

A BILL FOR AN ORDINANCE ANNEXING AND) ORDINANCE BILL NO. 2013-1
ZONING PROPERTY FOLLOWING CONSENT)
FILED WITH THE CITY COUNCIL BY)
LANDOWNERS IN SAID AREA PURSUANT TO) ORDINANCE NO. 2842
ORS 222.120 AND ORS 222.170)
File 13-02-08; WALT BADGER AND THE)
CITY OF LEBANON)

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, on April 17, 2013, the Planning Commission for the City of Lebanon conducted a hearing on Planning File No. 13-02-08, making findings recommending annexation of the subject property and establishment of the Mixed Use (Z-MU) zone; and,



WHEREAS, after conducting the hearing and considering all objections or remonstrance 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 herein by this reference as if fully set forth at this point.

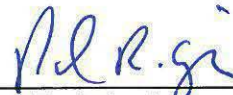
Section 2. Annexation Area. Based upon the findings contained above and in Exhibit "B", the contiguous territory described in Exhibit "A" and incorporated herein by this reference as if fully set forth at this point is hereby proclaimed to be annexed to the City of Lebanon, and zoned as indicated in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

After Recording Return to:
 City Clerk's Office
 City of Lebanon
 925 S. Main Street
 Lebanon, OR 97355

LINN COUNTY, OREGON	2013-08506
ORD-ANN	05/22/2013 11:53:54 AM
Cnt=1 Stn=7 C. ACKER	
\$40.00 \$11.00 \$15.00 \$19.00 \$10.00	\$95.00
	
00203948201300085060080086	
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	
	

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 Lebanon City Council and executed by the Mayor on this 8th day of May, 2013 by a vote of 5 yeas and 0 nays.



Paul R. Aziz, Mayor

Bob Elliott, Council President

<input checked="" type="checkbox"/>
<input type="checkbox"/>

ATTESTED:



Linda Kaser, City Clerk

EXHIBIT A

Badger Annexation

North Area

An area of land in the Northwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon, being more particularly described as follows:

Beginning at a point bearing North 00°08 '54" East 57.00 feet, and North 89°42'00" East 55.49 feet, and North 00°08 ' 53" East 38.00 feet from a 5/8" iron rod marking the Northeast corner of Parcel2 of Linn County Partition Plat No. 1996-39 in the Northwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, City of Lebanon, Linn County, Oregon; thence North 00°08'53" East 421.41 feet to the South bank of the Lebanon-Santiam canal and the existing city limits per City of Lebanon Ordinance No. 1913; thence along said city limits North 70°58 '38" East 14.15 feet; thence North 68°55'31" East 117.41 feet; thence North 75 °59'44" East 101.56 feet; thence North 85 °24'42" East 240.86 feet to the West right-of-way of the Albany & Eastern Rail Road; thence Southerly along said right-of-way the following courses & distances; South 00°10'35" East 99.52 feet; thence along the arc of a 03 degree 200.00 foot spiral curve to the left 202.60 feet, (chord bears South 01 °10'58" East 202.60 feet); thence along the arc of a 1959.86 foot radius curve to the left 208.77 feet, (chord bears South 06°13'36" East 208.67 feet) to the North line of the existing city limits per City of Lebanon Ordinance No. 2742; thence leaving said right-of-way South 89°42'00" West 489.78 feet to the point of beginning.

South Area

An area of land in the Southwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, Linn County, Oregon being more particularly described as follows:

Beginning at a 5/8" iron rod bearing South 00°08' 54" West 107.95 feet from a 5/8" iron rod marking the Northeast corner of Parcel2 of Linn County Partition Plat No. 1996-39 in the Northwest 1/4 of Section 14, Township 12 South, Range 2 West, Willamette Meridian, City of Lebanon, Linn County, Oregon; thence North 89°40'39" East 129.76 feet to a 5/8" iron rod on the East right-of-way of Mill Street; thence South 00°07'33" West 90.50 feet along said right-of way; thence South 89°40'39" West 129.79 feet; thence North 00°08'54" East 90.50 feet to the point of beginning.



EXHIBIT B

LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of the Walt Badger and the City of Lebanon to annex property and establish the Mixed Use (Z-MU) zone on the newly annexed property.

