



NOTICE OF PUBLIC MEETING
CITY OF ALBANY
CITY COUNCIL
 Council Chambers
 333 Broadalbin Street SW
 Wednesday, August 13, 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. Communication

1) Accepting resignation from Anna Anderson from the Human Relations Commission. [Page 1]
 Action: _____

b. Public Hearings

1) AN-01-08, proposing the annexation of properties located south of Knox Butte Road and forwarding the question of annexation to the voters on the November 4, 2008, ballot. [Pages 2-37]

Action: _____ RES. NO. _____

2) LA-05-08 and MN-01-08, 1020 and 1110 Hill Street SE, appealing the Planning Commission's approval of modification to a nonconforming use to allow a change from industrial use to an automotive repair business. [Pages 38-71]

Action: _____

c. Business from the Public

d. Adoption of Resolution

1) Accepting a local government grant from the Oregon Parks and Recreation Department to develop a new neighborhood park on Oak Street, appropriating funds, and authorizing the Parks and Recreation Director to sign the grant agreement. [Pages 72-73]

Action: _____ RES. NO. _____

e. Adoption of Consent Calendar

1) Approval of Minutes

- a) June 23, 2008, Joint Work Session with Linn County Commissioners [Pages 74-77]
- b) July 7, 2008, City Council Work Session [Pages 78-80]
- c) July 9, 2008, City Council Meeting [Pages 81-83]

2) Accepting an easement from Pacific Power for new power lines to serve street lights on Waverly Drive between Grand Prairie Road and Brookside Drive. [Pages 84-88] RES. NO. _____

Action: _____

f. Award of Contract

- 1) Radio Frequency Identification Tracking (RFID) and materials handling system for the Albany Public Library.
[Pages 89-90]

Action: _____

g. Report

- 1) Authorizing financial assistance to National Frozen Foods to evaluate wastewater treatment options. [Page 91]

Action: _____

5. BUSINESS FROM THE COUNCIL

6. NEXT MEETING DATE: Work Session Monday, August 25
Regular Session Wednesday, August 27

7. ADJOURNMENT

City of Albany Web site: www.cityofalbany.net

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling (541) 917-7500.

Hyde, Laura

From: banana_slug@comcast.net
Sent: Saturday, July 19, 2008 3:54 AM
To: Hyde, Laura
Subject: RE: resignation

Sorry I am in Europe and did not have internet access where I am staying. If it is alright I will use my e-mail as my resignation.

Thanks-
Anna

----- Original message -----

From: "Hyde, Laura" <laura.hyde@cityofalbany.net>

Good morning, Anna,

Your e-mail below can serve as your "official" resignation which will be submitted to the Council for "formal" acceptance at their July 23 meeting. If you want to submit a more "formal" letter or e-mail to the City Council, you can do so. If you do and choose

- a. an e-mail, you can send the e-mail to me but the greeting would be to the Albany City Council; or
- b. a letter, you can send it to me at P.O. Box 490, Albany, OR 97321 but the greeting would be the Albany City Council.

If you choose one of the above, I will need your resignation by 5:00 p.m. tomorrow the 16th, please.

Could you please let me know what your choice is:

- your e-mail below
- or a or b above

Thank you.

Laura Hyde
Executive Assistant to the City Manager
Phone: (541) 917-7508
FAX: (541) 917-7511
E-mail: laura.hyde@cityofalbany.net

From: banana_slug@comcast.net [mailto:banana_slug@comcast.net]
Sent: Saturday, July 12, 2008 1:39 AM
To: Hyde, Laura
Subject: resignation

Hi Laura-

I am on the Human Relations Committee and I have been contacted by Jeffrey Evans our chairman, about my attendance. I have been unable to attend many meetings due to a busy schedule, and he was wondering if in the future I will be able to attend more or whether I should resign. I told him I would resign as I don't see my schedule getting any more free in the year to come.


He told me to contact you for the resignation process, so how do we go about this?

Thanks,
Anna Anderson



TO: Albany City Council

VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director

FROM: Mike Leopard, Infrastructure Analyst 

DATE: August 6, 2008, for the August 13, 2008, City Council Meeting

SUBJECT: Annexation (Planning File No. AN-01-08)

Action Requested:

That the City Council hold a public hearing on the annexation application referenced above, and determine whether or not to place the question of this annexation on the November 4, 2008, ballot.

Discussion:

The applicants (Sid and Cindy Miles, dba M2 Investments LLC) have requested that the question of annexation for approximately 28 acres south of Knox Butte Road be placed on the November 4, 2008, ballot.

The annexation request is for most of two abutting parcels owned by the applicants. A 2-acre portion of the larger parcel is being left out of the annexation request because a house on a neighboring parcel was constructed over the shared property line long ago. The applicants are working with the other property owner to address this conflict.

The applicants have not submitted a separate zone change application, but are choosing to maintain the existing Linn County zoning designation until a specific development concept for the property is determined in the future. If annexed, urban density development on the site will not be allowed until a city zoning designation has been approved by the Planning Commission and City Council.

There does not appear to be an urgent need to annex this property. On the other hand, if the property is annexed now, it will be available for zoning and subsequent development when the need occurs. We have attached the information provided by the applicants with their application to the staff report as Attachment F so that the City Council can see the applicants' complete explanation why they think the property should be annexed.

Annexations in the City of Albany must be approved by a majority of the electors. There are no additional election costs for annexations that are scheduled for "general" elections (those in May and November of even-numbered years). The "special" elections that occur in May and November of odd-numbered years may require that the annexation applicants pay for all or some of the county's election costs, depending on what else is placed on the ballot. For this reason, the applicants wish to have the annexation placed on the November 2008 ballot.

The Planning Commission, at a public hearing held on July 21, 2008, voted unanimously to recommend that the City Council approve the applicants' request to place the question of this annexation on the November 4, 2008, ballot.

Attachments: Annexation Resolution, Staff Report, Annexation Agreement, Applicant's Findings
G:\Community Development\Planning\Annexations\2008\08an01 cc memo.doc

A RESOLUTION PROPOSING THE ANNEXATION OF PROPERTIES LOCATED SOUTH OF KNOX BUTTE ROAD (AN-01-08), AND FORWARDING THE QUESTION OF ANNEXATION TO THE VOTERS ON THE NOVEMBER 4, 2008, BALLOT.

THE ALBANY CITY COUNCIL 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 August 6, 2008 (File AN-01-08)], and by this reference incorporated herein, are hereby adopted.

THE ALBANY CITY COUNCIL FURTHER RESOLVES that this annexation, which would annex approximately 28.2 acres of property located south of Knox Butte Road SE, 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 November 4, 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 KNOX BUTTE ROAD SE

QUESTION: Shall the 28.2 acres located on Knox Butte Road SE be annexed?

SUMMARY: Approval of this measure would annex approximately 28.2 acres to the City of Albany. The properties to be annexed are located south of Knox Butte Road SE.

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 south of Knox Butte Road, shown on Linn County Assessor's Map Nos. 11S-03W-03A; Tax Lot 10605 and a portion of Tax Lot 10601, as further described in the attached legal description labeled Resolution Exhibit A and map labeled Resolution Exhibit B. The subject area (including right-of-way) containing approximately 28.2 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 _____, 200__.

Mayor

ATTEST:

City Clerk

ANNEXATION RESOLUTION EXHIBIT A
LEGAL DESCRIPTION
FILE AN-01-08

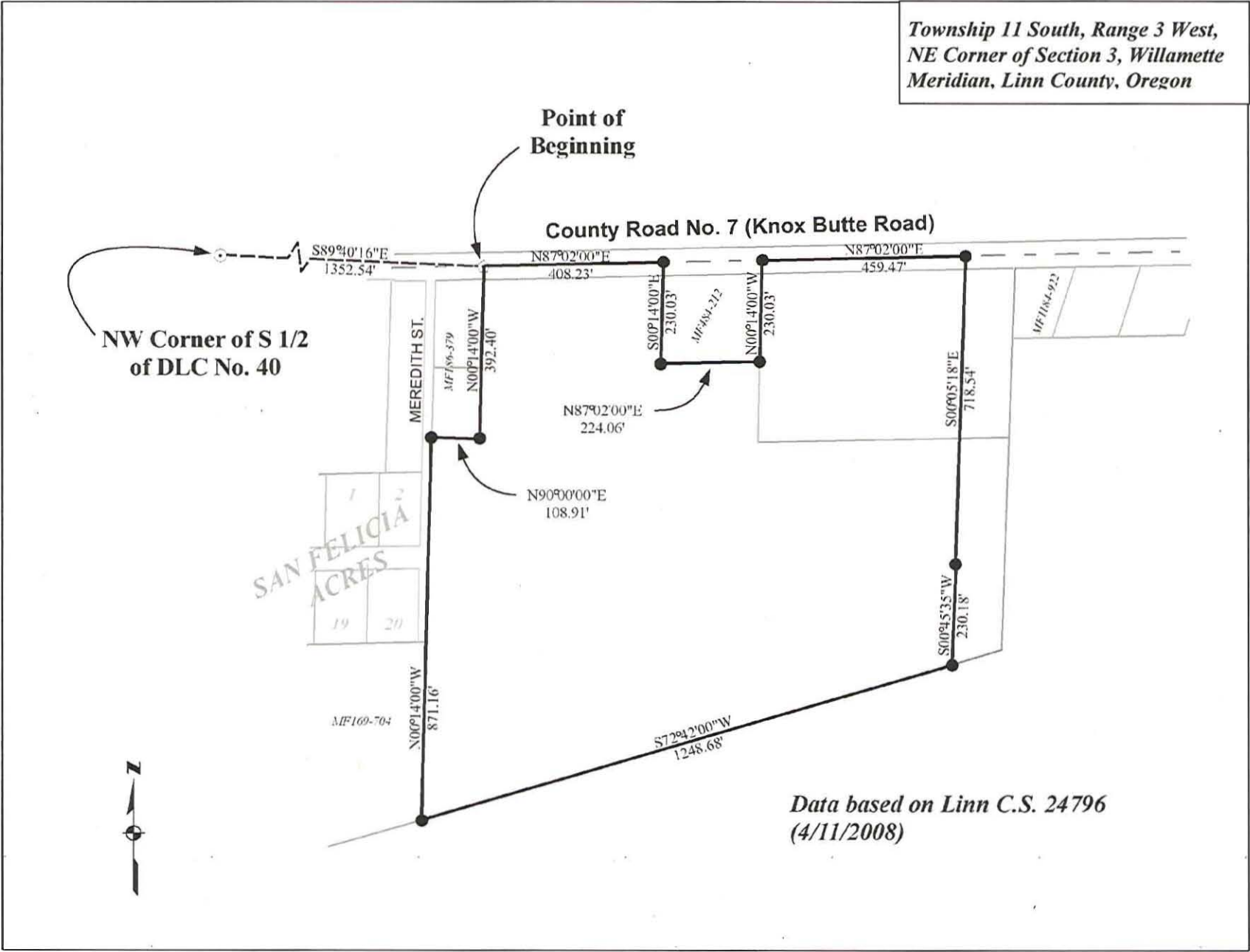
A portion of that property described in Linn County, Oregon Deed Records DN2006-32433 and mapped on Linn County, Oregon County Survey No. 24796, together with the southern half of the Knox Butte Road (Linn County Road No. 7) right-of-way adjacent to the frontages of the property more particularly described as follows:

Beginning at a point that is South 89° 40' 16" East, 1352.54 feet from the Northwest corner of the South half of the Matthew C. Chambers Donation Land Claim No. 40 in Township 11 South, Range 3 West of the Willamette Meridian in Linn County, Oregon; said Point of Beginning lying on the centerline of County Road No. 7 (Knox Butte Road); thence running along said County Road No. 7 centerline North 87° 02' 00" East, 408.23 feet, to the Northwest corner of that parcel conveyed to Kenneth Niles as described in Linn County Deed Records MF484-212; thence running along the West boundary of said Niles parcel South 00° 14' 00" East, 230.03 feet, to the Southwest corner of said Niles parcel; thence running along the South boundary of said Niles parcel North 87° 02' 00" East, 224.06 feet, to the Southeast corner of said Niles parcel; thence running along the East boundary of said Niles parcel North 00° 14' 00" West, 230.03 feet, to a point on the centerline of said County Road No. 7, said point also being the Northeast corner of said Niles parcel; thence running along said centerline of County Road No. 7 North 87° 02' 00", 459.47 feet, to a point that is South 87° 02' 00" West, 109.27 feet from the Northwest corner of that parcel conveyed to Charles W. and Mary Jane Alich as described in Linn County Deed Records Volume 1184, Page 922; thence running South 00° 05' 18" East, 688.54 feet, to a point; thence running South 00° 45' 35" West, 230.18 feet to a point on the North line of the vacated Corvallis & Eastern Railroad Company right-of-way; thence along said vacated right-of-way line South 72° 42' 00" West, 1248.68 feet, to the Southeast corner of that parcel conveyed to Beverley R. Mitchell as described in Linn County Deed Records MF169-704; thence running along the East boundary of said Mitchell parcel and its northerly extension North 00° 14' 00" West, 871.16 feet, to the Southwest corner of that parcel conveyed to James D. Haring as described in Linn County Deed Records MF186-379; thence running along the South boundary of said Haring parcel North 90° 00' 00" East, 108.91 feet, to the Southeast corner of said Haring parcel; thence running along the East boundary of said Haring parcel North 00° 14' 00" West, 392.40 feet, to the Point of Beginning.

Said area containing 28.2 acres, more or less.

Township 11 South, Range 3 West,
NE Corner of Section 3, Willamette
Meridian, Linn County, Oregon

ANNEXATION RESOLUTION EXHIBIT B
LEGAL DESCRIPTION MAP
AN-01-08





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

Phone: (541) 917-7550 Facsimile: (541) 917-7598
www.cityofalbany.net

Community Development Department

STAFF REPORT Annexation

<u>HEARING BODY</u>	ALBANY CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, August 13, 2008
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:	August 6, 2008
FILE:	AN-01-08
TYPE OF APPLICATION:	Annexation of approximately 28.2 acres south of Knox Butte Road SE
REVIEW BODY:	Planning Commission and City Council
PROPERTY OWNERS/ APPLICANTS:	Sid and Cindy Miles; PO Box 760, Canby, OR 97013
APPLICANT REP:	Multi/Tech Engineering Services, Inc.; 1155 13th Street SE, Salem, OR 97302
ADDRESS/LOCATION:	4854 and 4900 Knox Butte Road SE – See Staff Report Attachment A.
MAP/TAX LOT:	Linn County Assessor's Map No. 11S-03W-03A; Tax Lot 10605 and a portion of Tax Lot 10601
CURRENT ZONING:	Linn County UGA-UGM-20; Urban Growth Management – 20-acre minimum lot size
TOTAL LAND AREA:	28.2 acres (including right-of-way)
EXISTING LAND USE:	Vacant single-family homes on large parcels
EXISTING COMP PLAN DESIGNATION:	URR - (Urban Residential Reserve) – See Staff Report Attachment B.
NEIGHBORHOOD:	East Albany
SURROUNDING ZONING:	<u>North:</u> Linn County UGA-UGM-20 <u>South:</u> Linn County UGA-UGM-20 <u>East:</u> Linn County UGA-UGM-20 <u>West:</u> Linn County UGA-UGM-20 and RS-6.5 See Staff Report Attachment C.
SURROUNDING USES:	Mainly single-family homes on a mixture of large lots and 1/2-acre lots.
PROPOSED ZONING:	Applicant is not requesting City zoning at this time. Zoning would remain Linn County UGA-UGM-20 until a future zoning map amendment is approved by the City

REASON FOR ANNEXATION

The applicants wish to have the subject property annexed to make it eligible for future development. If annexed, before development can occur at urban densities, the property owner will be required to have a City zoning designation applied to the property according to the City of Albany Comprehensive Plan and Development Code.

NOTICE INFORMATION. On July 9, 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 the annexation. The subject property was posted with signs that advertised the public hearing on June 19, 2008.

STAFF RECOMMENDATION

The owners of this property submitted an application to annex the property to the city. They did not submit an application to change the zoning of the property from the current county zoning to city zoning. The property owners explain that they want to annex the property now and apply for city zoning later. The zoning of the property will retain its current county zoning until the City Council approves an application to change the zoning of the property to city zoning. County zoning allows fewer development opportunities than city zoning, so very little development will be able to occur on the property until city zoning is approved.

The annexation review criteria do not require that the property owners demonstrate that there is a need for more land to be annexed to the city. The application for city zoning does require that the property owners show that there is a need for more land zoned for the uses allowed with the zoning they request. The property owners explain that they do not have a development plan at this time. The reason to annex the property is not that the city needs more land for development.

So, on the one hand, there does not appear to be an urgent need to annex this property. On the other hand, if the property is annexed now, it will be available for zoning and subsequent development when the need occurs. The property owners will enter into an Annexation Agreement with the City that assures the cost of providing public services necessary for development of the property will be the obligation of the property owner, not the owners of other property in the city.

With this understanding, staff recommends approval of the annexation application.

PLANNING COMMISSION RECOMMENDATION

On July 21, 2008, the Albany Planning Commission held a public hearing on this application and voted unanimously to recommend that the City Council pass a resolution proposing the annexation of this property located on Knox Butte Road SE, and forwarding the question of annexation to the voters on the November 4, 2008, ballot.

SUGGESTED COUNCIL ACTION

Passage of the attached resolution that would propose the annexation of these properties located on Knox Butte Road SE, and forward the question of annexation to the voters on the November 4, 2008, ballot.

FINDINGS AND CONCLUSIONS
FILE AN-01-08

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).

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

BACKGROUND

The applicants are proposing to annex only approximately 28 acres of two parcels totaling over 30 acres. In their application submittal, the applicants explain this with the following statement:

The purpose of revising the acreage and legal description for the territory to be annexed is to accommodate a dwelling located across the eastern boundary line as illustrated [see Staff Report Attachment A]. The owners of the dwelling have not proposed remodeling or relocating the dwelling in order to rectify the non-conforming setback or building location. Therefore, the applicants are revising their application to exclude approximately 2 acres along the eastern boundary from the annexation petition in order to give the abutting property owners time to relocate or remove the house.

The applicants are not requesting a City zoning designation at this time. In their application submittal the applicants explain this with the following statement:

At this time, the applicant is requesting to be annexed into the City of Albany and keep the Linn County UGA-UGM-20-acre zone designation as interim zoning as permitted by Chapter 2.835 [Albany Development Code]. The applicant is not proposing any immediate development of the property. Therefore, the applicant desires to retain the Linn County zoning designation as an interim designation until such time as a specific development plan will be devised.

If the area is annexed, an island of unincorporated territory will be formed. In their application submittal the applicants discuss this in the following statement:

The annexation of this site creates an enclaved territory of approximately 15 acres of property located west of the subject property. These parcels and lots are zoned Linn County UGA-UGM-20 and are primarily developed with single family dwellings. The average lot size of the lots within the San Felicia Acres subdivision, served by San Felicia Avenue SE, [of] 0.46 acres is similar to urban densities. The applicant has contacted property owners within the enclave. The applicant was advised that a couple of the property owners were interested in being annexed into the City of Albany. However, there has been no interest shown by the electors involved to be included with the applicants' annexation petition at this time.

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 28.2 acres, and are contiguous to the current city limits along the west property boundary. (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 no public water facilities exist along the frontage of the subject property. The nearest public water main lies in Knox Butte Road approximately 3200 feet west of the subject property.

B2. The City's *Water Facility Plan* (2004) calls for the extension of a 24-inch public water main in Knox Butte Road to Scrael Hill Road.

B3. City utility maps show that an 8-inch public sanitary sewer main currently exists in at the intersection of Knox Butte Road and Marilyn Street, approximately 400 feet west of the subject property.

B4. The City's *Wastewater Facility Plan* (1998) indicates that there are no system deficiencies downstream of this site. The sewer lift station on Santa Maria Avenue has adequate capacity to accommodate the additional discharge anticipated from development on the subject property. When a future public sewer main is extended from Somerset Drive to Santa Maria Avenue, the lift station will be removed or abandoned.

- B5. The City's *Storm Drainage Master Plan* (1988) indicates that the subject properties lie entirely within the Truax 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 Truax Creek is sufficient to carry the 100-year storm flows. The *Master Plan* states: *One problem area was identified in the Truax Creek drainage basin. Flooding occurs in Draperville, an area north of Knox Butte Road and south of the main channel of Truax Creek. This area has very flat grades and is served by an open channel and culvert drainage system. It is recommended that this existing drainage system be cleaned and improved to increase its capacity. A pipe network could be considered in the future as part of overall roadway improvements.* 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.
- B6. The subject parcels currently have access to Knox Butte Road. Knox Butte Road is classified as a minor arterial street and is under the jurisdiction of Linn County. The posted speed limit on Knox Butte Road is 45 miles per hour. New development on property with frontage along Knox Butte Road may be required to construct street and storm drainage improvements in Knox Butte Road, at the discretion of Linn County.
- B7. San Felicia Avenue is an unimproved street within a public right-of-way that extends from Knox Butte Road on the west, to the west boundary of the subject property on the east. San Felicia Avenue has a travel surface of approximately 20 feet wide within a 50 foot right-of-way. The street and adjacent parcels are currently in unincorporated Linn County. San Felicia Avenue is under the jurisdiction of Linn County.
- B8. ADC 12.060 allows the City to impose conditions for the dedication and construction of public (city) street improvements within and adjacent to new development.
- B9. Adequate public water flow for fire protection is currently not available in this area. The unincorporated territory in this area is currently served by the Albany Fire Department as part of a rural fire protection district. Before urban density development could occur on the property, adequate public water facilities would need to be constructed to the site.
- B10. Albany Police currently serves the Draperville area just to the northwest of the subject properties, and other properties within the City limits near the subject property. Service to the subject properties would appear to be a logical extension of the current patrol boundaries.
- B11. The applicant's findings state: *"The 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 the associated Annexation Agreement (see Staff Report Attachment E) ensures that any additional public improvements necessary to serve future development on the subject properties would be made by the benefiting properties and not by the City of Albany generally.
- B2. Knox Butte Road is classified as a minor arterial street in Albany's Transportation System Plan (TSP) and is not improved to City standards. Knox Butte Road is under the jurisdiction of Linn County. Knox Butte Road is adequate to serve the existing single-family uses on the property. Additional development on the site may require a traffic analysis and/or street improvements to assure safe transportation facilities. San Felicia Avenue is a local unimproved street that is under the jurisdiction of Linn County.
- B3. This criterion is met because fire service is already provided to these parcels by the City through a rural fire district. Properties adjacent to this site (northwest) 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. Annexation of the existing vacant residences on the subject property will not create an adverse burden on public facilities. Future development on the property would require that the developer construct public infrastructure as needed to adequately serve the proposed development.

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 two parcels that total approximately 28.2 acres. The Comprehensive Plan Map designation for these properties is URR - Urban Residential Reserve (see Staff Report Attachment B). The applicant has not submitted a concurrent zone change application at this time, so the zoning would remain Linn County UGA-UGM-20 until a future zone change application is approved by the City.
- C2. Public infrastructure facility plans that deal with this area include: *Water Facility Plan (2004); Wastewater Facility Plan (1998); Storm Drainage Master Plan (1988); and Transportation System Plan (1997).*
- C3. The subject property was not in the study area for the “1995 East I-5 Vision.”
- C4. The Local Wetlands Inventory for the East I-5 area (1997) shows wetlands on these parcels. The wetlands on the subject properties are not considered to be “locally significant” according to this local inventory. (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.

