrial development are centered along I-35 north of SW 11th Avenue, along West Broadway, and along Highway 61, and not along I-35 south

²³⁹ T. 697 (Smith); T. 987-88 (Robinson).

²⁴⁰ Public Ex. 13; T. 591-594 (Bremicker).

of Trunk Highway 97, which it has planned for conservancy or park land. Although it may face pressure to develop west into Columbus along Broadway Avenue, it is not proposing to annex that land and apparently has no immediate plans to do so.²⁴¹

178. There is no evidence to support annexation of the Annexation Area, the I-35 Corridor, or the balance of Columbus to any other city.

Degree of Contiguity of the Boundaries of the Subject Area and Adjacent Units of Local Government

179. Columbus's current boundaries have been in place for 150 years, and its eastern border is also the eastern border of Anoka County. The Annexation Area abuts a portion of the western border of Forest Lake, and a small strip of wetland runs along the east side of the border. Forest Lake's initial position was that I-35 was a natural boundary on the western side of the Annexation Area. Although it has not entirely abandoned that position, Forest Lake now asserts that the western edge of the I-35 Corridor is a clear, recognizable border, and that annexation should include the entire I-35 Corridor. The western edge of the I-35 Corridor borders the Rice Creek Chain of Lakes Wildlife Management Area.

180. I-35 cuts through both Columbus and Forest Lake; it does not follow either boundary, and both communities have planned for and developed land on both sides of the highway. Because the sewer and water infrastructure has been planned to serve both sides of the corridor, I-35 is not a natural boundary.

181. There is no single clear delineation between the two communities. The location of the I-35 freeway interchanges, shared mailing address, school system, fire protection and road system minimize the perceived significance of the geographical boundary.

Public Comment

182. Most residents who testified at the public hearing were satisfied with the services that Columbus is providing to them, including fire and police protection, administrative services and road maintenance. Most were satisfied that Columbus has planned appropriately for the development of the I-35 Corridor, and they have confidence in their paid staff and the appointed boards, commissions and committees to continue to provide the necessary level of oversight for future development. Many would like to preserve the present, historical boundaries of Columbus and object to any annexation by Forest Lake.

²⁴¹ Ex. 578, Figs. 3.4, 3.6.

They would like to continue to plan and guide development for all of Columbus.²⁴²

183. Some citizens informally contacted persons who owned land within the I-35 Corridor to determine who supported incorporation and who supported annexation.²⁴³ The results of their efforts are reflected on Public Exhibit 11, which is roughly consistent with the other public testimony offered, and with Exhibit 578, Figure 1.5.²⁴⁴ Persons favoring annexation generally own property east of the freeway north of 145th Avenue, in the northern end of the annexation area, and in proximity to the land to be developed as a harness racing track.²⁴⁵

184. Some residents of Columbus and Forest Lake did not support incorporation. In some instances, these residents do not believe that the Columbus Town Board has fairly and dispassionately considered whether annexation is appropriate, and others believe that Forest Lake can better serve the I-35 Corridor because it has more highly developed and staffed city services.²⁴⁶ One speaker opposed both incorporation and annexation at this time, believing that Columbus is not likely to increase in population to the point that it can benefit from economies of scale, and that with additional time for reflection, the better result could be annexation of portions of the township to East Bethel, Forest Lake or Lino Lakes in order to obtain those economies.²⁴⁷

185. Because Forest Lake has not formally proposed annexation of the entire I-35 Corridor, it is uncertain which property owners on the west side of the corridor favor annexation, incorporation or neither one. Some individuals who originally petitioned Forest Lake for annexation no longer support annexation.²⁴⁸

186. Although there has been no referendum on incorporation, there is strong public support for it in Columbus, as reflected by the large number of postcards of support filed with the Columbus Town Clerk.²⁴⁹

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

CONCLUSIONS

1. The Administrative Law Judge has jurisdiction in this matter through the Office of Municipal Boundary Adjustments, pursuant to Minn. Stat. §§ 414.01,

²⁴² T. 559-562 (Mastel); T. 566-569 (Fry); T. 579-81 (Pegelow); T. 581-83 (Walsh); T. 583-84 (Resler); Public Exhibits 4, 6, 7.

²⁴³ T. 570-572 (Preiner).

²⁴⁴ See e.g., Exs. 18-20, 22, 23, 24, 25; Pub. Exs. 4, 6, 7, 11, 21.

²⁴⁵ See e.g., T. 1130-1186 (Steinke); Pub. Exs. 1, 2, 11.

²⁴⁶ See e.g. Public Exhibits 2, 3; T. 638-40 (Bleymeyer).

²⁴⁷ T. 599-607 (Pletan).

²⁴⁸ Exs. 14-18; Pub. Ex. 12.

²⁴⁹ Exs. 26, 377.

414.02, 414.031 and 414.12 and the assignment by the Director of the Municipal Boundary Adjustments Unit to the Office of Administrative Hearings.

