

City of Port Orchard
City Clerk's Office
216 Prospect Street
Port Orchard, WA 98366

Introduced by: Development Director
Requested by: Development Director
Drafted by: Development Director
Introduced: October 13, 2009
Adopted: October 13, 2009

ORDINANCE NO. 024-09

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ANNEXING CERTAIN REAL PROPERTY TO THE CITY CONSISTING OF APPROXIMATELY 18.18 ACRES IN THE VICINITY OF SEDGWICK ROAD AND GEIGER ROAD, REQUIRING THE ANNEXED PROPERTY TO BE ASSESSED AND TAXED AT THE SAME RATE AND BASIS AS OTHER PROPERTY WITHIN THE CITY, ESTABLISHING COMPREHENSIVE PLAN AND ZONING DESIGNATIONS FOR THE PROPERTY, AND ESTABLISHING AN EFFECTIVE DATE OF THE ANNEXATION

PROPERTY LOCATION: SITUATED WITHIN SECTION 2 AND SECTION 11, TOWNSHIP 23 NORTH, RANGE 1 EAST, W.M., KITSAP COUNTY, WASHINGTON.

ASSESSOR'S ACCOUNT NUMBERS: 112301-1-028-2001, 112301-1-027-2002, 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, 112301-1-020-2009, 112301-1-021-2008, 112301-1-045-2000, and 112301-1-033-2004.

WHEREAS, on March 06, 2009, the City Council received a notice of intent to petition for annexation for nine parcels consisting of approximately 18.18 acres located in the vicinity of Sedgwick Road (State Route 160) and Geiger Road, as legally described and geographically depicted in Exhibit "A" attached hereto and incorporated by this reference; and

WHEREAS, the initiating parties are the owners of real property with a value in excess of ten percent (10%) of the value of the property for which annexation is petitioned; and

WHEREAS, a meeting was held on March 24, 2009, between the initiating parties of this annexation and the Council of the City of Port Orchard, at which time the Council accepted the notice of intention to commence annexation proceedings and authorized the circulation of an annexation petition for annexation of the real property legally described and geographically depicted in Exhibit "A" attached hereto. At the meeting the Council also determined that it would require the simultaneous adoption of zoning and Comprehensive Plan designations, and the assumption of city indebtedness by the area to be annexed upon annexation; and

WHEREAS, a petition to annex to the City of Port Orchard was circulated and on August 17, 2009 was filed with the City, and was certified by the Kitsap County Assessor as containing the signatures from owners of not less than sixty percent (60%) in value, according to the assessed valuation, of the property for which annexation is petitioned; and

WHEREAS, in December 2006 Kitsap County added the property legally described and geographically depicted in Exhibit "A" to the City of Port Orchard UGA and designated Parcels 112301-1-028-2001, 112301-1-027-2002, 112301-1-020-2009, and 112301-1-033-2004 *Highway/Tourist Commercial (HTC)* on the Comprehensive Plan map and *Highway/Tourist Commercial (10-30 DU/Ac)* on the zoning map; and designated Parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, 112301-1-021-2008, and 112301-1-045-2000 *Urban Low-Density Residential* on the County Comprehensive Plan map and *Urban Low Residential (4-9 DU/Ac)* on the County zoning map; and

WHEREAS, RCW 35.13.177 allows the City to prepare Comprehensive Plan and zoning designations to become effective upon the annexation of any area which might reasonably be expected to be annexed by the City at any future time; and

WHEREAS, pursuant to RCW 35.13.177 and .178, the City Council adopted Ordinance No. 042-08 designating the proposed annexation *Commercial* on the City's Comprehensive Plan and *Commercial Retail/Office* zoning on the City's zoning map for Tax Parcels 112301-1-028-2001, 112301-1-027-2002, 112301-1-020-2009, and 112301-1-033-2004; and designating *Low Density* on the City's Comprehensive Plan and *Residential*:

"R4.5" on the City's zoning map for Tax Parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, 112301-1-045-2000, and 112301-1-021-2008, to become effective upon annexation; and

WHEREAS, the Port Orchard Planning Commission held a public meeting on September 21, 2009 and adopted Resolution 006-09 recommending approval of the petition for annexation, with a Comprehensive Plan designation of *Commercial* and *Commercial Retail/Office* zoning for Tax Parcels 112301-1-028-2001, 112301-1-027-2002, 112301-1-020-2009, and 112301-1-033-2004; a Comprehensive Plan designation of *Residential: High Density* and *R20* zoning for Tax Parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, and 112301-1-021-2008; and a Comprehensive Plan designation of *Public and Community Spaces* and *Community Facilities* zoning for Tax Parcel 112301-1-045-2000, to become effective upon annexation; and

WHEREAS, pursuant to RCW 35.63.200, the City Council finds it is necessary to adopt interim zoning controls for parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, 112301-1-021-2008, and 112301-1-045-2000 and until such time as the Comprehensive Plan amendment process for 2009 is completed and that such interim zoning for these parcels is justified because: the parcels will be served by adequate public sewer, water supply, roads, and other needed public facilities; the parcels are adjacent to areas of Urban High-Intensity Commercial/Mixed Use designations within the City; the interim zoning designation of *Community Facilities* for parcel 112301-1-045-2000 is consistent with the existing use of the property; and the interim zoning designation of "R20" single/multiple family detached/attached for parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, and 112301-1-021-2008 is consistent with the uses in the surrounding area.

