

ORDINANCE NO. 1032

AN ORDINANCE ANNEXING 0.39 ACRES, INCLUDING THE ADJACENT RIGHT-OF-WAY WITHIN THE CITY'S URBAN GROWTH BOUNDARY PURSUANT TO ORS 222.170, REMOVING THE AREA FROM JACKSON COUNTY FIRE DISTRICT NO.2 PURSUANT TO ORS 222.524 AND ANNEXING THE AREA TO JACKSON COUNTY FIRE DISTRICT NO.5 PURSUANT TO ORS 198.867(3)

WHEREAS, the owner of two parcels totaling approximately 0.39 acres in size has consented in writing to annexation and subsequent rezone from county to city zoning; and

WHEREAS the properties will be assigned City zoning which is consistent with the City's Comprehensive Plan Map and is generally equivalent to the County zoning it replaces, as depicted in the Comprehensive Plan Designation map and Zoning Designation map attached as Exhibit "A"; and

WHEREAS, as part of this annexation, the City will also annex all portions of City right-of-way abutting the subject parcel; and

WHEREAS, the subject property is addressed at 157 N. Phoenix Road and specifically identified as Tax Lots 400 & 401 on Jackson County Assessor Map 38-1W-09A; and

WHEREAS, the subject property is currently zoned Jackson County Urban Residential (UR), and the property will be rezoned to city Commercial Highway (C-H); and

WHEREAS, the subject property is designated Commercial on the City of Phoenix Comprehensive Plan map; and

WHEREAS, the subject property abuts lands designated Commercial on the City of Phoenix Comprehensive Plan map, and zoned Commercial Highway (C-H); and

WHEREAS, annexation of the subject property does not commit the City or any public or private utility to provide services to the subject property at taxpayer expense; and

WHEREAS, the Planning Commission of the City of Phoenix, after providing the required public notification, held a public hearing on July 24, 2023, for the purpose of reviewing the proposed requests and providing a recommendation to the City Council. The Planning Commission public hearing was held in accordance with the appropriate provisions of the City of Phoenix Land Development Code and State law, and, after due deliberation and consideration of the proposed changes, the Planning Commission voted to recommend that the City Council approve the annexation; and

WHEREAS, notice of the City Council public hearing was published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of the published notice, and is in the best interest of the City and the area involved that it be annexed to the City of Phoenix; and

WHEREAS, the City Council finds and determines that the facts and conclusions in the staff report issued for the Planning Commission's July 24, 2023 hearing, on file in the city offices, are true and correct and are hereby adopted as findings of the City Council.

NOW, THEREFORE, THE CITY OF PHOENIX ORDAINS AS FOLLOWS:

Section 1. The City Council declares and proclaims that the territory described in Exhibit "A" and depicted in Exhibit "B" is annexed to the City of Phoenix.


Section 2. The zoning of the above-described properties shall be amended from Jackson County Urban Residential (UR) to City of Phoenix Commercial Highway (C-H) and Commercial on the Comprehensive Plan map.

Section 3. The City Recorder is directed to

- A. File the following with the Secretary of State and Department of Revenue:
 - a. A copy of this ordinance;
 - b. A copy of the land owner statement of consent.
- B. Mail a copy of this Ordinance to Jackson County, to all service providers and to any other parties entitled to receive this notice of its adoption.

Section 4. This application complies with the City's Comprehensive Plan and ORS Chapter 222.120 attached as Exhibit "C" and incorporated herein by reference.

PASSED AND ADOPTED by the City Council and signed by me in open session in authentication thereof this 21st day of August, 2023.