2. Proper notice of the hearing in this matter has been given.

3. The Town of Columbus is about to become urban or suburban in character. Columbus is in the process of developing the I-35 Corridor for commercial and industrial use characteristic of urban development. The remainder of Columbus is suburban, and incorporation is necessary to protect the open space and rural residential areas from encroachment and to assure appropriate land use planning. Incorporation will assure sound urban development of the I-35 Corridor and the preservation of open space, and assure that municipal services are available throughout Columbus as needed.²⁵⁰

4. Municipal government is required to protect the public health, safety and welfare of Columbus.²⁵¹

5. Incorporation is in the best interests of Columbus.²⁵²

6. Annexation of the east side of the I-35 Corridor, or the entire I-35 Corridor, by Forest Lake is not in the best interest of the subject area and would create undue hardship on the remainder of Columbus.²⁵³

7. Neither the Annexation Area nor the I-35 Corridor would be better served by Forest Lake.²⁵⁴

8. The increase in tax revenues for Forest Lake would bear a reasonable relationship to the monetary value of the benefits conferred upon the area included in the Annexation Petition. However, it cannot be determined on this record if the increase in tax revenues for Forest Lake would bear a reasonable relationship to the monetary value of the benefits conferred upon the entire I-35 Corridor.²⁵⁵ Moreover, continued development in the I-35 Corridor will increase the taxable value of the property, but it cannot be determined from this record whether the future increase in revenues for Forest Lake would exceed the reasonable value of benefits conferred on the I-35 Corridor if annexation were granted.

9. Both Columbus and Forest Lake have the capacity to serve the I-35 Corridor, but Forest Lake does not have a plan to do so if annexation is granted.²⁵⁶

²⁵⁰ Minn. Stat. § 414.02, subd. 3(b)(1).

²⁵¹ Minn. Stat. § 414.02, subd. 3(b)(2).

²⁵² Minn. Stat. § 414.02, subd. 3(b)(3).

²⁵³ Minn. Stat. §§ 414.02, subd. 3(e); 414.031, subd. 4 (a)(14) and (e).

²⁵⁴ Minn. Stat. § 414.02, subd. 3(c).

²⁵⁵ Minn. Stat. § 414.031, subd. 4(d).

²⁵⁶ Minn. Stat. § 414.031, subd. 4 (a)(9).

10. No adjustment of the Columbus boundaries is necessary.²⁵⁷

11. These Conclusions are arrived at for the reasons set out in the following Memorandum, which is incorporated into these Conclusions by reference.

Based upon these Findings of Fact and Conclusions, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED THAT:

1. The Petition for Incorporation (I-68) of Columbus Township is GRANTED;

2. Incorporation shall be effective upon the election and qualification of the new City Council as set out in paragraph 3 of this Order;

3. The form of government shall be "Optional Plan A." An election shall be held not less than 45 days nor more than 60 days of the effective date of this Order to elect a mayor and four council persons at large who shall serve until January 1, 2007. Elizabeth Mursko shall be the acting clerk for the election and she shall prepare the official ballot. Affidavits of candidacy shall be filed not more than four weeks and not less than two weeks before the date of the election. The polling place shall be Columbus Township Hall and the Election Judges shall be appointed from those serving in the last Town election. The hours of the election shall be 7:00 a.m. to 8:00 p.m.;

4. An election of a mayor and four council members shall be held on November 7, 2006. The mayor and two city council members shall be elected for a two-year term commencing January 1, 2007, and two city council members shall be elected for a four-year term commencing January 1, 2007. Thereafter the city council members shall be elected for four year terms;

5. In all other respects, the elections shall be conducted in conformity with the provisions of the Minnesota Statutes concerning the conduct of municipal elections insofar as applicable;

6. The ordinances of Columbus Township, as well as the Land Use and Planning Controls and other ordinances, and all license privileges, shall remain in effect within the boundaries of Columbus until repealed or replaced by the new governing body of the City of Columbus;

²⁵⁷ Minn. Stat. § 414.02, subd. 4(d).

7. Upon incorporation, all money, claims, or properties including real estate owned, held or possessed by the former Columbus Township, and any proceeds or taxes levied by Columbus Township, collected and uncollected, shall become the property of and inure to the benefit of the newly incorporated City with full power and authority to use and dispose of for such public purposes as the council deems best subject to claims of the creditors. This will include cash reserves and fund balances of the Township and all public property and equipment held by Columbus Township.²⁵⁸

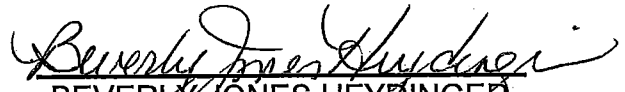
8. Columbus Township's outstanding indebtedness, if any, will become the financial obligation of the newly incorporated City.²⁵⁹

9. The Petition by Forest Lake to Annex Certain Portions of Columbus Township (A-7371) is DENIED;

10. The Order Denying Motion to Dismiss and accepted the Petition by Forest Lake to Annex Certain Portions of Columbus Township, issued April 10, 2006, is reaffirmed and incorporated herein;

11. This Order is effective July 21, 2006.

Dated: July 6, 2006


BEVERLY JONES HEYDINGER
Administrative Law Judge

Reported: Transcript Prepared
Kirby A. Kennedy & Associates

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.02, 414.031, 414.07 and 414.09. Any person aggrieved by this Order may appeal to Anoka 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 these Findings of Fact, Conclusions, and Order within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100. However, no request for amendment shall extend the time of appeal from these Findings of Fact, Conclusions and Order.

