

ORDINANCE NO. 5283

AN ORDINANCE AMENDING ORDINANCE NO. 5018, WHICH ADOPTED NORTH ALBANY COMPREHENSIVE PLAN AMENDMENTS, AND AMENDING ORDINANCE 4836, WHICH ADOPTED THE CITY'S COMPREHENSIVE PLAN, REGARDING THE EXTENSION OF SANITARY SEWER SERVICE OUTSIDE THE URBAN GROWTH BOUNDARY TO THE OAK GROVE SCHOOL AND DECLARING AN EMERGENCY.

WHEREAS, it has been the policy of the City of Albany to prohibit the extension of sanitary sewer service outside the Urban Growth Boundary in North Albany; and

WHEREAS, it is appropriate to revise the Albany Comprehensive Plan to extend this policy prohibition to apply to the entire Urban Growth Boundary, consistent with statewide planning goals and other policies of the Plan; and

WHEREAS, sanitary sewer service is an urban facility pursuant to Statewide Planning Goal 11 (Public Facilities) which is intended to serve urban land uses inside urban growth boundaries as required by Statewide Planning Goal 14 (Urbanization); and

WHEREAS, the Greater Albany Public Schools has requested an exception to the Albany Comprehensive Plan to allow extension of municipal sewer service outside the Urban Growth Boundary to Oak Grove School, where student enrollment is currently limited by the capacity of the septic system serving the school; and

WHEREAS, the Benton County Planning Commission and Board of Commissioners have held public hearings on March 11 and March 26, 1997, respectively, and adopted findings in support of exceptions to Statewide Planning Goals 11 and 14 and an amendment to the Benton County Comprehensive Plan to allow extension of sanitary sewer service from the City of Albany to Oak Grove School; and

WHEREAS, the Planning Commission of the City of Albany held a public hearing on March 17, 1997, and recommended adoption of revisions to the Albany Comprehensive Plan; and

WHEREAS, the Albany City Council has duly advertised and caused notices to be given as required by law and has had a public hearing on April 9, 1997, concerning the revisions to the Comprehensive Plan above described and evidence having been introduced and the same being fully considered.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Albany Comprehensive Plan is amended as follows. Deleted language is shown in ~~strike through~~ and new language is shown in **bold**.

Subsection 1(a): Revise Wastewater Treatment Policy 4 under Goal 11: Public Facilities and Services adopted by Ordinance 4836:

Require execution of annexation or consent to annex agreements to receive sewer service in unincorporated areas **within the Urban Growth Boundary. The City of Albany will not provide sewer service outside the Urban Growth Boundary except to serve the public educational use of Oak Grove School.**

Subsection 1(b): Delete Policy 10 from the North Albany Comprehensive Plan Amendments adopted by Ordinance 5018:

~~The City of Albany will not extend sewer service outside of the North Albany annexation area (UGB).~~

Section 2. The Findings attached as Exhibit "A" are hereby adopted in support of these amendments to the Comprehensive Plan.

Section 3. These amendments will be known as Comprehensive Plan Amendment File CP-02-97.

Section 4. A copy of these amendments shall be filed in the office of the City Recorder of the City of Albany.


Section 5. The City of Albany shall, within ten days of the effective date of this Ordinance, file a copy of the Ordinance with the Department of Land Conservation and Development.

Section 6. Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this City of Albany, Oregon, an emergency is hereby declared to exist; and this Ordinance shall be in full force and effect immediately upon its passage by this Council.

Passed by Council: April 9, 1997

Approved by Mayor: April 9, 1997

Effective Date: April 9, 1997

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

**Exhibit "A"**

**FINDINGS OF FACT  
Comprehensive Plan Amendment  
File CP-02-97**

The Albany Development Code contains the following review criteria which must be met for this application to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions.

