



## NOTICE OF PUBLIC MEETING

CITY OF ALBANY

CITY COUNCIL

Council Chambers

333 Broadalbin Street SW

Wednesday, August 12, 2009

7:15 p.m.

## AGENDA

### 1. CALL TO ORDER

### 2. PLEDGE OF ALLEGIANCE TO THE FLAG

### 3. ROLL CALL

### 4. PROCLAMATIONS

- a. Everybody's Neighborhood Day. [Page 1]

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

- b. Association for Motorcyclists of Oregon Day. [Page 2]

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

### 5. SCHEDULED BUSINESS

- a. Business from the Public

- b. Adoption of Ordinance

- 1) Levying a charge under the provisions of Chapter 10.16 of the Albany Municipal Code for an in-lieu-of assessment for interceptor sewer for property described as Tax Lot 1600 of Parcel 10S-04W-25, and declaring an emergency. [Pages 3-8]

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

- c. Second Reading of Ordinance

- 1) DC-02-09, considering proposed amendments to the Albany Development Code regarding Articles 1, 2, 9, 11, and 12. [Pages 9-79]

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

- d. First Reading of Ordinance

- 1) Levying assessments against property specifically benefited by sewer and water connections and the assessment of sewer, water, parks, and transportation System Development Charges for property described as Tax Lot 4700 of Parcel 11S-03W-17AA and site address 2479 Bain Court SE, and declaring an emergency. [Pages 80-82]

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

- e. Adoption of Resolutions

- 1) Encouraging comprehensive national health care reform. [Page 83]

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

- 2) Supporting the Administration's health care reform principles. [Pages 84-85]

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

- 3) Adopting an intergovernmental agreement for Call-a-Ride paratransit service between the City of Albany and Linn County. [Pages 86-87]

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

- 4) Establishing parking restrictions within the Bridle Springs Subdivision. [Pages 88-93]

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

### 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."*

- f. Adoption of Consent Calendar
- 1) Approval of Minutes
    - a) June 22, 2009, Work Session. [Pages 94-97]
    - b) July 8, 2009, City Council. [Pages 98-102]
    - c) August 3, 2009, City Council Executive Session and Work Session. [Page 103]
  - 2) Applying for a state of Oregon Department of Environmental Quality 2009 Solid Waste/Recycling/Household Hazardous Waste Grant to improve recycling efforts at events. [Pages 104-105] RES. NO. \_\_\_\_\_
  - 3) Accepting easements and right-of-way dedication deeds from: [Pages 106-117]
    - a) William and Kathryn McKinley, variable width access easement. RES. NO. \_\_\_\_\_
    - b) Layne and Kimberly Westberg, 18-foot wide right-of way dedication. RES. NO. \_\_\_\_\_
    - c) Layne and Kimberly Westberg, 15-foot wide slope easement. RES. NO. \_\_\_\_\_
    - d) Gary and Patricia Davenport, variable width right-of-way dedication. RES. NO. \_\_\_\_\_
    - e) Gary and Patricia Davenport, 10-foot wide utility easement. RES. NO. \_\_\_\_\_
    - f) Riverside Cemetery Association, 20-foot wide sanitary sewer easement. RES. NO. \_\_\_\_\_
    - g) 1901 13<sup>th</sup> Avenue, LLC, sanitary sewer easement. RES. NO. \_\_\_\_\_
    - h) 1901 13<sup>th</sup> Avenue, LLC, 20-foot wide sewer easement. RES. NO. \_\_\_\_\_
    - i) Jean Leone Lovell Trust, 20-foot wide sewer easement. RES. NO. \_\_\_\_\_
    - j) Samaritan Albany General Hospital, 20-foot wide sewer easement. RES. NO. \_\_\_\_\_
  - 4) Authorizing the City Manager to sign an intergovernmental agreement with ODOT for safety improvements along Highway 99E. [Pages 118-129]
  - 5) Appropriating a special purpose grant of \$19,000 from the Oregon Community Foundation for the Library. [Pages 130-131] RES. NO. \_\_\_\_\_

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

- g. Approval of Change Order
- 1) ST-09-06-A, ADA ramp updates and sidewalk infill, approving a construction contract increase to D&D Concrete & Utilities Inc., in excess of ten percent. [Pages 132-133]

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

6. BUSINESS FROM THE COUNCIL
  - a. Discussing the City's participation in the NLC Transportation Committee – Ralph Reid, Jr.
7. RECESS TO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION OR LITIGATION LIKELY TO BE FILED IN ACCORDANCE WITH ORS 192.660 (2)(h)
8. RECONVENE
9. NEXT MEETING DATE: Work Session August 17, 2009  
Work Session August 24, 2009  
Regular Session August 26, 2009
10. ADJOURNMENT

## PROCLAMATION

### **Everybody's Neighborhood Day August 26, 2009**

WHEREAS, Gene and Frances Belhumeur and their family moved to Albany in November 1979 and made this community their home; and

WHEREAS, when Gene Belhumeur saw the harmonious coexistence of all people in Albany threatened in 1992 by plans for a white supremacist march through downtown, he defused the event by organizing a community gathering celebrating the differences in people and cultures that thrive here; and

WHEREAS, "Celebrate Everybody's Neighborhood" happened on August 31, 1992, and 500 people came to hear prayers, songs, readings, and speeches; and stroll along Broadalbin Street to sample a variety of ethnic foods; and

WHEREAS, Gene Belhumeur was elected Mayor of Albany in November 1992 and served in that office for one term; and

