

A BILL FOR AN ORDINANCE ANNEXING AND ZONING PROPERTY FOLLOWING CONSENT FILED WITH THE CITY COUNCIL BY LANDOWNERS IN SAID AREA PURSUANT TO ORS 222.120 AND ORS 222.170 File 10-03-17; CONSUMERS POWER.

) **ORDINANCE BILL NO. 16**
) **For 2010**
)
) **ORDINANCE NO. 2799**

WHEREAS, the City of Lebanon has received a submission by written request for annexation of real property to the City of Lebanon, herein described in Exhibit "A"; and,



WHEREAS, the Planning Commission for the City of Lebanon conducted a hearing on Planning File No. 10-03-17 and made findings recommending annexation of the subject property and establishment of the Public Use (Z-PU) zone on April 21, 2010; and

WHEREAS, after conducting the hearing and considering all objections or remonstrances with reference to the proposed annexation, and further considering the recommendation of the Lebanon Planning Commission, the City Council finds that this annexation is in the best interest of the City and of the contiguous territory.

NOW, THEREFORE, the City of Lebanon ordains as follows:

Section 1. Findings. In addition to the findings referred to above, the City

After Recording Please Return To:
City of Lebanon
City Recorder
925 Main Street
Lebanon, OR 97355

LINN COUNTY, OREGON	2010-09960
ORD-ORD	06/18/2010 01:51:08 PM
Cnt=1 Stn=7 S. WILSON	\$100.00
\$55.00 \$11.00 \$15.00 \$9.00 \$10.00	
	
00137124201000099600110112	
I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.	
Steve Druckenmiller - County Clerk	

Council further adopts and finds those matters contained in Exhibit "B" which is incorporated herein by this reference as if fully set forth at this point.

Section 2. Annexation Area. Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated in accordance with the Lebanon Development Code, and assigned the zoning of Public Use (Z-PU).

Section 3. Record. The City Recorder shall submit to the Oregon Secretary of State a copy of this Ordinance. The City Recorder is further ordered to send a description by metes and bounds, or legal subdivision, and a map depicting the new boundaries of the City of Lebanon within ten (10) days of the effective date of this annexation ordinance to the Linn County Assessor, Linn County Clerk and the Oregon State Department of Revenue.

Passed by the Council by a vote of 4 for and 0 against and approved by the Mayor this 9th day of June, 2010.

CITY COUNCIL OF LEBANON, OREGON

Kenneth I. Toombs
Kenneth I. Toombs, Mayor
Bob Elliott, Council President

Attested:

Linda Kaser
Linda Kaser, City Clerk / Recorder

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that JOE L. GILBERT and JUNE GILBERT, husband and wife,

grantors, in consideration of ... Ten and More Dollars... , to them paid by CONSUMERS POWER, INC., an Oregon corporation,

grantee, do hereby grant, bargain, sell and convey unto the said grantee, its successors, heirs and assigns, all the following real property with the tenements, hereditaments and appurtenances, situated in the County of Linn and State of Oregon, bounded and described as follows, to-wit:



Beginning at a 3/4 inch iron pipe at the Northwest corner of the tract described in deed recorded in Book 260, page 846, Linn County Deed Records, said iron pipe being 30.00 feet S. 0°11 1/2' E. and 2009.43 feet S. 89°48 1/2' W. along the South line of the County Road from the Northeast corner of the John W. Bell D.L.C. No. 51, T. 12 S. R. 2 W. of the Will. Base and Mer. in Linn County, Oregon; thence S. 0°11 1/2' E. 400.00 feet to a 3/4 inch iron pipe at the Southwest corner of said tract; thence S. 89°48 1/2' W. parallel to said County Road 350.00 feet; thence N. 0°11 1/2' W. parallel to the West line of said tract 400.00 feet to a 3/4 inch iron rod on the South line of said County Road; thence N. 89°48 1/2' E. along said road line 350.00 feet to the point of beginning

TO HAVE AND TO HOLD the above described and granted premises unto the said grantee, its successors, heirs and assigns forever.