WHEREAS, pursuant to RCW 35.13.140, the City Council held public hearing on December 23, 2008 and October 13, 2009, which hearings were duly noticed through publication in a newspaper of general circulation in the City and the proposed annexation area, and through posting of a hearing notice in three public places within the territory proposed for annexation, specifying the time and place of the hearing and inviting interested persons to appear and voice approval or disapproval of the annexation and the property's future comprehensive plan land use designation; and

WHEREAS, the City Council has been fully advised and finds that all statutory requirements have been satisfied in order to accomplish the proposed annexation and that it is in the best interest of the City to approve the proposed annexation as presented and require the assumption of all or any portion of City indebtedness by the area to be annexed; now, therefore,

**THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON,
DO ORDAIN AS FOLLOWS:**

SECTION 1. The unincorporated real property located in Kitsap County, Washington, contiguous to the City of Port Orchard and legally described and geographically depicted in Exhibit "A" attached hereto and incorporated herein by this reference, is hereby annexed to and made part of the City of Port Orchard, Kitsap County, Washington.

SECTION 2. As provided in the annexation petition, all property within the territory annexed shall be assessed and taxed at the same rate and on the same basis as other property within the City of Port Orchard, including assessments or taxes in payment of all or any portion of the outstanding indebtedness of the City contracted for, incurred prior to, or existing on, the effective date of this annexation.

SECTION 3. Based on the findings of fact set forth in the above recitals, the City Council hereby determines that an emergency exists justifying the adoption of interim zoning controls for parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, and 112301-1-021-2008, as depicted on Exhibit "B" attached hereto and incorporated by this reference. Pursuant to RCW 35.63.200, there is hereby adopted an interim Comprehensive Plan designation of Residential: High Density and an interim Zoning designation of "R20" for parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, and 112301-1-021-2008. As long as the interim zoning controls are in effect, all land use and development within the Property shall be subject to the City's land use and development regulations in effect for "R20" single/multiple family detached/attached zoning.

SECTION 4. Based on the findings of fact set forth in the above recitals, the City Council hereby determines that an emergency exists justifying the adoption of interim zoning controls for parcel 112301-1-045-2000 as depicted on Exhibit "B" attached hereto and incorporated by this reference. Pursuant to RCW 35.63.200, there is hereby adopted an interim Comprehensive Plan designation of Public and Community Spaces and an interim Zoning designation of Community Facilities for parcel 112301-1-045-2000. As long as the interim zoning controls are in effect, all land use and development within the Property shall be subject to the City's land use and development regulations in effect for of Community Facilities

SECTION 5. The interim designation of Residential: High Density and Zoning designation of "R20" single/multiple family detached/attached for parcels 112301-1-026-2003, 112301-1-025-2004, 112301-1-024-2005, and 112301-1-021-2008 and the interim designation of Public and Community Spaces and an interim Zoning designation of Community Facilities for parcel 112301-1-045-2000 shall be included in the City's annual

Comprehensive Plan amendment process for 2010 for review and designation as appropriate. The interim zoning controls shall take effect upon annexation to the City.

SECTION 6. This annexation will become effective thirty (30) days after the expiration of the 45-day review by Kitsap County Boundary Review Board, if the Kitsap County Boundary Review Board's jurisdiction is not invoked. If Boundary Review Board jurisdiction is invoked pursuant to RCW 36.93.100, then this annexation will become effective thirty (30) days after the Boundary Review Board's approval of the proposed annexation.

SECTION 7. Pursuant to RCW 35.13.270, following adoption of this ordinance, the Planning Department shall provide notification, by certified mail, that includes a list of annexed parcel numbers, to the Kitsap County Treasurer and Kitsap County Assessor at least thirty (30) days before the effective of the annexation. The Planning Department shall also give such notice to the Fire District and Library District, as appropriate, simultaneously when notice of the proposed annexation is provided to the Kitsap County Boundary Review Board.

SECTION 8. Following adoption of this ordinance, the City Clerk is hereby directed to file a certified copy of this Ordinance with the Kitsap County Board of Commissioners.

The Clerk is further directed to file a certificate of annexation with the State Office of Financial Management as directed by RCW 35.13.260.

SECTION 9. Following adoption of this annexation ordinance, the City shall file a Notice of Intent to Annex with the Kitsap County Boundary Review Board pursuant to RCW 36.93.090.

SECTION 10. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity of constitutionality of any other section, sentence, clause or phrase of this ordinance.

SECTION 11. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 13th day of October 2009.

ATTEST:

Lary Coppola, Mayor

Patricia J. Kirkpatrick, CMC, City Clerk

APPROVED AS TO FORM:

Sponsored by:

Gregory A. Jacoby, City Attorney

Rob Putaansuu, Councilmember