

RESOLUTION 2394

WHEREAS, the Albany City Council and the Linn County Board of Commissioners have entered into an Urban Growth Management Agreement, and,

WHEREAS, this agreement provides for joint review and approval of delayed annexation contracts involving certain properties in the urban fringe of the Albany Urban Growth Boundary, and

WHEREAS, property described in attached 'Exhibit A' has applied for delayed annexation under the terms of this agreement and City and County codes regulating such development, and

WHEREAS, the City of Albany has reviewed the proposed development and has agreed to Site Plan approval with conditions attached and by reference incorporated herein, and

WHEREAS, the property owners, County representatives, and City representatives held a joint development review meeting on May 9, 1983, to discuss the proposed development and possible conditions of approval, and

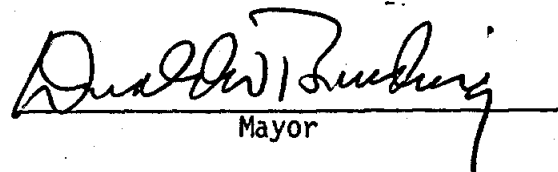
WHEREAS, a Public Hearing was held before the combined bodies of the Albany City Council and the Linn County Board of Commissioners on May 25, 1983, concerning the proposed delayed annexation, and

WHEREAS, findings were presented, attached 'Exhibit B', in support of the delayed annexation, and

WHEREAS, the terms and conditions of the proposed contract have tentatively been agreed to by all signators to the contract which is attached hereto as 'Exhibit C';

NOW THEREFORE BE IT RESOLVED by the Albany City Council that the subject delayed annexation be approved and that the City Manager and City Recorder be authorized to sign the contract binding the City of Albany to the terms and conditions thereof.

Dated this 25th day of May, 1983.



Mayor



City Recorder

STAFF REPORT

File No.: AN-01-83

Hearing Body: Albany City Council
Linn County Board of Commissioners

Hearing Date: May 25, 1983

GENERAL INFORMATION

Applicant: ... Carl Haima
4810 41st Avenue NE
Albany, OR 97321

Type of Request: To consider the application for a Delayed Annexation request.

Property Location: 2290 Three Lakes Road NE (Exhibit "A")

Total Land Area: 3.67 acres

Assessor's Map & Tax Lot No.: 11-3W-16; 701

Neighborhood: East Albany

Existing Comprehensive Plan Designation: Light Industrial

Current County Zoning Designation: UGM-ML

Surrounding Zoning: UGM-ML to the north, south, and west, UGM-20 to the east across Three Lakes Road.

Existing Land Use: There is currently a large single family structure on the property which is being used as a church. The rest of the property is currently being farmed.

Surrounding Land Use: The property to the immediate north and west is currently vacant farm land. The property to the south contains an industrial development which contains a number of industrial uses (i.e. warehousing, manufacturing businesses, contractors, etc.). The properties to the east across Three Lakes Road contain several vacant parcels (farmland), a boarding stable and three single family homes.

Proposed Use:

Industrial warehousing consisting of two buildings to be constructed in Phase I and containing 10,500 square feet and 7,200 square feet.

Reason for Delayed Annexation:

To allow industrial development to occur on an industrial lot within the Urban Growth Boundary without public facilities, and to provide for the orderly and logical development of the property at City or a combination of City and County standards.

The City and County have recognized a common interest in the development of properties which lie outside of the existing City limits and are not contiguous, -but lie within the acknowledged Urban Growth Boundary.

A Delayed Annexation makes it possible for urban development to occur. Property development standards shall be determined by both the City and the County as part of the review process described in Section 4 of Article 17 of the Linn County Zoning Ordinance. The City Implementing Ordinances shall be utilized except when both the County and the City agree to using other standards on an interim basis where such standards would be more suitable prior to annexation and where the applicant has provided assurances to meet City standards upon annexation.

The Delayed Annexation shall not be approved until both the City and the County agree to all terms and conditions for approval. Procedures for Approval must be followed as outlined in Article 17 of the Linn County Zoning Ordinance which was agreed to by the County and the City as a part of a jointly adopted Urban Growth Management Agreement.

FINDINGS

1. Conformance with the Adopted Comprehensive Plan

The proposed Delayed Annexation is in conformance with the acknowledged Albany Comprehensive Plan Map and Plan Policies.

The property proposed for a Delayed Annexation is within the area covered by the Comprehensive Plan for the City of Albany, and is included within the recognized Urban Growth Boundary adopted by the City of Albany and Linn County.

The proposed use of the property is in conformance with the designation indicated in the Comprehensive Plan Map.