***(1) A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.***

**FINDINGS OF FACT**

- 1.1 At present, there is no clear statement of policy within the Comprehensive Plan regarding the extension of sewer service outside the Urban Growth Boundary except in the North Albany area. This policy is applicable to the entire Urban Growth Boundary.
- 1.2 The Oak Grove School is located on the south side of Oak Grove Road approximately 1,320 feet west of Scenic Drive. The site is located outside the Albany Urban Growth Boundary which follows Scenic Drive. To the east of Scenic Drive, land situated inside the Urban Growth Boundary is governed by the Albany Comprehensive Plan; land situated outside the Urban Growth Boundary to the west of Scenic Drive is governed by the Benton County Comprehensive Plan.
- 1.3 The purpose of the proposed amendment will be to create an exception to alleviate the hardship faced by Greater Albany Public Schools (GAPS). The existing septic system for Oak Grove School is functioning adequately but increasing enrollment is approaching the design limit of the septic system. The site lacks a suitable expansion area. The solution proposed by GAPS is a service connection to the Albany sanitary sewer system.
- 1.4 This is a legislative amendment because the school serves most of North Albany and because the expressed prohibition of the original policy will remain in full force and effect to all other properties outside the Urban Growth Boundary.
- 1.5 The Albany Urban Growth Boundary was adopted by mutual agreement of the City of Albany and Benton County in 1980. Statewide Planning Goal 14 requires each city to establish an Urban Growth Boundary to identify and separate urbanizable land from rural land. Factors that contribute to the location of the boundary include long-range population growth, housing needs, employment opportunities, provision of public facilities and services, efficient use of land, and compatibility with nearby resource uses. The Albany Comprehensive Plan, including the Urban Growth Boundary, was acknowledged by the Land Conservation and Development Commission as complying with statewide planning goals on November 18, 1982.
- 1.6 Under Statewide Planning Goal 11, each city and county must plan for and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for development. This refers to a system or plan that coordinates the type, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses. Under the terms of the urban growth management agreement executed between the City of Albany and Benton County, the City's public facilities plan is the prevailing guide for the planning and improvement of all public facilities within the Urban Growth Boundary. This agreement was originally enacted in 1981 for acknowledgment of the Albany Comprehensive Plan and reauthorized in 1988 at the time of Periodic Review. Therefore, the City is the appropriate provider of sanitary sewer service inside the Urban Growth Boundary. This conclusion is summed up in the procedural requirement set forth

in Policy #4, Wastewater Treatment, Albany Comprehensive Plan (p. 79): "Require execution of annexation or consent to annex agreements to receive sewer service in unincorporated areas." Only land within the Urban Growth Boundary can be annexed and receive sewer service. The purpose of the proposed Comprehensive Plan Amendment will be to allow a narrow exception in the case of Oak Grove School, but to retain the prohibition in all other cases.

- 1.7 The public facilities plan for Benton County, acknowledged as complying with Goal 11, states that Benton County is the appropriate provider of public facilities outside the Urban Growth Boundary. In rural areas, sewage disposal is accomplished by means of a septic system. The applicant has requested Benton County to adopt an exception to Goal 11 so that the City of Albany may provide sewer service to the Oak Grove School. Approval of an exception to Goal 11 is required for the City of Albany to allow connection of a private sewer service from outside the Urban Growth Boundary.
- 1.8 At Oak Grove School, Greater Albany Public School District provides elementary education services to third, fourth, and fifth grade students of residents located through the North Albany area, including areas outside the Urban Growth Boundary. OAR 660-33-090 prohibits schools on high value farm land within three miles of an Urban Growth Boundary (UGB) on the assumption that a school is an urban use if it serves an urban population, but a rural use if it serves a rural population. Goal 14 (Urbanization) explains that urban uses must be located within urban growth boundaries. Therefore, the applicant has requested Benton County to adopt an exception to Goal 14 so that the City of Albany may provide sewer service to the Oak Grove School. Approval of an exception to Goal 14 is required for the City of Albany to allow connection of a private sewer service to an urban use from outside the Urban Growth Boundary.
- 1.9 "Education, as provided by the Greater Albany Public School District, is a Public Facility and Service under Goal 11." (Background Summary, Education, Public Facilities and Services, Albany Comprehensive Plan, page 88).
- 1.10 The proposed amendment is written to narrowly define a proposed exception to the broad policy. The sewer service cannot be transferred to another property owner if GAPS sells the property or leases the school for another use, even a private school. The intent of Goal 14 is that any use which requires this level of sewer service should be located in an urban area.
- 1.11 The North Albany Sanitary Sewer Facility Plan is the area plan that is pertinent to the request. That Plan does not provide for service connections to property located outside the Urban Growth Boundary. Preliminary engineering calculations indicate that there will be capacity in the sewer sub-basin at build out to allow the school to connect to the public sewer main in Scenic Drive. According to calculations prepared by the City Engineer's staff, the residual capacity in the public sewer main on Scenic Drive at build out will allow a maximum pumping rate of 0.13 cubic feet per second at the proposed lift station to serve the Oak Grove School. The holding tank and pump can be sized to accommodate this limitation. A service agreement between the City and GAPS will specify the maximum flow rate that the sub-basin can accept.
- 1.12 The capacity of the sewer sub-basin will determine the number of students that can be enrolled at the school. Benton County land use regulations will govern how the site may be used to serve the maximum enrollment.