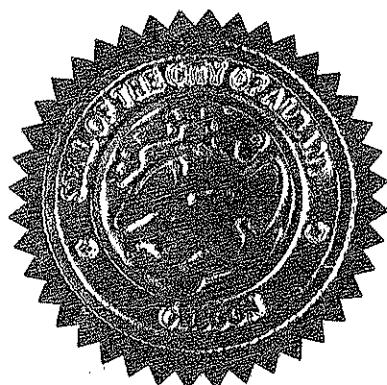
WHEREAS, a group of Albany residents kept the idea Everybody's Neighborhood alive and helped establish the City's Human Relations Commission in 2007 in the interest of promoting harmonious relations among the citizens of Albany; and

WHEREAS, former Mayor Belhumeur lived to see that Commission formed and saw it as a promise of hope for continued community harmony and welcome.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, Oregon, in honor of former Mayor Belhumeur and his family, do hereby proclaim Wednesday, August 26, 2009, to be

### **EVERYBODY'S NEIGHBORHOOD DAY**

in Albany, Oregon, and encourage all citizens of Albany to take part in this observance.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 12th day of August 2009.

---

Sharon Konopa, Mayor

**PROCLAMATION**

**ASSOCIATION FOR MOTORCYCLISTS OF OREGON DAY**

**September 19, 2009**

WHEREAS, the Association for Motorcyclists of Oregon was formed 25 years ago as a non-profit organization dedicated to freedom of choice for the purpose of motorcycle recreation and doing good for the community; and

WHEREAS, in Albany there are families that are suffering financial hardships due to layoffs and other reasons; and

WHEREAS, in celebration of the 25<sup>th</sup> anniversary of the Association for Motorcyclists of Oregon and the 150<sup>th</sup> birthday of the state of Oregon, the Association for Motorcyclists of Oregon will have a charity motorcycle ride to benefit families in need in the Albany area; and

WHEREAS, portions of the proceeds from the benefit ride will go to the ABC House and Gleaners; and

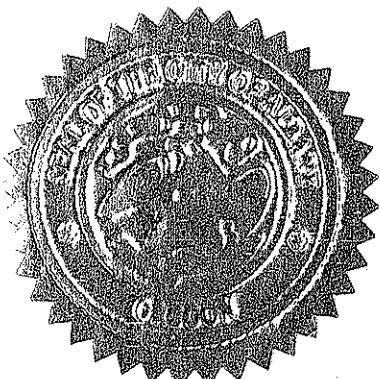
WHEREAS, the ride will include a lunch and refreshments to help celebrate the anniversaries; and

WHEREAS, the Association for Motorcyclists of Oregon will invite other motorcycle groups and car clubs to join them in their celebration.

NOW, THEREFORE, I, Sharon Konopa, Mayor of the City of Albany, Oregon, do hereby proclaim September 19, 2009, as

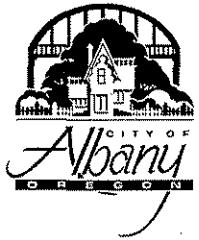
**ASSOCIATION FOR MOTORCYCLISTS OF OREGON DAY**

and urge all citizens of Albany to recognize that day as a time of sharing and giving by the Association for Motorcyclists of Oregon and to be aware of their motorcycles on our streets and highways while they ride to provide help for families in need, and to remember to look out for motorcycles on our streets and highways all year long.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Albany to be affixed this 12th day of August 2009.

Sharon Konopa, Mayor



TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Stewart Taylor, Finance Director *ST*  
DATE: August 5, 2009, for the August 12, 2009, City Council Meeting  
SUBJECT: Adopting In-Lieu-Of Assessment for Interceptor Sewer Ordinance (North Creek Subdivision)  
RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Council adoption of the corrected ordinance levying a charge under the provisions of Chapter 10.16 of the Albany Municipal Code for an In-Lieu-Of Assessment for Interceptor Sewer for said property being described as tax lot 1600, of parcel 10S-04W-25, and declaring an emergency.

Discussion:

At the July 22, 2009, City Council meeting an amended In-Lieu-Of ordinance on this property was provided at the dais, as the original amount of the assessment had been changed. The Council had the City Attorney read the ordinance for a first and second time in title only, but before adopting the ordinance asked staff for an explanation of the change to the amount of the assessment. Staff agreed to bring the explanation to the August 12, City Council meeting.

The assessments are for an Interceptor and Collector Sewer to be platted as North Creek Subdivision. The Interceptor assessment rate of \$112,136.64 was figured correctly at 45.92 acres at a rate of \$2,442 per acre.

The Collector assessment rate changed. The Collector assessment should have been figured in benefits not acres and at 5.03 benefits. Originally, the property was charged for the sewer mains on both street frontages, including 1,232 feet on Crocker Lane and 618 feet on Valley View Drive. The original calculation resulted in 7.16 acres (s/b benefits) x \$7,867 (collector rate) = \$56,327.72. Later it was recognized that the property owner was not proposing to make any connection to the Valley View Drive sewer main. Therefore, the 618 feet of Valley View sewer frontage should have been subtracted out. The new calculation is 5.03 benefits x \$7,867 (collector rate) = \$39,571.01. The new total for both interceptor and collector is \$151,707.65.

Budget Impact:

No budget impact

ST: ll  
Attachment

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

AN ORDINANCE TO LEVY A CHARGE UNDER THE PROVISIONS OF CHAPTER 10.16 OF THE ALBANY MUNICIPAL CODE FOR AN IN-LIEU-OF ASSESSMENT FOR INTERCEPTOR SEWER FOR SAID PROPERTY BEING DESCRIBED AS TAX LOT 1600, OF PARCEL 10S-04W-25, AND DECLARING AN EMERGENCY.