A. Urban Growth Policies

- (1) The subject property is within the locally adopted Urban Growth Boundary.
- (2) The delayed annexation of the property will be an incremental step in extending the City Limits to the Urban Growth Boundary.
- (3) The delayed annexation will be a logical and efficient extension of the City Limits boundaries to facilitate the functional and economic provision of service.

- (4) The subject property is developed and has been committed to an urban use.

B. Growth Management

Annexation of the subject property will conform to the Growth Management Policies as the proposed annexation will encourage the urbanization of an area where facilities and services are in need of extension. Development of this type will enable the cost effective extension of urban facilities and services and will assure that any further development of the subject property will be to City standards.

C. Development Policies

When the subject property is annexed it will be rezoned to the appropriate industrial designation (ML, Light Industrial) and will be in compliance with the Comprehensive Plan designation of the property. Any future developments or modifications to the existing structure must occur to City standards.

D. Annexation Policies

Annexation of the subject property will be a logical extension of the City boundary and service area.

Annexation of the subject property will facilitate the functional and economic provisions of services within the Urban Growth Boundary without seriously impairing City services to other portions of the City. The applicants have agreed to and signed a Petition for Improvement and Waiver of Remonstrance for street and utilities.

2. Annexation Criteria

Any annexation proposal considered under a Type IV procedure must be demonstrated to be in conformance with the following criteria:

- A. The proposed annexation is within the Urban Growth Boundary and is a logical and efficient extension of the City Limit boundaries.

The applicant states:

"Fact: The proposed annexation is within the UGB as shown on the City's Comprehensive Plan of September 10, 1982.

Conclusion: Proposed annexation is in conformance with criteria above."

- B. The proposed annexation will facilitate the functional and economic provision of services with the Urban Growth Boundary without seriously impairing City services to existing portions of the City.

The applicant states:

"Fact:

- (1) No public improvements are planned for this area.
- (2) Storm drains will be constructed on site and will be directed to natural receiving stream.
- (3) Sanitary waste disposal will be handled by on site holding tanks.
- (4) The property owner is willing to participate in future improvements that will be constructed in this and surrounding areas that will benefit his property.
- (5) Additional right of way (10' wide) will be deeded for Three Lakes Road at time of final contractual agreement.
- (6) By allowing this property to be developed it will provide greater assessed value which in turn will allow for more improvements.

Conclusion: The above facts meet the criteria in "B".

3. The proposed annexation will add property to the City which is needed to provide an adequate supply of zoned lands for the uses proposed or will add property which has existing development in need of City services.

The applicant states:

"Fact:

- (1) The owner intends to construct two buildings immediately in Phase I with areas of 10,500 s.f. and 7,200 s.f. Additional land will be developed in the future based on City/County site plan review procedure.
- (2) Additional assessed value created by this proposed annexation will provide greater Bancroft bonding capacity for future public improvements.
- (3) There is a need for industrial buildings of this type by virtue of the fact that the owner has a tenant ready to occupy buildings when complete.
- (4) Industrial development increases assessed value of the City but does not increase the need for additional services, i.e. police, fire, library, etc.

Conclusion: The above facts meet the criteria of "C" above."

CONCLUSIONS:

1. Annexation of the subject property will be a logical extension of the City boundary and will provide for coordinated planning efforts for extension of streets and utilities.
2. The subject property is within the Urban Growth Boundary.
3. Delayed Annexation of the subject property will be in conformance with the-acknowledged Albany Comprehensive Plan.
4. The proposed zoning designation of ML (Light Industrial) will be in conformance with the acknowledged Albany Comprehensive Plan.
5. The conflicts between the City and County applications of development standards and requirements for this property will be eliminated through annexation.

RECOMMENDATION:

That the City Council and the Board of Commissioners APPROVE the Delayed Annexation of the subject property, adopt the Findings and Conclusions listed in this Staff Report and enter into the terms and conditions of the attached contract which specifies the conditions binding to each of the three parties.

DELAYED ANNEXATION PETITION AND AGREEMENT

TO: The City Council of Albany, Oregon, and Linn County Board of Commissioners

This agreement is made this 25th day of May, 1983 by and between the City of Albany, Oregon, a municipal corporation, the County of Linn, and the undersigned owner(s) of record of the property described in exhibit "A" (legal description and map), attached hereto and by this reference incorporated herein.

