



BEFORE THE PHOENIX PLANNING COMMISSION

STATE OF OREGON, CITY OF PHOENIX

IN THE MATTER OF PLANNING FILE NO. AN24-01, AN ANNEXA-)
TION OF 253 ACRES WITHIN THE CITY'S URBAN GROWTH)
BOUNDARY PURSUANT TO ORS 222.750, REMOVAL OF THE)
AREA FROM JACKSON COUNTY FIRE DISTRICT NO.2 PURSU-) ORDER
ANT TO ORS 222.524 AND ANNEXATION TO JACKSON COUNTY)
FIRE DISTRICT NO.5 PURSUANT TO ORS 198.867(3), THE)
PHOENIX PLANNING COMMISSION FINDS THE FOLLOWING:)

1. The Planning Commission held a properly noticed public hearing on this matter on February 12, 2024;
2. The Planning Commission asked the Deputy City Manager to present a staff report and a final order with findings and recommendations at the February 12, 2024 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 the subject territory is contiguous with the existing city limit, is located within the city's urban growth boundary and meets the annexation requirements of 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;
6. The Planning Commission finds that all territory proposed for annexation is territory that is surrounded by the corporate boundaries of the City of Phoenix, or the corporate boundaries of the City of Phoenix, the corporate boundaries of the City of Medford, and a creek, consistent with ORS 222.750(2);
7. The Planning Commission finds that the City, having annexed to Jackson County Fire District No.5 through an election consistent with ORS 198.866 and 198.867 in March of 2008, must also annex this territory to JCFD No.5 upon annexation to the City per ORS 198.867(3);
8. The Planning Commission finds that the territory must be removed from Jackson County Fire District No.2 pursuant to ORS 222.524 in tandem with the required annexation to Jackson County Fire District No.5;

NOW THEREFORE, the Phoenix Planning Commission recommends approval of the requested Annexation (AN24-01) application based on applicant's request and based on 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. The application for annexation is City initiated and City sponsored. **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 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 3.4

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 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 (ORS 222.750).

FINDING:

1. There are two distinct areas proposed for annexation through this application: portions of urban reserve area PH-5 and all other "enclave" areas located outside of PH-5. The areas will be referred to as PH-5 properties and non-PH-5 properties, respectively, throughout these findings. The non-PH-5 properties are served by all urban infrastructure and services. Sanitary sewer service is provided by Rogue Valley Sewer Services, water service is provided by the City of Phoenix, and all private utility providers for electricity, gas, and communications services are present within the area. Police service will transfer from Jackson County Sheriff to City of Phoenix police and fire/EMS

will transfer from Jackson County Fire District No.2 to Jackson County Fire District No.5, upon annexation.

The PH-5 properties are being annexed, in part, to help facilitate the development of urban infrastructure into this area east of I-5. The cities of Medford and Phoenix have been coordinating infrastructure planning with the major property owners and service providers (RVSS, Medford Water, ODOT) within PH-5 and MD-5 in Medford. Some portions of PH-5 can be served by extending existing infrastructure into development areas, but other portions will require large-scale upgrades to sewer, water and/or transportation infrastructure prior to development. These conditions are understood and recognized by the service providers, the land owners, and the two cities. The annexation of PH-5 is a necessary next step in developing infrastructure into the area.

2. Both the non-PH-5 properties and the PH-5 properties will benefit by the development of a new water storage reservoir on the east side of PH-5. This reservoir, which is being developed primarily to aid in the transition of the Charlotte Ann Water District to the City of Phoenix, was funded by the State of Oregon through HB5006. The construction of this reservoir, along with other improvements to the water system being done as part of the transition, will ensure that there is adequate water system infrastructure in place to serve both existing and planned development within the urban growth boundary. Because PH-3 has been previously developed, the change from an urbanized area in Jackson County to an urbanized area within Phoenix is not expected to materially affect availability for any urban level service. As mentioned above, PH-5 infrastructure will be developed to ensure that adequate capacity is available to the area without effecting capacity in other parts of the system. Provision of the services can be accomplished without adversely affecting existing or future development within the City's current Urban Growth Boundary.
3. Development on the annexed properties must comply with the City's Land Development Code which requires improvements to infrastructure and facilities that meet the City's specifications. This will be reviewed during subdivision and site design/development review.
4. All properties proposed for annexation are within "islands" or "enclaves" consistent with ORS 222.750. This annexation proposal is directly in line with Policy 3.5.