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

Section 1: A charge is hereby levied against the following described property:

Albuli LLC 11902 SE Stark St Portland, OR 97216 Tax Acct#: 0374962	Acct #'s: naila000-0298-000 & naila000-0299-000 Total: \$151,707.65 Map:10S-04W-25 -01600 (See attached <b>Exhibit "A"</b> ) Description: 45.92 Acres to be platted as North Creek Subdivision
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Charge is for the purpose of receiving benefit from the existing sewer in the North Albany Sanitary Sewer Basin as required under Chapter 10.16 of the Albany Municipal Code (AMC).

Section 2: The total cost for service from the sanitary sewer line serving the property described in Section 1 is as follows:

$$\begin{aligned} 45.92 \text{ acres} \times \$2,442 \text{ (Interceptor Rate)} &= \$112,136.64 \\ 5.03 \text{ Benefits} \times \$7,867 \text{ (Collector Rate)} &= \$39,571.01 \end{aligned}$$

Note: This is an In-Lieu-Of Assessment (ILA) charge for sewer connections of unassessed properties outside the original North Albany sanitary sewer interceptor basin as defined in the North Albany Sewer Local Improvement District Final Engineer's Report dated April 13, 1993. These In-Lieu-Of Assessments are designed to recover the equivalent cost of constructing that portion of the sewer system that benefits the connecting property. Resolution 5436, dated May 23, 2007, lists the most recent adjustments for the In-Lieu-Of Interceptor and Collector assessment rates.

Section 3: The City Recorder is hereby directed to enter a statement of the assessments as above provided in the docket of the City liens and give notice thereof as provided by law.

Section 4: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

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

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

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

\_\_\_\_\_  
Mayor

ATTEST:

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

<u>Owner of Record</u>	<u>Property Description</u>	<u>Assessment Description</u>
Albuli LLC 11902 SE Stark St Portland, OR 97216	Acreage North Creek Subdivision 10S 04W 25 01600	Sewer Interceptor Amount: \$112,136.64 Account #: naila000-0298-000
Albuli LLC 11902 SE Stark St Portland, OR 97216	Acreage North Creek Subdivision 10S 04W 25 01600	Sewer Collector Amount: \$39,571.01 Account #: naila000-0299-000

Report Total: **\$151,707.65**

**Exhibit "A"**

SECTION 25 T10S R4W W.M.  
BENTON COUNTY

ALBANY

REV. 4-3-98

CANC.

SEE MAP 10 4 24

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620' 100'

600' 1403

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**0803**

PLAT

97-01B

OSIO MAP

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VALLEY VIEW DRIVE

SEE MAP

10 4 25CA

PARTITION

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10 4 25C

STREET

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STREET

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

AN ORDINANCE TO LEVY A CHARGE UNDER THE PROVISIONS OF CHAPTER 10.16 OF THE ALBANY MUNICIPAL CODE FOR AN IN-LIEU-OF ASSESSMENT FOR INTERCEPTOR SEWER FOR SAID PROPERTY BEING DESCRIBED AS TAX LOT 1600, OF PARCEL 10S-04W-25, AND DECLARING AN EMERGENCY.

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

Section 1: A charge is hereby levied against the following described property:

Albuli LLC 11902 SE Stark St Portland, OR 97216 Tax Acct#: 0374962	Acct #'s: naila000-0298-000 & naila000-0299-000 Total: \$168,464.36 \$151,707.65 Map:10S-04W-25 -01600 (See attached <b>Exhibit "A"</b> ) Description: 45.92 Acres to be platted as North Creek Subdivision
---	---

Charge is for the purpose of receiving benefit from the existing sewer in the North Albany Sanitary Sewer Basin as required under Chapter 10.16 of the Albany Municipal Code (AMC).

Section 2: The total cost for service from the sanitary sewer line serving the property described in Section 1 is as follows:

$$\begin{aligned} 45.92 \text{ acres} \times \$2,442 \text{ (Interceptor Rate)} &= \$112,136.64 \\ 7.16 \text{ acres} \times 5.03 \text{ Benefits} \times \$7,867 \text{ (Collector Rate)} &= \$56,327.72 \$39,571.01 \end{aligned}$$

Note: This is an In-Lieu-Of Assessment (ILA) charge for sewer connections of unassessed properties outside the original North Albany sanitary sewer interceptor basin as defined in the North Albany Sewer Local Improvement District Final Engineer's Report dated April 13, 1993. These In-Lieu-Of Assessments are designed to recover the equivalent cost of constructing that portion of the sewer system that benefits the connecting property. Resolution 5436, dated May 23, 2007, lists the most recent adjustments for the In-Lieu-Of Interceptor and Collector assessment rates.

Section 3: The City Recorder is hereby directed to enter a statement of the assessments as above provided in the docket of the City liens and give notice thereof as provided by law.

Section 4: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the City of Albany, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage by the Council and approval by the Mayor.

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

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

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

\_\_\_\_\_  
Mayor

ATTEST:

City Clerk

<u>Owner of Record</u>	<u>Property Description</u>	<u>Assessment Description</u>
Albuli LLC 11902 SE Stark St Portland, OR 97216	Acreage North Creek Subdivision 10S 04W 25 01600	Sewer Interceptor Amount: \$112,136.64 Account #: naila000-0298-000
Albuli LLC 11902 SE Stark St Portland, OR 97216	Acreage North Creek Subdivision 10S04W 25 01600	Sewer Collector Amount: \$56,327.72 Amount: \$39,571.01 Account #: naila000-0299-000

Report Total: **\$168,464.36 \$151,707.65**



TO: Albany City Council  
VIA: Wes Hare, City Manager  
Greg Byrne, Community Development Director *bjy*  
FROM: Don Donovan, Planning Manager *Don*.  
DATE: August 5, 2009, for the August 12, 2009, City Council Meeting  
SUBJECT: File DC-02-09, Albany Development Code Amendments  
  
RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Adopt the attached ordinance that will amend the text of the Albany Development Code (ADC).

