



**NOTICE OF PUBLIC MEETING**  
**CITY OF ALBANY**  
**CITY COUNCIL**  
 Council Chambers  
 333 Broadalbin Street SW  
 Wednesday, February 27, 2008  
 7:15 p.m.

**OUR MISSION IS**  
*"Providing quality public services  
 for a better Albany community."*

**OUR VISION IS**  
*"A vital and diversified community  
 that promotes a high quality of life,  
 great neighborhoods, balanced  
 economic growth, and quality public  
 services."*

**AGENDA**

Rules of Conduct for Public Hearing

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. SCHEDULED BUSINESS

a. Continued Quasi-Judicial Public Hearing

1) SD-14-06, appealing the Planning Commission's approval of a Subdivision Tentative Plat that would divide a 3.77-acre parcel of land into 12 residential single-family lots (Links Club Estates). [Pages 1-5]

Action: \_\_\_\_\_

b. Quasi-Judicial Public Hearings

1) VC-03-07, vacating a portion of Ferry Street SW, located between Queen Avenue SW and the Southern Pacific Railroad right-of-way. [Pages 6-24]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

2) AN-01-07 and ZC-06-07, annexation and zoning map amendment request for properties located at 250, 310, and 320 Clover Ridge Road NE; and 3705, 3749, 3800, 3855 Dunlap Avenue NE. [Pages 25-54]

Action: \_\_\_\_\_ ORD. NO. \_\_\_\_\_

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

c. Business from the Public

1) Proposal from David Anderer regarding "We the People" 2008. [Pages 55-56]

Action: \_\_\_\_\_

d. Adoption of Resolution

1) Consenting to the formation of the Linn Library District. [Pages 57-58]

Action: \_\_\_\_\_ RES. NO. \_\_\_\_\_

e. Adoption of Consent Calendar

1) Certifying properties exempt from taxes:

a) Songbird Village. [Pages 59-60] RES. NO. \_\_\_\_\_

b) Periwinkle Place. [Page 59 & 61] RES. NO. \_\_\_\_\_

c) Park Rose Properties. [Page 59 & 62] RES. NO. \_\_\_\_\_

2) Approving liquor licenses for:

a) Hausmann Delis, LLC, D/B/A AJ's Dawg Haus, 2530 Pacific Boulevard SE, Suite B. [Page 63]

b) Bailey's Inc., D/B/A Bailey's on Elm, 831 Elm Street SW. [Page 64]

3) Accepting easements from:

a) CGM, LLC. [Pages 65-71] RES. NO. \_\_\_\_\_

b) Ronald H. Dittmer. [Pages 72-75] RES. NO. \_\_\_\_\_

Action: \_\_\_\_\_

f. Award of Contract

- 1) WL-08-03, Fourth Avenue, Fifth Avenue, and Chicago area water line replacement. [Pages 76-79]

Action: \_\_\_\_\_

g. Approval of Agreement

- 1) Approving intergovernmental agreement with Greater Albany Public Schools for the collection of construction excise tax. [Pages 80-84]

Action: \_\_\_\_\_

h. Personnel Request

- 1) Reclassifying positions in Public Works Engineering. [Pages 85-87]

Action: \_\_\_\_\_

i. Appointments

- 1) Appointment to the Public Safety Commission and Transportation Demand Management Advisory Committee. [Page 88]

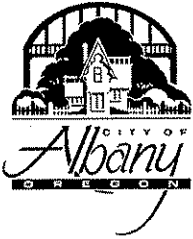
Action: \_\_\_\_\_

5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATE: Work Session, March 10, 2008  
Regular Session, March 12, 2008

7. ADJOURNMENT

City of Albany Web site: [www.cityofalbany.net](http://www.cityofalbany.net)



TO: Albany City Council

FROM: Wes Hare, City Manager *WH*

DATE: February 21, 2008

SUBJECT: Agenda Review for the Wednesday, February 27, 2008, City Council Agenda

Scheduled Business

- Item a The applicant and appellant have apparently agreed to postpone a Council decision as they continue to work toward a mutually agreeable resolution of their differences.
- Item b1 An adjacent property owner has expressed concern about the proposed vacation of a portion of Ferry Street SW to facilitate development of a mini-storage building. I would not recommend approval of the vacation until neighboring property owners' concerns are addressed or resolved.
- Item b2 The proposed annexation appears to be timely and appropriate for referral to the voters.
- Item c Sharon was approached by this group to address the Council regarding their proposal which is included in the agenda. Discussion was postponed from the February 13 meeting to the 27<sup>th</sup>.
- Item d1 I do not believe there is any harm in letting the voters decide the question of forming a library district. Library districts operate successfully and in harmony with cities throughout Oregon and the U.S. I do not believe that the proposal represents a threat to current city services, and it would almost certainly improve library services.
- Item e I support adoption of the Consent Calendar as proposed.
- Item f I support award of the contract for the Chicago area water line replacement as proposed by staff.
- Item g Staff and the City Attorney have reached agreement with the School District over the terms of an agreement that would have the City collect the district's construction excise tax. We believe the agreement limits our obligations and covers the costs of collecting the tax.
- Item h I strongly support the Public Works Department's proposed reclassification of selected positions. We are already losing skilled and experienced employees, and we need to be preparing qualified successors.
- Item i Dan is recommending the appointing of Dan Conway to fill the vacancy on the Public Safety Commission and appointing himself to replace Doug Killin as the City's alternate on the Transportation Demand Management Advisory Committee.

RWH:ldh  
Attachment



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Don Donovan, Planning Manager DON  
DATE: February 20, 2008, for the February 27, 2008, City Council Meeting  
SUBJECT: File SD-14-06: Links Club Estates Subdivision Application  
Appeal of Planning Commission Approval

Action Requested:

Make a decision to re-open the public hearing for the Links Club Estates subdivision application and set a date for the continued hearing. The hearing should be limited to new issues raised by any changes in the application.

Discussion:

On January 23, 2008, the City Council held a public hearing on an application for Links Club Estates subdivision. The hearing was an appeal of the Planning Commission's approval of the subdivision. The subdivision would be built on property located on the north side of Quarry Road NW, west of Ferguson Drive NW. (Just to refresh your memory, a location map and a copy of the subdivision plat are attached to this memo.)

The Council had a full agenda that night and the hearing was closed at about 11:30 p.m. Council deliberated until almost midnight and then decided to continue the deliberation at a special meeting on January 30, 2008. The applicant's attorney, the appellant's attorney, and the City Attorney later concluded that it would be preferable to allow the applicant to modify the subdivision plan to address concerns raised at the public hearing. The special meeting was canceled and further discussion of the Links Club Estates application was rescheduled to the February 27, 2008, City Council meeting.

Staff has had conversations with the applicant's attorney. The applicant would like to submit new information that will address some of the concerns raised by opponents of the subdivision in regard to the proposed sanitary sewer system and the proposed storm drainage system. The appellant's attorney understands that the applicant wishes to provide new information and when staff talked with the attorney and he seemed receptive to that possibility.

If the Council wishes to accept new information, the public hearing must be re-opened. Notice of the date of the re-opened hearing must be given to surrounding property owners. The Council will first need to decide whether to re-open the public hearing. If the decision is to re-open, the Council will then set a date for the continued hearing. At least 10 days notice of the new hearing date must be given. Staff supports re-opening the hearing.

The applicant's attorney submitted a letter that requests the hearing be re-opened. The applicant agrees to extend the 120 days the City has to make a decision on the application. The letter is attached to this memo.

Please contact City Attorney Jim Delapoer if you have procedural questions or contact me if you have other questions. My telephone number is 917-7561. My email address is don.donovan@cityofalbany.net.

City Council Memo  
Page 2  
February 20, 2008

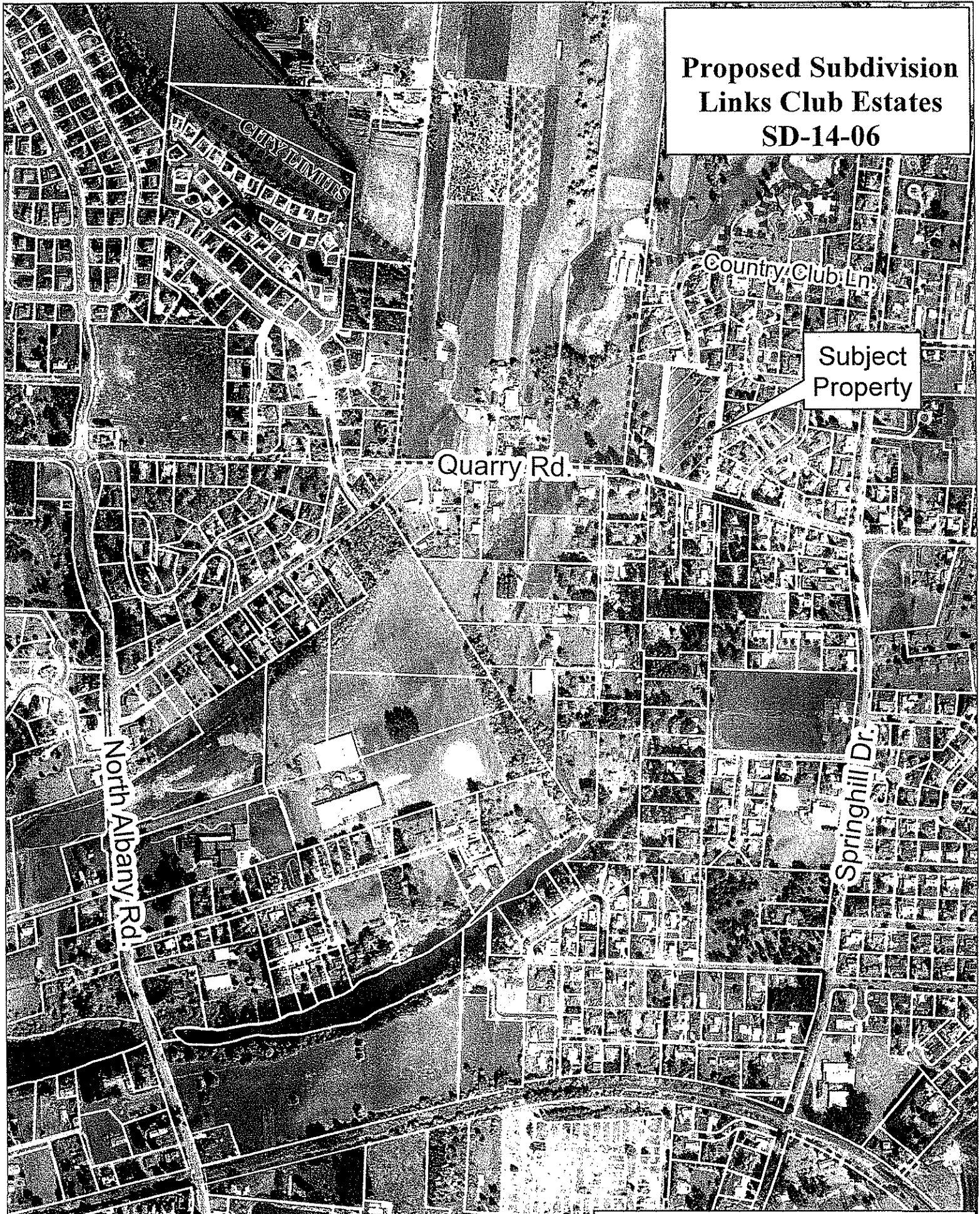
Budget impact:

None.

Attachments: Location Map, Subdivision Tentative Plat, and Letter from the Applicant's Attorney

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**Proposed Subdivision  
Links Club Estates  
SD-14-06**



**Subject  
Property**

Quarry Rd.

Country Club Ln.

North Albany Rd.

Springhill Dr.

0 300 600 1,200 Feet



LINKS CLUB ESTATES  
TENTATIVE FLAT

FOR  
PERRY PACKARD  
LOCATED IN  
THE SW 1/4 OF SEC. 31, T. 10 S., R. 3 W., W.H.  
CITY OF ALBANY, BENTON COUNTY, OREGON

DATE: 11-14-04  
REVISION: 11-14-04  
REVISED: NOVEMBER 7, 2006  
REVISED: NOVEMBER 24, 2006

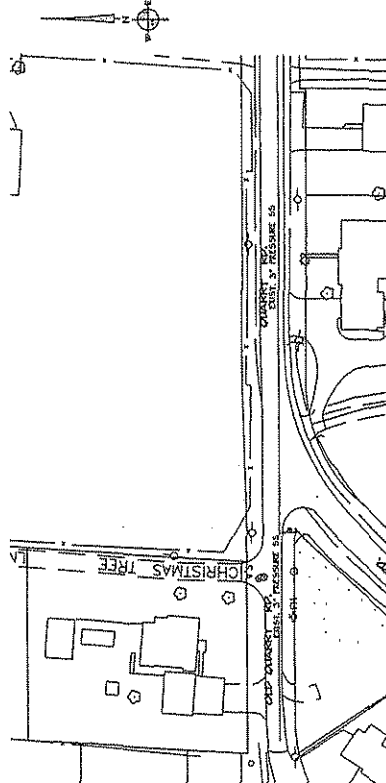
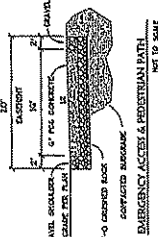
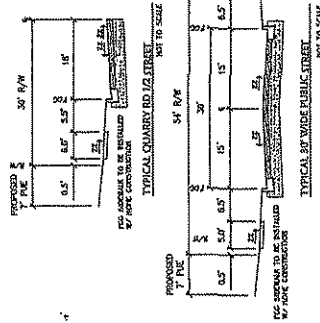
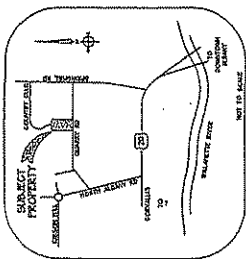
- LEGEND**
- EXISTING WATER MAIN
  - EXISTING WATER SAN
  - EXISTING SANITARY SOAK
  - EXISTING SEWER
  - EXISTING WATER MAIN
  - EXISTING WATER SAN
  - EXISTING SANITARY SOAK
  - EXISTING SEWER
  - EXISTING WATER MAIN
  - EXISTING WATER SAN
  - EXISTING SANITARY SOAK
  - EXISTING SEWER

**OWNER / DEVELOPER:**  
PERRY & JANE PACKARD  
2137 S. ALBANY STREET  
ALBANY, OREGON 97001  
503-535-3434

**PROJECT AREA:**  
SECTIONS 31, 32, 33, 34  
T. 10 S., R. 3 W., W.H.  
CITY OF ALBANY, OREGON

**PROJECT FEATURES:**  
EXISTING WATER MAIN  
EXISTING WATER SAN  
EXISTING SANITARY SOAK  
EXISTING SEWER

**NOTE:**  
ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.  
ALL DISTANCES ARE BASED ON GROUND SURVEY DATA.  
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**K & D ENGINEERING, INC.**  
218 N.W. ROCKY STREET  
P.O. BOX 725  
ALBANY, OREGON 97001  
(503) 535-3434

NO.	DATE	DESCRIPTION
1	11-14-04	PRELIMINARY
2	11-14-04	REVISED
3	11-14-04	REVISED
4	11-14-04	REVISED
5	11-14-04	REVISED
6	11-14-04	REVISED
7	11-14-04	REVISED
8	11-14-04	REVISED
9	11-14-04	REVISED
10	11-14-04	REVISED

DATE: 11-14-04  
DRAWN: PERRY & JANE PACKARD  
CHECKED: PERRY & JANE PACKARD  
SCALE: AS SHOWN

NO.	DATE	DESCRIPTION
1	11-14-04	PRELIMINARY
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3	11-14-04	REVISED
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8	11-14-04	REVISED
9	11-14-04	REVISED
10	11-14-04	REVISED

LINKS CLUB ESTATES  
TENTATIVE FLAT

CITY OF ALBANY, BENTON COUNTY, OREGON

**K & D ENGINEERING, INC.**  
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8	11-14-04	REVISED
9	11-14-04	REVISED
10	11-14-04	REVISED

DATE: 11-14-04  
DRAWN: PERRY & JANE PACKARD  
CHECKED: PERRY & JANE PACKARD  
SCALE: AS SHOWN

**WEATHERFORD, THOMPSON, COWGILL, BLACK & SCHULTZ, P.C.**  
(FOUNDED BY J.K. WEATHERFORD - 1873)  
**ATTORNEYS AT LAW**

MICHAEL G. COWGILL  
THOMAS L. BLACK  
EDWARD F. SCHULTZ  
ANDREW J. BEAN

P.O. BOX 667  
130 W. FIRST AVENUE  
ALBANY, OREGON 97321-0219

TELEPHONE: (541) 926-2255  
FACSIMILE: (541) 967-6579  
E-MAIL: [eschultz@wlegal.com](mailto:eschultz@wlegal.com)

JOEL D. KALBERER  
DANIEL A. RAYFIELD  
DENNIS D. ASHENFELTER  
BRETT R. CHYTRAUS  
(Of Counsel)

February 20, 2008

**Via Hand Delivery**

Mayor  
City of Albany  
City Council  
333 Broadalbin SW  
Albany, OR 97321

**Re: Packard Subdivision**

Dear Mayor and Members of the City Council:

This letter is a follow up to the discussions which took place at the end of the last public meeting. My clients, and K & D Engineering, have worked with City staff to address the two issues which were of significant discussion, storm water discharge and the pressurized sanitary sewer.

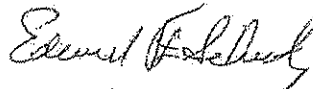
We respectfully request that the record be reopened, and this matter be set for a hearing at a date certain. Notice should be given to those who have appeared and to other interested citizens and the public as to the time and date of that hearing, and that the purpose of the hearing is to hear additional information and to allow people to respond to that new information.

The new information was submitted to the City staff on February 15, 2008.

Previously, I have written to Council indicating that if it was necessary, the applicant would grant an additional extension to the timeline. Please understand that the terms of this request comes complete with a request to extend the timeline so that everyone will have a fair opportunity to comment on this project.

If there are additional issues that need to be addressed, please have the appropriate member of the City staff contact me.

Respectfully submitted,



Edward F. Schultz

EFS:cd

cc: City Manager  
City Attorney  
City Planner  
George Heilig  
Clients





TO: Albany City Council

VIA: Wes Hare, City Manager  
Don Donovan, Planning Manager *De H.*

FROM: Mike Leopard, Infrastructure Analyst

DATE: February 20, 2008, for the February 27, 2008, City Council Meeting

SUBJECT: File VC-03-07: Application for Vacation of Ferry Street SW right-of-way, north of Queen Avenue SW

Action Requested:

Hold a public hearing on the Vacation application referenced above.

Discussion:

On July 26, 2007, the City Council directed staff to initiate the vacation of Ferry Street between Queen Avenue and the railroad right-of-way. The owner of the property to the east of the right-of-way (Gary Brown) petitioned the Council to initiate the vacation because obtaining a signature from a representative of the Union Pacific Railroad would likely be very difficult and time-consuming. When a vacation is initiated by the City Council, signatures from affected property owners are not required. Those property owners are notified of the proceedings prior to the public hearing.

The vacation request is being prompted by a proposed development on Mr. Brown's property. Mr. Brown has submitted a site plan review application to construct a mini-storage facility on the former Nix Trucking site east of Ferry Street. His proposed layout shows buildings being located at the west property line. If Ferry Street remains a public right-of-way, this western portion of the property is a "front yard" and therefore requires a 15-foot setback. If the Ferry Street right-of-way is vacated, this setback is no longer required.

The Planning Commission held a public hearing on February 11, 2008 and voted to recommend that the City Council approve the vacation. Since the Planning Commission hearing, staff has received a letter from the owners of one of the parcels adjacent to the right-of-way in question. The letter indicated that these property owners were not in favor of the vacation. The letter is attached to the staff report. After receiving the letter, staff talked to these property owners and encouraged them to attend the City Council public hearing and voice their concerns.

If you have any questions, please call me at 917-7641 or e-mail [mike.leopard@cityofalbany.net](mailto:mike.leopard@cityofalbany.net).

Budget Impact:

None.

MAL

Attachments – Vacation Ordinance, Exhibits, Staff Report, and Attachments

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE VACATING A PORTION OF FERRY STREET SW, BETWEEN QUEEN AVENUE AND THE SOUTHERN PACIFIC TRANSPORTATION COMPANY RAILROAD RIGHT-OF-WAY, IN ALBANY, OREGON; AND ADOPTING FINDINGS.

WHEREAS, on July 26, 2007, the City of Albany City Council directed staff to initiate the vacation of this portion of right-of-way (File VC-03-07); and

WHEREAS, notices of public hearings were mailed, posted, and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on February 11, 2008; and

WHEREAS, the Albany Planning Commission recommended that the City Council pass this ordinance on first reading only until the conditions of approval are met (driveway/access paving or financial assurances); and

WHEREAS, the Albany City Council held a public hearing on February 27, 2008, and took first reading on the vacation ordinance; and;

WHEREAS, the applicant has satisfied any conditions of approval that needed to be met before this ordinance is adopted.

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

Section 1: Subject Property. The portion of Ferry Street SW (see legal description on attached Exhibit A and map labeled Exhibit B) is hereby vacated.

Section 2: Findings. The Findings, Conclusions, and Conditions in the Staff Report attached as Exhibit C are hereby adopted in support of this decision.

Section 3: Easement Retained. The City retains a public utility easement over the entire area being vacated. The easement will benefit the City, as well as franchise utilities, their successors, assigns, authorized agents, and/or contractors.

Section 4: Access Easement Retained. The City retains an access easement over the entire area being vacated. This access easement is for the benefit of the adjacent parcels (as described in Linn County Microfilm Deed Records DN2006-17224, MF428-739, MF403-14, and MF989-576) and the Southern Pacific Transportation Company. This easement also provides legal access rights over the vacated area for emergency response vehicles.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

### Right-of-Way Vacation VC-03-07

A tract of land located in the southwest one-quarter of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, that consists of:

ALL of that right-of-way of Ferry Street from the north line of Queen Avenue to the southerly right-of-way line of the Southern Pacific Railroad.

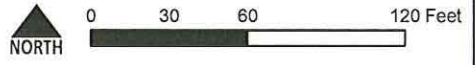
EXCEPTING THEREFROM that 16-foot wide strip previously vacated by City of Albany Ordinance No. 3921 as recorded by Vacation Document in MF Volume 135, Page 58 of the Linn County, Oregon Deed Records on May 25, 1976.

More particularly described as follows:

Beginning at the northwest corner of Lot 9, Block 1 of the Mary B Industrial Subdivision; thence, South 38°54'35" West, 67.60 feet to the northerly extension of the west boundary of the Ferry Street right-of-way, said point also being North 8°47'35" West, 14.56 feet from the northeast corner of that tract owned by Peter and Glenna Slenning as described in MF428-739, Linn County, Oregon, Deed Records; thence, South 8°47'35" East, 339.77 feet along the west right-of-way line of Ferry Street to the north line of the Queen Avenue right-of-way, said point also being the southeast corner of that tract owned by Michael R. Johnson and Timothy L. Jordan as described in MF403-14, Linn County, Oregon, Deed Records; thence, North 87°15' East, 50.28 feet to the east boundary of the Ferry Street right-of-way, said point also being the southwest corner of Lot 13, Block 1 of the Mary B Industrial Subdivision; thence, along the west boundary of said Mary B Industrial Subdivision, North 8°47'35" West, 390.55 feet to the point of beginning.

This area being vacated contains 18,258 square feet (0.42 acres) of land, more or less.

