

ORDINANCE NO. 4677

AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF ALBANY OF CONTIGUOUS TERRITORY CONSISTING OF 2.13 ACRES OF PROPERTY LOCATED AT 4129 SANTIAM HIGHWAY SE AND WITHDRAWING SAID TERRITORY FROM THE ALBANY RURAL FIRE PROTECTION DISTRICT.

WHEREAS, the Planning Commission of the City of Albany has recommended that a certain territory described in Section 1 of this Ordinance which is contiguous to the City of Albany be annexed and that more than 50% of the owners of the property in said area who own more than 50% of the land and real property therein and representing more than one-half of the assessed value of the real property therein have consented in writing to the annexation, said consent having heretofore been filed with the City Recorder in the matter prescribed by law; and

WHEREAS, the City Council, by Ordinance No. 4674 adopted on the 13th day of March, 1985, dispensing with an election submitting to the voters of the city the question of annexation of said territory, did hold a public hearing on the annexation question and the further question of withdrawing said territory, if annexed, from the Albany Rural Fire Protection District, at 7:15 o'clock p.m. on the 27th day of March, 1985, in the Council Chambers of the City Hall in said city at which time and place the voters of the City were given an opportunity to be heard on the questions involved; and

WHEREAS, notices of said public hearing were 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 said Ordinance and the published notice, and it appears to be in the best interest of the City and of the area involved that it be annexed to the City of Albany and withdrawn from the Albany Rural Fire Protection District; and

WHEREAS, the City Council has based its decision on facts and conclusions stated in accordance with the findings on file with the City Recorder which are adopted by separate motion and incorporated by reference herein for the annexation and zoning of this property and which are hereby adopted as findings of the Council; now, therefore,

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The following described property to-wit: (See attachment); is hereby proclaimed to be annexed to the City of Albany, Oregon, and zoned CH Heavy Commercial.

Section 2: That the above described territory annexed to the City of Albany is hereby withdrawn from the Albany Rural Fire Protection District.

Section 3: After the effective date of this ordinance, the City Recorder shall submit to the Secretary of State of the State of Oregon and the Oregon State Department of Revenue a transcript of the annexation proceedings, a copy of this ordinance, a copy of Ordinance No. 4674 and a copy of the complete consent document signed by the landowners within the territory annexed. The City Recorder shall also, within 10 days after the transcript has been filed with the Secretary of State of the State of Oregon, report this annexation to the County Clerk and to the County Assessor of Linn County, Oregon.

Section 4: That the property described in Section 1 hereof shall be effectively annexed to the City of Albany on the date that the complete abstract of the annexation proceedings as specified in Section 3 of this ordinance is filed with the Secretary of State of the State of Oregon.

Passed by the Council: April 10, 1985

Approved by the Mayor: April 12, 1985

Effective Date of this Ordinance: May 10, 1985

Effective Date of this Annexation: \_\_\_\_\_  
(date filed with Oregon Secretary of State)

Jon Holman  
Mayor

ATTEST:

*[Signature]*  
City Recorder

Beginning at a point South 945.45 feet and South 89°59' West 1164.95 feet from the Southwest corner of the Hugh Nickerson Donation Land Claim No. 39 in Township 11 South, Range 3 West of the Willamette Meridian in Linn County, Oregon; running thence South 89°59' West a distance of 374.50 feet; thence North 300.00 feet; thence North 89°59' East 374.50 feet; thence south 162.00 feet; thence North 89°59' East 18.00 feet; thence South 138.00 feet to the North line of the Edward N. White Donation Land No. 48; thence South 89°59' West 18.00 feet to the true place of beginning. EXCEPTING THEREFROM: That portion conveyed to the Oregon State Highway Department on February 19, 1941 by deed recorded in Book 153, page 481, Linn County Deed Records. AN-02-85

1402

2.13 Acres

4. Fire: The Albany Fire Department reports that the subject property is within the proper running distance of Station for first due Engine Company response.

## FINDINGS

### Conformance With The Adopted Comprehensive Plan

The proposed annexation is in conformance with the acknowledged Albany Comprehensive Plan Map and Plan Policies.

