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ORDINANCE NO. 4168

TITLE: AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF ALBANY OF CONTIGUOUS TERRITORY CONSISTING OF 5,000 SQ. FT. OF PROPERTY LOCATED AT THE NORTHEAST CORNER OF 15TH AVENUE AND FISHER STREET TO BE ZONED AS R-1(6) SINGLE FAMILY RESIDENTIAL AND WITHDRAWING SAID TERRITORY FROM THE ALBANY RURAL FIRE PROTECTION DISTRICT AND DECLARING AN EMERGENCY.

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. 4159 adopted on the 26th day of July, 1978, dispense with an election submitting to the voters of the City the question of annexation of said territory and did at 7:15 o'clock p.m. on the 9th day of August, 1978, in the Council Chambers of the City Hall in said City at the time and place of hearing thereon, and the further question of withdrawing said territory, if annexed, from the Albany Rural Fire Protection District, 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it appears to be in the best interest of the City and of the area involved that it be annexed to the City of Albany and withdrawn from the Albany Rural Fire Protection District; and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 finds and determines that the facts and conclusions stated in Exhibit "A" attached hereto and by this reference incorporated herein are true and correct findings of fact regarding annexation and zoning of the property and they are hereby adopted as findings of the Council; now, therefor,

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

Section 1: The following described property to-wit:

(See Exhibit "B" attached hereto and by this reference incorporated herein)

is hereby proclaimed to be, annexed to the City of Albany, Oregon.

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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: That the City Recorder shall submit to the Secretary of the State of Oregon a copy of this ordinance, a copy of Ordinance No. 4159, and a copy of the complete consent document signed by the landowners within the territory annexed. The City Recorder shall also, within 10 days of the effective date of this annexation report this annexation to the County Clerk and to the County Assessor of Linn County, Oregon.

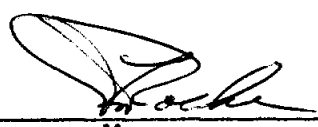
Section 4: Emergency Clause

In as much as the peace, health and safety of the persons who live or own property within the area to be annexed it is effective and an emergency is hereby declared to exist and this ordinance shall become in full force and effect immediately on its passage by the Council and approval by the Mayor.

Passed by the Council: August 9, 1978

Approved by the Mayor: August 9, 1978

Effective Date: August 9, 1978



Mayor

ATTEST:



City Recorder

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The following information is submitted by the Petitioners in support of their Consent Annexation Petition.

The information submitted is intended to comply with the requirements of the March 8, 1978 Interdepartmental Memorandum of the Planning Department. Section 4 of that Memorandum requires findings of fact demonstrating.

- A) Compliance with the Comprehensive Plan;
- B) Public need for the requested annexation and zoning;
- C) That the requested annexation and zoning can best meet the public need versus other available properties;
- D) Compliance with all applicable LCDC goals and guidelines.

Preliminary to the above issues and as background it should be pointed out that the property subject to this petition is located on the Northeast corner of 15th and Fisher and is contiguous with the present city limits. The property does not lie within the boundaries of another city. The legal description is attached as Exhibit "B".

I. Compliance with the Comprehensive Plan:

The property in question is presently within the jurisdiction of Linn County and as such is zoned Urban Residential. Petitioners request that as part of the annexation procedure the property be zoned R-1(6). As appears from the City of Albany Comprehensive Plan the

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property is designated and projected for use as Urban Residential therefore, our requested zoning is in conformance with the Comprehensive Plan.

II. Public need for the requested annexation and zoning:

A public need can be demonstrated based upon the petition of the property owner attached hereto, the present city zoning map and the Comprehensive Plan.

The Petition filed by the property owners involved evidences their desire to have their land become part of the city. They feel that there is a need for the annexation to provide their property with what they feel are essential city services such as sanitary and storm sewers and police and fire protection.

By examining the present city zoning map one can see that the property in question is contiguous to the present city limits. Because of the proximity of the area to the city and because of the nature of the development of the property that has already taken place it is from all appearances already a part of the "city".

No one can argue with the fact that a primary public need of any area is to have that area properly planned and zoned. It is generally recognized that in order to plan and develop a city effectively and in accordance with sound planning principles it is necessary to have control over the entire area which is readily identifiable as being part of the city and into which the city will eventually

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grow. The reason for this is to avoid piecemeal development of an area in a manner not in conformance with city goals and policies only to later have the city expand to include those areas.

The Albany area is growing in population at a rapid rate and as the number of people in the area increases the need for housing for those people increases. Although there are building sites available there are few in that area and even fewer that have city services available to them. The petitioners feel that the highest and best use of the land is for single family residence and the public is benefited by having the land so zoned and used.

The property is projected for zoning as single family residential and the decision has already been made that such zoning would be in the public interest. Albany has designated the land as single family residential as part of it's Comprehensive Plan. It is presently within the jurisdiction of Linn County and as such has been designated for use as urban residential. There is a public need to complete the annexation of this property to bring it within the jurisdiction of the city so that it can be zoned and developed in accordance with what the planners have already decided would be in the best public interest.