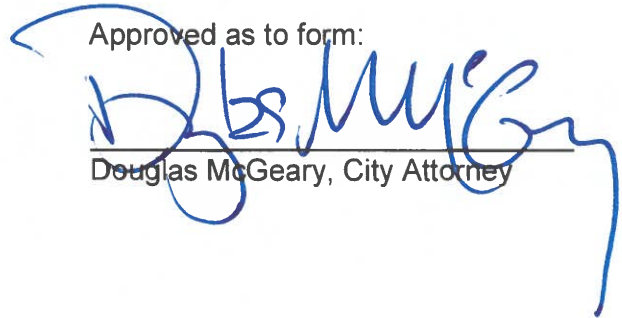


Terry Baker, Mayor

ATTEST:



Bonnie Pickett, City Recorder

Approved as to form:


Douglas McGeary, City Attorney

Exhibit "A"

See attached legal descriptions, 2 page total

After recording, please return this deed to, and (until a change is requested) send tax statements to:

Shanna Trumbly
120 Thomason Lane
Eugene, OR 97404



I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Christine Walker - County Clerk

The identities of the Grantor(s) and Grantee(s) are:

Grantor:

Walter R. Bolz and Eleanor M. Bolz Revocable Living Trust
5494 Coleman Creek Road
Medford, OR 97501

Grantee:

Shanna Trumbly, Monica Trumbly and Oliver Trumbly
120 Thomason Lane
Eugene, OR 97404

STATUTORY WARRANTY DEED

Margaret Ann Croly, the sole successor Trustee of the WALTER R. BOLZ AND ELEANOR M. BOLZ REVOCABLE LIVING TRUST U.T.A.D. January 22, 2003 (the original Co-Trustees, Walter R. Bolz and Eleanor M. Bolz, now being deceased), *Grantor*, hereby conveys and warrants to SHANNA TRUMBLY, MONICA TRUMBLY and OLIVER TRUMBLY, as equal tenants in common, *Grantees*, the real property described on Exhibit "A" attached hereto, free of encumbrances other than encumbrances of record on the date of this conveyance and those matters which would be shown by an accurate survey or inspection of the premises.

The true consideration for this conveyance is \$0.00.

Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010. This instrument will 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 that the unit of land being transferred is a lawfully established lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, 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 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010.

DATED this 2 day of April, 2018.

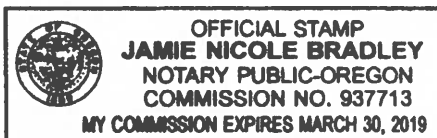
GRANTOR: WALTER R. BOLZ AND ELEANOR M. BOLZ REVOCABLE LIVING TRUST

Margaret Ann Croly, Trustee
Margaret Ann Croly, Trustee

STATE OF OREGON)
County of Jackson) ss.

The foregoing instrument was acknowledged before me this 2 day of April, 2018, by Margaret Ann Croly, Trustee of the Walter R. Bolz And Eleanor M. Bolz Revocable Living Trust, *Grantor*.

WITNESS my hand and official seal.



James Bradley
Notary Public

EXHIBIT "A" TO STATUTORY WARRANTY DEED
[Bolz Trust to Trumbly]

Description of Property Transferred

Parcel #1: 157 Fern Valley Road (381W09A 400)

Commencing at a 3/4 inch iron pin as described in Instrument No 73-09688 recorded in the Official Records of Jackson County, Oregon, said pin bears North 771.48 feet and East 1637.27 feet from the South-Southeast corner of Donation Land Claim No 41, Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon; thence North 25°57'00" West, along the Boundary Line Agreement described in said Instrument, 23.91 feet to the POINT OF BEGINNING, said point also being on the Right of Way line established by Instrument No 2014-007644 recorded in said Official Records; thence continuing along said Boundary Line Agreement, North 25°57'00" West, 180.24 feet to the South line of the Tract of Land described in Instrument No 73-06218 recorded in the Mortgage Records of Jackson County, Oregon; thence South 75°33'00" West, along said South line, 42.94 feet; thence South 0°14'30" East, 177.32 feet to said Right of Way line; thence along said Right of Way, North 80°47'40" East, 27.99 feet; thence North 77°29'57" East, 62.03 feet; thence North 75°39'06" East, 32.53 feet to the POINT OF BEGINNING.

