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TITLE: AN ORDINANCE PROCLAIMING THE ANNEXATION TO THE CITY OF ALBANY OF CONTIGUOUS TERRITORY CONSISTING OF 4.82 ACRES OF PROPERTY LOCATED ON THE NORTH SIDE OF HIGHWAY 20, BETWEEN COMMERCIAL WAY AND GOLDFISH FARM ROAD TO BE DESIGNATED AS C-2 COMMUNITY COMMERCIAL 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. 4183 adopted on the 11th day of October, 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 25th day of October, 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it appears to be in the best interest of the City and of the area involved that it be annexed to the City of Albany and withdrawn from the Albany Rural Fire Protection District; and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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A2

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. 4183, 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: October 25, 1978

Approved by the Mayor: October 25, 1978

Effective Date: October 25, 1978



Mayor

ATTEST:



City Recorder

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FINDING OF FACT

The Comprehensive Plan adopted in 1971 and amended in 1977 is in error by designating this particular site as Agricultural and Rural for the following reasons:

- (a) The property is surrounded by both industrial and commercial uses along the north side of Highway 20 and within the Commercial Way Subdivision which borders the subject area to the north and west.
- (b) The property and surrounding area is zoned UHC Urban Highway Commercial (Linn County zoning) and C-2 Community Commercial (City of Albany zoning).
- (c) The area is well within the Preliminary Urban Growth Boundary and serviced by all major utilities.
- (d) The property has no agricultural potential due to its limited size, surrounding uses, and proximity to urban services.

FINDINGS OF FACT

A.) COMPLIANCE WITH THE COMPREHENSIVE PLAN.

The subject property is presently zoned UHC, Urbanizing Highway Commercial, by Linn County. The Albany Comprehensive Plan designates the area as "Agricultural, Farm Residential." Applicants take the position that the "Agricultural, Farm Residential" was not the proper designation at the time the Comprehensive Plan was adopted and that the designation should be changed to either "Light Industrial" or "Commercial."

The subject property is located immediately adjacent to Highway 20 and is surrounded on the other three sides by property which is designated as "Commercial" on the Comprehensive Plan and which has been developed for commercial or light industrial uses. The parcel is only 13.46 acres and is not suitable, by soils or by location, for agricultural use. The Agricultural, Farm Residential designation is improper and should be changed.

In support of a "Commercial" designation for the property, applicants offer the following findings:

1. The property is presently zoned UHC, Urbanizing Highway Commercial, by Linn County.
2. The property is surrounded by other commercial development.
3. Because there is already development to the east, commercial zoning will not extend the commercial strip, but will merely fill vacant land between two commercial developments.
4. The property is not suited for agricultural or residential use.

B.) PUBLIC NEED FOR THE REQUESTED ZONING.

1. Albany's population increases which increases the need for commercial and/or industrial businesses to serve that population.
2. Commercial and Industrial tracts within the City are large, requiring development on a large scale. The size of the subject property would allow for the location of several small businesses to serve the general public.

C.) THE SUBJECT PROPERTY BEST MEETS THE PUBLIC NEED.

Light Industrial uses and Commercial uses related to trades such as plumbing, electrical, building and automotive repair are not generally compatible with residential property, nor are they ideally located in community shopping centers or downtown shopping areas. The subject property from an access standpoint and from a compatibility with neighbors standpoint is best suited for the industrial or commercial uses indicated.

COMPLIANCE WITH LCDC GOALS AND GUIDELINES

1. Citizen Involvement

The City of Albany, by its zoning ordinance, and the State of Oregon, through its statutes dealing with annexation procedures, have insured compliance with the Citizen Involvement goals and guidelines. The ordinance and statutes require public notice, notice to property owners in the surrounding area and public hearings before the City Planning Commission and the City Council.

2. Land Use Planning

The City of Albany has duly adopted a Comprehensive Plan and a Zoning Ordinance. Simultaneously with the annexation decision, the City will evaluate the applicants' zoning request. That zoning request will be evaluated according to standards established by the Courts, the City Ordinance and Comprehensive Plan, and the LCDC Goals and Guidelines. Applicants' findings submitted with the annexation request satisfy the Land Use Planning Goals and Guidelines.

3. Agricultural Lands

The Agricultural Lands Goals and Guidelines are not applicable. The property is not suited for agricultural use, has not been used agriculturally and is too small a parcel to be used for agricultural purposes. It is located near existing businesses which are not compatible with agricultural uses.

4. Forest Lands

Not applicable.

5. Open Spaces, Scenic And Historic Areas, And Natural Resources.

Not applicable.