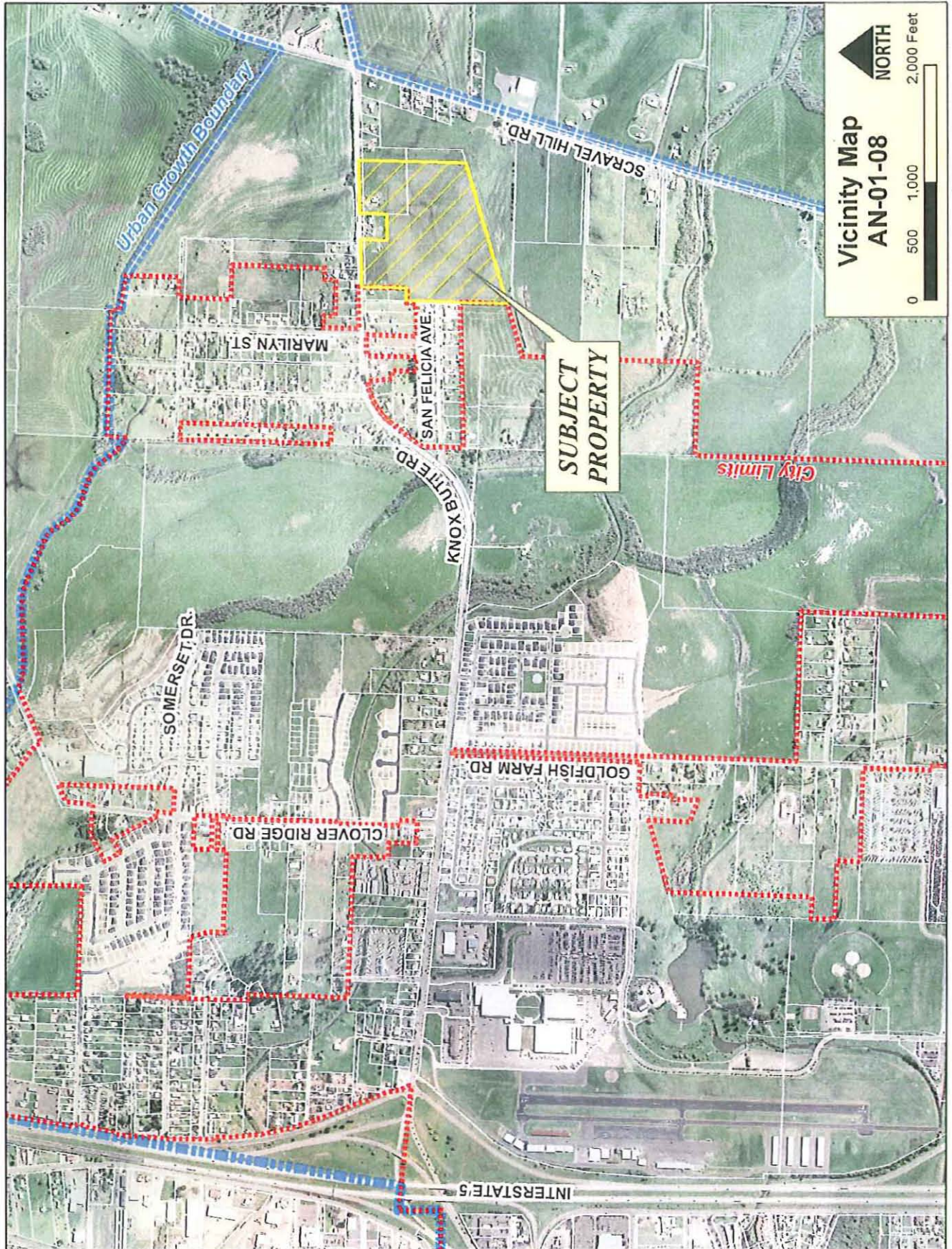
FINDINGS OF FACT

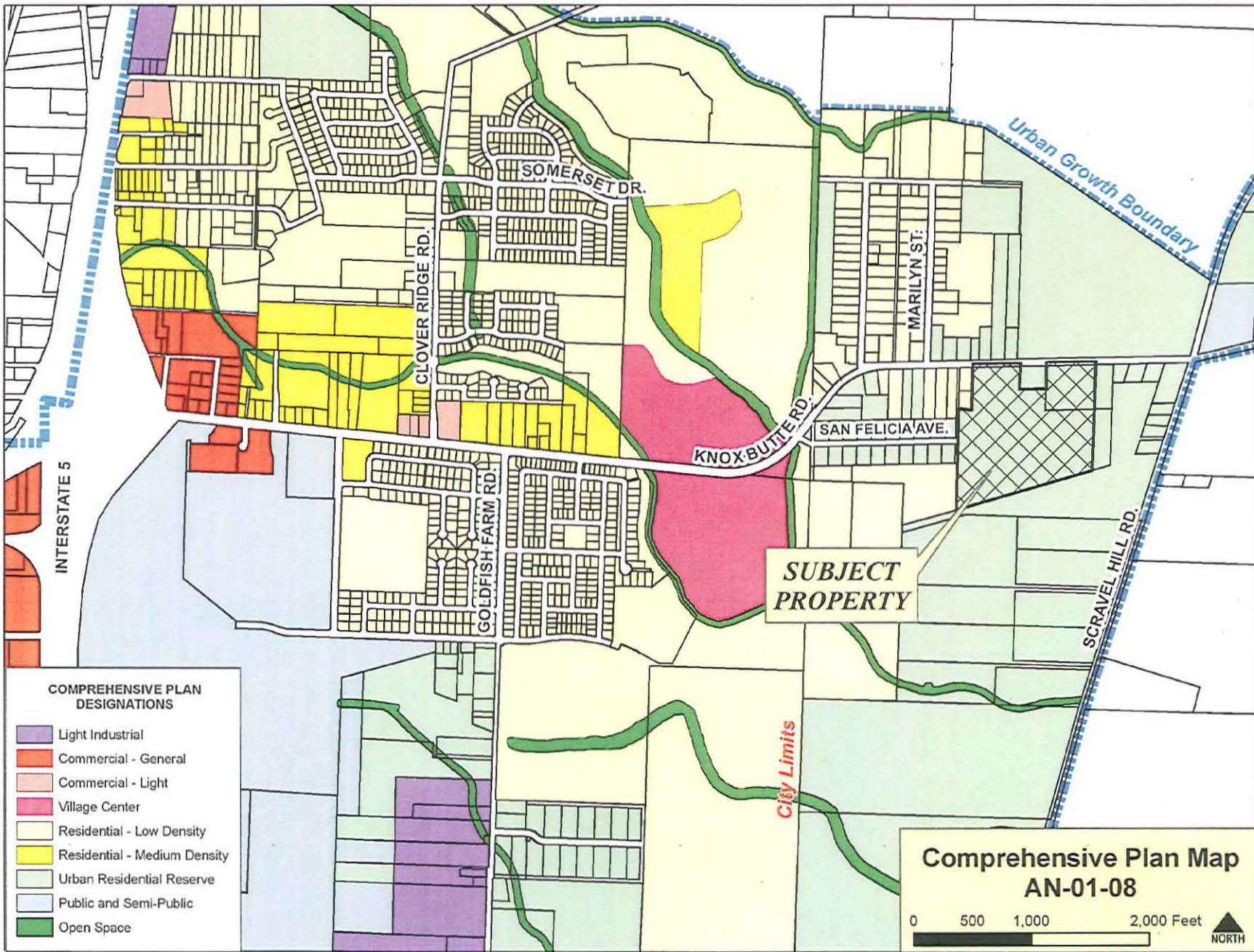
- D1. The applicants’ findings state: *It is reasonable to consider the territory for annexation at this time. The annexation appropriately places the site within the municipal boundaries where it is more efficiently served by the City than by the County. Annexation will result in a shift in property taxes to the City for provision of facilities. The proposal to annex is a reasonable and logical extension of the city limits in this area of Albany.*
- D2. The applicants’ findings state: *Annexation is a pre-development stage. There are vacant residential lots in this part of the City. Home sales have changed from one type of market to another. However, subdivision of the property to create single family lots is only one development option. A falling home market does not necessarily impact this property to the extent that the City should not consider annexation at this time. In fact, it is prudent for the City to consider annexation at this time and considering rezoning to a City zone at a later date when the uses on the property can be analyzed in more detail for a specific development.*

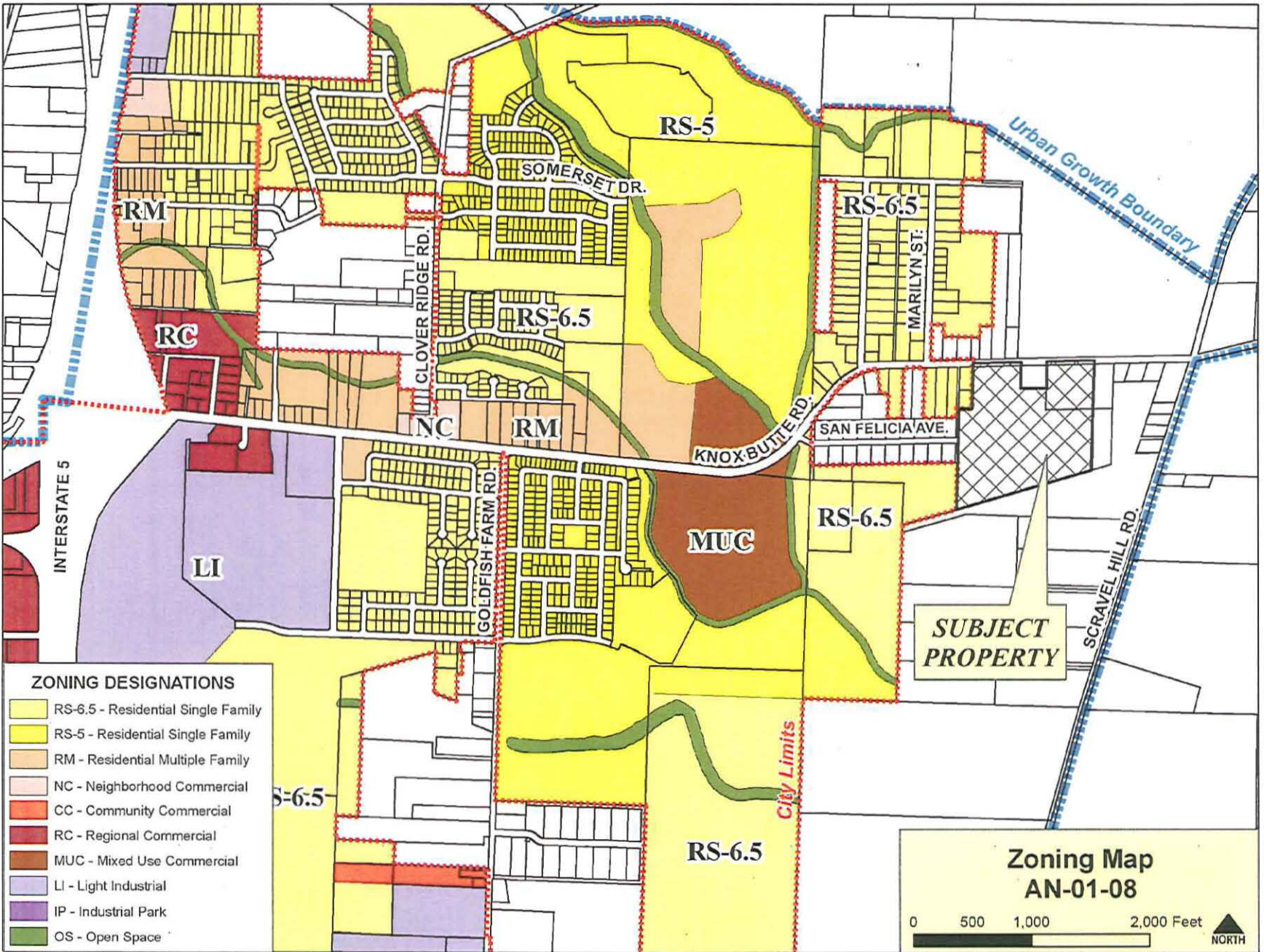
CONCLUSIONS

- D1. Annexation of the property at this time will make the site available for development options. Without a concurrent zone change to give the property a City zoning designation, the property will retain its Linn County zone. At a future date, when a specific development proposal is identified based on residential market trends, a City zoning designation would be applied for what would best meet the housing demands of the City.
-

G:\Annexations\2008\08an01 resolution and cc sr.doc







STAFF REPORT ATTACHMENT D
FILE AN-01-08



STAFF REPORT ATTACHMENT E
ANNEXATION AGREEMENT

EFFECTIVE DATE: Upon proclamation of the annexation by the City Council

PARTIES: SID AND CINDY MILES
PO BOX 760, CANBY, OR 97013

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 Knox Butte Road will face Knox Butte 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 Public Facilities are available or 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,

M2 INVESTMENTS LLC

By: _____

Sid Miles

Its: _____

Cindy Miles

ANNEXATION AGREEMENT ATTACHMENT 1
LEGAL DESCRIPTION
FILE AN-01-08

A portion of that property described in Linn County, Oregon Deed Records DN2006-32433 and mapped on Linn County, Oregon County Survey No. 24796, together with the southern half of the Knox Butte Road (Linn County Road No. 7) right-of-way adjacent to the frontages of the property more particularly described as follows:

Beginning at a point that is South 89° 40' 16" East, 1352.54 feet from the Northwest corner of the South half of the Matthew C. Chambers Donation Land Claim No. 40 in Township 11 South, Range 3 West of the Willamette Meridian in Linn County, Oregon; said Point of Beginning lying on the centerline of County Road No. 7 (Knox Butte Road); thence running along said County Road No. 7 centerline North 87° 02' 00" East, 408.23 feet, to the Northwest corner of that parcel conveyed to Kenneth Niles as described in Linn County Deed Records MF484-212; thence running along the West boundary of said Niles parcel South 00° 14' 00" East, 230.03 feet, to the Southwest corner of said Niles parcel; thence running along the South boundary of said Niles parcel North 87° 02' 00" East, 224.06 feet, to the Southeast corner of said Niles parcel; thence running along the East boundary of said Niles parcel North 00° 14' 00" West, 230.03 feet, to a point on the centerline of said County Road No. 7, said point also being the Northeast corner of said Niles parcel; thence running along said centerline of County Road No. 7 North 87° 02' 00", 459.47 feet, to a point that is South 87° 02' 00" West, 109.27 feet from the Northwest corner of that parcel conveyed to Charles W. and Mary Jane Alich as described in Linn County Deed Records Volume 1184, Page 922; thence running South 00° 05' 18" East, 688.54 feet, to a point; thence running South 00° 45' 35" West, 230.18 feet to a point on the North line of the vacated Corvallis & Eastern Railroad Company right-of-way; thence along said vacated right-of-way line South 72° 42' 00" West, 1248.68 feet, to the Southeast corner of that parcel conveyed to Beverley R. Mitchell as described in Linn County Deed Records MF169-704; thence running along the East boundary of said Mitchell parcel and its northerly extension North 00° 14' 00" West, 871.16 feet, to the Southwest corner of that parcel conveyed to James D. Haring as described in Linn County Deed Records MF186-379; thence running along the South boundary of said Haring parcel North 90° 00' 00" East, 108.91 feet, to the Southeast corner of said Haring parcel; thence running along the East boundary of said Haring parcel North 00° 14' 00" West, 392.40 feet, to the Point of Beginning.

Said area containing 28.2 acres, more or less.

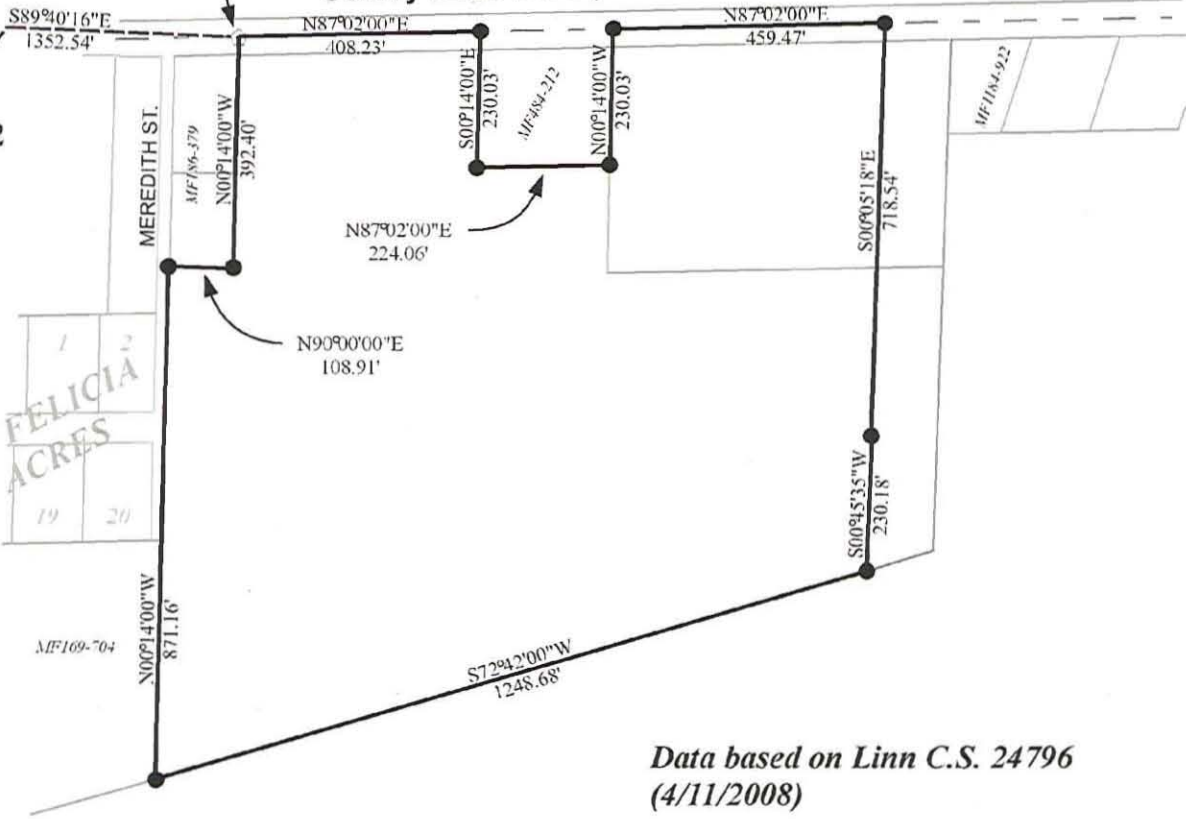
Township 11 South, Range 3 West,
NE Corner of Section 3, Willamette
Meridian, Linn County, Oregon

Point of
Beginning

County Road No. 7 (Knox Butte Road)

NW Corner of S 1/2
of DLC No. 40

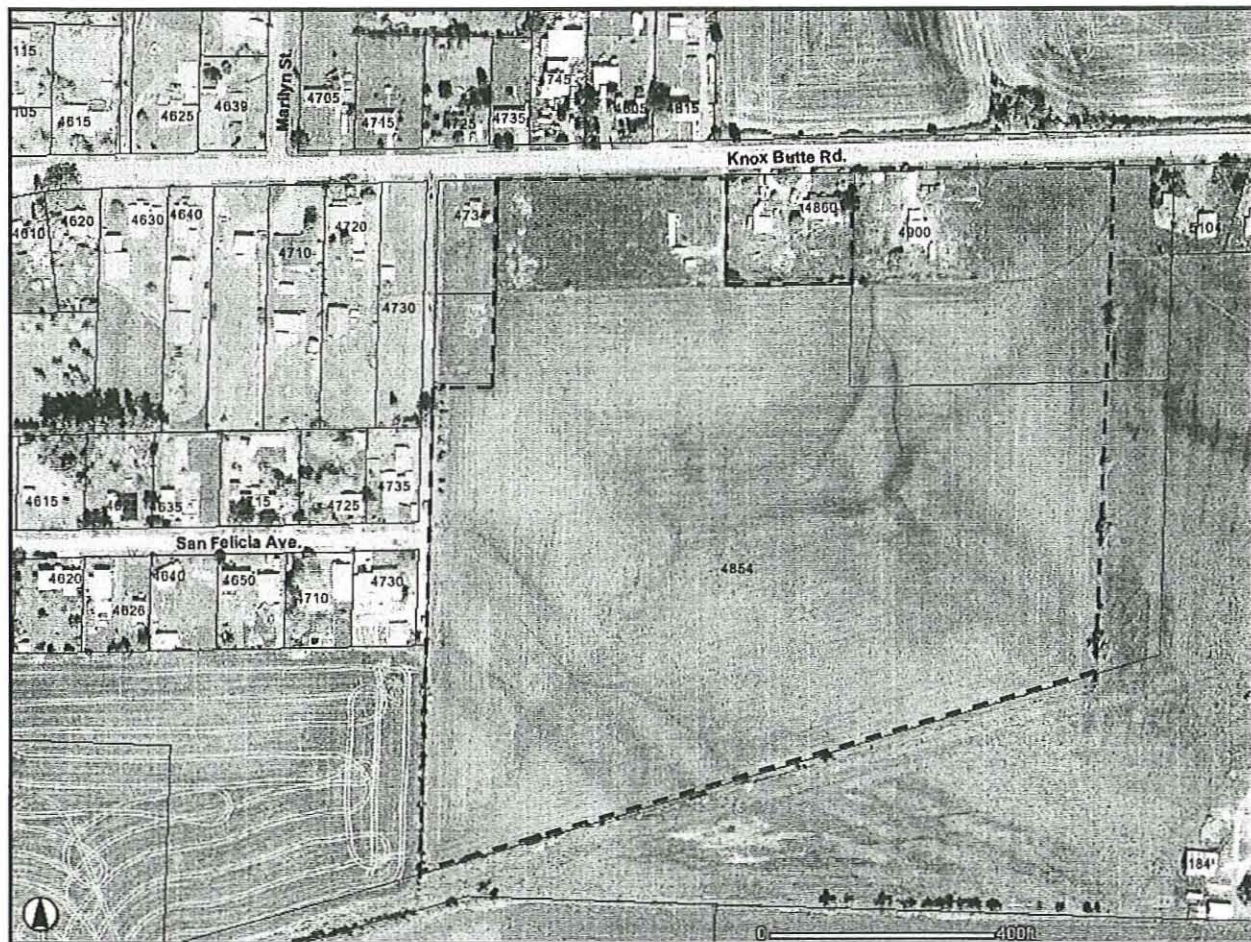
SAN FELICIA
ACRES



Data based on Linn C.S. 24796
(4/11/2008)

ANNEXATION AGREEMENT ATTACHMENT 2
LEGAL DESCRIPTION MAP
FILE AN-01-08

KNOX BUTTE ROAD ANNEXATION



TERRITORY PROPOSED FOR ANNEXATION

BACKGROUND/PROPOSAL:

The subject property is located on the south side of Knox Butte Road. The territory to be annexed has been revised from its original proposal of approximately 30 acres to approximately 28 acres in two tax parcels (T11S, R2W, 03, 3A, tax lots 10601 and 10605). The territory to be annexed contains vacant residential structures as shown on the tentative site plan that are scheduled to be removed for development. There are no resident electors living on the property.