²⁵⁸ Minn. Stat. § 414.067, subd. 2.

²⁵⁹ *Id.*

MEMORANDUM

This proceeding was commenced by Columbus Township when it filed a petition for incorporation. The City of Forest Lake opposed incorporation, and filed a petition to annex the eastern portion of the I-35 Corridor, referred to as the Annexation Area. As the hearing in this matter progressed, however, it became apparent that the planning for the entire I-35 Corridor and services to it should be managed by one town or city. In its post-hearing submissions, Forest Lake argued for annexation of the entire I-35 Corridor.

Taking into account the factors set forth in Minn. Stat. §§ 414.02 and 414.031, and the goals promoting municipal development set forth in Minn. Stat. § 414.01, subd. 1b, it is apparent that, on balance, Columbus's petition for incorporation should be granted and Forest Lake's annexation petition should be denied.

The goals for the extension of municipal government are to assure that urban services are planned and contiguous to developing areas, that areas are developed only as needed, and are designed to protect the stability of land use. Although there is a presumption that open space and rural residential uses can be protected by an unincorporated township, the goals emphasize the integrity of land use planning and efficient local government. In this case, although much of Columbus will retain its rural residential level of development, that level of development is dictated in large part by the type of terrain, and not by its distance from the rapidly developing communities around it. Incorporation will help Columbus maintain the integrity of its expansive area of natural resources and plan development in a way that will help protect those resources for the metropolitan area as a whole. In addition, it is undisputed that development is moving rapidly north along I-35, and that there is substantial pressure to develop that portion of Columbus at urban densities. That pressure was acknowledged in the Metropolitan Council's designation of the I-35 Corridor in Columbus as part of the MUSA, eligible for connection to the metropolitan sewer interceptor.

Another goal expressed in statute is to form a municipality when it has the necessary resources to operate economically and efficiently.²⁶⁰ Columbus has steadily developed the resources to function as a municipality.

Columbus is about to become urban or suburban in character.

The parties are in agreement that the I-35 Corridor is now or is about to be urban or suburban in character and should receive municipal services in order to protect the public health, safety and welfare of the area.²⁶¹ The metropolitan area is growing rapidly, and pressure from that growth is affecting Columbus

²⁶⁰ Minn. Stat. § 414.01, subd. 1(a)(3).

²⁶¹ City of Forest Lake's Final Memorandum at 9, 16; Columbus Township's Post-Hearing Memorandum at 59-60.

because of its proximity to both Minneapolis and Saint Paul, and other rapidly expanding communities such as Forest Lake, as well as its location along I-35.

There is no evidence that development will occur only on the eastern side of I-35 in the Annexation Area, and clear evidence that the two sides of the I-35 Corridor are being developed together. Forest Lake failed to show the logic of dividing the eastern portion of the system from the western portion. Its expert stated only that the freeway constituted a reasonable boundary for orderly extension of Forest Lake.²⁶² Apparently, based on the evidence presented at the hearing, Forest Lake has abandoned that position and now asserts that the entire I-35 Corridor should be planned and developed by one community, annexed to Forest Lake. Its Planning Report, submitted by John Shardow, stated:

The planning and intended land uses in the annexation area, the fact that trunk sewer lines and a lift station are located within the annexation area, and the location relative to transportation access suggest that it is now, or will become, urban or suburban in character. Further, the annexation area is also isolated from all other development in Columbus Township....²⁶³

It is clear that this statement applies equally to the entire I-35 Corridor since the western portion is not isolated from the Annexation Area and both have transportation access.

Outside of the I-35 Corridor, Columbus is developing as a suburb, a small community within easy commuting distance of a larger city, Forest Lake, and in this instance, within commuting distance of the major cities of Minneapolis and Saint Paul. Because of its topography and proximity to large protected natural resources, Columbus will have little medium or dense residential development in other parts of the township within the next 30 years. However, the growth in the surrounding communities will increase the pressure on Columbus's transportation network, and increase the pressure to develop larger scale, denser residential development in proximity to its protected areas and near its borders. By incorporating, Columbus will reinforce its commitment to controlling and regulating that development in a manner consistent with its classification as a diversified rural area, and enhance its continued participation in collaborative planning for the rapidly growing area.

Mr. Shardow testified that a suburb is an area that is now or about to become connected to urban services, specifically sewer and water, and other areas that are defined by large residential lots, not connected to sewer and water should be more appropriately defined as exurban.²⁶⁴ However, he acknowledged

²⁶² T. 839 (Shardow).

