

ORDINANCE NO. 4691

AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF ALBANY OF CONTIGUOUS TERRITORY CONSISTING OF 1.54 ACRES OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF TIMBER STREET AND SANTIAM HIGHWAY, THE ZONING AS CH - HEAVY COMMERCIAL, 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. 4688 adopted on the 12th day of June, 1985, dispensing with an election submitting to the voters of the city the question of annexation of said territory, did hold a public hearing at 7:15 p.m. on the 26th day of June, 1985, in the City Hall Council Chambers on the annexation question, the zoning question and the further question of withdrawing said annexed territory from the Albany Rural Fire Protection District, during 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it appears to be in the best interest of the City and of the area involved that it be annexed to the City of Albany and withdrawn from the Albany Rural Fire Protection District; and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. 4688, 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: July 3, 1985

Approved by the Mayor: July 5, 1985

Effective Date of this Ordinance: August 2, 1985

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



Mayor

ATTEST:



City Recorder

LEGAL DESCRIPTION FOR ANNEXATION
TO
THE CITY OF ALBANY, OREGON

Beginning at a point on the east right-of-way line of Timber Street that is N 89° 54' E, a distance of 2,366.44 feet and S 0° 06' E, a distance of 342.0 feet from the NW corner of the Ed N. White Donation Land Claim No. 48, in Section 9, T. 11 S., R. 3W.. W.M., Linn County Oregon; thence S 89° 54' W a distance of 167.37 feet along the south property line of the parcel described in the deed recorded in Volume MF 292, Page 194 of Linn County Deed Records, to the west property line of said parcel; thence N 0° 06' W a distance of 402.0 feet along the west property line of said parcel to the north right-of-way line of Santiam Highway; thence N 89° 54' E a distance of 167.37 feet along the north right-of-way line of Santiam Highway to the intersection of the extension of the east right-of-way line of Timber Street; thence S 0° 06' E a distance of 402 feet along the east right-of-way line of Timber Street to the point of beginning, containing 1.54 acres more or less.

population is involved, the annexation will not result in an increase in per capita-based revenues.

Availability of Urban Services:

1. Sewer: Sanitary sewer is located on the south side of Santiam Highway with an existing manhole with an 8 inch stub located approximately 750 feet west of Timber Street. A manhole is located on the north side of Santiam Highway at its intersection with Commercial Way. It appears the best way to serve the Timber Street area would be to extend the sanitary sewer from the south side of Santiam Highway.
2. Water: Water would need to be extended for service to the subject property. PP & L "as-builts" indicate a 12 inch main on the north side of Santiam Highway with a 12 inch crossing installed to Timber Street.
3. Police: The Albany Police Department will be able to provide service to the lots with no appreciable increase in costs at this time.
4. Fire: The Albany Fire Department reports that the subject property is within the proper running distance of Station ^C for first due Engine Company response.
5. Streets: The existing right-of-way of Timber Street is only 40 feet. An additional 5 feet must be dedicated to the City of Albany for future improvements.

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.

1. Urban Growth Policies

- (a) The subject property is within the 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 contiguous to the existing City limits.

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.

"Fact: 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 with 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 750 feet to the west and if

required for the proposed use, can be extended to the site upon development.

- (4) The property owner is willing to participate in future improvements that will be constructed in this and surrounding areas that will benefit his property.
- (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".

3. The proposed annexation will add property to the city which is needed to provide an adequate supply of zoned lands for the uses proposed or will add property which has existing development in need of city services.

Zoning of Annexed Property

The concurrent zoning for the annexed property must be demonstrated to be in conformance with each of the following criteria:

1. The adequacy of existing or anticipated transportation facilities) streets, bus routes, etc.) and the impact on traffic generation and safety.
2. A demonstration that the existing or anticipated services (sanitary sewers, storm sewers, schools, fire protection, etc.) can accommodate potential development within the subject area without adverse impact on the affected service area.
3. The natural features of the site are conducive to the proposed rezoning.
4. Any special areas involved such as floodplains, slopes, historic district, etc., will have increased protection as a result of the proposed rezoning.
5. The proposed zone is compatible with the existing and anticipated surrounding land use.
6. Compliance with specific policies of the Comprehensive Plan as identified in the application form approved by the Planning Director.
7. Impact on low and moderate income housing opportunities.
8. Timing of the particular zone change request, in terms of efficient service provisions, energy conservation, and a comparison with other buildable lands zoned identical to the requested change or which could otherwise accommodate the proposed use.

In determining compliance with the above criteria, the following questions have been developed by the staff. Adequate findings with these questions will support compliance with the Plan.

