

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 15-06-30; LARRY SPIRES

) ORDINANCE BILL NO. 2015-8
)
)
) ORDINANCE NO. 2864
)
)

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 August 19, 2015, the Planning Commission for the City of Lebanon opened a public hearing on Planning File No. 15-06-30, regarding annexation of the subject property and establishment of the Mixed Use (Z-MU) zone, continuing the matter to the September 16, 2015 hearing; and

WHEREAS, on September 16, 2015, the Planning Commission for the City of Lebanon reopened the hearing on Planning File No. 15-06-30, conducted a hearing on the matter and 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, BE IT RESOLVED:

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		2015-17320
ORD-ANN		
Cnt=1 Str=38 K. PETERSON	10/23/2015 02:59:35 PM	
\$60.00 \$11.00 \$20.00 \$19.00 \$10.00	\$120.00	
		
00257785201500173200120127		
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 14th day of October, 2015 by a vote of 5 yeas and 0 nays.



Paul R. Aziz, Mayor ☒
Bob Elliott, Council President ☐

ATTESTED:



Linda Kaser, City Clerk

EXHIBIT A

An area of land in the North 1/2 of Section 3, Township 12 South, Range 2 West, Willamette Meridian, Linn County Oregon. Being more particularly described as follows:

Beginning at a 5/8" iron rod on the West right-of-way of 5th Street, said point also being the Northwest corner of that land described in Linn County Deed Document No. 2012-11065, bearing South 89°55'13" West 35.00 feet from the Northwest corner of Parcel 1 of Linn County Partition Plat no 2014-04; thence North 00°32'31" West 114.16 feet to a 1/2" iron pipe; thence South 89°53'46" West 560.79 feet to a 5/8" iron rod; thence North 00°35'00" West 1367.41 feet to a 5/8" iron rod; thence North 00°36'23" West 635.05 feet to a point on the South right-of-way of Gore Drive; thence along said South right-of-way South 89°59'38" East 40.22 feet to a point on the South right-of-way of the Albany Santiam Canal; thence along said Canal right-of-way South 53°41'03" East 239.14 feet to a point; thence South 54°20'09" East 1297.38 feet to a point on the West right-of-way of US 20; thence along US 20 right-of-way South 16°41'36" East 1019.65 feet to a point; thence leaving said West right-of-way South 89°57'42" West 478.71 feet to a 1.25" iron pipe; thence South 00°22'34" East 239.72 feet to a 1.25" iron pipe; thence South 89°55'13" West 520.21 feet to the point of beginning.

The basis for this legal description is Linn County Survey No. 10853.

EXHIBIT B

LEBANON CITY COUNCIL FINDINGS

I. NATURE OF THE APPLICATION

This matter comes before the Lebanon City Council on the application of Larry Spires 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 four parcels of land located west of Highway 20 and north of North 5th Street. There is no property address and the Assessor map locates the parcels within Township 12 South; Range 2 West; Section 3A; Tax Lots 1200, 1800, 1900 and 2000.

B. Site Development and Zoning

The subject 49.87-acre area is vacant and currently in farm use. Public utilities are available on North 5th Street with additional storm drainage along Highway 20. North 5th provides access with additional frontage along Highway 20 to the east and Gore Drive to the north. The Albany Canal runs along the northeast border of the subject area. The subject area is located within the City's Urban Growth Boundary (UGB), designated Mixed Use (C-MU) in the Lebanon Comprehensive Plan and zoned Urban Growth Management by Linn County.

C. Adjacent Zoning and Land Uses

Property to the west and northeast also lies within the UGB east and designated Residential Mixed Density. A majority of the parcels contain single family homes. To the southeast is additional land within the UGB and designated Mixed Use, also containing single family homes. Mixed Use property is located to the south and contains a large vacant parcel along with a mixed use, residential/commercial office development. Remaining adjacent land is located outside the UGB and within Linn County.

