

RESOLUTION NO. 584

A RESOLUTION ANNEXING INTO THE CITY OF STAYTON CERTAIN REAL PROPERTY LOCATED EAST OF EAST LINE OF PIONEER MEADOWS PHASE I, AND EASTERLY OF 15TH AVENUE

WHEREAS Daniel E. and Marilyn J. Brammer, Lawrence and Glenna R. Grames, and I. B. Ray and Evelyn Brumbaugh are owners of a 7.08 acre tract at the east end of East Burnett Street, Assessor's Tax Lot Number 61053-000, situated in Marion County, State of Oregon; and

WHEREAS on June 2, 1994, owners filed with the City of Stayton, Oregon pursuant to ORS 222.125 and Stayton Code Section 17.12.460 and 17.12.490, an annexation application and site plan review application for the Pioneer Meadows (formerly Parkview Estates) Subdivision, Phase IV; and

WHEREAS the City of Stayton Planning Commission and City Council held public hearings as required by law and on October 6, 1994 the Stayton City Council adopted Order No. 06-11/94, granting approval to the annexation subject to compliance with certain conditions of approval; and

WHEREAS the property which is subject to this annexation is a part, and is contained within the territory which was originally subject to a contract annexation in Order No. 08-5/91; and

WHEREAS the Final Plat of the subdivision for the subject property has now been approved by the City and duly recorded in the deed records; and

WHEREAS the subject property is now ready for completion of the annexation process, and the applicants have filed with the City a Consent to Annexation form; now

***** WITNESSETH *****

IT IS HEREBY RESOLVED by the City Council of the City of Stayton, Oregon as follows:

SECTION 1. That pursuant to ORS 221.125, the Stayton City Council hereby initiates proceedings and proclaims the annexation to the City of Stayton, Oregon, of territory lying contiguous to the present city limits, located at the east end of East Burnett Street and which is legally described in Exhibit A which is attached hereto and by this reference is incorporated herein.

SECTION 2. That pursuant to ORS 222.005 the City Administrator shall provide by certified mail to all public utilities, telecommunications utilities, and franchise holders operating within the city a written notice of each site address to be annexed as recorded on the

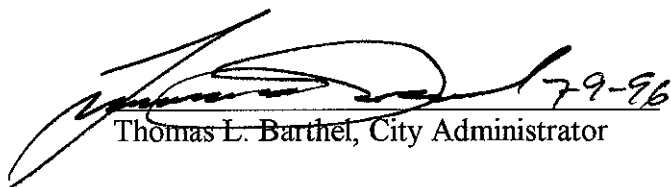
Marion County assessment and tax rolls, a legal description and map of the proposed boundary change, and a copy of this resolution. This notice shall be mailed within ten (10) working days of the passage of this resolution,

SECTION 3. That pursuant to ORS 222.010 the City Administrator shall, within ten (10) working days of the passage of this resolution, provide to the Oregon Department of Revenue, Marion County Clerk and Marion County Assessor a report of the annexation including a detailed legal description of the new boundaries established by the City.

ADOPTED BY CITY COUNCIL on this the 1st day of July, 1996 at Stayton, Marion County, Oregon to be the lawful act of the City of Stayton.

 7-9-96
Willmer Van Vleet, Mayor

Approved As To Form

 7-9-96
Thomas L. Barthel, City Administrator


 7-9-96
David A. Rhoten, City Attorney

EXHIBIT A

(Legal Description of Territory Being Annexed)

That certain tract of land lying in Marion County, State of Oregon, and which is legally described as follows:

PARCEL I

Being part of the Partition Land Claim of Stephen Po... and wife, in Township 9 South, Range 1 west of the Willamette Meridian, Marion County, Oregon, bounded by beginning 80 rods 5 1/2 feet South and 56 rods West of the quarter section corner on the line between Sections 10 and 11, in said Township; and running thence East 108 rods; thence South 2 rods; thence East 108 rods to the East line of land formerly owned by Langdon Bentley; thence North 38 rods to the Southeast corner of land formerly owned by M. McDaniel; thence West 176 rods; thence South 20 rods; thence West 40 rods; thence South 16 rods to the place of beginning.

EXCEPTING THEREFROM the following described tract:

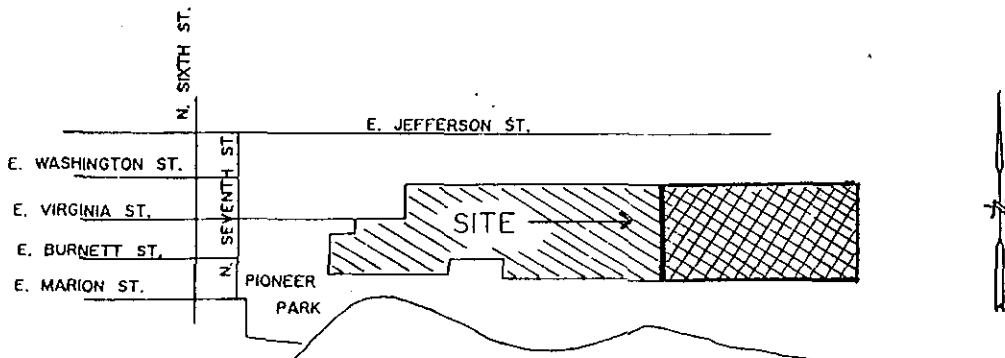
1 acre of land heretofore conveyed to M. J. Crabtree, et ux, by deed recorded in Volume 133, Page 519, Deed Records for Marion County, Oregon.

