

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 10-07-38; ALANNA WEAVER.

) ORDINANCE BILL NO. 22
) For 2010
)
) ORDINANCE NO. 2805
)
)

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. 10-07-38 and made findings recommending annexation of the subject property and establishment of the Residential Mixed Density (Z-RM) zone on August 18, 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 Council further adopts and finds those matters contained in Exhibit "B" which is incorporated

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

LINN COUNTY, OREGON 2010-14987
ORD-ORD
Cnt=1 Stn=7 COUNTER 09/17/2010 02:47:55 PM
\$40.00 \$11.00 \$15.00 \$9.00 \$10.00 \$85.00
00143072201000149870080089
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



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 in accordance with the Lebanon Development Code, and assigned the zoning of Residential Mixed Density (Z-RM).

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 5 for and 0 against and approved by the Mayor this 8th day of September, 2010.

CITY COUNCIL OF LEBANON, OREGON


Kenneth I. Toomb, Mayor
Bob Elliott, Council President

Attested:


Linda Kaser, City Clerk / Recorder

EXHIBIT A

After recording return to:
Alanna G. Weaver
36340 Oak Drive
Lebanon, OR 97355

STATE OF OREGON
00059972200700207280010013
Steve Drucker Miller - County Clerk
LINN COUNTY OREGON

Until a change is requested all
tax statements shall be sent to
The following address:

Alanna G. Weaver
36340 Oak Drive
Lebanon, OR 97355

Escrow No. 02-605939
Title No. 086459L

SWD

STATUTORY WARRANTY DEED

Home Solutions Inc., an Oregon Corporation, Grantor(s) hereby convey and warrant to Alanna G. Weaver, an estate in fee simple, Grantee(s) the following described real property in the County of Linn and State of Oregon free of encumbrances except as specifically set forth herein:

Beginning at a point 120 feet East of the Northwest corner of Lot 63, Hyland Addition to the City of Lebanon, Linn County, Oregon; and running thence East 60 feet along the North line of said Lot; thence South to the South line of said Lot a distance of 155.5 feet, more or less; thence West 60 feet to a point due South of the point of beginning; thence North 155.5 feet, more or less, to the point of beginning.

178380 12-2W-10CD/4500

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:
2007-2008 Real Property Taxes a lien not yet due and payable.

The true and actual consideration for this conveyance is \$70,000.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

Dated this 27th day of August, 2007.

Home Solutions Inc.
BY: Bryan P. Kimball, Vice President

State of Oregon
County of Linn

This instrument was acknowledged before me on August 27, 2007 by Home Solutions Inc..

Jodi F Kenagy
(Notary Public for Oregon)

My commission expires Sept 1, 2007



26459L 12-2W-10CD/4500 After Recording Return to Applicant

EXHIBIT B
LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of Alanna Weaver to annex property and establish the Residential Mixed Density (Z-RM) zone on the property.

II. BACKGROUND INFORMATION

A. Site Location

The subject property is located on the south side of West Oak Street, approximately midway between South 9th and 10th Streets. The property address is 850 West Oak Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 10CD; Tax Lot 4500.

B. Site Development and Zoning

The subject 0.21 property contains a single family home and is served by City water, but not City sewer. West Oak Street provides access for the property.

C. Adjacent Zoning and Land Uses

The property is located within the City's Urban Growth Boundary, designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.

D. Proposal

The applicant is requesting approval to annex the subject property, establishing the Residential Mixed Density (Z-RM) zone 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 August 18, 2010. At the hearing, Planning File 10-07-38 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 establish the Residential Mixed Density zone on the newly annexed property. The Commission found the proposed changes consistent with the applicable decision criteria.

B. City Council Action

On September 8, 2010 the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 10-07-38 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 Alanna Weaver.
- B. The subject property is located on the south side of West Oak Street, approximately midway between South 9th and 10th Streets. The property address is 850 West Oak Street and the Linn County Assessor Map places the property within Township 12 South; Range 2 West; Section 10CD; Tax Lot 4500.
- C. The subject area contains approximately 0.21 acres.
- D. The subject property contains a single family home and is served by City water, but not City sewer. West Oak Street provides access for the property.

- E. The property is located within the City's Urban Growth Boundary, designated Residential Mixed Density (C-RM) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.
- F. Land to the west, south and east is also located in Linn County and designated C-RM. Property to the north is located within the City and zoned Residential Mixed Density (Z-RM). The majority of adjacent property contains single-family homes.
- G. The applicant is requesting approval to annex the subject property, establishing the Residential Mixed Density (Z-RM) zone 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 Urban Growth Boundary but outside City limits. The applicant wishes to annex the property, establishing the Residential Mixed Density (Z-RM) zone on the property. For the record, a single family home is an outright permitted use in the zone (Lebanon Development Code, Section 16.05.040). The primary purpose for the annexation is to extend sanitary sewer service to the property. This request is limited to the Annexation and establishment of the RM zone.
- B. The Department mailed notice of the application to affected agencies and area property owners. The Department of Land Conservation and Development did not submit comments. City Development Engineering did not oppose 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 establishes the appropriate zoning on the property consistent with the Plan Map designation. In this particular case, the only applicable zone is Residential Mixed Density (Z-RM). For the record, the applicant did not request a change in the Plan designation or 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 inquiries into the sufficiency of these services is not required.
- E. Section 16.26.050 stipulates all annexations be 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). In almost all cases, the Annexation Ordinance and Comprehensive Plan decision criteria are the same. Therefore, to avoid duplication, and where applicable, the findings are combined:
 1. Annexation Ordinance Section 1. – This Section identifies the document as 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. 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 that the City's Comprehensive Plan complies with all applicable Statewide Planning Goals and statutes, recognizing the 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 (UGB) 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: City limits are located to the north of the subject property; therefore, the property is 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 City considers the annexation orderly.
- (b) The property contains urban-level development with a single family home on a small parcel and public water service.
- (c) Based on information contained in 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 and the application does not include a concurrent redevelopment 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 West Oak Street and can be extended to serve the home. The site also fronts an improved public street, which is more than adequate to serve the residence.

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: Public services either are in place or can be extended to the home.

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 Residential Mixed Density by the Comprehensive Plan. Consistent with the adopted Matrix, the only possible applicable zone is Residential Mixed Density (Z-RM).

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 Residential Mixed Density 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: 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. Other provisions of this Code and the Lebanon Municipal Code may require abatement of certain kinds of situations before an annexation request can be approved. This Section does not apply as the site is fully developed and the applicable Residential Mixed Density zone allows the existing residential use.
- 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, but not be limited to, the following: steep slopes, natural hazards, riparian zones, wetlands water bodies, overlay zones, infrastructure development, existing conditions and failing on-site services. 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. 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. Accordingly, upon annexation, an annexation territory will automatically be assigned City Zoning Classifications in accordance with the adopted Comprehensive Plan Map, 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 Residential Mixed Density (C-RM) by the City's Comprehensive Plan. According to Table 16.26-1, the only applicable zone is the Residential Mixed Density (Z-RM) zone. Therefore, upon annexation, the property will be zoned Residential Mixed Density.

VII. CONCLUSION

The City Council concludes the proposed Annexation, including establishment of the Residential Mixed Density (Z-RM) zone, complies with the applicable decision criteria.