²⁶³ Ex. 578 at 31.

²⁶⁴ T. 869-76 (Shardow).

that Columbus is within commuting distance of the Twin Cities, and that Lino Lakes to its south is suburban.²⁶⁵

Protecting the stability of unincorporated area not presently needed for more intensive uses.

Columbus is required by the Metropolitan Council to plan for its growth precisely because of its location and problems created by unplanned development. The I-35 Corridor and the area surrounding Columbus is presently needed for intensive development, and this is likely to extend inside the Columbus borders. By assuming urban town powers, Columbus has engaged in planning as a city, and its detailed zoning and land use regulations, as well as its participation in regional planning efforts, reflect this.

Arguably Columbus could continue to operate as it currently does, using its powers as an urban town. But it will be better able to plan and invest in infrastructure if it is incorporated and attains equal footing with the surrounding communities. Incorporation does not prevent annexation by another community. However, if Columbus is incorporated, it is more likely that the surrounding communities will plan cooperatively, and annexation efforts will proceed with greater thought, consultation and planning.

Incorporation will protect the integrity of land use planning.

The goals for municipal development favor thoughtful planning. In this case, Columbus began to plan for incorporation with the submission of its Comprehensive Plan in 1999, and its initiation of an incorporation study in 2004. It has steadily moved ahead to put into place the administrative and financial systems required to assume status as a city, and it has concrete plans and a timeline for development of the I-35 Corridor. In contrast, although Forest Lake already has administrative systems in place, it had no plan at all for the Annexation Area until it was approached by a group of landowners in 2005. At the time the Annexation Petition was filed, Forest Lake commissioned studies to create a record for this proceeding. However, the studies were not developed as a guide for planning, did not include a timeline for implementation, and did not address compensation to Columbus for its investment in infrastructure.²⁶⁶ Its lack of thorough, thoughtful planning is reflected by its change of position after the hearing to seek annexation of the I-35 Corridor as a whole.

Consideration of the factors set forth in Minn. Stat. §§ 414.02, subd. 3 and 414.031, subd. 4.

Each of the factors is detailed in the findings of fact and was fully considered in reaching the decision to incorporation of Columbus. Certain aspects are emphasized here.

²⁶⁵ T. 870-71 (Shardlow).

²⁶⁶ T. 740 (Smith); T. 930 (Shardlow); T. 976-79, 1015-16, 1021 (Robinson); 1091 (Gravel).

Present population and number of households, past population and projected population growth for the subject area.

The population is growing rapidly in both Anoka and Washington Counties, and particularly in Forest Lake. The population of Columbus is growing more slowly, in large part because of the natural barriers preventing development. However, it is clear that the booming growth of the surrounding area is having an impact on Columbus.

Although its population may continue to grow slowly, the demands to participate in regional planning are likely to increase. For example, pressure for improvements to I-35 and TH 97, and regional planning for the entire I-35 Corridor north to Hinckley, required city-like planning and participation, and Columbus responded. Those demands will increase as urban development intensifies in the surrounding area. Similarly, significant growth in population throughout the area will increase the pressure on the protected natural resources in Columbus, requiring increased cooperation and planning among state, county and local governments.

Quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.

One of the distinguishing features of Columbus is the vast expanse of wildlife management areas, lakes and wetlands. In order to protect these natural resources, development must be limited and carefully controlled. There is very little area in Columbus except the I-35 Corridor that can be developed for commercial and industrial use. Forest Lake has sufficient land to allow for its growth. It does not need to annex any portion of the I-35 Corridor to meet its needs.

Present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses.

Columbus is now, and will remain, largely rural residential because of its natural characteristics. However, the increasing traffic along I-35 virtually assures that the pressure for development in the corridor will continue. Columbus has a plan to meet that demand through the design and implementation of public utilities to the entire corridor. The balance of Columbus will experience pressure at its margins from surrounding communities. Incorporation will further Columbus's efforts to cooperate in the planning and controlled development of the entire area. Annexation to Forest Lake will do nothing to protect the land in Columbus that is outside of the I-35 Corridor, will remove the one portion of Columbus that is likely to generate significant commercial and industrial tax base, and decrease both the incentive and resources for continued planning and involvement. Because the utilities have

been planned for the I-35 Corridor as a whole, there is no rationale for annexing the eastern portion to Forest Lake. That would simply leave Columbus with a smaller and incomplete system to manage, without any apparent benefit to the subject area.

Prior to the filing of the annexation petition, Forest Lake had no plans to extend urban services to the border of the Annexation Area within the timeframe of its Comprehensive Plan or within its proposed plan amendment for the Headwaters development. Although Forest Lake has the capacity to develop such a plan, it does not have a timeline to implement it. The uncertainty caused by annexation would upset the on-going planning and development within the I-35 Corridor. The balance of Forest Lake would not be affected by annexation.