EXHIBIT B  
Legal Description Map  
VC-03-07



**Point of Beginning**  
[NW Corner Lot 9, Blk 1  
Mary B Industrial Sub.]

Southern Pacific Railroad  
Right-of-Way

Previously Vacated  
Right-of-Way

Slenning Tract  
MF428-739

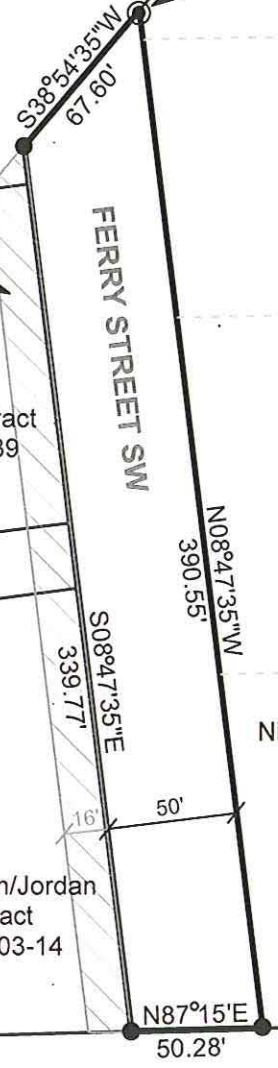
Whippo Tract  
DN2006-17224

Johnson/Jordan  
Tract  
MF403-14

Mary B Industrial  
Subdivision

Nix/Celtic Enter. Tract  
MF989-576

QUEEN AVENUE





# Community Development Department

333 Broadalbin Street SW, P.O. Box 490, Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

## STAFF REPORT

### Vacation (Public Street Right-of-Way)

<b><u>HEARING BODY</u></b>	CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, February 27, 2008
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

### **GENERAL INFORMATION**

DATE OF REPORT:	February 20, 2008
FILE:	VC-03-07
TYPE OF APPLICATION:	Vacation of that portion of Ferry Street SW, between Queen Avenue on the south and the railroad right-of-way on the north.
REVIEW BODIES:	City Council (The Planning Commission held a public hearing on February 11, 2008.)
APPLICANT:	The Albany City Council initiated the vacation at the request of Gary Brown; owner of Tax Lots 2601, 2613, and 3100 (Linn County Assessors Map No. 11S-03W-07CB).
ADDRESS/LOCATION:	Right-of-way adjacent to 1630 Ferry Street SW (see Staff Report Attachment A)
MAP/TAX LOT:	Street right-of-way and adjacent properties are shown on Linn County Assessor's Map No. 11S-03W-07CB
TOTAL LAND AREA:	Approximately 18,255 square feet (0.42 acres)
PURPOSE OF REQUEST:	Vacation of public right-of-way to allow for new development on adjacent property to be constructed on the property line with no front yard setback.
EXISTING LAND USE:	Unimproved public right-of-way (Ferry Street SW); currently used as access to three parcels on the west side of the right-of-way.
NEIGHBORHOOD:	Jackson Hill
SURROUNDING ZONING:	North: LI (Light Industrial) East: LI (Light Industrial) South: LI (Light Industrial) West: LI (Light Industrial) (See Staff Report Attachment B)
SURROUNDING USES:	North: Railroad switching yard South: Light industrial uses East: Vacant light industrial use West: Light industrial uses

## NOTICE INFORMATION

A notice of public hearing was mailed to surrounding property owners on January 28, 2008. The site was posted on January 23, 2008, in accordance with Section 1.410 of the Albany Development Code. Two legal notices have been published in the *Albany Democrat-Herald* on January 28, and February 4, 2008, in accordance with Oregon Revised Statute (ORS) 271.110.

At the time this staff report was prepared (February 20, 2008), the Albany Planning Department had received a letter from Stephen and Peggy Whippo, owners of Tax Lot 2500 on the west side of this portion of Ferry Street SW. This letter is attached to the staff report as Attachment G.

## PLANNING COMMISSION RECOMMENDATION

The Albany Planning Commission recommended APPROVAL WITH CONDITIONS of this Vacation application for a portion of the Ferry Street SW right-of-way, north of Queen Avenue (File VC-03-07). The proposed conditions are found in this staff report.

## CITY COUNCIL DECISION

### MOTION TO APPROVE

*If the findings in the staff report adequately address testimony presented at the public hearing, the City Council may approve the application based on the findings and conclusions of the staff report.*

I MOVE that the City Council APPROVE WITH CONDITIONS the application that would result in the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

### MOTION TO DENY

*If the City Council determines that there is insufficient evidence to demonstrate that the review criteria have been met, the City Council may deny the application.*

I MOVE that the City Council DENY the application for the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07).

## STAFF ANALYSIS

### Vacation File VC-03-07

The Albany Development Code (ADC) 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, conclusions, and conditions where conditions are necessary to meet the review criteria.

### OVERVIEW

This portion of Ferry Street is a 360-foot-long section of unimproved public right-of-way between Queen Avenue and the Southern Pacific railroad right-of-way. The Ferry Street right-of-way is currently used for access to three parcels along its west boundary, one parcel on the east, and the railroad yard to the north. This section of Ferry Street right-of-way was initially 66 feet wide. In 1976, the City vacated the westernmost 16 feet of the right-of-way between Queen Avenue and the railroad right-of-way.

The owner of the property to the east (Gary Brown) is proposing to construct a mini-storage development on his property (SP-40-07). The proposed design of the storage facility has buildings being located up to the west property boundary (along the Ferry Street right-of-way). Because this is currently adjacent to a public right-of-way, there is a required "front yard" setback. In order to eliminate the "front yard" setback requirement, the applicant has chosen to request that Ferry Street be vacated. That would result in the west boundary of his property no longer being considered a "front yard," and the setback would not be necessary. [See Staff Report Attachment C.]

At the September 26, 2007, City Council meeting, the Council agreed to initiate the vacation application in order to relieve the applicant of the responsibility of obtaining a signature from the Southern Pacific (Railroad) Transportation Company. The railroad company, and all other affected property owners, received notice of the proposed vacation and were given an opportunity to comment.

(1) *The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.*

#### FINDINGS OF FACT

1.1 The following Comprehensive Plan policies have been identified as relevant to this review criterion:

##### **GOAL 11: Public Facilities and Services**

- a. Prohibit the construction of structures over public water lines and easements.
- b. Prohibit the construction of structures over drainage improvements and easements.
- c. Prohibit the construction of structures over public wastewater lines and easements.

1.2 Sanitary Sewer. Sanitary sewer utility maps indicate that an 8-inch public sanitary sewer main lies within the southern 150 feet of the area proposed for vacation. Laterals tapped from this main appear to serve each of the parcels adjacent to this section of right-of-way.

1.3 Water. Water utility maps indicate that a 2-inch public water line lies within the southern 250 feet of the area proposed for vacation. Water services tapped from this water line appear to serve the three parcels along the west boundary of this section of right-of-way.

1.4 Storm Drainage. Storm drainage utility maps indicate that catch basins at the northeast and southeast corners of Ferry Street SW and Queen Avenue SW collect runoff from these streets. The runoff is then routed through a short length of pipe to a ditch along the east side of Ferry Street SW north of Queen Avenue SW, which runs to the ditch along the south boundary of the railroad property.

1.5 Other Utilities. City staff has contacted the various other utility providers about this proposed right-of-way vacation. Based on information gathered from these private utilities, applicant submittals, and other as-built drawings, it has been determined that there are other utilities (such as natural gas, phone, etc.) within the area to be vacated.

1.6 Transportation. The right-of-way proposed for vacation is a dead-end section of Ferry Street SW located north of Queen Avenue SW. The length of the street is about 360 feet. The street is classified as a local street and is not improved. The street has a gravel surface and currently provides access to four parcels zoned Light Industrial. The road is also used by the railroad to access their facilities at the north end of this section of right-of-way.

- 1.7 Transportation. Albany's Transportation System Plan (TSP) does not identify this portion of Ferry Street SW as being a part of the City's arterial/collector street system, nor does it anticipate linking or connecting this portion of Ferry Street SW with another street.

## CONCLUSIONS

- 1.1 There are public sanitary sewer, water, and storm drainage facilities within this portion of the Ferry Street SW right-of-way proposed for vacation. (See Staff Report Attachment D.) Because of the locations of these facilities, staff recommends that a public utility easement be maintained over the entire area proposed for vacation. This easement would provide access rights to the City and other utility companies and would prohibit the construction of any permanent structures within this area.
- 1.2 The proposed vacation does not conflict with Albany's TSP.

## CONDITION

- 1.1 The City will retain a public utility easement over the entire area proposed for vacation. This easement will allow legal access to the area for maintenance of any existing utilities, or construction of new facilities, and would prohibit the construction of any permanent structures within this easement.
- (2) *The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.*

## FINDINGS OF FACT

- 2.1 The area proposed for vacation is a section of Ferry Street SW right-of-way, north of Queen Avenue SW. This portion of Ferry Street SW is a 360-foot-long unimproved public right-of-way that terminates at the south boundary of the Southern Pacific railroad yard. The right-of-way currently provides access to four parcels and the railroad yard to the north.
- 2.2 The parcels adjacent to this section of Ferry Street SW right-of-way are zoned Light Industrial (LI). The parcels on the west side of the right-of-way are developed with small scale commercial/light industrial uses. The parcel on the east side of the right-of-way is being proposed for a self-storage facility (SP-40-07). The parcel on the east also has access from Queen Avenue SW and Industrial Way SW.
- 2.3 There are public utilities within this portion of right-of-way (see Findings under Criterion 1). In order to maintain access to these utilities, a public utility easement will be kept over the entire vacated area.
- 2.4 Approval of this vacation request would result in creation of several land-locked parcels. In order to provide access to those parcels, an access easement will be retained over the right-of-way proposed for vacation. This access easement will be for the benefit of those parcels adjacent to the right-of-way, as well as the railroad, and for emergency response vehicles.
- 2.5 Ferry Street SW currently has a gravel surface that is maintained by the City of Albany. Even so, gravel and dirt are often pulled onto Queen Avenue SW by exiting vehicles, creating a maintenance problem.
- 2.6 ADC 12.100(1) requires that approaches and driveways to public streets be paved.
- 2.7 ADC 9.130 requires a minimum paved width of 24 feet for two-way driveways.
- 2.8 In order to comply with the ADC provisions that driveways be paved, construction of driveway pavement within Ferry Street SW would need to be imposed as a condition of approval for the vacation. The parcels that use the existing right-of-way for access are already developed, so an opportunity to condition future development to make the improvement is unlikely.



- 2.9 If the vacation is not approved, the current development application for the parcel adjoining the east side of the right-of-way would be required to comply with ADC 12.060. That would require the development to both provide a setback from the right-of-way and also construct a partial width street improvement to City standards along the site's entire Ferry Street SW frontage.
- 2.10 Once vacated, this portion of Ferry Street SW will function as a driveway access to the parcels that currently take access from the street and the railroad. In order to better accommodate that function into the future, the access road must be paved by the applicant to a minimum width of 24 feet between Queen Avenue SW and the railroad right-of-way.
- 2.11 The applicant's proposed mini-storage development on the adjacent property to the east cannot be approved until the vacation is finalized. It is possible that the applicant would choose to pave the driveway in the vacated area in conjunction with other paving work associated with the mini-storage development. In order to allow for combining this paving work, the City will accept a financial assurance for the driveway paving as meeting the requirement for having the vacation ordinance read a second time. The financial assurance must be in a form acceptable to the City Attorney and must be equivalent to 150 percent of a construction estimate for the work that is approved by the City.
- 2.12 The applicant (Gary Brown; Celtic Enterprises, LLC) has submitted a letter (see Attachment F) requesting that the condition to pave the driveway access within the vacated area be limited to a shorter section adjacent to Queen Avenue SW. If the City Council agrees with the applicant, the condition for paving the access way will be modified for the notice of decision.

#### CONCLUSIONS

- 2.1 The area proposed for vacation is not needed for connectivity between public rights-of-way.
- 2.2 A public utility easement will be maintained over the entire area proposed for vacation to allow access to the various utilities within this area.
- 2.3 An access easement will be retained in order to provide access rights to the parcels located adjacent to Ferry Street SW, the railroad to the north, and for emergency response vehicles.
- 2.4 Once vacated, Ferry Street SW will serve as a driveway access. The driveway will need to be paved to a minimum width of 24 feet for the full distance between Queen Avenue SW and the railroad right-of-way to the north.
- 2.5 Even with construction of a private driveway, the burden on development of the parcel east of Ferry Street SW is much less than what would be required should the right-of-way not be vacated.
- 2.6 The applicant has the option of providing to the City a financial assurance for the driveway work.

#### CONDITIONS

- 2.1 The City will retain a public utility easement and an access easement over the full area proposed for vacation.
- 2.2 Prior to the second reading of the vacation ordinance, the applicant must either pave the access road in Ferry Street SW, between Queen Avenue SW and the railroad right-of-way, or provide a financial assurance for the work equivalent to 150 percent of a construction cost estimate approved by the City.

- (3) *The requested vacation will not have a negative effect on traffic circulation or emergency service protection.*

#### FINDINGS OF FACT

- 3.1 The area proposed for vacation is a gravel dead-end street providing access to four parcels and the railroad yard.
- 3.2 Emergency services vehicles must have legal access to each of the adjacent parcels and to the railroad yard to the north.
- 3.3 In order to maintain access to these existing uses, an access easement will be retained over the area proposed for vacation.
- 3.4 A condition of approval for the vacation will be to pave a private access road from Queen Avenue SW to the railroad right-of-way to a minimum width of 24 feet. Paving the access road will improve emergency vehicle access to the adjacent properties and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.

#### CONCLUSIONS

- 3.1 In order to maintain legal access from Queen Avenue SW to these existing uses, an access easement will be retained over the area to be vacated that will benefit the adjacent parcels and the railroad and allow access by emergency response vehicles.
- 3.2 The requested vacation will not have a negative effect on traffic circulation and pavement improvements that are required as a condition of the vacation approval and will improve emergency vehicle access to the area.

#### CONDITION

- 3.1 See Conditions under Criterion 2 above.

- (4) *The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.*

#### FINDINGS OF FACT

- 4.1 The right-of-way to be vacated will be incorporated into the parcels directly abutting it or revert back to the owners of the properties from which the right-of-way was dedicated. The Linn County Cartographic Supervisor has determined that upon vacation the eastern half of the original right-of-way will transfer to Tax Lot 2601 and the western half of the original right-of-way would go to Tax Lots 2500, 2501, and 2502, based on the frontages of those parcels. Because 16 feet of the original right-of-way was previously vacated, the properties along the west side of Ferry Street SW would receive only 17 feet of the remaining 50-foot right-of-way. This property distribution is shown on Staff Report Attachment E.
- 4.2 The area to be vacated is currently being used by adjacent property owners for access to their parcels/businesses.
- 4.3 The area proposed for vacation would not become part of the adjacent properties "front yard" setback, and therefore would not require additional landscaping, etc.
- 4.4 Pavement improvements that will occur as a condition of the vacation approval will improve emergency vehicle access to the area.

- 4.5 If the right-of-way is vacated, maintenance responsibility over the driveway/access would shift to the owners of the properties benefited by the access easement.

#### CONCLUSIONS

- 4.1 No additional landscaping will be necessary if the area is vacated because the vacated area will no longer be considered a "front yard" for the adjacent parcels.
- 4.2 Paving the access road will provide a cleaner, more stable surface for vehicle access (including emergency vehicles) to each of the parcels (and railroad property) using the road for access.
- 4.3 The adjacent property owners and the railroad company would assume maintenance responsibility of the driveway/access within the vacated area.

#### CONDITION

- 4.1 See Condition 2.2.

**(5) *The public interest, present and future, will be best served by approval of the proposed vacation.***

#### FINDINGS

- 5.1 The area proposed for vacation is an unimproved right-of-way. The area to be vacated is currently being used by adjacent property owners for access to their properties.
- 5.2 Retaining an access easement over the area to be vacated will assure access rights to all property owners along the vacated right-of-way, as well as emergency vehicles.
- 5.3 Retaining a public utility easement over the area to be vacated will provide the City and other utility companies the right to access the utilities within the area.
- 5.4 Paving the shared access from Queen Avenue SW to the railroad right-of-way would satisfy the Development Code requirement regarding improving driveways (ADC 12.100). The paving will also improve emergency vehicle access and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.
- 5.5 Upon final approval of the vacation, the City will no longer have any maintenance responsibility for the street within the vacated area. Public utility maintenance within the vacated area would still be the City's responsibility.
- 5.6 State land use rules require that the City make a final decision on a land use application within 120 days of receiving a complete application [ORS 227.178(1)]. The applicant can provide a written request to extend the 120-day time limit for up to 245 additional days [ORS 227.178(5)]. Because of the condition for having the vacation ordinance read a second time (driveway/access paving) and the possible desire by the applicant to combine paving work for the driveway and the paving work for the proposed mini-storage development, it is difficult to determine what the timing will be for these projects. In order to protect the City from a possible Writ of Mandamus claim by the applicant, the City will require that the applicant extend the 120-day clock by the maximum 245 days, as allowed by state statute.

#### CONCLUSIONS

- 5.1 Vacating this portion of Ferry Street SW right-of-way will not adversely impact the public interest if the conditions of approval are satisfied.

- 5.2 There is a condition for the proposed vacation that must be met before the City Council will hear a second reading of the vacation ordinance. Without knowing when the applicant will meet this condition, it is necessary that the City be given as much time as possible to read the ordinance a second time. To allow the applicant a reasonable amount of time to meet the condition of approval, an extension to the 120-day limit is needed. Therefore, the applicant must agree to an extension of the 120-day limit for the maximum 245 additional days.
- 5.3 In order to allow for time to take this vacation issue back to the Council for denial if the conditions of approval are not met before the deadline to make the decision on the land use application, the applicant will be given until November 14, 2008, to satisfy all conditions.

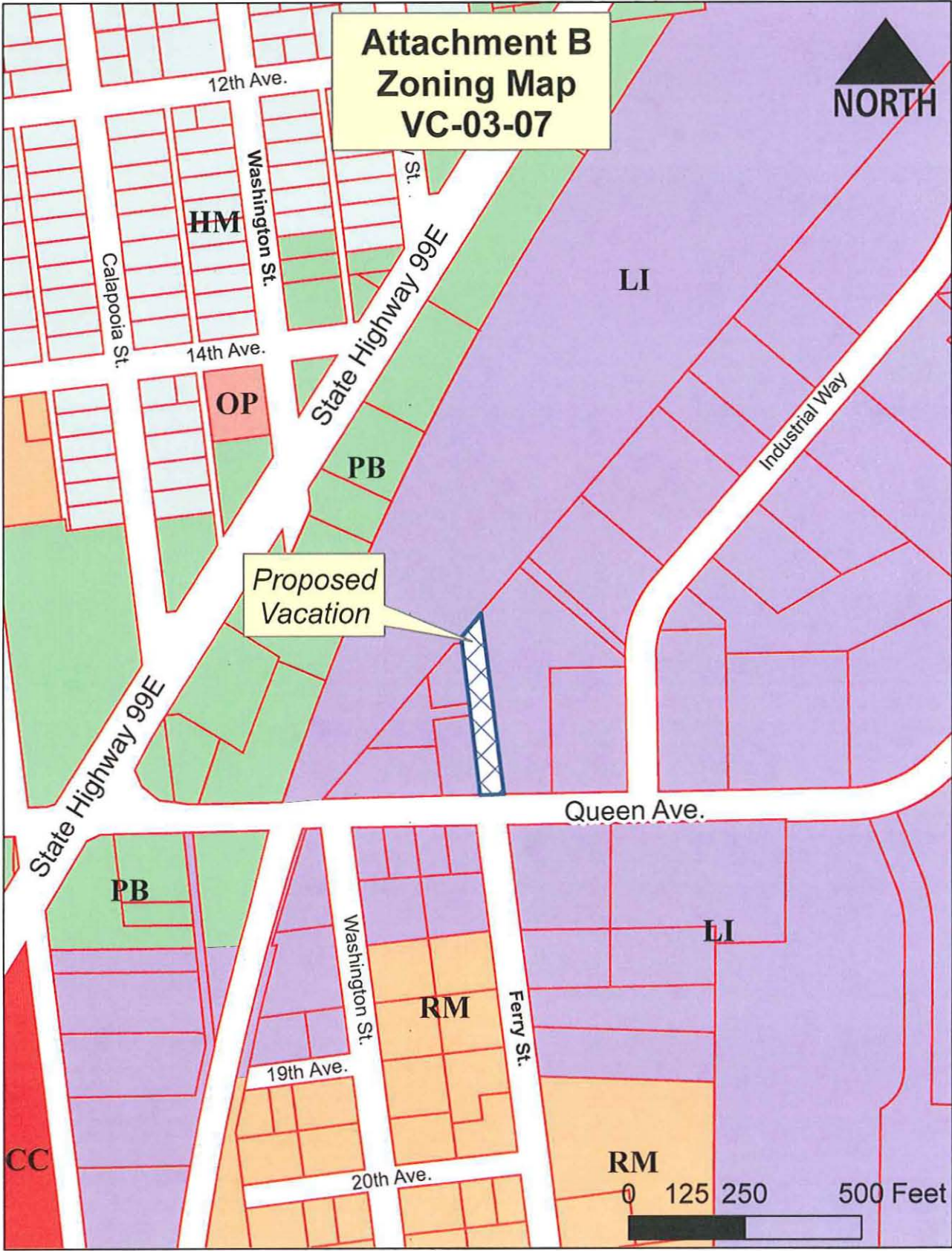
#### CONDITIONS

- 5.1 The applicant must submit a letter to the City to extend the 120-day limit by the maximum 245 additional days. The extension letter must be received by the City no later than April 4, 2008. If the condition of approval (driveway/access paving, or financial assurance) is not met, or the extension letter is not received by that date, staff will take the vacation application back to the City Council for denial.
- 5.2 If the City receives the extension letter by the deadline detailed in Condition 5.1 above, then the applicant must satisfy the condition of approval (driveway/access paving, or financial assurance) for the proposed vacation by November 14, 2008, or staff will take the issue back to the City Council for denial.