The property proposed for annexation is within the area covered by the Comprehensive Plan for the City of Albany, and is included within the acknowledged Urban Growth Boundary.

The proposed and prior commercial use of the subject property is (and will be) in conformance with the commercial designation indicated on the Comprehensive Plan Map.

#### 1. Urban Growth Policies

- (a) The subject property is within the locally adopted Urban Growth Boundary.
- (b) The annexation of the property will be an incremental step in extending the City limits to the Urban Growth Boundary.
- (c) The annexation is a logical and efficient extension of the City limits boundaries to facilitate the functional and economic provision of services.
- (d) The subject property is developed and has been committed to an urban use.
- (e) The annexation is an infill of unincorporated territory.

#### 2. Growth Management

Annexation of the subject property will conform to the Growth Management Policies as the proposed annexation will encourage the urbanization of an area where facilities and services are already available, thereby requiring the least public costs to provide needed service and facilities and will assure that any further development of the subject property will be to City standards.

#### 3. Development Policies

When the subject property is annexed, it will be rezoned to CH (Heavy Commercial) and will be in compliance with the Comprehensive Plan designation for the property. Any future developments or modifications to the existing structures must occur to City standards.

#### 4. Annexation Policies

- (a) Annexation of the subject property is a logical extension of the City boundary and service area.
- (b) Annexation of the subject property will facilitate the functional and economic provisions of services within the Urban Growth Boundary without seriously impairing City services to other portions of the City.

#### Annexation Criteria

Any annexation proposal considered under a Type IV procedure must be demonstrated to be in conformance with the following criteria:

1. The proposed annexation is within the Urban Growth Boundary and is a logical and efficient extension of the City limit boundaries.

"Facts: The proposed annexation is within the UGB as shown on the City's Comprehensive Plan of September 10, 1982.

Conclusions: Proposed annexation is in conformance with criteria above."

2. The proposed annexation will facilitate the functional and economic provision of services within the Urban Growth Boundary without seriously impairing City services to existing portions of the City.

"Facts:

- (1) No public improvements are immediately planned for this area and no projects listed in the City's Capital Improvements Plan will affect this property.
- (2) Storm drains will be constructed on-site and will be directed to natural receiving stream or ditch when development occurs.
- (3) Sanitary sewer is available approximately 130 feet to the west and can be extended to the site upon development.
- (4) As a condition of Site Plan approval, the property owner may be required to participate in future public improvements which will service a larger area such as sanitary sewer extension along Highway 20 and storm drainage improvement.
- (5) By allowing this property to be developed it will provide greater assessed value which, in turn, will allow for more improvements.

Conclusion: The above facts meet the criteria in "B".

**CONCLUSIONS:**

1. Annexation of the subject property is a logical extension of the City boundary and will provide for coordinated planning efforts for extension of streets and utilities.
2. The subject property is within the Urban Growth Boundary.
3. Annexation of the subject property is in conformance with the acknowledged Albany Comprehensive Plan.
4. The proposed zoning designation of CH (Heavy Commercial) is in conformance with the acknowledged Albany Comprehensive Plan.
5. The conflicts between the City and County applications of development standards and requirements for this property will be eliminated through annexation.
6. Urban services can be extended to the subject property without adversely affecting other properties within the City.
7. Any new use or development of the property will be subject to Site Plan Review approval at which time appropriate conditions may be attached to assure property development of the site to City standards.

**PLANNING COMMISSION RECOMMENDATION:**

At its regular March 4, 1985 meeting, the Planning Commission unanimously recommended that the subject property be annexed and designated as CH (Heavy Commercial) zoning based on the findings and conclusions enumerated in the staff report.

**APPEALS:**

Should the Planning Commission recommend denial and the applicant is dissatisfied with the decision or any conditions thereof pertaining to this matter, s/he may file an appeal on a form prescribed by the City within 15 days from the date of the Commission's decision. Should the City Council deny the request and the applicant is dissatisfied with the decision or any conditions thereof, s/he may file a "Notice of Intent to Appeal" with the State Land Use Board of Appeals within 20 days from the effective date of the Council's action.

nd/pj