

## RESOLUTION NO. 1202

### A RESOLUTION ANNEXING CERTAIN PROPERTY INTO THE CITY OF PRINEVILLE

The Prineville City Council makes the following findings:

#### **BACKGROUND:**

The City of Prineville has received from State of Oregon Department of State Lands c/o Louise Solliday, a petition to annex into the City the parcel of real property described as the east half of the northwest quarter (E ½, NW ¼) of Section 14, Township 15 South, Range 15 East of the Willamette Meridian, Crook County, Oregon, being more particularly described as follows:

Beginning at the north quarter corner of Section 14, thence along the north-south centerline of Section 14, South 00°17'19" West, 2623.50 feet to the east-west centerline of Section 14; thence leaving said north-south centerline and along said east-west centerline, North 89°44'14" West, 1320.84 feet to the north-south centerline of the northwest quarter of Section 14; thence leaving said east-west centerline and along said north-south centerline, North 00°13'17" East, 2619.36 feet to the north line of Section 14; thence leaving said north-south centerline and along said north line, South 89°54'58" East, 1323.92 feet to the point of beginning. (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 and is located within the City's Urban Growth Boundary as approved by Ordinance 1193. A boundary line adjustment application BA-2012-101 has been approved with the neighboring property to the East (currently tax lot 1224). This adjustment will divide the properties north and south along the quarter section line rather than east and west. The property is acknowledged to be suitable for urban development and City services can be easily extended to serve the Property. The Property is designated for future light 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 (citations omitted). 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 the Property is contiguous to the City, was brought into the City's UGB as necessary for future urban, industrial development, is needed to provide a large light industrial parcel upon which to locate a large scale light industrial use and annexation will benefit the City in the form of economic growth and increased 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 owner 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 landowner of the territory proposed for annexation has 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 to the annexation and there are no electors residing within the territory. 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 owner 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.

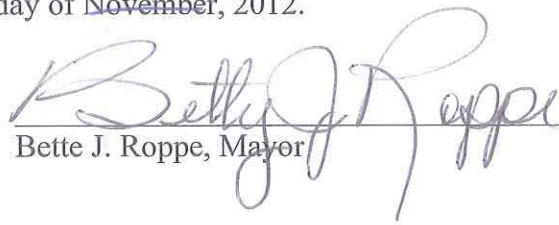
An area annexed to the City shall, upon annexation, assume the zoning classification determined by the City to be in compliance with the Comprehensive Plan; the determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.

**FINDING:** The Planning Commission considered the present annexation request at its December 4, 2012, meeting and recommended approval to the City Council. Based on the Comprehensive Plan designation of Light Industrial and the current County zoning of Light Industrial (LM) as well as neighboring zones the Planning Commission recommended the zoning classification for the Property be Light Industrial (M1).

BASED UPON the above findings it is hereby resolved as follows:

1. The Property and any adjacent rights-of-way are hereby annexed into the City of Prineville.
2. The Property is hereby rezoned to M1 (Light Industrial) from the current County zone as shown on the map attached hereto as Exhibit A, 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.