Parcel #2: 137 Fern Valley Road (381W09A 500)

Beginning at a point on the East Line of the tract described in Volume 268, Page 563, Deed Records of Jackson County, Oregon, said point being South 0' 12' East, 1779.96 feet, from the Northeast corner of Donation Land Claim #44, Township 38 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon; thence South 73' 33' West, 127.18 feet; thence South 11' 40' East, 126.82 feet to the Northerly right-of-way line of the Edwards County Road; thence along said line North 75' 24' East, 100.0 feet; thence North 0' 12' West 135.0 feet to the point of beginning. EXCEPTING from the above described tract a strip of land 15.0 feet in width along the entire East side for road purposes: Subject To easements of record.

Parcel #3: (381W09A 401)

Commencing at a 3/4 inch iron pin as described in Instrument No 73-09688 recorded in the Official Records of Jackson County, Oregon, said pin bears North 771.48 feet and East 1637.27 feet from the South-Southeast corner of Donation Land Claim No 41, Township 38 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon; thence North 25°57'00" West, along the Boundary Line Agreement described in said Instrument, 23.91 feet to a point, said point also being on the Right of Way line established by Instrument No 2014-007644 recorded in said Official Records; thence continuing along said Boundary Line Agreement, North 25°57'00" West, 180.24 feet to the South line of the Tract of Land described in Instrument No 73-06218 recorded in the Mortgage Records of Jackson County, Oregon, and the POINT OF BEGINNING; thence South 75°33'00" West, along said South line, 42.94 feet; thence North 0°14'30" West, 97.01 feet to said Boundary Line Agreement; thence South 25°57'00" East, along said Line, 95.97 feet to the POINT OF BEGINNING.

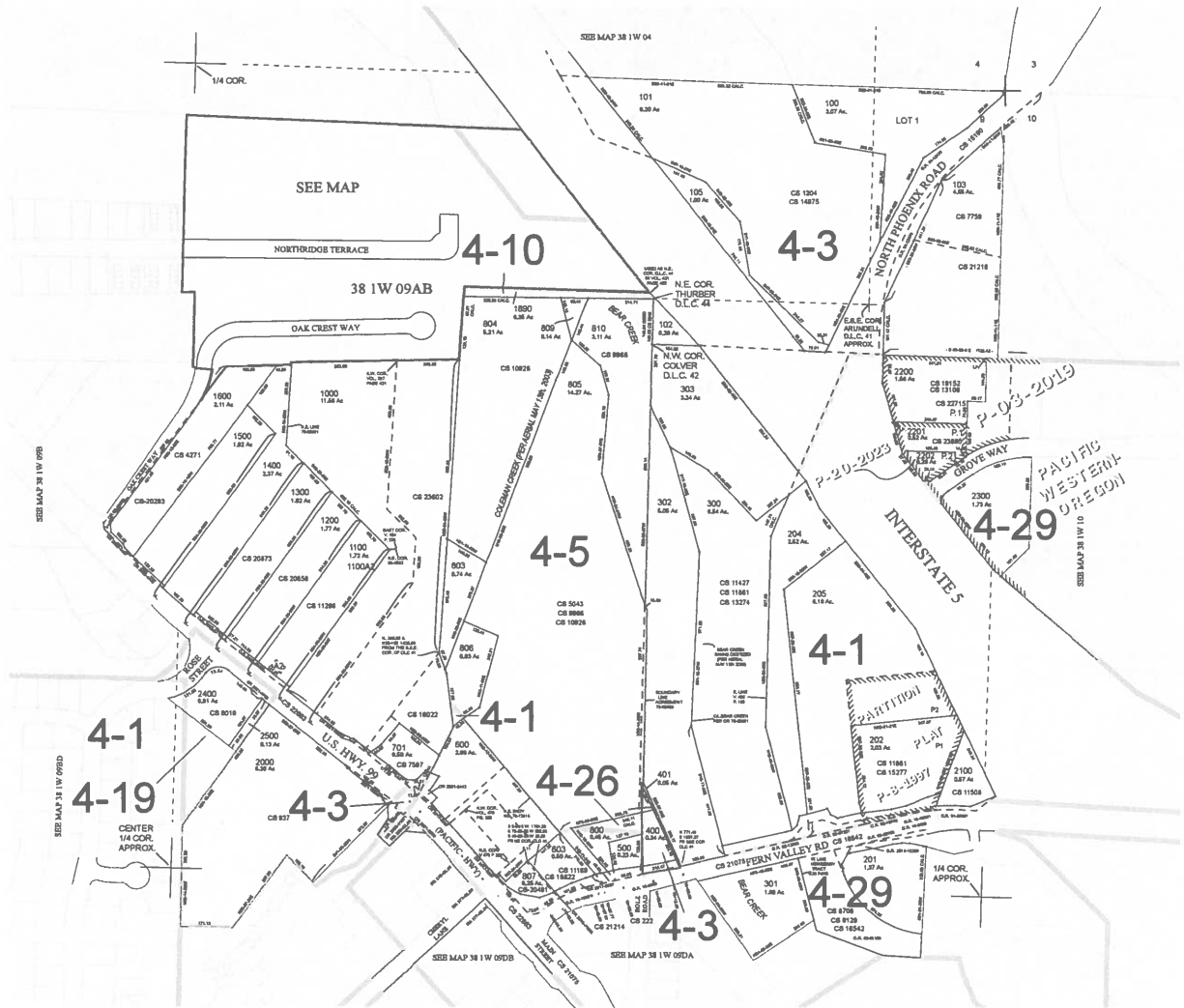
Exhibit "B"