Discussion:

On July 8, 2009, the City Council opened a public hearing on the proposed text amendments. The hearing was continued to the July 22 City Council meeting. The City Council heard public testimony, deliberated on the proposed amendments, and voted. The vote was 5-1 to approve the proposed amendments. The vote must be unanimous if an ordinance is to be read twice at the same meeting and be adopted. Councilor Olsen voted no saying he needed more time to review the proposed amendments. So, the ordinance is coming back to the Council at the August 12, 2009, meeting.

All of the material reviewed by the Council at the July 22 meeting is attached. We updated the staff report to address the testimony at the hearing. Changes are shown in bold on page 2, 3, 5 and 6 of the staff report. One change has been made in the text amendments in Exhibit B on page 2-15. Council Collins asked for clarification of the requirement in ADC Section 2.370(2)(g). It originally said "Building design standards." We have changed it now to refer specifically to the existing "Commercial and multi-family design standards" so there is no confusion what standards we are referring to.

Staff does not plan to give a verbal staff report at the meeting, but will be available to answer questions as necessary. If you have questions before the meeting, please let either Anne or I know. Anne's phone number is 917-7560 and mine is 917-7561.

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

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO THE EXPIRATION OF HISTORIC REVIEW APPROVALS, LAND USE APPLICATION CONTENTS, VARIANCE AND ADJUSTMENT REVIEW CRITERIA, ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS TO BE IN COMPLIANCE WITH OTHER CODES AND LAWS, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-02-09).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code based on changing conditions, and to be in compliance with other state and federal laws; and

WHEREAS, the City has been collecting suggestions to the Code for several years and is developing an on-going, semi-annual process to evaluate changes to the Code; and

WHEREAS, these amendments are proposed as a part of the on-going process of evaluating and updating the Code; and

WHEREAS, on June 15, 2009, the Planning Commission held a public hearing on the proposed amendments and continued their hearing to June 29, 2009; and

WHEREAS, on June 29, 2009, the Planning Commission recommended these changes to the City Council, based on public testimony, their deliberation, and the staff report; and

WHEREAS, on July 8, 2009, the Albany City Council opened a public hearing on the proposed amendments; and on July 22, 2009 the Albany City Council continued a public hearing on the proposed amendments, reviewed the amendments recommended by the Planning Commission and any testimony presented at the public hearing and then deliberated.

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

Section 1: The Albany Development Code text is hereby amended as shown in the attached Exhibits A through E for the articles listed below:

Exhibit A: Article 1, Administration and Procedures

Exhibit B: Article 2, Review Criteria (entire article)

Exhibit C: Article 9, On-site Development and Environmental Standards

Exhibit D: Article 11, Land Divisions

Exhibit E: Article 12, Public Improvements

Section 2: The Findings and Conclusions found in the staff report, attached as Exhibit F, are hereby adopted in support of this decision.

Section 3: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Albany, an emergency is hereby declared to exist. This ordinance will be in full force and effective immediately upon its passage by the Council and approval by the Mayor.

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

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

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

\_\_\_\_\_  
Mayor

ATTEST:

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

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## ARTICLE 1

### ADMINISTRATION AND PROCEDURES

*Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black bold and strikethrough. Staff comments in italics are not amendments and will be removed.*

1.000 Overview. This Article establishes the framework for the review of land use applications. It explains the processes the City follows for different types of reviews and how hearings and appeals are conducted. The list below is a summary of the topics covered in this chapter.

- General Administration
- Clarification of Land Use Decisions
- Administrative Process
- Limited Land Use Process
- Quasi-Judicial Process
- Legislative Process

These headings precede subtopics that can assist the user in locating information. The table of contents contains a complete listing of the material covered in this Article.

#### GENERAL ADMINISTRATION

*No changes are proposed to 1.010 through 1.050, so they are not shown.*

1.060 When Land Use Applications Are Required.

*No changes are proposed to 1.060 (1) through (4) and 1.070, so these sections are not shown.*

*Staff Comments: The following changes are proposed:*

- *Expiration of land use approvals is buried under the heading: "When Land Use Applications are Required" currently as 1.060 (5). We propose this content become its own section, 1.080.*
- *In 2001, the one-year expiration time period was extended to three years. This time period has been problematic for enforcing conditions of approval for Historic Review approvals. We propose restoring the one-year expiration to Historic Review approvals as outlined in 1.065 (2).*
- *Example: Plans for a new house received historic approval with conditions. The house was constructed but it didn't satisfy all of the conditions of approval or what was proposed and approved. They currently have three years to satisfy the approval. The "substantial construction" language in (1) below applies here, so the unfinished items can go on indefinitely.*

1.080 Expiration of Land Use Approvals.

- (§1) **Except as provided in (2) below, A**ll land use approvals shall expire three years from the date of the approval, unless "substantial construction" of the project has been accomplished within that time. Substantial construction is defined in the "Definitions" section of this Code as "Any physical improvement of a property, the cost of which equals or exceeds fifty percent of the fair market value of the property before the improvement was started."

If substantial construction has been accomplished, development may continue to completion without a limit on the time allowed. The Development Code standards for development within these time periods are those in effect at the time the original approval was granted. [Ord. 5475, 4/11/01]

(2) **Expiration of Historic Review Approvals.**

- (a) Historic Review approvals not associated with a building permit shall expire one year from the date of approval; or
- (b) Historic Review approvals associated with an approved building permit shall expire upon the expiration of the building permit.
- (c) Expiration of a Historic Review approval shall require reapplication and payment of all application fees plus an administrative fee equal to the application fee. Applications that are the same as originally approved will be processed administratively.