The purpose of revising the acreage and legal description for the territory to be annexed is to accommodate a dwelling located across the eastern boundary line as illustrated in the aerial photo above. The owners of the dwelling have not proposed remodeling or relocating the dwelling in order to rectify the non-conforming setback or building location. Therefore, the applicants are revising their application to exclude approximately 2 acres along the eastern boundary from the annexation petition in order to give the abutting property owners time to relocate or remove the house.

The application is being submitted at this time in order to meet the City's process to be included in the November 2008 ballot.

A pre-application was held on April 9, 2008 to discuss the annexation of the subject property. The Albany Comprehensive Plan map designation for the land is "Urban Residential Reserve."

At this time, the applicant is requesting to be annexed into the City of Albany and keep the Linn County UGA-UGM 20-acre zone designation as interim zoning as permitted by Chapter 2.835. The City has not been able to advise which zone designation is preferable to assign to this property. In addition, the applicant is not proposing any immediate development of the property. Therefore, the applicant desires to retain the Linn County zoning designation as an interim designation until such time as a specific development plan will be devised. By applying the Linn County zoning upon annexation, a Comprehensive Plan map change is not needed with the annexation petition.

Zoning and Surrounding Land Uses are:

North: (Across Knox Butte Road); Linn County UGA-UGM-20 (Urban Growth Management) farm land, single family dwellings; City of Albany RS 6.5, single family dwellings.
South: Linn County UGA-UGM-20; farm land and single family dwellings.
East, Linn County UGA-UGM-20, farm land and single family dwellings.
West: Linn County UGA-UGM-20, single family dwellings; City of Albany RS 6.5, single family dwellings.

ANNEXATION CRITERIA:

The Albany Development Code (ADC 2.800 (1)) specifies the following criteria that must be found to exist before an annexation can be referred to the voters:

"The review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria:

(1) Eligibility Criteria. The City shall determine that property is eligible for annexation based on the following criteria:

- (a) The property is contiguous to the existing city limits; and*
- (b) The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.*

(2) Infrastructure Criteria. The City shall determine that it is timely to annex property based on the following criterion:

- (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.*
 - iv. "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.*

(3) *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.

(4) *Reasonableness Criteria. The City shall determine that it is reasonable to annex the property."*

APPLICANT'S REASONS ADDRESSING THE ANNEXATION CRITERIA:

1. Eligibility Criteria

(a) The territory to be annexed is contiguous to the existing City limits along its northern and western boundary lines. Annexing the territory meets the City's Urbanization Goal to maintain a relatively compact urban form so that urban services can be more efficiently provided. Longer police patrols, lengthy sewer and water extensions, result in increased service costs. A compact urban form also promotes energy conservation through decreased reliance on the automobile and allowing more land to be utilized for agricultural production.

The annexation of this site creates an enclaved territory of approximately 15 acres of property located west of the subject property. These parcels and lots are zoned Linn County UGA-UGM-20 and are primarily developed with single family dwellings. The average lot size of the lots within the San Felicia Acres subdivision, served by San Felicia Avenue SE, is 0.46 acres is similar to urban densities. The applicant has contacted property owners within the enclave. The applicant was advised that a couple of the property owners were interested in being annexed into the City of Albany. However, there has been no interest shown by the electors involved to be included with the applicant's annexation petition at this time.

(b) The subject property is located within Albany's adopted Urban Growth Boundary. The territory to be annexed furthers Linn County Land Use Code Chapter (LLC930.700 (C)) in that the annexation "allows limited low-density and moderate-scale uses until more intensive urban-scale land use activity occurs in conjunction with city annexation or delayed annexation."

2. Infrastructure Criteria

(a) The City of Albany has adopted codes regulating installation, extension and development of public facilities for streets, water, sewer and storm drainage facilities, public utility easements and park facilities. The zone code and Public Works Department standards regulate internal development. The developer is responsible for the cost of extension of improved water, sewer and storm drainage facilities necessary to serve the site when the area redevelops. Internal development of public and private facilities necessary to serve the development will occur at the building permit review stage.

Water:

The City's has an adopted Water Facility Plan which accommodates this area. There is a water trunk line located approximately ½ mile west of the subject property within Knox Butte Drive.

Once the school district develops its new elementary/middle school on the north side of Knox Butte Drive, water, sewer and storm drain lines will be extended to the school. Residential development east of Clover Ridge Drive has been expanding creating new development located off Somerset Drive. This residential development is also pushing urban development and facilities

farther east towards the school site and the subject property. The school is planned to be open for the Fall 2009-2010 school year. The school district is also working with City of Albany staff to create a Local Improvement District which will allow for a new road (and utilities) from Knox Butte to Somerset Drive. Extension of water service beyond the school site can be provided by private development of the subject property and intervening properties.

Sewer:

The City's has an adopted Wastewater Facility Plan which accommodates this area. There is a sewer trunk line located within Knox Butte Road at the intersection of Marilyn Street that serves the subdivision located on Marilyn and Charlotte Streets. The sewer line is approximately 470 feet west of the subject property. Development within the subject has options to connect to the sewer at this location or by extension through Knox Butte Road or San Felicia Avenue. The extension of the existing service line assures that development on the subject property will be adequately served.

Storm Water:

There is a storm drain line located within Knox Butte approximately 1/2 mile west of the subject property. Storm drainage improvement plans are required to be submitted to and approved by the City when redevelopment occurs. The development of the school also brings storm drainage services closer to the site. Extension of storm drainage services beyond the school site can be provided by private development of the subject property and intervening properties.

Transportation:

The proposal to annex does not involve any development plans at this time. Extension of improved local streets and sidewalks is done through development of individual sites. Knox Butte Road is classified as a minor arterial street and is not improved to minimum City standards abutting the subject property. Knox Butte Road is designed in the transportation plan to handle larger amounts of traffic. As indicated in the pre-application meeting, the applicant will be required to construct necessary improvements along Knox Butte Road at the time of redevelopment.

Fire: Service:

Fire service is provided by the Albany Fire District. Fire service will be enhanced with the development of water lines and the installation of hydrants and improved access as required by code once development occurs.

Emergency Services:

Surrounding properties are also served by the City of Albany's Police Department. Upon annexation, fire and public safety services will be provided by the City of Albany. Development of the subject property will provide improved access, signage and addressing to facilitate public safety access.

Parks:

The City of Albany Parks Division operates and maintains City parks and sponsors special events. The City has an adopted Parks Master Plan that identifies existing and future parks needs and locations. The nearest City Park that serves the site is Timber Linn Park located off Timber Street and Price Road. A future neighborhood park is identified north of the subject property near the location of the new elementary/middle school. The City will review a development proposal for applicable street tree and landscaping requirements as part of the City's design review process.

School District:

The Albany School District currently serves the site and will continue to do so upon annexation. The school district will review and assess any impact to existing facilities at the development stage. The site is currently served by Clover Ridge Elementary, Memorial Middle and South Albany High Schools. The school district's long range plan accommodates growth and includes a new elementary/middle school located approximately ½ mile west of the subject property.

(b) As indicated above, urban facilities that are available are standardized by the City's adopted public facilities plans. The City's plans address the adequate level and types of services that are needed to serve the territory upon development. Urban services as noted above, such as police, fire and transportation services, are available for extension and connection at the time of development. The timeliness of the development will be secured through an infrastructure improvement agreement or other mechanism to assure that the developer is responsible for the extension of facilities necessary to serve the site as part of the annexation process. Albany's code is written such that the developer, not the City, is responsible for the extension and construction of streets, water, sewer, storm drainage facilities and contribution for new development. Public facilities can be extended at adequate levels to assure that urban services are provided to the site when a specific site plan is submitted to and reviewed by the City for this property,

The proposal does not create a gap in the extension of public water, sewer and storm drain facilities because they will be provided at the time of development. The gap in the extension of these public facilities in this area is caused by the development of urban-sized lots along San Felicia Avenue that were not required to annex and connect to City services at the time the subdivision was developed. Annexation of the subject property and its future development along with the new school development helps to facilitate the extension of urban services.

3. Planning Criteria

The proposed annexation is consistent with applicable goals and policies of the Albany Comprehensive Plan. The Comprehensive Plan designates this area as "Urban Residential Reserve". The subject property and surrounding properties that are outside the City limits are zoned Linn County UGA-UGM 20-acre. The Urban Growth Boundary is located east of the subject property along Scrael Hill Road. The subject property and the abutting properties to the east are within the UGB. Therefore, they are identified in the City's Comprehensive Land Use Plan as being available for annexation.

The City has adopted public infrastructure plans and development is required to address local facilities' implementation. The City has a local wetlands inventory and any jurisdictional wetlands are required to be evaluated during the development stage by the State's Division of State Lands. Wetlands have been identified on the subject property. The applicant is not proposing to develop this site at this time. City services are needed for future development of the site. The applicant is required to enter into an annexation agreement that will address issues that can be resolved with development.

Oregon's 19 Statewide Planning Goals constitute the framework for a statewide program of land use planning. The Statewide Goals are achieved through local comprehensive planning. State law requires each city and county to adopt a comprehensive plan and the zoning and land division ordinances needed to put the plan into effect.

The locally adopted comprehensive plans must be consistent with the statewide planning goals. The plans are reviewed for such consistency by the state's Land Conservation and Development Commission (LCDC). A plan is "acknowledged" when LCDC officially approves a local government's plan. An acknowledged local comprehensive plan is the controlling document of land use in the area covered by that plan.

The Albany Comprehensive Plan and its implementing ordinances, adopted facility plans, historic and other inventories, implement the Statewide Land Use Goals. The proposal accommodates the Statewide Goals by being located within an adopted Urban Growth Boundary, in an area of increased urbanization and where urban facilities can be extended without any exceptions to the Statewide land use goals. The proposal addresses applicable Albany Comprehensive Plan goals and policies, which in turn, address the Statewide Land Use Goals as follows:

Statewide Land Use Goals:

(1) Citizen Involvement:

Citizen involvement is provided via the City of Albany public hearing process necessary for the annexation, which requires public notice and allows public comment. The City's Plan is acknowledged to be in compliance with this Goal. The City's Comprehensive Plan Citizen Involvement Goal and Policies are implemented by the City's public hearing process. Through the notification and public hearing process all interested parties are afforded the opportunity to review the annexation petition, comment on the proposal, attend the public hearing, and participate in the decision. The matter is referred to the voters by City Council. Further public review is provided by the Planning Commission review processes and applicable appeal processes.

This Goal is addressed by Albany's Comprehensive Plan Chapter 1 and its implementing ordinances.

(2) Land Use Planning:

The Comprehensive Plan and its implementing ordinances are adopted by the City through the public hearing process of the City Council ordinance procedure.

The territory is located within the City's Urban Residential Reserve area and is available for annexation. Annexation of this territory is viable because there is adequate sewer and water capacity; it can be served economically and efficiently with public services such as fire, police protection and schools, and it is located within close proximity to collector and arterial streets.

Once annexed, then the property owner can determine the best zoning for the subject property that complies with the City's Comprehensive Plan designation, or seek to change the designation. Under this scenario, the zone would remain Linn County UGA-UGM-20. The possible residential zones include RS-6.5, RS-5, or RM, but the case for whatever zone is proposed is based on code criteria. Staff pointed out that the City may question a need for more residential land at this time, regardless of the zoning. This area is included within its Urban Growth Boundary and is anticipated to be annexed.

Residential?
↓
✓

Annexation is a pre-development stage. There are vacant residential lots in this part of the City. Home sales have changed from one type of market to another. However, subdivision of the property to create single family lots is only one development option. A falling home market does not necessarily impact this property to the extent that the City should not consider annexation at this time. In fact, it is prudent for the City to consider annexation at this time and considering rezoning to a City zone at a later date when the uses on the property can be analyzed in more detail for a specific development. At this time there is no amendment to the Comprehensive Plan needed for the annexation.

Some of the infrastructure required for development is in place in this area of town. This area also includes some land already annexed, but is still undeveloped and without significant infrastructure. Areas with the UGA-UGM-20 designation are the next priority

for infrastructure programming. Some infrastructure improvements may be done in the near term while others, such as road improvements that are generally more costly, may take longer to complete. The territory to be annexed is within the future service limits. The City has no time requirement in the code for provision or extension of facilities to this area. The City is not obligated to extend water and sewer services to the property if it were annexed that annexation does indicate willingness by the City to serve the development with City utilities. Therefore, infrastructure improvements are left to the developer to provide.

The City's code requires that the developer bear the costs of development such as water, sewer, and sidewalks for whatever type of development. Public costs for development are outlined in the City's adopted capital improvement plan. Annexation increases the opportunity to extend facilities to this part of town by private development. However, it generally takes about 3 years to plan and implement a subdivision, multi-family or other type of development. Annexation allows the property to remain as is until such time as a zone change is needed. Since the overall development process, including planning and engineering, final platting and public facility construction plan review and approval, take at least 3 years to implement, it is timely to consider annexation at this time.

Both the petitioned annexation area and the adjacent area are in compliance with the goals and policies of the Albany Comprehensive Plan. The proposed annexation complies with State annexation law and City services can be provided to the subject property by the developer at his/her cost.

This Goal is addressed by Albany's Comprehensive Plan Chapters 8, 9, 10 and 11 and the applicable implementing ordinances.

(3) Agriculture Lands:

The territory is located within the Urban Growth Boundary. The property is currently a barn and manufactured home located on the site. The land is grass land not used for farming or pasture land. There is no negative impact on high-value farmland by the annexation of this property. Prime farm land outside the Urban Growth Boundary is preserved. There is no prime agricultural land being lost to urbanization in this area. Development of the territory to be annexed is therefore planned and expected to be at urban densities. There would be few negative effects resulting from the urbanization of these lands.

This Goal is addressed by Albany's Comprehensive Plan Chapters 1, 8, 9 and 11 and applicable implementing ordinances.

(4) Forest Lands:

There are no timber resources on the subject property. Therefore, there is no negative impact on high-value timberland by the annexation of this property.

This Goal is addressed by Albany's Comprehensive Plan Chapters 1, 8, 9 and 11 and applicable implementing ordinances.

(5) Natural Resources, Scenic and Historic Areas, and Open Spaces:

The City's maps identify area of wetlands on the subject property from the Truax Creek watershed area (TRU-4f). Detailed identification and source of hydric soils and plant materials is undertaken at the specific development stage. The Division of State Lands is notified of a proposed development if there are jurisdictional wetlands or hydric soils on the site during the redevelopment process.

There are no significant historic sites, fish-bearing waterways, scenic views, aggregate or mineral resources on or adjacent to the subject property that would be impacted by annexation. No natural hazards have been identified which would prevent the proposed annexation.

The Comprehensive Plan Vegetation and Wildlife Habitat Goal 5 and related policies are implemented by the City's flood plain, buffering and screening standards in the zone code and by the City's adopted facility plans. The Wetland Resources Goal and Policies are implemented by the City's local wetland inventory which provide for review in accord with DSL requirements.

This Goal is addressed by Albany's Comprehensive Plan Chapters 1, 2, 8, 9 and 11 and applicable implementing ordinances.

(6) Air, Water and Land Resources Quality:

Development is required to meet applicable State and Federal requirements for air and water quality. New development is planned for residential uses. There is no proposal to create large industrial waste or hazardous waste sites, large paved parking lots, or otherwise disrupt the environment other than minimally needed to develop the site at urban densities with urban facilities. Air, water and sound quality are implemented by the goals and policies under the City's Goal 6 and the City's adopted standards for redevelopment.

The surrounding area is predominantly low-density residential. The major air quality impact in the vicinity is from vehicle traffic. The effect of this annexation on air quality in the area will not be significant. At the time of development, the City's development process will examine transportation issues.

Annexation does not impact wastewater discharge into the city sewer system. Surface water runoff will be addressed during the development stage and is required by the City to be collected and removed by an approved storm drainage system. The City is responsible for assuring that wastewater discharges are treated to meet the applicable standards for environmental quality.

Through the use of these public facilities upon development, water resources will be protected. Domestic water will be supplied by the City water system, and there will be no withdrawal of subsurface groundwater resources.

This Goal is addressed by Albany's Comprehensive Plan Chapters 1, 6, and 11 and applicable implementing ordinances.

(7) Areas Subject to Natural Disasters and Hazards:

The territory to be annexed does not have any significant nature areas or hazards on the property. Topography of the site and building sites will be reviewed for compliance to code requirements when development is proposed. If required, engineered studies will be done to assure stable building pads for building permit applications.

Applicable flood plain restrictions on the site will be considered at the time of development. Natural drainage and run off due to development will be addressed during the City's development process.

This Goal is addressed by Albany's Comprehensive Plan Chapters 2 and 11 and implementing ordinances.

(8) Recreational Needs:

The Albany Parks and Recreation Division identifies programs, activities, and policies relating to parks and recreational activities in the community. Future park sites are identified in the Comprehensive Plan for East Albany where the subject territory is located. The City's Goal 8 implements the Statewide Land Use Goal and identifies park needs.

This Goal is addressed by Albany's Comprehensive Plan Chapters 6, 7 and 11 and applicable implementing ordinances.

(9) Economic Development:

The objectives under this goal are almost entirely on industrial development. No commercial or industrial development is proposed. However, the territory to be annexed is close to community shopping and service facilities and major transportation facilities. The proposal does not eliminate any industrially designated or zoned land within the City limits or Urban Growth Boundary.

Development of the underdeveloped territory will provide an economic boost to the City in terms of increased property taxes and goods and services needed during the construction phases of development. An increase in population will benefit the local economy. Building trade employment may be a short-term boost. The first step in development is annexation. Once development occurs, additions of residences will provide a new customer base for businesses in the downtown core of the city.

The proposal is not an economic development project and will not negatively affect the economy of the local, regional or statewide area. The City's Goal 9 implements the Statewide Land Use Goal.

This Goal is addressed by Albany's Comprehensive Plan Chapter 3 and applicable implementing ordinances.

(10) Housing:

The applicant does not have any plans at this time to develop the property. The two dwellings located on the subject property are vacant and are planned to be removed for new development. However, the proposal to annex will allow future development consistent with the Comprehensive Plan and any required zone changes. The underdeveloped area in which the subject property is located is in transition from rural to urban uses.

The subject property is designated in the Comprehensive Plan as "Urban Reserve Residential". The county zoning of UGA/UGM-20 will be consistent with the Comprehensive Plan.

At this time, the applicant has no plans to develop the property. The site will not be developed for about two to three years. Which at that time, the applicant will evaluate the market and applicable housing needs to determine the appropriate zone for the property. At that time, the applicant will be able to provide a range of housing types and add to the housing supply for a growing population.

This Goal is addressed by Albany's Comprehensive Plan Chapters 4, 5, 6, 8, 9, 10 and 11 and applicable implementing ordinances.

(11) Public Facilities and Services:

The City of Albany provides and maintains services and facilities for the health, safety and welfare of residents within the community, including park facilities. The school district provides public education facilities. Annexation is the first step in enabling the logical and efficient extension of existing facilities.

The City has also identified and planned for facilities for wastewater treatment, water service and storm water runoff facilities. Water and sewer connections can be made to the property. The necessary connections to bring water and sewer and storm drainage service to the area will be reviewed and developed as part of the City's development review process.

This Goal is addressed by Albany's Comprehensive Plan Chapters 4, 5, 6, 8, 9, 10 and 11 and applicable implementing ordinances.

(12) Transportation:

The City's Transportation Goal and Policies are implemented by Albany's Comprehensive Plan Chapter 5 12 which in turn is implemented by the City's adopted Transportation System Plan (TSP). The TSP uses a street classification system to determine the functional classification of each street within the city's street system. The territory to be annexed is located adjacent to and has access onto Knox Butte Road. San Felicia Avenue stubs into the west property line of the site. The subject property is located approximately 500 feet west of Scrael Hill Road. The City's TSP indicates the planned location of street extensions for collector and arterial streets.

Development of the subject property will be able to address the transportation system so that it will be designed to promote all modes of transportation and dispersal rather than concentrations of through traffic. The transportation system will be designed to provide for a network of streets fitted to the terrain with due consideration for safety, drainage, views, and vegetation. The vehicle, transit, bicycle, and pedestrian circulation systems will be designed to connect the population and employment centers in the Albany urban area, as well as provide access to other local neighborhood residential, shopping, schools, and other activity centers. The development process will identify and address any facilities needed to connect the street system in a manner that implements the adopted transportation plans and access codes of the City of Albany.

This Goal is addressed by Albany's Comprehensive Plan Chapters 5, 6, and 11 and applicable implementing ordinances.

(13) Energy Conservation:

Annexation permits development of the territory that continues to provide for the orderly and economic extension of public facilities and services. Adequate land area is added that provides for housing types and location in an area that is or will be served by improved public facilities. Adding land to the city limits helps to maintain an adequate supply of serviced or serviceable undeveloped land to meet the market demand for a variety of uses.

The existing transportation network surrounding the subject property is in place. Connections to the transportation network that seek to rely on a reduction of automobile trips and encourage pedestrian travel help to promote energy conservation. The establishment of new circulation systems required for new development will provide efficient and convenient linkages for both motorized and non-motorized forms of transportation.

Up-to-date building construction codes provide for energy-saving devices and conservation.

The Albany Comprehensive Plan identifies the need for public education, incentive and enforcement programs that encourage lower energy consumption costs.

This Goal is addressed by Albany's Comprehensive Plan Chapters 5, 6, 8, 9, and 11 and applicable implementing ordinances.

(14) Urbanization:

The subject property is within the Urban Growth Boundary and is located in an urbanizing area of Albany. The proposal will add approximately 30.15 acres to the City limits and residential land inventory in the future. The territory is located in an area planned for future residential development. After annexation, the applicant will evaluate development of the site. The proposal provides for orderly growth of the City limits and once developed, public and private services will be available to the residents of the annexed territory. No new service districts are proposed. The Urban Growth Boundary is not proposed for expansion. The developer is responsible for providing facilities to serve the site at urban densities.

The developing area has access to schools, waste collection and disposal, commercial services, and recreation areas. As such, it is considered available for urban development consistent with plans for the provision of urban facilities and services.

The Comprehensive Plan permits urban development in urban reserve areas if public facilities and services are available. There are major water and sewer facilities available that can be extended or connected to as development occurs. Police, fire and applicable park services can be provided via the increase in property taxes as a result of annexation and urban development. Development will provide the necessary storm drainage facilities.

The urban reserve area may be developed based upon a determination by the City that facilities are or can be available. The first step in the development process is annexation. Once the property is annexed, it will enable it to be served in an orderly, efficient and timely extension of key facilities.

The proposal creates enclaved properties. The City presently provides library, transportation, parks, trails, open space facilities and services used by residents of enclaved area. Occupants of the enclaved areas have access to major roadways such as Knox Butte Road and other local streets. Enclaved residents have the ability to possess a City library card and use other City services. The densities of the adjacent residential subdivisions approach urban densities but these houses are not connected to City water or sewer facilities. Annexation does not change the level of services that these enclaved properties presently use. However, State laws regarding sewer connections and extension of facilities as a result of annexation and development govern connections of these properties to City water and sewer services.