It is obvious from the maps of the area that the I-35 Corridor is somewhat isolated from the rest of the township because of the large wetlands west of the corridor. However, it is also clear that the traffic moves across the wetlands on the existing roads, and that Columbus has focused its development efforts within the corridor for the past several years. The corridor's isolation is less significant because Columbus has no immediate plans to provide sewer and water to the other parts of the township. Although this isolation might support annexation of the entire corridor, Forest Lake has not analyzed or planned to serve the western side of the corridor.²⁶⁷ To meet those demands, Forest Lake could do little more than take over and expand the Columbus system.

The present transportation system and potential transportation issues, including proposed highway development.

Both Columbus and Forest Lake are involved in planning to increase capacity and decrease congestion of the road system, particularly at the intersections with I-35. Columbus does not anticipate developing new major roads because of the natural limitations presented by its terrain. Forest Lake will develop new roads outside the Annexation Area to accommodate new residential development. Regardless of incorporation or annexation, there is a need to address reconstruction of Hornsby Avenue, which serves the Annexation Area, and its intersection with TH 97. Columbus has begun working with other agencies to do the necessary planning. Once Columbus attains a population of 5000, it may be able to access state highway aid funds for which it does not presently qualify. However, in light of the relatively small amount of additional money that would be available to Forest Lake for Hornsby Avenue redevelopment, it is not a significant factor in the decision to grant incorporation or deny annexation.

²⁶⁷ T. 741 (Smith).

Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls.

Both Columbus and Forest Lake have approved Comprehensive Plans and adequate zoning regulations in place. Both expect to file amended plans with the Metropolitan Council in 2008. There are no apparent inconsistencies between the proposed development and existing land controls. If annexation were granted to Forest Lake, it would be required to amend its Comprehensive Plan to deliver utilities to the I-35 Corridor.

Existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services.

The existing level of governmental service is set forth in detail in the Findings of Fact and will not be restated here. Overall, Columbus is currently providing the level of service typical of a small city, and Forest Lake is providing the level of service typical of a larger city. Incorporation will not significantly impact the delivery of services. If annexation were granted, it is likely that Forest Lake could deliver services to the Annexation Area, but it would hamper Columbus's efforts to provide utilities only on the western side of the corridor. Although the size of the I-35 Corridor is not large, Forest Lake did not offer evidence of the effect annexation of the entire Corridor would have on its delivery of services or on Columbus. Some services, including fire protection and schools, will not be affected by either annexation or incorporation.

Much of the focus at the hearing was on the relative ability of the two communities to plan, install and operate sewer and water to the Annexation Area. Although Forest Lake criticized Columbus for the length of time it had taken to plan and implement the system, Forest Lake also claimed that development in the western side of the I-35 Corridor had been premature and had not promoted the highest and best use for the land.²⁶⁸ Although at this time, the infrastructure only serves property owners on the west side of the I-35 Corridor, Columbus is in the process of establishing infrastructure to serve both sides so that service can be installed as the property owners request it. It has not yet received requests to extend services to the Annexation Area. Forest Lake witnesses conceded that it was premature to install services in the Annexation Area until property owners requested them. Both Columbus and Forest Lake expect that the rate of development will speed up in the next few years as the infrastructure is completed.

²⁶⁸ City of Forest Lake's Final Memorandum at 40.

Forest Lake also criticized the lack of planning for the southern portion of the Annexation Area, but its own plan for that area would take many years to implement. The two communities may wish to cooperate to develop the southern portion of the Annexation Area and the southwestern portion of Forest Lake. But because of its proximity to the interstate highway, it is quite likely that the demand for development within the southern portion of the Annexation Area will occur well before the extension of Forest Lake to its adjoining boundary. The Annexation Area falls in the 2010 MUSA boundary, but Forest Lake's plans to extend sewer and water from the 2040 urban reserve to the east would require a MUSA adjustment. Although the MUSA line can be revised, it is apparent that Forest Lake's current development plans call for extension of services into the adjoining area well after 2010.

Forest Lake also criticized the method that Columbus employed to allocate the costs to install water and sewer. Although there may be a difference of opinion about the best way to handle the assessment of the costs, the evidence was clear that Columbus has managed its finances properly, that it has the necessary revenue stream to meet its obligations, and that it is fiscally stable. It is up to the voters of Columbus to decide if its elected officials have proceeded in their best interest. There is no basis to conclude that Columbus assessed the costs in a manner that was fiscally irresponsible.

Because it is a larger city, Forest Lake has a larger staff and more financial resources. Its competent, professional staff could undoubtedly rise to the responsibility of serving the I-35 Corridor if required to do so. It has greater experience with urban development, with the operation of public utilities and with delivering city services. Because the I-35 Corridor is relatively small, it is likely that over time, Forest Lake could handle the planning and development that is needed. However, although it is capable of assuming that responsibility, Forest Lake is not in the best position to provide the necessary level of attention to the area at this time. By its own admission, it has several other significant projects underway, including addressing the serious traffic congestion at the intersection of I-35 and Broadway into downtown Forest Lake, and undertaking a very large new development, Headwaters, along Highway 61. Headwaters will expand west, eventually approaching the I-35 Corridor, but Forest Lake does not intend to cross the wetlands that border the eastern edge of the corridor. Any expansion to the west will be many years away. Development into the I-35 Corridor from Forest Lakes south of Headwaters will be even more distant.