FINDINGS

1. TRANSPORTATION FACILITIES: What are the existing or anticipated transportation facilities (streets, bus routes, etc.), what impact on traffic generation and safety will result from the proposed zone, and how do the transportation facilities make the proposed zone the most appropriate zone within the plan designation?
 - (a) Staff Comments: The proposed commercial site is adjacent to Santiam Highway, a major arterial, and Timber Street, an unimproved gravel road, which has a right-of-way width of 40 feet.
 - (b) Staff Conclusions: Development of the site will require the dedication of an additional 5 feet of right-of-way and a Petition for Improvement/Waiver of Remonstrance for Timber Street. Any traffic impact which occurs as a result of the development of the subject property will be minimized through enforcement of the City of Albany's development standards.

2. PUBLIC SERVICES: How will other existing or anticipated services (sanitary sewers, storm sewers, schools, fire protection, etc.) be impacted by the proposed zone, and how do these services make the proposed zone the most appropriate zone within the plan designation?
 - (a) Staff Comments: Sanitary sewer line in Santiam Highway is approximately 750 feet west of the subject property and is adequately sized to service the subject property. Fire and Police protection can be provided by the City of Albany. Storm sewage facilities are substandard in the areas with all run-off being accommodated in open roadside ditches and existing natural drainage ways. Water is available at the intersection of Timber Street and Santiam Highway and must be extended to serve the subject property.
 - (b) Staff Conclusion(s): Adequate public facilities can be provided to the site prior to development.

3. NATURAL FEATURES: What are the natural features of the site, how will those features be impacted as a result of the zone change, and how do these features make the proposed zone the most appropriate zone within the plan designation?
 - (a) Staff Comments: The site is presently barren of any natural features except for a row of trees across the south property line and a fir tree which appears to be in the right-of-way adjacent to Timber Street. The property has recently been filled (County Fill Permit A85-07371). Site Plan Review is required for all commercial uses.
 - (b) Staff Conclusions: Landscaping is required for all developments including parking areas. The existing trees will be incorporated into the applicant's Site Plan.

4. SPECIAL DISTRICTS: Is the area proposed for a change within any of the following special areas, and considering the impact of uses allowed in the proposed zone, how does this particular zone fit with the special area?

(a) Staff Comments: The subject property does not fall within any of the special districts designated in the Albany Comprehensive Plan.

(b) Conclusions: There will be no impact on any of the special districts listed in the Albany Comprehensive Plan.

5. NEIGHBORHOOD COMPATIBILITY: What type of development (existing and anticipated surround the site, what are the probable impacts from allowed uses on surrounding development, and how does the question of compatibility make the proposed zone the most appropriate zone within the plan designation?

(a) Staff Comments: The subject property is currently designated as General Commercial on the Albany Comprehensive Plan Map. Zoning designations which are allowed within that designation are CH (Heavy Commercial), C-2 (Community Commercial), RP (Residential Professional), and C-1 (Neighborhood Commercial)

(b) Conclusions: Adequate assurances exist through regulations established in the Albany Development Code for the Heavy Commercial designation to require development which would be compatible with existing and allowed uses.

6. COMMUNITY LOCATION: How does the proposed zone comply with distribution policies of the plan? For example, neighborhood commercial sites are to be spread throughout the community to serve as neighborhood centers. Higher density development is desired as to reduce the need for travel and increase energy policy. Pay particular attention to Comprehensive Plan Pages 43, 44, 50, 94, 95, and 106.

(a) Staff Comments: The proposed zoning meets the following Comprehensive Plan policies:

Economic Development

2. Provide trade and service establishments for the residents of Albany which include a variety of levels of service ranging from neighborhood to regional needs.
4. Encourage the expansion of existing business and industry.
5. Encourage diversification of the local economy beyond the three existing major industrial sectors (rare metals, food products, and lumber and wood products).
6. Encourage tourist service related activities and services such as motor inns, restaurants, parks, and recreation facilities.
9. Encourage business and industry to locate in Albany that will employ Albany's existing labor force.
10. Provide residents of the City with access to neighborhood commercial facilities within a half-mile radius.

15. Discourage the use of the Central Business District for non-intensive land uses or uses which have a low floor area to site/size ratio.
17. Encourage compact commercial areas for highway-related businesses with each area having controlled access to arterials.
18. Limit neighborhood commercial areas with respect to site size (less than five acres), site coverage, and types of uses which should be correlated with the needs of the people in the neighborhood.
19. Encourage business and industry to locate within the Albany city limits to decrease the proportional share of City taxes paid by residential properties.