The standard is met.

Urbanization Element – Goals & Policies

Goal 2: *Ensure efficient urban development patterns that comply with Regional Plan performance indicators.*

Policy 2.1

Neighborhood or Special Area Plans shall be submitted to and approved by the City using a Type IV Land Use decision process, and adopted into the City's Comprehensive Plan as a separate Element, prior to or simultaneously with a request to annex any lands included in the City's UGB that have been designated as Urban Reserve Areas (URA) by the Regional Plan. At minimum, these plans shall demonstrate the following:

1. *Consistency with the arrangement of proposed land uses and urban infrastructure (e.g. transportation network) depicted by applicable Conceptual Land Use and Transportation plans that have been adopted for that particular URA;*

2. *Compliance with applicable Regional Plan performance indicators, especially indicators 3-10.*
3. *Safegaurds against parcelization and land uses which are inconsistent with the purpose of PH-5 as a regional employment center.*
4. *Conformance with all other applicable goals and policies of the City's Comprehensive Plan.*

Policy 2.2

The City shall develop land use regulations that ensure the availability of tracts of land within PH-5 suitable for development by larger, traded-sector employers consistent with the findings and conclusions of the Economic Element, the Local Economic Opportunity Analysis, and the Regional Economic Opportunity Analysis.

In particular, these regulations shall be consistent with the parcelization depicted in Policy 6.1 of the Land Use Element, based on Table 4-3 of the Economic Element. Amendments of its Land Development Code necessary to effectively implement this policy shall be adopted by the City prior annexation of any lands in PH-5.

Policy 2.3

Upon annexation, lands in PH-5 with an employment comprehensive land use plan designation, such as "Industrial", shall receive the new zoning designation outlined in the Restricted Land Uses in PH-5 portion of the Land Use Element, consistent with Regional Plan Performance Indicator 9.

FINDING:

1. These policies apply only to the PH-5 properties, not to the non-PH-5 properties as those properties exist within previously urbanized areas and will retain like zoning/development potential upon annexation.
2. As part of the process of amending the urban growth boundary, the City of Phoenix adopted a Land Development Code amendment creating a new Holding Zone specifically for the purpose of annexing PH-5 lands prior to assigning developable zoning to the properties. This was done in recognition of the need to annex the area to facilitate the development of infrastructure.
3. The City is committed to adhering to Urbanization Element policies 2.1-2.3 prior to any of the land being made available for development through zoning. In fact, the City is working with the major land owners in the area to craft zoning language to implement policies 2.2 and 2.3 through the creation of a new Industrial zone, as anticipated by the Urbanization Element. The final language of the new zone, which must be reviewed by the Planning Commission and adopted by the City Council, will help to inform the Neighborhood or Special Area Plan that will be adopted to address policy 2.1.
4. Upon annexation, the PH-5 properties will be designated Holding Zone and will not be available for development until Urbanization Element Policies 2.1 – 2.3, along with all applicable provisions of Phoenix Land Development Code Chapter 4.7 have been addressed.

5. The properties are to be annexed now to facilitate the development of infrastructure into the area. The City has been allocated \$4.5 million through SB 5506 for the development of certain critical infrastructure into the area and is currently working with State leaders to receive additional funds to continue this work.

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.*

FINDING: The subject territory is contiguous with the current Phoenix city boundary. **The standard is met.**

222.750 – Annexation of unincorporated territory surrounded by city; delayed annexation for certain property.

- (2) When territory not within a city is surrounded by the corporate boundaries of the city, or the corporate boundaries of the city and the corporate boundaries of another city, the ocean shore, a river, a creek, a bay, a lake or Interstate Highway 5, the city may annex the territory pursuant to this section after holding at least one public hearing on the question for which notice has been mailed to each record owner of real property in the territory proposed to be annexed.*