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**Attachment B  
Zoning Map  
VC-03-07**

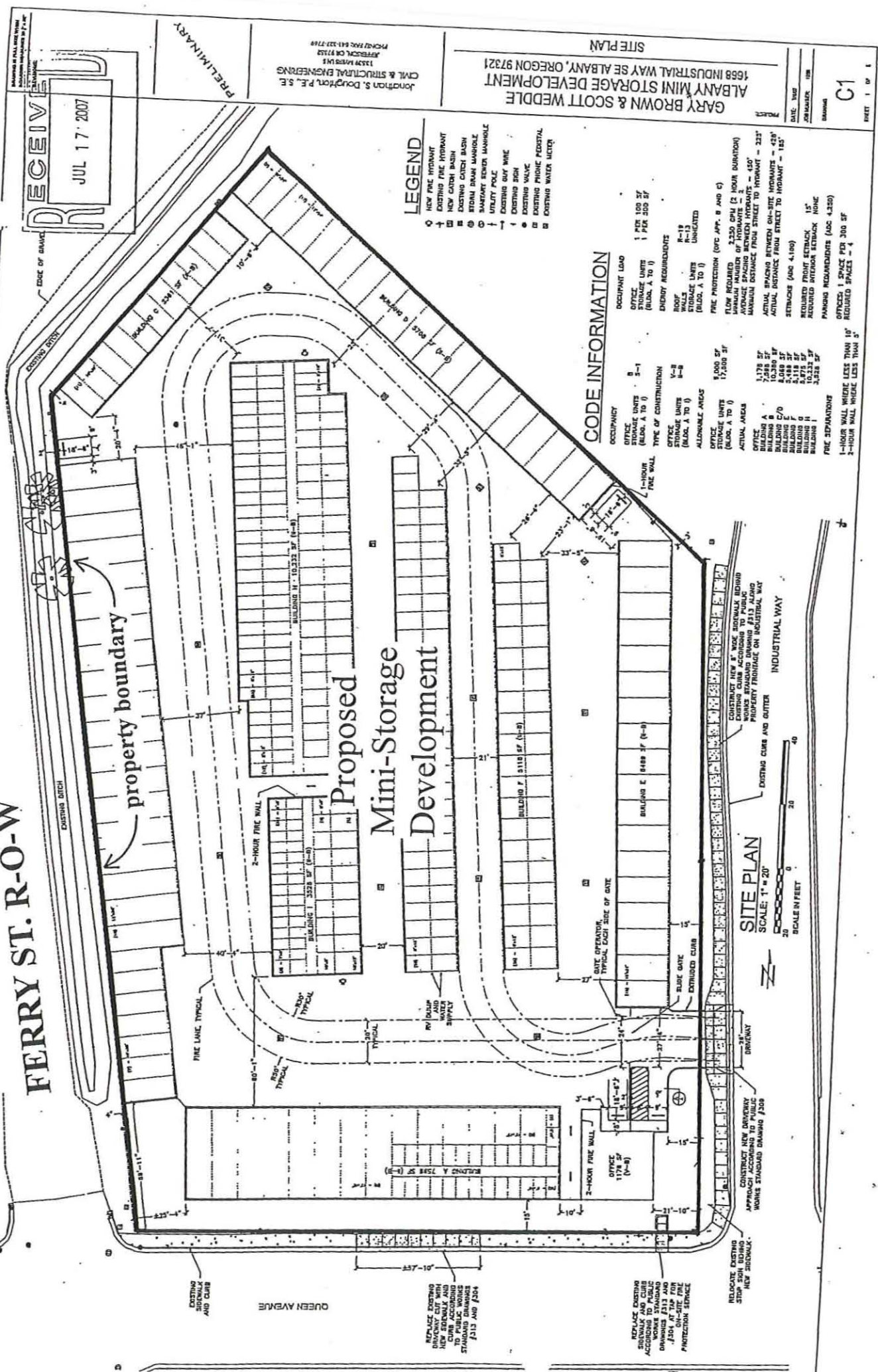


# Attachment C

FERRY ST. R-O-W

property boundary

## Proposed Mini-Storage Development



- LEGEND**
- NEW FIRE HYDRANT
  - EXISTING FIRE HYDRANT
  - NEW CATCH BASIN
  - EXISTING CATCH BASIN
  - STEEL DRAIN MANHOLE
  - SANITARY SEWER MANHOLE
  - UTILITY POLE
  - EXISTING GUY WIRE
  - EXISTING SIGN
  - EXISTING VALVE
  - EXISTING PHONE FOOTCUT
  - EXISTING WATER METER

**CODE INFORMATION**

OCCUPANCY	OFFICE STORAGE UNITS (BLDG. A TO I)	TYPE OF CONSTRUCTION	STORAGE UNITS (BLDG. A TO I)	ALLOWABLE AREAS
OFFICE	3-1	V-2	1,000 SF	1,000 SF
OFFICE STORAGE UNITS (BLDG. A TO I)	3-1	V-2	1,000 SF	1,000 SF
TYPE OF CONSTRUCTION	V-2	V-2	1,000 SF	1,000 SF
STORAGE UNITS (BLDG. A TO I)	V-2	V-2	1,000 SF	1,000 SF
ALLOWABLE AREAS	V-2	V-2	1,000 SF	1,000 SF

OCCUPANT LOAD: OFFICE 1 PER 100 SF, STORAGE UNITS 1 PER 200 SF  
 ENERGY REQUIREMENTS: ROOF WALLS UNITS UNLIMITED (BLDG. A TO I)  
 FIRE PROTECTION (SPE APP. 8 AND C): FLOW REQUIRED 2,250 GPM (2 HOUR BURSTION), MINIMUM NUMBER OF HYDRANTS - 2, MINIMUM DISTANCE FROM STREET TO HYDRANT - 450', ACTUAL DISTANCE BETWEEN ON-SITE HYDRANTS - 425', ACTUAL DISTANCE FROM STREET TO HYDRANT - 125', RETRACKS (AUG 4.100) 15', REQUIRED FRONT RETRACK NONE, REQUIRED INTERIOR RETRACK NONE, PARKING REQUIREMENTS (AUG 4.320) OFFICES 1 SPACE PER 300 SF, REQUIRED SPACES - 1, 2-HOUR WALL WHERE LESS THAN 10', 1-HOUR WALL WHERE LESS THAN 3'

SITE PLAN  
SCALE: 1" = 20'

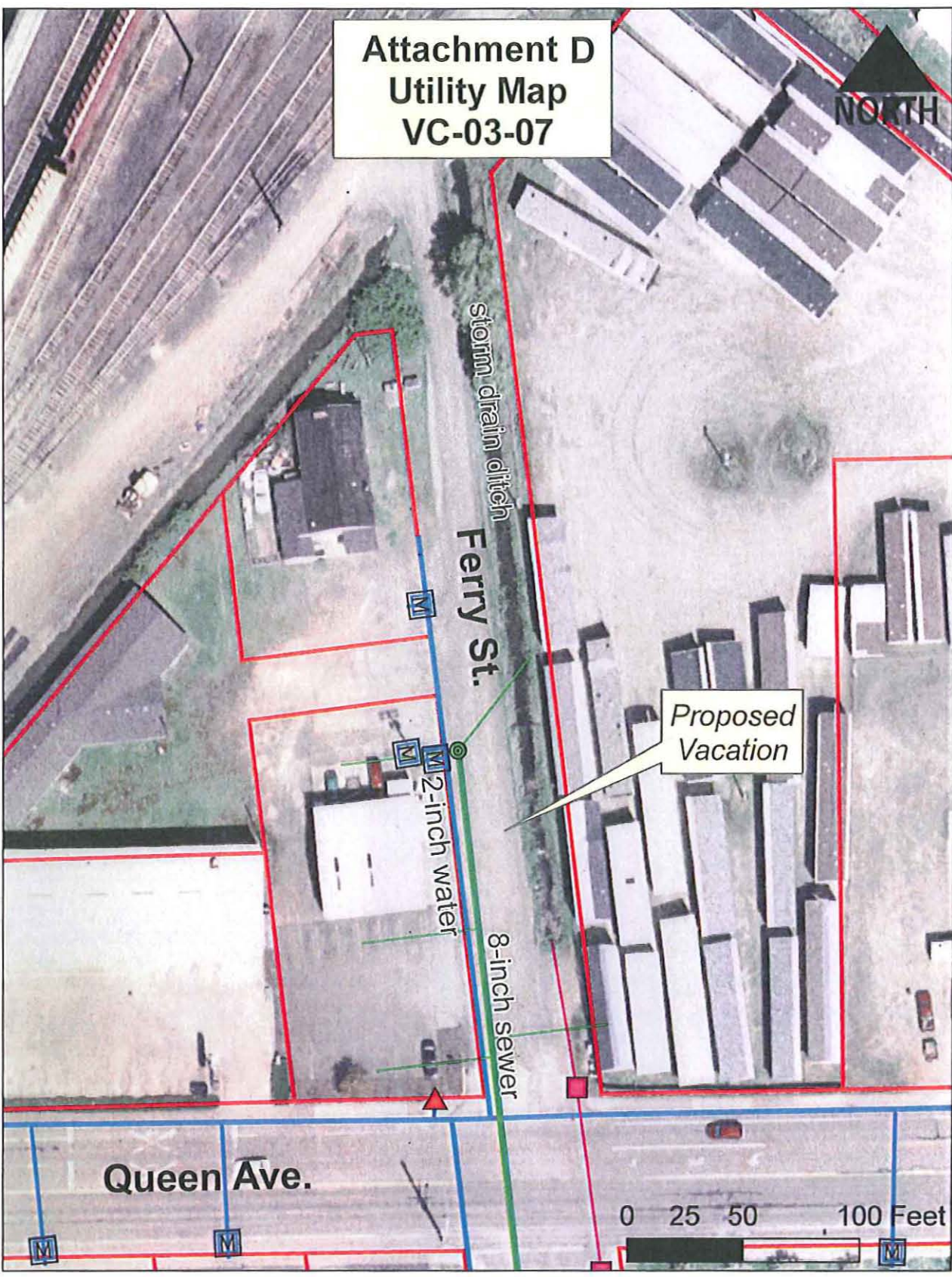


PROJECT: GARY BROWN & SCOTT WEDDLE  
1688 INDUSTRIAL WAY SE ALBANY, OREGON 97321  
DATE: N/A  
JOB NUMBER: 08  
SHEET: 1 OF 1  
C1

Jonathan S. Douyton, P.E., S.E.  
CIVIL & STRUCTURAL ENGINEERING  
1332N MAIN ST  
ASTORIA, OR 97103  
PHONE: 325-2277 FAX: 325-2749

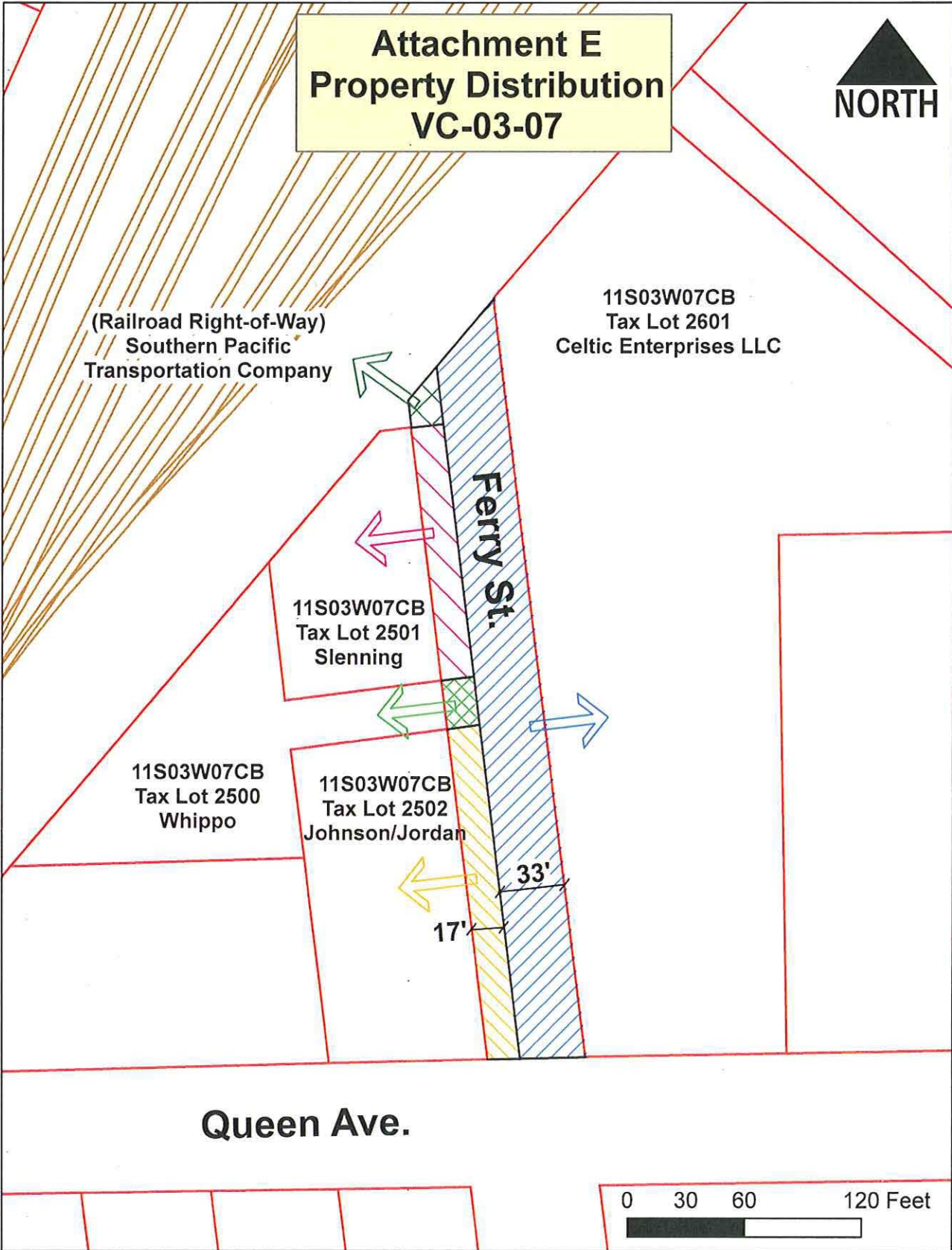
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**Attachment D  
Utility Map  
VC-03-07**





**Attachment E  
Property Distribution  
VC-03-07**



# Attachment F

## CELTIC ENTERPRISES, LLC

P.O. Box 614  
Albany, OR 97321

Phone 541-979-6917••••e-mail [gary@gbrownrealtor.com](mailto:gary@gbrownrealtor.com)

January 30, 2008

Mr. Don Donovan  
City of Albany Planning Dept.  
333 Broadalbin SW  
Albany, OR 97321

Re: Ferry Street vacation application

Don:

In reference to the city's possible requirement for us to pave the section of Ferry Street for which we are requesting vacation, I can understand the concern that accessing Queen Avenue from a graveled Ferry Street could cause pavement deterioration. However, it makes no sense for us to pave our side of the easement as it is for ingress from Queen Ave. It is the other side of the easement that would drag gravel onto the street.

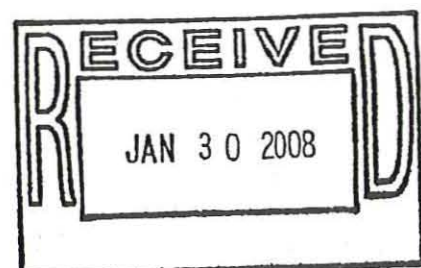
I am requesting that the Planning Dept. consider letting us pave an apron to drive on for accessing Queen. I am willing to pave the apron on both sides of the easement for a distance of 25 to 30 feet, or whatever you deem necessary to preserve the integrity of Queen's pavement.

Please let me know the position of the Planning Department on this as soon as possible. As always, thank you for your help.

Sincerely,

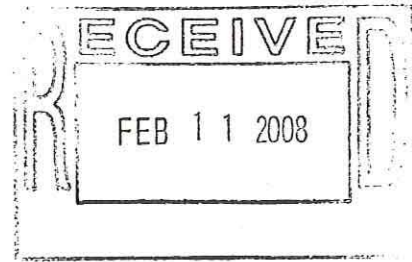


Gary Brown



February 7, 2008

City of Albany  
Planning Division  
P.O. Box 490  
Albany, OR 97321



Subject: VC-03-07 - Right of Way Vacation of portion of Ferry Street

We oppose the proposed vacation of a portion of Ferry Street, as defined in file #VC-03-07. We own property located at 1620, 1622, and 1624 Ferry St. SW. The property is currently rented in total by PM Property Management, Inc. and is used as both office and warehouse space.

In speaking with Mike Leopard, we were informed that the primary reason for vacating the street was because of setback considerations for building on property located east of Ferry Street. If that is the reason for vacation, we would suggest the City of Albany instead allow a variance to build closer to Ferry Street instead of vacating the existing street to achieve that goal.

This section of Ferry Street is used heavily by employees of the railroad for access to and from work on a daily basis, for both day and night shifts. There are existing businesses (including PM Property Management, Inc.) which also use this section of Ferry Street as their ONLY access.

PM Property Management, Inc. handles hundred of rental units in Albany, and many of those tenants pay rent in person at the office on Ferry Street. There are also people looking for rental units who visit the office daily. Vacating this section of Ferry Street would have a negative affect on more than a few employees working at the affected businesses. It would affect literally hundreds of people every month.

Because this section of Ferry Street is so close to the Queen Ave. railroad crossing, many people also use it to when stuck in the traffic that backs up when the train crossing gates are down. Anyone who has spent 15 minutes waiting for a train knows what we are talking about.

We also question how emergency vehicles could reach existing businesses on Ferry Street, and portions of the railroad not accessible any other way once Ferry Street is no more. It appears that this is not an issue of serving the public interest, but of helping out a single property owner who wants to build on a currently empty lot. Since that empty lot has access to another street, vacating Ferry Street would not impact ingress and egress for that single location. It would definitely impact other affected property owners. Again, a more effective method would be to allow a variance for building along Ferry Street, rather than vacating the affected portion of the street entirely.

Sincerely,

Stephen & Peggy Whippo



TO: Albany City Council

VIA: Wes Hare, City Manager  
Don Donovan, Planning Manager *Done*

FROM: Mike Leopard, Infrastructure Analyst

DATE: February 20, 2008, for the February 27, 2008, City Council Meeting

SUBJECT: Files AN-01-07 and ZC-06-07: Application for annexation and Zoning Map amendment of properties North of Dunlap Avenue NE, west of Clover Ridge Road

Action Requested:

Hold a public hearing on the Annexation and Zoning Map Amendment applications referenced above.

Discussion:

In November 2008, staff received an application for the annexation of approximately 14.9 acres of property north of Dunlap Avenue NE, west of Clover Ridge Road NE. The subject property is made up of nine parcels that include seven existing single-family residences. Two of the parcels are narrow strips that act as the shared driveway (Dunlap Avenue) for most of the homes.

The property lies within an existing 'island' of unincorporated territory surrounded by the City. Much residential development has been occurring in this vicinity for the past five years. Clover Ridge Road NE was improved to City standards by Linn County, and public utilities have been extended past the site in Clover Ridge Road NE.

The applicants wish to have the question of annexation placed on the May 2008 ballot. A similarly sized area just to the north of the subject property has already been approved for the May 2008 ballot.

If the property is annexed to the city, the applicants wish to have the property zoned RS-5 (Residential Single Family) and RM (Residential Medium Density). These designations are consistent with the Medium Density Residential Comprehensive Plan Map designation of the property.

The Planning Commission held a public hearing on February 11, 2008 regarding these applications and recommended that the City Council deem the annexation timely, place the annexation on the May ballot, and zone the property RS-5 and RM if the voters decide to annex the property.

If you have any questions, please call me at 917-7641 or e-mail [mike.leopard@cityofalbany.net](mailto:mike.leopard@cityofalbany.net).

Budget impact:

None.

Attachments: Annexation Resolution, Zoning Ordinance, Exhibits, Staff Report and Attachments

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AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP, AND ADOPTING FINDINGS, CONCLUSIONS AND CONDITIONS FOR PROPERTIES LOCATED NORTH OF DUNLAP AVENUE NE AND WEST OF CLOVER RIDGE ROAD NE.

WHEREAS, the Albany Planning Commission recommended approval of the proposed Zoning Map amendment following a public hearing on February 11, 2008, for City of Albany File No. ZC-06-07;

WHEREAS, the Albany City Council held a public hearing on the same application on February 27, 2008, and read the ordinance once at this Council meeting; and

WHEREAS, this Zoning Map amendment will only take effect if the question of annexation for the subject properties is approved by the voters on the May 20, 2008, ballot.

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

Section 1: The Findings of Fact, Conclusions of Law, and Conditions in the staff report attached as Staff Report Ordinance Exhibit C [which consists of the complete staff report to the Albany City Council, including attachments, and dated February 20, 2008 (File ZC-06-07)], are hereby adopted in support of this decision.

Section 2: The Zoning Map designation of the properties identified in the legal description in Ordinance Exhibit A is hereby amended from Linn County UGM-20 (Urban Growth Management – 20) to City of Albany RS-5 (Residential Single Family) and RM (Residential Medium Density).

Section 3: The properties affected by the Zoning Map amendment contain 9 parcels totaling approximately 14.9 acres of property. A legal description and map for the entire area is attached as Ordinance Exhibit A and Ordinance Exhibit B, respectively.

Section 4: A copy of the map showing the amendments to the Zoning Map shall be filed in the Office of the Albany City Recorder and the changes shall be made on the official City of Albany Zoning Map upon annexation and passage of this ordinance on second reading.

Section 5: A copy of the legal description of the affected properties and the map showing the amendment to the Zoning Map shall be filed with the Linn County Assessor’s Office within 90 days after the effective date of this ordinance.

Passed by Council: \_\_\_\_\_

Approved by Mayor: \_\_\_\_\_

Effective Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION PROPOSING THE ANNEXATION OF PROPERTIES LOCATED NORTH OF DUNLAP AVENUE NE AND WEST OF CLOVER RIDGE ROAD NE (AN-01-07), AND FORWARDING THE QUESTION OF ANNEXATION TO THE VOTERS ON THE MAY 20, 2008, BALLOT.

THE CITY COUNCIL OF THE CITY OF ALBANY RESOLVES that the findings and conclusions contained in Resolution Exhibit C [which consists of the complete staff report to the Albany City Council, including attachments, and dated February 20, 2008 (File AN-01-07)], and by this reference incorporated herein, are hereby adopted.

THE CITY COUNCIL OF THE CITY OF ALBANY FURTHER RESOLVES that this annexation, which would annex approximately 14.9 acres of property located north of Dunlap Avenue NE and west of Clover Ridge Road NE, all within Linn County, Oregon, is to be submitted to the legal voters of Albany, Oregon, for their approval or rejection pursuant to Albany City Charter Chapter 54 at an election to be held on May 20, 2008. This election will be conducted by mail-in ballot.

The ballot title of this measure and the form in which it shall be printed on the official ballot is as follows:

CAPTION: MEASURE PROPOSING ANNEXATION OF PROPERTY ON DUNLAP AVENUE NE

QUESTION: Shall the 14.9 acres located on Dunlap Avenue NE, north of Clover Ridge Road NE be annexed?

SUMMARY: Approval of this measure would annex approximately 14.9 acres to the City of Albany. The properties to be annexed are located on Dunlap Avenue NE, west of Clover Ridge Road NE.

The text of the measure is as follows:

The following described real properties, all located in Linn County, Oregon, shall be annexed to the City of Albany upon obtaining a favorable majority vote of the people.

*The properties generally located on Dunlap Avenue NE, west of Clover Ridge Road NE, shown on Linn County Assessor's Map Nos. 11S-03W-04AB; Tax Lot 700, and 11S-03W-04AC; Tax Lots 100, 200, 203, 300, 400, 500, 501, and 600, as further described in the attached legal description labeled Resolution Exhibit A and map labeled Resolution Exhibit B. The subject area containing approximately 14.9 acres.*

The City Clerk is authorized and directed to give notice of the submission of this question to the voters, including a true copy of the complete text and the ballot title for the measure in the form in which it shall be printed on the official ballot and any other information required by law to be published. That notice shall be published in not less than two successive and consecutive weekly issues of the *Albany Democrat-Herald*.