And the grantors do covenant that they are lawfully seized in fee simple of the above granted premises, free from all encumbrances, except Rights of the public in roads and highways.

and that they will and their heirs, executors and administrators, shall warrant and forever defend the above granted premises, and every part and parcel thereof, against the lawful claims and demands of all persons whomsoever.

WITNESS our hands and seal this 9 day of July, 1963.

Joe L. Gilbert (SEAL)
June Gilbert (SEAL)
STATE OF OREGON)
) ss. _____ (SEAL)
COUNTY OF LINN) _____ (SEAL)

On this 9 day of July, 1963, before me, the undersigned a Notary Public in and for said County and State, personally appeared the within named Joe L. Gilbert and June Gilbert, husband and wife,

who are known to me to be the identical individuals described in and who acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Marion G. Holbrook
Notary Public for Oregon
My Commission Expires June 18, 1965



ROBERT NIX
ATTORNEY AT LAW
CORVALLIS, OREGON

EXHIBIT B LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of the Consumers Power to annex property and establish the Public Use (Z-POU) zone on the newly annexed property.

II. BACKGROUND INFORMATION

A. Site Location

The subject property is located to the southeast corner of the intersection of Oak Street and Montessa Way. The property address is 36634 West Oak Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 16; Tax Lot 301.

B. Site Development and Zoning

The subject 3.21 acre property contains offices and equipment storage facilities for Consumer Power. Access to the property is off Oak Street and public water service is available. The property is located within the City's Urban Growth Boundary, designated Public in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.

C. Adjacent Zoning and Land Uses

All adjacent land is located within City limits and zoned Industrial (Z-IND). Commercial and industrial related activities are located to the west and east, with the Lebanon Airport further east. Land to the north and south is currently vacant.

D. Proposal

The applicant is requesting approval to annex the subject property, establishing the Public Use (Z-PU) on the newly annexed property.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was duly held on this application before the Lebanon Planning Commission on April 21, 2010. At the hearing, Planning File 10-03-17 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend the City Council approve the proposed Annexation and establishment of the Public Use zone. The Commission found the proposed changes consistent with the applicable decision criteria.

B. City Council Action

On May 12, 2010, the City Council approved a Resolution establishing June 9, 2010 as the hearing date for the annexation application.

On June 9, 2010 the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 10-03-17 was made a part of the record. Notice of the hearing was provided pursuant to Chapter 16.20 of the Lebanon Development Code. No objection was raised as to jurisdiction, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the City Council deliberated on the issue and voted to approve the proposed Annexation and establishment of the Public Use zone. The Council found the proposed requests consistent with the applicable decision criteria.

IV. FINDINGS OF FACT-GENERAL

The Lebanon City Council, after careful consideration of the testimony and evidence in the record, adopts the following General Findings of Fact:

- A. The applicant is Consumers Power, Inc.
- B. The subject property is located to the southeast corner of the intersection of Oak Street and Montessa Way. The property address is 36634 West Oak Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 16; Tax Lot 301.
- C. The subject area contains approximately 3.21 acres.
- D. The subject property contains offices and equipment storage facilities for Consumer Power. Access to the property is off Oak Street and public water service is available.
- E. The property is located within the City's Urban Growth Boundary, designated Public in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.
- F. All adjacent land is located within City limits and zoned Industrial (Z-IND). Commercial and industrial related activities are located to the west and east, with the Lebanon Airport further east. Land to the north and south is currently vacant.
- G. The applicant is requesting approval to annex the subject property, establishing the Public Use (Z-PU) on the newly annexed property.
- H. The decision to approve or deny shall be based on the following criteria contained in the Lebanon Development Code: Chapter 16.26 – Annexations.

V. APPLICATION SUMMARY

- A. The property is located within the City's Urban Growth Boundary but outside City limits. The applicant wishes to Annex the property within the City and establish the Public Use zone (Z-PU) on the property. For the record, "utility offices" are identified as an allowed use in the Public Use zone, subject to an Administrative Review (Development Code,

Section 16.10.080). This request is limited to the Annexation and establishment of the Public Use zone; there are no development or expansion plans at this time.