ALSO EXCEPTING THEREFROM the following described tract:

Beginning at the most Northerly Northwest corner of a tract of land conveyed to Chris and Mary E. Neitling by deed recorded in Volume 336, Page 554, Deed Records for Marion County, Oregon, said point of beginning described as being 44 rods 5 1/2 feet South and 16 rods West of the 1/4 corner between Sections 11 and 12, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; and running thence South 0° 59' East 225.12 feet along the West line of said Neitling property to the Northeast corner of Block 2, PARKVIEW ADDITION to Stayton, Oregon; thence East along the Easterly extension of the South line of Virginia Street 314.35 feet; thence North parallel with the West line hereof 225.12 feet to the North line of said Neitling tract; thence West along the North line of said Neitling tract 314.35 feet to the point of beginning.

ALSO EXCEPTING THEREFROM the following described tract:

Beginning at an iron pipe at the Southwest corner of PARKVIEW ADDITION to Stayton, Oregon in Township 9 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; thence South 1° 02' 30" East 264.00 feet along the Easterly right of way line of Seventh Street; thence North 88° 58' 35" East 522.08 feet along the Southerly line of a tract of land conveyed to Chris and Mae Neitling by deed recorded in Volume 336, Page 554, Deed Records for Marion County, Oregon; thence North 1° 02' 30" West 263.80 feet to the Southerly line of said PARKVIEW ADDITION; thence South 89° 00' West 522.08 feet to the place of beginning.



BEFORE THE STAYTON CITY COUNCIL

In the Matter of the)
Application of:)
DANIEL E. and MARILYN J. BRAMMER)
LAWRENCE and GLENNA R. GRAMES)
I. B. RAY and EVELYN BRUMBAUGH)

File No. 06-11/94

Pioneer Meadows (formerly
Parkview Estates) Phase IV

CONSENT TO ANNEXATION

Comes now the above referenced applicants, who are the vested title holders to the real property which is the subject certain land use actions before the City of Stayton, and do hereby request that the property located in Marion County, State of Oregon, and legally described in Exhibit A, which is attached hereto and by this reference is incorporated herein, be annexed to the corporate limits of the City of Stayton. This consent is given pursuant to ORS 222.125.

The undersigned do further represent that they comprise in excess of 50 percent of the electors residing in the property described in Exhibit A hereto, and that annexation is duly and properly agreed to, and should be appropriately filed with the Secretary of State's office, and all other appropriate governmental agencies as is required by law.

This consent is given freely and voluntarily, without duress or coercion, and with full knowledge of all of the facts, laws and impacts this decision will have on the undersigned, and on the real property described in Exhibit A.

DATED this 8th day of August, 1996, at Stayton, Marion County, Oregon.

Daniel E. Brammer
DANIEL E. BRAMMER

Marilyn J. Brammer
MARILYN J. BRAMMER

Lawrence Grames
LAWRENCE GRAMES

Glenna R. Grames
GLENNA R. GRAMES

I. B. Ray Brumbaugh
I. B. RAY BRUMBAUGH

Evelyn Brumbaugh
EVELYN BRUMBAUGH

MEMORANDUM OF SATISFACTION OF CONDITIONS

Brammer, Grames & Brumbaugh
(Case No. 8-5/91)

This Memorandum is intended to set forth the current status of the land use approval rendered in the above referenced case.

This case involved approval of an omnibus annexation of 36.19 acres of land by Council on August 7, 1991. The intent of the property owner was to insure annexation of the full site, then actually develop the tract in smaller pieces.

The Council approved the annexation "through the execution of a Contract Annexation Agreement". The contract annexation was a condition of approval for this case. See the final order at pages 11 and 17.

Contract annexations usually take the form of a written agreement entered into between the property owner and the City, and which set forth the terms and conditions upon which annexation would take place. The terms and conditions are normally discussed in some detail in the Order of approval of the land use case. Here, there is no definitive statement for the necessity of a contract annexation, or what terms and conditions would be required therein. This lack of specificity made it difficult, if not impossible, to actually draft a formal written agreement.

Therefore, this contract annexation took the form of a "quasi-contract", that is, the agreement consisted of the written Order of approval, and the understandings and conduct of the parties over a period of almost five (5) years. Substantial performance according to the general terms of the annexation concept as expressed in the original Order of approval has been accomplished.

Substantial performance includes the application for, and approval by the City for Phases I, II and II of the subdivision in Case No. 20-12/93, and the formal annexation of the territory comprising those phases. Phase IV has now been approved by the City, and formal annexation of that territory soon will be completed. It is clear from this activity that the basic understanding for provision of services, and the phased annexation of the entire 36.19 acre tract is being done as contemplated in the Final Order in this case.

Although no formal Contract Annexation agreement has ever been executed in this case, the City now determines that the condition of approval requiring the Contract Annexation has actually been fully satisfied by the performance of the parties - which had the effect of forming a "quasi-contract" annexation.

The City therefore, does hereby recognize that the condition of approval in Case No. 8-5/91, requiring a contract annexation for the entire 36.19 acre tract has been fully satisfied, and that the approval given in that case is fully vested by substantial performance.

DATED this 9 day of July, 1996.

William Donahoe