In consideration of the mutual promises contained herein, and upon the valid execution of this agreement by all parties hereto, it is agreed as follows:

OWNER'S OBLIGATIONS

1. The undersigned owner(s) of the property described in Exhibit "A" hereby petition for annexation of said property to the City of Albany in accordance with ORS Chapter 222.170.
2. Except as hereinafter set forth it is understood that this petition shall be permanent and irrevocable.
3. This agreement shall be binding upon the undersigned, and his heirs, successors, and assigns and shall become a covenant running forever with the land described in Exhibit "A", regardless of whether said parties are signators to this agreement.
4. The undersigned owner agrees to pay all assessments and development fees, including one and one-half times the in-city rate for sewer usage at such time sewer service is provided until such time as the property is annexed, whereupon the current in-city sewer rate shall apply.
5. The undersigned owner further agrees to the following special conditions:
 - a. Prior to the issuance of building permits, the owner will sign a Petition for Improvement and Waiver of Remonstrance for street improvements (Three Lakes Road), storm drainage, sanitary sewer, and sidewalks. Prior to any such improvements taking place, the City Public Works Director and County Road Master shall agree on project specifications.
 - b. The applicant agrees to make all improvements indicated on the Approved Site Plan and the conditions attached to the Approval (SP-13-83) by the City of Albany for Phase I. (Exhibit 'D')
 - c. All subsequent development shall be subject to additional Site Plan Approval by both the City of Albany and Linn County Planning Departments in accordance with Article 13 of the Albany Development Code as may be amended.
 - d. All property improvements shall be constructed and maintained in accordance with the City of Albany's Development specifications.
 - e. Prior to issuance of building permits, the applicant shall dedicate an additional 10 feet of right-of-way to the public for roadway purposes.
 - f. Until sanitary sewer facilities are available, the applicant shall obtain the necessary approvals for sanitation facilities from DEQ or its designee.

The undersigned owner hereby acknowledges that s/he has read this petition and its attachments, understood the requirements for delayed annexation, and states that the information supplied is complete, true, and accurate. The undersigned reserves the right to withdraw this petition upon giving written notice to the Planning Director of the City of Albany not more than 30 days from receipt of the notice of final action listing all final conditions of approval. The undersigned further understands that if the actions required are not completed as agreed, Linn County may revoke all permits issued since the agreement was signed and the City of Albany shall have the right to discontinue sewer service upon giving ninety (90) days' written notice to the undersigned or to the owner of record of the property which is the subject of this agreement as said ownership appears in the records of the assessor of Linn County, Oregon.

CITY'S AGREEMENT

1. The City agrees that at such time as the property described in Exhibit "A" may become contiguous to the corporate boundaries of the City of Albany, it shall be eligible for annexation and shall be considered for such action.
2. The City agrees to provide such municipal services as it, in the exercise of its discretion, may deem prudent.
3. The City agrees, notwithstanding the foregoing, to provide and maintain the following municipal services:
 - a. Sanitary sewer service at such time as a Local Improvement District is formed and is judged by the City to be of sufficient size to encompass the needs of the applicant's property.
 - b. The City agrees to maintain all public facilities constructed to City standards and specifications.
 - c. Any reconstruction of Three Lakes Road to City standards and specifications and subsequent maintenance shall be carried out in accordance with standard city procedures at no expense to the County unless otherwise agreed to by the City and County.
 - d. All drainage improvements constructed to City standards and subsequent maintenance shall be carried out in accordance with standard city procedures at no expense to the County unless otherwise agreed to by the City of Albany and Linn County.
 - e. The City agrees to waive all building inspection responsibilities and collection of fees until such time that the property is annexed.
 - f. The City's maintenance obligation as set forth above shall not require any higher degree of maintenance than that generally provided by the City for like improvements located within the corporate city limits.

THE COUNTY OF LINN AGREES:

1. To provide such public services as would otherwise be provided to the subject property by the county absent other terms of this agreement.
2. To permit the development of the subject property in accordance with the applicable Linn County Delayed Annexation Overlay Zoning and all applicable city development standards, except the following:
 - a. County reserves the right to administer onsite sewage disposal system regulations by its Environmental Health Division as authorized agent for the Department of Environmental Quality until sewer services are provided.
 - b. Prior to annexation, the County reserves the right to administer building codes and fill and excavation ordinances, perform necessary inspections, and collect applicable fees, subject to City approval for compliance with City development standards.
 - c. Linn County's duty to maintain or reconstruct Three Lakes Road is limited to meeting applicable County road standards unless otherwise agreed to by the City and County at some later time.
 - d. The County agrees to allow any drainage improvements to be constructed and maintained to City standards and specifications unless otherwise negotiated at a later time.

SEVERABILITY

The provisions of this document are severable. If any section, sentence, clause or phrase of this document is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions.

RECORDING

It is further agreed that this contract shall be recorded in the deed record of Linn County.