DATED AND EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

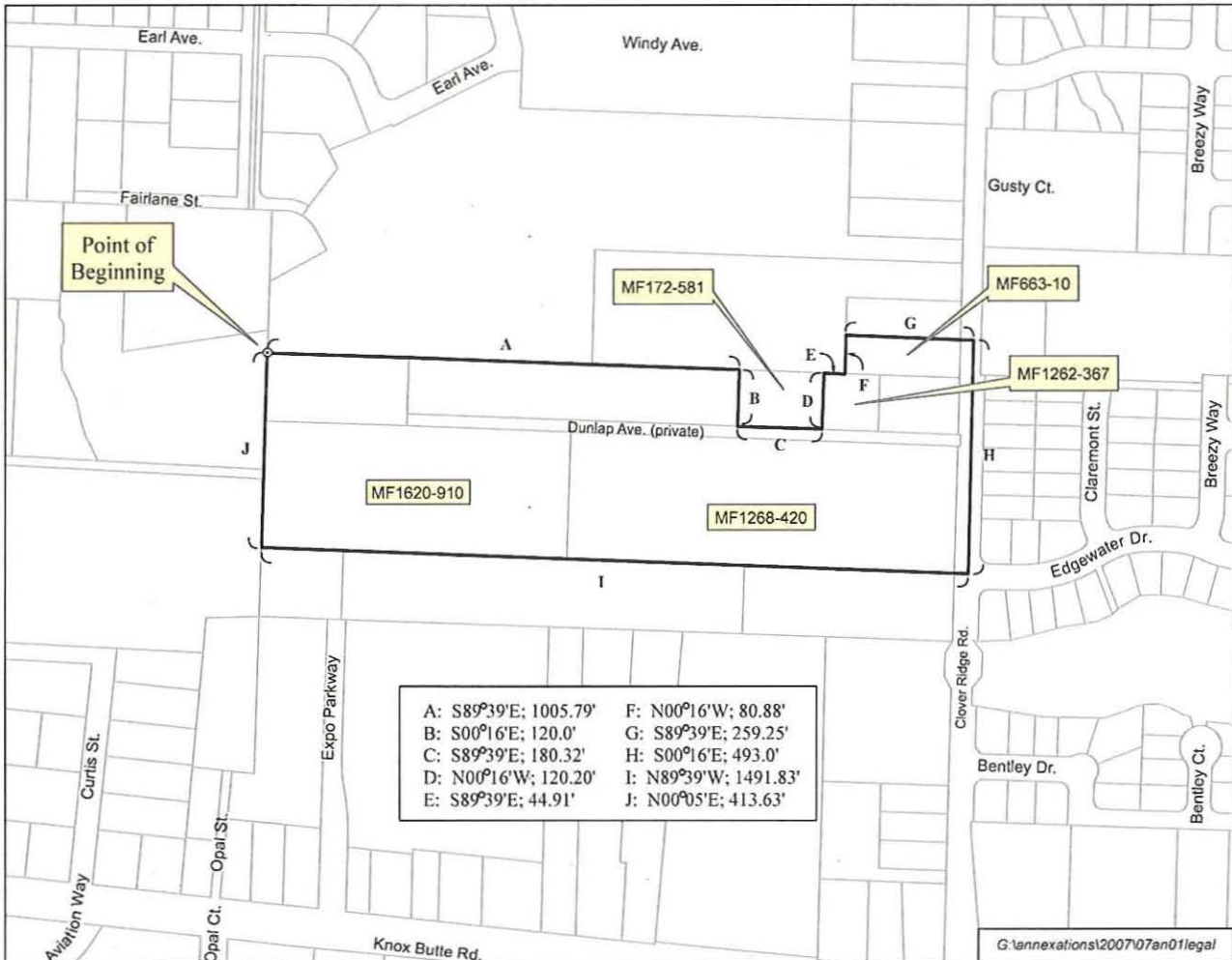
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**ANNEXATION RESOLUTION EXHIBIT A  
ZONING ORDINANCE EXHIBIT A  
LEGAL DESCRIPTION  
FILES AN-01-07/ZC-03-07**

Beginning at the Southwest corner of Lot 21 of Fairlanes Subdivision, a residential subdivision recorded in County Survey No. 3038, Linn County, Oregon survey records; thence South 89°38' East, along the south line of said Fairlanes Subdivision and its easterly extension, a distance of 1005.79 feet to a 1/2-inch pipe, said pipe also being the Northwest corner of that tract owned by Robert and D. Kay Kingsberry, described in Linn County Microfilm Deed Records MF172-581; thence South 0°16' East, along the Westerly line of said Kingsberry tract, a distance of 120.00 feet, to the Southwest corner of said Kingsberry tract; thence South 89°39' East, along the Southerly line of said Kingsberry tract, a distance of 180.32 feet to the Southeast corner of said Kingsberry tract; thence, North 0°16' West, along the Easterly line of said Kingsberry tract, a distance of 120.20 feet to the Northwest corner of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF1262-367; thence South 89°39' East, along the northerly line of said Newman tract, a distance of 44.91 feet, to the Southwest corner of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF663-10; thence North 0°16' West, along the West line of said Newman tract, a distance of 80.88 feet to a 3/4-inch rod at the northwest corner of said Newman tract; thence South 89°39' East, along the northerly line of said Newman tract, and the easterly extension thereof, a distance of 259.25 feet, more or less, to the city limits boundary; thence South 0°16' East, along said city limits boundary, a distance of 493.0 feet, more or less, to the intersection of said city limits boundary and the easterly extension of Southerly line of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF1268-420; thence North 89°39' West along the Southerly line of said Newman tract, a distance of 1491.83 feet to an iron bar, said point also being the Southwest corner of that tract owned by James and Monica Brooks, described in Linn County Microfilm Deed Records MF1620-910; thence North 0°05' East, along the Westerly line of said Brooks tract and the Northerly extension thereof, a distance of 413.63 feet to the Point of Beginning.

Said area containing 14.9 acres, more or less.

**ANNEXATION RESOLUTION EXHIBIT B  
ZONING ORDINANCE EXHIBIT B  
LEGAL DESCRIPTION MAP  
AN-01-07/ZC-03-07**







# Community Development Department

333 Broadalbin Street SW, P.O. Box 490  
Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598  
[www.cityofalbany.net](http://www.cityofalbany.net)

## STAFF REPORT

### Annexation and Zoning Map Amendment

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<b><u>HEARING BODY</u></b>	ALBANY CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, February 27, 2008
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

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#### **GENERAL INFORMATION**

DATE OF REPORT:	February 20, 2008
FILES:	AN-01-07 and ZC-06-07
TYPE OF APPLICATIONS:	Annexation and zoning of approximately 14.9 acres west of Clover Ridge Road NE
REVIEW BODIES:	City Council (The Planning Commission held a public hearing on February 11, 2008.)
STAFF REPORT PREPARED BY:	Mike Leopard, Infrastructure Analyst
PROPERTY OWNERS/ APPLICANTS:	Micheal and Roberta Newman; 3749 Dunlap Avenue NE; Albany, OR 97322 James and Monica Brooks; 3800 Dunlap Avenue NE; Albany, OR 97322
APPLICANT REP:	Multi/Tech Engineering Services, Inc.; 1155 13th Street SE, Salem, OR 97302
ADDRESS/LOCATION:	250, 310, and 320 Clover Ridge Road NE; and 3705, 3749, 3800, and 3855 Dunlap Avenue NE – See Staff Report Attachment A.
MAPS/TAX LOTS:	Linn County Assessor's Map No. 11S-03W-04AB; Tax Lot 700; and 11S-03W-04AC; Tax Lots 100, 200, 203, 300, 400, 500, 501, and 600
CURRENT ZONING:	Linn County UGA-UGM-20; Urban Growth Management – 20-acre minimum lot size
TOTAL LAND AREA:	14.9 acres
EXISTING LAND USE:	Single-family homes on large lots and undeveloped parcels
EXISTING COMP PLAN DESIGNATIONS:	Low Density Residential (north of Dunlap Avenue NE) and Medium Density Residential (south of Dunlap Avenue NE) – See Staff Report Attachment B.
NEIGHBORHOOD:	East Albany

SURROUNDING ZONING: North: Linn County UGA-UGM-20  
South: RM (Residential Medium Density)  
East: RS-6.5 (Residential Single Family)  
West: RS-6.5 and RC (Regional Commercial)  
See Staff Report Attachment C.

SURROUNDING USES: Predominantly single-family homes on large lots directly adjacent to the subject property. Newer subdivisions have been/are being developed in the general vicinity around Clover Ridge Road NE and Knox Butte Road NE.

PROPOSED ZONING: RS-5 – (Residential Single Family) - north of Dunlap Avenue NE  
RM – south of Dunlap Avenue NE

PRIOR HISTORY: Property lies within an island of unincorporated land that was formed when the “Brandis” annexation was approved in 2002. Other portions of this island have been annexed since 2002 as the City has received applications.

### **REASON FOR ANNEXATION**

**The applicants wish to have the subject property annexed to make it eligible for future development at urban densities according to the City of Albany Comprehensive Plan and Development Code.**

NOTICE INFORMATION. On January 28, 2008, notice of the public hearing for this project was mailed to property owners within 300 feet of the subject property. As of the date this staff report was completed, staff had not received any written comments on this project. The subject property was posted with signs on January 23, 2008.

### **PLANNING COMMISSION RECOMMENDATION**

On February 11, 2008, the Albany Planning Commission unanimously recommended that the City Council pass a resolution proposing the annexation of this property located on Clover Ridge Road NE, and forwarding the question of annexation to the voters on the May 20, 2008, ballot.

The Planning Commission also recommended that this same property be zoned RS-5 and RM.

### **SUGGESTED COUNCIL ACTION**

Passage of the attached resolution that would propose the annexation of these properties located north of Dunlap Avenue NE, west of Clover Ridge Road NE, and forward the question of annexation to the voters on the May 20, 2008, ballot.

Passage of the attached ordinance on first reading only that would change the zoning of the subject property from Linn County UGM-20 to City of Albany RS-5 and RM, if the annexation is approved by the voters.

**FINDINGS AND CONCLUSIONS**  
**FILE AN-01-07**

**INTRODUCTION**

On January 11, 2006, the City Council adopted modified procedures for voter-approved annexation in the City of Albany. These procedures are detailed in Article 2 of the City of Albany Development Code (ADC 2.100 – 2.180).

Listed below are findings and conclusions that address the review criteria as specified in the Development Code. Review criteria are listed in *bold italics* and are followed by findings and conclusions.

The following abbreviations are used in these findings:

“ADC” means Albany Development Code, available online (<http://www.cityofalbany.net/commdev/devcode/index.php>) and in the office of the Albany Community Development Department.

“OAR” means Oregon Administrative Rules, available online ([http://www.sos.state.or.us/archives/rules/number\\_index.html](http://www.sos.state.or.us/archives/rules/number_index.html)).

“ORS” means Oregon Revised Statutes, available online (<http://leg.state.or.us/ors/>).

***A. Eligibility Criteria. The City Council shall determine that property is eligible for annexation based on the following criteria:***

*(a) The property is contiguous to the existing city limits.*

*(b) The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.*

**FINDINGS OF FACT:**

A1. The subject properties contain approximately 14.9 acres, and are contiguous to the current city limits along the south, west, and east property boundaries. (See Staff Report Attachment A.)

A2. Plate 1 of the City’s Comprehensive Plan shows the Urban Growth Boundary (UGB). The subject parcels are within the UGB.

**CONCLUSION**

A1. This criterion is met because the property proposed for annexation is contiguous with the existing city limits and is within the Albany UGB.

***B. Infrastructure Criteria. The City shall determine that it is timely to annex property based on the following criteria:***

*(a) An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.*

*(b) As used in this section:*

*i. “Adequate level” means conforms to adopted plans and ordinances.*

*ii. “Urban services” means police, fire, and other City-provided services.*

*iii. “Infrastructure” means sanitary sewer, water, storm drainage, and streets.*

*“Be made available in a timely manner” means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.*

## FINDINGS OF FACT

- B1. City utility maps show that a 12-inch public water main currently exists in Clover Ridge Road NE along the frontage of the subject area. There are also two 8-inch mains that are stubbed from the south that lie approximately 140 feet south of the subject area.
- B2. The City's Water Facility Plan (2004) shows no system deficiencies in this area. An existing system "loop" of large diameter water mains along Century Drive NE, Knox Butte Road NE, Clover Ridge Road NE, and Bernard Avenue NE/Somerset Avenue NE, covers the recommended facility plan projects for this area.
- B3. City utility maps show that an 8-inch public sanitary sewer main currently exists in Clover Ridge Road NE. These sewer facilities were constructed by the City in advance of the recent Linn County improvements to Clover Ridge Road NE. Connection to these facilities by unserved properties will result in connection charges for those properties. These connection charges are used to reimburse the City for the cost of installing the sewers. There are also two 8-inch mains that are stubbed from the south that lie approximately 140 feet south of the subject area.
- B4. The City's Wastewater Facility Plan (1998) indicates that there are no system deficiencies downstream of this site.
- B5. Clover Ridge Road NE was improved to City standards by Linn County in 2004. The subject parcels have access to Clover Ridge Road NE from a private shared access road (Dunlap Avenue NE). Burkhart Creek (south of the site) and Truax Creek (north of the site) are the main drainage features in this area. Storm drainage facilities in the newly reconstructed Clover Ridge Road NE collect stormwater from the road and some adjacent parcels and carry the runoff to these creeks, or to smaller drainageways in the area.
- B6. The City's Storm Drainage Master Plan (1988) indicates that the subject properties lie entirely within the Burkhart Creek drainage basin. The Plan shows no capacity deficiencies within, adjacent to, or downstream of the subject parcels (Fig. 9.1). The 1988 Plan indicates that the main channel of Burkhart Creek is sufficient to carry the 100-year storm flows. The Master Plan states, "[o]ne problem area was identified within this Burkhart basin. Flooding occurs in an area just east of Highway I-5 at Fairlane Street and Earl Avenue. The area is very level in grade and the streets are unimproved. Storm drainage improvements along the streets will allow flows to be carried to the main channel and alleviate flooding." The Plan also states, "[t]here are no recommended improvements within this subbasin due to the adequate capacity of existing storm drainage elements. The main channel of Burkhart Creek is to be retained as the major drainage way for the basin. Any future drainage from development should be directed to the main channel." Future development on the subject property will require that a drainage plan be provided by the developer to show how stormwater runoff from the site will be collected and properly discharged to the public drainage system.
- B7. The subject parcels currently access Clover Ridge Road NE from a shared private road (Dunlap Avenue NE). Clover Ridge Road NE is classified as a minor collector street and was recently reconstructed to City standards by Linn County. Improvements include: curb and gutter; sidewalk along the west side of the road; a travel lane in each direction; and on-street striped bike lanes. Jurisdiction over Clover Ridge Road NE is currently held by Linn County. New development of property with frontage along Clover Ridge Road NE would be responsible for paying connection charges for street and storm drainage improvements in Clover Ridge Road NE.
- B8. Albany's Transportation System Plan (TSP) identifies a new minor collector street being extended in a north-south direction across the western portion of this site. Until this new collector street is connected to Knox Butte Road NE in the future, primary access to and from the site would be provided by Clover Ridge Road NE. The TSP also shows the portion of the future Dunlap Avenue NE that lies west of this north-south street as being classified as a collector. Depending on the approved alignment of the north-south collector street, development on the subject property may also be responsible for some portion of the Dunlap Avenue NE improvements to collector standards.

- B9. ADC 12.060 allows the City to impose conditions for the dedication and construction of public street improvements within and adjacent to new development.
- B10. Adequate public water flow for fire protection is currently available in this area. Because the subject properties are part of a larger existing "island" of unincorporated territory, there are properties on all sides that are currently being served by the City's Fire Department. Fire service to these properties would be a logical expansion of the current service boundaries.
- B11. Because the subject properties are part of a larger existing "island" of unincorporated territory, there are properties on all sides that are currently being served by the City's Police Department. Police service to these properties would be a logical extension of the current patrol boundaries.
- B12. The applicant's findings state, "[t]he timeliness of the development will be secured through an improvement agreement or other mechanism to assure that the developer is responsible for the extension of facilities necessary to serve the site."

### CONCLUSIONS

- B1. This criterion is met because public utilities and transportation system improvements have been made adjacent to the subject properties (in Clover Ridge Road NE), and these improvements are adequate to serve future development on the site. The associated Annexation Agreement (see Staff Report Attachment E) ensures that any additional needed improvements to serve future development on the subject properties would be made solely by the benefiting properties and not by the City of Albany generally.
- B2. Clover Ridge Road NE is classified as a minor collector road in Albany's TSP and is improved to City standards. Until a future street connection is made to Knox Butte Road NE to the south, primary access to the site would be from Clover Ridge Road NE. The transportation system adjoining the site conforms to Albany's adopted TSP and has an adequate level of infrastructure to support development on the site.
- B3. Albany's TSP shows a new collector road being extended in a north-south direction across the western portion of this site, and an east-west collector street (Dunlap Avenue) west of this north-south street, as development occurs. ADC 12.060 allows the City to condition a future development application on the site to construct the collector road. These collector streets within the western portion of the site can be made available in a timely manner by conditioning a future development on the site to make the improvements.
- B4. This criterion is met because fire service is already provided to these parcels by the City through a fire district and public water facilities are in place to serve the area. The subject properties are within an "island" and are surrounded by properties that are in the city limits. Properties surrounding this site are served by the City's fire and police departments, so the addition of this area to the city limits would be a logical extension of the current service boundaries.

### CONDITION

- B1. The applicants must sign the Annexation Agreement that is represented by Staff Report Attachment E.
- C. ***Planning Criteria.*** *The City shall determine that adequate planning has occurred based on the following criterion:*

*Sufficient planning and engineering data have been provided, and necessary studies and reviews have been completed such that there are no significant unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.*

## FINDINGS OF FACT

- C1. This annexation request is for 9 parcels that total approximately 14.9 acres. The Comprehensive Plan Map designations for these properties are Medium Density Residential for the area south of Dunlap Avenue NE, and Low Density Residential for the area north of Dunlap Avenue NE (see Staff Report Attachment B). The applicant has submitted a concurrent Zone Change application that requests City of Albany zoning designations of RS-5 and RM.
- C2. Public infrastructure facility plans that deal with this area include: Water Facility Plan (2004); Wastewater Facility Plan (1998); Storm Drainage Master Plan (1988); Transportation System Plan (1997).
- C3. The subject property was not in the study area for the "1995 East I-5 Vision." Recent work done as part of the City's Periodic Review has resulted in a change to the Comprehensive Plan designation of the area south of Dunlap Avenue NE from Low Density Residential to Medium Density Residential.
- C4. The Local Wetlands Inventory for the East I-5 area (1997) shows wetlands on these parcels. Some of the wetlands on the subject properties are identified in this Local Inventory as being considered "locally significant." (See attached map labeled Staff Report Attachment D.)
- C5. In the past, the City Council has expressed concern regarding residential development with backyard fences along arterial and collector streets. Staff has addressed this concern within the proposed Annexation Agreement (See Staff Report Attachment E). The City Council may consider amending the Albany Development Code to prohibit backyard fences along arterial and collector streets in the future.

## CONCLUSIONS

- C1. This criterion is met because of the information provided in the various studies and plans covering this area.
- C2. The Annexation Agreement addresses the fence issue.

***D. Reasonableness. The City Council shall determine that the proposed annexation is reasonable.***

## FINDINGS OF FACT

- D1. The subject parcels lie within an existing "island" of unincorporated territory surrounded.
- D2. City sewer and water facilities are available within the Clover Ridge Road NE right-of-way. When previously unserved properties connect to public sewer and water facilities, connection charges may be due. These connection charges are used to repay the City (or the initial developer) for the initial cost of constructing the improvements.

## CONCLUSIONS

- D1. The proposed annexation would decrease the total size of the existing island of unincorporated territory west of Clover Ridge Road NE, but would create a smaller island of Tax Lot 201.
- D2. The City will be partially reimbursed for sewer improvements in Clover Ridge Road NE when properties apply to connect to those facilities. Public water facilities in Clover Ridge Road NE were constructed by Myles Breadner as part of development occurring to the north of the subject property.

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**STAFF ANALYSIS**

**Zoning Map Amendment File ZC-06-07**

The Albany Development Code (ADC) includes 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) *The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for in accordance with Section 2.080, ADC Article 2.*

**FINDINGS OF FACT**

- 1.1 The applicants propose to change the Zoning Map designation of 14.9 acres from Linn County UGM-20 (Urban Growth Management – 20-acre minimum lot size) to City of Albany RS-5 (Residential Single Family) and RM (Residential Medium Density).
- 1.2 The current Comprehensive Plan designations of the property where the Zoning Map amendment are proposed are Low Density Residential and Medium Density Residential.
- 1.3 The Plan Designation Zoning Matrix in the Development Code (ADC 2.570) shows that the proposed RS-5 is consistent with the Low Density Residential Comprehensive Plan Map designation, and RM is consistent with the Medium Density Residential designation.

**CONCLUSION**

- 1.1 This criterion is met because the applicants have applied for City zoning designations that are compatible with the existing Comprehensive Plan designations on the subject property.
- (2) *Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation.*

**FINDINGS OF FACT**

- 2.1 The property where the map amendments are proposed is located on the west side of Clover Ridge Road NE, about 700 feet north of Knox Butte Road NE.
- 2.2 An application to develop the property was not submitted with the Zoning Map Amendment application. An application to annex the property was submitted along with the Zoning Map Amendment application.
- 2.3 The property, when considered as a whole, has approximately 500 feet of frontage on Clover Ridge Road NE.
- 2.4 Clover Ridge Road NE is classified as a minor collector street. Linn County recently improved Clover Ridge Road NE to City standards with curb and gutter and sidewalks on the west side. The street is currently under the jurisdiction of Linn County. The speed limit is 25 miles per hour.
- 2.5 The City’s Transportation System Plan (TSP) shows the need for a north-south collector street in this area. The most likely location for this street would be in line with Cameron Street NE to the north. The location of the intersection of this street with Knox Butte Road NE to the south has not been determined. Such an alignment would most likely put this future street through the western portion of the subject properties. Final design details for this and other streets through the subject properties would be reviewed in detail when a development application is submitted in the future. The TSP also shows the portion of Dunlap Avenue NE west of this north-south street as being classified as a collector. Depending on the alignment of the north-south collector street, development on the subject property may also be responsible for at least some portion of the Dunlap Avenue NE collector street.

## CONCLUSIONS

- 2.1 Until a future street connection is made to Knox Butte Road NE to the south, primary access to the site would be from Clover Ridge Road NE. The transportation system adjoining the site (Clover Ridge Road NE) conforms to Albany's adopted TSP and has an adequate level of infrastructure to support development on the site. It will most likely be necessary to construct a portion of a north-south collector street through the west portion of the site at the time the property is developed. Depending on the alignment of the north-south collector street, development on the subject property may also be responsible for at least some portion of the Dunlap Avenue NE collector street.
- 2.2 This review criterion is met.
- (3) *Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area.*

### Sanitary Sewer

- 3.1 The City's utility maps show that there is an 8-inch public sanitary sewer main in Clover Ridge Road NE. An existing 8-inch main is stubbed near the west boundary of the site in Dunlap Avenue NE.
- 3.2 The subject property lies within Basin 10 as defined in the City's Wastewater Facility Plan. The Facility Plan makes recommendations for providing adequate sewer system capacity to accommodate anticipated development. The Plan does not show any collection system deficiencies downstream of the subject property. Future development on this site would be required to extend public sanitary sewer facilities as needed to serve the site and to provide access to the sewer system for adjoining properties to accommodate future main extensions.

### Water

- 3.3 The City's utility maps show that there is a 12-inch public water main in Clover Ridge Road NE.
- 3.4 The subject properties are within an area that is looped by large diameter water mains (36 inch in Century Drive NE; 20 inch in Bernard Avenue NE, Cameron Street NE, and Somerset Avenue NE; 12 inch in Clover Ridge Road NE; and 20 inch in Knox Butte Road NE). These large water mains have completed the recommended Water Facility Plan projects called for in this area. The water system in this vicinity is adequate to provide domestic fire service to the anticipated future development within this area. Future development on the subject properties would be required to extend public water facilities as needed to serve the site and to provide access to the water system for adjoining properties.

### Storm Drainage

- 3.5 The City's utility maps show that Burkhart Creek is the main drainage feature in this drainage basin, but the creek does not run through the subject properties. The creek runs from the east to the northwest, and crosses under Dunlap Avenue NE approximately 350 feet west of the western boundary of the site. Because the areas downstream (west and northwest) of the site were developed while in the county, the streets are unimproved and no public storm drainage piping exists within the rights-of-way that provide access to the area. Drainage facilities that do exist downstream of the site are open channels and ditches, with culverts at driveways and street crossings.
- 3.6 The City of Albany's Storm Drainage Master Plan (1988) states that "[t]here are no recommended [Facility Plan] improvements within this subbasin due to the adequate capacity of existing storm drainage elements." However, the plan also states, "[o]ne problem area was identified within this Burkhart basin. Flooding occurs...at Fairlane Street and Earl Avenue. The area is very level in grade and the streets are unimproved. Storm drainage improvements along the streets will allow flows to be carried to the main channel and alleviate flooding." In addition, the plan recommends that "[t]he main channel of Burkhart Creek is to be



*retained as the major drainage way for the basin. Any future drainage from development should be directed to the main channel.” (Page 8.2)*

- 3.7 The amount of stormwater runoff from a development generally depends on the total area of impervious surfaces on the property. The Albany Development Code specifies a maximum amount of “lot coverage” (buildings and parking areas) for each zoning district. It is generally accepted that the higher the density of a development, the more impervious surface is constructed, and the higher the amount of stormwater runoff from the site.
- 3.8 Future development on the subject properties will be required to provide detailed stormwater analyses to identify how best to accommodate stormwater runoff from the development. If necessary, onsite stormwater detention would be used to assure that downstream drainage elements are not overtaxed.

#### Schools

- 3.9 This request is to zone the property for low- and medium-density residential development. Typical residential developments have school-age children living in them. The voters approved a school bond measure in November 2006. The Greater Albany Public School District is planning on constructing a new school in the East I-5 area next year to address the growth in this area.

#### Police and Fire Protection

- 3.10 The Albany Police Department and Fire Department provide services to all development in Albany. When a property is annexed, these departments will provide service to the property regardless of its zoning designation.
- 3.11 The existing public water system in this area is adequate to provide fire flows for development that would be allowed in the proposed zones. The City’s computer water model indicates that fire flows in this area exceed 10,000 gallons per minute in Knox Butte Road NE and Clover Ridge Road NE near the subject property.