## CONCLUSIONS

1. A legislative amendment that would allow a sewer line extension outside the Urban Growth Boundary for a public purpose, such as to serve a school, is consistent with Goal 11 of the Statewide Planning Goals and the Albany Comprehensive Plan. Both public education and sewage treatment are public services addressed by Goal 11 and corresponding policies in the Albany Comprehensive

Plan. To balance the two, the proposed amendment is the minimum needed to maintain the public education use of Oak Grove School while otherwise retaining the overall prohibition against extension of sewer service outside the Urban Growth Boundary.

2. This amendment would allow the orderly and efficient planning for educational services by allowing an existing school to remain in its present location and expand the student enrollment to the capacity of the existing building. The citizens served by the school are primarily North Albany residents.
3. The surrounding community benefits from the sewer line extension because the school will remain in the location and be used to its capacity. This will improve the quality of the area and maintain the neighborhood identity that is attached to the historical school location.
4. Any inconsistency with Statewide Planning Goals 11 and 14 will be resolved through the exception process in Benton County.
5. The service line capacity will be limited to 0.13 cubic feet per second so as not to exceed the residual design capacity of the Scenic Drive sewer main.

*(2) A legislative amendment is needed to meet changing conditions or new laws.*

#### FINDINGS OF FACT

- 2.1 Historically, Oak Grove School has served a rural population in North Albany. The character of the area has been in transition since the mid-1960's when urban density subdivisions began to appear along Gibson Hill Road, followed by the designation of the Urban Growth Boundary in 1980 and annexation in 1991. In the midst of this change, maintaining the viability of Oak Grove School is "important to neighborhood identity" for North Albany (Policy #5, Education, Public Facilities and Services, Albany Comprehensive Plan, page 89).
- 2.2 The number of residents in North Albany has grown as more property has been developed for residential use. North Albany's increase in population has increased the need for education services in North Albany. In October 1996, the student population of Oak Grove Elementary School was 121 students. Projected enrollment for Fall 1997 is 132 students. The existing septic system is designed for a maximum usage by 139 students. If the existing 11 classrooms average 25 students, the building capacity would be approximately 275 students.
- 2.3 "It is recognized that educational quality contributes to the stability of an area and that is an investment that pays dividends to the entire community. Land use actions that can help maintain this quality should therefore be considered." (Background Summary, Education, Public Facilities and Services, Albany Comprehensive Plan, page 88).

#### CONCLUSION

1. The increased need for education services caused by the increase in residences in North Albany requires a legislative change allowing the sewer line extension so that Greater Albany Public School District will be able to provide education services to these residents in the fully developed school building that is already located in North Albany. The following conditions will ensure that the planned sewer system for North Albany will be able to serve land within the Urban Growth Boundary.

## CONDITIONS

1. The maximum pumping rate at the proposed lift station to serve the Oak Grove School shall be limited to 0.13 cubic feet per second so as not to exceed the residual design capacity in the Scenic Drive sewer main.
2. The applicant shall sign an agreement with the City of Albany consistent with the provisions of the Albany Municipal Code and Department of Environmental Quality regulations. The applicant shall agree that the service will be privately maintained, that no other connections will be permitted to the service line, and that the service line will be plugged upon termination of the public educational use of Oak Grove School. The City may impose other conditions which are deemed in the best interest of the City.