1.0850 Approval Runs with the Land. Approval of a land use decision runs with the land. The approval transfers to a new owner if the property is sold. [Ord. 5475, 4/11/01]

*No changes are proposed to 1.090 through 1.130, so they are not shown.*

*Staff Comments: The following reference to Title 18 of the Municipal Code is necessary as it outlines the enforcement procedures.*

1.140 Code Enforcement. The Director or designee may enforce the provisions of this ordinance **using the remedies provided in Sections 1.110 through 1.190 herein and in Title 18 of the Albany Municipal Code.** The enactment of this ordinance shall not invalidate any prior, existing, or future prosecutions for violation of the Development Code regulations committed under a previous ordinance.

*No other changes are proposed to this Article.*

## ARTICLE 7 HISTORIC OVERLAY DISTRICT

*The only change proposed in this Article is to add a reference to Article 1, Section 1.080, Expiration of Land Use Approvals.*

7.015 Expiration of Historic Review Approval. See Article 1, Section 1.080 (2).

## ARTICLE 2

### REVIEW CRITERIA

*Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black bold and strikethrough. Staff comments in italics are not amendments and will be removed.*

2.010 Overview. The Development Code provides a combination of nondiscretionary and discretionary standards for the City to use in evaluating how land use proposals comply for compliance with the use and development requirements of the Code. The nondiscretionary criteria provide the certainty needed in most situations by providing straightforward, clear and objective standards for certainty in most situations. Discretionary criteria provide needed flexibility by allowing more subjective standards and objectives, and providing for the allow modification of regulations in response to specific site conditions. This chapter contains the criteria for evaluation of the following land use applications:

- Adjustments
- Annexations
- Comprehensive Plan and Map Amendments
- Conditional Uses
- Development Code Amendments
- Nonconforming Situations
- Site Plan Review
- Vacations
- Variances
- Zoning Map Amendments

[Ord. 5445, 4/12/2000]

*Staff Comments: Research found that 2.020 came from Portland's Code. The current language is confusing because not all of the language from the Portland Code was included. The proposed additional text clarifies this section that explains the functions of review criteria.*

2.020 Function of Review Criteria.

- (1) Review criteria set the bounds for describe the issues that must be addressed by the applicant must address and that may be raised by the City or affected parties may raise. A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or with mitigation measures will be denied.
- (2) The review criteria are derived from the Comprehensive Plan. Reviews against the goals and policies of the Comprehensive Plan are not required unless specifically stated. Fulfillment of all requirements and review criteria means †The proposal is in-conformance with the Comprehensive Plan if it fulfills the review criteria.
- (3) When review criteria refer to therequire an application request to meet a specific thresholdstandard, such as adequate services or no significant detrimental environmentalnegative offsite impacts, the threshold includes any proposed improvements, mitigation measures, and limitations. All proposed improvements and, mitigation measures ,and limitations must be identified prior to a final decision by abefore the review body will make a final decision.

2.030 Burden of Proof. The burden of proof is on the applicant to must show that the review criteria are met. The burden of proof is not on the City or other parties to show that the criteria have or have not been met.

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- 2.040 Conditions of Approval. The City may attach conditions to the approval of a land use decision in order to ensure that the proposal will conform to the applicable review criteria.
- 2.050 Relationship to Other Regulations. ~~Approval of When a land use application is approved based on review criteria in this Code, the applicant must still does not relieve the applicant of responsibility for compliance with other applicable codes, ordinances, statutes, and/or regulations.~~

## ADJUSTMENTS

*Staff Comments: (Note - Adjustments used to be Type I variances in Albany, so this discussion is also about variances.) Nationally and historically, variances were included in zoning ordinances to alleviate unnecessary hardship of denying the property owner all reasonable use of his or her property. Typically an "unusual" physical features or configuration of the lot must exist to approve a variance.*

*In 1991, the City changed Type I variances to adjustments, and created new criteria for adjustments. The City removed the requirement that there be some kind of unique circumstance or condition of the property for adjustments and variances. The staff comment was, "the proposed changes result in more realistic criteria."*

*Consequently, over the years adjustments have moved away from being used for unusual situations to an automatic approval of a 10% reduction from a standard. This is in part due to the fact that the criteria do not require the applicant to address their unusual circumstance for needing the adjustment.*

*Without the unique or unusual circumstance criterion, the variance and adjustment criteria can be relatively easy to meet and may be too easy to meet if we intend for them to apply only to unusual situations as the purpose statement states. It is also hard to apply these standards equitably.*

*Staff feels the intent of the variance/adjustment sections have strayed from their original purpose and recommend the following revisions:*

- Rather than use the 10% threshold to determine whether an application is processed as an adjustment or a variance, this will be determined at the sole discretion of the Director. (Note: 10% of a large number can be a lot, and the goal is to allow for the minimum necessary adjustment.)
- Add review criteria to address the intent of providing limited flexibility in unusual situations.

*Public Comment: We received comments from Multi-Tech Engineering Services on June 10 and June 15, 2009, on the proposed changes to the variance and adjustment review criteria. The letter states, "'Unusual situation' is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City."*

2.060 Purpose. The adjustment review process provides a mechanism by which allows the Director to make limited modifications to the application of regulations in the Development Code regulations. Adjustment reviews provide very limited flexibility from numeric standards for unusual situations, while still providing certainty and rapid processing for land use applications. Requests for changes from a numerical development standard of 10 percent or less of the standard are processed as adjustments. Requests for changes to standards that are not numeric or which are for more than 10 percent of the standard are processed as variances. Adjustments will not be considered to avoid a review process or standard in this Code.