When a petition for annexation is filed, the City may include areas adjacent to the territory proposed to be annexed as part of the proposed annexation if the failure to include the additional territory would result in the creation of an enclave, and the requirements for consent elections set forth in ORS Chapter 222 are met, or if the inclusion of the additional territory would eliminate existing enclaves. It has been the City's policy not to include enclaved territories unless the property owners submit petitions. The point being,

CITATIONS ?

the enclaved lots are within the City's ability to address and this annexation does not change the way the territories are being served.

This Goal is addressed by Albany's Comprehensive Plan Chapters 5, 6, 8, 9, 10 and 11 and applicable implementing ordinances.

Statewide Land Use Goals 15-19 do not apply to this proposal.

The subject property is not located within the Willamette River Greenway Boundary. Albany has no ocean or coastal resource areas.

This Goal is addressed by Albany's Comprehensive Plan Chapters 1, 2, 6, 7, 8 and 11 and applicable implementing ordinances.

4. Reasonableness Criteria

The territory to be annexed is located along the City limits on the north, northwest and southwest property lines. It is located within the Urban Growth Boundary and is planned to be service by the City when developed. The proposal to annex will permit the subject parcels to be eligible for connection to City services. Public and private facilities and services are available to serve the site. The annexation will permit development as residential. Private utilities will be provided with the under grounding of electrical, gas, telephone and cable lines as the result of the development process.

Extensions of public facilities generally occur as development occurs. With the annexation, the developer is in a better position to make the necessary improvements to the interior of the subject property and provide linkages to surrounding streets which will continue the transportation system.

It is reasonable to consider the territory for annexation at this time. The annexation appropriately places the site within the municipal boundaries where it is more efficiently served by the City than by the County. Annexation will result in a shift in property taxes to the City for provision of facilities. The proposal to annex is a reasonable and logical extension of the city limits in this area of Albany.

The applicant is proposing that only a portion of the subject property be annexed. The eastern portion is not being proposed for annexation at this time due to the location of an adjacent house constructed over the applicant's eastern property line. The house is not being proposed to be removed or remodeled to rectify the situation; therefore, the applicant does not want to annex half of the house. The proposed annexation line follows an existing fence line along the eastern portion. The legal description of the proposed territory to be annexed is attached (Attachment 1).

5. Land Use and Transportation Pattern:

The proposal to annex does not deviate from the underlying Comprehensive Plan designation or any adopted transportation system plan. The immediate area is residentially designated and is developing with single family subdivisions. There are no major commercial or industrial uses planned for the territory to be annexed. The territory has not been used for commercial farming or timber practices. The territory to be annexed is contiguous to the existing City limits and is within the Albany Urban Growth Boundary and is available for annexation and urbanization.

The proposal to annex allows a greater flexibility of site design in order to achieve the purpose of the code which is to encourage maximum efficiency of land uses, conformity to residential goals and polices, with little or no impact on farm or timber resources. Compatibility with adjacent residential uses can be achieved through proper site design, landscaping and buffering and access controls at the time of development. The zone code regulates building heights, setbacks

and off-street parking. The proposal provides a reasonable sized parcel which can be developed with safe and convenient access, minimum sized buildings and fire protection.

The location of individual driveway accesses will be determined through the redevelopment process. Annexation facilitates future transportation routes and connectivity.

CONCLUSION:

The appropriate use of the subject site is influenced by its location and the transportation pattern in the vicinity. The proposal to annex a portion of the applicants' property is consistent with the applicable goals and policies of the Comprehensive Plan and the Statewide Planning Goals, protects the existing house that lies across the eastern boundary line, and satisfies the relevant annexation considerations.

This concludes the applicants' summary addressing the requirements of the code for annexation request. We believe the annexation petition is warranted and timely and request that City Council approve this as a ballot measure for November 2008. If you have any questions or need additional information, please call Mark Grenz, P.E., at Multi/Tech Engineering, Inc., Salem, OR at (503) 363-9227.

Attachment 1: Revised Legal Description

File: Knox Butte Annexation-4995
0:\PlanningDivision\2008Annexation\KnoxButteAnnexationAlbany4995



TO: Albany City Council

VIA: Wes Hare, City Manager
Greg Byrne, Community Development Director *Greg Byrne*

FROM: Don Donovan, Planning Manager *Don*

DATE: August 6, 2008, for the August 13, 2008, City Council Meeting

SUBJECT: Files LA-05-08 and MN-01-08
Property Line Adjustment and Modification to A Non-Conforming Use.

Action Requested:

Hold a public hearing and make a decision (or tentative decision) on the applications referenced above.

Discussion:

Terry Shores owns property at 1020 and 1110 Hill Street SE. The property has been the site of industrial uses for more than 30 years. The property was zoned for industrial use until 2003, when the City changed the zoning to OP (Office Professional) as part of Periodic Review. There is an industrial use on the property now. Industrial uses are not allowed in Office Professional zones. The industrial use on the property became a non-conforming use when the zoning was changed to OP.

Timothy and Paula Connaghan want to buy the property and relocate their business, Crabtree Automotive, to this property. The Development Code allows modifications to non-conforming uses. The Connaghans submitted a Modification to a Non-Conforming Use application.

A Modification to a Non-Conforming Use application is reviewed using the Type II land use process. Staff makes a decision on the application and mails a Notice of Tentative Decision. Someone who receives the Notice can ask for a public hearing if they believe that the conditions of approval do not adequately address the review criteria or alleviate adverse impacts on the neighborhood. Someone who owns property to the south of Mr. Shores property asked for a public hearing. The Planning Commission had a public hearing and made a decision to approve the applications. The owner of a different property to the south appealed the Planning Commission approval to the City Council. The appeal and other information related to the proposed project are attached as exhibits to the staff report. The staff report, on page 2, explains the exhibits.

Essentially, the review criteria for a Modification to a Non-Conforming Use require that the proposed new use result in "a net decrease in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area." The applicants submitted information about the previous use with their application. The staff report explains that when the existing use on the property was approved in 1994, the owner said that the business operated from 7:00 a.m. to 9:00 p.m. The automotive repair business will operate from 8:00 p.m. to 5:00 p.m., Monday through Friday. The information submitted with the application says the current business averages 20 rail cars a month and 60 semi-trucks a month. The proposed automotive repair business will not use any rail cars and will have only an occasional truck delivery, but no semi-trucks. The owners of Crabtree Automotive will landscape the front yard of the property and the parking lot, and put a new façade on the existing warehouse building on the property. Overall, it

August 6, 2008

seems there will be a net decrease in overall detrimental impacts for the neighborhood. This is currently an extremely unsightly industrial property. The Planning Division received five letters in support of the new use. These letters are attached to the staff report as exhibits.

The two neighbors who have appealed the approvals for the automotive repair business see it differently. They are concerned that the automotive business will create noise beyond that which is generated by the existing business. There has been some confusion about what is the business that operates on the property now. The information provided by the applicants and described in the staff report seems to describe a business called Stafford Reload that did operate on the property until several years ago. The appellants point out that business has been gone for some time. But the current property owner says he does a similar business – unloading lumber from rail cars and loading it on trucks, in addition to the other business on the property – the Plaque Factory.

The primary topics of discussion at the City Council hearing will probably be what businesses operate on the property now and how much noise does the businesses make. Will the proposed automotive repair business result in a net decrease in detrimental impacts for the neighborhood?

If you have questions before the meeting, please let me know.

Budget Impact:

None.

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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

STAFF REPORT

Modification to a Non-Conforming Use and Property Line Adjustment Applications

HEARING BODY

CITY COUNCIL

HEARING DATE

Wednesday, August 13, 2008

HEARING TIME

7:15 p.m.

HEARING LOCATION

Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:

August 6, 2008

FILES:

MN-01-08 and LA-05-08

TYPE OF APPLICATION:

- 1) MN-01-08: Modification to a Non-Conforming Use to allow a change from an industrial use to an automotive repair business.
- 2) LA-05-08: Property Line Adjustment that would transfer approximately 0.4 acres of land from Linn County Assessor's Map No. 11S-3W-7AC, Tax Lot 102 to Tax Lot 104.

REVIEW BODY:

City Council

PROPERTY OWNER:

Terry Shores; PO Box 1497; Albany, OR 97321

APPLICANT:

Crabtree Automotive Incorporated; Timothy and Paula Connaghan;
845 29th Avenue SW; Albany, OR 97322

ADDRESS/LOCATION:

Tax Lot 102: 1020 Hill Street SE
Tax Lot 104: 1110 Hill Street SE

MAP/TAX LOT:

Linn County Tax Assessor's Map No. 11S-3W-7AC; Tax Lots 102 and 104

ZONING:

OP (Office Professional)

TOTAL LAND AREA:

1.6 acres

EXISTING LAND USE:

Lumber reloading business and manufacturing (The Plaque Factory)

NEIGHBORHOOD:

Jackson Hill

SURROUNDING ZONING:

North: CC (Community Commercial)
South: RM (Residential Multiple Family) across the railroad tracks
East: OP (Office Professional) across Hill Street
West: LI (Light Industrial)

SURROUNDING USES:

North: Vacant property and At Home Furniture
South: Single family houses across the railroad tracks
East: Offices across Hill Street
West: Railroad tracks on property owned by the railroad

PRIOR HISTORY:

This property was used for the manufacturing of plywood (Linn Plywood) until the early 1970s. At that time, a warehouse was built on the property for storage of lumber and plywood. Lumber and plywood was loaded onto rail boxcars on the adjacent rail siding.

In the early 1980s, the property was used by the Albany Planing Mill, which manufactured various lumber products that were shipped by truck and rail.

In 1994, outside storage of lumber products and shipping of lumber and plywood by rail was approved (File CU-03-94). A 2,800-square-foot cover for the loading and unloading area for rail cars was approved (File SP-116-93). The property was zoned HI (Heavy Industrial) at that time.

NOTICE INFORMATION

A Notice of Public Hearing was mailed to surrounding property owners on August 1, 2008. The site was posted with a sign that advertised the Planning Commission hearing on July 11, 2008, in accordance with Section 1.410 of the Albany Development Code. The sign remained up for the City Council hearing.

PLANNING COMMISSION PUBLIC HEARING

On July 21, 2008, the Planning Commission held a public hearing on these applications. Following the public hearing, the Planning Commission made a decision to approve the applications with the conditions listed in the staff report.

On July 25, 2008, the Planning Commission received an appeal of the Planning Commission decision from Marianne McDonald. The appeal says Ms. McDonald believes the documentation used to review the application was inadequate and that the decision should be based on the current use of the property, not a use that ceased 8 years ago. The appeal includes a letter from Ms. McDonald. A copy of the appeal and the letter are attached to this staff report as Exhibit A.

Maps and drawings that show the location of the property and the proposed project are attached as Exhibits B-F.

At the Planning Commission hearing, Ms. McDonald submitted a letter that explains her objections to the project. The letter is attached to this staff report as Exhibit G. A letter submitted at the Planning Commission hearing from Timothy Rowe, Charles Rowe, and Josephine Rowe that lists objections to the project is attached as Exhibit H.

At the Planning Commission hearing, the applicants submitted an email from Terry Shores, the current property owner (who could not be at the hearing) that explains the current use of the property. The email is attached as Exhibit I. At the hearing, the applicants also submitted a sound study done by Connie Hamilton, Council for Accreditation in Occupational Hearing Conservation (CAOHC). The study is attached as Exhibit J. An attachment to the letter explains that the sound study refers to Maier Roofing, but it really means the warehouse that is the subject of the application.

Also attached to this staff report are five letters received by the Planning Division in support of the proposed project. These letters were received either before the Planning Commission hearing or before the City Council hearing. All of this information is included with the staff report so the City Council will have an idea of what the issues have been up to this point in time.

PLANNING COMMISSION RECOMMENDATIONS

APPROVAL with CONDITIONS of this Modification to a Non-Conforming Use in an existing building to allow an automotive repair business. The conditions of approval are listed in this staff report.

APPROVAL with CONDITIONS of the Property Line Adjustment that would transfer approximately 0.4 acres of land from Linn County Assessor's Map No. 11S-3W-7AC, Tax Lot 102 to Tax Lot 104.

CITY COUNCIL DECISION

[Note to City Council: Choose the motion below that corresponds to the City Council decision.]

MOTION TO APPROVE WITH CONDITIONS

If the findings in the staff report adequately address the 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 applications for the Modification to a Non-Conforming Use and the Property Line Adjustment for property located at 1020 and 1110 Hill Street SE (Files MN-01-08 and LA-05-08). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO APPROVE WITH CONDITIONS AS MODIFIED

If the findings in the staff report are adequate, but information presented at the public hearing leads the City Council to conclude that additional condition(s) are necessary for the application to meet the review criteria, the City Council may include new conditions and approve the application.

I MOVE that the City Council APPROVE WITH CONDITIONS AS MODIFIED the applications for the Modification to a Non-Conforming Use and the Property Line Adjustment for property located at 1020 and 1110 Hill Street SE (Files MN-01-08 and LA-05-08). The modifications are ([SPECIFY MODIFICATIONS]). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO GRANT TENTATIVE APPROVAL WITH CONDITIONS

If new information is presented at the public hearing, and the City Council wishes staff to prepare additional findings that address the information, the City Council may grant tentative approval and direct staff to prepare findings. At the next meeting, the City Council would review the additional findings, and if they are satisfactory, approve the application based on the staff report, the new information, and the additional findings.

I MOVE that the City Council grant TENTATIVE APPROVAL WITH CONDITIONS the applications for the Modification to a Non-Conforming Use and the Property Line Adjustment for property located at 1020 and 1110

Hill Street SE (Files MN-01-08 and LA-05-08). I also MOVE that the City Council direct staff to prepare findings that address the new information presented at the public hearing for consideration at the next meeting.

OR

MOTION TO DENY

If the City Council finds that the applicant has not provided sufficient evidence to demonstrate that the review criteria have been met, or if they find the applicant has presented incorrect information, the City Council may deny the application.

I MOVE that the City Council DENY the applications for the Modification to a Non-Conforming Use and the Property Line Adjustment for property located at 1020 and 1110 Hill Street SE (Files MN-01-08 and LA-05-08). I also MOVE that the City Council direct staff to prepare findings to support denial based on the testimony presented at the public hearing and to present these findings for consideration at the next meeting.

APPEALS

Within five days of the City Council's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice.

A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final [ADC 1.520(6)]. The decision becomes final when it is reduced to writing and bears the necessary signatures of the decision makers.

STAFF ANALYSIS

File MN-01-08

Background

Albany Development Code (ADC) Section 2.390 explains that a Modification to a Non-Conforming Use is a Type II land use decision. ADC 1.350(2) explains that for Type II decisions, the Planning Division mails a Notice of Tentative Decision to property owners within 100 feet of the property where the Modification to a Non-Conforming Use is proposed. A property owner who receives notice may request a public hearing on the application if the owner believes that the conditions of approval do not adequately address the review criteria or alleviate adverse impacts on the neighborhood. A request for a public hearing must be submitted to the Planning Division within 10 days of the date the Notice of Tentative Decision is mailed.

On June 23, 2008, the Planning Division mailed a Notice of Tentative Decision on these applications. On July 2, 2008, we received a request for a public hearing from Charles, Josephine, and Timothy Rowe. The Rowes own property south of the property where the Modification to a Non-Conforming Use and Property Line Adjustment are proposed. A copy of the request for public hearing is attached to this staff report as Exhibit A.

Description of the Application

There is an existing industrial use on this property now. There have been a variety of industrial uses on this property for at least 30 years. The property was zoned for industrial use until 2003 when the City of Albany changed the zoning of the property from industrial to OP (Office Professional) as part of a periodic review of the zoning map. The long term objective is to establish offices used on the property that will be more consistent with the operations of the surrounding retail stores and offices.

The applicants for the change of use propose to locate an automotive repair business in the warehouse on the property. The warehouse has been used for storage of lumber and other merchandise. The City's Development Code allows a change in a non-conforming use if the review criteria below are met.

Review Criteria

The Albany Development Code (ADC) Section 2.400 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, conclusions, and conditions of approval where conditions of approval are necessary to meet the review criteria.

(1) The nonconforming situation was not created unlawfully.

FINDINGS OF FACT

1.1 This property was used for the manufacturing of plywood (Linn Plywood) until the early 1970s. At that time, a warehouse was built on the property for storage of lumber and plywood. Lumber and plywood was loaded onto rail boxcars on the adjacent rail siding.

In the early 1980's, the property was used by the Albany Planing Mill, which manufactured various lumber products that were shipped by truck and rail.

In 1994, outside storage of lumber products and shipping of lumber and plywood by rail was approved (File CU-03-94). A 2,800-square-foot cover for the loading and unloading area for rail cars was approved (File SP-116-93). The property was zoned HI (Heavy Industrial) at that time.

1.2 The zoning of this property was changed by the City of Albany in 2003 (File ZC-01-02) as part of a periodic review of the Zoning Map. The current zoning of the property is OP (Office Professional). The existing industrial use on the property became non-conforming at that time.

CONCLUSIONS

- 1.1 The present use of the property was approved in 1994.
 - 1.2 The nonconforming situation was not created unlawfully.
 - 1.3 This review criterion is met.
- (2) *With mitigation measures, there will be a net decrease in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as: (a) the hours of operation; (b) vehicle trips to the site and impact on surrounding on-street parking; (c) noise, vibration, dust, odor, fumes, glare, and smoke; (d) potential for increased litter; and (e) the amount, location, and nature of any outside displays, storage, or activities; and either (3) or (4) below.*

FINDINGS OF FACT

- 2.1 This property is currently used by Western Shores Plywood and Lumber, Inc. This business unloads lumber from rail cars and loads it on trucks. It also manufactures home decorating merchandise (plaques). The warehouse on the property is used for storage of lumber and merchandise.
 - 2.2 Hours of operation: When the existing use on the property was approved in 1994, the owner explained that the business operated from 7:00 a.m. to 9:00 p.m. The automotive repair business will operate from 8:00 p.m. to 5:00 p.m., Monday through Friday.
 - 2.3 Vehicle trips: In written information submitted with the application, the applicants explain that the current business averages 20 rail cars a month and 60 semi-trucks a month. Not all of the trucks access Hill Street. The proposed automotive repair business will not use any rail cars and will have only an occasional truck delivery, but no semi-trucks. Tow trucks will deliver cars to the business a few times a week.
 - 2.4 On-street parking: ADC 4.4.250, Table 2, shows that "motor vehicle repair" requires 1 off-street parking space for every 2 employees, plus 2 spaces for each service stall. The applicants say that they will have 6 employees and 10 service bays. A total of 23 parking spaces are required for the new business.
- The site plan shows that 11 parking spaces will be provided in front of the remodeled building and 14 spaces will be provided on the property along Hill Street for a total of 25 spaces.
- 2.5 ADC 9.120 includes parking area improvement standards. ADC 9.120(3) requires that all parking areas have a durable, dust-free surfacing of asphaltic concrete, cement concrete, or other materials approved by the Director of Public Works. The area that will be used as parking is already paved with concrete and patched with asphalt and has been used for parking and other uses in the past. The applicants say they may resurface the parking lot in the future.
 - 2.6 ADC 9.130, Table 1, shows required dimensions for parking spaces and aisles. The site plan shows that all parking spaces in the parking areas will be oriented at 90 degrees to vehicle travel aisles. The site plan shows 9-foot-wide spaces. Table 1 shows that 9-foot-wide spaces oriented at 90 degrees to vehicle travel aisles must be at least 18.5 feet in depth and that the vehicle travel aisle width must be 26 feet wide.

The site plan submitted with the application shows the vehicle travel aisle will be 24 feet wide. It appears that the aisle width can be widened to 26 feet if the parking area is expanded toward the existing building. There is extra space between the sidewalk in front of the remodeled building and the "open portico." The 24-foot aisle width is allowed if the parking spaces are made 10 feet wide.

ADC 9.120(6) requires that all parking stalls fronting a sidewalk, alleyway, street or property line have a secured wheel bumper not less than 6 inches in height nor less than 6 feet in length, to be set back from the front of the stall a minimum of 2-1/2 feet. ADC 9.130, Table 1, Note 5, says where appropriate bumper overhang area is provided (extruded curbs), spaces can be shortened by 3 feet. The site plan shows that curb will be provided along the front of the parking spaces. The spaces are shown to be 15.5 feet long.

The site plan shows that the parking along Hill Street will be set back from the front property line 10 feet. The 10 feet is the required setback and will be landscaped. The setback will provide appropriate bumper overhang area. (The existing concrete wall along Hill Street will be cut down to create the curb.)

ADC 9.120(6) says that if a sidewalk along the front of parking spaces is widened to 7 feet 6 inches to allow for vehicle encroachment, no wheel bumpers are required. The site plan shows that the sidewalk along the front of the remodeled building will be 7.5 feet wide.

2.7 ADC 9.120(13) requires bicycle parking as follows:

- (c) For commercial or office development -- at least 2 spaces, and 1 space for every 10 automobile spaces is required. Up to 2 motor-vehicle parking spaces may be deleted if additional sheltered bicycle parking is provided at a rate of 5 bicycle spaces to 1 motor-vehicle space.

The site plan does not show any bicycle parking. Two bicycle parking spaces are required. Bicycle parking spaces must meet the following standards:

- (e) Required spaces should be visible and not hidden, and must be located as near as possible to building entrances used by automobile occupants.
- (f) Each required bicycle parking space must have a parking rack securely fastened to the ground. Parking racks must support each bicycle at a minimum of two points, including at least one point on the frame, and must allow the frame and at least one wheel to be locked with a U-type lock.
- (g) Bicycle parking areas must provide at least 3 feet of clearance around all 3 sides of a fully-loaded bicycle rack and have an overhead clearance of at least 7 feet.
- (h) At least one-half of required bicycle parking spaces must be sheltered. Spaces must be protected from precipitation by a roof overhang or a separate roof at least 7 feet in height. Bicycle parking spaces within roofed buildings and bike lockers are considered sheltered spaces.

2.8 Parking Lot Landscaping. ADC 9.150 includes required landscaping standards for parking lots.

- (1) Planter Bays. Parking areas shall be divided into bays of not more than 12 parking spaces. Between or at the end of each parking bay there shall be curbed planters of at least 5 feet in width. Each planter shall contain 1 tree at least 10 feet high and decorative ground cover containing at least 2 shrubs for every 100 square feet of landscape area.

The site plan shows 14 spaces in the row of parking along Hill Street with a planter bay at each end. This row of parking must be broken up by providing one more planter bay, or the number of spaces in the row can be reduced to 12 spaces.

The site plan does not show the required planter bays at the ends of the rows of parking in front of the remodeled building.

A landscape plan was submitted with the application. The required trees are not shown in the planter bays.

- (2) Entryway Landscaping. Entryways into parking lots shall be bordered by a minimum 5-foot-wide landscape planter strip meeting the same landscaping provisions as for planter bays, except that no sight obscuring trees or shrubs are permitted.

The planter bay at the south end of the row of parking spaces along Hill Street will provide the required landscaping along the north side of the south entryway. The other side of the entryway is on a separate property.

- (3) Parking Space Buffers. Parking areas shall be separated from the exterior wall of a structure by pedestrian entrance ways or loading areas or by a 5-foot strip of landscaping materials.