The Anoka County Sheriff currently handles law enforcement in Columbus and will continue to do so, regardless of whether Columbus is incorporated. There was no evidence that its coverage is inadequate. Although the Forest Lake Police Department could extend its coverage to the Annexation Area with a small staffing increase, there was no evidence about what would be required for it to serve the entire I-35 Corridor.

Although it is not an insurmountable problem, annexation of the I-35 Corridor would extend Forest Lake into Anoka County. This would require Forest Lake law enforcement to travel to the City of Anoka, and require additional coordination and accounting with a second county. Incorporation would preserve the traditional boundaries and all of Columbus would remain in Anoka County.

There are many services, including fire protection and schools, that will be unaffected by either incorporation or annexation. Because Columbus currently operates as an urban township, changes that would typically occur with incorporation, such as improved zoning regulation and building inspection, have already been implemented. Although incorporation will not significantly change its operations, incorporation is the next logical step for a community feeling the growing pressure from the surrounding metropolitan area.

Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems.

There are no environmental problems that are likely to be affected, other than the continuing need to plan for increased pressure on the natural resources in Columbus, as discussed above.

Fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues.

This factor is fully addressed in the Findings of Fact. Columbus has the financial stability of a comparably sized city.²⁶⁹ Although it is smaller, has fewer reserves and a less developed capital improvement plan than Forest Lake, it does have sufficient structure to meet its needs. Once incorporated, it will also have access to Tax Increment Financing, the one additional type of public financing that it currently lacks. Although there was considerable testimony that state highway aid (MSA) would not benefit Columbus until it reached a population of 5,000, that funding would add only about \$10,000 for road maintenance and repair in the Annexation Area, and there was no evidence about additional funding on the west side of the I-35 Corridor. It is also not entirely clear whether the entire amount of additional MSA funds would be available to Forest Lake.²⁷⁰ With this possible exception, there is little difference in the amount of state aid available to Columbus and Forest Lake.

Annexation of the entire I-35 Corridor to Forest Lake could have a significant financial impact on Columbus. Forest Lake failed to show that Columbus could remain financially stable if the entire I-35 Corridor was annexed. There was insufficient evidence in the record to quantify that impact. Both

²⁶⁹ T. 310 (Fifield).

²⁷⁰ T. 1383-1386 (Bohrer).

Columbus and Forest Lake expect that commercial and industrial development in the I-35 Corridor will add significantly to the tax base, but neither could estimate the timing or amount of the increase, or the necessary future expense to adequately serve the area. Both anticipate that development will provide an overall benefit.

Relationship and effect of the proposed action on affected and adjacent school districts and communities.

Neither incorporation nor annexation is likely to significantly impact affected and adjacent school districts and communities.

Whether delivery of services to the subject area can be adequately and economically delivered by the existing government.

Columbus Township does adequately and economically provide services, but it does so by exercising many of the powers of a city. Incorporation will not diminish the services provided.

Analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment.

In most respects, this factor has been addressed throughout the analysis. Mr. Shardlow gave compelling testimony that Forest Lake and Columbus would both have been better served if they had engaged in cooperative planning for the I-35 Corridor, so that the infrastructure could be most effectively expanded and timed, and so that both communities could benefit from the enhanced tax base.²⁷¹ Perhaps if the two communities had engaged in that type of cooperative planning, orderly annexation would have occurred. However, Forest Lake did not enter into cooperative negotiations. It had no plans for annexation until it was approached by a group of property owners in the Annexation Area. Prior to that time, it had not met with Columbus or other surrounding communities to discuss development and staging of utilities in the Annexation Area, it had not conducted public meetings for the residents of Columbus and Forest Lake to consider the benefits of annexation, and had not engaged in engineering or planning studies to weave planning for the Annexation Area into its Comprehensive Plan. Its lack of analysis and planning is further reflected by its change in position, now seeking annexation of the entire I-35 Corridor, even though little of the evidence Forest Lake offered at hearing dealt with the corridor as a whole.

The difference in the time and attention spent planning was acknowledged in Mr. Shardlow's testimony. While he had conversations with and held trainings for the Columbus staff, and believed that they had engaged in good faith planning for the I-35 Corridor, he had limited involvement with Forest Lake, except for the Headwaters project. Mr. Shardlow anticipated that, if annexation

²⁷¹ T. 904-06, 915, 919 (Shardlow).

were granted, planning for the Corridor would be addressed in Forest Lake's next comprehensive plan.²⁷²

Under the circumstances presented here, incorporation, not annexation, will best serve the subject area.