6. Air, Water And Land Resources Quality

The proposed light industrial or commercial use of the property will not adversely affect the quality of air, water or other natural resources. The land is simply not suited for residential development because of its close proximity to a state highway and to existing industrial and commercial uses. The highest and perhaps only realistic use of the land resource is light industrial or commercial development.

7. Areas Subject to Natural Disasters And Hazards

Not applicable.

8. Recreational Needs

The area is not included in any plans the City has for recreational development. Adequate recreational facilities to serve the nearby area are found at Timber Linn Park.

9. Economy of The State

The development of this relatively small parcel will have no significant effect on the economy of the State. It should be of economic benefit to the City and County by providing additional area for the location of new industrial or commercial operations.

10. Housing

There is no need for additional housing in the East Albany area. Single family and multiple family areas in that area more than fulfill any present needs.

11. Public Facilities And Services

The subject property is within the urban growth boundary of the City of Albany. Urban facilities and services are already extended to close proximity to the subject property. The property is surrounded by other properties which have been annexed to the City. Extension of City facilities and services to the subject property is timely, orderly and efficient development.

12. Transportation

The property is served by Highway 20 and is close to Interstate 5. Access onto Highway 20 will be controlled primarily by the State of Oregon. The City's transportation plan would not be significantly affected by the proposed annexation or requested zoning.

13. Energy Conservation

Not applicable.

14. Urbanization

The subject property is within the Urban Growth Boundary and is practically surrounded by property already annexed. The property has not been used for any "rural" purpose for years. It is located in an urban area and should logically be annexed.

15. Willamette River Greenway

Not applicable.

16. Estuarine Resources

Not applicable.

17. Coastal Shorelines

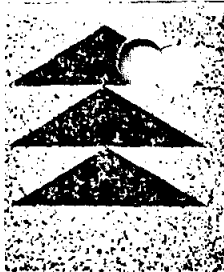
Not applicable.

18. Beaches and Dunes

Not applicable.

19. Ocean Resources

Not applicable.



TIMBERLAND

Services, Inc.

(503) 926-9404

1010 AIRPORT ROAD - P. O. BOX 666 - ALBANY, OREGON 97321

September 15, 1978

Mr. Robert Scott
Scott and Norman Attorneys
422 SW Fifth Avenue
Albany, Oregon 97321

Estate Builders Annexation

Parcel I - 4.54 Acre Tract (Excluding R/W)

Beginning at a point which is West 557.00 feet and South a distance of 315.01 feet from the southwest corner of the Hugh Nickerson Donation Land Claim No. 39 in Township 11 South and Range 3 West of the Willamette Meridian in Linn County, Oregon; and running thence South $89^{\circ} 59' 00''$ West a distance of 482.95 feet; thence South 630.44 feet to the centerline of US Highway No. 20; thence North $89^{\circ} 59' 00''$ East along said centerline 284.95 feet; thence North 490.00 feet; thence North $89^{\circ} 59' 00''$ East 198.00 feet; thence North 140.44 feet to the true place of beginning.

Parcel II - 0.28 Acre Tract (excluding R/W)

Beginning at a point which is West 557.00 feet and South a distance of 545.45 feet from the southwest corner of the Hugh Nickerson Donation Land Claim No. 39 in Township 11 South and Range 3 West of the Willamette Meridian in Linn County, Oregon; and running thence South a distance of 400.00 feet to the centerline of US Highway No. 20; thence North $89^{\circ} 59' 00''$ East 33.00 feet; thence North 400.00 feet; thence South $89^{\circ} 59' 00''$ West 33.00 feet to the true place of beginning.