D. Proposal

The applicant is requesting approval to: (1) Annex the property, establishing the Mixed Use (Z-MU) zone on the land; and, (2) approval for a Planned Development to create a mixed residential, commercial and light industrial development. The findings and conclusions contained in this Exhibit are solely limited to the proposed Annexation and Zone Change.

III. PUBLIC HEARING

A. Planning Commission Action

On August 18, 2015, the Lebanon Planning Commission opened the public hearing on Planning File 15-06-30. The City noticed the hearing pursuant to Chapter 16.20 of the Lebanon Development Code. The applicant submitted a letter requesting a continuation as the City of Albany submitted their comments on the day of the hearing and the applicant did not have time to organize a response. The Commission agreed to continue the hearing to September 16, 2015.

On September 16, 2015, the Lebanon Planning Commission re-opened the public hearing on this application. At this hearing, Planning File 15-06-30 was made a part of the record. 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 October 14, 2015 the Lebanon City Council held a public hearing on this application. At the hearing, Planning File 15-06-30 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 applicant is Larry Spires.
- B. The subject area involves four parcels of land located west of Highway 20 and north of North 5th Street. There is no property address and the Assessor map locates the parcels within Township 12 South; Range 2 West; Section 3A; Tax Lots 1200, 1800, 1900 and 2000.
- C. Combined, the parcels total 49.87 acres.
- D. The subject area is vacant and currently in farm use. Public utilities are available on North 5th Street with additional storm drainage along Highway 20. North 5th provides access with additional frontage along Highway 20 to the east and Gore Drive to the north. The Albany Canal runs along the northeast border of the subject area.
- E. The subject area is located within the City's Urban Growth Boundary (UGB), designated Mixed Use (C-MU) in the Lebanon Comprehensive Plan and zoned Urban

Growth Management by Linn County.

- F. Property to the west and northeast also lies within the UGB east and designated Residential Mixed Density. A majority of the parcels contain single family homes. To the southeast is additional land within the UGB and designated Mixed Use, also containing single family homes. Mixed Use property is located to the south and contains a large vacant parcel along with a mixed use, residential/commercial office development. Remaining adjacent land is located outside the UGB and within Linn County.
- G. The applicant is requesting approval to: (1) Annex the property, establishing the Mixed Use (Z-MU) zone on the land; and, (2) approval for a Planned Development to create a mixed residential, commercial and light industrial development. The findings and conclusions contained in this Exhibit are solely limited to the proposed Annexation and Zone Change.
- 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 applicant wishes to annex the subject area into the City of Lebanon. Upon annexation the property would automatically be zoned Mixed Use (Z-MU).
- 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 in opposition *to the annexation*.

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.
- 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, 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. 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 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 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.

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 located to the south 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. 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:

- Since the area is contiguous to existing City limits, the annexation is considered orderly.
- The applicant submitted a planned development proposal that shows how the site can be developed with urban types of uses. Further, these uses can be supported with existing public services.
- The applicant is currently addressing wetland-related issues associated with the site. Otherwise, based on information contained in the

Comprehensive Plan, there are no *designated environmental constraints* associated with the subject area that prohibit its development for urban uses.

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: While not required, the application includes a concurrent planned 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 north end of North 5th Street and may be extended 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 determined by the planned development proposal, additional

right-of-way dedication will be required to provide necessary access and serve the development. However, such dedication is not required 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 annexation application 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 applicant intends urban levels of development for the site.

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: There is a concurrent request for a Planned Development for the annexed property. Consistent with the requirements in this Section, the approved development is subject to Council approval of the Annexation.

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: The City's UGB is established to accommodate development that meets the needs of the City. Concurrent with the application, the applicant demonstrated how the site can be developed for a variety of urban uses beneficial to the City.

- 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 subject area is vacant and currently in farm 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, 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 of approximately 49.87 acres of property, including establishment of the Mixed Use zone, complies with the applicable decision criteria.

