



BEFORE THE PHOENIX PLANNING COMMISSION

STATE OF OREGON, CITY OF PHOENIX

IN THE MATTER OF PLANNING FILE NO. AN23-03 LOCATED AT )  
157 N. PHOENIX ROAD [MAP NO. 38-1W-09A TAXLOT 400 & 401], ) ORDER  
THE PHOENIX PLANNING COMMISSION FINDS THE FOLLOW- )  
ING:

1. The Planning Commission held a properly noticed public hearing on this matter on July 24, 2023;
2. The Planning Commission asked the Planning Manager to present a staff report and a final order with findings and recommendations at the July 24, 2023 public hearing;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Planning Commission finds that subject property is located within the city's urban growth boundary and meets the annexation requirements of ORS 198 and ORS 222.
5. The Planning Commission finds that the application review is consistent with the legislative review requirements of Chapter 4.1.6 of the Phoenix Land Development Code;

**NOW THEREFORE, the Phoenix Planning Commission recommends approval of the requested Annexation (AN23-03) application based on the applicant's petition request and the information presented in the Staff Report and Findings of Fact below:**

*In the following, any text quoted directly from City codes or State Law appears in italics; staff findings appear in regular typeface.*

Annexation is governed by the City's Land Development Code, Municipal Code, Comprehensive Plan, its Urban Growth Boundary Management Agreement with Jackson County, and state law. The Land Development and Municipal Codes do not define specific standards of review for a proposed annexation.

Requests for annexation are evaluated using a Type IV Legislative procedure. The Planning Commission recommends action, but does not have authority to render a final decision. The City Council must ratify a proposed annexation by ordinance.

## CHAPTER 4 – APPLICATION AND REVIEW PROCEDURES

### Chapter 4.1 – Types of Applications and Review Procedures

#### 4.1.6 – Type IV Procedures (Legislative)

- A. *Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Chapter 4.1.7 – General Provisions.*
- B. *Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. Legislative requests are not subject to the 120-day review under ORS 227.178.*

**FINDING:** The applicant submitted the required pre-application conference information and was provided a response detailing the requirements for the submission of an annexation application. At the time this application was submitted, no other non-city sponsored or state required Type IV actions had been submitted. **The standard is met.**

- C. *Application requirements*
  - 1. *Application forms. Type IV applications shall be made on forms provided by the Planning Department;*
  - 2. *Submittal Information. The application shall contain:*
    - a. *The information requested on the application form;*
    - b. *A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);*
    - c. *The required fee; and*
    - d. *Findings or a narrative statement that explains how the application satisfies all of the relevant approval criteria and standards.*
    - e. *Mailing labels*

**FINDING:** The applicant submitted the required application forms, fees and narrative explaining how the application satisfies all of the relevant approval criteria, standards and Oregon Revised Statutes. Mailing labels for the notice were prepared by staff using the city's GIS system. **The standard is met.**

## COMPREHENSIVE PLAN

### Land Use Element – Goals & Policies

**Goal 3:** *Manage annexations to achieve the objectives of the Plan by ensuring that the cumulative effects of annexation decisions are considered.*

**Policy 3.1**

*Pursuant to applicable laws of the State of Oregon, the City Council may approve annexations, without referral to the City's electorate, when finding and facts show that development of the property or properties proposed for annexation would be consistent with the Plan and that development on the land proposed for annexation can be served with all urban services and facilities without adverse impacts on the availability, quality, quantity or reliability of City services provided to or likely to be needed by;*

- 1. Existing development within the incorporated area, and*
- 2. Undeveloped, partially vacant, or redevelopable incorporated land (considering approved development plans or permissible densities as set out in the Plan).*

**Policy 3.2**

*The City council may, at its discretion, refer to the City's electorate any annexation that does not fully comply with Policy 3.1. The procedures described within ORS 222.130 regarding annexation elections shall be followed. A simple majority of votes cast shall determine the outcome.*

**Policy 3.3**

*The Council may annex territory to the City and dispense with the requirements of Policy 3.1 and 3.2 where the Oregon Health Division has issued a finding that a danger to public health exists because of conditions within the territory (ORS 222.840).*

**Policy 3.4**

*All properties annexed to the City shall eventually be improved to City standards including, but not limited to, street improvements, curbs and gutter, lighting, and other improvements included within the City's development standards or as may otherwise be specified by the City Manager and approved by the City Council. If required improvements are not proposed at the time of annexation, then the annexation agreement shall include a non-remonstrance clause specifying that the improvements shall be installed at the time of partitioning, subdivision, development or other time as approved by the Council.*

**Policy 3.5**

*The City shall initiate proceedings to annex "islands" of unincorporated area within the City Limits immediately following their creation or as soon thereafter as practical when deemed to be in the overall best interested of the City. Such annexations are required to ensure orderly and equitable provisions of public improvements, utilities and community services, and to further growth and development of the community in accordance with the Plan (ORS 222.750).*

**FINDING:**

- 1. The subject property is served by all necessary urban infrastructure and services.*
- 2. Provision of the services can be accomplished without adversely affecting existing or future development within the City's current Urban Growth Boundary.*
- 3. The subject property is zoned General Commercial in the County and will be zone Commercial Highway upon annexation to the city limits.*

4. No improvements are not proposed at this time; therefore, a non-remonstrance clause specifying that the improvements shall be installed at the time of partitioning, subdivision, development or other time shall be provided to Community & Economic Development.
6. Development on the annexed property must comply with the City's Land Development Code which requires improvements to infrastructure and facilities that meet the City's specifications. This would be reviewed during subdivision and site design/development review.