- B. The City mailed notice of the application to the adjacent property owners and affected agencies. City Development Engineering identified existing City facilities serving the site. The Lebanon Fire District requested the property be renumbered to conform to the City's street numbering system – this is a procedural matter. Neither agency opposed the request. Otherwise, no agency or adjacent property owner submitted written comments.

VI. CRITERIA AND FINDINGS

- A. The property is located within the City's Urban Growth Boundary (UGB) and is eligible for annexation into the City limits. Annexation application and review requirements are contained in Chapter 16.26 of the Lebanon Development Code. This application requires a hearing before the Planning Commission and City Council. The Commission provides a recommendation regarding the application and the City Council makes the final decision on the matter. Therefore, the purpose of the Commission hearing is to review the request and recommend whether the Council should approve or deny the Annexation.
- B. Chapter 16.26 establishes the review criteria for an Annexation. Sections 16.26.010 and 16.26.020 establish the purpose of an annexation and the first assignment of zoning. The annexation transfers the jurisdiction from Linn County to the City, and further, establishes the appropriate zoning on the property consistent with the Plan Map designation. In this particular case, the only applicable zone is Public Use (Z-PU). For the record, the applicants did not request a change in the Plan designation and corresponding zone.
- C. Section 16.26.030 notes an annexation is necessary to establish the appropriate zone, consistent with the zoning matrix (Table 16.26-1). Plan map amendments are only required if there is a corresponding change in the Plan map. Further, proposed amendments to the Plan map (and corresponding zone map) must conform to provisions in Chapter 16.27. Again, the application does not include a request to change the property's Plan designation and corresponding zone.
- D. Section 16.26.040 identifies the relationship between annexation and City facility plans. It notes anticipated densities and levels of development are factored into the City's facility plans, including the Transportation System Plan. Therefore, additional inquires into the sufficiency of these services is not required.
- E. Section 16.26.050 stipulates all annexations are processed as legislative actions requiring hearings before both the Planning and City Council. The Commission provides a recommendation while the final decision to approve or deny rests with the Council. This Section also lists the application requirements. For the record, the application and process are consistent with the provisions in this Section.
- F. Section 16.26.060 contains the decision criteria for an annexation with specific requirements in Section 16.26.060.A. This Section requires compliance with provisions in the City Annexation Ordinance (16.26.060.A.1) and Lebanon Comprehensive Plan, Chapter 3 – Urbanization (16.26.060.A.2). Generally, the Annexation Ordinance and Comprehensive Plan decision criteria are the same. To avoid duplication, where applicable, the findings are combined:

1. Annexation Ordinance Section 1. – This Section introduces the Annexation Ordinance for the City of Lebanon and does not contain decision criteria.
2. Annexation Ordinance Section 2. - All Annexations shall conform to the requirements of the Lebanon Municipal Code, Annexation Ordinance, Lebanon Land Development Ordinance (i.e., Development Code), City of Lebanon/Linn County Urban Growth Management Agreement, and shall be consistent with applicable State law.

Comprehensive Plan Annexation Policy #P-19: [The City shall] recognize and act on the basis that all annexations shall conform to the requirements of the Lebanon Municipal Code, Annexation Ordinance, Lebanon Land Development Ordinance, City of Lebanon/Linn County Urban Growth Management Agreement (UGMA), and shall be consistent with applicable State law.

FINDINGS: For the purpose of this criterion, the proposed annexation application and process conform to the requirements of the Annexation Ordinance, and other applicable documents, complying with requirements contained in these provisions; specific findings below detail compliance.

3. Annexation Ordinance Section 3. - All Annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.

Comprehensive Plan Annexation Policy #P-20: [The City shall] recognize and act on the basis that all annexations shall be consistent with the goals and policies of the Lebanon Comprehensive Plan.

