

RESOLUTION NO. 4932

A RESOLUTION PROCLAIMING A "HEALTH HAZARD" AT 4650 SAN FELICIA AVENUE SE TO ALLOW AN EXCEPTION TO THE GENERAL PROHIBITION AGAINST EXTRATERRITORIAL SEWER EXTENSIONS.

WHEREAS, the Albany City Council voted on September 8, 1999, to approve Ordinance No. 5419, which created a health hazard exception to the general prohibition against extraterritorial sewer extensions, and

WHEREAS, the Albany City Council voted on February 2, 2004, to approve Ordinance No. 5570 to clarify one of the health hazard exception criteria, and

WHEREAS, in order for a property to be eligible for this health hazard exception, the City Council must determine that the criteria in AMC 10.01.050(5) are met, and

WHEREAS, the findings attached as Exhibit A show that the criteria for the property located at 4650 San Felicia Avenue SE have been met,

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council adopt the findings attached as Exhibit A; and

BE IT FURTHER RESOLVED by the Albany City Council that the property at 4650 San Felicia Avenue SE is eligible to receive city sanitary sewer service as allowed in AMC 10.01.050(5); and

BE IT FURTHER RESOLVED that the city will require the property owners to satisfy all requirements set forth in AMC 10.01.050(5) prior to receiving said city sanitary sewer service.

DATED AND EFFECTIVE THIS 11TH DAY OF FEBRUARY, 2004


Mayor

ATTEST:


City Clerk

BEFORE THE ALBANY CITY COUNCIL

In the Matter of the Health Hazard)	
Determination of Property at)	
)	FINDINGS
4650 San Felicia Avenue SE)	

I. Background

1. Sabrina Richmond, the representative of the owner of property at 4650 San Felicia Avenue SE, contacted City staff in November of 2003 requesting connection to the public sanitary sewer system. She said that the existing residence at this address is experiencing significant problems with the private septic system.

2. Staff discussions with representatives from the Oregon Health Division indicate that the state would be unable to intervene in this case due to cutbacks in staffing, as well as the limited scope (land area) of the problem. This precludes the applicant from receiving a state-declared health hazard exemption from a public vote for annexation.

3. The Linn County Department of Health Services indicated by letter on June 6, 2003, that the existing drainfield "does not comply with current standards...and is not an approved sewage disposal system." The letter goes on to state that "the soil and site conditions make it difficult to successfully treat and dispose of septic tank effluent. The soils are fine-textured (clayey) and have a seasonal water table at or near the ground surface throughout much of the winter and spring seasons."

4. On September 8, 1999, the Council passed an ordinance allowing a health hazard exception to the prohibition against providing public sanitary sewer service to properties outside of the city limits. The Albany Municipal Code [10.01.050(5)] states:

(5) Health Hazard Exception. The Council may authorize the extension of sanitary sewer facilities to property outside of the City limits upon finding that all elements of the following criteria have been met:

- (a) The extension will serve only existing residential use(s);*
- (b) The extension is necessary to mitigate an existing hazard to human health resulting from a failing or inadequate sewage disposal system;*
- (c) The health hazard cannot practicably be mitigated without connection to the City sanitary sewer system;*
- (d) Provisions have been or will be made to connect a residential user to the sanitary system at no cost to the City;*
- (e) The owner(s) of the property to be served pursuant to this exception has executed an irrevocable application for annexation, on a form provided by the City, whereby the City may submit the question of annexation to the voters at any election(s). The property must be contiguous to the City limits and within the Urban Growth Boundary. The annexation application shall not require the owner(s) to pay for the cost of the election. The application shall be binding upon the heirs and subsequent assigns of the owner;*
- (f) The property owner has tendered the required sewer system development charges to the City and waived any objection thereto;*

application shall not require the owner(s) to pay for the cost of the election. The application shall be binding upon the heirs and subsequent assigns of the owner;

(f) The property owner has tendered the required sewer system development charges to the City and waived any objection thereto;

(g) The property owner has waived, in writing, any objection to a sewer rate differential which may exist, or may be subsequently created, whereby sewer users outside the City are charged a reasonable premium over and above that charged to city residents.