Degree of contiguity of the boundaries of the subject area and adjacent units of local government.

This is not a significant factor because Columbus has had the same boundaries for the past 150 years, and Forest Lake is immediately adjacent to the proposed Annexation Area. Although the I-35 Corridor abuts Forest Lake, the land along the border is largely undeveloped and is likely to be maintained as conservancy or parkland.

Analysis of the State Building Code.

This is not a factor because both Columbus and Forest Lake comply with and enforce the code.

Additional factors applicable to proposed annexation:

Plans and programs by the annexing municipality for providing needed governmental services to the subject area.

As discussed above, this is a key factor in this proceeding. While Columbus has planned development of the I-35 Corridor for many years, carefully studied incorporation and prepared for it, Forest Lake reacted to a petition from a group of landowners, did not fully study the proposed annexation or discuss it with surrounding communities, and changed its position to seek annexation of the entire I-35 Corridor. The lack of planning was reflected in the inability of its witnesses to support annexing just the eastern portion of the I-35 Corridor, and the incomplete evidence presented about annexation of the entire corridor.

Forest Lake has also been inconsistent about whether development should occur in the I-35 Corridor at this time. Forest Lake has serious traffic problems with its own development near the intersection of I-35 and Broadway. Although Forest Lake agrees with Columbus that the I-35 Corridor is rapidly developing and requires urban services, it does not have a plan or a timetable for the development.

Mayor Smith believes that Forest Lake should continue to spread into Columbus, not only into the I-35 Corridor, but also to the west of Forest Lake on Broadway Avenue. He also raised the possibility of extending an overpass

²⁷² T. 877-78, 882 (Shardlow).

across I-35 across 11th Avenue, near the Columbus border.²⁷³ Although the mayor may believe that growth through annexation is reasonable, he had no plan or timeline, and he acknowledged that he had not discussed such a plan with the surrounding communities.²⁷⁴ Mayor Smith conceded that Forest Lake did not plan or contemplate annexation of the I-35 Corridor or the Annexation Area prior to being approached by a group of citizens. Mr. Shardlow testified that, although he was retained to study and report on the proposed annexation, he had never discussed the proposed annexation with the mayor.²⁷⁵ Mayor Smith concluded that annexation would be advantageous to Forest Lake because of the future significance of the I-35/TH 97 interchange and the tax benefits of land for commercial development along the freeway.²⁷⁶

Mayor Smith first discussed the possible annexation with the chair of the Columbus Town Council, Mr. Mettler, a few days prior to the Forest Lake City Council vote, and asked Mr. Mettler to consider allowing the annexation to go forward. He acknowledged that Forest Lake didn't propose annexation of the entire I-35 Corridor because "we really didn't want to get people all up in arms," although annexation of the western portion might be appropriate in the future.²⁷⁷

In light of the lack of a plan, it makes more sense for Columbus to incorporate and for the two cities to plan their growth cooperatively, protecting the best aspects of each community, and assuring that the planning proceeds in a logical pattern, rather than, as Mayor Smith proposed, annexing when approached by a group of landowners.²⁷⁸

If only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

As stated above, annexation to Forest Lake will do nothing to protect the land in Columbus that is outside of the I-35 Corridor, will remove the one portion of Columbus that is likely to generate significant commercial and industrial tax base, and decrease both the incentive and resources for continued planning and involvement. Because the utilities have been planned for the I-35 Corridor as a whole, there is no rationale for annexing the eastern portion to Forest Lake. That would simply leave Columbus with a smaller, incomplete system to manage, without any apparent benefit to the subject area.

As explained above, annexation of the entire I-35 Corridor could have a significant detrimental effect on Columbus's financial stability.

²⁷³ T. 687-90, 733-39 (Smith).

²⁷⁴ T. 746-47 (Smith).

²⁷⁵ T. 730 (Shardlow).

²⁷⁶ T. 680-682; 702-03 (Smith).

²⁷⁷ T. 685 (Smith).

²⁷⁸ T. 690 (Smith).

If incorporation were denied or annexation granted, Columbus would face increased risk and decreased incentive to engage in capital planning.²⁷⁹

Comparison to Forest Lake's merger with Forest Lake Township.

In 2000, The City of Forest Lake successfully annexed Forest Lake Township into the city. It is useful to compare the key differences between that proceeding and this one. In that case, planning for the eventual merger of the two entities had been going on for several years prior to the institution of the annexation proceeding. In 1992 the Town and the City jointly financed a study to consider development as two as separate communities or as a consolidated community. The merger study began in 1993, and in 1997, the merger study committee recommended merger. The Town and City worked with a neutral facilitator for many months, discussing the possibility of merger. Thus, all of the information favoring annexation and incorporation was fully aired, discussed and debated prior to the annexation.²⁸⁰

At the time of the annexation, the City had 2,658 acres, and was substantially surrounded by the Town, with 19,970 acres on three sides. They shared the lake of Forest Lake, and both the City and Town were within Anoka County. The City had little land available for growth, about 100 acres, and anticipated that it would need an additional 1100 acres to accommodate its projected growth. Forest Lake had annexed two parcels prior to 1990, and an additional 840 acres in 1993 and 34 acres in 1994. If Forest Lake Township had been granted incorporation, the City of Forest Lake would have had little ability to grow and develop. Instead, a new city would have formed, effectively encircling the existing city.²⁸¹ At the same time, large new residential developments were planned in the Township, quite near the City's borders. Unlike that scenario, incorporation of Columbus will not impair Forest Lake's ability to grow and develop.