Additionally, the property in its undeveloped state is being wasted. Although it borders on an area that could be used for farming purposes it is of such a size that it cannot be so utilized. It is presently overgrown with brush and is not being utilized at its highest and best use. The public certainly would be benefited by a change in this status.

Finally, annexation of this area into the city would benefit the public and fulfill a public need by bringing new property onto

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the tax rolls of the city and spreading the burden of the cost of city services over a wider base.

III. The requested annexation best meets the public need.

Primarily for the reasons discussed above pertaining to the importance of planning and orderly growth annexation of this property fills a public need. It is not really better suited to filling that need than is the annexation of any other contiguous area the growth of which, without proper planning, threatens the planning goals of the city. However, in this particular case the inquiry should not center around whether other property could be annexed but whether annexation of this property is in the best public interest, we submit that it is.

IV. Compliance with LCDC GOALS AND GUIDELINES.

1. CITIZEN INVOLVEMENT: Citizen involvement has been provided for through the provisions of Chapter 222 of the Oregon Revised Statutes which requires either that there be a series of notice and hearings or that the issue be submitted to the voters. In addition, the citizens have already directly involved themselves in this issue by submitting the petition.

2. LAND USE PLANNING: This goal is being fulfilled by the actions of the public hearings and other procedures of Chapter 222 of the Oregon Revised Statutes and by the City of Albany Planning and Development Staff giving full consideration to the needs of the area to be annexed and the city as a whole.

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3. AGRICULTURE LANDS:

The property in question borders some land that is being used as pasture. However, the property is currently overgrown with brush and not being used at all. Because of its close proximity to the city limits and because of its size it would be impractical to farm and not suitable for pasture, nor would such use be its highest and best use. In addition, since the current county zoning is urban residential it has been removed from farmland inventory.

4. FOREST LANDS: This land does not fall within the definition of forest land as set out in LCDC Goal and Guideline number 4.

5. OPEN SPACES, SERVICE AND HISTORICAL AREAS AND NATURAL RESOURCES: The land sought to be annexed through this petition is not suitable for open spaces or recreational area. It is small in size and currently overgrown with brush. The area to the east is developed as residential property, as is some of the property to the south. Property to the west and north is undeveloped and currently not being used for anything. If the present use of the property were continued it would not:

1. Conserve or enhance natural or scenic resources;
2. Protect air or streams or water supply;
3. Promote conservation of soils wetlands, beaches tidal marshes;
4. Conserve landscaped areas;
5. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, or other open spaces.

However, the proposed annexation would promote orderly urban development, consistent with this Goal and Guideline.

6. AIR, WATER, AND LAND RESOURCE QUALITY: Annexation of the area in question, would, by providing sanitary and storm sewers

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to the area significantly improve land resource quality by eliminating development utilizing conventional septic tank methods of waste elimination. It would also aid in preservation of water resource quality because extension of sanitary sewer would eliminate the water contamination that results from seepage from septic leech lines.

7. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS:

The area in question falls within a larger parcel of land that has been designated as a flood hazard area. After consultation with the city engineers office and planning department it has been agreed that the property can be developed if the foundation of any building is one foot higher than the 100 year flood level.

The 100 year flood level is 202 feet dictating that construction would have to begin at a level of 203 feet.

As appears from the letter from Mike Corso, attached hereto as Exhibit "D" the elevation of the property runs from a minimum of 206 feet on the back portion to a maximum of 208 feet on the front portion adjacent to Fifteenth Street.

8. RECREATIONAL NEEDS: Because of the character and state of development of the property, and because of its proximity to other existing recreational property within the city we feel that this Goal-Guideline is not applicable.

9. ECONOMY OF THE STATE: Annexation of the area in question would bring an additional lot onto the cities tax rolls and would provide an additional lot for a building start. This would provide for some additional employment for people residing

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in the local area, which would in turn stimulate the local economy.

10. HOUSING: LCDC Goal and Guideline number 10 is to provide for the housing needs of the citizens of the state. Both the present County zoning and the projected city zoning provide that this property should be used as residential property. This petition is consistent with that goal in that annexation will improve the property as residential by providing city services to the property.

11. PUBLIC FACILITIES AND SERVICES: Not applicable.

12. TRANSPORTATION: Annexation should have no significant effect upon population densities or peak hour travel patterns as this area will be used for low density (single family residential) use.

13. ENERGY CONSERVATION: No change will result from annexation.

14. URBANIZATION: The land in question though currently not being utilized as rural or urban land, although it is bordered by land being used as both. However, it is clear that because of its proximity of urban land, this property will soon become urban and that is its highest and best use.

Albany's increasing population dictates a need to accommodate and plan for long range as well as short range population growth requirements.

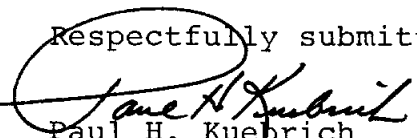
Annexation of this land would promote orderly transition from rural to urban and would be consistent with this

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Goal and the Guidelines pursuant thereto.