*Staff Comments: This next sentence is currently in the preface to the review criteria and is being relocated.*

Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

2.070 Procedures. Adjustment requests-applications are processed through a Type I procedure. Variances are processed through a Type II procedure (Sections 2.660-2.690). The Director will determine whether an application is processed as an adjustment or a variance.

2.080 Review Criteria. Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130. All other adjustment requests will be approved if the Director finds that the applicant has shown that the following criteria have been met:

- (1) The requested adjustment is for 10 percent or less of the numerical development. The adjustment is not requested to avoid a land use review process or increase density.

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- (2) The need for the adjustment is created by the **unusual** configuration of **the property, to protect natural features, or due to the location of** an existing or proposed structure on the site. [Ord. 5338, 1/28/1998]
- (3) **The adjustment is the minimum necessary to address the unusual circumstance and still be consistent with the purpose of the zoning district.**

## ANNEXATIONS

- 2.090 **Purpose.** Annexation is the first step in converting ~~urbanizable lands in the Albany Urban Growth Boundary~~ to urban land ~~within the Albany Urban Growth Boundary~~. Annexation and subsequent development may provide economic and social benefits to the City of Albany through the creation of housing; business and commercial enterprise; creation of construction and permanent jobs; and expansion of the City's tax base. When annexations are properly timed, they allow for orderly expansion of eCity boundaries and contribute to logical extensions of public infrastructure. An ill-conceived annexation may impose burdens on the community that could outweigh the benefits. An annexation application must meet the quasi-judicial and legislative requirements of this Code and state law.
- 2.095 **Procedure.** Annexation applications are reviewed as a Type IV procedure. If ~~it is the Albany City Council's legislative determination the application meets the review criteria, the annexation will be~~ ~~to set the matter for a citywide vote,~~ Annexation shall only be approved by a prior majority vote among the electorate.
- (1) Exception. These procedures do not apply to an annexation mandated by state law, which is a Type I procedure and not subject to voter approval.
- 2.100 **Voting in Island Annexations.** When considering the annexation of "island" territory as authorized by ORS 222.750, the City Council shall authorize the electors within the annexation territory to vote on the question of annexation. In such event, the votes of the electors in the annexation territory shall be counted with the votes of the electors within the city. This section shall not authorize the votes of the electors within the annexation territory to be considered separately from those of the citizens within the city, except that an annexation will not be approved unless the majority of votes cast by the city electors approve the annexation.
- 2.105 **Annexation Agreement.** The annexation applicant and the City of Albany may enter into an Annexation Agreement for the purpose of addressing the annexation-related quasi-judicial or legislative concerns of the City of Albany. The agreement may contain proffers made by the applicant to address quasi-judicial or legislative criteria or concerns. The annexation agreement may provide the basis for the City Council to determine that the proposed annexation is in the public interest. The terms of the annexation agreement may help the applicant meet applicable review criteria for annexation or enhance the public benefits that will result from the annexation. The terms of an annexation agreement may include, but are not limited to, timing of the submittal of an application for zoning, dedication of land for future public facilities, construction of public improvements, waiver of compensation claims, waiver of nexus or rough proportionality objections to future exactions, or other commitments deemed valuable to the City of Albany. The annexation agreement shall be recorded as a covenant running with the land, binding on the landowner's successors in interest.
- 2.110 **Review Criteria.** 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.

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- (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 so 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.

- 2.115 Legislative Review. The City has been entrusted by the people of Albany to make decisions affecting the livability of the community. The people rely on the City to consider ~~whatever~~ factors it deems appropriate in making quality of life determinations on their behalf, including whether to place annexation requests before the voters of the City of Albany.

- (1) The City is not obligated to reach a legislative decision to either place an annexation on the ballot or to refrain from doing so. The City is not obligated to approve the annexation even if it determines that the quasi-judicial review criteria have been met. Following the quasi-judicial land use determination, the City may decline to take legislative action, or make a legislative determination to approve or deny the proposed annexation if it deems such action to be in the public interest.
  - (a) The legislative decision to place the matter on the ballot for election, or to decline to take such action, shall be at the discretion of the City and shall be made by resolution. If authorized, the matter shall be placed before the voters of the City in the manner prescribed by the City.
  - (b) An annexation application denied by the City shall not be placed on the ballot for election.

- 2.120 Proclamation of Annexation. If the annexation is approved by the electorate, the City Council, by ordinance, shall set the final boundaries of the area to be annexed by a legal description of the annexation boundary and proclaim the annexation in accordance with state law.

### ZONING OF ANNEXATION TERRITORY

- 2.125 Interim Zoning. Any area annexed to the City shall retain the zoning classification of the county until changed by the City. During the period between the proclamation of annexation and application of City zoning, the City shall enforce the current zoning regulations of the county along with any conditions, limitations or restrictions applied by the county as though they were part of the Code, except that the provisions of this Code shall supersede comparable provisions of the county zoning regulations.

- 2.130 Procedure. Applying initial City zoning to annexation territory is subject to the provisions of ADC 2.700 through 2.760.

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2.135 Application of Initial City Zoning. The City may exercise full discretion in determining the initial City zoning of annexation territory.

- (1) The City may initiate a zoning map amendment as provided by ADC 2.710 to apply the initial City zoning to the annexation territory.
- (2) The City may approve the zoning requested by the applicant.
- (3) The City may select a zoning district other than that requested by the applicant in order to best satisfy the criteria for a zoning map amendment set forth in ADC 2.740. In this event, the applicant may withdraw the annexation application by written notice to the City within ten (10) days of the City's action, or forty-eight (48) hours prior to the filing date and time required by the County Clerk for inclusion in the election, whichever shall first occur.

2.140 Concurrent Applications. The City does not have authority to zone land or to regulate development under this Code until land is annexed. However, the applicant for annexation may request zone change and development-related applications filed for concurrent review with an annexation request. As used in this section, "development-related application" includes, but is not limited to, site plan review, conditional use, land division, or variance.