II. BACKGROUND INFORMATION

A. Site Location

The subject area involves three parcels of land located in two separate areas. The first area includes property located at the east end of Airport Way, to the north of Russell Drive. The property address is 305 Russell Drive and includes land located within Township 12 South; Range 2 West; Section 14BC; Tax Lot 9100 and portion of land located within Section 14CB; Tax Lot 100. The second area includes a parcel located on the west side of the north end of Mill Street. The property address is 2070 Mill Street and the Assessor map locates the parcel within Township 12 South; Range 2 West; Section 14CB; Tax Lot 200. This second area also includes the adjacent right-of-way.

B. Site Development and Zoning

Tax Lot 9100 contains a variety of commercial structures, while the subject portion of Tax Lot 100 is currently vacant. Tax Lot 200 contains a single family home. Public services are located along Airport Way but not within the Mill Street right-of-way. The subject area is located within the City's Urban Growth Boundary, designated Mixed Use (C-MU) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County. Combined, the subject area contains 5.45 acres total.

C. Adjacent Zoning and Land Uses

The Safeway store is located to the west of Tax Lot 9100/Tax Lot 100 on Highway Commercial zoned land. Land to the north is zoned Residential Mixed Density while property to the south is zoned Mixed Use. Single family homes are the dominant land use. Property to the east is located within Linn County and contains residences. Land to the west, north and east of Tax Lot 200 is zoned Mixed Use. Land to the west is vacant while the remaining adjacent Mixed Use property contains two residences. The property to the east also shares a border with Tax Lot 9100, and, includes the remaining portion of Tax Lot 100 located within the City. Remaining adjacent land on Mill Street is located within the County and contains single family homes.

D. Proposal

The applicants are requesting approval to annex the private property and public right-of-way, establishing the Mixed Use (Z-MU) zone on the 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 17, 2013. At the hearing, Planning File 13-02-08 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 Mixed Use zone. The Commission found the proposal consistent with the applicable decision criteria.

B. City Council Action

On May 8, 2013 the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 13-02-08 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 Mixed 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 applicants are Walt Badger and the City of Lebanon.
- B. The subject area involves three parcels of land located in two separate areas. The first area includes property located at the east end of Airport Way, to the north of Russell Drive. The property address is 305 Russell Drive and includes land located within Township 12 South; Range 2 West; Section 14BC; Tax Lot 9100 and portion of land located within Section 14CB; Tax Lot 100. The second area includes a parcel located on the west side of the north end of Mill Street. The property address is 2070 Mill Street and the Assessor map locates the parcel within Township 12 South; Range 2 West; Section 14CB; Tax Lot 200. This second area also includes the adjacent right-of-way.
- C. Tax Lot 9100/Tax Lot 100 contains 5.18 acres and Tax Lot 200/Right-of-Way contains 0.27 acres for 5.45 acres total.
- D. Tax Lot 9100 contains a variety of commercial structures, while the subject portion of Tax Lot 100 is currently vacant. Tax Lot 200 contains a single family home. Public services are located along Airport Way but not within the Mill Street right-of-way.
- E. The subject area is located within the City's Urban Growth Boundary, designated Mixed Use (C-MU) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.
- F. The Safeway store is located to the west of Tax Lot 9100/Tax Lot 100 on Highway Commercial zoned land. Land to the north is zoned Residential Mixed Density while property to the south is zoned Mixed Use. Single family homes are the dominant land use. Property to the east is located within Linn County and contains residences. Land to the west, north and east of Tax Lot 200 is zoned Mixed Use. Land to the west is vacant while the remaining adjacent Mixed Use property contains two residences. The property to the east also shares a border with Tax Lot 9100, and, includes the remaining portion of Tax Lot 100 located within the City. Remaining adjacent land on Mill Street is located within the County and contains single family homes.
- G. The applicants are requesting approval to annex the private property and public right-of-way, establishing the Mixed Use (Z-MU) zone on the annexed property. Subsequent to the annexation, the owner (Walt Badger) wishes to adjust the property boundary separating Tax Lot 9100 and the southerly portion of Tax Lot 100. The findings and conclusions contained in this Ordinance are limited to the proposed Annexation and Zone Change. The Planning Commission previously approved the Property Line Adjustment.
- H. The decision to approve or deny shall be based on criteria contained in the Lebanon Development Code, Chapter 16.26 – Annexations.