FINDINGS: The Annexation Ordinance policies are consistent with, and often mirror, the Comprehensive Plan Annexation Policies. The State acknowledges the Comprehensive Plan complies with all applicable Statewide Planning Goals and statutes, recognizing the internal consistency of the Plan goals and policies. Therefore, compliance with the applicable Comprehensive Plan policies ensures compliance with the Annexation Ordinance. Findings in the following Sections detail this proposal's compliance with all applicable policies.

4. Annexation Ordinance Section 4. - All lands included within the Urban Growth Boundary are eligible for annexation and urban development. Areas within the Urban Growth Boundary with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.

Comprehensive Plan Annexation Policy #P-21: [The City shall] recognize and act on the basis that all lands included within the Urban Growth Boundary are eligible for annexation and urban development. (Areas within the Urban Growth Boundary with designated environmental constraints may be annexed and utilized as functional wetlands, parks, open space and related uses.)

FINDINGS: The proposed annexation complies as the property is within the City's UGB. Further, being within the UGB, the City identified the subject property as land needed by the City for future urban development.

5. Annexation Ordinance Section 5. - The City shall only annex land that is contiguous to the existing City limits and is within the City's Urban Growth Boundary.

Comprehensive Plan Annexation Policy #P-22: [The City shall] only annex land that is contiguous to the existing City limits and is within the City's Urban Growth Boundary (UGB).

FINDINGS: The subject property is entirely surrounded by land within the City limits, and therefore eligible for annexation.

6. Annexation Ordinance Section 6. - An annexation shall be deemed orderly if the annexation territory is contiguous to the existing City limits. An annexation is efficient if the annexation territory can be developed or redeveloped to an urban use. Urban uses may include functional wetlands, parks, open space and related uses.

Comprehensive Plan Annexation Policy #P-23: [The City shall] deem an annexation orderly if the annexation territory is contiguous to the existing City Limits, and deem an annexation efficient if the annexation territory can be developed or redeveloped to an urban use (urban uses may include functional wetlands, parks, open space and related uses).

FINDINGS: The proposed annexation complies with the above noted criteria as follows: (a) since the property is contiguous to existing City limits, the annexation is deemed orderly; (b) the property contains urban-level development; and, (c) according to the Comprehensive Plan, there are no designated environmental constraints associated with the property.

7. Annexation Ordinance Section 7. - Development proposals are not required for annexation requests.

Comprehensive Plan Annexation Policy #P-24: [The City shall] recognize and act on the basis that development proposals are not required for annexation requests.

FINDINGS: The property is currently developed; there is no concurrent development proposal.

8. Annexation Ordinance Section 8. - As part of the annexation process of developed property or properties, the City shall consider the anticipated demands to access key City-provided urban utility services, which are water, storm drainage, sanitary sewerage, and streets, of existing development within the annexation territory.

Comprehensive Plan Annexation Policy #P-25: [The City shall] consider as part of the annexation process of developed property or properties, the anticipated demands to access key City-provided urban utility services, which are water, storm drainage, sanitary sewerage, and streets, of existing development within the annexation territory.

FINDINGS: The City currently provides water service to the property. A sewer

main is located on Oak Street and may be extended to the site if necessary. The site also fronts an improved public road which is more than adequate to serve the facility.

9. Annexation Ordinance Section 9. - As part of the annexation process of developed property or properties, the City shall consider the impacts on key City-provided urban utility services needed to serve these properties, which are water, storm drainage, sanitary sewerage, and streets.

Comprehensive Plan Annexation Policy # P-26: [The City shall] Consider as part of the annexation process of developed property or properties, the impacts on the capacities of key City-provided urban utility services needed to satisfy the anticipated demands of the properties discussed in P-25 above.

FINDINGS: As previously noted, sufficient services are in place; additional facility improvements can be extended if necessary, but are not required at this time.

10. Annexation Ordinance Section 10. - Needed Public rights-of-way, as identified in adopted transportation plans as necessary for the safe and efficient movement of traffic, bicycles and pedestrians, shall be dedicated to the City either with annexation or when the property develops and/or redevelops and thus creates an increased demand for the benefits and utility provided by additional rights-of-way dedication.