- (1) If the applicant for annexation desires concurrent, pre-annexation determinations for related land use applications, those applications shall be processed concurrently through a Type IV procedure.
- (2) In order to be eligible for filing zone change and development-related applications for concurrent review with an annexation request, the applicant shall waive the provisions of state law and this Code that require a final decision within 120 days.
- (3) The determination on all land use applications filed for concurrent review with an annexation application shall not be final for the purposes of administrative or judicial review until the date that the annexation is proclaimed.
- (4) All land use applications filed for concurrent review shall result in a single decision for purposes of appeal, such that all applications, excluding annexation, are subject to review on appeal if any one application is challenged.
- (5) If any land use decision concurrent with annexation is reversed on appeal, all concurrent applications, excluding annexation, are void.
- (6) Concurrent, development-related applications, once approved, may be modified pursuant to the procedures in ADC 1.226, or the development-related application may be withdrawn and a new application submitted for review.
- (7) In the event land is not developed in substantial conformance with a concurrent, development-related approval and the decision is no longer valid, the City may initiate a zone change pursuant to ADC 2.710 to revert all or a portion of the annexation territory to the previous county zoning classification. Such a reversionary stipulation may be included in the annexation agreement.

[Ord. 5635, 1/11/2006]

## COMPREHENSIVE PLAN AMENDMENTS

- 2.190 Purpose. The Comprehensive Plan is the City's official and controlling land use document ~~of the City, providing guidance to both public and private activities that affect the Albany's growth, development, and livability of the community.~~ The Plan is intended to be a flexible document, reflecting changing circumstances and community attitudes through occasional amendments. This section provides a process ~~whereby for amending~~ the Comprehensive Plan ~~may be amended~~ without violating ~~the its~~ integrity of the Plan or frustrating its basic purposes. This process applies to proposed changes to the Comprehensive Plan Map designations, text and the Urban Growth Boundary.
- 2.200 Frequency of Plan Amendments. Applications for Comprehensive Plan amendments submitted by property owners shall be reviewed semi-annually in April and October by the Planning Commission. The City Council, Planning Commission, **Landmarks Advisory Commission**, or Director may also initiate Plan amendments. These initiations are made without prejudice towards the outcome.
- 2.210 Procedure. Requests for Plan amendments~~If the Director determines by the Director a request for a Plan amendment to be legislative, in nature are the request will be~~ reviewed through the legislative procedures in Sections 1.580-1.660. Quasi-judicial requests are reviewed through the Type IV procedures of Section 1.370. Area specific amendments, including Map amendments outside of the City limits, are processed in accordance with the City-County Urban Growth Management Agreement.
- 2.220 Review Criteria. Amendments to the Comprehensive Plan will be approved if the Council finds that the application ~~meets at has shown that the~~ following applicable criteria~~are met~~:
- (1) A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.
  - (2) A legislative amendment is needed to meet changing conditions or new laws.
  - (3) The requested designation for a quasi-judicial map amendment meets all of the following tests:
    - (a) The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance is more supportive of the Comprehensive Plan as a whole than the old designation.
    - (b) The requested designation is consistent with any relevant area plans adopted by the City Council.
    - (c) The requested designation is consistent with the Comprehensive Plan Map pattern.
    - (d) The requested designation is consistent with the statewide planning goals.
- 2.225 Corrections to the Comprehensive Plan Map. The Director may initiate a review through the Type I procedure for these types of corrections to the Comprehensive Plan Map listed below:
- (1) A map line that was intended to follow a topographical feature does not do so. Topographical features include the tops and bottoms of hillsides, the banks of water bodies, and center lines of creeks or drainage ditches;
  - (2) The line on the map does not match the legal description or the map shown or referenced in the ordinance that applied the designation; or
  - (3) There is a discrepancy between maps, and there is clear legislative intent for where the line should be.
  - (4) The map line is based on the location of a reference item that has since been moved. Reference items are rights-of-way, tentative rights-of-way, utility easements and similar items. Map line changes in these cases must not be more than a minor change to the map pattern and must not

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| result in any significantly affect impacts to abutting lots.

## CONDITIONAL USES

2.230 Purpose. Certain uses are conditional uses instead of being a The City does not allow some uses outright, although they may have beneficial effects and serve important public interests. These uses are subject to the conditional use regulations because they may, but not necessarily do, have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create major nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use review process provides an opportunity to allow the use when there are it will have minimal impacts, to allow the use but impose conditions to address identified concerns, or to deny the use if the concerns cannot be resolved.

Uses identified as requiring conditional use approval may be permitted, enlarged or altered in accordance with the provisions of this section. In addition, when a use is not authorized in any district or when it is unclear how to classify re ambiguity exists concerning the appropriate classification of a particular use or type of development within the intent of this Code, the use or type of development may be established by a conditional use approval in accordance with this section.

2.240 Procedure. A Conditional Use application is reviewed as either a Type II or a Type III procedure, according to the Schedule of Permitted Uses. [Ord. 5446, 5/10/00, Ord. 5673, 6/27/2007]

2.250 Review Criteria. Requests for conditional uses will be approved if the review body finds that the application has shown that meets all of the following criteria have been met, either outright or with conditions that bring the proposal into compliance:

- (1) The proposed use is consistent with the intended character of the base zone and the operating characteristics of the neighborhood.
- (2) The proposed use will be compatible with existing or anticipated uses in terms of size, building scale and style, intensity, setbacks, and landscaping or the proposal calls for mitigates ion of difference in appearance or scale through such means as setbacks, screening, landscaping or other design features.
- (3) The transportation system is capable of can supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, on-street parking impacts, access requirements, neighborhood impacts and pedestrian safety.
- (4) Public services for water, sanitary and storm sewer, water management, and for fire and police protection, are capable of can serving the proposed use.
- (5) The proposal will not have significant adverse impacts on the livability of nearby residentially zoned lands due to:
  - (a) Noise, glare, odor, litter, or hours of operation.
  - (b) Privacy and safety issues.
- (6) Special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized. [Ord. 5265, 12/18/1996]

2.260 Conditions of Approval. The review body may attach conditions to a conditional use of approval to ensure that the proposal will conform to the applicable review criteria.