Respectfully submitted,


Paul H. Kuebrich
Roger H. Reid

4th & Washington St.
Albany, Oregon 97321

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EXHIBIT "B"

Justification For Requested Zoning

Petitioners request that the property when annexed be zoned R-1(6). As justification for this the following is submitted:

- 1) The property is located in a residential neighborhood and is bordered on the South and East by property that is currently zoned R-1(6).
- 2) The Petitioners desire to construct a single family residence on the lot and that is consistent with good planning and orderly development of the area.

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EXHIBIT "C"

Affidavit of Ownership

STATE OF OREGON)
) ss.
County of Linn)

We, JAMES H. BECKER and KAREN S. BECKER, husband and wife, being first duly sworn do depose and say that we are the legal owners of the property described in Exhibit "A" attached to our Consent Annexation Petition.

That we make this Affidavit to comply with requirement Number 5 of Interdepartmental Memorandum of the Planning Department, dated March 8, 1978.

James H. Becker
James H. Becker

Karen S. Becker
Karen S. Becker

Subscribed and sworn to before me this 30 day of May, 1978.

[Signature]
Notary Public for Oregon
My Commission Expires: 9-5-81

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EXHIBIT "B "

Lot 5 Block 24, Hazelwood Addition to the City of Albany, Linn County, Oregon, and that portion of Fifteenth Street south of Lot 5 Block 24 but north of Lot 4 Block 23 Hazelwood Addition to the City of Albany, Linn County, Oregon bounded on the west by a line parallel to the west line of Lot 5 Block 24 Hazelwood Addition to the City of Albany, Linn County, Oregon and bounded on the east by a line parallel with the east line of Lot 5 Block 24 Hazelwood Addition to the City of Albany, Linn County, Oregon.

EXHIBIT "A"

Lot 5 Block 24, Hazelwood Addition to the City of Albany, Linn County, Oregon, and that portion of Fifteenth Street south of Lot 5 Block 24 but north of Lot 4 Block 23 Hazelwood Addition to the City of Albany, Linn County, Oregon bounded on the west by a line parallel to the west line of Lot 5 Block 24 Hazelwood Addition to the City of Albany, Linn County, Oregon and bounded on the east by a line parallel with the east line of Lot 5 Block 24 Hazelwood Addition to the City of Albany, Linn County, Oregon.

11-4W-12CB TL 8600

BECKER ANNEXATION

Beginning at a point that is N1°15'E 431.0' & N89°25'E 1000.0'
from the southwest corner os W. Monteith D.L.C. #55; thence

N0°15'W 150.0'; thence

N89°25'E 50.0'; thence

S0°15'E 150.0'; thence

S89°25'W 50.0' to the point of beginning.

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BECKER ANNEXATION

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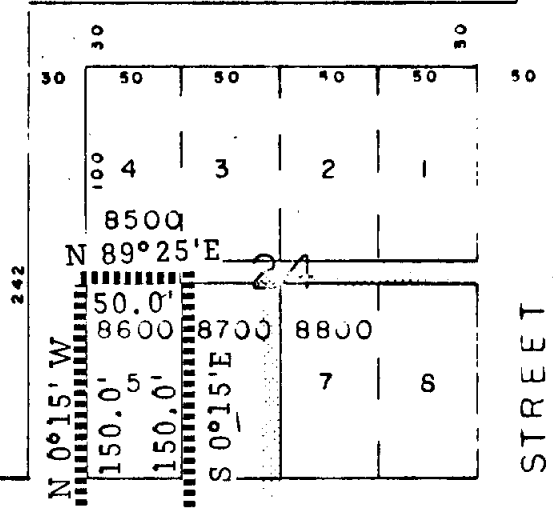
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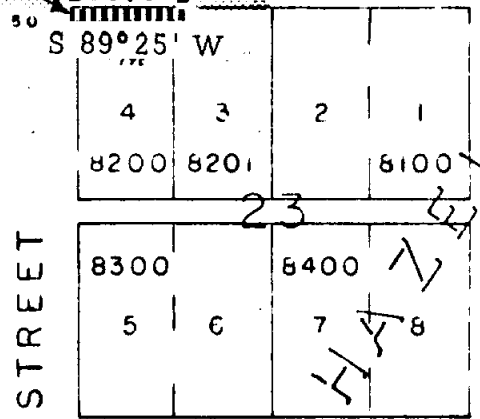
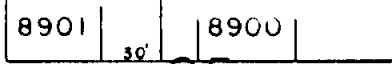
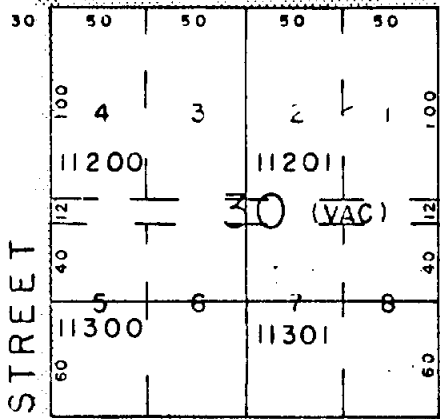
P.O.B. N 1°15' E 431.0' & N 89°25' E 1000.0' from the southwest corner of W. Montelth D.L.C.#55

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FIFTEENTH



SIXTEENTH