- (3) *This section does not apply if the territory not within a city:*
- (a) *Is surrounded entirely by water; or*
 - (b) *Is surrounded as provided in subsection (2) of this section, but a portion of the corporate boundaries of the city that consist only of a public right of way, other than Interstate Highway 5, constitutes more than 25 percent of the perimeter of the territory.*
- (4) *Unless otherwise required by the city charter, annexation by a city under this section must be by ordinance or resolution subject to referendum, with or without the consent of any owner of real property within the territory or resident in the territory.*
- (5) *For property that is zoned to allow residential use as a permitted use in the zone and is in residential use when annexation is initiated by the city under this section, the city shall specify an effective date for the annexation that is at least three years and not more than 10 years after the date the city proclaims the annexation approved. The city recorder or other officer performing the duties of the city recorder shall:*
- (a) *Cause notice of the delayed annexation to be recorded by the county clerk of the county in which any part of the territory subject to the delayed annexation is located within 60 days after the city proclaims the annexation approved; and*
 - (b) *Notify the county clerk of each county in which any part of the territory subject to delayed annexation is located not sooner than 120 days and not later than 90 days before the annexation takes effect.*
- (6) *Notwithstanding subsection (5) of this section:*
- (a) *Property that is subject to delayed annexation becomes part of the city immediately upon transfer of ownership.*
 - (b) *The record owner of real property described in subsection (5) of this section that is located in the territory to be annexed may waive the delay of the effective date of the annexation provided under subsection (5) of this section. The property becomes part of the city immediately upon waiver.*

FINDING: As shown in the Enclaves maps (attached Exhibit A to staff report), there are 10 unique territories relevant to Phoenix which meet these standards for enclave annexation. As shown on the maps, Enclaves A-F and H-J are all completely surrounded by the corporate boundaries of the City of Phoenix, and, as shown on the Territories to be Annexed maps (attached Exhibit B to staff report), are proposed to be annexed in their entirety. Enclave G is surrounded by the corporate boundaries of the City of Phoenix, the corporate boundaries of the City of Medford, and a portion of Bear Creek. Only the portions of Enclave G located within the UGB of Phoenix are proposed to be annexed as only these areas are eligible for annexation to Phoenix.

None of the areas to be annexed is surrounded entirely by water or is surrounded, but has a portion of the corporate boundaries of the city that consist only of a public right of way, other than Interstate Highway 5, for more that 25 percent of the perimeter of the territory.

Should City Council elect to approve the proposed annexation, the annexation will be accomplished through ordinance subject to referendum.

Properties within the proposed annexation area that are both zoned for residential use and are currently in residential use will have an effective date for annexation that is at least three years after the date the city proclaims the annexation approved. Exhibit C to the Staff Report is a series of maps showing non-residential properties and residential properties. Exhibit D to the Staff Report is a list of all non-residential properties, which will have an effective date for annexation of March 25, 2024, and a list of all residential properties, which will have an effective date of annexation of March 25, 2027. Any of the Residential properties that are sold during the period of delayed annexation will annex immediately upon sale (ORS 222.750(6)).

All required noticed will be sent to the Jackson County clerk regarding the delayed annexation. **These standards are met.**

URBAN GROWTH BOUNDARY AGREEMENT

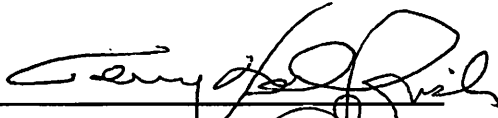
The City of Phoenix and Jackson County manage the urbanization of land through an Urban Growth Boundary and Policy Agreement that was ratified by in 1995. According to this *agreement*

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 properties are located within the officially adopted Urban Growth Boundary. The city has notified the county of the proposed annexation.

The non-PH-5 properties are served by all urban infrastructure and services. Sanitary sewer service is provided by Rogue Valley Sewer Services, water service is provided by the City of Phoenix, and all private utility providers for electricity, gas, and communications services are present within the area. Police service will transfer from Jackson County Sherriff to City of Phoenix police and fire/EMS will transfer from Jackson County Fire District No.2 to Jackson County Fire District No.5 upon annexation.


The PH-5 properties are being annexed, in part, to help facilitate the development of urban infrastructure into this area east of I-5. The cities of Medford and Phoenix have been coordinating infrastructure planning with the major property owners and service providers (RVSS, Medford Water, ODOT) within PH-5 and MD-5 in Medford. Some portions of PH-5 can be served by extending existing infrastructure into development areas, but other portions will require large-scale upgrades to sewer, water and/or transportation infrastructure prior to development. These conditions are understood and recognized by the service providers, the land owners, and the two cities. The annexation of PH-5 is a necessary next step in developing infrastructure into the area. **The standard is met.**



Terry Helfrich
Planning Commission Chair

1-22-24

Date

ATTEST


Joe Slaughter
Deputy City Manager

1/22/2024

Date