

A RESOLUTION PROCLAIMING A "HEALTH HAZARD" AT 1650 QUEEN AVENUE SW 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, 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

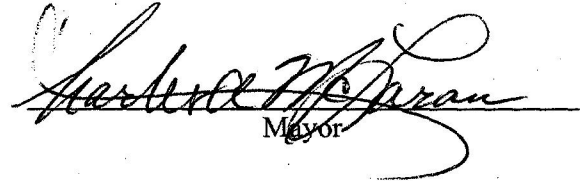
WHEREAS, the findings attached as Exhibit "A" show that the criteria for the property located at 1650 Queen Avenue SW have been met, and

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 1650 Queen Avenue SW 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 owner to satisfy all requirements set forth in AMC 10.01.050(5) prior to receiving said city sanitary sewer service.

DATED THIS 20TH DAY OF SEPTEMBER, 1999.


Mayor

ATTEST:


City Recorder Clerk

BEFORE THE ALBANY CITY COUNCIL

In the Matter of the Health Hazard)	
Determination of Property at)	
)	FINDINGS
1650 Queen Avenue SW)	

I. Background

1. Patricia Trunk, owner of property at 1650 Queen Avenue SW, contacted City staff in the spring of 1999 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. Subsequent staff discussions with representatives from the Oregon Health Division indicated 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 precluded the applicant from receiving a State-declared health hazard exemption from a public vote for annexation. Therefore, under the existing City ordinance, sewer service could not be granted until the property was annexed by vote of the citizens of Albany. This created a timing dilemma for the property, in that, they would be required to go through at least one more winter with the failed septic system.

3. The Linn County Department of Health Services indicated by letter on June 21, 1999 that they believe the best solution to the sewage disposal problem for this site is to connect to the City's sanitary sewer system. There is not adequate area on the property for a conventional septic system replacement, and the required system would be very expensive, and require a permit from the Oregon Department of Environmental Quality.

4. After studying the Municipal Code and meeting with the City Attorney, staff came before the Council to discuss the possibility of creating a narrow health hazard exception to the existing prohibition against providing public sanitary sewer service to properties outside of the city limits.

5. Following several meetings before the Council, which included testimony from the public and City staff, and discussion amongst the Council, 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.

II. Responsibilities of the Property Owner

6. Extension of the public sanitary sewer main 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.

7. The applicant has submitted 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 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.

8. The applicant agrees 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)]

9. ***(a) The extension will serve only existing residential use(s).***
The existing dwelling located at 1650 Queen Avenue SW is currently inhabited and is used exclusively as a residence. The property is owned by Patricia Trunk.

10. ***(b) The extension is necessary to mitigate an existing hazard to human health resulting from a failing or inadequate sewage disposal system.***
City staff received a letter on June 21, 1999 from Jan Heron, Field Supervisor with the Linn County Environmental Health Program, regarding this site. In the letter, Ms. Heron reports that she has "received anecdotal reports that the sewage disposal system is failing." At the August 25, 1999 City Council meeting, Larry Kampfer, property manager for the Trunk property, testified that during the winter (wet) months, the septic system is virtually inoperable and has to be pumped often. He suggests that the dwelling will become uninhabitable if the situation is not remedied before the onset of heavy rains. Velma Lemco, owner of the property west of the Trunk property, also testified at the August 25, 1999 meeting. She said that, although her septic field has not yet failed, drainage of her property during heavy rains is very poor.

11. ***(c) The health hazard cannot practicably be mitigated without connection to the city sanitary sewer system.***
In the letter from Jan Heron of the Linn County Environmental Health Program, she states that "The existing site developments cover most of the parcel, leaving little area for a [septic] system.... A permit from the Oregon Department of Environmental Quality would be necessary for a system on this site. The system would be very expensive and would be significantly undersized for the projected sewage flow. It would not contribute to the long-term solution to the property's sewage disposal needs. Clearly, annexation and connection to the City's sewerage system is the best long-term solution for this property's sewage disposal needs."

12. ***(d) Provisions have been or will be made to connect a residential user to the sanitary sewer system at no cost to the city.***
The cost to extend the public sanitary sewer main to serve the subject property will be borne exclusively by the property owner. The public utility work must be done under a Permit for Private Construction of Public Improvements (SI Permit), and the associated permit fees paid by the property owner. System Development Charges 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.

13. ***(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.

Prior to the City's acceptance of the sanitary sewer extension improvements, and connection of the dwelling to this main, the applicant must submit to the City an irrevocable application for annexation. The submittal of this application 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.

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

Prior to the City's acceptance of the sanitary sewer extension improvements, and connection of the dwelling to this main, the property owner must pay to the City the applicable System Development Charge for connection to the public sanitary sewer system.

15. ***(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 the City's acceptance of the sanitary sewer extension improvements, and connection of the dwelling to this main, 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.