See attached maps, 3 pages total

FOR ASSESSMENT AND TAXATION ONLY

N.E. 1/4 SEC. 9 T. 38S. R. 1W. W.M.
JACKSON COUNTY
1" = 200'

381W9A
PHOENIX

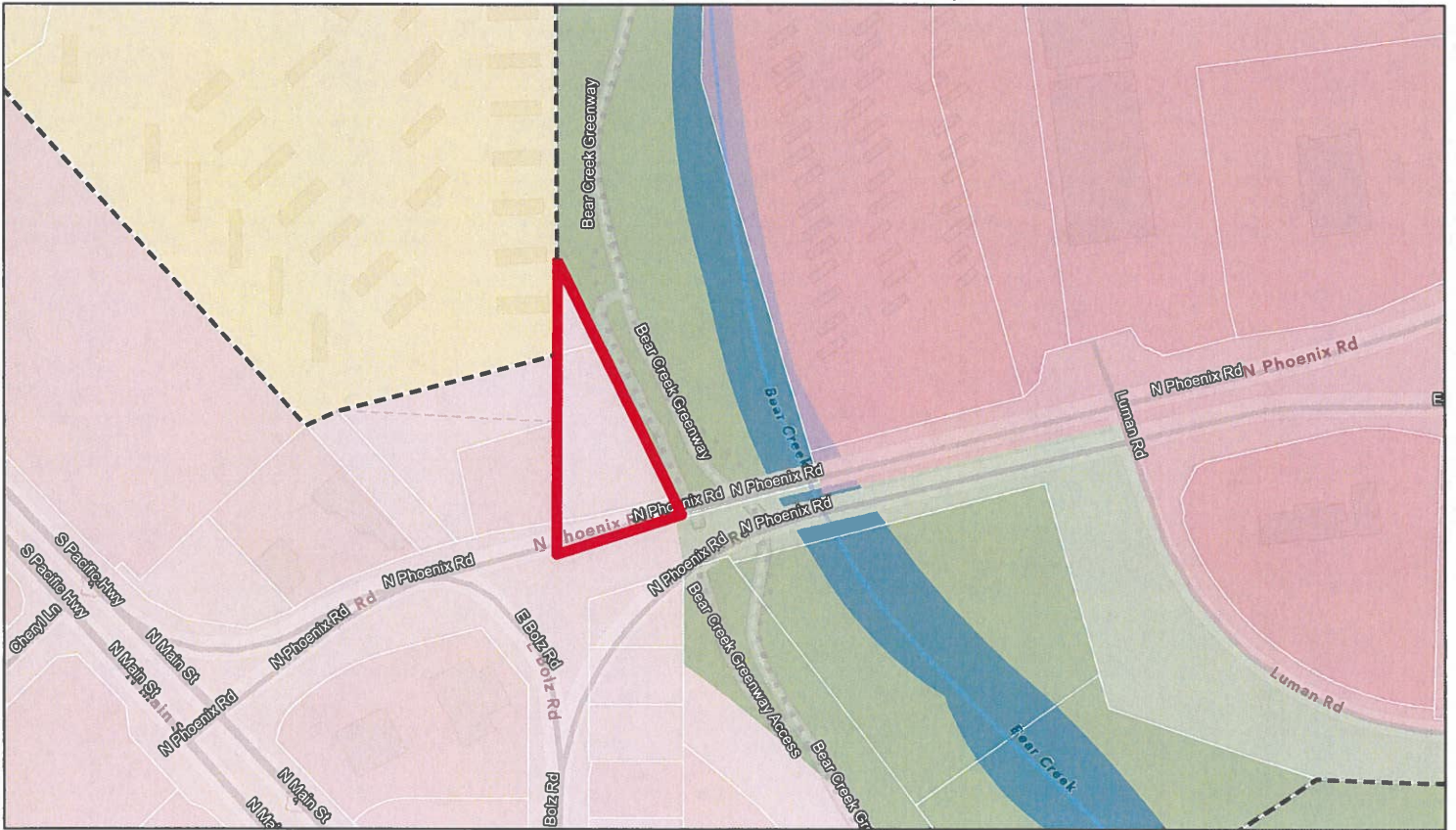


- CANCELLED TAX LOT NUMBERS
- 104 ADDED TO 103
 - 106 KILLED TO STREET
 - 107 KILLED TO STREET
 - 1700 REMAPPED TO 381W09B
 - 1701 REMAPPED TO 381W09AB
 - 1790 ADDED TO 1700
 - 1800 ADDED TO 1901
 - 200 REMAPPED TO 381W10
 - 203 ADDED TO 303
 - 205A1 KILL ONLY
 - 206 ADDED TO 205
 - 207 KILLED TO STREET
 - 304 KILL ONLY
 - 305 KILLED TO STREET
 - 501 KILL ONLY
 - 601 ADDED TO 600
 - 602 ADDED TO 600
 - 604 ADDED TO 807
 - 605 KILLED TO STREET
 - 606 KILLED TO STREET
 - 700 ADDED TO 1000
 - 801 ADDED TO 600
 - 802 ADDED TO 600
 - 807 A1 ADDED TO 807
 - 808 ADDED TO 600
 - 811 KILLED TO STREET
 - 900 ADDED TO 1000

GIS DATA
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381W9A
PHOENIX
NEW MAP March 22, 2006
REV June 21, 2023

Phoenix Comprehensive Plan Map



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City Limit (Ord 1026 Eff 02 21 2023)

Urban Growth Boundary (Ord 1020 Eff 10 19 2022)

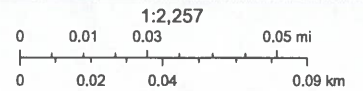
Comprehensive Plan Designations (Ord 1022 Eff 01/04/2023)