Another significant difference in the Forest Lake Township proceeding was that the City was proposing to annex the entire Township. Thus, as pointed out in the memorandum accompanying Judge Beck's decision, the City's plans and programs to serve the entire Township were not a factor in consolidation, as they are in an annexation,²⁸² nor was the ability of one portion of the Township to function without the other.

The decision to allow annexation of Forest Lake Township was affirmed by the Minnesota Court of Appeals.²⁸³ One of the bases for challenge was that the annexation had been granted even though the City of Forest Lake did not

²⁷⁹ T. 306-07 (Fifield).

²⁸⁰ *In Re Petition of the Residents of the Town of Forest Lake for Annexation ...* (A-6091). OAH 1-2900-12546-2, Mar. 23, 2000 at Findings of Fact 25-28 (Ex. 403).

²⁸¹ *Id.*, Findings of Fact 38-46.

²⁸² Compare Minn. Stat. § 414.031 and § 414.041.

²⁸³ *McNamara v. Office of Strategic and Long Range Planning*, 628 N.W. 2d 620 (Minn. 2001).

have a written plan for merging with the township. The Court of Appeals found that the absence of a written plan was not fatal, but its bases for that conclusion distinguish that case from the instant case. Most significant, the township and city had engaged in previous studies of merger, and Forest Lake Township had been directed by the Metropolitan Council to develop its Comprehensive Plan so that it was compatible with the City's Comprehensive Plan. In addition, there were in fact sophisticated plans in place to accomplish the merger that would allow services to be provided harmoniously.²⁸⁴

The statutes governing incorporation and annexation have as a goal the prevention of uncontrolled proliferation of small suburban municipalities. Orderly growth, coordination and consolidation are preferred.²⁸⁵ However, cooperative planning is key to this approach, and the record in this case demonstrates that Columbus has systematically planned, discussed its plans with the surrounding communities, and presented its plan for development of urban services to the Metropolitan Council. Its attempts to develop utilities cooperatively with the City of Forest Lake were unsuccessful. For these reasons, it is necessary to allow Columbus to move ahead with incorporation and continue its development of the I-35 Corridor. Perhaps at some later date, consolidation of Columbus and Forest Lake or annexation of portions to Forest Lake will be appropriate. But the necessary planning has not been done to select either of those options at this time. Another distinguishing characteristic of this proceeding is that Forest Lake failed to show that incorporation of Columbus would be to Forest Lake's detriment.

In conclusion, Columbus's request to incorporate should be granted. It is the logical next step for a community that has engaged in a thoughtful process for its development and carefully begun to implement a level of service delivery typical of a small city. It has developed the appropriate administrative systems and fiscal controls, engaged the public in discussion, and begun to develop the infrastructure necessary to install sewer and water in the quickly growing I-35 Corridor. In many respects, it already operates as a small city. It has the capacity and resources to do so, and it is about to bear the fruit of its efforts. Its years of planning should not be thwarted by Forest Lake's late attempt to annex some or all of the I-35 Corridor.

It is clear that the I-35 Corridor is about to become urban, as sewer and water are being installed, and it is also clear that the corridor has been planned and developed as a whole. However, Forest Lake does not have a plan to deliver services to both sides of the corridor, and failed to introduce evidence at the hearing of its ability to do so. Because of Forest Lake's change of position after the hearing, neither party addressed Columbus's ability to function if both sides of the corridor were annexed to Forest Lake, but it is clear that such a loss would have a significant impact on the Columbus tax base, now and in the future.

²⁸⁴ *Id.* at 626-27.

²⁸⁵ See e.g., Minn. Stat. §§ 465.81-465.82.

Incorporation will reinforce Columbus's plans for the continuing development of its community in a manner that is consistent with its natural features and abundant resources. This level of planning will be increasingly necessary as the population pressures grow throughout the area. If incorporation were denied and annexation granted, Columbus would face the uncertainty of future annexations and loss of its investment. Forest Lake failed to show that the benefits of annexation would warrant such a result.

Because of the increased population and development throughout the area, Forest Lake and Columbus will need to work with each other and the surrounding communities to plan and implement required changes in the infrastructure. Both communities are urged to approach the future in a spirit of cooperation and with the best interests of the region in mind. Each community has dedicated, competent professional staff and consultants who have the skill and ability to work together. It will be in the best interests of all if they are encouraged and supported in their efforts to do so.

B.J.H.