

RESOLUTION NO. 1325

A RESOLUTION ANNEXING CERTAIN PROPERTY INTO THE CITY OF PRINEVILLE

The Prineville City Council (“Council”) makes the following findings:

BACKGROUND:

The City of Prineville (“City”) has received from Crook County, a petition to annex into the City real property located in Crook County, Oregon, owned by Crook County and described as follows:

A PORTION OF PARCEL 2 OF PARTITION PLAT NO. 2011-08, RECORDED NOVEMBER 21, 2011 AS INSTRUMENT NO. 2011-249614, RECORDS OF CROOK COUNTY, OREGON, LYING WITHIN SECTIONS 1 AND 2, TOWNSHIP 15 SOUTH, RANGE 15 EAST, WILLAMETTE MERIDIAN, CROOK COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

SECTION 1

- SOUTHWEST QUARTER (SW1/4);
- SOUTH HALF OF THE NORTHWEST QUARTER (S1/2NW1/4);
- THAT PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER (S1/2SE1/4) LYING WESTERLY; OF OCHOCO HIGHWAY (U.S. 126);
- LESS THAT PORTION OF SAID PROPERTY WITHIN CITY LIMITS;

SECTION 2

- SOUTH HALF (S1/2) OF GOVERNMENT LOT 1;
- SOUTH HALF (S1/2) OF GOVERNMENT LOT 2;
- SOUTH HALF OF THE NORTHEAST QUARTER (S1/2NE1/4);
- NORTHEAST QUARTER OF THE SOUTHEAST QUARTER (NE1/4SE1/4);

Also known as Tax Map No. 15S-15E-02 Tax Lot 00200 and a portion of Tax Map No. 15S-15E-00 Tax Lot 00300 as shown on Exhibits A and B attached hereto, hereafter referred to as the “Property”.

LEGAL CRITERIA AND FINDINGS:

I. OREGON REVISED STATUTES

A. ORS 222.111, Authority and Procedure for Annexation.

(1) When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 to 222.180 or 222.840 to 222.915, the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right of way or a stream, bay, lake or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.

FINDING: The Property is contiguous to the Prineville City limits, is located within the City’s Urban Growth Boundary, which has been acknowledged to be suitable for urban levels of Industrial development and is developed with sufficient transportation infrastructure to serve urban Industrial uses. A portion of the property, approximately 38 acres, has a County Industrial Zone designation and County Industrial Comprehensive Plan designation which is appropriate for inclusion in the City UGB and City services can be extended to serve the Property. The Property is designated for Industrial use.

In addition to the statutory criteria of ORS Chapter 222, the City finds that the proposed annexation meets the judicially imposed “reasonableness” test set forth in *Portland General Elec. Co. v. City of Estacada*, 194 Or. 145, 291 P.2d 1129 (1952) and the cases following it. Although the question of reasonableness is based on a case by case analysis, the

reasonableness factors identified by the Oregon courts include:

- whether the contiguous territory represents the actual growth of the city beyond its city limits;
- whether it is valuable by reason of its adaptability for prospective town uses;
- whether it is needed for the extension of streets or to supply residences or businesses for city residents; and
- whether the territory and city will mutually benefit from the annexation.

DLCD v. City of St. Helens, 138 Or App. 222, 227-28, 907 P.2d 259 (1995).

The present annexation satisfies the reasonableness factors because it was requested by the property owner for the purpose of connecting to City water and sewer services which are allowed by Oregon land use law. The Property is contiguous to the City and the annexation will benefit the City by extending City limits in an orderly fashion and increasing the tax base.

(2) A proposal for annexation of territory to a city may be 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 present proposal was initiated by the property owners of the territory to be annexed.

(3) The legislative body of the city shall submit, except when not required under ORS 222.120, 222.170 and 222.840 to 222.915 to do so, the proposal for annexation to the electors of the territory proposed for annexation and, except when permitted under ORS 222.120 or 222.840 to 222.915 to dispense with submitting the proposal for annexation to the electors of the city, the legislative body of the city shall submit such proposal to the electors of the city. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose.

FINDING: The present annexation is being conducted pursuant to and meets the requirements for annexation under ORS 222.125 because the sole landowners of the territory proposed for annexation have consented to the annexation in writing and there are no electors residing in the territory to be annexed.

B. ORS 222.125, Annexation by consent of all owners of land and majority of electors; proclamation of annexation.

The legislative body of a city need not call or hold an election in the city or in any contiguous territory proposed to be annexed or hold the hearing otherwise required under ORS 222.120 when all of the owners of land in that territory and not less than 50 percent of the electors, if any, residing in the territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the legislative body. Upon receiving written consent to annexation by owners and electors under this section, the legislative body of the city, by resolution or ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. [1985 c.702 §3; 1987 c.738 §1]

FINDING: The sole property owner of the territory to be annexed has consented in writing to the annexation and there are no electors residing on the property. The above statute does not require a hearing on the annexation.

C. ORS 222.177, Filing of annexation records with Secretary of State.

When a city legislative body proclaims an annexation under ORS 222.125, 222.150, 222.160 or 222.170, the recorder of the city or any other city officer or agency designated by the city legislative body to perform the duties of the recorder under this section shall transmit to the Secretary of State:

(1) A copy of the resolution or ordinance proclaiming the annexation.

(2) An abstract of the vote within the city, if votes were cast in the city, and an abstract of the vote within the annexed territory, if votes were cast in the territory. The abstract of the vote for each election shall show the whole number of electors voting on the annexation, the number of votes cast for annexation and the number of votes cast against annexation.

(3) If electors or landowners in the territory annexed consented to the annexation under ORS 222.125 or 222.170, a copy of the statement of consent.

(4) A copy of the ordinance issued under ORS 222.120 (4).