FINDINGS: The property fronts an improved public street; no further improvements are required to serve the existing development.

11. Annexation Ordinance Section 11. - Upon annexation, the annexation territory shall be assigned zoning classifications in accordance with the adopted Comprehensive Plan Map, as shown in the City's Annexation Zoning Matrix. Such zoning assignments in and of themselves are not a zoning map change and shall not require approval of a zoning map amendment, or a separate proceeding.

FINDINGS: This subject property is designated Public Use by the Comprehensive Plan. Consistent with the adopted Matrix, the only possible applicable zone is Public Use (Z-PU).

12. Annexation Ordinance Section 12. - If a zoning designation other than one in accordance with the Comprehensive Plan Map (shown in the Annexation Zoning Matrix) is requested by an applicant, the zoning requested shall not be granted until the Comprehensive Plan Map is appropriately amended to reflect concurrence. Such an amendment shall require a separate application, hearing and decision, which may be held concurrently with an annexation hearing and will not become effective until the annexation is complete.

FINDINGS: This application is limited to the proposed annexation and establishment of the Public Use zone and does not include a change in the Plan designation or corresponding zone. Therefore, this Section does not apply to the request.

13. Annexation Ordinance Section 13. - The areas within the Urban Growth Boundary with designated environmental constraints may be annexed and developed as functional wetlands, parks, open space and related uses.

FINDINGS: This Section does not apply as the subject property does not include environmentally constrained property.

14. Annexation Ordinance Section 14. - An "urban use" is hereby defined as any land use that is authorized under the terms and provisions of the land use regulations, Zoning Ordinance (i.e., Development Code), Subdivision Ordinance, Comprehensive Plan, and other related documents of the City of Lebanon.

FINDINGS: This Section does not apply as the provisions in this Section provide a definition and not a decision criterion.

15. Annexation Ordinance Section 15. - At the applicant's discretion and with the City's concurrence, a development or redevelopment proposal for an annexation territory may be acted upon by the Planning Commission immediately following the Commission's hearing on the annexation proposal and a decision of recommendation of approval to the City Council. However, any approval of the Planning Commission of such a development or redevelopment proposal must be contingent upon subsequent approval of the annexation by City Council.

FINDINGS: As previously noted the request is limited to the proposed annexation and does not contain a development or redevelopment proposal. Therefore, provisions in Section 15 do not apply.

16. Comprehensive Plan Annexation Policy # P-27: Expand the City Limits as necessary to accommodate development, including housing, commercial, industrial, and services (that will in turn accommodate population growth).

FINDINGS: This Policy does not directly apply as the proposal simply incorporates an existing urban-type use into the City limits.

- G. Section 16.26.060.B allows the City to require the abatement of non-conforming uses and/or structures prior to hearing an annexation request. This Section does not apply as the site is fully developed and the uses are allowed in the applicable Public Use zone.
- H. Section 16.26.060.C, allows the City to identify additional site specific evaluation criteria based on the Lebanon Comprehensive Plan, the provisions of this Code, and the Lebanon Municipal Code. Site specific criteria could include steep slopes, natural hazards, riparian zones and similar issues. Such site specific criteria do not affect the eligibility of properties for annexation, but serve as an advisory to applicants of factors that may affect future development. As noted, there are no site specific criteria that apply to the property.
- I. Upon annexation, Section 16.26.020 requires the subject property to be placed in the appropriate zone, per the City's Annexation Zoning Matrix (Development Code Table 16.26-1). The only decision criterion in this process of first assignment of City Zoning is that the Zone Classification shall be consistent with the adopted Comprehensive Plan

Map (Section 16.26.020.D).

FINDINGS: The subject property is designated Public Use (C-PU) by the City's Comprehensive Plan. According to Table 16.26-1, the only applicable zone is the Public Use (Z-PU) zone. Therefore, upon annexation, the property will be zoned Public Use.

VII. CONCLUSION

The City Council concludes the proposed Annexation, including establishment of the Public Use zone, complies with the applicable decision criteria.