#### CONCLUSIONS

- 3.1 The public sanitary sewer, water, and storm drainage systems in this area have the capacity to serve development on the property if the zoning is changed to RS-5 and RM. Improvements and/or extensions of these systems into and through the site will be required at the time the property is developed.
- 3.2 If the zoning designation of the property is changed to RS-5 and RM, future development will likely increase the demand for school space by providing housing that will include school-age children. The Greater Albany Public School District is planning on the construction of a new school in the East I-5 area within the next year to address current and future population growth.
- 3.3 Upon development of the subject properties, the design of public infrastructure improvements would be required such that existing or anticipated services could accommodate potential development within this area without adverse impact on the affected service area.
- 3.4 This review criterion is met.
- (4) *Any unique natural features or special areas involved such as floodplains, slopes, significant natural vegetation, and historic districts will not be jeopardized as a result of the proposed rezoning.*
- 4.1 Floodplains: *Comprehensive Plan Plate 5: Floodplains*, does not show a floodplain on this property. FEMA/FIRM Community Panel No. 410136 0185B, dated September 29, 1986, shows the property is in Zone C, a designation defined as “areas of minimal flooding.” This map also shows that Burkhart Creek stays within its banks during a 100-year flood.

- 4.2 Wetlands: The National Wetlands Inventory and the East I-5 Wetlands Inventory shows wetlands on the property. The East I-5 Local Wetlands Inventory designates some of the wetlands within the southern portion of the site as “locally significant.” The Department of State Lands (DSL) regulates wetlands in Oregon. Future development on the property may require permits from DSL. The applicants will be required to comply with DSL regulations and permit requirements when the property is developed.
- 4.3 Slopes: *Comprehensive Plan Plate 7: Slopes*, does not show steep slopes on the property. The City’s topographic data shows that elevations on the property vary from about 218 feet to about 222 feet.
- 4.4 Significant Natural Vegetation: *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat*, shows areas of vegetation and/or wildlife habitat on the property. The property has some trees within the western portion of the site and around the existing dwellings near Clover Ridge Road NE. Future development on the property may require removal of trees. The uniqueness, size, age, and other characteristics of the trees are considered at the time development is proposed on the property.
- 4.5 Historic District: *Comprehensive Plan Plate 9: Historic Districts*, indicates that the property is not in an historic district.

CONCLUSIONS

- 4.1 Floodplains, slopes, and/or historic districts will not be jeopardized as a result of the proposed rezoning. It may be necessary to remove trees on the property when future development occurs on the property. The uniqueness, size, age, and other characteristics of the trees will be considered for any trees requiring City approval before removal.
- 4.2 Future development on the site may require permits from DSL if the development may impact wetlands that exist on the site.
- 4.3 This review criterion is met.
- (5) ***The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.***
- 5.1 The current zoning designation of the property where the Zoning Map amendment is proposed is UGM-20 (Urban Growth Management – 20-acre minimum lot size). The proposed zoning would result in approximately 9.1 acres of RS-5 (Residential Single Family) and 5.8 acres of RM (Residential Medium Density).
- 5.2 The total area of the proposed annexation is approximately 14.9 acres. There are currently seven existing single-family homes within the area proposed for vacation. The “Albany Housing Needs Analysis” (2006) methodology used for analyzing buildable lands inventory for partially developed land chose one-half acre as an allowance for an existing dwelling on parcels over three-quarter acre in size. Using this one-half acre value for the seven existing single-family homes within the annexation area, there are approximately 11.4 acres of vacant land in the subject property that can be considered for development if all the existing houses remain. There is more developable vacant land if the minimum lot size of 5,000 square feet is considered for the existing houses, or if the existing houses were removed.
- 5.3 The applicant’s findings suggest that this particular area in Albany is more suited for annexation and conversion to urban residential development than many other underdeveloped areas within the UGB due to its proximity to commercial, education, and other residential uses, as well as the availability of existing City utilities and services. In addition, the subject property lies within an island of unincorporated territory surrounded on all sides by property within the city limits that is being developed to urban densities.
- 5.4 The applicant’s findings state that the Comprehensive Plan indicates that based upon an average growth rate of 1.5 percent over the next 20 years, the City may need more than 100 acres of medium-density land. If the City grows at a rate of 2.3 percent, the City may need 240 acres of medium-density land by 2025.

- 5.5 The City recently modified the underlying Comprehensive Plan designations on the subject property based on work done in conjunction with Periodic Review. It was determined that this area would maintain its residential designation, but that the area south of Dunlap Avenue NE should be given a designation (Medium Density Residential) that allows for higher density housing opportunities.
- 5.6 The applicant's findings state that in order to carry out the purposes of the Comprehensive Plan and Development Code, comprehensive plan designations and zoning districts are established so that the entire territory of the City can be classified for purposes of land use according to the predominant character of development and current or intended use in an area. The surrounding area is developing to urban residential densities. This proposal for two zoning districts is for flexibility in providing for Albany's future residential needs, and an attempt to provide a transition between the single-family development to the north and the multi-family development to the south.

(6) **RELEVANT GOALS AND POLICIES**

The following Comprehensive Plan goals and policies are relevant in considering whether the proposed RS-5 (Residential Single Family) and RM (Residential Medium Density) zoning designations best satisfy the Goals and Policies of the Comprehensive Plan. Goals and policies are listed below in *bold italic* print, followed by finding of fact and conclusions.

**GOAL 1: CITIZEN INVOLVEMENT**

*Goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.*

*Policy 2: When making land use and other planning decisions:*

- a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.*
- b. Utilize all criteria relevant to the issue.*
- c. Ensure the long-range interests of the general public are considered.*
- d. Give particular attention to input provided by the public.*
- e. Where opposing viewpoints are expressed, attempt to reach consensus where possible.*

*Policy 3: Involve the general public in the use, evaluation, and periodic review and update of the Albany Comprehensive Plan.*

*Policy 4: Ensure information is made available to the public concerning development regulations, land use, and other planning matters, including ways they can effectively participate in the planning process.*

- 6.1 The City of Albany's Comprehensive Plan and Development Code provide requirements for citizen involvement in the decision-making process for Zoning Map amendments. Zoning Map amendments are processed as Type IV land use decisions with notice to affected parties, including surrounding property owners and affected government agencies. Public hearings before the Planning Commission and City Council are held. Notice of the public hearings is posted on the subject property. The City's Comprehensive Plan and Development Code, including the processes for citizen involvement, have been acknowledged by the Land Conservation and Development Commission (LCDC) as consistent with statewide planning goals.
- 6.2 People who are notified of the public hearing are invited to submit comments or questions about the application prior to the hearing or at the hearing. Review of the application is based on the review criteria listed in the Development Code. The purpose of the public hearing is to provide the opportunity for people to

express their opinion about the proposed changes, and where opposing viewpoints are expressed, to try to reach consensus. The Planning Commission and City Council facilitate this process at the public hearings.

## **GOAL 5: OPEN SPACES, SCENIC & HISTORIC AREAS, & NATURAL RESOURCES**

### **VEGETATION AND WILDLIFE HABITAT**

*Goal: Ensure vegetation is and remains an integral part of Albany's environment.*

*Policy 1: Protect existing vegetation, which possesses significant environmental, wildlife habitat, and aesthetic qualities, particularly along the Santiam Canal and the Willamette and Calapooia Rivers, their tributaries, and associated floodplains and drainageways.*

*Policy 2: Encourage the protection of trees of significant size that represent a visual and aesthetic resource to the community and recognize that the vegetation resources of Albany's Historic Districts are an important element of Albany's historic and cultural heritage.*

*Policy 3: Where possible, retain the environmental and aesthetic qualities of existing wooded areas by incorporating them into public park and open space plans, and ensure the maximum preservation of vegetation during the development review and construction process.*

- 6.3 *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat*, shows areas of vegetation and/or wildlife habitat on the property. The property has a variety of tree types on it. Most of the trees are located in the western portion of the site and around the existing dwellings. There are existing single-family houses and a variety of outbuildings on the properties now. Additional development on the property may require the removal of some trees. The uniqueness, size, age, and other characteristics of the trees are considered at the time development is proposed on the property.

### **GOAL 5: WETLAND RESOURCES**

*Goal: Protect wetlands to ensure their continued contribution as natural areas, open space, wildlife and vegetative habitat, and storm water retention and conveyance.*

- 6.4 *Comprehensive Plan Plate 6: Wetland Sites*, does not show any wetlands on the property. However, the East I-5 Local Wetlands Inventory maps do show wetlands on the property. The East I-5 Inventory did determine some of these wetlands to be "locally significant." The Oregon Department of State Lands (DSL) regulates wetlands in Oregon. Any type of residential development on the property may require permits from DSL. The applicants will be required to comply with DSL regulations and permit requirements when the property is further developed.

### **GOAL 10 HOUSING**

*Goal: Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.*

*Policy 1: Ensure that there is an adequate supply of residentially zoned land in areas accessible to employment and public services to provide a variety of choices regarding type, location, density, and cost of housing units commensurate to the needs of city residents.*

*Policy 11: Encourage residential development on already serviced and vacant residential lots or in areas within which services are available or can be economically provided.*

- 6.5 The subject property is located in an area that is accessible to employment and public services. This neighborhood contains several new subdivisions.
- 6.6 All city services are available to serve a residential development in this area.

## GOAL 12: TRANSPORTATION

*Goal: Provide a safe, diversified, economical, and efficient transportation system that protects and enhances Albany's economy, environment, neighborhood quality, cultural, and scenic values. For the purposes of this document, a transportation system includes auto, transit, bicycles, pedestrian, rail, and air transportation.*

*Policy 1: When planning for, designing, and providing transportation systems:*

- a. Coordinate the requirements of the various transportation types with each other and minimize operational and safety conflicts.*
- b. Coordinate proposed projects with impacted agencies and businesses and applicable neighboring cities, county, state, and federal agencies.*
- c. Notify and coordinate with affected agencies regarding the transportation impacts of proposed development within or adjacent to the Urban Growth Boundary.*

*Policy 2: Protect transportation facilities, corridors, and sites for their identified functions.*

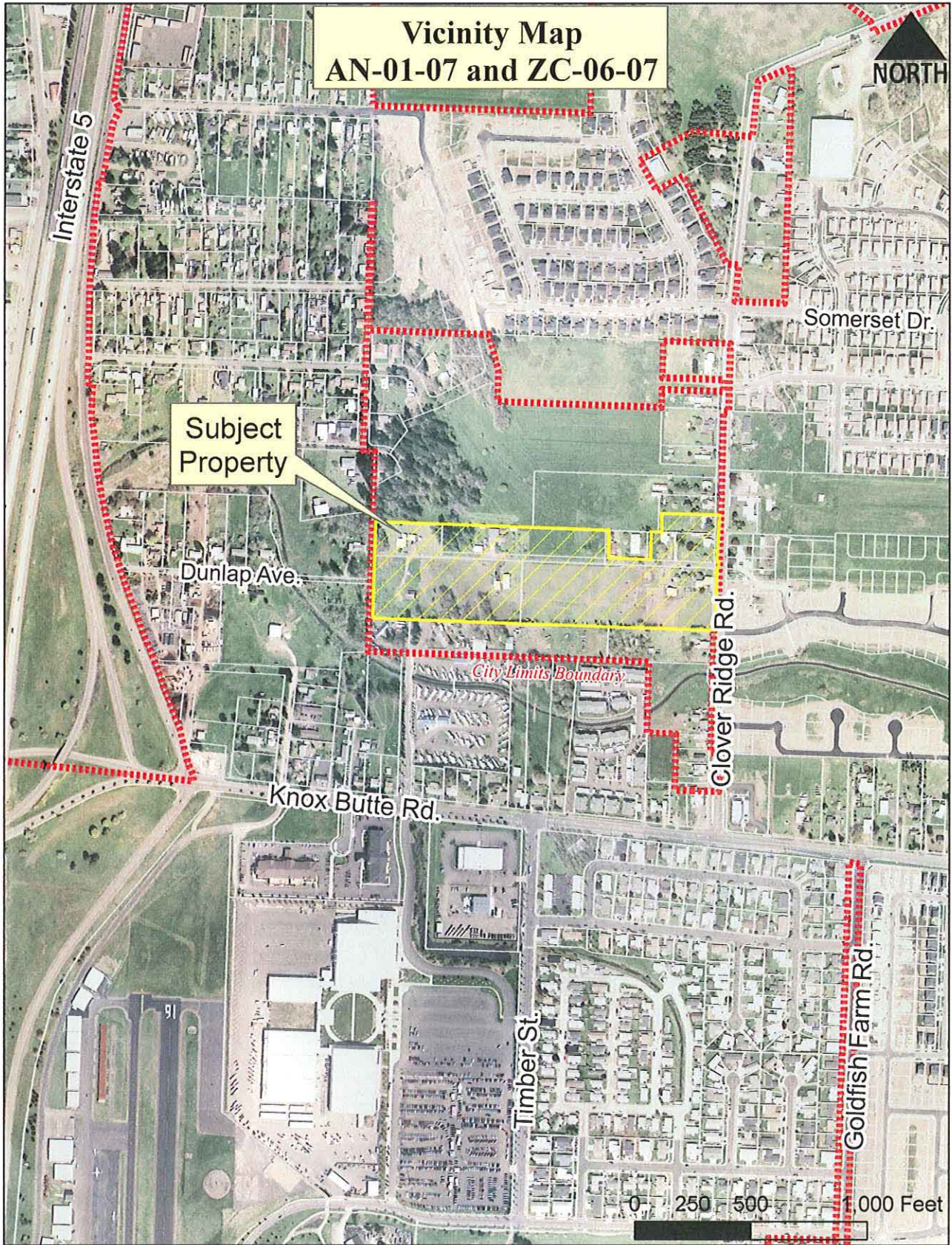
- a. Develop access control measures and encourage land development patterns that minimize direct access onto collector and arterial roads.*
- b. Protect the future operation of corridors by obtaining sufficient right-of-way or building setbacks to provide for future capacity in transportation corridors and by conditioning development proposals to minimize impacts.*
- c. Review land use designations, densities, and design standards for consistency with the functions, capacities, and levels of service of facilities identified in the TSP.*

*Policy 3: Develop a roadway system that is efficient and safe for the traveling public while preserving neighborhood quality and character.*

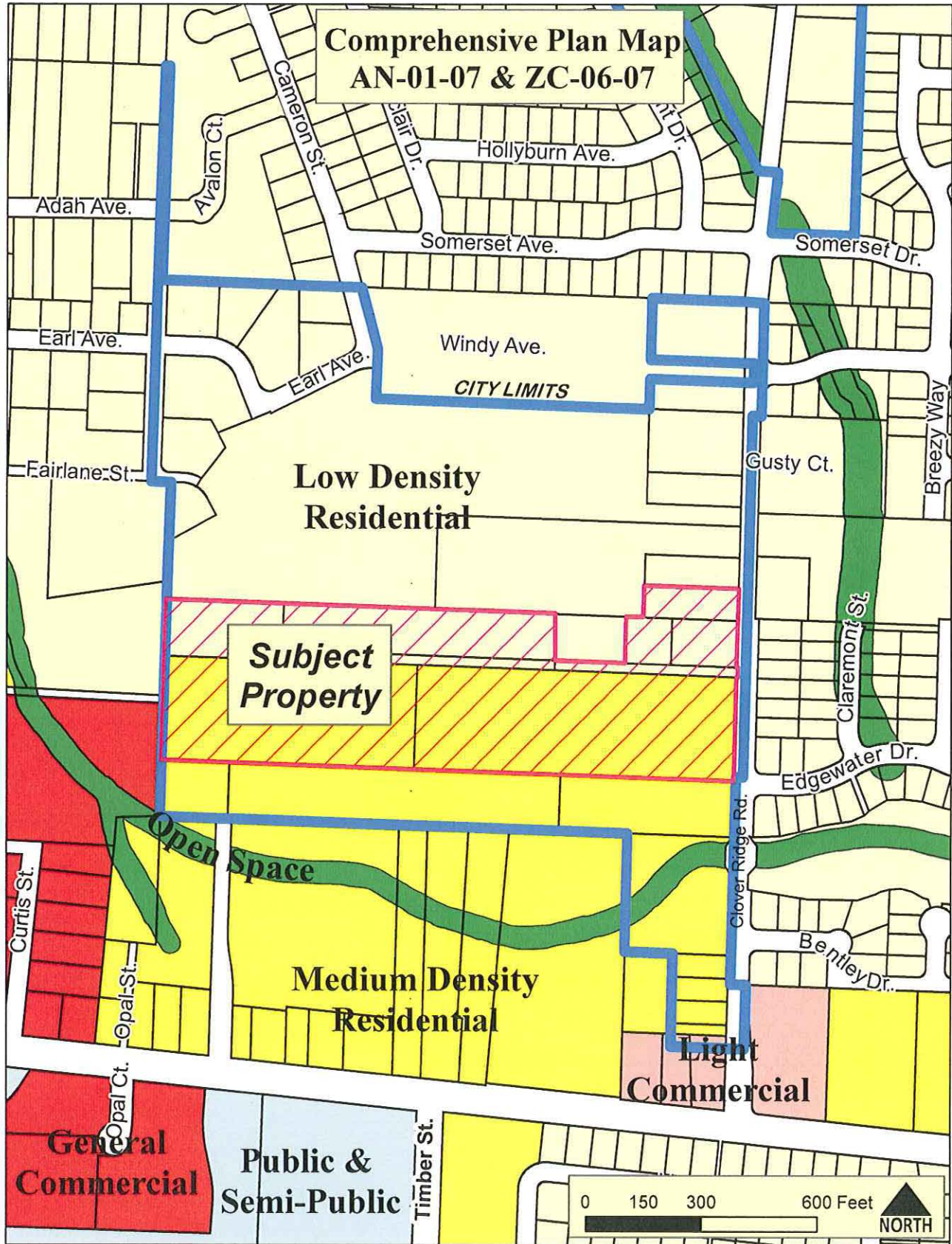
*Policy 4: Develop a transportation system, encourage land use patterns and design standards, and promote transportation projects, programs, and policies which reduce dependency on the automobile and encourage alternatives such as public transit, bicycling, walking, car and van pools.*

- 6.7 See the discussion under Zoning Map Amendment Review Criterion (2). The discussion finds that the transportation system can be made adequate for single-family residential development of the property. To avoid repeating the same information here, those findings and conclusions are included here by reference.

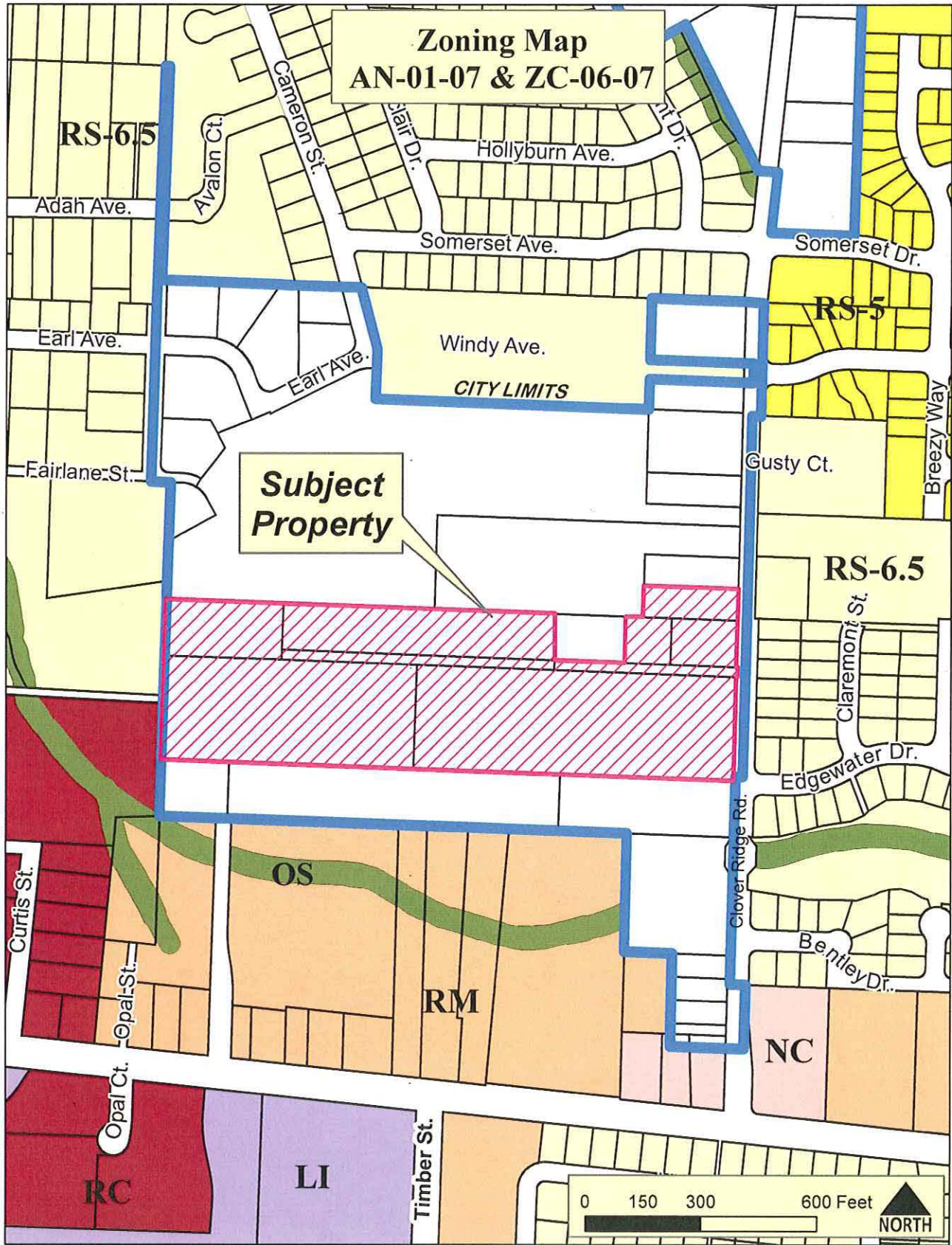
STAFF REPORT ATTACHMENT A  
FILES AN-01-07 and ZC-06-07