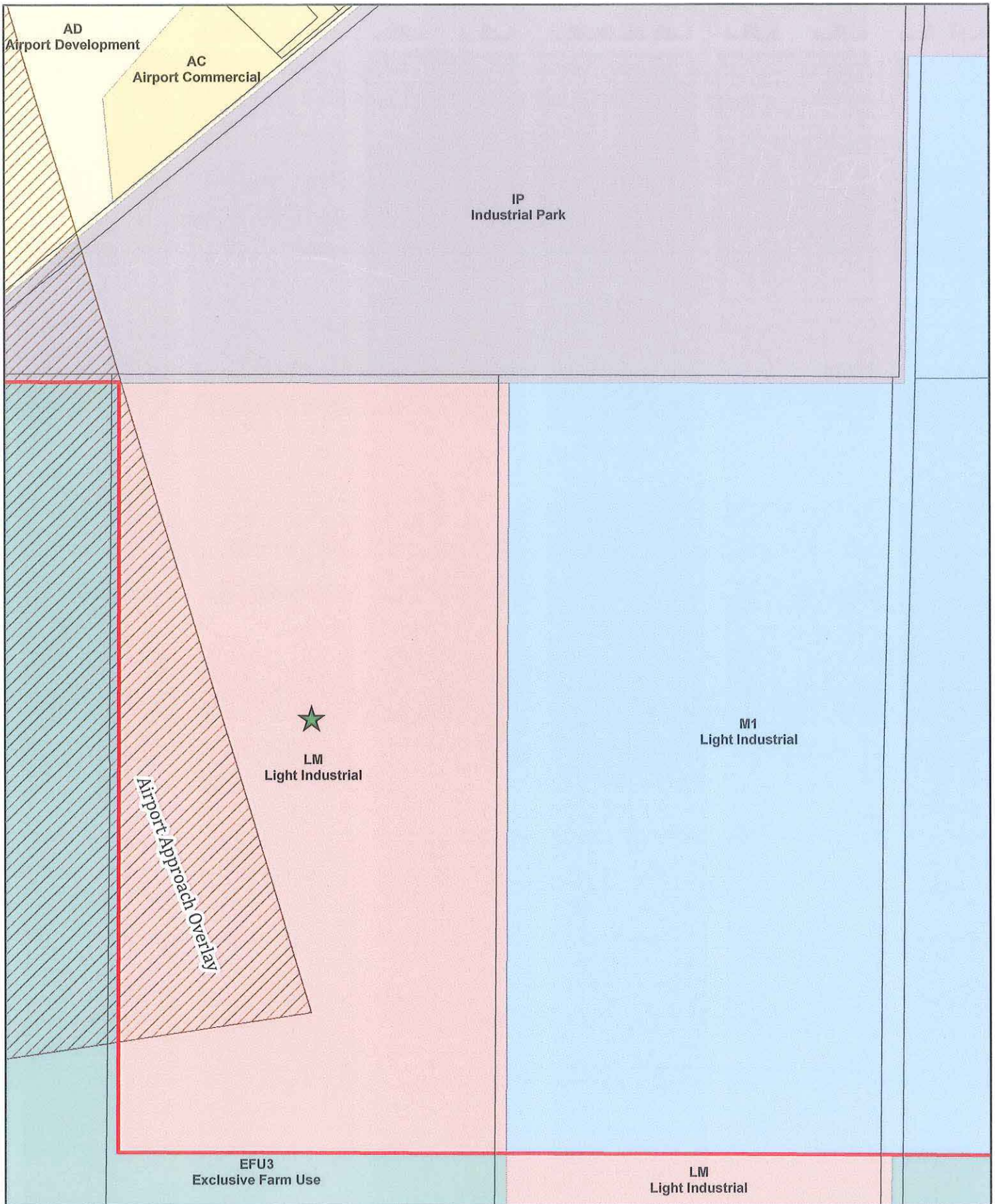
Approved by the City Council on the 11<sup>th</sup> day of <sup>December</sup> ~~November~~, 2012.

  
Bette J. Roppe, Mayor

ATTEST:

  
Lisa Morgan, City Recorder

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# Exhibit 'A'

## Resolution 1202

Zoning prior to annexation  
 Date: 12/5/2012  
 ANX-2012-101



# City of Prineville

DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT  
Planning Commission Recommendation

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**Annexation Overview:** Department of State Lands property west of SW George Millican Rd. Map & Tax lot 15-15-14 0002300.

**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 and/or the City/County Urban Growth Management Agreement. The determination shall be made by the City Council upon receipt of a recommendation relative thereto from the City Planning Commission.*