KMW:dod

FOX JORDAN
ANNEXATION

19-4



COMMERCIAL WAY
SUBDIVISION

POINT OF BEGINNING
WEST 557FT AND SOUTH
315' OF S.W. COR. DLC 39

SW Cor
DLC 39

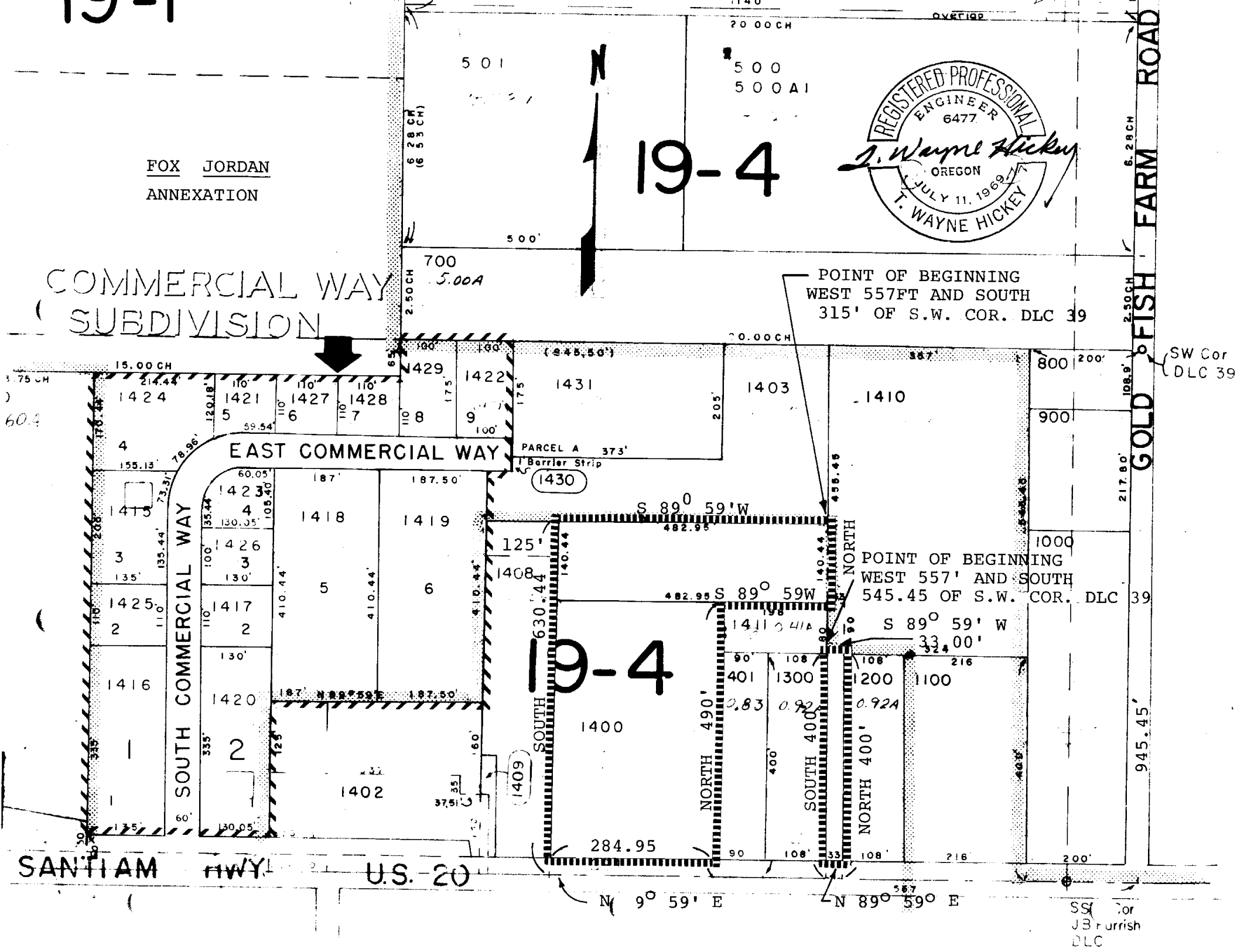
EAST COMMERCIAL WAY

SOUTH COMMERCIAL WAY

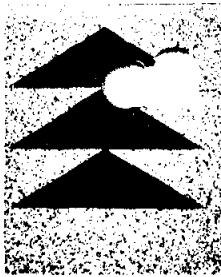
GOLD FISH FARM ROAD

SANTIAM HWY U.S. 20

19-4



SW Cor
JB Furrish
DLC



TIMBERLAND

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KMW:dod

C.S. 10469

RICHARD H. STAGGS

NE 1/4 SEC. 9, T. 11 S., R. 3 W., W.M.

LINN COUNTY, OREGON

Scale: 1" = 200'