The site plan shows that the parking area will be separated from the wall of the remodeled building by a sidewalk.

- 2.9 Noise, vibration, dust, odor, fumes, glare, and smoke: The current business uses rail cars, semi-trucks, and forklifts. The new business will not use any of this type of equipment.

- 2.10 Litter: The current use of the property is an industrial use. The proposed use is an automotive repair use. Industrial uses tend to generate more litter and be less inclined to keep a site clean than a more customer oriented business such as the auto repair business.

- 2.11 Amount, location, and nature of any outside displays, storage, or activities: As noted above, outside storage was approved for this property in 1994, and there has been outside storage of lumber and other materials on this site. The automotive repair business will have no outside storage, except the site plan shows a fenced area on the south side of the remodeled building will be used for vehicle storage. ADC 4.290(1) says that in OP zones, outside storage or display of materials, junk, parts, or merchandise is not permitted. The vehicle storage area is simply a place to park vehicles that have been towed to the business after hours. All of the cars that are being worked on will be kept inside the building.

- 2.12 Fences. ADC 4.310 includes the following standards for fences in commercial zoning districts.

- (3) Fences are limited to the height and locational standards listed below:

- (a) Fences may be up to eight (8) feet in height provided that the fence is located behind the required front yard planting area and outside of any vision clearance area.
(b) Fences more than six (6) feet in height require Building Permits.

- 2.13 Appearance of the new use or development: The applicants propose to make improvements to the site. The front of the warehouse building will be improved with a new facade, a new roof, and will be painted. New landscaping will also be provided.

Landscaping of Yards. ADC 4.270 says that front and interior setback yards, exclusive of accessways and other permitted intrusions, must be landscaped before occupancy. The minimum landscaping per 1000 square feet of required setback yard areas in all commercial zones is:

- (1) Five 5-gallon or eight 1-gallon shrubs, trees, perennials, or accent plants.
(2) The remaining area must be treated with living ground cover, lawn, or bark, rock, or other attractive ground cover.
(3) In addition, one tree at least six feet in height is required for every 30 feet of street frontage.

A landscape plan was submitted with the application. The plans do not show the required trees.

CONCLUSIONS

- 2.1 The hours of operation of the proposed automotive repair business will be fewer hours than the previous use.
- 2.2 The number of vehicle trips (especially trucks) to and from the site will be reduced with the new business.
- 2.3 Adequate off-street parking will be provided for the new business.
- 2.4 The front yard of this property and the new parking areas will be landscaped in accordance with Development Code requirements.
- 2.5 The amount of noise, dust, odor, and fumes will be reduced with the new use because of the reduction in the use of rail cars, semi-trucks, and forklifts.
- 2.6 The proposed fence must meet Development Code requirements.
- 2.7 With the mitigation measures included in the conditions of approval below, the new use will result in a net decrease in overall detrimental impacts over the impacts of the previous use or development on the surrounding area.

CONDITIONS

- 2.1 Before the new automotive repair business occupies the remodeled building, the site plan and landscape plan must be revised to show that the requirements below will be met. It is recommended that the site plan be revised before it is submitted with the building permit application so that there is no confusion about the configuration of new required concrete curbs, sidewalk, and landscaping later.
- 2.2 Required landscaping must be installed before the new business is occupied. If occupancy is requested between December 1 and March 1, landscaping may be deferred as allowed in ADC Section 9.190.
- 2.3 All required landscaped areas must be provided with a piped underground water supply irrigation system unless a licensed landscape architect or certified nurseryman submits written verification that the proposed plant materials do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit.
- 2.4 Front yard landscaping: The 10-foot-wide front yard setback along Hill Street shown on the site plan must be landscaped. The minimum landscaping per 1000 square feet of required setback yard areas in all commercial zones is:
 - (1) Five 5-gallon or eight 1-gallon shrubs, trees, perennials, or accent plants.
 - (2) The remaining area must be treated with living ground cover, lawn, or bark, rock, or other attractive ground cover.
 - (3) In addition, one tree at least six feet in height is required for every 30 feet of street frontage.

The landscape plan that was submitted with the application does not show the required trees.

- 2.5 Provide at least 23 off-street parking spaces generally as shown on the site plan that was submitted for review and approval, subject to the conditions listed below.
- 2.6 Parking lot design: ADC 9.130, Table 1, shows required dimensions for parking spaces and aisles. The site plan shows that all parking spaces in the parking areas will be oriented at 90 degrees to vehicle travel aisles. The site plan shows 9-foot-wide spaces. Table 1 shows that 9-foot-wide spaces oriented at 90

degrees to vehicle travel aisles must be at least 18.5 feet in depth and that the vehicle travel aisle width must be 26 feet wide.

The depth of the parking spaces can be reduced to 15.5 feet as shown on the site plan because bumper overhang area will be provided by the curb along Hill Street and by the 7.5-foot-wide sidewalk along the front of the remodeled building.

The site plan submitted with the application shows the vehicle travel aisle will be 24 feet wide. The aisle width must be 26 feet wide. It appears that the additional width can be gained by widening the parking area toward the existing building. There is extra space between the sidewalk in front of the remodeled building and the "open portico." Alternatively, if the parking spaces are made 10 feet wide, the aisle width can be 24 feet.

- 2.7 Parking lot landscaping: Parking areas must be divided into bays of not more than 12 parking spaces. Between or at the end of each parking bay there shall be curbed planters of at least 5 feet in width. Each planter must contain 1 tree at least 10 feet high and decorative ground cover containing at least 2 shrubs for every 100 square feet of landscape area.

The site plan shows 14 spaces in the row of parking along Hill Street with a planter bay at each end. This row or parking must be broken up by placing one more planter bay, or the number of spaces in the row can be reduced to 12 spaces.

The site plan does not show the required planter bays at the ends of the rows of parking in front of the remodeled building.

The landscape plan does not show the required trees in the planter bays.

- 2.8 Bicycle parking: At least two bicycle parking spaces must be provided. The spaces must meet the following requirements.

- (e) Required spaces should be visible and not hidden, and must be located as near as possible to building entrances used by automobile occupants.
- (f) Each required bicycle parking space must have a parking rack securely fastened to the ground. Parking racks must support each bicycle at a minimum of two points, including at least one point on the frame, and must allow the frame and at least one wheel to be locked with a U-type lock.
- (g) Bicycle parking areas must provide at least 3 feet of clearance around all 3 sides of a fully-loaded bicycle rack and have an overhead clearance of at least 7 feet.
- (h) At least one-half of required bicycle parking spaces must be sheltered. Spaces must be protected from precipitation by a roof overhang or a separate roof at least 7 feet in height. Bicycle parking spaces within roofed buildings and bike lockers are considered sheltered spaces.

- 2.9 Outside storage: Outside storage or display of materials, junk, parts, or merchandise is not permitted in this OP zone. The vehicle storage area shown on the south side of the building is allowed because it is simply a place to park vehicles that have been towed to the business after hours. All of the cars that are being worked on must be stored inside the building.

- 2.10 Fences: ADC 4.310 includes the following standards for fences in commercial zoning districts.

- (3) Fences are limited to the height and locational standards listed below:
 - (a) Fences may be up to eight (8) feet in height provided that the fence is located behind the required front yard planting area and outside of any vision clearance area.
 - (b) Fences more than six (6) feet in height require Building Permits.

- (3) *If the nonconforming use is in a residential zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the area. This is based on taking into account factors such as: (a) building scale, placement, and façade; (b) parking area placement; (c) buffering and the potential loss of privacy to abutting residential uses; and (d) lighting and signs.*

FINDING OF FACT

- 3.1 The non-conforming use is in a commercial zone, not a residential zone.

CONCLUSION

- 3.1 This review criterion is not applicable.

- (4) *If the nonconforming use is in a commercial or industrial zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.*

FINDING OF FACT

- 4.1 The applicants propose to remodel the existing warehouse on the property. The applicants propose to make improvements to the site as described under Review Criterion (2) above. The front of the warehouse will be improved with a new facade, a new roof, and will be painted. New landscaping will also be provided.

CONCLUSIONS

- 4.1 The proposed changes to the site will improve the appearance of the property, and will not detract from the desired function and character of the zone.
- 4.2 This review criterion will be met when the following conditions are met.

CONDITION

- 4.1 The front of the existing warehouse building must be improved with a new façade substantially as shown on the building elevation drawings submitted with the application.

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STAFF ANALYSIS

File LA-05-08

Description of the Application

The proposed property line adjustment would transfer approximately 0.4 acres of land from Linn County Tax Assessor's Map 11S-3W-7AC; Tax Lot 102 to Tax Lot 104. After the Property Line Adjustment, Tax Lot 104 will be approximately 1.0 acres and Tax Lot 102 will be approximately 0.6 acres.

Review Criteria

Albany Development Code (ADC) Section 11.120 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, and conditions of approval where conditions of approval are necessary to meet the review criteria.

(1) The property line adjustment does not create a new lot or a land-locked parcel.

FINDINGS OF FACT

- 1.1 Two parcels are involved in the property line adjustment. The two parcels are shown on Linn County Tax Assessor's Map 11S-3W-7AC as Tax Lots 102 and 104. Both parcels currently use an existing driveway to Hill Street.
- 1.2 The applicants should provide a joint use access and maintenance easement for the two parcels on the driveway to Hill Street. The City cannot require this as a condition of approval because the situation already exists, but it will be recommended in the conditions below.

CONCLUSIONS

- 1.1 A new lot or land-locked parcel will not be created by the property line adjustment.
- 1.2 This review criterion is met. The conditions below are recommendations.

CONDITIONS

- 1.1 It is recommended that a joint use access and maintenance easement for the two parcels be provided for the two parcels involved in the property line adjustment (Linn County Tax Assessor's Map 11S-3W-7AC as Tax Lots 102 and 104). The easement and maintenance agreement would be on the existing access to Hill Street. Tax Lot 102 also needs access across Tax Lot 104.
 - 1.2 It is recommended that the joint use access and maintenance easement include the property where the office building is located (Tax Lot 103) because it also shares the existing driveway.
 - 1.3 Parking spaces for Tax Lot 103 appear to be located partly on Tax Lot 104. An easement for the parking should be provided.
- (2) The adjusted properties are not reduced below the minimum dimensions of the zoning district and do not otherwise violate standards of the Albany Development Code, or the Structural Specialty Code.*

FINDINGS OF FACT

- 2.1 ADC 4.090, Table 1, shows that there is no minimum lot size or dimensions for lots in OP zoning districts.

- 2.2 The property line that will be adjusted currently runs through the existing warehouse building on the property. This creates a situation where required setbacks from the property line in terms of the Development Code and Structural Specialty Code are not met. The property line adjustment will move the property line to the north, resulting in compliance with the setbacks required in the codes.

CONCLUSIONS

- 2.1 The property line adjustment will not reduce the two properties below the minimum dimensions of the zoning district and will bring the setback of the existing building from the property line into conformance with the Albany Development Code and Structural Specialty Code.
- 2.2 This review criterion is met.
- (3) *The adjusted properties are in compliance with any adopted transportation, public facilities, or neighborhood plan.*

FINDINGS OF FACT

- 3.1 The City has transportation and utility master plans for the entire city. There are no specific plans for this area.
- 3.2 The City's Development Code generally requires that development be connected to the public water and sewer systems and that access to the public street system be provided. The existing development on the property is connected to the public water and sewer systems, and has access to Hill Street. It is recommended above that easements be provided to assure access.

CONCLUSION

- 3.1 This review criterion is met.
- (4) *The adjusted properties comply with any previous requirements or conditions imposed by a review body.*

FINDING OF FACT

- 4.1 New conditions of approval supersede any previous conditions of approval for this property.

CONCLUSION

- 4.1 This review criterion is not applicable.

Attachments: Exhibits A-K

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COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
P.O. Box 490
333 Broadalbin Street SW
Albany, OR 97321
Phone (541) 917-7550 Fax (541) 917-7598
www.cityofalbany.net

Notice of Appeal

The undersigned, who believe they have standing to appeal, hereby request consideration by the

City Council
(name of Board/Commission, or City Council)

of a decision made on July 21, 2008 (date)

by the Albany Planning Commission
(Community Development Director, Hearings Board, Planning Commission, Landmarks Advisory Commission)

relating to a request for MODIFICATION TO NONCONFORMING (case file name and number) MN-01-08
pertaining to Tax Lot(s) No.(s) 104 on Assessor's Map No.(s) 11S-3W-7AC 1110 Hill St PE

I am/we are appealing this decision because of the following defect(s) in the hearing process and/or interpretation of the criteria set forth in the Albany Development Code sections which are applicable to the previously stated land use request (Attach your findings of fact): INACCURATE REVIEW

DOCUMENTATION. DECISION SHOULD HAVE BEEN BASED ON
CURRENT USAGE OF PROPERTY NOT USAGE OVER 8 YEARS AGO

I (we) understand that a hearing will be set for this appeal and I (we) will be present at that time to answer questions regarding this appeal.

Name Marianne McDonald Name _____
Address 4856 LANCASTER DR NEAPT 145 Address _____
Salem, OREGON
Signature Marianne McDonald Signature _____
Date 7-25-08 Date _____

TO BE FILLED OUT BY STAFF

RECEIVED

Case No. (Same as application request) _____

Filing Fee: (Fees subject to change every July 1)

JUL 25 2008

- Request for Public Hearing \$750*
- ~~Appeal to City Council \$750~~
- Appeal to Planning Commission \$250
- Appeal to Hearings Officer \$300 deposit/max \$500

BUILDING DIVISION

*The fee for a public hearing on a tentative decision shall be paid by the applicant, not the person requesting the hearing.

Date Filed: 7/25/08 Fee Paid: \$750.00

Receipt No.: R99035454 Received By: gicw

Revised 07/01/2008

Notice of appeal to notice of decision granted July 21, 2008 on File MN-01-08

This decision was based on information provided by Timothy and Paula Connaghan on behalf of Terry Shores, property owner.

It was stated in a letter from Terry Shores that the property has been leased to Stafford Reload and the Plaque factory and by using the facility for Crabtree Automotive there would be no significant change from the current use and if fact would have a reduction in operating hours and traffic patterns.

Stafford Reload has been operating from property owned by Great Northern Railroad since 1999. In fact in 2000 Terry Shores blocked the only access to his operation by placing a forklift across the only opening. The plaque factory has contributed no appreciable noise or traffic during its operation. In fact the property has mostly been used for an occasional truck parking by a private party that lives in the neighborhood and parked his truck there until it got to be such a nuisance because it was getting broken into on a regular basis.

I lived at 1140 Hill Street which adjoins the property on the south side and own the rental at 915 12th SE which adjoins the property in question to Madison Street. From 1999 until January 2007 there was minimal activity at 1110 Hill Street and seemed to consist from my viewpoint to involve a watchman living on the property. In fact I had reported to the city of Albany police department of suspicious activity a couple of times.

I also heard the applicant state that they would be removing the cement loading dock which belongs to the railroad. From comments they made during the hearing I feel they have not really looked at their property lines. Even though the railroad has removed a portion of tracks close to Hill Street they have not given up right-of-way. They also still use the tracks for the storage of box cars approximately once a week. The railroad does contribute to some noise when they bring in the boxcars but are generally not more than a few minutes and there is a minimum of noise.

The planning commission did state in the hearing that they had not inspected the property. I feel that an inspection would have immediately disqualified this property from being considered to be changed from Office Professional designation which it has held since 2003 to usage that will be detrimental to the residential neighborhood which it adjoins and will also create an attractive nuisance to the criminal element.

The applicant also stated that the noise level would be between 70 and 74 decibels and the city ordinances only allow for 55 decibels in a residential neighborhood

Currently there is a maximum of two vehicles at that location and three outside bins containing pieces of wood. The blackberry bushes surround the back side of the property and it is impossible to drive a vehicle around the building. Landscaping would be an improvement and should be completed by the property owner no matter whether the

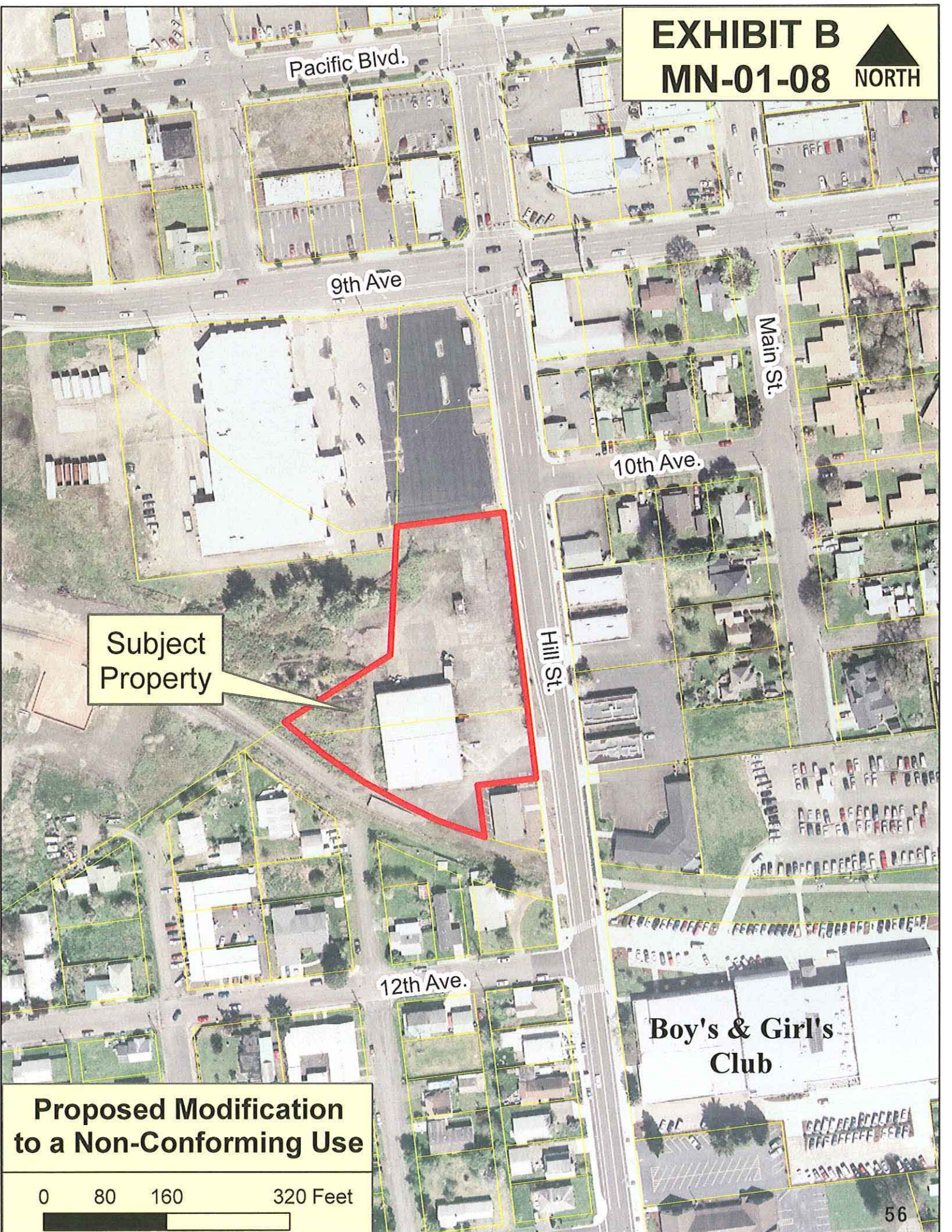
modification happens or the current Office Professional zoning is retained. I have provided pictures at the planning commission hearing showing the building in relation to the actual reloading operation occurring off of 9th street by Stafford Reload, Inc. I can provide additional pictures showing current daily activity at 1110 Hill Street and documentation from Stafford Reload, Inc. as to the fact they are not currently and have not leased from Terry Shores in the past 8 years.

I would also like to request that my filing fee be refunded because I feel that the planning commission fact finding was incomplete and inaccurate. I also wish to note that the staff report was not provided on the City of Albany website as stated in the notice of public hearing dated July 11, 2008.

Again, I propose that the request for change from Office Professional zoning to non-conforming be denied based on the existing usage of the property and the residential nature of adjoining properties. I feel that an automotive shop with 10 bays and an estimated 70-74 decibels of noise would be detrimental to the existing office building at 1120 Hill Street and the nearby residents

EXHIBIT B

MN-01-08



Pacific Blvd.

9th Ave

Main St.

10th Ave.

Hill St.

Subject Property

12th Ave.