**URBAN GROWTH BOUNDARY AGREEMENT**

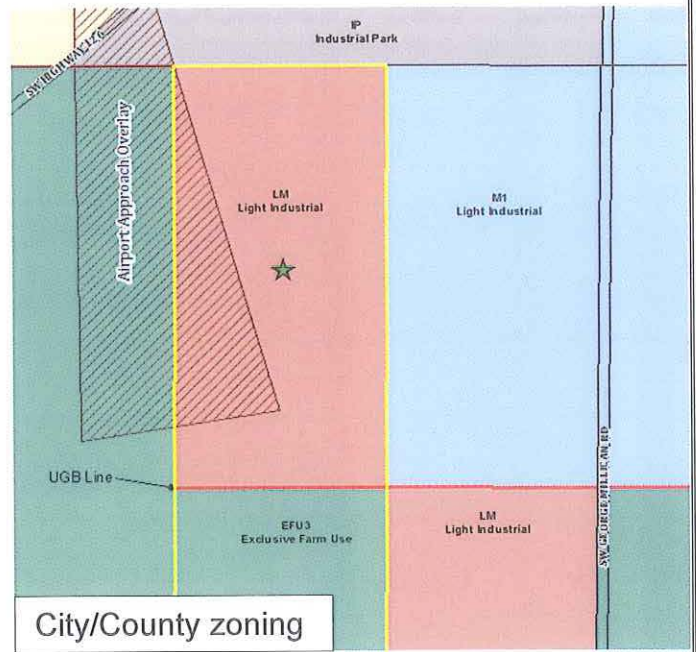
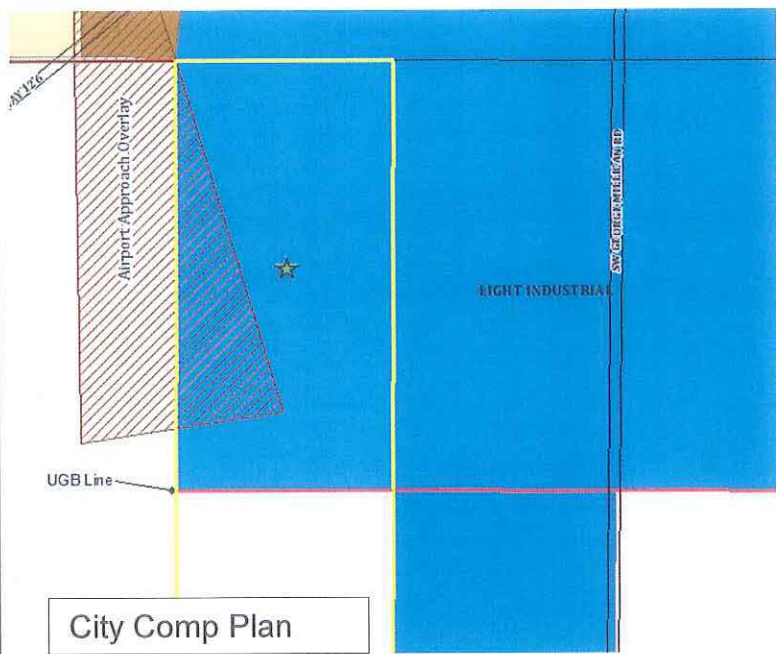
*F. As a part of any annexation process, the City shall rezone unincorporated lands within the Prineville Urban Growth Boundary Area from the current County Zoning to the appropriate City zoning in compliance with the Urban Area Comprehensive Plan.*

**Finding 1:** The urban growth boundary was modified by Ordinance 1193 on 08/14/2012 to include the north half of this property and modify the zoning to light industrial on the Comprehensive Plan Map. Crook County has also modified the zoning from EFU3 to Light Industrial (LM). This property and the one to the east have been approved for a boundary line adjustment that will split the properties north and south along the southern UGB line rather than east and west as shown below. It is expected that the light industrial zone to the east will simply be expanded to cover this property rather than creating a split zoned property.

**Finding 2:** Per the City's zoning code (153.034); when a property petitions to annex the City Planning Commission shall make a recommendation to the City Council designating the zoning of the subject property.

The Urban Growth Boundary Agreement with the County requires us to comply with the comprehensive plan but also select an appropriate City zone based on the current County zone. Therefore the zoning determination is based on three factors; first the Comprehensive plan designation, second the current County zoning and third the surrounding City zoning and function of the area.

The current Comprehensive Plan zoning for the proposed property is Light Industrial and the current County zoning is Light Industrial as shown below.



**Planning Commission:** The Planning Commission recommends this property be zoned Light Industrial (M1) upon annexation to the City based on the following:

- Comprehensive Plan designation of Light Industrial
- Current County Zone of Light industrial (LM)
- The fact that the property will be combined with the northern portion of the property to the east that is already zoned (M1).

Marty Bailey

*Marty Bailey*

Planning Commission Chair