Medium Density Residential

Bear Creek Greenway

Commercial

Interchange Business

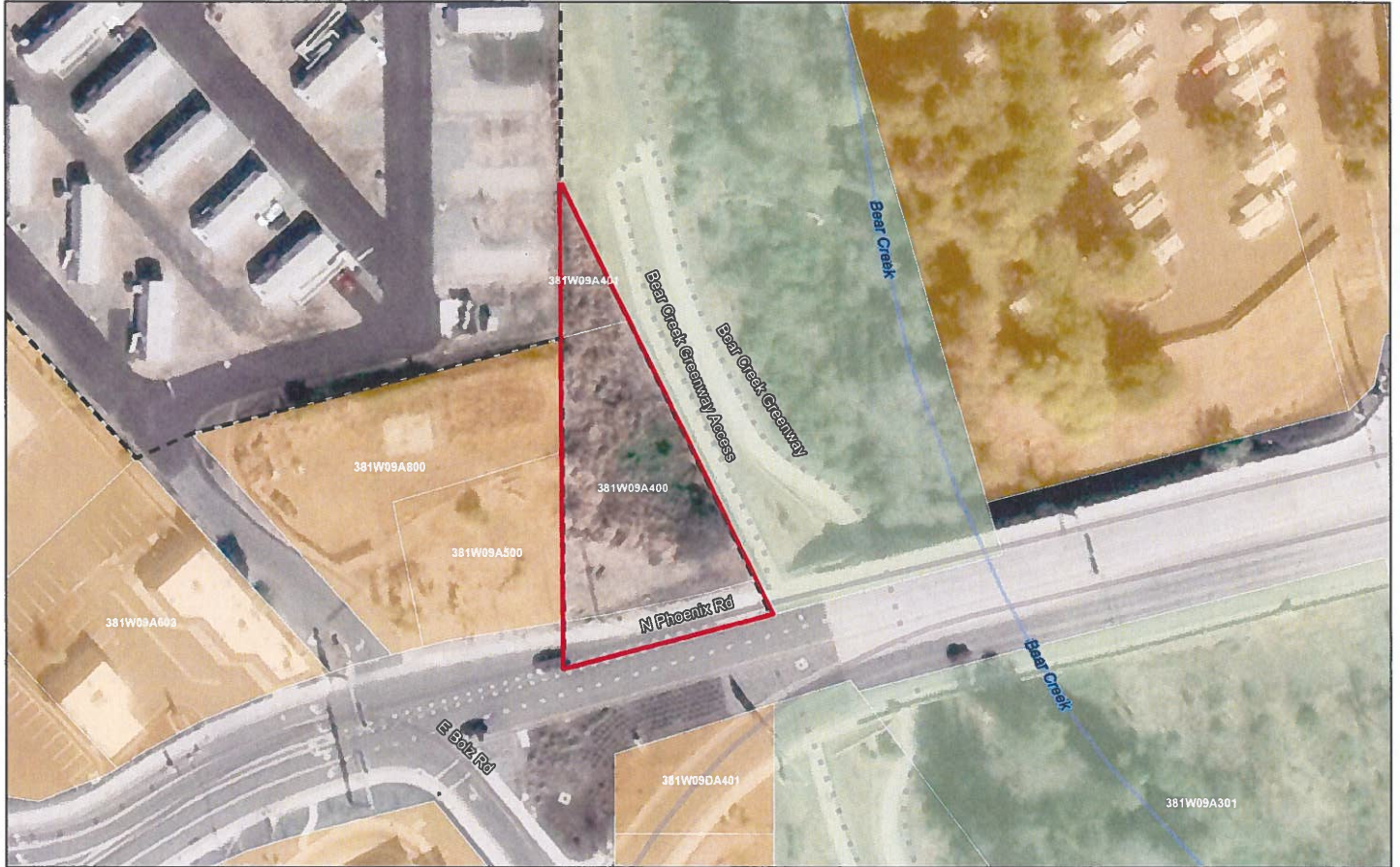


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Mapped by:

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Phoenix Zoning Map



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 City Limit (Ord 1026 Eff 02 21 2023)

 Urban Growth Boundary (Ord 1020 Eff 10 19 2022)

Land Use Districts (Ord 1026 Eff 02/21/2023)

 Commercial Highway (C-H)

 Bear Creek Greenway (BCG)

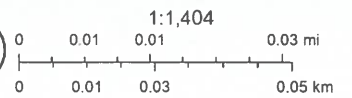


Exhibit "C"