(5) An abstract of the vote upon the referendum if a referendum petition was filed with respect to the ordinance adopted under ORS 222.120 (4). [1985 c.702 §4; 1987 c.737 §7; 1987 c.818 §10]

FINDING: The City will submit the necessary documents to the Secretary of State following Council approval of this Resolution.

D. ORS 222.180, Effective date of annexation.

(1) The annexation shall be complete from the date of filing with the Secretary of State of the annexation records as provided in ORS 222.177 and 222.900. Thereafter the annexed territory shall be and remain a part of the city to which it is annexed. The date of such filing shall be the effective date of annexation.

(2) For annexation proceedings initiated by a city, the city may specify an effective date that is later than the date specified in subsection (1) of this section. If a later date is specified under this subsection, that effective date shall not be later than 10 years after the date of a proclamation of annexation described in ORS 222.177. [Amended by 1961 c.322 §1; 1967 c.624 §15; 1973 c.501 §2; 1981 c.391 §5; 1985 c.702 §12; 1991 c.637 §9]

FINDING: The present annexation request was initiated by the property owners and will be complete as of the date of filing with the Secretary of State.

II. OREGON ADMINISTRATIVE RULES

A. OAR 660-014-0060, Annexation of Lands Subject to an Acknowledged Comprehensive Plan.

A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the commission to have been made in accordance with the goals unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. [Stat. Auth.: ORS Ch 196 & 197]

FINDING: The City of Prineville's Comprehensive Plan has been acknowledged by the Land Conservation and Development Commission pursuant to ORS 197.251 and 197.625. Therefore, the present annexation request is considered to be made in accordance with the statewide planning goals and the goals need not be directly applied to this decision.

III. CITY OF PRINEVILLE CODE

A. Chapter 153. Land Development; Section 153.034, Zoning of Annexed Areas.

An area annexed to the City shall, upon annexation, assume the zoning classification determined by the City to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.

FINDING: The Planning Commission considered the present annexation request as part its August 22, 2017 meeting. A recommendation from the Planning Commission to the City Council was made at the August 22, 2017 meeting. Based on the fact that the Comprehensive Plan designation for the Property is Industrial, the current County zoning is Industrial, the surrounding area within the County and City is zoned County Industrial on three sides, the City/County Urban Growth Management Agreement (UGMA) requires a rezoning classification for the Property to be City Light Industrial (M1).

BASED UPON the above findings, the City of Prineville hereby resolves as follows:

1. The Property described above and shown in Exhibits 'A' and 'B' is hereby annexed into the City of Prineville.
2. The Property is hereby rezoned from the current Crook County Industrial zones (HM) and (LM) to City Light Industrial (M1), which zoning is in compliance with the City's comprehensive plan and City policy concerning the rezoning of annexed properties for compatibility with the existing uses and/or previous Crook County zoning designations.
3. The City Manager or his designee shall submit to the Oregon Secretary of State the necessary documents showing the Property has been annexed into the City of Prineville.
4. This Resolution becomes effective immediately.

Approved by the City Council on the ____ day of August, 2017.

Bette J. Roppe, Mayor

ATTEST:

Lisa Morgan, City Recorder

EXHIBIT A

T.15S. R.15E. W.M.
CROOK COUNTY
1" = 2000'

15S15E

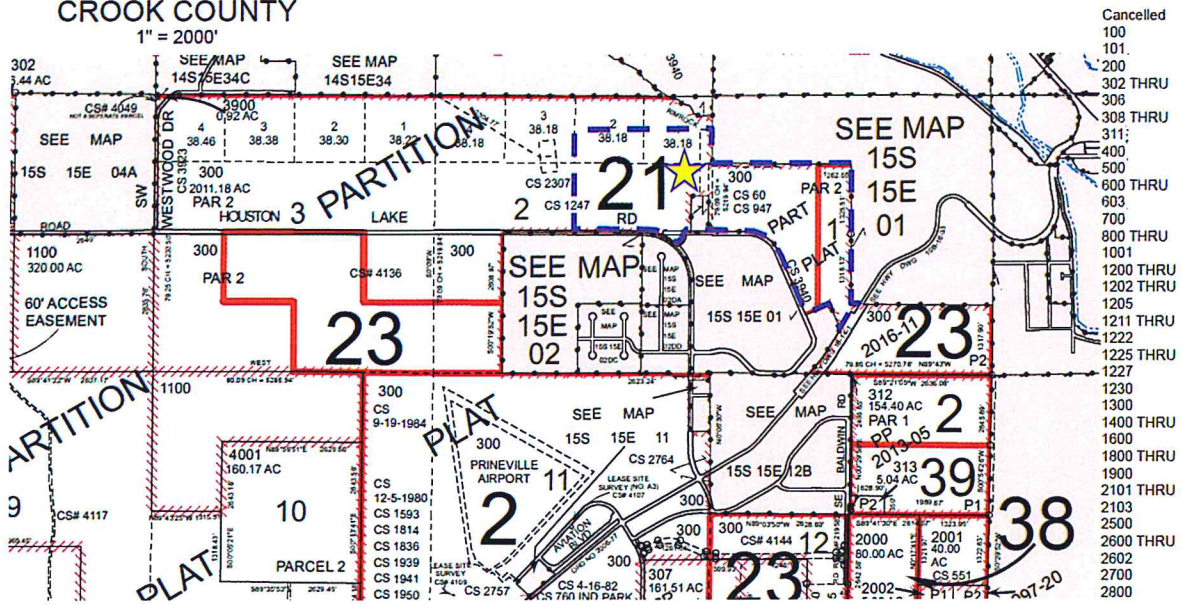


EXHIBIT B

Annexation - Before.

Annexation - After.