July 9, 1969

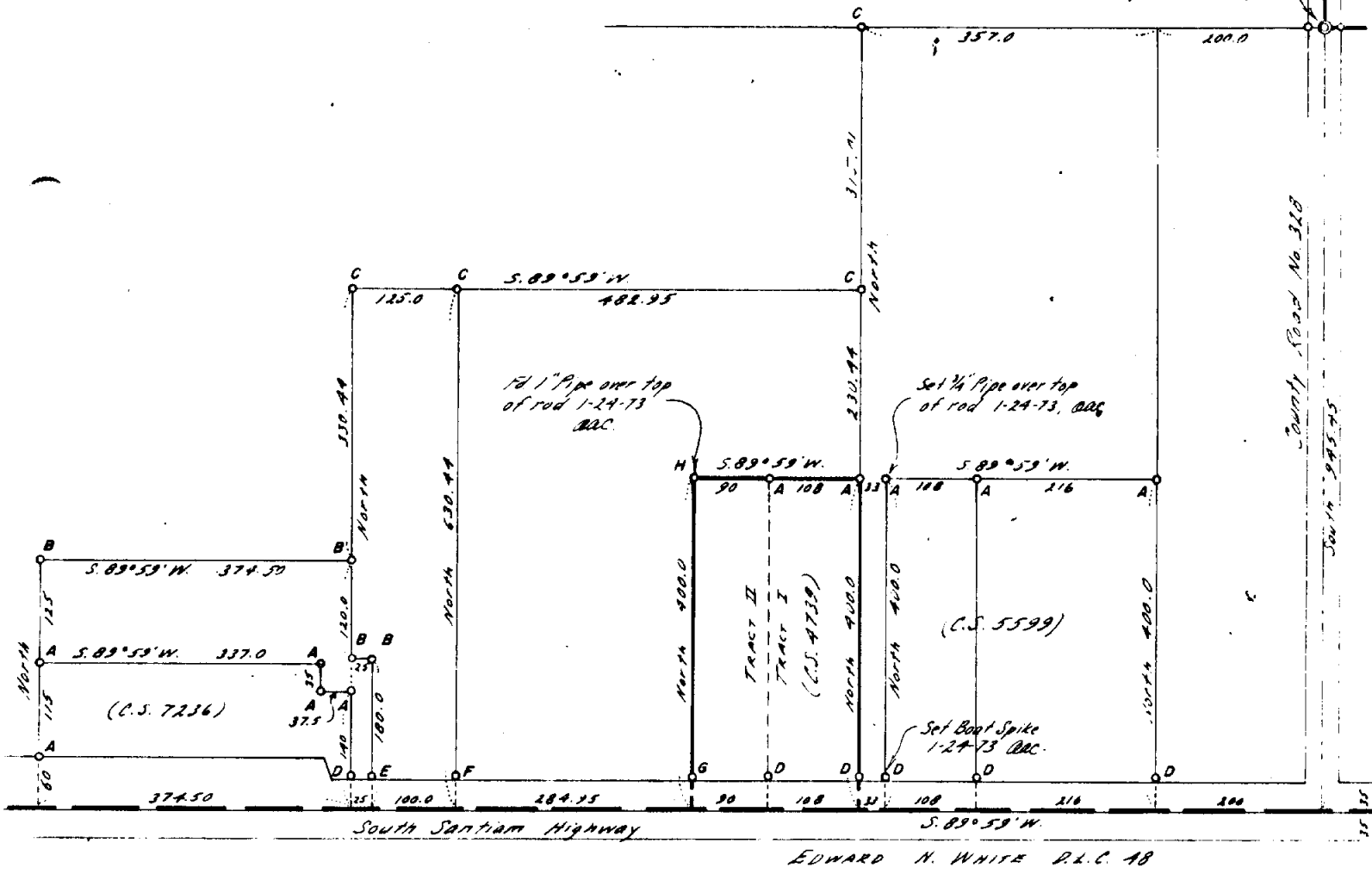
Orris A. Carnegie, County Surveyor

By: G. W. Strand



Bearings based on C.S. 4739

S.W. Cor. D.L.C. 39; Brick with 1/2" Rod on S.W. side; 3/4" Bolts W. 20.0' & E. 21.5'



- A - Found 1/2" Iron Rods
- B - Set 1/2" Iron Rods 1-25-63
- C - Set 1/2" Iron Rods 3-18-65
- D - Found 1/2" Iron Rods 40' N. of Claim Line
- E - Set 1/2" Iron Rod 40' N. of Claim Line 1-25-63
- F - Set 1/2" Iron Rod 40' N. of Claim Line 3-18-65
- G - Set 1/2" Iron Rod 40' N. of Claim Line 7-9-69
- H - Set 1/2" Iron Rod 7-9-69

Orris A. Carnegie

8-22-69

C.S. 10469
9A

20.00 CH
500
500A1

501

19-4

COMMERCIAL WAY SUBDIVISION

404 1500 4.60A

15.00 CH

700
5.00 CH

6.28 CH
16.53 CH

500

70.00 CH

800 200

900

1000

200

424

1421

1427

1428

429

1422

1431

1403

1410

EAST COMMERCIAL WAY

PARCEL A 373'

1430

1415

1418

1419

3

1426

5

6

1425

1417

1416

1420

1402

1400

1401

1300

1200

1100

SOUTH COMMERCIAL WAY

19-4

EXHIBIT "B"

SANTIAM HWY U.S. 20