Boy's & Girl's Club

Proposed Modification to a Non-Conforming Use

0 80 160 320 Feet



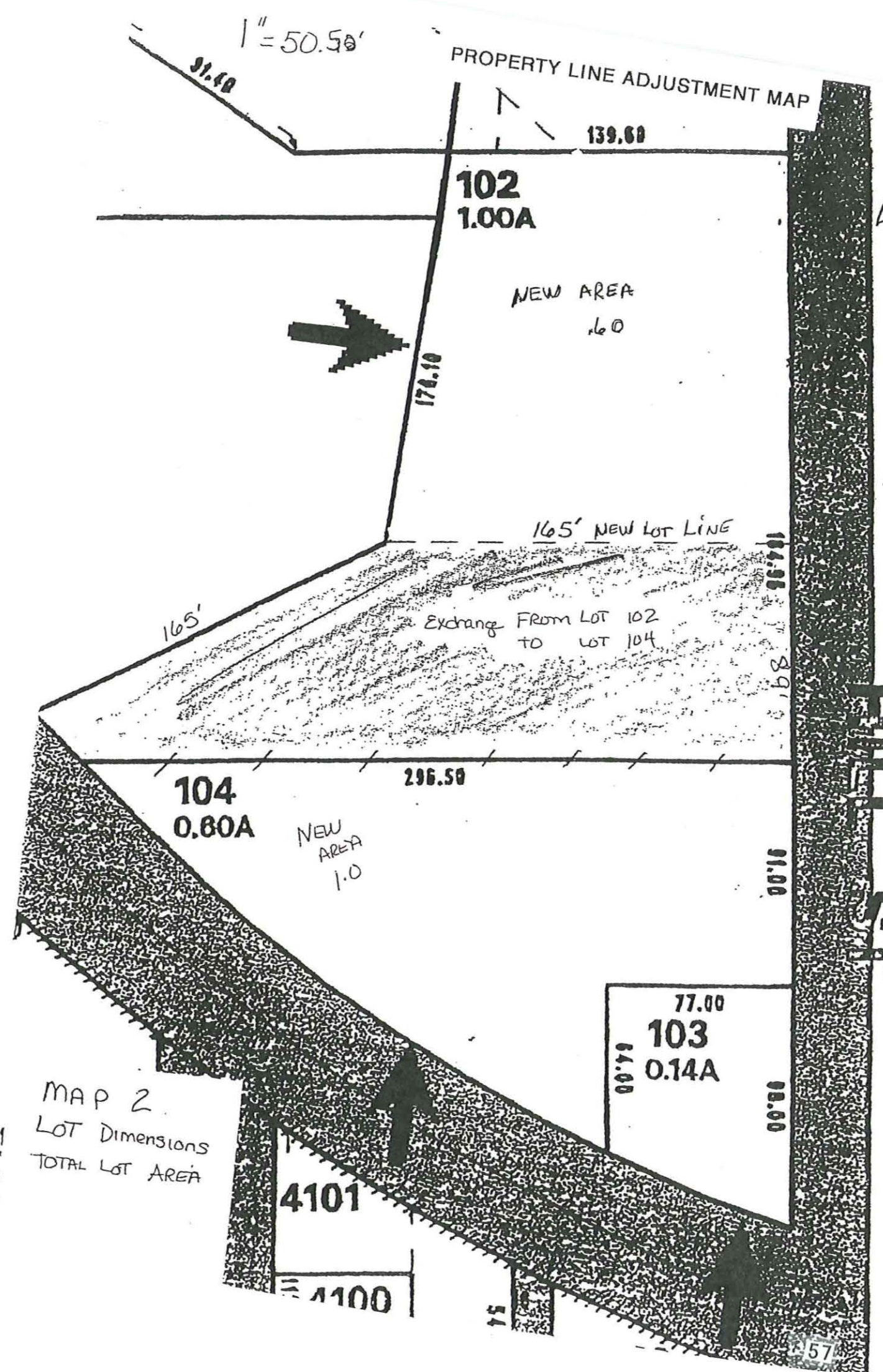
PROPERTY LINE ADJUSTMENT MAP

EXHIBIT C



Linn County map

1" = 50.50'



102
1.00A

NEW AREA
.60

165' NEW LOT LINE

Exchange From Lot 102
to Lot 104

104
0.80A

NEW AREA
1.0

77.00
103
0.14A

4101

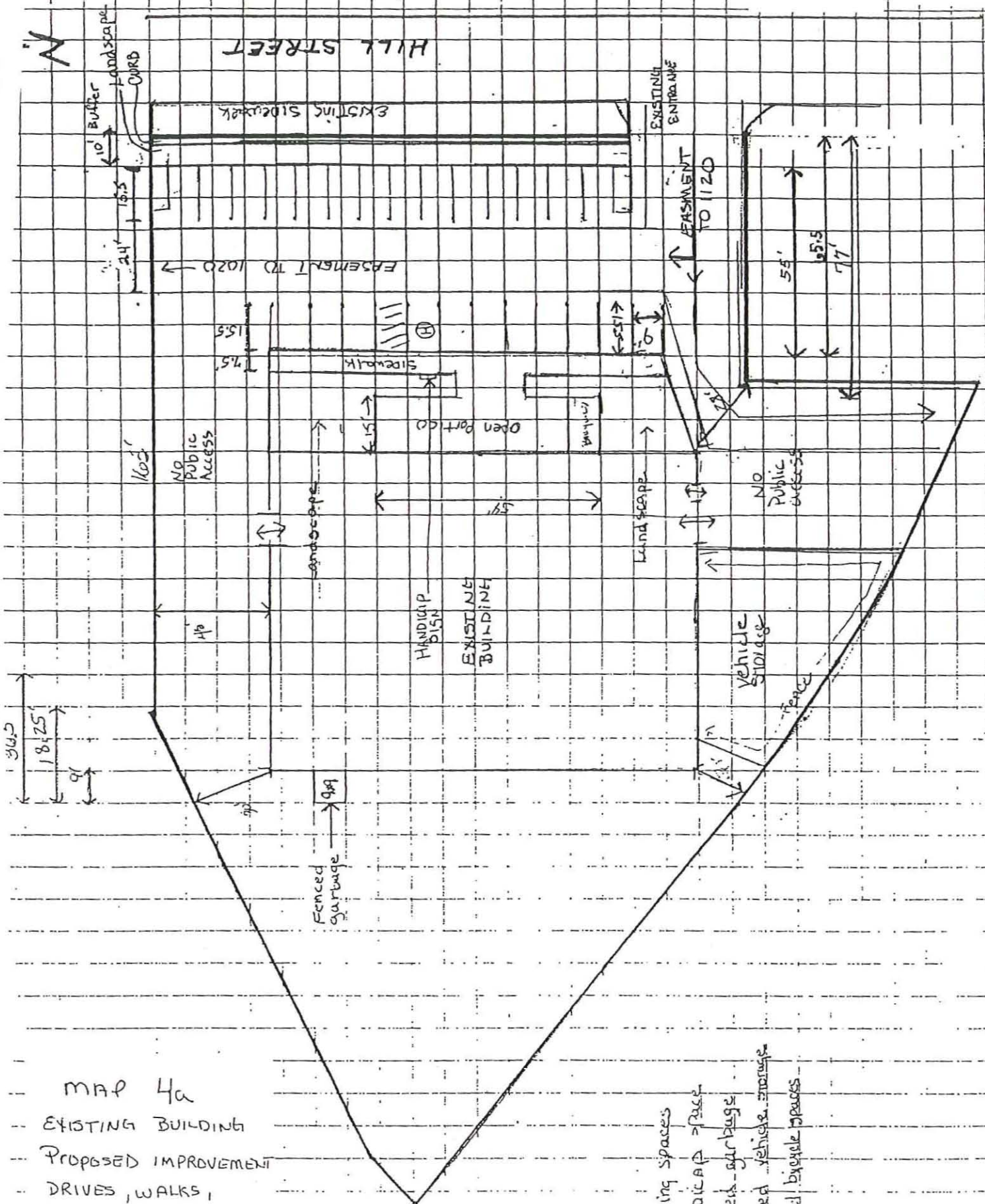
4100

11th St

SEE MAP

MAP 2
LOT DIMENSIONS
TOTAL LOT AREA

57

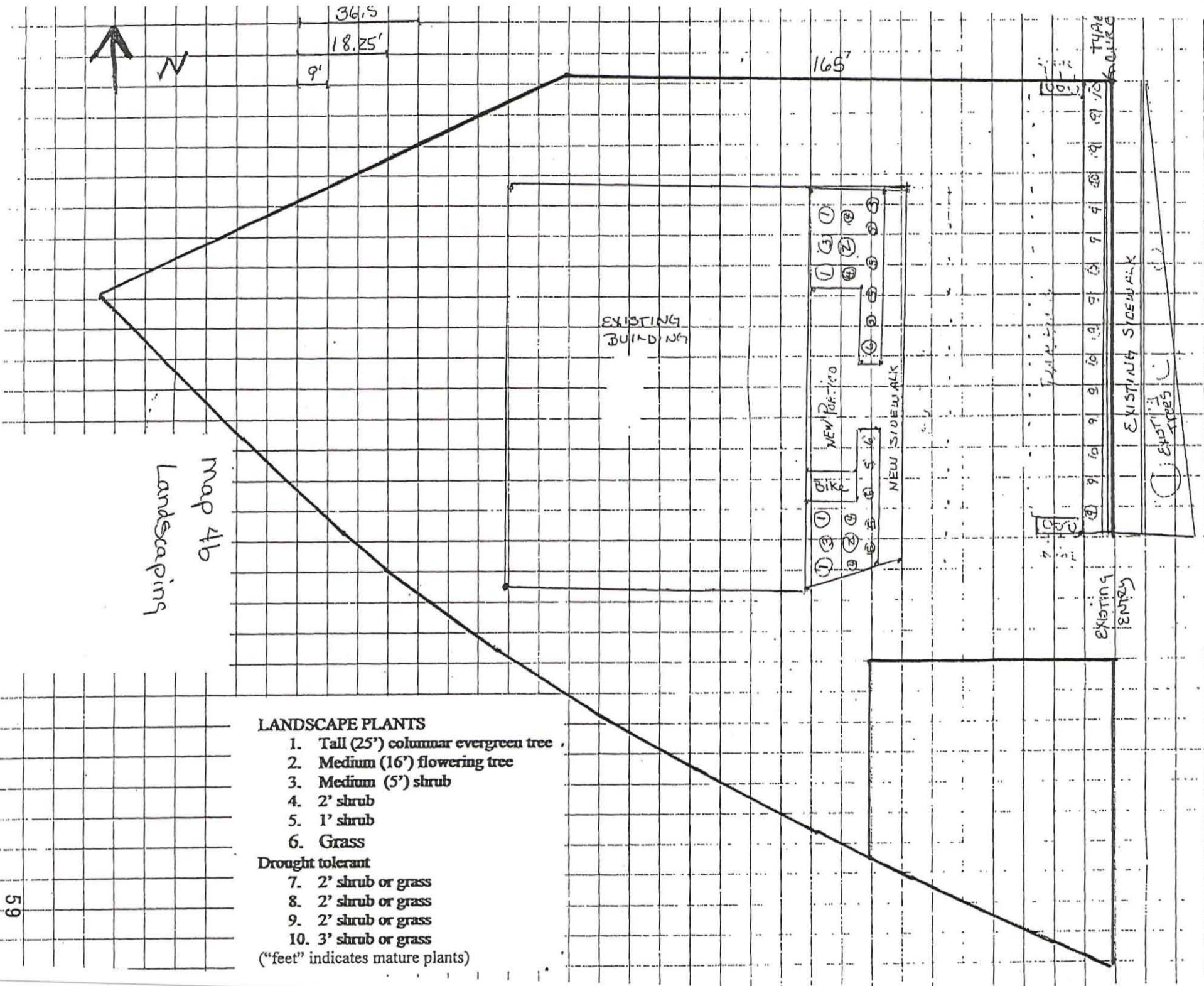


MAP 4a

- EXISTING BUILDING
- PROPOSED IMPROVEMENT
- DRIVES, WALKS,
- PATIOS, GARAGE,
- PARKING, AFTER HOURS
- VEHICLE PARKING

24 Parking spaces

1. HANDICAP space
- (1) Fenced garage
1. Fenced vehicle storage
3. covered bicycle spaces



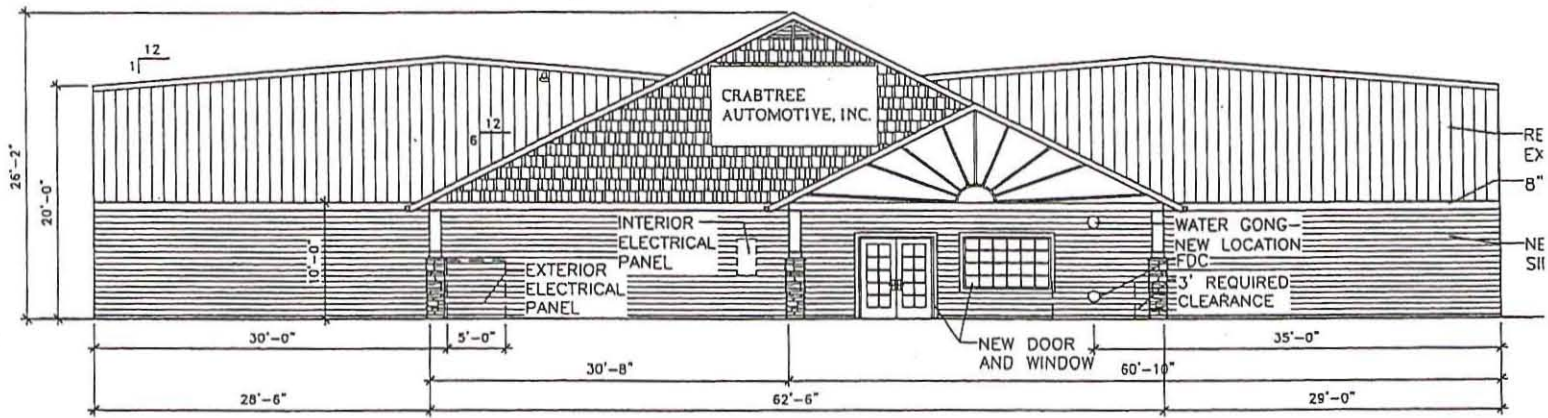
Map 4b
Landscaping

LANDSCAPE PLANTS

- 1. Tall (25') columnar evergreen tree
 - 2. Medium (16') flowering tree
 - 3. Medium (5') shrub
 - 4. 2' shrub
 - 5. 1' shrub
 - 6. Grass
 - Drought tolerant**
 - 7. 2' shrub or grass
 - 8. 2' shrub or grass
 - 9. 2' shrub or grass
 - 10. 3' shrub or grass
- ("feet" indicates mature plants)

1333 ST
11/14

LANDSCAPE PLAN
EXHIBIT E



FRONT ELEVATION

SCALE: 3/32" = 1'-0"

BUILDING DIVISION

JUN 19 2008

RECEIVED

July 20, 2008

Planning Commission
Application MN-01-08
Tax Lot 104

My parents lived at 1140 Hill Street from 1954 until they passed away. I returned to live in their home in 1999 until I sold it in 2007. I own the property at 915 SE 12th and have owned it since the 1970's.
1984

The current use is non-conforming since 1994 and has not been used for Stafford Reloading for several years. For at least the last 3 or so years the building has been used minimally and there has been no activity on the south side of the building except criminal activity by transients, jail releases' and neighborhood delinquents.

I am concerned for myself and my neighbors regarding the air, noise and water quality that will be generated. I am also concerned for cost to the city for investigating these items on an ongoing basis.

I feel that the land use zoning for office professional is a valid zoning as evidenced by the businesses across the street and the new construction that has been generated there. The city has recently upgraded Hill Street which is designated as a residential street and not a major arterial. I feel that the traffic needed to maintain an automotive repair shop would be similar to the traffic on East Queen and is not appropriate for a residential street.

I am concerned about the environmental impact of this business on our sewers and storm drains from runoff. I am concerned regarding the noise levels of air hammers, jacks, sanders and other heavy equipment on the neighborhood.

I am concerned about the storage of vehicles on this property with the high incidence of crime providing an attractive nuisance to the criminal element. I have been burglarized twice in the last 4 years and my neighbors have also been victimized and the trouble came from the railroad track side of our houses.

In the application there were several facts listed that were erroneous and I am concerned about what other information provided to the planning commission was incorrect. I am referring to 2.3 Findings of Fact - vehicle trips. 20 rail cars a month and 60 semi-trucks a month. It has been several years since semi trucks used that property. Stafford reloading moved to leased railroad property next to the jail. The railroad tore up the tracks just west of Madison to Hill Street but still uses the tracks from Madison South and will continue to use these as they are theirs. They use them about 1 night a week to park box cars for a few days. They further stated in 2.5 Conclusions that the amount of noise, dust, odor, and fumes will be reduced. There is currently no noise, dust, odor or fumes to be reduced. It also states in 1.1 Findings of Fact that the "property was used for the

manufacturing plywood (Linn Plywood) until the early 1970's." Since that property burned down in the ~~1960's~~¹⁹⁵⁹ and I was there that statement is incorrect.

In conclusion, I and my neighbors feel that this is not a good use for this property and because the property was non-conforming in 1994 does not justify it being non-conforming in 2008. I also feel that it would mean that tax lot 102 is being given the same non-conforming status and would lead to all of the above concerns in the future only doubled. This property was rezoned in 2003 as part of a periodic review of the Zoning Map to office professional by the city of Albany and I feel that decision was the correct and appropriate one.

Thank you for your time and interest


Marianne McDonald

July 21, 2008

To whom it may concern:

There are 5 things I feel need to be addressed with Crabtree Automotive, Inc. occupying the building on tax lots 102 and 104 on Hill Street.

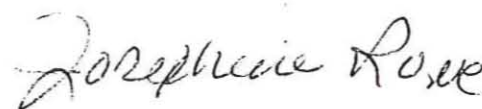
1. Noise, water and fumes coming from the building. The noise will be heard by residents because it is 140 to 180 feet from the homes in the neighborhood. This measurement is taken from door on the south side of the warehouse. There are 2 homes in the neighborhood which use wells and I am concerned they will be poluted. Will that be monitored? Fumes vented from the building will blow towards the houses because of the wind pattern.
2. Traffic concerns. There will be an increased number of vehicles on Hill Street which will cause more congestion around the Boys and Girls Club.
3. Fencing around the property to control transients and people released from the jail. At Home Furniture and all but one home have fences around their property to keep transients out. I think this property should be fenced also.
4. Change of code for the propery. I feel the code should stay as office professional rather than change to industrial use or automotive repair. There other areas in the city with the proper code for this business.
5. Property use in the past. There have not been semi trucks and fork lifts used at the property for the last 8 years. Therefore, the new business will increase the noise and traffic in the area. The railroad currently uses the rails up to and past the loading dock on a daily basis to store railroad cars. The noise is minimal now because it is seldom used. The lumber is no longer being loaded at this site.



Timothy Rowe



Charles Rowe



Josephine Rowe

Paula Connaghan

From: Terry Shores [shoresenterprises@msn.com]
Sent: Monday, July 21, 2008 10:06 AM
To: paula@crabtreeautorepair.com
Cc: plaquefactory@qwestoffice.net
Subject: business conducted at 1110-1120 Hill St SE

July 21, 2008

To whom it may concern:

My name is Terry Shores. I have owned the property at 1110-1120 SE Hill street since 1984. We have manufactured wall plaques inside the building. Part of the process of the manufacturing is cutting the wood, which

we do outside and routing of the wood on a cnc router inside the building. We receive and make shipments daily.

This includes semi trucks delivering loads of wood, resin, glue etc. We also wholesale plywood. To do this we ship

some direct from our suppliers and some we bring in by semi-truck for storage and then reload out again. We have

been doing this for over 20 years and continue doing this to this day.

Sincerely,

Terry Shores

July 11, 2008

To: Paula Connaghan

RE: Sound levels at Crabtree Automotive

On July 11, 2008 a sound level study was conducted at the current location for Crabtree Automotive and the proposed new location.

Testing occurred at 1300 hours in the afternoon. The weather was sunny, 76° F, wind calm, pressure 29.85 inches and 34% humidity.

An Extech hand held sound meter model 407736 was used to conduct the monitoring. The meter was set at "A" scale slow response. The meter had both pre and post calibration completed. Each was within the expected range.

The current location for Crabtree Automotive is 845 29th SW, Albany, OR. The business is set behind an adjoining business off Pacific Blvd. The building is a 5,000 square foot metal building with an office. All bays were being used as the mechanics were busy working on various automobiles. A large fan was set up just inside the north door.

The sound level readings inside the shop were 69 dB. At the south door the readings were 69 dB. The decibel reading increased to 74 dB at the door with the use of an impact wrench. At a distance of 85 feet from the open south door the reading was 70 dB with the impact wrench in use. The reading at 85 feet from the south door without the use of the impact wrench was 70 dB.

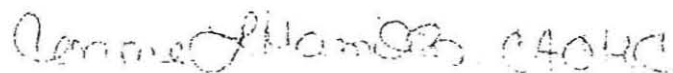
A sound study was also conducted at the proposed new business location located at 1110 Hill St., Albany, OR. The building is an 11,000 square foot metal building with a high ceiling and an office inside. The current business resident is Maier Roofing. There are train tracks on the south side of the building that are used to unload lumber via fork lift for the current business. There is also a large door that is located on the south side that deliveries are made to. Saws and various tools are used by the current business.

The sound level reading inside the Maier Roofing business was 69 dB without machinery/tools being operated. The baseline reading outside the business on the south side with the door shut standing on the railroad tracks 85 feet away from the business was 67 dB. When a truck arrived to make a delivery the sound level at the train tracks to the south was 74 dB. Adding the saws running and the door open on the south side the reading remained at 74 dB.

There is resident located to the south: light blue house with a yard and trees. The house is located approximately another 35 feet from the rail road tracks.

The proposed new business of Crabtree Automotive is a quieter business than the current occupant, Maier Roofing. The noise levels should be reduced in the neighborhood as the new business will not be using the train for deliveries and their business is quieter under normal operating conditions. In my opinion the sound levels in the neighborhood should not be affected negatively by the new business. The business noise will be less.

Thank you for the opportunity to evaluate the sound levels at both locations.



Connie Hamilton, CAOHC
(541) 971-1476

Council for Accreditation in Occupational Hearing Conservation (CAOHC)

Note:

You will note that Ms Hamilton referred to the business in the building as Maier Roofing. Ms. Hamilton was confused by the sign on the street. The sign advertises Maier Roofing in the building next door to 1110 Hill Street. She states the address of the warehouse was obviously at the correct building doing the testing as there are no other buildings on that property that would have fit the description.

At Home FURNITURE AND MATTRESSES

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930 Hill Street S.E. • Albany, Oregon 97322

RECEIVED

JUL 10 2008

BUILDING DIVISION



CATHY & KENT WILSON

July 8, 2008

Community Development Department
City Hall
Albany, Oregon 97321

Attention: Don Donovan

Re: 1020 and 1110 Hill Street SE

Don:

I'm writing to inform you that I am not opposed to the change of use submitted for the property at 1020 and 1110 Hill Street SE.

We have been here for 5 years and an improvement in the property adjacent to ours would be welcome!

The above property has been suffering from neglect and based upon the proposal I have seen the change of use would be a positive change.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kent J. Wilson". The signature is fluid and cursive.

Kent J. Wilson, Pres.



RHODES WARDEN INSURANCE AGENCY, INC.

Lebanon: (541) 258-2131 • fax (541) 451-1718

Albany: (541) 967-8062 • fax (541) 967-4169

City of Albany Community Development Dept
Attn: Don Donavan
PO Box 490
Albany, OR 97321

Re: Connaghan
File # MN-01-08
1120 Hill Street

Mr. Donavan,

I apologize for the tardiness of our input on the above Non-Conforming Use permit.

I am the owner of the insurance office located at 1129 Hill St. I feel very comfortable with the issuing of the Non-Conforming Permit for the Connaghan's Automotive Repair Shop. This would be a welcome neighbor to our facility. The property at 1120 Hill St has been vacant and a habitat for individuals that are a hazard to the area.

Once again we fully support the above occupancy.

Sincerely,

Ronald L. Baker
Owner at 1129 Hill St.

Ronald L. Baker
President

Ronald T. Passmore, CIC
Vice President

Michael G. Patterson
Secretary



Planning Commissioners
City Of Albany Community Development Department
Attention: Don Donovan
PO Box 490
Albany Or 97321
541-917-7550

RE: File # MN-01-08

I, *ALVA D. ANDERSEN*
Angie Andersen support the decision of the Albany
Community Development Department to modify a Non-Conforming Use to
allow a change from an industrial use to an automotive repair business at
1110 Hill Street Albany OR 97321

I believe that the conditions of approval adequately address the review
criteria or alleviate adverse impacts on the neighborhood.

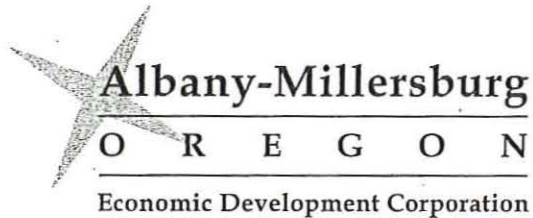
Sincerely,

Alva D. Andersen
Angie Andersen

RECEIVED

JUL 25 2008

BUILDING DIVISION



Willamette Valley's Business Hub: Where Land, Labor, and Livability Abound

City of Albany
City Council

July 31, 2008

Dear Council Members,

Re: Crabtree Automotive – Modification for Non-Conforming Use

I am writing this letter to support Crabtree Automotive's application to use the property on Hill Street for their auto repair business.

The upgrade to the property that will occur due to their acquisition, remodeling and site improvements will only enhance and add value to the area. The property is in the CARA district.

I can't imagine an auto repair shop making more noise than an active rail yard and reload facility, or more than the existing business operating there, the Plaque Factory, and like that business, all of their operations will be conducted inside the building.