STAFF REPORT ATTACHMENT B  
FILES AN-01-07 and ZC-06-07

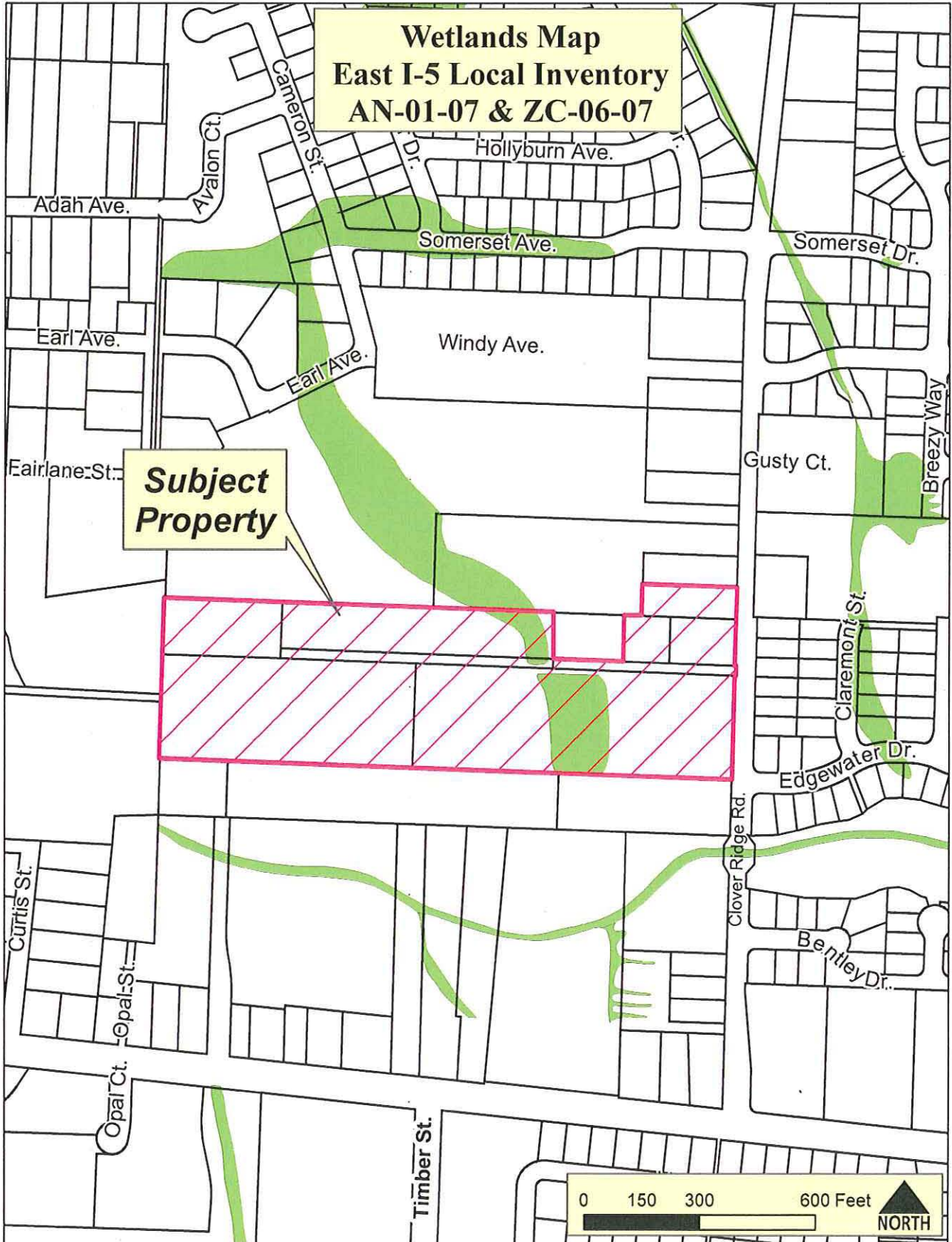


STAFF REPORT ATTACHMENT C  
FILES AN-01-07 and ZC-06-07





STAFF REPORT ATTACHMENT D  
FILES AN-01-07 and ZC-06-07



ANNEXATION AGREEMENT

**EFFECTIVE DATE:** Upon approval of Albany City Council

**PARTIES:** MICHEAL D. and ROBERTA D. NEWMAN  
3749 Dunlap Avenue NE  
Albany, OR 97322-6504

JAMES L. and MONICA D. BROOKS  
3800 Dunlap Avenue NE  
Albany, OR 97322

CITY OF ALBANY, OREGON, a municipal corporation

("City")

**RECITALS:**

**WHEREAS**, Developer owns certain real property outside of and adjacent to City and described in Attachment 1 and shown in a map labeled Attachment 2 attached hereto (the "Property"), which they desire to be annexed to the City, and the City desires to put the annexation proposal on the ballot for approval of voters in accordance with Oregon law and the City Charter;

**WHEREAS**, City does not want annexation to impose express or implied obligations on the City to make and fund infrastructure improvements;

**WHEREAS**, prior to approving the proposal for the ballot, City staff has requested that Developer enter into an Agreement which will waive many of Developer's rights and remedies with regards to conditions that may be placed on development of the Property by City if public facilities are insufficient to support the development and which will commit Developer in good faith to make certain enhancements and observe restrictions concerning the Property at such time that the actual development of the Property begins;

**WHEREAS**, the City has the policy of not placing annexation proposals on the ballot unless the Council first determines that the annexation is timely and reasonable;

**WHEREAS**, among the factors considered by the Council in its timeliness determination is the adequacy of public infrastructure to serve the proposed annexation site;

**WHEREAS**, the Parties do not intend that this Agreement be a land use document or comply with the requirements of a Development Agreement as set forth in ORS 94.504 to 94.528;

**WHEREAS**, nothing in this Agreement limits the use of the Property for any lawful purposes, so long as any required City approval has been obtained;

**WHEREAS**, nothing in this Agreement shall require Developer to develop the Property or prohibit Developer from stopping any development after it has begun.

**AGREEMENT:**

NOW, THEREFORE in consideration of the above Recitals and the mutual promises contained herein, the Parties agree as follows:

1. **Incorporation of Recitals.** The Recitals are hereby incorporated into this Agreement as if set forth herein in full.
2. **Location.** The Property is adjacent to the City Limits of the City of Albany and within the Urban Growth Boundary for the City of Albany.
3. **Term.** The term of this Agreement shall commence on the date upon which it is approved by the Albany City Council and shall continue until superseded or terminated by the mutual agreement of the Parties or shall terminate upon rejection of the proposed annexation by the voters of the City. The Parties may enter into individual agreements, including, but not limited to, Development Agreements, at any future date, which agreements will supersede this Agreement as applied to the Property as a whole or to portions of the Property or individual phases of development, as specified in said future agreements.
4. **Definitions.** For purposes of this Agreement, specific terms shall be defined as follows:
  - 4.1. *"Public Facilities"*. Physical infrastructure necessary or beneficial to the development of real property in the City of Albany. Such facilities include, but are not limited to, streets, curbs, gutters, bridges, culverts, intersections, traffic signals, signage, ditches, piping, valves, pump stations, landscaping, trails, bicycle paths, parks, sewer, storm sewer, and/or water facilities.
  - 4.2. *"Development"*. The meaning prescribed for said term at Albany Municipal Code 20.22.010.

- 4.3. *“Developer”*. Any person or legal entity having the right or responsibility to control the development of the Property. This term includes, without limitation, all owners of property proposed for development.
5. **Ballot.** The Property shall be proposed to the voters of the City of Albany for annexation subject to the terms of this Agreement.
6. **Waiver of Rights and Indemnification.** If Developer proceeds with development of the Property, Developer agrees that if the City determines, in the exercise of reasonable discretion, based on substantial evidence in the record, that Public Facilities are insufficient to support a proposed development, and there is a reasonable relationship between any condition or denial and said deficiency in Public Facilities, and the City therefore conditions or denies an application based on such a determination:
- 6.1 Developer will waive the right to claim that such condition or denial constitutes a moratorium under ORS 197.505 to 197.540.
  - 6.2 Developer will waive any right to seek judicial or administrative relief including, but not limited to, claims for injunction or damages that may result from the delay or denial of development opportunities.
  - 6.3 Developer will waive any claim under any present or future legislation, judicial determination, or Oregon Constitutional amendments that require local government to compensate a property owner for damages which result from governmental regulations which are deemed to constitute a complete or partial taking of such property.
  - 6.4 Developer waives any right to appeal said condition or denial or to seek any other form of judicial or administrative relief, on the grounds that it places a “disproportionate burden” on Developer. This waiver is intended to include, but not be limited to, claims that the disproportionate burden constitutes a partial or complete taking of Developer’s property. This waiver shall relieve City of any requirement to make individualized findings that justify a condition on the proposed development or a denial of the proposed development, but the condition or denial must be directly related to a deficiency in Public Facilities caused or contributed to by the proposed development.
  - 6.5 Developer waives any right to claims arising under or granted by any statutory or constitutional regulatory compensation or waiver provisions, including but not limited to Ballot Measure 49 (2007) or otherwise enacted after the date of this proceeding which would create a right of claim for compensation or waiver from city land use regulations that exist upon the effective date of the proceeding and which, by the approval of the proceeding, are then applicable to the property.
  - 6.6 None of the rights waived by Developer shall waive Developer’s right to just compensation in the event that the City initiates eminent domain proceedings to acquire all or a part of Developer’s property.
  - 6.7 The Developer and its successors and assigns agree to indemnify and hold harmless the City of Albany, its agents, officers, and employees, from any of the following claims including, but not limited to, the attorney’s fees and other expenses incurred by the City resisting said claims:
    - 6.7.1 Any claim challenging the enforceability or binding nature of this Agreement;
    - 6.7.2 Any judicial or administrative proceeding which is brought by Developer or its successors or assigns challenging the correctness or any action taken by the City which is authorized under the terms of this Agreement;
    - 6.7.3 Any other proceeding of any kind or nature wherein Developer or its successors or assigns seeks damages or injunctive relief as a result of any City decision to deny, condition, or limit development activities.

6.8 The Property is currently designated on the City's Comprehensive Plan Map as Urban Residential Reserve. The current Linn County zoning designation is UGA-UGM-20. The act of annexing property does not automatically apply a city zoning designation. Until a zoning designation is approved by the City, the County designations will continue to be in effect.

7. **Developer Agrees.** If Developer proceeds with development of the Property, Developer agrees as follows:

7.1 Any residential subdivision constructed on the Property will be designed to have homes built on lots with frontage on Clover Ridge Road will face Clover Ridge Road. If Covenants, Conditions, and Restrictions (CC&Rs) are necessary to assure that the homes are constructed in this manner, CC&Rs will be included with the subdivision plat process.

8. **City Agrees.** The City, in consideration for the promises made by Developer, agrees as follows:

8.1 There are currently sufficient Public Facilities available to annex the property into the City of Albany upon approval of the voters. This does not imply that available Public Facilities are sufficient for any particular development.

8.2 The City shall not impose a Local Improvement District or other financial obligation upon Developer unless it is determined that the Developer benefits from the proposed improvement(s).

8.3 While the City's conditions or denials may place a disproportionate burden on the Developer to make Public Facilities improvements, any such conditions or denials shall be reasonably related to the Public Facilities needs which result from development on the Property. "Objective Engineering Standards" will be used to determine the need for Public Facilities which result from any proposed development. Notwithstanding the foregoing, both Parties agree that the Public Facilities needs of third parties or the public generally may also be a contributing factor to the Public Facilities needs which result from development on the Property. The needs of such third parties or the public shall not limit the City's discretion to impose conditions or denials on the Developer.

8.4 Subject to the provisions of this Agreement, the City agrees that upon annexation, and subject to the terms and limitations of this Agreement, the Property shall enjoy the same right to development as applies to similarly situated property in the City of Albany. This is a material consideration for the Developer to comply with the conditions and requirements set forth in this Agreement.

8.5 City shall make a good faith effort to identify and address planning issues and impacts that may arise as a result of development of the Property and will share with Developer any information of prospective issues or impacts.

8.6 Subject to the provisions of this Agreement, Developer has full entitlement to apply for development of all or any part of the Property and shall be entitled to the same consideration shown to similarly situated applicants.

9. **Contingency.** This Agreement is expressly contingent on (i) approval by the Albany City Council of the annexation proposal and this Annexation Agreement, and (ii) approval by the voters in accordance with Oregon law of such annexation proposal.

10. **Miscellaneous.**

10.1 **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, personal representatives, successors, and permitted assigns and upon approval of the voters of the City of Albany, the terms of this Agreement shall be recorded in a form approved by the City so as to provide a record of this Agreement to run with the land described in the attached Attachment 1.

- 10.2 **Assignment.** Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other Parties, which consent will not be unreasonably withheld.
- 10.3 **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer on any person, other than the Parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.
- 10.4 **Further Assurances.** Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, in order to carry out the intent and accomplish the purposes of this Agreement.
- 10.5 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict-of-laws principles.
- 10.6 **Attachments.** The Attachments referenced in this Agreement are a part of this Agreement as if fully set forth in this Agreement.
- 10.7 **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect of the remaining provisions of this Agreement shall not be in any way impaired.
- 10.8 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the Parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreement, whether written or oral, among the Parties with respect to such subject matter.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

**PARTIES:**

**CITY OF ALBANY.**

A municipal corporation,

By: \_\_\_\_\_

Its: \_\_\_\_\_

\_\_\_\_\_  
Micheal D. Newman

\_\_\_\_\_  
Roberta D. Newman

\_\_\_\_\_  
James L. Brooks

\_\_\_\_\_  
Monica D. Brooks

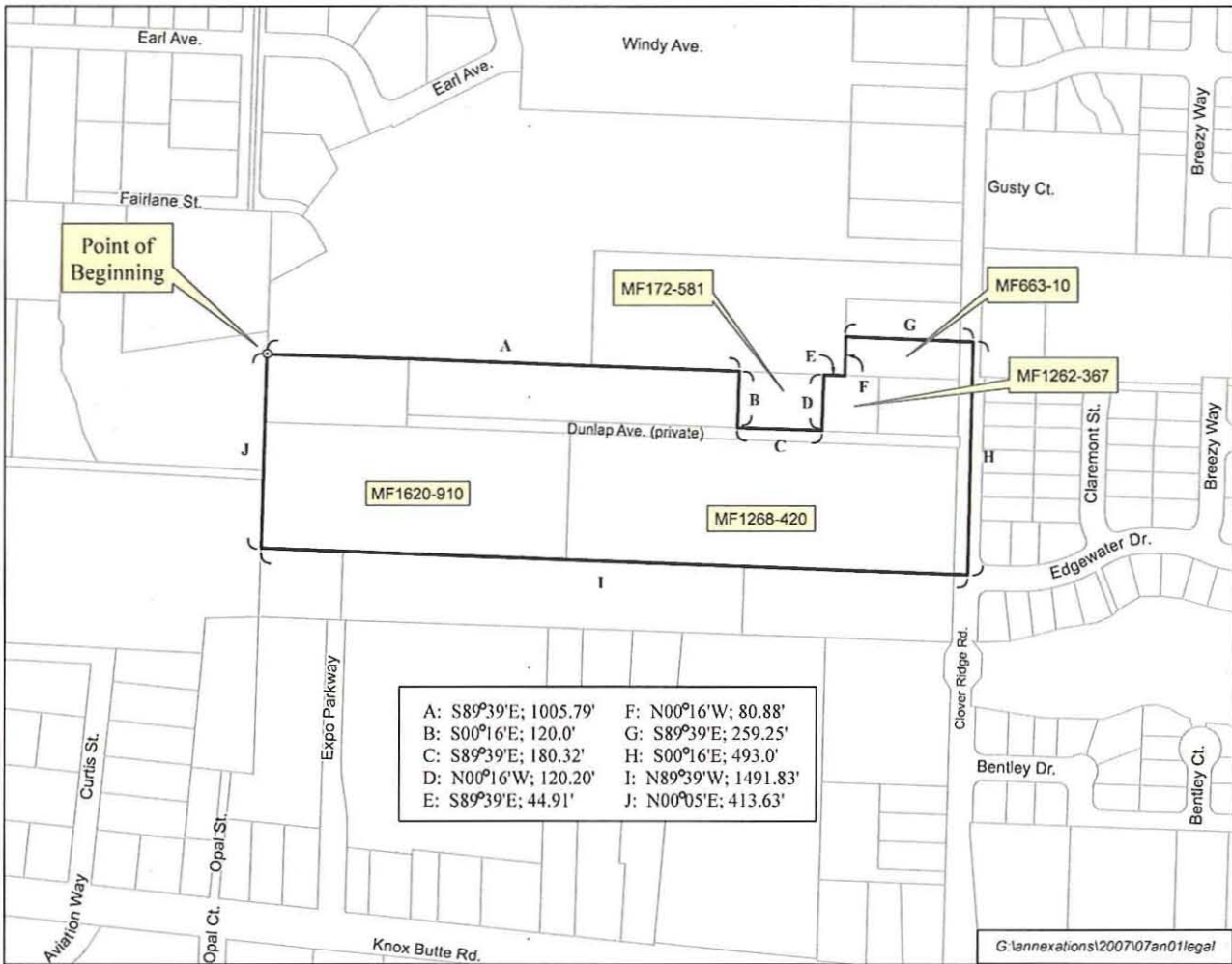
**ANNEXATON AGREEMENT ATTACHMENT 1**  
**LEGAL DESCRIPTION**  
**FILE AN-01-07**

Beginning at the Southwest corner of Lot 21 of Fairlanes Subdivision, a residential subdivision recorded in County Survey No. 3038, Linn County, Oregon survey records; thence South 89°38' East, along the south line of said Fairlanes Subdivision and its easterly extension, a distance of 1005.79 feet to a 1/2-inch pipe, said pipe also being the Northwest corner of that tract owned by Robert and D. Kay Kingsberry, described in Linn County Microfilm Deed Records MF172-581; thence South 0°16' East, along the Westerly line of said Kingsberry tract, a distance of 120.00 feet, to the Southwest corner of said Kingsberry tract; thence South 89°39' East, along the Southerly line of said Kingsberry tract, a distance of 180.32 feet to the Southeast corner of said Kingsberry tract; thence, North 0°16' West, along the Easterly line of said Kingsberry tract, a distance of 120.20 feet to the Northwest corner of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF1262-367; thence South 89°39' East, along the northerly line of said Newman tract, a distance of 44.91 feet, to the Southwest corner of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF663-10; thence North 0°16' West, along the West line of said Newman tract, a distance of 80.88 feet to a 3/4-inch rod at the northwest corner of said Newman tract; thence South 89°39' East, along the northerly line of said Newman tract, and the easterly extension thereof, a distance of 259.25 feet, more or less, to the city limits boundary; thence South 0°16' East, along said city limits boundary, a distance of 493.0 feet, more or less, to the intersection of said city limits boundary and the easterly extension of Southerly line of that tract owned by Micheal and Roberta Newman, described in Linn County Microfilm Deed Records MF1268-420; thence North 89°39' West along the Southerly line of said Newman tract, a distance of 1491.83 feet to an iron bar, said point also being the Southwest corner of that tract owned by James and Monica Brooks, described in Linn County Microfilm Deed Records MF1620-910; thence North 0°05' East, along the Westerly line of said Brooks tract and the Northerly extension thereof, a distance of 413.63 feet to the Point of Beginning.

Said area containing 14.9 acres, more or less.



**ANNEXATION AGREEMENT ATTACHMENT 2  
LEGAL DESCRIPTION MAP  
FILE AN-01-07**



# ***Proclamation of "We the People" 2008***

## **Proposal to the Albany - City Council**

**Vision:** Encourage, enable, educate and inspire citizens of Albany to engage in our democratic process of government throughout 2008.

**Reason:** 2008 is a year of major of decisions for our citizens: nationally in this presidential election year, State wide with issues and representative to be decided; and locally we have major issues to resolve and the opportunity to involve a whole new generation of Albany citizens in the democratic process of government. Stimulating citizen education, involvement, and voter participation can only contribute to a healthy democracy here in Albany.

### **Three Main Objectives:**

- 1.) Issue a proclamation to the citizens of Albany declaring "We the People" 2008. An example of a proclamation is provided
- 2.) The City could encourage citizens of all ages to become more educated, informed and involved in our democracy.
- 3.) Encourage the Albany schools to adopt the proclamation by encouraging children to write essays, read books, and have special projects, speech contests with the City providing a prize.

**Other Suggested ideas:** 4.) The City could present at different opportunities the need for citizens to involve themselves in the democratic process, through talks, mailings, special events and speakers. 5.) The City could have special tours for citizens and students explaining how our City works. 6.) Ask State representatives to come and speak to our citizens about the need to get involved in the process (Town Hall Meetings). 7.) City employees could become mentors to Albany students interested in a career in public service. 8.) Add quotes on citizenship to City mailings. 9.) Have a special July 4<sup>th</sup> event. 10.) Inaugurate a scholarship for students seeking a career in government.

**Benefits:** We would all benefit from a community wide effort to revitalize citizenship and the encouragement of a greater cooperation and involvement in our democratic process of government. The future health and wellbeing of our City depends on the quality and health of our citizenship and this effort will help. The focus on Citizen Democracy for one year may very well reap rewards for many years to come for our community and her citizens.

**Costs:** There is no cost in speaking up this idea to our citizens if current communication tools are used. There would be a minimum cost if employees of the City were to get involved in some of the proposed objectives and projects. Citizen financial sponsorship by individuals, civic groups and local businesses could provide funds for some of the proposed objectives.

**If Approved:** Create a project team that would create a proclamation, implementation plan and schedule that would be approved by the City Council.

**Proclamation**  
**(City of Albany Seal)**

**“We the People”**  
**2008**

*We, Albany City Council, recognize that:*

*Whereas, “We the People” are the foundation of our democracy, and good citizenship is the essential responsibility that makes democracy work and,*

*Whereas, good citizenship being essential to our democratic society, and our community wellbeing, the educated, involved and concerned citizens are critical to our democratic society and,*

*Whereas, the future health and wellbeing of Albany and her people is in the hands of our good citizens it is an essential responsibility that the City of Albany encourage citizen education, involvement and participation in the process of good self-government and,*

*Whereas, 2008 is a critically important election year for the American People, the City of Albany encourages all her citizens, schools, organizations, businesses and government services to focus on this all important responsibility of achieving good citizenship.*

*Now, Therefore, We, the City Council of Albany Oregon Proclaim “We the People” 2008. We encourage all citizens of Albany to engage in all manner of creative activities that would encourage and improve good citizenship in our people, schools, organizations, businesses and institutions.*

*Now, therefore, We the undersigned do hereby proclaim” “We the People” 2008 and urge Albany citizens to celebrate our democracy with goodwill and in cooperation for the common good.*

*In witness whereof,*

*We have here unto set our hand this <insert day>*

*Day of <insert month>, 2008*

**<sign here>**

**<Insert names and titles>**



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Ed Gallagher, Library Director *EG*  
DATE: February 20, 2008, for the February 27, 2008, City Council Meeting  
SUBJECT: Adoption of Library District Resolution

RELATES TO STRATEGIC PLAN THEME: ● An Effective Government  
● Great Neighborhoods

Action Requested:

Adoption of the attached Resolution.

Discussion:

This resolution confirms the City of Albany's support for placing a library district ballot measure before the voters in November 2008. It is the culmination of five years of discussion, demonstration, outreach, and surveying by the Linn Library League. The efforts of the League have shown that there is broad support for such a ballot measure.

Budget Impact:

None.

EG:kg  
Attachment

G:\ADMIN\LLL\Resolution3.doc

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CONSENTING TO THE FORMATION OF THE LINN LIBRARY DISTRICT.

WHEREAS, over the past five years, the Linn Library League has studied alternatives for providing improved library services for county residents. It has determined that a library district can provide the revenues necessary for improved and additional library services in the county; and

WHEREAS, the Linn Library League plans to file a petition/request that the Linn County Board of Commissioners form a library district within the county to provide services to county residents; and

WHEREAS, the Linn Library League believes that a library district will better meet the needs for public library and informational services of both city and county residents; and

WHEREAS, the City Council believes that a library district will better meet the needs for public library and informational services of both city and county residents.

NOW, THEREFORE, BE IT RESOLVED that the City of Albany approves the formation of a library district and consents to include all territory of the city that is within Linn County within the boundaries of the Linn Library District.

DATED AND EFFECTIVE THIS 27TH DAY OF FEBRUARY 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council  
 VIA: Wes Hare, City Manager  
 FROM: Stewart Taylor, Finance Director *[Signature]*  
 Betty Langwell, City Clerk  
 DATE: February 8, 2008 for the February 27, 2008, City Council Meeting  
 SUBJECT: Certifying Properties Exempt from Taxes

RELATES TO: • Create and sustain a city of diverse neighborhoods where all residents can find and afford the values, lifestyles, and services they seek.

Action Requested:

For the City Council to approve three resolutions to the Linn County Assessor certifying properties exempt from taxation.

Discussion:

Annually, staff provides three resolutions to exempt Songbird Village, Periwinkle Place, and ParkRose properties from taxation under the City's tax levy per ORS 307.543. The low income housing that these projects provide through the Albany Partnership for Housing and Community Development is an integral part of providing an affordable quality of life in Albany. The Partnership depends on this exemption in order to keep their rental costs down.

Exempt Properties Estimate of Taxes \*  
2008

	Market Value	Assessed Value	City & County Tax Estimate	Estimated City Tax	Estimated CARA Tax
Songbird Village	1,819,800	1,432,595	16,419	11,269	605
Periwinkle Place	1,246,160	1,054,124	12,080	8,290	445
Park Rose	926,080	672,300	7,705	5,285	285
<b>Total</b>	<b>\$3,992,040</b>	<b>\$3,159,019</b>	<b>\$36,204</b>	<b>\$24,844</b>	<b>\$1,335</b>

City Base Tax Rate	6.3984
Safety Levy	0.9500
CARA	0.0093
<b>Total Rate</b>	<b>\$7.3577</b>

\* Estimates provided by the Linn County Assessors Office.