V. APPLICATION SUMMARY

- A. The request would annex the private property and right-of-way, establishing the Mixed Use (Z-MU) zone upon annexation. For the record, the existing commercial uses (Tax Lot 9100) and single family home (Tax Lot 200) are permitted or conditionally permitted uses in the zone (Development Code, Sections 16.06.050 and 16.06.060).
- B. The Department mailed notice of the application to affected agencies, area property owners and the Department of Land Conservation and Development (DLCD). No agency submitted written comments, an adjacent owner submitted comments at the Planning Commission and City Council hearings identifying concerns with the possibility of a future street vacation.

VI. CRITERIA AND FINDINGS

- A. The subject area 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. Annexations require a hearing before the Planning Commission and City Council. 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 Annexation review criteria. Sections 16.26.010 and 16.26.020 establish the purpose of an annexation and the first assignment of zoning. The annexation transfers jurisdiction from Linn County to the City and establishes the appropriate zoning on the property consistent with the Plan Map designation. In this case, the only applicable zone is Mixed Use.
- 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. For the record, the application does not include a request to change the 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, the sufficiency of these services need not be reviewed.

E. Section 16.26.050 stipulates all annexations be processed as legislative actions requiring hearings before both the Planning and City Council. This Section also lists 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 and Lebanon Comprehensive Plan, Chapter 3 – Urbanization. Essentially, the Annexation Ordinance and Comprehensive Plan decision criteria are the same. 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 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 and shall be consistent with applicable State law.

FINDINGS: For the purpose of this criterion, the annexation application and process conform to the requirements of the Annexation Ordinance. This annexation is somewhat unusual as it involves both developed property and street right-of-way. While the criteria are designed to address developable property, Mill Street is located within the UGB and contains an underlying Plan designation. Therefore, the determination of zoning also applies to the adjacent right-of-way.

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 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 subject area 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 predominately located to the west of the subject area; therefore, the area 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, which 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 area is contiguous to existing City limits, the annexation is considered orderly.
- (b) Tax Lot 9100 is currently developed for commercial uses. The applicable portion of Tax Lot 100 is sufficiently large (1.90 acres) to allow a variety uses permitted in the MU zone while Tax Lot 200 contains a single family home. On balance, this land – and adjacent right-of-way – are either developed for urban uses or can be so developed with the extension of public services.
- (c) Based on information contained in the Comprehensive Plan, there are no *designated environmental constraints* associated with the subject area.

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: This request does not include a 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: City services are available at the east of Airport Road and within Russell Drive to serve future development.

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 noted, public services are available and can be extended to serve the subject area.

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: As there are no changes planned to existing commercial site and the existing single family use, additional right-of-way dedication and street improvements are unnecessary as part of the annexation.

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 area is designated Mixed Use by the Comprehensive Plan. Consistent with the adopted Matrix, the only possible applicable zone is Mixed Use.

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 Mixed 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: The request is limited to the proposed annexation and does not contain a development or redevelopment proposal specific to the sites. However, there is a concurrent request to adjust property lines for the proposed annexed property which was approved by the Commission in a separate decision.

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 existing urban-type uses (commercial, residential and street right-of-way) 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 existing uses are either permitted or conditionally permitted in the Mixed Use zone. Further, the Mill Street right-of-way does not contain structures or non-conforming uses and can be improved only as a local street.

- 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, evaluation criteria that apply to the subject area.

- I. Upon annexation, Section 16.26.020 requires the subject property to be placed in the appropriate zone. Upon annexation, the territory will automatically be assigned a City zone in accordance with the adopted Comprehensive Plan Map, and Annexation Zoning Matrix (Development Code Table 16.26-1). The only decision criterion in this process 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 Mixed Use (C-MU) by the City's Comprehensive Plan. According to Table 16.26-1, the only applicable zone is the Mixed Use (Z-MU) zone. Therefore, upon annexation, the property will be zoned Mixed Use, a zone classification consistent with the Plan designation.

VII. CONCLUSION

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