(6) Limitation on Subsequent Sewer Utilization in the Event of Health Hazard Exception.
Subsequent to the sewer connection subject to a health hazard exception, no additional sewer connections shall be permitted prior to annexation (Ord. 5419 §§ 1, 2, 3, 1999; Ord. 5016, 1992).

II. Responsibilities of the Property Owner

5. Extension of the public sanitary sewer system improvements needed to serve this property must be financed entirely by the property owner at no cost to the City. A professional engineer must design the extension, and the work must be performed under a Permit for Private Construction of Public Improvements through the Public Works Engineering Division. The applicable System Development Charge for connection to the public sanitary sewer system must be paid by the property owner before acceptance of the public main extension and connection of the dwelling to the main.

6. The property owner must submit an irrevocable request to annex agreement and a signed application to annex the subject property. The City Council will have the option of forwarding the question of annexation of the subject property to the voters at any subsequent general election. The submittal of the application for annexation does not commit the City Council to forward the annexation to the voters until they determine that the annexation meets the timeliness criterion.

7. The property owner must agree to pay sewer usage fees at a rate no less than that charged to sewer users within the city limits. The City can require sewer users outside the city limits to pay a reasonable premium over and above that charged to city residents, and the property owner must waive any objection to such a rate differential.

III. Criteria [from AMC 10.01.050(5)]

8. ***(a) The extension will serve only existing residential use(s).***
The existing single-family dwelling located at 4650 San Felicia Avenue SE is currently uninhabited. The property is owned by Carson Leasing & Equity, Inc.

9. ***(b) The extension is necessary to mitigate an existing hazard to human health resulting from a failing or inadequate sewage disposal system.***
Ms. Richmond submitted a letter from Linn County Environmental Health that was written on June 6, 2003. The letter reports that a county sanitarian investigated the site and some of the findings were: "the system does not comply with current standards...and is not an approved sewage disposal system."

10. ***(c) The health hazard cannot practicably be mitigated without connection to the city sanitary sewer system.***

The property owner has acknowledged that they are responsible for funding the required public sewer system extension to serve the site, and that the improvements must be designed by a registered professional engineer and constructed by a licensed contractor. A System Development Charge for connection to the public sanitary sewer system must be paid before connection of the dwelling will be allowed. Monthly sewer use will be charged at a rate not less than that of other sewer users within the city limits.

12. ***(e) The owner(s) of the property to be served pursuant to this exception has executed an irrevocable application for annexation, on a form provided by the City, whereby the City may submit the question of annexation to the voters at any election(s). The property must be contiguous to the City limits and within the Urban Growth Boundary. The annexation application shall be binding upon the heirs and subsequent assigns of the owner.***

Before the subject property will be allowed to make connection to the public sanitary sewer system, the property owners must sign an irrevocable request to annex agreement. The submittal of this agreement does not commit the City Council to placing the annexation question for this property on any particular ballot, nor does it preclude the City Council from placing the annexation question on subsequent ballots should the annexation fail to pass at a previous election. The subject property is contiguous to the city limits and is within the Urban Growth Boundary; therefore, it is eligible for annexation.

13. ***(f) The property owner has tendered the required sewer system development charges to the City and waived any objection thereto.***

Prior to connection of the dwelling to the public sanitary sewer system, the property owner must pay to the City the applicable System Development Charge and Connection Charge for connection to the public sanitary sewer system.

14. ***(g) The property owner has waived, in writing, any objection to a sewer rate differential which may exist, or may be subsequently created whereby sewer users outside the City are charged a reasonable premium over and above that charged to city residents.***

Prior to connection of the dwelling to the public sanitary sewer system, the applicant must submit to the City a signed and notarized document, in a form approved by the City Attorney, waiving any objection to a reasonable potential sewer rate premium in excess of that charged to city residents.