Budget Impact:

There is no impact to the budget as this exemption is considered as part of the budget process.

ST:bl  
Attachment

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE SONGBIRD VILLAGE PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547; and

WHEREAS, the Albany Partnership for Housing and Community Development is the senior partner of Albany Family Housing Limited Partnership, the owner of Songbird Village, an affordable housing project located at 215-245 21<sup>st</sup> Avenue SE and 2020-2040 Lyon Street SW (Assessor's Map No. 11S-3W-7CD, Tax Lot 901); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545;

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property on which the Songbird Village project is located (Map No. 11S-3W-7CD, Tax Lot 901) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 27th DAY OF FEBRUARY 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PERIWINKLE PLACE PROPERTY SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner of Periwinkle Place, an affordable housing project located at 1700-1860 Periwinkle Circle (Assessor's Map No. 11S-3W-8DB, Tax Lot 5200); and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545;

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the property on which the Periwinkle Place project is located (Map No. 11S-3W-8DB, Tax Lot 5200) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 27<sup>th</sup> DAY OF FEBRUARY 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION CERTIFYING TO THE LINN COUNTY ASSESSOR THAT THE PARKROSE PROPERTIES SHALL BE EXEMPT FROM PROPERTY TAXATION.

WHEREAS, the Albany City Council in 1993 adopted the provision of ORS 307.540 to 307.547; and

WHEREAS, the Albany Partnership for Housing and Community Development is the owner of ParkRose, an affordable housing project associated with the Pacific Boulevard/9<sup>th</sup> Avenue Couplet Project of the Oregon Department of Transportation; and

WHEREAS, the Albany Partnership has submitted an application for property tax exemption; and

WHEREAS, the owner meets the requirements of ORS 307.541 and their application meets the requirements of ORS 307.545;

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council certifies to the Linn County Assessor that the properties on which the ParkRose project is located (Map No. 11S-3W-8BA Tax Lot 3101) shall be exempt from taxation under the City's tax levy as provided in ORS 307.543.

DATED AND EFFECTIVE THIS 27<sup>TH</sup> DAY OF FEBRUARY 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police

A handwritten signature in cursive that reads 'Edward Boyd' followed by a circled number '20'.

DATE: February 20, 2008, for February 27, 2008, City Council Meeting

SUBJECT: Limited On-Premises Sales, New Outlet Liquor License Application for Hausmann Delis, LLC, D/B/A AJ's Dawg Haus, 2530 Pacific Boulevard, Suite B

Action Requested:

I recommend the Limited On-Premises Sales, New Outlet liquor license for Hausmann Delis, LLC, D/B/A AJ's Dawg Haus be approved.

Discussion:

Jesse Hausmann, on behalf of Hausmann Delis, LLC, D/B/A AJ's Dawg Haus, has applied for a Limited On-Premises Sales, New Outlet liquor license. Based on a background and criminal history investigation through Albany Police Department records, I recommend approval of this request.

Budget Impact:

None.

MR



TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Edward Boyd, Chief of Police

A handwritten signature in black ink that reads 'Edward Boyd' with a stylized flourish at the end.

DATE: February 20, 2008, for February 27, 2008, City Council Meeting

SUBJECT: Full On-Premises Sales, Change Ownership Liquor License Application for Bailey's, Inc., D/B/A Bailey's on Elm, 831 Elm Street SW

Action Requested:

I recommend the Full On-Premises Sales, change ownership liquor license for Bailey's, Inc., D/B/A Bailey's on Elm be approved.

Discussion:

Ronald Grice, on behalf of Bailey's, Inc., D/B/A Bailey's on Elm, has applied for a Full On-Premises Sales, change ownership liquor license. Based on a background and criminal history investigation through Albany Police Department records, I recommend approval of this request.

Budget Impact:

None.

MR

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Purpose

CGM LLC

A 20-foot wide utility easement for the purpose of constructing a sewer force main.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement.

DATED AND EFFECTIVE THIS 27TH DAY OF FEBRUARY 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 30<sup>th</sup> day of January, 2008, by and between CGM LLC, hereinafter called Grantors, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

### WITNESSETH:

That for and in consideration of the total compensation to be paid by the City, the grantor has this day bargained and sold and by these presents does bargain, sell, convey, and transfer unto the City of Albany, an easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, under-growth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The right-of-way hereby granted consists of:  
  
A 20-foot wide utility easement for the purpose of constructing a sewer force main. See attached legal description labeled Exhibit A and map labeled Exhibit B.
2. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
3. The easement granted is in consideration of \$4,639.00, receipt of which is acknowledged by the Grantors, and in further consideration of the public improvements to be placed upon said property and the benefits grantors may obtain therefrom.
4. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above-described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
5. Upon performing any maintenance, the City shall return the site to original or better condition.
6. No permanent structure shall be constructed on this easement.

IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

**GRANTOR:**

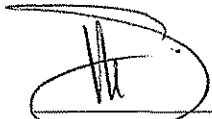
CGM LLC



By Steven G. Wise  
Manager/Member  
Title

STATE OF California  
County of Orange ) ss.  
City of Huntington Beach

The instrument was acknowledged before me this 30 day  
of January, 2008, by Steve Wise,  
Title Manager/Member, as  
a representative of CGM LLC.



Notary Public for California  
My Commission Expires: Sept. 16, 2008



**CITY OF ALBANY:**

STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

## EXHIBIT A

### SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that CCGM LLC, hereinafter referred to as Grantor, hereby grants to the City of Albany, a Municipal Corporation, hereinafter called "City" for public utility easement purposes, portions of that real property situated in Linn County, Oregon, lying within Parcel I of Volume 790, Page 647, recorded on May 11, 1996, situated in the N.W.  $\frac{1}{4}$  of Section 20, Township 11 South, Range 3 West of the Willamette Meridian, in the City of Albany, being more particularly described as follows and as shown on the attached Map labeled "Exhibit B":

Beginning at the intersection of the west and south line of said Parcel I; thence 209.09 feet, along said south line to the POINT OF BEGINNING; thence 11.99 feet along said south line; thence North  $72^{\circ} 19' 59''$  East 19.60 feet; thence South  $85^{\circ} 10' 1''$  East 99.86 feet, parallel with the south line of said Parcel I; thence South  $62^{\circ} 40' 1''$  East 19.60 feet to a point on the south line of Parcel I; thence South  $85^{\circ} 10' 1''$  East 53.63 feet along said south line; thence North  $72^{\circ} 19' 59''$  East 19.60 feet; thence South  $85^{\circ} 10' 1''$  East 211.12 feet, parallel with the south line of said Parcel I; thence South  $62^{\circ} 40' 1''$  East 19.60 feet to a point on the south line of Parcel I; thence South  $85^{\circ} 10' 1''$  East 11.99 feet along said south line; thence North  $27^{\circ} 19' 59''$  East 15.41 feet; thence North  $62^{\circ} 40' 1''$  West 34.65 feet; thence North  $85^{\circ} 10' 1''$  West 219.08 feet, parallel with the south line of said Parcel I; thence South  $72^{\circ} 19' 59''$  West 34.65 feet; thence North  $85^{\circ} 10' 1''$  West 17.89 feet, parallel with the south line of said Parcel I; thence North  $62^{\circ} 40' 1''$  West 34.65 feet; thence North  $85^{\circ} 10' 1''$  West 107.82 feet, parallel with the south line of said Parcel I; thence South  $72^{\circ} 19' 59''$  West 34.65 feet; thence South  $17^{\circ} 40' 1''$  East 15.41 feet to the POINT OF BEGINNING.

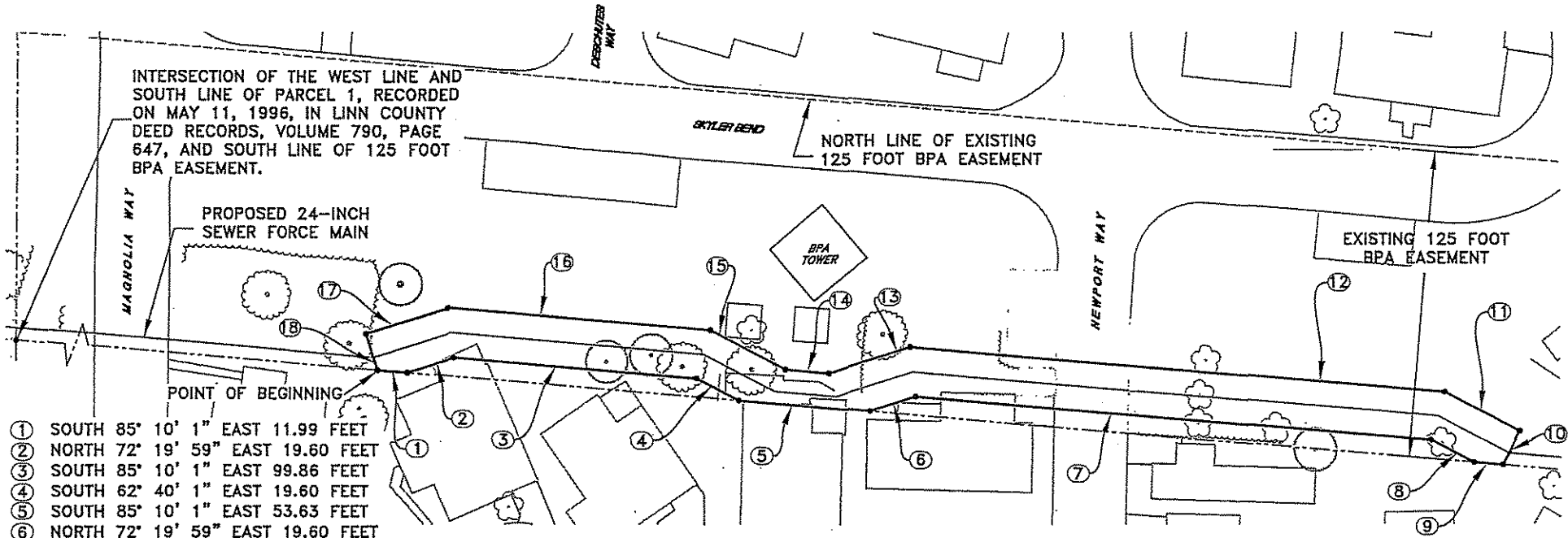
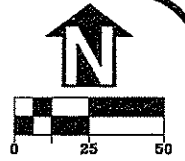
This tract contains 9,277.77 square feet more or less.





### EXHIBIT B

SS-07-05, OAK CREEK SEWER FORCE MAIN EASEMENT  
 20-FT Public Utility Easement (Approximately 9,277.77 SF)  
 CGM LLC MF 790-645  
 11S3W20 00700



- ① SOUTH 85° 10' 1" EAST 11.99 FEET
- ② NORTH 72° 19' 59" EAST 19.60 FEET
- ③ SOUTH 85° 10' 1" EAST 99.86 FEET
- ④ SOUTH 62° 40' 1" EAST 19.60 FEET
- ⑤ SOUTH 85° 10' 1" EAST 53.63 FEET
- ⑥ NORTH 72° 19' 59" EAST 19.60 FEET
- ⑦ SOUTH 85° 10' 1" EAST 211.12 FEET
- ⑧ SOUTH 62° 40' 1" EAST 19.60 FEET
- ⑨ SOUTH 85° 10' 1" EAST 11.99 FEET
- ⑩ NORTH 27° 19' 59" EAST 15.41 FEET
- ⑪ NORTH 62° 40' 1" WEST 34.65 FEET
- ⑫ NORTH 85° 10' 1" WEST 219.08 FEET
- ⑬ SOUTH 72° 19' 59" WEST 34.65 FEET
- ⑭ NORTH 85° 10' 1" WEST 17.89 FEET
- ⑮ NORTH 62° 40' 1" WEST 34.65 FEET
- ⑯ NORTH 85° 10' 1" WEST 107.82 FEET
- ⑰ SOUTH 72° 19' 59" WEST 34.65 FEET
- ⑱ SOUTH 17° 40' 1" EAST 15.41 FEET

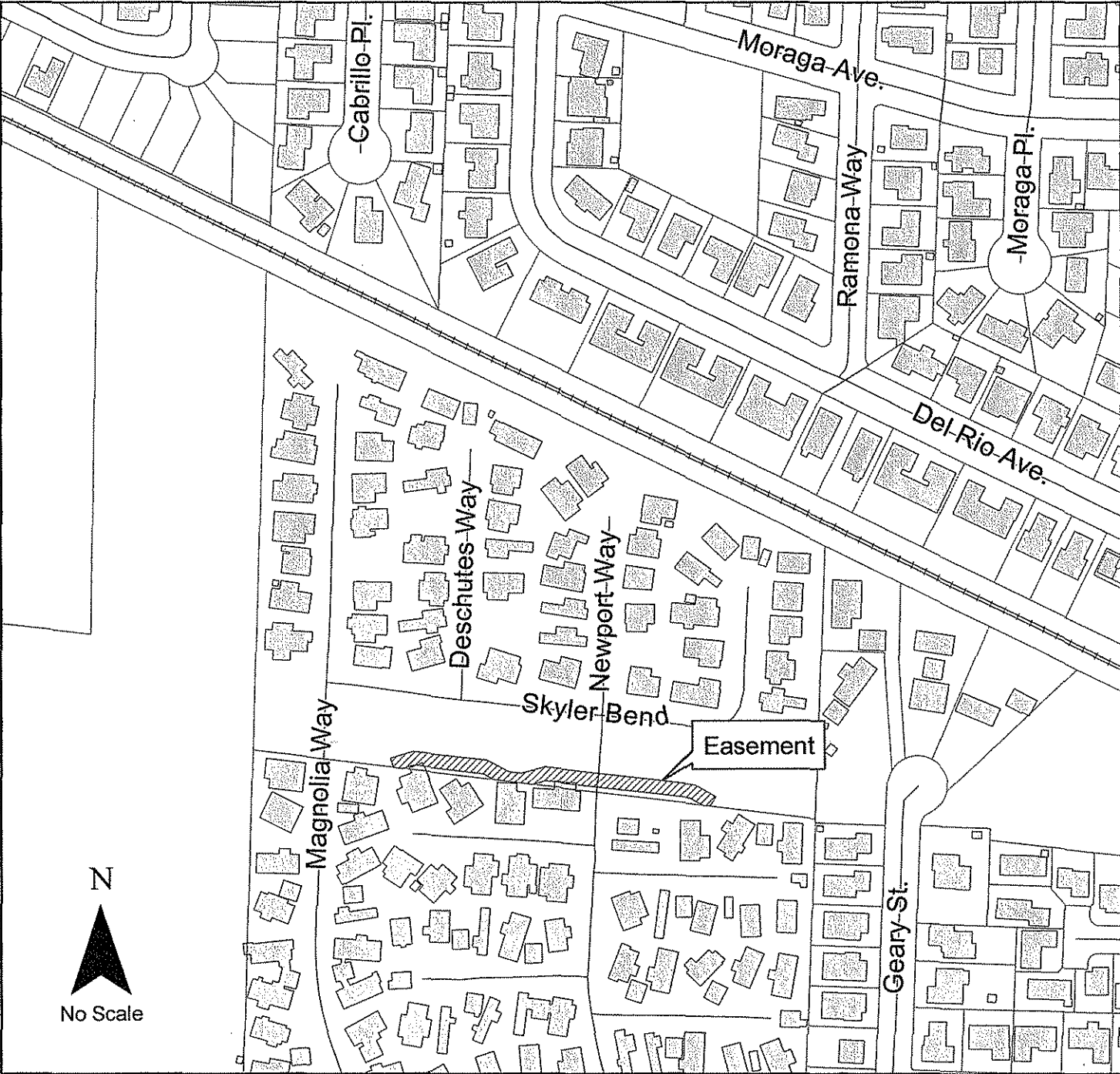
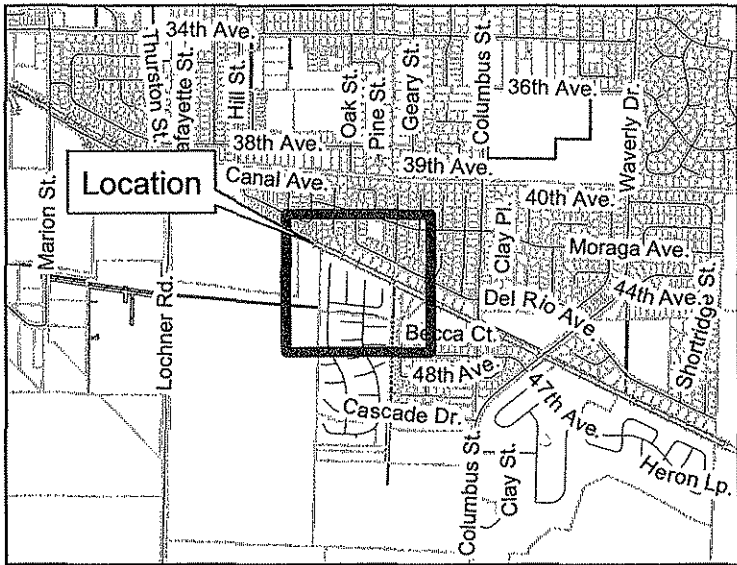
# EXHIBIT C

11SO3W20 00700

SS-07-05  
Oak Creek Sewer  
Force Main



Geographic Information Services



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION ACCEPTING THE FOLLOWING EASEMENT:

Grantor

Ronald H. Dittmer

Purpose

An 8-foot wide easement along eastern property line over an existing sewer main as part of the sewer lateral replacement program.

NOW, THEREFORE, BE IT RESOLVED by the Albany City Council that it does hereby accept this easement; and

DATED AND EFFECTIVE THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

## EASEMENT FOR PUBLIC UTILITIES

THIS AGREEMENT, made and entered into this 29<sup>th</sup> day of January, 2008, by and between **Ronald H. Dittmer**, hereinafter called Grantor, and the CITY OF ALBANY, a Municipal Corporation, herein called "City."

WITNESSETH:

That the Grantor has this day granted unto the City of Albany, easement and right-of-way, including the right to enter upon the real property hereinafter described, and to maintain and repair public utilities for the purpose of conveying public utilities services over, across, through, and under the lands hereinafter described, together with the right to excavate and refill ditches and/or trenches for the location of the said public utilities and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location and maintenance of the said public utilities.

This agreement is subject to the following terms and conditions:

1. The easement hereby granted consists of:

An 8-foot wide easement of equal length lying west of the eastern property line of Lot 11, of the First Addition to Vista Homes to the City of Albany, and conveyed to Ronald H. Dittmer as described in DN 2007-16286, Linn County Deed Records, Linn County, Oregon; as shown on the attached Exhibit 'A'.

2. In order that the work may be done in a timely and complete manner, we hereby agree to grant and allow a temporary right of entry for construction access to the City, its representatives and to the Contractor, for access to, upon and over our property for planning and construction of a sanitary sewer, service connection, and such appurtenances as are required to make the project complete. It is understood and agreed that this access agreement shall terminate on the date that such work has been satisfactorily completed and accepted by the City of Albany.
3. The permanent easement described herein grants to the City, and to its successors, assigns, authorized agents, or contractors, the perpetual right to enter upon said easement at any time that it may see fit, for construction, maintenance, evaluation and/or repair purposes.
4. The City agrees to replace the sanitary sewer service lateral **one time only**. The purpose of the replacement is to reduce infiltration to the public sanitary sewer system and protect the public health.
5. The Grantor does hereby covenant with the City that they are lawfully seized and possessed of the real property above described and that they have a good and lawful right to convey it or any part thereof and that they will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.
6. Upon performing any maintenance, the City shall return the site to original or better condition.
7. The Grantor and the City acknowledge that if a structure exists on the public utilities easement described herein either additional permanent structures or additions to the existing structure may not be constructed on the public utilities easement. If the existing structure is removed from the public utility easement, no permanent structure may be reconstructed in its place.
8. Should the City determine that maintenance, repair, or reconstruction of the utilities located under the structure requires the removal or alteration of said structure, the City may undertake such removal or alteration as may be needed. In such event, however, the City shall, upon completion of said maintenance, repair, or reconstruction, restore the structure at City expense to its original or better condition.

IN WITNESS WHEREOF, the Grantor has hereunto fixed their hand and seal the day and year written below.

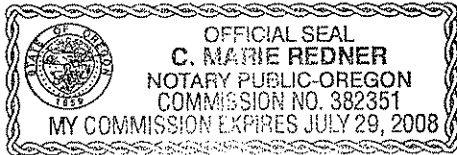
GRANTORS:

*Ronald Dittmer*

Ronald H. Dittmer

STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of January, 2008, by **Ronald H. Dittmer** as his/her voluntary act and deed.



*C. Marie Redner*

Notary Public for Oregon

My Commission Expires: July 29, 2008

CITY OF ALBANY:

STATE OF OREGON )  
County of Linn ) ss.  
City of Albany )

I, Wes Hare, as City Manager of the City of Albany, Oregon, pursuant to Resolution Number \_\_\_\_\_, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms thereof this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

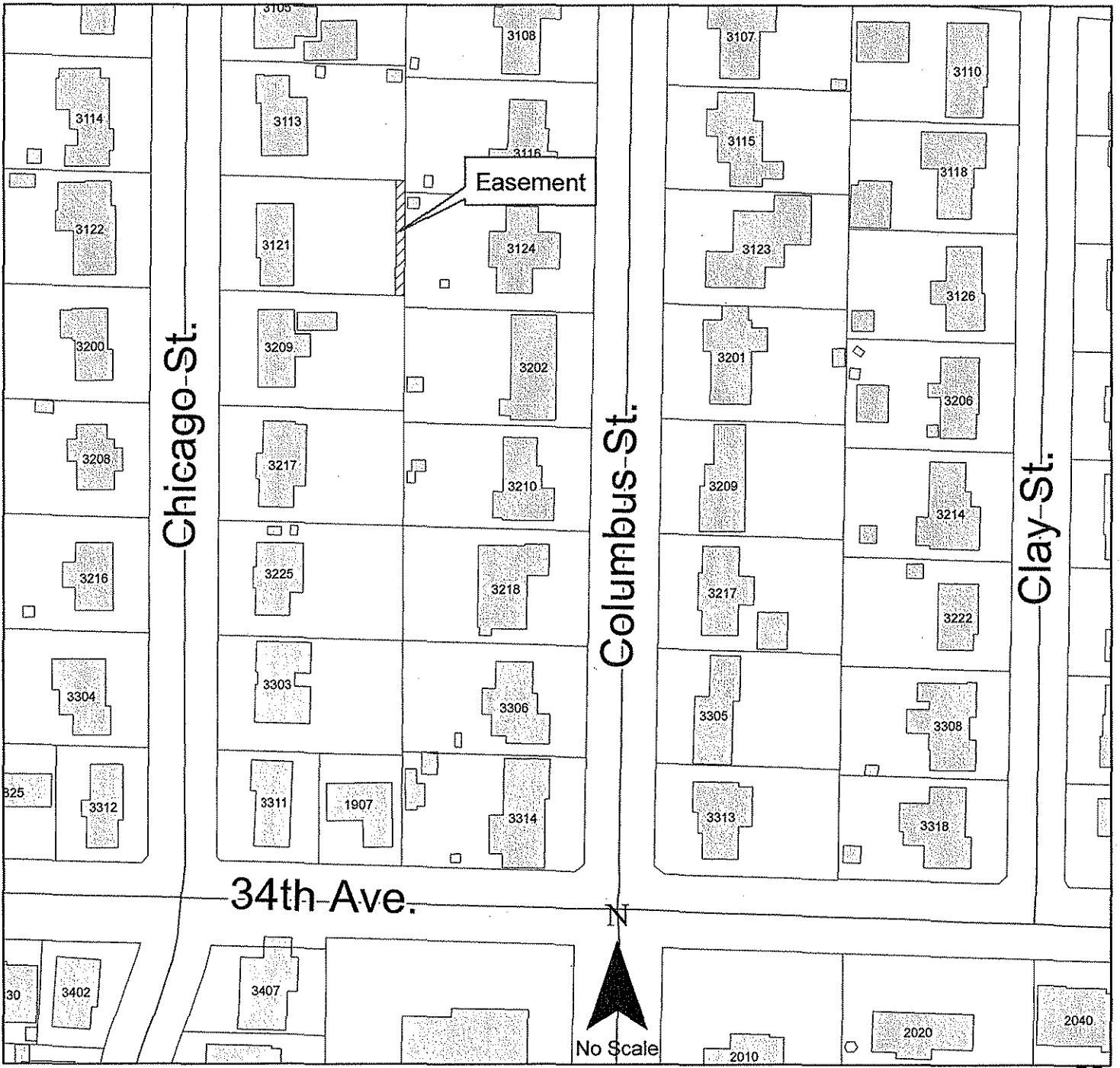
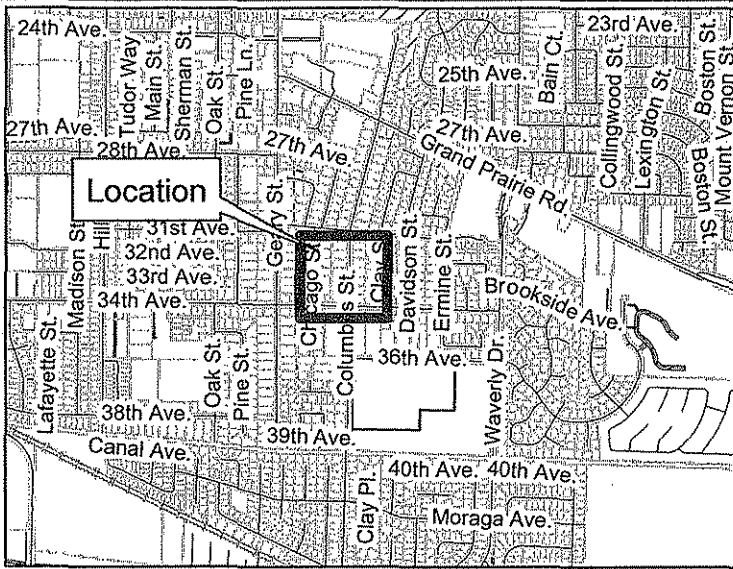
# EXHIBIT A

11SO3W17CA02500

An 8-foot wide easement along eastern property line over existing sewer main. SLRP Program.