Contrary to statements made by others, the reload facility is as active as ever in that location due to rising fuel costs, rail for freight is growing. In my recent conversations with UP Railroad over the reload property, they told me they have no intention of giving up that property for another use. As of today, there were rail cars parked there and lumber being loaded. With the housing slump, activity is down but will pick up again.

I think an auto repair shop is a good use of that property, which was an industrial area from the beginnings of Albany's history and will remain on the fringes of a rail yard for many years to come, despite the zone change in 2003. This business helps keep a good buffer between the rail yard and other uses.

With a poor economy and the extra stress placed on business owners we should do all we can to support local business, especially those that want to expand.

Thank you for your support.

Sincerely,

A handwritten signature in black ink, appearing to read "John Pascone", written over a horizontal line.

John Pascone
President



August 1, 2008

Albany City Council
PO Box 490
Albany OR 97321

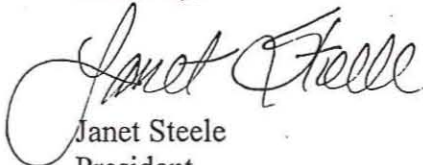
Dear Albany City Council,

This letter is in support of the Planning Commissions approval of Crabtree Automotives application for modification to an existing non-conforming use at 1110 Hill St. As I am sure you know the Plaque Factory, Stafford Reload, and Union Pacific have been adjoining properties for many years and have co-existed well with each other and the surrounding neighborhood through out that time. With the purchase of the Plaque Factory property Crabtree Automotive will actually be upgrading the building and property to further enhance this area.

Under Crabtree Automotives application they will to do noise abatement that includes insulating the building, placing their bays in the back of the building and landscape screening. In addition they plan to landscape the front yard and parking lot and add a new front façade on the warehouse. All of these will improve the current noise level on the property while also making it ascetically more pleasing.

Crabtree Automotive has a long history of being a quality business in Albany. They pride themselves on not only offering outstanding service but on being clean, neat and organized. Their purchase of the Hill Street property will help them continue to serve the people of our community and their plans to upgrade the building and grounds will serve that area well. We hope you will agree with your Planning Commission and approve their application.

Sincerely,


Janet Steele
President





TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Ed Hodney, Director of Parks and Recreation
DATE: August 6, 2008, for the August 13, 2008 City Council Meeting
SUBJECT: Adoption of Resolution for Kinder Park Grant and Appropriations
RELATES TO STRATEGIC PLAN THEME: ● Great Neighborhoods
RELATES TO: ● Master plans.

Action Requested:

Adopt a Resolution accepting a Local Government Grant from the Oregon Parks and Recreation Department to develop a new neighborhood park on Oak Street, appropriating funds and authorizing the Parks and Recreation Director to sign the grant agreement and related documents.

Discussion:

By Resolution No. 5412, the City Council authorized an application to the Local Government Grant Program, administered by the Oregon Parks and Recreation Department (OPRD), for the design and construction of a new park on Oak Street. The grant was awarded in 2007, subject to a gift of the park site to the City by the Boys and Girls Club of Albany. The land was deeded to the City in March 2008 after the Council accepted the land donation by Resolution No. 5579 (3-12-08).

The OPRD has now authorized the City to move forward with the project, subject to the execution of the grant agreement. The proposed Resolution would authorize the Parks and Recreation Director to sign the grant agreement and related documents.

The City Council is also asked to make appropriations to the revenue and expenditure accounts related to this project, as detailed in the Resolution.

Budget Impact:

Both resources and expenditures will be increased in the FY 2008-09 budget for Fund 203 (Grants Fund) by \$848,000. The total includes the \$480,000 grant, \$218,000 in cash from the Boys and Girls Club, and \$150,000 from the Parks SDC program. Corresponding adjustments will be made in Fund 202-35-1500 (Parks and Recreation—Parks SDC program).

Attachment: Resolution

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT TO DEVELOP A NEW NEIGHBORHOOD PARK ON OAK STREET, APPROPRIATING FUNDS, AND AUTHORIZING THE PARKS AND RECREATION DIRECTOR TO SIGN THE GRANT AGREEMENT AND RELATED DOCUMENTS.

WHEREAS, the Albany City Council adopted Resolution No. 5412 which authorized the City to apply for a \$480,000 grant from the Local Government Grant Program to develop a new park on Oak Street; and

WHEREAS, the City has been awarded this grant in the requested amount; and

WHEREAS, matching funds for this project are required totaling \$848,000 in land value and in cash; and

WHEREAS, the acceptance of this grant award will pay for design and construction expenses to establish this new park; and

WHEREAS, Oregon Local Budget Law provides that expenditures in the year of receipt of grants, gifts, bequests or devices transferred to the local government in trust for a specific purpose may be made after enactment of a resolution or ordinance authorizing the expenditure (ORS 294.326(3)).

NOW, THEREFORE, BE IT RESOLVED that the City of Albany accepts this Local Government Grant in the amount of \$480,000; and the following appropriations be made for the Fiscal Year 2008-2009.

		<u>Debit</u>	<u>Credit</u>
Resources			
203-35-5053-42403	State of Oregon	\$480,000	
203-35-5053-49039	From Parks SDC Program	\$150,000	
203-35-5053-46100	Gifts and Donations	\$218,000	
Requirements			
203-35-5053-72018	Oak Street Park Development		\$848,000
202-35-1500-91203	To Grants Fund		\$150,000
202-35-1500-90012	Reserve: Capital Projects	\$150,000	

DATED THIS 13TH DAY OF AUGUST, 2008.

Mayor

ATTEST:

City Clerk

JOINT WORK SESSION
of
LINN COUNTY COMMISSIONERS
and
CITY COUNCIL

Willamette Room
Monday, June 23, 2008
4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Dan Bedore called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Councilors Ralph Reid Jr., Floyd Collins, Bessie Johnson, Dick Olsen, and Sharon Konopa

Linn County staff present: Commissioners John Lindsey, Roger Nyquist, and Cliff Wooten and County Administrative Officer Ralph Wyatt

Absent: Councilor Jeff Christman

PLEDGE OF ALLEGIENCE

INTRODUCTIONS

Linn County Commissioner Chair Roger Nyquist introduced Commissioners John Lindsey, and Cliff Wooten and County Administrative Officer Ralph Wyatt.

Bedore introduced himself. Councilors Ralph Reid Jr., Floyd Collins, Bessie Johnson, Dick Olsen, and Sharon Konopa introduced themselves.

BUSINESS FROM THE PUBLIC

There was no business from the public.

REPORTS

Bedore said that this meeting is an opportunity for the Commissioners and the Council to update each other on items of mutual interest.

Stockley Van Camp- Pepsi (SVC)

City Manager Wes Hare thanked Linn County for being a partner in this project. He said the City has a contract with SVC to build a plant in our community which will provide a minimum of 200 family wage jobs. The City's obligation is to build the infrastructure necessary to accommodate the plant. After the contract was signed SVC asked for a delay due to a change in market conditions. An extension was granted with the condition of a \$710,000 annual payment for each year of delay as well as a \$200,000 one-time fee for expenses. In the meantime the City has had legal battles with property owner Larry Epping over the urban renewal district and with Workers For a Livable Oregon over union issues. Hare said that tomorrow staff is meeting with these two parties to see if mediation can resolve the differences peacefully and less expensively. Regardless of the result, the City still has a contract with SVC to proceed. It is not a question of if we will complete our end of the contract, but a question of how. The design for the infrastructure is essentially complete and the City is proceeding with condemnation for properties necessary for roadway construction. We should be building the infrastructure next year. We want to be in a position to fill our end of the contract at the same time that SVC is ready to fill theirs. Gatorade reported a six percent gain in sales, which is encouraging.

Hare said the Pepsi CEO was interviewed in the *Costco Connection*, June 2008, Volume 23 Number 6, in an article titled "Performance with a Purpose". The CEO has been pushing PepsiCo to be an international leader in environmental issues. Hare said staff saw this value play out in negotiations because they refused to compromise on methods of waste disposal. PepsiCo is also striving for Platinum LEEDS Certification, which is the highest certification possible. Hare said this is the first time he has heard of a plant of their size pursuing this certification. By 2010 PepsiCo will be working towards a higher degree of healthier products.

Nyquist said Linn County's attorney will attend the meeting tomorrow. They are committed to addressing the issue remanded back from the Land Use Board of Appeals (LUBA), should it come to that. He thinks they can do it in a fairly timely manner. With the 8-12 percent downturn in the housing market over last year, the jobs the SVC facility would create are important to Linn County. Nyquist said, we are committed to doing whatever it takes. He was concerned when SVC decided to locate here because of the transportation costs and it likely has increased with the price of fuel. He is advocating for submission of the Connect Oregon 3 Project. The legislature will likely

come out with more funding packages. We need to do what we can to get rail access, not just for PepsiCo but for other industries as well. Nyquist thanked Reid for his work on transportation issues and for advocating for the left hand turn on Queen Avenue and Springhill Road/North Albany Road.

Hare said that City staff meets each Wednesday to discuss the progress of the SVC project. They take it very seriously and try to analyze each obstacle as it arises.

Nyquist asked, what happens if in 2010 SVC decides the market does not allow them to build at all? City Attorney Jim Delapoe said that practically, they will come back and ask for an additional extension. Their first request turned out to be a blessing because it has given the City more time to work through the appeals and if we had not had that extra time, the City would be hard pressed to meet our infrastructure deadlines. Delapoe said if they do not build, then we would negotiate mutually satisfying terms. The contract addresses what they owe in terms of revenues if they do not build. However, we are not aware of anytime SVC reneged on local governments. He thinks it would be difficult for their future plant development if they do not fulfill the promises they made to Albany. Delapoe said, we think we are as well protected as we can be.

Delapoe said, even though we will be in mediation tomorrow, nothing will be signed without Council approval. Ironically, Delapoe explained, all parties involved have the same interest; everyone wants industrial development and urban renewal, but the details of how to make it happen will need to be worked out.

Collins asked, is PepsiCo proceeding with the wetlands mitigation? Hare said yes; they were here a few weeks ago to finalize that transaction.

Impact of loss of timber receipts

Nyquist referred to an article in *The Oregonian* which reported a loss of \$3 million to the General Fund for timber receipts. Linn County went through the process of tightening their budget in anticipation of lost timber receipts a year ago and as a result laid off employees, but then the money actually did come through. This time it appears the money will not come through at all. The process is dysfunctional. Department Heads are preparing budgets with eight percent reductions and a ten percent reduction in the General Fund. Nyquist said, we have known of the revenue loss for some time so we think we can manage this year and it should not have catastrophic impact on any services. The Senate has not yet voted on the House bill, but the House and the Administration have agreed on the bill. They are at a point where if they don't get funding, it negatively impacts the military. It is not likely the Senate will change the House version.

Lindsey said the Senate has approved the bill a couple of times but when it goes to the House, it changes. A couple of committee chairs are opposed to timber receipts. This is the last emergency funding package. There is another that will be voted on by the end of the summer, but it is not a package.

Nyquist said it will impact Linn County's relationship with the City in terms of road maintenance.

Collins asked, what would revenues be if the National Forest land was converted back to private ownership? Discussion followed.

Lindsey explained the payment-in-lieu-of tax scheme. This year it was \$90,000, which was an all-time record high. It is time for the federal government to pay taxes.

Reid commended Linn County for their past budgeting of the monies and for providing services they currently have on a continuing basis.

Nyquist said they will be eliminating 14 jobs at the Road Department through transfers, and there are nine more jobs to go. But most of what they do is overlay and asphalt which may not make up the \$7 million.

Olsen asked, how much asphalt does the county lay? Linn County Commissioner Ralph Wyatt said, probably \$1-2 million in overlay and new construction. The amount they can complete this year will be less because of the increased price of oil. The Road Department is aimed at maintenance and repair; most of the overlay is contract work.

Regional transportation issues

Nyquist said he and Reid are on the Council West Area Commission on Transportation. He thinks they have been successful in making sure the expansion of I-5 and improved interchanges in Benton, Linn, and Lincoln Counties are a priorities. We need to have a plan completed so Representative Peter DeFazio has a project to promote. The route from the river to Highway 34 and the interchanges was \$120-125 million 2-3 years ago; it is probably more now. Albany is challenged with southbound I-5 exits.

Olsen asked, how much did Linn County pay to make the freeway three lanes wide? Nyquist said he thinks they paid \$1 million so far. It is a federal highway so it is federally funded. By the time transportation packages get to Washington DC for consideration, whether we have local money or not doesn't seem to matter - what matters is who has collected the right political chips at the right time.

Nyquist asked, does the City have any regional transportation issues on the radar that Linn County should know about? Bedore said, we are looking for a better coordination of mass transit to areas such as Lebanon to Philomath. Reid said a bus is on order now which will operate with the existing Linn-Benton Loop to provide transportation into the City of Lebanon and to provide more frequent trips into Albany and Corvallis.

Lindsey left the meeting at 4:40 p.m.

Nyquist asked, can a brokerage be used? Reid said no; we can only do medical transportation through a brokerage. They are trying to get Department of Human Services and ODOT to work together on transportation funding for the developmentally disabled. They have also been discussing transportation into Lebanon and Corvallis with Good Samaritan Hospital.

Reid said, we are operating an inner-city bus system as individuals - not as a district. We work under intergovernmental agreements (IGAs) and participate financially. Usually transit is funded by property tax. Hare said in Eugene, payroll taxes fund transit. He thinks Albany is rare because we use our state sharing revenues to support transit. Others have districts or do not have service at all.

Johnson asked, what is the status of the bike path between Lebanon and Albany? Given the increase in fuel, she thinks people may start using their bikes. Nyquist said building a bike path is almost as expensive as building a road. Halsey built a bike path for \$400,000-500,000, and it can't be more than five miles long. Hare said Albany is working with Corvallis and Benton County on the engineering aspect of a bike path to run alongside the railroad. The engineering piece is being paid for with a state grant.

Health Care Availability

Nyquist said Linn County has been assessing medical health in Albany. Doctors are not accepting new patients, so new Albany residents are being referred to Corvallis or Lebanon. It has been this way for years now. Nyquist thinks this will have a huge impact 10-20 years out. This phenomenon is happening in other cities as well. Konopa said she too has heard complaints.

Home on Del Rio

Nyquist said the most important thing we accomplished is to show that local government cares about our neighborhoods and we stick up for our citizens. Shangri-La is remodeling and upgrading the Del Rio house. The neighbors have asked for all the terms in writing. The neighbors are not satisfied yet so the remodel dollars are not being passed to Shangri-La. This all needs to be resolved in the next few weeks or we will have to operate with state oversight instead of Linn County oversight. Nyquist's observation is that the industry could use some motivation to improve their business practices. Linn County will participate when a legislative package comes forward. We have had the only success in the state to prevent forensic patients from locating here. The state master plans calls for a reduction of 30 percent in current facilities for these patients. They will build a facility in Junction City but part of that plan is to move folks back into the communities they came from as soon as they determine they are ready to be released. In other states they still have regional facilities, but Oregon doesn't have the capacity. Federal court decisions mandate that the patients must have the least intrusive amount of care. They do not differentiate between those who committed criminal acts and those who did not. There are more rural environments on the outskirts of the city that would be better for the patients and for their neighbors. He doesn't think the Del Rio site is going to be therapeutic because they will not be welcome there. Collins said that when he asked about the criteria for finding a location, officials told him that it was wherever they could find a house that was in walking distance to shopping. Nyquist said proximity to shopping is the reason they do not agree with the rural model.

Bedore said he toured a secure facility today in Woodburn. It is right at the city limits, is rural, zoned commercial, and needed a conditional use permit. They appear to have no issues with the neighbors. They had community meetings before locating and gained approval from the Planning Commission for a conditional use permit. Bedore talked to the staff and patients and it seems to be a very successful site. They are on a system of graduated privileges starting at zero and progressing to part time work, taking classes, and bike rides. They have limited mass transit in Woodburn but because the program is subsidized, they can call for a cab. Patients are tracked by a GPS and staff is sent out to verify they are where they say. If they have extended leave privileges, then they are drug tested. In the two years they have been running they have had no failures. Two patients were sent back to the hospital and some left voluntarily. Bedore supports the League of Oregon Cities' agenda to confer ahead of time and participate in locating appropriate sites. Discussion followed about how many beds warrants a conditional use permit or outright allowance. Bedore said he thought the Psychiatric Security Review Board seemed to be conservative in the privileges they allow. Nyquist pointed out that that could change as the number to institutions increases. Their goal is to stabilize medication and little by little, patients earn privileges which leads to more independence and eventually, freedom.

Cats

Nyquist thinks the City and Linn County are on the right track with the program they are participating in to allow an accelerated rate of spaying and neutering. It is already showing results. Konopa said her vet said the program seems to be making a positive impact, because they are seeing fewer cats being dumped.

Wooten said last year, they spayed/neutered about 1,000 cats and this year they plan to do the same. He thanked the City for their participation in the program.

Parking in Downtown

Bedore said the Central Albany Revitalization Agency (CARA) is discussing a parking structure and wondered if Linn County wants to participate. Wooten said they are still negotiating property for a parking lot but the negotiations are at a standstill. The property has three owners which complicates the matter. Discussion followed.

Nyquist said Linn County experiences parking shortages when there is a big trial or jury duty. Hare said parking structures are incredibly expensive and if CARA revenue is able to be used, it will still be several more years before construction. He sees no short-term solutions.

Homelessness

Nyquist said he and Konopa are co-chairing a committee that has a ten-year plan to reduce homelessness. They hope to have a draft of the plan completed by August. The issues are complex. He struggles with how much is the local governments' fair share to contribute; the "if you build it, they will come" philosophy; and how to pay for operations even if a facility could be built. Konopa said a good portion of the plan is to identify the services and programs that already exist, and how to strengthen them. Once there is a plan in place, then nonprofits can seek grant funding. They plan to discuss the plan with the public in the fall and in January will count the number of homeless. They are building on the program started by HEART.

Nyquist discussed the incident whereby Helping Hands took in transients infected with tuberculosis. Konopa said Helping Hands is moving in a positive direction to manage cases.

BUSINESS FROM THE COUNCIL AND THE BOARD

Hare said the "Big Look" on the website documents meetings with stakeholders, including Oregonians In Action, regarding land use issues. The recommendations are to simplify land use laws but to not lose any of the gains that have been made over the last few years. Hare asked the Council to review and complete the on-line survey. They will be doing public outreach in the fall and will be identifying four guiding principles for why we do land use in Oregon.

Olsen asked, can we advocate or improve service by Amtrak? Nyquist said that locally, Amtrak's biggest obstacle to keeping the schedule is the Eugene rail yard. He thinks those issues are being resolved now. He believes our best role is to know our rail projects and to continue advocating for them on the state level.

RECESS TO EXECUTIVE SESSION TO DISCUSS CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2) (h)

The work session recessed to Executive Session at 5:46 p.m.

RECONVENE

The work session reconvened at 6:10 p.m.

Olsen asked for an update about the fence that will run alongside the river as part of the RCM Homes development. He was concerned that there would be no access to the river. The fence will specifically be on the south edge of their property, north of the rail road tracks, running approximately from Main Street west to Madison. Originally Hill Street was supposed to remain open for pedestrian access to the river, but then ODOT Rail said that we need to close as many crossings as possible, even to pedestrians.

The Council discussed the closing on the Archibald property.

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:13 p.m.

Respectfully submitted,

Mary A. Dibble, CMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

CITY OF ALBANY
 CITY COUNCIL (WORK SESSION)
 Council Chambers
 Monday, July 7, 2008
 4:00 p.m.

MINUTES

CALL TO ORDER

Mayor Dan Bedore called the meeting to order at 4:00 p.m.

ROLL CALL

Councilors present: Councilors Floyd Collins, Ralph Reid Jr., Jeff Christman, Bessie Johnson, Dick Olsen, and Sharon Konopa

Councilors absent: None.

BUSINESS FROM THE PUBLIC

Tom Cordier, 2240 Park Terrace, wished to speak. He said he read Allied Waste Industries, Inc. (AWI) annual report and the Plastic Bag Fact sheet in the agenda packet. Six months ago he thought the Council asked AWI for information on what it would take to collect plastic film separately, but all he saw in the report is that their trucks are not set up to do it. To him, that does not seem like a good-faith effort to see what it would take to set it up. He spoke to Chris Thomas from a company that is the downstream company of AWI Clackamas, who said he has seen a large increase in non recyclable material arriving in the new tan-colored commingled bins, which increases the amount of material that they have to pull out. Cordier said that according to Thomas, this is not unusual whenever a change similar to this is made. Cordier said, on one hand, we went through a rate increase but on the other hand, those costs will come back to haunt someone because someone will have to pay for it. Cordier said AWI told him that when the downstream processor pulls the plastics from the waste stream, it automatically goes to the landfill, but Thomas said that is not true; they remove it and recycle it as best they can.

Regarding the issue of community training and awareness, Cordier read from an advertisement by AWI in the newspaper about how to be a "conscientious consumer." Item 1 is to "think of the new recycle carts as a not-so-subtle suggestion." The article goes on to say that customers in Albany and Lebanon will get carts in April to replace the commingled blue bins. Everything but glass and oil goes into the cart. It has greater capacity. Cordier called AWI's public relations staff, Julie Jackson, and asked her to restate the phrase but according to Cordier, she would not even admit that what she said is not true. He submits that AWI has not really looked at what it would take to outfit a truck to pick up plastic film at the same time the glass and oil are being picked up. In a January 1, 2008, *Democrat-Herald* article Hasso Hering encouraged AWI to pursue finding out what it would take to remove plastics, just like Cordier asked. Thomas said he got bales of plastic from AWI and they both assumed it came from the recycle center. There is no way to differentiate AWI's waste stream from the others. Cordier said if he was giving this report, he would report how much plastic was processed separately.

ALLIED WASTE SEMI-ANNUAL REPORT

Operations Manager Kevin Hines introduced himself and General Manager Carol Dian. AWI's report includes historical rate increases and landfill rates; information about how the company started, how it has grown, what they do, and where it is headed; and fact sheets on plastic bags and the new auto commingle recycling. Hines explained that the facility AWI uses, which is the same one Cordier talked to, does not allow AWI to send plastic bags to them commingled. Picking up plastic bags curbside would be a step backwards from AWI's goal to eventually accept glass in the commingled cart. If they were to allow plastic bags to be picked up along with glass now, it would only be short term; then once glass was allowed in the cart, they would still have to pick up plastic bags. AWI's goal is to pick up as efficiently as possible and to make it easy on the customers by not forcing them to separate everything out. Hines is sure there must be a way to have the trucks modified, but in the long term it would be a step backwards in efficiency. Also, the bags only make up about .03 percent of what ends up in the landfill.

Plastic bags can be recycled at local grocery stores or at AWI drop sites, so there are recycling solutions available.

Dian said there is less than two percent of waste from the bins. On a grand scale, given the volume and number of people participating in the program who are doing it correctly, it really is a small issue. AWI's budget had well over \$10,000 allocated for advertising and promotion materials. Dian described the materials. She said, it is unfortunate Cordier selected one sentence from one article; yes, the sentence could have been restructured and clarified, but overall the material was a good effort to educate.

Hines said AWI put a container at the Recycle Depot for plastic film in April and as of July, they had picked up 900 pounds of plastic. It takes about 1,200 pounds to make a bale, or about every four months.