ORS § 222.120

Procedure without election by city electors

1. Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.
2. When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.
3. The city legislative body shall cause notice of the hearing to be published once each week for two successive weeks prior to the day of hearing, in a newspaper of general circulation in the city, and shall cause notices of the hearing to be posted in four public places in the city for a like period.
4. After the hearing, the city legislative body may, by an ordinance containing a legal description of the territory in question:
 - a) Declare that the territory is annexed to the city upon the condition that the majority of the votes cast in the territory is in favor of annexation;
 - b) Declare that the territory is annexed to the city where electors or landowners in the contiguous territory consented in writing to such annexation, as provided in ORS 222.125(Annexation by consent of all owners of land and majority of electors) or 222.170 (Effect of consent to annexation by territory), prior to the public hearing held under subsection (2) of this section; or
 - c) Declare that the territory is annexed to the city where the Oregon Health Authority, prior to the public hearing held under subsection (1) of this section, has issued a finding that a danger to public health exists because of conditions within the territory as provided by ORS 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915).
5. If the territory described in the ordinance issued under subsection (4) of this section is a part less than the entire area of a district named in ORS 222.510 (Annexation of entire district), the ordinance may also declare that the territory is withdrawn from the district on the effective date of the annexation or on any subsequent date specified in the ordinance. However, if the affected district is a district named in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district), the effective date of the withdrawal of territory shall be determined as provided in ORS 222.465 (Effective date of withdrawal from domestic water supply district, water control district or sanitary district).
6. The ordinance referred to in subsection (4) of this section is subject to referendum.
7. For the purpose of this section, ORS 222.125 (Annexation by consent of all owners of land and majority of electors) and 222.170 (Effect of consent to annexation by territory), owner or landowner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If there is a multiple ownership in a parcel of land each consenting owner shall be counted as a fraction to the same extent as the interest of the owner in the land bears in relation to the interest of the other owners and the same fraction shall be applied to the parcels land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land. [Amended by 1953 c.220 §2; 1955 c.51 §1; 1961 c.511 §1; 1967 c.624 §14; 1971 c.673 §2; 1985 c.702 §8; 1987 c.818 §11; 1993 c.18 §39; 2009 c.595 §180]

CITY OF PHOENIX LAND USE ELEMENT

Adopted by ORD 1008 Page 24

Policy 3.1

The City Council may approve annexations, without referral to the City's entire electorate, when findings and facts show that development of the property or properties proposed for annexation would be consistent with the Plan and:

- A) That development on the land proposed for annexation can be served with all urban services and facilities without adverse impact 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), and
- B) Population impacts of the proposed development will not cause the City's population to grow at a rate in excess of the Comprehensive Plan, Populating Element's planned population. The population impact of residential lands development shall be computed by:
1. Multiplying the gross area in square feet times 72 percent (to account for lands dedicated to streets) then,
 2. Dividing by the maximum lot size permissible within the zone that would be applied to the property if annexed, and then,
 3. Multiplying by the average occupancy associated with the dwelling type based upon the most recent U.S. Census.

Such analysis shall be submitted by the applicant at the time of application.

An annexation conforms to the Population Element if the average rate of population growth likely to result from annexation (considering development phasing of the proposed annexation) when added to the development of previously annexed lands (considering their phasing and historical rate of development) will not exceed 133 percent of the average annual population growth rate computed as follows:

Planned Population – most recent PSU1 estimate of population Forecast Year – the year of the most recent estimate.

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.

Policy 3.4

All properties annexed to the City shall eventually be improved to City standards; including but not limited to street improvements, curbs, gutters, lighting, and other improvements included within the City's development standards or as may otherwise be specified by the City's Engineer, Public Works Director, or Planner and approved by the City Council. If required improvements are not proposed at the time of annexation, then the annexation agreement shall specify 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 proceeding 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 interest of the City. Such annexations are required to ensure orderly and equitable provision of public improvement, utilities, and community services, and to further growth and development of the community in accordance with this Plan.

Policy 3.6

The City Council may initiate "contract annexation" or an alternative procedure, other than standard annexation, when it is determined that the community will derive significant economic advantage.