Geographic Information Services





TO: Albany City Council

VIA: Wes Hare, City Manager  
 Diane Taniguchi-Dennis, P.E., Public Works Director *DSTD*

FROM: Mark W. Shepard, P.E., City Engineer *MWS*  
 Staci Belcastro, P.E., Civil Engineer II *SB*

DATE: February 14, 2008, for the February 27, 2008, City Council Meeting

SUBJECT: Award of Bid for WL-08-03, 4<sup>th</sup> Avenue, 5<sup>th</sup> Avenue, and Chicago Area Water Line Replacement

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Staff requests Council award this contract in the amount of \$216,091.79 to the low bidder, Sonoma Pacific Construction, of Clackamas, Oregon.

Discussion:

On Tuesday, February 12, 2008, bids were opened for WL-08-03, 4<sup>th</sup> Avenue, 5<sup>th</sup> Avenue, and Chicago Area Water Line Replacement. There were fourteen bids submitted for this project, ranging from a total of \$216,091.79 to \$357,125.00. The engineer's estimate was \$298,575.00. A bid summary is included as Attachment 1.

*Project Description*

This project includes construction of approximately 1,900 lineal feet of 8" Ductile Iron (D.I.) water line. The construction of the new water line will replace existing 2", 4", and 6" water lines that frequently require maintenance to repair leaks. In addition to the new water line construction, this project will include construction of new water services and fire hydrants. Attachment 2 is a project vicinity map.

*Summary of Total Estimated Project Costs*

Based on the project bid and anticipated related costs, a summary of the total estimated project cost is shown in the table below. The amounts have been rounded to the nearest \$100.

Project Components	Estimated Cost
<b>I. Costs</b>	
a. Engineering	\$ 5,800
b. Construction Management	\$ 10,000
<i>Engineering Subtotal</i>	\$ 15,800
<b>II. Construction Costs</b>	
a. Construction Contract	\$216,100
b. Contingency (10%)	\$ 21,600
<i>Construction Subtotal</i>	\$237,700
<i>Total Estimated Project Cost</i>	\$253,500
<i>Project Budget</i>	\$273,000
<i>Under/(Over) Project Budget</i>	\$ 19,500

Albany City Council

Page 2

February 13, 2008, for the February 27, 2008, City Council Meeting

Budget Impact:

This project will be funded from Water System Capital Projects (615-50-2308).

SLB:prj

Attachments (2)

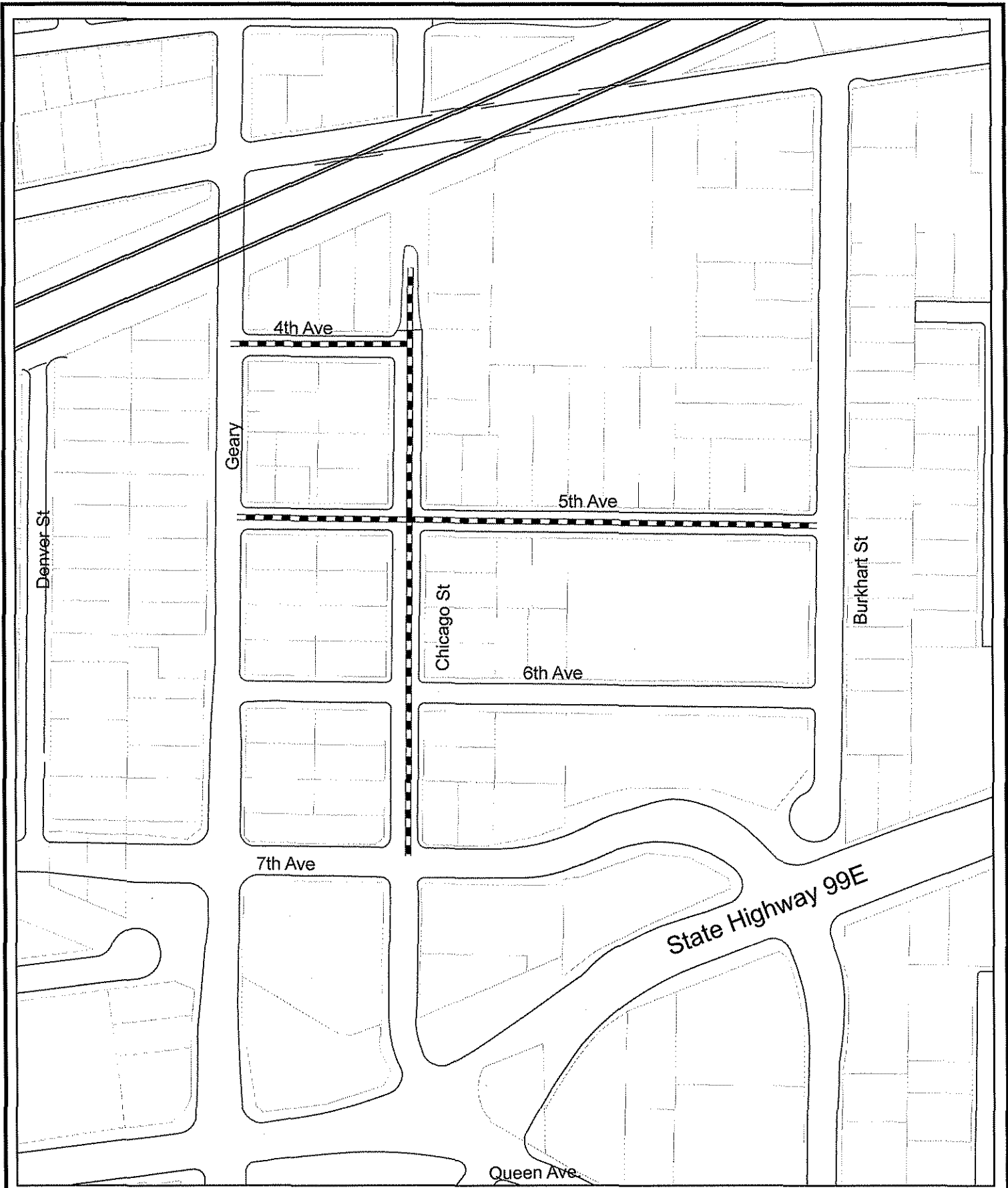




**CITY OF ALBANY, OREGON**  
**Public Works Department**  
**Construction Contract Bids**


**Project:** WL-08-03, 4th Avenue, 5th Avenue, and Chicago Area Water Line    **Bid Opening:** Tuesday, February 12, 2008

<b>Engineer's Estimate</b>	<b>Sonoma Pacific Construction</b>	<b>Kamph Construction</b>	<b>North Santiam Paving</b>	<b>Pacific Excavation</b>	<b>Harold Primrose Excavating</b>	<b>Canby Excavating</b>
\$298,575.00	\$216,091.79	\$237,812.00	\$239,990.00	\$248,575.00	\$277,416.00	\$280,570.25
		<b>Kerr Contractors</b>	<b>Marv's Utility Specialists</b>	<b>Emery and Sons Construction</b>	<b>Gelco Construction</b>	<b>CPM Development</b>
		\$282,440.00	\$282,880.00	\$285,490.00	\$311,797.00	\$346,826.30
		<b>Kuenzi Communications</b>	<b>Mid-Valley Gravel</b>	<b>T &amp; M Pipeline Construction</b>		
		\$324,672.75	\$356,585.00	\$357,125.00		


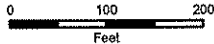


**WL-08-03 4TH AVENUE, 5TH AVENUE, AND CHICAGO AREA WATER LINE REPLACEMENT**

**ATTACHMENT 2 - VICINITY MAP**



The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and that its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently verify the information contained within our records.

City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917-7676



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Jim Delapoer, City Attorney *Jim Delapoer (sdh)*  
DATE: February 20, 2008, for the February 27, 2008, City Council Meeting  
SUBJECT: City Collection of Construction Excise Tax

Action Requested:

Council approval directing the City Manager to execute the intergovernmental agreement.

Discussion:

As the Council will recall from our last Joint City Council/School Board meeting, the 2007 Oregon Legislature adopted Senate Bill 1036, which allows school districts to charge a tax on new construction. The tax rate is set at \$1 per square foot for residential structures and 50 cents per square foot for nonresidential structures.

The law envisions that school districts will enter into intergovernmental agreements with local governments to collect the tax along with associated building permit fees.

Attached to this memo is a draft of a proposed intergovernmental agreement between the City and the Greater Albany Public School District for the collection of the tax.

Pursuant to the new law, the most that the City can receive for administrative costs associated with collection of the tax is one percent. This agreement proposes that payment to help offset the City's costs.

JVBD:bf:ldh  
Attachment

*U:\Administrative Services\City Manager's Office\City Attorney (general)\CC Memo for 02-27-08 re New Tax-mjvbd.doc*

**CONSTRUCTION EXCISE TAX  
INTERGOVERNMENTAL AGREEMENT**

**TO COLLECT AND REMIT TAX BETWEEN  
GREATER ALBANY PUBLIC SCHOOL DISTRICT 8J  
AND THE CITY OF ALBANY, OREGON**

This Construction Excise Tax Intergovernmental Agreement to Collect and Remit Tax ("CET Collection IGA") is effective on the last date of signature below, and is by and between Greater Albany Public School District 8J, a school district organized under the laws of the state of Oregon ORS 330.005 ("GAPS"), and City of Albany ("City"), collectively referred to as "Parties."

WHEREAS, Senate Bill 1036, which was adopted by the 2007 Legislature and which became effective on September 27, 2007, authorizes GAPS, as defined in ORS 330.005, to impose construction excise taxes to fund capital improvements to GAPS' facilities; and

WHEREAS, Section 5 of Senate Bill 1036 provides that the Construction Excise Tax shall be collected by local cities and remitted pursuant to intergovernmental agreements; and

WHEREAS, GAPS is contemplating imposing a construction excise tax within the School District and Section 5 of Senate Bill 1036 also requires GAPS to enter into intergovernmental agreements with any local government or special district that would collect the tax prior to the adoption of a construction excise tax; and

WHEREAS, the Parties desire to agree to certain procedures needed to collect the Construction Excise Tax and remit the tax to GAPS.

NOW THEREFORE, the Parties hereto agree as follows:

1. Information and Forms. The City shall provide all of the forms it deems necessary to collect the Construction Excise Tax and GAPS will provide all necessary information to assist the City in doing so.

2. Staffing. The City shall provide sufficient staff to calculate and collect the CET and to transfer to GAPS the collected CET and other applicable fees and remit said fees as hereinafter set forth in paragraph 5.

3. Collection: Start date. The City agrees to collect the CET on behalf of GAPS for those properties within GAPS and within the City. The City shall begin collecting the CET on March 24, 2008, and shall continue collection until the CET expires or is terminated by GAPS, or until this Agreement is terminated as provided herein.

4. Exemptions. GAPS shall provide the City the CET exemption form. The City shall provide to the public the claim form and exemption to the CET. If a person or entity asserts that it is exempt from the CET and files a CET exemption form at the time the CET would otherwise be due, The City shall grant the exemption. It shall be GAPS' responsibility to determine the validity of the exemption and to institute collection procedures to obtain payment of the CET, as well as any other remedy GAPS may have under law, if the Person was not entitled to the exemption. The CET exemption form shall inform the applicant that GAPS has the right to contest the claim of exemption and that the claim of exemption will be tried in the Circuit Court for the County in which the real property is located. If the applicant is not successful, GAPS shall be entitled to recover the tax due, plus interest from the date when due at the rate of 1% per month, or any portion of a month, together with all costs, including but not limited to, any expert witness fees, attorney fees and all other costs and expenses as allowed by law, whether by administrative rule, statute or rule of civil procedure.

GAPS recognizes that the CET will not apply to commercial or residential remodels which do not add additional square footage even in those circumstances where Building Permit fees are charged by the City.

5. Remittance. The City shall remit the collected CET to GAPS. Remittance shall be quarterly, by the 30th of the month following the quarter ending. Quarters end on March 31, June 30, September 30 and December 31 of each year. CET remittance and the CET Report shall be sent to Greater Albany Public School District, 718 7<sup>th</sup> Avenue SW, Albany, OR 97321.

6. CET Reports. Along with the CET remittance, the City shall submit to GAPS a report of the CET explaining how the CET remittance was determined.

7. Failure to Pay CET. Upon a Person's refusal to or failure to pay the CET when due, the City in administering that Person's building permit, shall not issue the permit until the fee is paid. The City shall treat a person's refusal to pay the CET in the same manner that the City would take when a person refuses to pay the portion of the fee attributable to the State of Oregon or the City.

8. Reimbursement of Out-of-Pocket Expenses. In addition to the Administrative Fee, City shall withhold from any quarterly payment to GAPS, any out-of-pocket expenses incurred by City in connection with its collection of the CET. By way of example, credit card fees are charged to the City when a taxpayer utilizes a credit card for payment. City shall be entitled to make a reasonable deduction from the CET paid to the School District to reflect such charges and other out-of-pocket costs.

9. Records. The City shall make all records related to building permit activity, Construction Excise Tax collections, and CET exemptions available to GAPS, or its designated auditors, as necessary for GAPS to audit Construction Excise Tax collections. Records production shall be subject to the City's customary charges and procedures for the inspection and copying of public records. This Agreement shall not obligate City Staff to prepare reports or documents other than as required in response to public records requests or to undertake any other work or activities unless a satisfactory agreement is reached between the parties to compensate

the City therefore.

10. Administrative Fee. As consideration for the above described services, The City shall retain 1% of the CET collected by the City pursuant to the terms of this Agreement. This sum shall be retained by the City to compensate the City for its actual expenses in collecting the CET even in those circumstance where it is subsequently determined that the CET was wrongfully collected. In this circumstance, the obligation to refund collected CET shall rest solely with GAPS. Prior to submitting the CET to GAPS, the City shall deduct this Administrative Fee directly from the CET collected, and the amounts deducted and retained shall be identified in the report submitted to GAPS.

11. Amendment. This CET Collection IGA may be amended by mutual written agreement of the Parties. City and GAPS further agree to negotiate in good faith to amend this IGA should the CET law be amended by subsequent legislation or judicial proceeding so that this IGA is consistent with the most current legislation. Refusal to negotiate an amendment to this IGA is grounds for immediate termination.

12. Other Agreements. This CET Collection IGA does not affect or alter any other agreements between GAPS and the City.

13. Defense and Indemnification. GAPS agrees to defend, indemnify and hold harmless the City, and its officers, agents and employees, against all claims and actions, and all damages and expenses related thereto, arising from the City's performance of this IGA, except for those caused by the sole negligence of the City or its officers and employees.

14. Termination. Either party may terminate this IGA for any reason upon 1 years written notice to the other. Upon such termination, neither party shall have any remaining responsibilities to the other concerning the subject of this Agreement.

**GREATER ALBANY PUBLIC  
SCHOOL DISTRICT 8J**

**THE CITY OF ALBANY**

\_\_\_\_\_  
By:  
Title: GAPS Superintendent  
Date: \_\_\_\_\_

\_\_\_\_\_  
By:  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**GAPS**

**CITY**

State of Oregon                    )  
  )     ss.

| 3 – Construction Excise Tax Collection IGA

County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before \_\_\_\_\_, the undersigned Notary Public, personally appeared \_\_\_\_\_, as Superintendent of GAPS, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that (he)(she) executed it.

My commission expires: \_\_\_\_\_

State of Oregon )

County of \_\_\_\_\_ )

)  
)  
)  
ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2008, before me \_\_\_\_\_ the undersigned Notary Public, personally appeared \_\_\_\_\_ as \_\_\_\_\_ of the City, personally known to me (or proved to be on the basis of satisfactory evidence) to be the person(s) whose name(s) is (are) subscribed to this instrument, and acknowledged that he (she or they) executed it.

My commission expires: \_\_\_\_\_

\\ATTY\BFS\BFS CHIEF OF GAPS\INTER-GOVERNMENT\Agreement\_final\version.rtf



TO: Albany City Council

VIA: Wes Hare, City Manager  
Diane Taniguchi-Dennis, P.E., Public Works Director *MWS For*

FROM: Mark W. Shepard, P.E., Assistant Public Works Director/City Engineer *MWS*

DATE: February 21, 2008, for the February 27, 2008, City Council Meeting

SUBJECT: Public Works Engineering Position Reclassifications

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Staff requests Council authorization to eliminate one vacant position and to reclassify four positions in the Public Works Engineering Division. The specific actions are:

1. Eliminate 1-FTE Design and Construction Supervisor position (vacant due to retirement)
2. Reclassify 1-FTE Public Works Permitting and Development Services Engineer to Assistant City Engineer (Jeff Blaine)
3. Reclassify 2-FTE Civil Engineer II positions to Civil Engineer III (Chris Cerklewski and Staci Belcastro)
4. Reclassify 1-FTE Clerk II to Clerk III (vacant)

This issue will be presented and discussed at the February 25, 2008 Work Session. The item is being included in the Council Meeting packet for final action and approval. If Council does not approve of the proposed changes or alters the changes at the Work Session, this item will be removed from the agenda.

Discussion:

The Public Works Department is planning for the 29 employees (28%) who are eligible to retire within the next five years. The Department is actively working on planning for the transition periods when the retirements occur. As part of the succession planning, the Department is implementing the American Public Works Association self-assessment and accreditation program to formally document policies, practices, and procedures that will provide training and to help transfer of knowledge within the organization between team members. As each retirement occurs, the Department critically reviews the vacant position for its role and responsibilities within the organization and to take the opportunity the vacancy presents to make organizational structure changes.

The Public Works Engineering Division has had two retirements in the past month of two long-term employees: Kathy Flanagan (Clerk II) and Michael Brash (Design and Construction Supervisor) in the Engineering Division. The Engineering Division also has many well qualified and highly motivated employees who are ready to take on additional responsibilities. The Human Resources Department has reviewed and approved the reclassifications and compensation. The following is additional information on each of the reclassifications:

1. Eliminate 1-FTE Design and Construction Supervisor position (vacant)



Our recommendation is to eliminate the 1-FTE Design and Construction Supervisor position that is currently vacant. The duties previously performed by this position will be reassigned. The employees taking on the additional duties will be reclassified and this action will provide a career growth opportunity for these employees. The elimination of this senior position in the Division will fund the reclassifications and result in a significant savings.

2. Reclassify 1-FTE Public Works Permitting and Development Services Engineer to Assistant City Engineer (Jeff Blaine)

This recommendation is to promote Jeff Blaine, who is the Public Works Permitting and Development Services Engineer, to Assistant City Engineer. Jeff will be assigned the responsibility of planning, directing, and supervising the design and construction work group in addition to his current duties to supervising the Development and Permitting work group. These duties include developing work plans and project schedules for the design and construction of capital improvements and developing a budget for the work groups. Jeff is responsible for the preparation and coordination of the Capital Improvement Program document. These increased duties are consistent with the duties outlined in the job description of the Assistant City Engineer. The change for Jeff Blaine would involve a reclassification from Public Works Permitting and Development Services Engineer (Pay Grade N229, Step 5) to Assistant City Engineer (Pay Grade N232, Step 4).

3. Reclassify 2-FTE Civil Engineer II positions to Civil Engineer III (Chris Cerklewski and Staci Belcastro)

This recommendation is to reclassify Chris Cerklewski, Civil Engineer II and Staci Belcastro, Civil Engineer II to Civil Engineer III. Both Chris and Staci have been performing at a high level for a significant amount of time. These promotions will allow Chris and Staci to take on additional responsibilities. Chris and Staci's assumption of additional responsibilities will allow Jeff Blaine to take on the additional duties of Assistant City Engineer. Chris will take on a lead role in the design of all underground water and sewer utility and street projects. He will manage schedules and design efforts of the capital design program. Staci will take on a lead role in the design of all facility improvement projects such as water pump station, sewer lift stations, reservoirs, and treatment facilities. She will manage schedules and design efforts of the facility replacement and maintenance projects. The changes for Chris Cerklewski and Staci Belcastro will involve a reclassification from Civil Engineer II (Pay Grade A152, Step F) to Civil Engineer III (Pay Grade A153, Step E).

4. Reclassify 1-FTE Clerk II to Clerk III (vacant)

This request is to reclassify the Engineering Division's Clerk II position to a Clerk III position. The duties needed to be performed by this position include: maintaining data base records and department administrative procedures, processing incoming and outgoing mail, typing documents, and preparing and monitoring purchase documents to effectively support the Engineering Division. Based on these duties, the Clerk II position should be reclassified to a Clerk III. The change for the Clerk position will involve a

reclassification from Clerk II (Pay Grade A110) to Clerk III (Pay Grade A112). No step is established for the reclassification since the position is not currently filled.

*Cost Savings*

The net budget impact of the proposed changes is a significant reduction in personnel costs in the Engineering Division. Following is a summary of the budget impact with the salary and benefits estimated for each change.

Proposed Change	Approximate Annual Budget Cost/(Savings) Salary and Benefits
Eliminate Design and Construction Manager Position	(\$140,600)
Reclassify Jeff Blaine to Assistant City Engineer	\$7,200
Reclassify Chris Cerklewski to Civil Engineer III	\$8,900
Reclassify Staci Belcastro to Civil Engineer III	\$8,900
Reclassify Clerk II to Clerk III	\$4,000
Total Budget Impact	(\$111,600)

The Engineering Division is fortunate to have highly qualified individuals who are capable and willing to take on new roles and challenges as needs and opportunities arise.

Budget Impact:

The net impact of the proposed changes in the Engineering Division is a cost savings of approximately \$111,600 per year.

MWS:imf



TO: Albany City Council

FROM: Dan Bedore, Mayor

DATE: February 21, 2008, for February 27, 2008, City Council Meeting

SUBJECT: Appointments to City Boards, Committees, and Commissions

RELATES TO STRATEGIC PLAN THEME: • An Effective Government

Action Requested:

Council approval of the following appointments to City advisory groups:

***Public Safety Commission***

Dan Conway

(Mayor's appointment to fill vacant position that expires  
December 31, 2011)

***Transportation Demand Management Advisory Committee***

Dan Bedore

(Replacing Doug Killin as the alternate)

Discussion:

None.

Budget Impact:

None.

DB:ldh

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