Councilor Jeff Christman really likes the program. He asked when will the glass be able to be commingled? Hines said it is delayed due to a political issue with the Department of Environmental Quality (DEQ) because of concerns that shattered glass may become imbedded in material to be used for newspaper. Hines is confident they can make it a "green" process, but it will take time.

Christman asked can AWI place plastic bag collection points throughout the community? Hines said yes, but the location and whose property it is on is key to its success. For example, there was a recycle depot for rural customers at a school, but it was not patrolled so it became a dumping ground for all types of garbage. Finding a good location, obtaining property owner permission to put it there, and finding staff collection points is the challenge.

Councilor Floyd Collins thanked AWI for their support during the Hackleman neighborhood clean-up event.

Collins thinks plastic bag recycling options should be at the forefront of AWI's newsletter.

Councilor Ralph Reid asked if a third party is taking time to manually separate items in the next step of the program, will the rates increase again? Dian said some of the additional contamination cost is offset by the increased volume of recyclable material: for example, paper is valuable. Although, if fuel continues to increase, rates may become an issue.

Councilor Sharon Konopa said she is a strong advocate for recycling, but the new commingle cart is so large that she can't get by it to get to her car in her garage. She still uses her blue bins. Also, she does not like the look of neighborhoods that are full of garbage cans – potentially three at each house. When they are brand new they look alright but soon they will be unattractive and faded. She prefers the blue bins.

Konopa asked, since stores can obviously find buyers for their bales of plastic bags, how come AWI can't? Dian agreed there is a market for the bags, but the problem is there is not a market for sorting the waste stream to pull the bags out.

Konopa asked, why not have plastic bags picked up on the same days that glass is picked up? Dian said that each time the program becomes easier and more efficient for the customer, participation and volume increase. The goal is single stream recycling. Having to pull certain items out or pick up separately is a step backwards from a single recycle stream.

City Manager Wes Hare asked is there material that should be recycled that is not? Dian said drivers have a camera that shows the actual dumping into the truck. They have reported seeing paper and cardboard going in the garbage rather than being recycled even though it has been recyclable for a long time. If the driver notices he will let the office know and AWI will send that customer information.

Councilor Dick Olsen asked, how many commingled carts are there? Dian said, about 22,000 carts service about 26,000 customers (including carts at apartment buildings).

GANG ACTIVITY IN ALBANY

Police Officer Ken Fandrem introduced himself.

Bedore noted that he saw Fandrem give his presentation at a parent-teacher conference and he did a great job.

Fandrem said that in early 1990 he was an Explorer with Albany. Since then gang activity, shootings, and stabbings have increased. As a young Explorer he made a connection with the gangs, and in fact a skinhead gang tried to recruit him. Fandrem would pass on the tips he got from gang members to the Police Officers. He continued as an Explorer through college, and then went to work for the Marion County Juvenile System where he wrote a treatment plan for gang recovery. Currently, he is one of two School Resource Officers for Albany. He has been in his current position for five years.

Fandrem noted that historically gangs were most active at the adolescent levels, but now he sees recruitment occurring even at the elementary level.

Fandrem gave a PowerPoint presentation (see agenda file).

Konopa is glad a Gang Task Force has been established. She would like to get periodic updates on their work.

Konopa commented that in the last legislative session, the Beaverton Police Department attempted to pass legislation that would hold parents responsible for graffiti. Fandrem said that is true in Albany as well, because parents are liable for the activities of minors. Some agencies require that consumers must sign documentation in order to purchase spray paint. Discussion followed.

Fandrem said in the fight against gangs, enforcement by itself does not work. We have to change the way they think. Gangs are often formed in prison and gang affiliation is a family affair.

Bedore asked, what illegal activities other than tagging are occurring in Albany? Fandrem said gangs are involved in weapons trade, assaults, and all kinds of drugs.

The Council discussed the graffiti abatement program that worked well for awhile when tagging was heavy in Albany but has since fallen off the radar. Tagging is becoming prevalent again and the volunteer base for the program needs to be rebuilt now.

Collins said that other cities have ordinances requiring phone and electric companies to remove graffiti on their property within 48 hours. Discussion about Albany franchises followed.

Collins asked, from a policy level, how can the Council help? Discussion followed. Fandrem said a new position has the graffiti program listed as part of their responsibility.

The Council discussed gang activity at Monteith Park during the day and during concert events.

Konopa asked Fandrem if he sees himself as a mentor to the kids. Fandrem described his experience and how he has learned to differentiate his roles. The gangs do have a great deal of respect for him because of the relationships he has built over time.

Olsen asked if teachers get the same respect from the kids that Fandrem gets. Fandrem said yes, it can happen, but it is a lot harder for the teachers. For a lot of these gang kids, intimidation will not work because if the teacher confronts the kids, they will take the challenge head on.

Reid asked, do you need more school resource officers? Fandrem said they have three now. Ideally they would like one for every middle school and high school, though that is not likely. The three officers each have unique skill sets that make the program successful. Greater Albany Public Schools pays for a portion of the program.

Fandrem said he will be meeting with Benton County. They use a resource model rather than an enforcement model like Albany does. Benton County has gangs although their activity is less than Albany's.

The Council asked for periodic updates from Fandrem about the program.

COUNCILOR COMMENTS

Collins said he attended the Timber Carnival and got feedback that Konopa's presentation on July 4 was good. Olsen agreed and said it was a nice event.

Konopa commended the Timber Carnival volunteers. It took a lot of work and brought back a lot of memories for her. It is nice to see Timber Linn Park being used for the event. She commended the Parks & Recreation Department for their excellent maintenance of the park.

Collins said folks also thanked the City for supporting the fireworks event.

Konopa noticed a condemnation in the *Democrat-Herald*, but she did not recognize the property owner's name. She wasn't aware there were condemnation proceedings currently underway. Hare will look into it.

Konopa said she is disappointed that the Albany Chamber of Commerce (ACC) is hosting the Council Orientation event. Who should host was a divisive issue a few years ago and she would have appreciated it if it had come to the Council first. Bedore clarified that his response to the ACC was that to his knowledge, the City was not initiating an orientation event and if they did, it seemed it would be a duplication of ACC's efforts. He does not think ACC will be discussing their agenda, but rather just sharing information.

CITY MANAGER REPORT

Hare said that there is an article in tonight's *Democrat-Herald* which analyzes the City's budget over the past years. He noted there are some corrections that must be made to the article regarding increases to wages. Staff has notified the paper of the corrections and they will make them, but Hare cautioned the Council that they will likely get calls from constituents before the corrections are printed. Staff discussed the specific questions, the answers given, and how the information was misconstrued in the article.

ADJOURNMENT

There being no other business, the Work Session adjourned at 5:57 p.m.

Respectfully submitted,

Mary A. Dibble, CMC
Deputy City Clerk

Reviewed by,

Stewart Taylor
Finance Director

CITY OF ALBANY
 CITY COUNCIL
 Council Chambers
 Wednesday, July 9, 2008
 7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Sharon Konopa, Ralph Reid, Jr., Floyd Collins, Dick Olsen, Bessie Johnson, and Jeff Christman

SCHEDULED BUSINESS

Business from the Public

Bill Root, 2634 Valley View Drive NW, explained that the North Albany Neighborhood Association (NANA) is one year old and he invited the Council to a potluck picnic on July 26, from 3:00 p.m. to 4:00 p.m., at North Albany Park, to celebrate.

Mark Azevedo, 1210 Skyline Drive NW, said it was a thoughtful and interesting process regarding the Fairview school parking lot at the Planning Commission meeting. Everybody was trying to do the right thing for the school but not at the expense of old growth trees. He was pleased with the process. He mentioned reading about the Willamette Development Services lawsuit issues and the legal problems with those investors. He was thankful that Councilor Konopa stepped up to inform the City and Council regarding their money issues before the City loaned them money for development. City Manager Wes Hare added that the City does exercise quite a bit of diligence on the loans, like background checks, etc. before presenting them to the Council for consideration.

Marylou Ludlow, a North Albany resident, commented that she felt that downtown merchants were being treated unfairly, in particular the renter of the old Sears building. She also mentioned that she thought the person renovating that building wasn't adhering to historical architecture. Bedore responded that the City is overseeing the historical area with the participation of the Landmarks Advisory Commission.

Adoption of Resolution

Authorizing special procurement of landscape architecture and engineering services for Kinder Park improvements.

Parks & Recreation Director Ed Hodney said this method of procurement of consultant services will be best for the City in order to move the park as quickly as possible into construction.

Councilor Christman asked if the services would include major features. Hodney said that it would be mostly surface construction.

Councilor Reid asked if it would leave Oak Street an unimproved street. Hodney said that staff recognizes that there needs to be development in the area. They would like Oak Street improved some time soon. In the mean time, they need to do the park. The Public Works department is committed to providing an overlay of the street until a decision has been made for improvements.

MOTION: Councilor Collins moved to adopt the resolution authorizing special procurement of landscape architecture and engineering services for Kinder Park improvements. Christman seconded the motion and it passed 6-0, and was designated Resolution No. 5633.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) May 28, 2008, City Council Meeting
- 2) Approving a liquor license for Burton's Catering, LLC, 3700 Knox Butte Road NE.
- 3) Accepting a Linn County Victim Impact Panel grant. RES. NO. 5634
- 4) Authorizing the Police Department to apply for and accept the Oregon Department of Transportation Electronic Field Data Collection Grant (E-ticketing). RES. NO. 5635

Councilor Johnson asked that items 1) and 4) be removed for discussion.

MOTION: Konopa moved to adopt the Consent Calendar with items 1a) and 4) removed for discussion. Reid seconded the motion and it passed 6-0.

Johnson said, regarding item 1), that on page 14, where it said she provided a map, she had also mentioned that when the City gets a developer wanting to build or divide, it would be nice if the Council got maps like the one she provided that day. They are more detailed with information the Council can use when making a decision.

Regarding item 4), Johnson asked for more information regarding the Electronic Field Data Collection. Police Chief Ed Boyd explained that Advanced Public Safety is the vendor providing all the hardware, software, project management, maintenance, and training. The eight Intermec handheld devices and four printers will supplement the current equipment. The equipment populates traffic information on a handheld device at the scene. They can then access the information later for reports, surveys, etc. There is a maintenance clause with normal upgrades.

MOTION: Johnson moved to adopt items 1) and 4) of the Consent Calendar. Reid seconded the motion and it passed 6-0.

Award of Bid

BR-09-01, Third Avenue Bridge (Bryant Park).

Assistant Public Works Director/City Engineer Mark Shepard said the Bryant Park Bridge links Third Avenue to Bryant Drive and Bryant Park over the Calapooia River. It is rotting and structurally in bad shape. Bids came in higher than expected, but the work needs to be done.

MOTION: Collins moved to award the BR-09001, Third Avenue Bridge (Bryant Park) in the amount of \$163,976 to the low bidder, Pacific Land Construction, of Lebanon, Oregon. Johnson seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Konopa received a call complaining about tall grass. Whatever process the City is currently working under is not working. There are still multiple tall grass issues in the City. The city of Corvallis has an ordinance. Would the Council be interested in passing an ordinance? Hare said staff recently had a meeting regarding this subject and concluded to have a Council work session to inform the Council on what is in place and what can be done. Responsibility usually gets kicked around from department to department. Public Information Officer/Management Assistant Marilyn Smith suggested it be added to the agenda of an upcoming work session. Collins suggested staff include how to deal with transition lands and recognize that the City owns several large parcels around town that probably need mowing.

Councilor Olsen said he has had complaints of the high speed of traffic on Waverly Drive. He has been told that the state sets speed limits and Waverly Drive is currently set at 45. Bedore said the caller needs to call the state. Olsen said the caller said the state told him to call Olsen. Bedore said the City could ask the state to evaluate the speeds on Waverly Drive, but they will set the speed limit at 80 percent of the average speed along the roadway. The chance we take is that it could be set higher than it is right now. Olsen said, then it probably needs to be enforced. He has found that the trailer that is set out on the roadway that tells people how fast they are driving usually works. Shepard said that staff has been working with the neighbors in the area. He said they can ask the state to evaluate, but the City would be taking the risk that speed limits could be increased.

Hare said he attended the Oregon City Managers Association conference and went to a session on Council relationships. Having heard about terrible infighting from several other cities, he is proud of our Council's ability to disagree but still get together to do the business of the City.

RECESS TO EXECUTIVE SESSION TO DISCUSS CURRENT LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)

The Regular Session was recessed into an Executive Session at 7:51 p.m.

RECONVENE

The Regular Session was reconvened at 9:11 p.m.

Hare informed the Council of the status of the condemnation of Dover Lane and locating heirs.

NEXT MEETING DATE

The next Work Session of the City Council is scheduled for July 21, 2008, at 4:00 p.m., in the Municipal Court Room, at City Hall, and the next Regular Session is scheduled for July 23, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:13 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC
City Clerk

Stewart Taylor
Finance Director

RESOLUTION NO. _____

A RESOLUTION GRANTING THE FOLLOWING EASEMENT:

Grantee

Purpose

PacifiCorp (Pacific Power)

A 10-foot wide Pacific Power easement for new power lines required to serve street lights on Waverly Drive between Grand Prairie Road and Brookside Drive. The easement is located at the south end of Grand Prairie Park between Waverly Drive and Page Court.

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

DATED AND EFFECTIVE THIS 13TH DAY OF AUGUST 2008.

Mayor

ATTEST:

City Clerk

Return to: Pacific Power
P.O. Box 248
Albany OR. 97321

CC#: 11256 WO#: 5133636

UNDERGROUND RIGHT OF WAY EASEMENT

For value received, *City of Albany, a Municipal corporation* ("Grantor"), hereby grants to Pacific Corp, an Oregon corporation, its successors and assigns, ("Grantee"), a perpetual easement for a right of way 10 feet in width and 196 feet in length, more or less, for the construction, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of Grantee's underground electric distribution and communication lines and all necessary or desirable accessories and appurtenances thereto, including without limitation: wires, fibers, cables and other conductors and conduits therefor; and pads, transformers, switches, cabinets, vaults on, across, or under the surface of the real property of Grantor in *Linn County, State of Oregon*, as more particularly described as follows and/or shown on Exhibit(s) *A&B* attached hereto and by this reference made a part hereof:

A portion of:

See Exhibit B

Assessor's Map No. 11S03W17 Parcel No.3200

Together with the right of ingress and egress for Grantee, its contractors, or agents, to the right of way from adjacent lands of Grantor for all activities in connection with the purposes for which this easement has been granted; and together with the present and (without payment therefor) the future right to keep the right of way clear of all brush, trees, timber, structures, buildings and other hazards which might endanger Grantee's facilities or impede Grantee's activities.

At no time shall Grantor place or store any flammable materials (other than agricultural crops), or light any fires, on or within the boundaries of the right of way. Subject to the foregoing limitations, the surface of the right of way may be used for agricultural crops and other purposes not inconsistent, as determined by Grantee, with the purposes for which this easement has been granted.

The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns and shall run with the land.

Dated this _____ day of _____, 200__.

Representative

Representative

REPRESENTATIVE ACKNOWLEDGEMENT

State of _____ }
County of _____ } SS.

This instrument was acknowledged before me on this _____ day of _____, 2____,

by _____, as _____,
Name of Representative Title of Representative

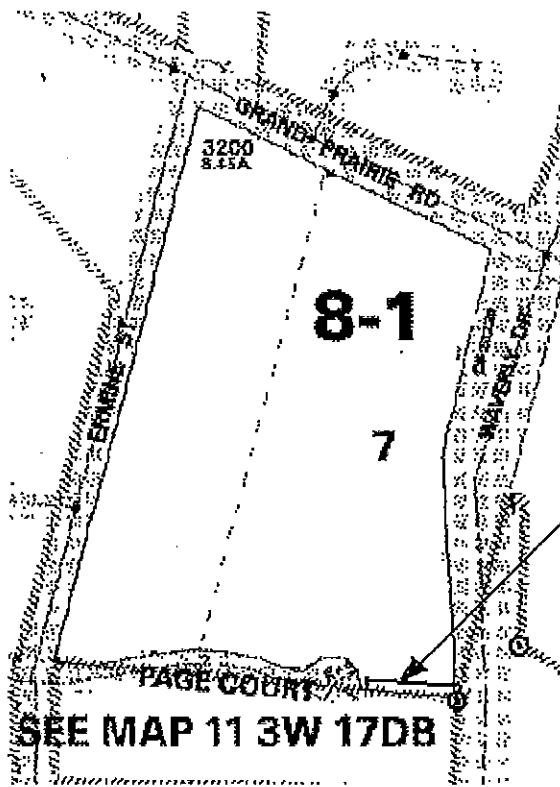
of _____
Name of Entity on behalf of whom instrument was executed

Notary Public
My commission expires: _____

[Seal]

Property Description

Section: 17 Township: 11 S Range: 03 W
 Willamette Meridian
 County: Linn State: Oregon
 Map and Tax Lot Number: 11S03W17 3200



Appx 196' in length
and 10' wide

CC#: 11256 WO#: 5133636

Landowner Name: City of Albany

Drawn By: Timberlake

EXHIBIT A

This drawing should be used only as a representation of the location of the easement area. The exact location of all structures, lines and appurtenances is subject to change within the boundaries of the described easement area.



Property Description



Lot No. 7, Plat of the Survey of Jason Wheelers Home Farm;
ALSO: Beginning at the Southeast corner of Lot No. 6, Plat of the
Survey of Jason Wheelers Home Farm; thence North $13^{\circ}51'$ East 11.86'
chains; thence North 66° West 4.06 chains; thence South $13^{\circ}51'$ West
13.26 chains to the South line of said Lot 6; thence Easterly along
the South line of said lot to the place of beginning.

EXCEPT therefrom that tract deeded to Mabel Bowman in deed recorded
February 27, 1951, in Book 219, at page 688, being a strip lying
West of Ermine Street.

ALSO EXCEPT therefrom a 50-foot tract deeded to the public, September 4,
1952, in Book 228, at page 465, being Ermine Street.

CC#: 11256 WO#: 5133636

Landowner Name: City of Albany

Drawn By: Timberlake

EXHIBIT B





TO: Albany City Council

VIA: Wes Hare, City Manager

FROM: Ed Gallagher, Library Director

DATE: August 6, 2008, for the August 13, 2008, City Council Meeting

SUBJECT: Request to Negotiate and Award a Contract for RFID Tracking and Materials Handling System

RELATES TO THE STRATEGIC PLAN THEME: An Effective Government

Action Requested:

Approval to negotiate a contract for RFID Tracking and Materials Handling System with SirsiDynix and the Integrated Technology Group (ITG).

Discussion:

- The new Library offers many exciting challenges, especially in the realm of serving the public most effectively in a much larger facility with only a small increase in staffing. One growing trend in libraries to bridge this service gap is the implementation of Radio Frequency Identification Tracking (RFID) and materials handling systems. Data from other libraries throughout the world is demonstrating the value and return on investment. Currently Eugene is the only library in Oregon with this technology. Many Washington libraries, including the new Seattle Public Library, have RFID.
- The RFP for RFID in Albany was advertised on April 25, 2008, with proposals due May 27, 2008. Five North American companies responded, and their proposals were thoroughly evaluated, scored, and four of the five firms were selected to come to Albany for interviews and demonstrations July 28-30, 2008. As a result of those interviews, the Evaluation Committee scored SirsiDynix/ITG the highest.
- It also happens that SirsiDynix is already the provider of the Library's internal software operating system, and that familiarity will ease the learning curve for staff in implementing this significant new system and process.
- This is a significant change and upgrade in staff workflow and public service, and one that fits squarely into the goal of the Albany Library Scharpf Endowment Fund, its primary funding source.
- In the best interest of the City, the Evaluation Committee recommends selecting SirsiDynix/ITG as the provider of RFID and materials handling equipment to improve services at the new Library, and requests approval to begin the negotiation process and to award the contract for these services to SirsiDynix/ITG.

Budget Impact:

The fee proposal for the implementing RFID in both libraries is \$354,387, to be primarily funded by Oregon Community Foundation Fund 203-45-5033.

**RFID Tracking and Materials Handling System
Evaluation Committee Results
Albany Public Library**

Companies

Bibliotheca, Feasterville, PA
Libramation, Edmonton, Alberta Canada
SirsiDynix, Provo, UT
Tech Logic, White Bear Lake, MN
3M, St. Paul, MN

Product Cost (Maximum 30 pts)

Bibliotheca	13.60
Libramation	14.80
SirsiDynix	24.28
Tech Logic	26.30
3M	0

Evaluation and Reference Review (Maximum 70 pts)

Bibliotheca	62.98
Libramation	63.30
SirsiDynix	66.38
Tech Logic	64.83
3M	52.58

Demonstrations (Maximum 100 pts)

Bibliotheca	84.05
Libramation	83.90
SirsiDynix	90.92
Tech Logic	83.66
3M	0

Total for these three areas (Maximum 200 pts)

SirsiDynix	181.58
Tech Logic	174.79
Libramation	162.00
Bibliotheca	160.63
3M	52.58

Evaluation Committee Members:

Lynn Kauffman (RFID Lead)
 Laurel Langenwaller (Technical Services)
 Jeremy Miller (Computer Information)
 Debra Shadle (Circulation Lead)
 Ed Gallagher (Director)



TO: Albany City Council
VIA: Wes Hare, City Manager
FROM: Diane Taniguchi-Dennis, P.E., Public Works Director *mj Sean DTD*
DATE: August 7, 2008, for the August 13, 2008, City Council Meeting
SUBJECT: Authorization to Expend Sewer Economic Development Funds
RELATES TO STRATEGIC PLAN THEME: • A Healthy Economy

Action Requested:

Staff requests Council authorization to expend up to \$46,000 from the Sewer Economic Development Fund to assist Nation Frozen Foods evaluate wastewater treatment options.

Discussion:

National Frozen Foods has requested the City's assistance in funding an evaluation of wastewater treatment options that may be available to better meet the needs of existing and planned industrial customers. This evaluation follows an initial feasibility study authorized by City Council at the April 11, 2007, meeting.

National Frozen Foods has found it increasingly difficult to rely on historic methods of treatment and is looking for cost competitive options to remain in Albany with their full product line. The evaluation will be completed by the firm of CH2M-Hill with an estimated cost of \$46,000.

The evaluation will consider the use of wetlands treatment and land application in lieu of discharge to the City's sewer system. Discharges from treatment wetlands would comply with reuse standards for wetlands irrigation to enhance mitigation wetlands. Key tasks include wastewater characterization, soils characterization, hydrogeology evaluation, land use compatibility, and preliminary jurisdictional wetlands review for selected treatment sites. If authorized at the August 13, 2008, meeting, the evaluation should be completed in October 2008.

Staff has reviewed the proposed scope of work for this evaluation and recommends Council authorize the expenditure as a sound investment in retaining existing industry.

Budget Impact:

The City Council has discretion to use Sewer Economic Development funds in support of economic development needs. If the City Council authorizes expenditures of Sewer Economic Development funds at the August 13, 2008, City Council meeting, this will result in a remaining balance of approximately \$270,000 in this budget (601-50-2506).

DTD:prj

Attachment

c: John Pascone, President, AMEDC
Bill O'Bryan, National Frozen Foods