Growth Management

1. Encourage the development of vacant serviced properties before extending services to other undeveloped areas.
2. Encourage the partitioning of lots which can meet minimum lot size requirements and thus provide for infilling of partially developed areas of the City.
3. Require annexations to be logical and efficient extensions of City limit boundaries to facilitate the functional and economic provision of services.
4. Encourage only those annexations which will fulfill a demonstrated public need and which comply with the Comprehensive Plan goals and policies.
6. Encourage the infilling of existing vacant land and the revitalization of older areas, and discourage low density sprawl development.
10. As much as possible, locate commercial activity centers in the center of the population area they serve.
11. Discourage regional shopping centers in locations which would require extensive travel for Albany residents outside the Albany Urban Growth Boundary.
12. Require the type and size of commercial service areas to be commensurate with the size and area to be served.
13. Discourage the establishment of commercial development in a strip or strung-out pattern along major arterials, preferring instead clustered development and infilling in areas surrounding existing commercial development.

(b) Conclusion(s): The proposed zone change from UGM-C2 (Urban Growth Management - Community Commercial) to CH (Heavy Commercial) is located adjacent to Santiam Highway, a designated arterial street and is not in conflict with the distribution policies of the Albany Comprehensive Plan.

7. LOW-INCOME HOUSING OPPORTUNITY: If residential zoning is involved, explain how approval of the request will not exclude opportunities for adequate provision of low- and moderate-income housing within the subject neighborhood area.

(a) Staff Comments: Not applicable

(b) Conclusion(s): Not applicable

8. ALTERNATIVE LANDS: What other areas within the city have the identical Comprehensive Plan designation and zoning as the zone redesignation being applied for? (Give location of parcels and estimate of acreage.) What are the characteristics of the subject parcel that are not duplicated by the similarly zoned land (mentioned above) that make it necessary to amend the zoning?

(a) Staff Comments: The subject property is currently designated as General Commercial on the Albany Comprehensive Plan Map with an overlay zoning designation of Community Commercial. The property to the east and west of the subject property on the south side of Santiam Highway is presently in the County and is designated on the Albany Comprehensive Plan Map as General Commercial with a zoning overlay of Urban Growth Management - Community Commercial (UGM-C2).

(b) Conclusion(s): The proposed zoning is in conformance with the existing Comprehensive Plan designation and with the Urban Growth Management agreements between the City of Albany and Linn County which were adopted as a part of the City of Albany Comprehensive Plan.

Planning Commission Conclusions: After hearing testimony from affected property owners, considering the existing uses on the abutting property to the south, and considering the current zoning of the properties to the north across Santiam Highway; the Planning Commission concluded that a CH (Heavy Commercial) designation would be a more appropriate zone than the C-2 (Community Commercial). The CH zone would allow for the applicant's proposed use, and would not create non-conforming uses if the zone were extended to adjoining properties. Even though the subject property currently has a County overlay zone of C-2 (Community Commercial), it was determined that, upon annexation, the property could be rezoned to CH (Heavy Commercial) and be in conformance with the Albany Comprehensive Plan.

9. ENERGY EFFICIENCY: Explain how the zone change will assist with efficient service provisions and energy conservation, comparing present development on this parcel as opposed to other vacant parcels with the same zoning (Comprehensive Plan Pages 93-116 discuss growth and energy use).

(a) Staff Comments: The subject property is within the acknowledged City

of Albany Urban Growth Boundary, is contiguous to the existing City limits, and is adjacent to a major arterial street. The surrounding property has been developed or committed to an urban use (such as a used car lot, manufacturing/ repair shops, or nightclubs).

- (b) Conclusion(s): The proposed zone change is in conformance with the Urban Growth Management policies of the Albany Comprehensive Plan in that the proposed annexation/zone change is a logical and efficient extension of the existing City limits and encourages the infilling of existing vacant land where development has occurred in surrounding properties.

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 adversity to other properties in the City.
7. The future use and development of the property will be subject to Site Plan Review approval which will assure the provision of adequate public improvements and enhancement of the property through appropriate landscaping.

PLANNING COMMISSION ACTION:

At their regular meeting on June 3, 1985, the Albany Planning Commission recommended approval of the annexation and CH (Heavy Commercial) zoning based on the findings that the property on the north side of Santiam Highway is currently CH and the existing electrical motor repair shop on the adjoining property to the south would be non-conforming in a C-2 zone as originally was recommended. The Commission found that the original County overlay zone of UGM/C-2 was inappropriate for the area. The motion passed unanimously.

APPEALS:

If the applicant or any affected property owner is dissatisfied with the decision or any conditions thereof required for approval by the City Council, 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.