**The standard is met.**

## OREGON REVISES STATUTES

### ORS 198

#### **198.867 – Approval of Annexation to District by Electors of City and District**

- (3) *Upon receipt of the certificate of the city governing body and the district board, the county board shall enter an order annexing the territory included in the city to the district. When the county board enters the order, the city territory, **together with any territory thereafter annexed to the city** (emphasis added):*
- (a) *Shall be included in the boundaries of the district; and*
  - (b) *Shall be subject to all liabilities of the district in the same manner and to the same extent as other territory included in the district.*

**FINDING:** The City of Phoenix annexed to Jackson County Fire District No.5 through an election consistent with ORS 198.866 and 198.867, in March of 2008. This action was completed through Measure No. 15-81 for Jackson County Fire District No. 5 and through Measure No. 15-82 for the City of Phoenix. Both measures passed in Phoenix with overwhelming support, with 96% voting yes on Measure 15-81 and 97% voting yes on Measure 15-82. Per ORS 198.867(3) any territory annexed to the City must also be annexed (included) into the boundaries of Jackson county Fire District No.5. To facilitate this transition to Jackson County Fire District No.5, the property must be removed from Jackson County Fire District No.2 boundaries pursuant to ORS 222.524. **The standard is met.**

### ORS 222

#### **222.111 – Authority and Procedure for Annexations**

1. The land to be annexed is contiguous with the existing political boundaries of the city in question; and
2. The petition for annexation has been "initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed".

**FINDING:** The subject property is contiguous with the current Phoenix city boundary. The property owners have submitted a petition to the legislative body of the city for the annexation of the subject property. **The standard is met.**

## **222.170 – Annexation by Consent Before Public Hearing or Order for Election**

1. *The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day:
  - (a) *The public hearing is held under ORS 222.120 (Procedure for annexation without election), if the city legislative body dispenses with submitting the question to the electors of the city; or*
  - (b) *The city legislative body orders the annexation election in the city under ORS 222.111 (Authority and procedure for annexation), if the city legislative body submits the question to the electors of the city.**

**FINDING:** The petitioners, both property owners, submitted the request for annexation. **The standard is met.**

### **URBAN GROWTH BOUNDARY AGREEMENT**

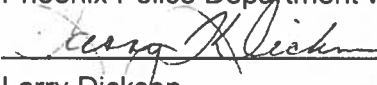
The City of Phoenix and Jackson County manage the urbanization of land through an Urban Growth Boundary and Policy Agreement that was ratified by in 1995. According to this agreement

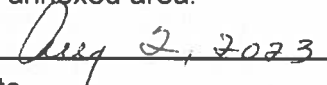
1. *City annexation shall occur only within the officially adopted Urban Growth Boundary.*
2. *Specific annexation decisions shall be governed by the official annexation policy of the City. The City will provide an opportunity for the County to respond to pending requests for annexation.*
3. *Establishment of an Urban Growth Boundary does not imply that all land within the boundary will be annexed to the City.*
4. *Urban facilities and services must be adequate in condition and capacity to accommodate the additional level of growth, as allowed by the City Comprehensive Plan, prior to or concurrent with the land use changes.*

**FINDING:** The subject property is located within the officially adopted Urban Growth Boundary. The city has notified the county of the proposed annexation and has not yet received any comments.

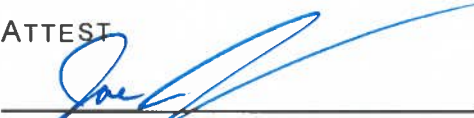
All urban infrastructure is available to the subject property and has sufficient capacity to accommodate development in this vicinity. Street improvements were completed as part of the Oregon Department of Transportation project in 2012. No changes to the right-of-way are necessary as part of this request.

The subject is within the Fire District 2 boundary and will be annexed into Jackson County Fire District 5. Jackson County Sheriff's office, and Talent/Phoenix School district currently serve the area where the subject property is located. Upon annexation, the City of Phoenix Police Department will serve the newly annexed area.

  
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Larry Dickson  
Planning Commission Chair

  
\_\_\_\_\_  
Date

ATTEST

  
\_\_\_\_\_  
Zac Moody *Joe Slaughter*  
Planning Manager *CEDEV Director*

  
\_\_\_\_\_  
Date