Some of the most frequently imposed conditions relate to the following: uses, special yards, and spaces; fences and walls; street dedications and improvement petitions (or bonds); ingress-site entry and egress; signs; building textures, colors, architectural features and height; landscaping, screening

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and buffering; noise, vibration, odors or other similar nuisances; hours for certain activities; time period within which the proposed use shall be developed; duration of use; and preservation of natural vegetation~~ve growth~~ and open space.

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### DEVELOPMENT CODE AMENDMENTS

- 2.270 Purpose. The Development Code is designed to implements the goals and policies of the Comprehensive Plan, which is a reflections of community values and needs. Because these values may change with time and because new techniques for implementing the Plan may become more appropriate, the Code must have some mechanism for response to those changes. Amendments to the Code should occur as needed in order to maintain a close relationship between the Development Codeit and the Comprehensive Plan.
- 2.280 Procedures. Code amendments shall be processed as a Type IV procedure in accordance with the legislative procedures of Sections 1.580-1.660. Exception: The Director may initiate and approve amendments for the following types of corrections through a Type I procedure: typographical, grammatical, and cross-referencing errors. [Ord. 5635, 1/11/2006]
- 2.290 Review Criteria. The request may be approved if the Council finds that the application meets ~~it has shown that all of the following criteria are met:~~
- (1) The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.
  - (2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

## NONCONFORMING SITUATIONS

- 2.300 Purpose. Within the City there are some lots, developments, and uses in the City of Albany that were lawful before this Code was adopted or amended, but would no longer be allowed under the current terms of this Code. It is the intent of these provisions to permit such nonconforming situations to continue, but not to encourage their perpetuation. All nonconformities are referred to as "nonconforming situations."
- 2.310 Status and Documentation of a Nonconforming Situation. Nonconforming situation regulations apply only to situations that were allowed when established or that were approved through a land use review. Nonconforming situations that were not allowed when established have no grandfather rights and must be removed. The burden of proof is on the property owner or applicant to document that a nonconforming situation was allowed when established and was maintained over time. Satisfactory evidence of the nonconforming situation must be provided by the applicant. Evidence might consist of building permits, utility hookups, tax records, business licenses, or telephone directory listings.
- 2.320 Types of Nonconforming Situations. A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these.  
[Ord. 5338, 1/28/1998]
- 2.325 Certain Residential Uses Granted Special Status. Special status has been granted to existing single-family dwellings in commercial, office and industrial zones. Special status has been granted for two or more units constructed prior to November 20, 1996, in the Hackleman Monteith zoning district. Notwithstanding the restrictions or terms of any other section of this Code, these properties shall be deemed to be conforming to the base zoning district. See Sections 3.080, 4.075, and 5.080. [Ord. 5555, 2/7/2003]
- 2.330 Regulations That Apply to All Nonconforming Situations.
- (1) Their status of a nonconforming situation is not affected by changes in ownership.
  - (2) A nonconforming situation may be changed to conforming situations by right. Once a conforming situation occupies a site, the nonconforming rights are lost and a nonconforming situation may not be re-established.
  - (3) A nonconforming use may change to a conditional use if approved through a conditional use review. Once a conditional use occupies the site, the nonconforming rights are lost and a nonconforming use may not be re-established.
  - (4) Normal maintenance and repair of nonconforming situations is allowed.
- 2.340 Loss of Nonconforming Status.
- (1) A nonconforming use of a building, structure, or land shall be deemed to have terminated if the building, structure, or land ceases to be occupied by a permitted or legally nonconforming use for any reason for a continuous period of one continuous year. Extensions of up to two additional years may be granted under the Type II procedure if the Director finds:
    - (a) Converting to any conforming use will result in a substantial economic loss, and the proposed use will result in greater conformance with the development standards of the zone;  
OR
    - (b) Immediately surrounding land uses are similarly nonconforming, and the proposed use will

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be compatible with both the nonconforming and conforming uses in the review area.

- (2) Nonconformance with any development standard or condition other than building setback, coverage, or height shall be deemed terminated if the building, structure, or land ceases for any reason to be occupied by a permitted or legally nonconforming use for a one continuous period of one year.
- (3) Any nonconforming use or development dependent upon a building or structure that is substantially damaged or becomes deteriorated to the extent that it has been declared a "dangerous building" and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) shall be deemed will be considered terminated upon such destruction or that declaration and order.
- (4) Any nonconforming use or development dependent upon a building or structure that has been substantially damaged or destroyed by any cause to the extent that the cost of repair or restoration of the building or structure would exceed cost more than 70 percent of its fair market value shall be deemed will be considered terminated.
  - (a) Cost of repair or restoration shall be determined by the Building Official. Fair market value shall be determined by an independent professional appraisal in a form satisfactory acceptable to the City. The owner or applicant may appeal these such determinations of value and cost are appealable to the Building Board of Appeals, or may apply for an E exceptions to this standard may be applied for under the Type II procedure.
  - (b) The Director may allow additional reconstruction upon finding that:
    - (i) Conversion to any conforming use will result in a substantial economic loss, and
    - (ii) The proposed use will result in greater conformance with the development standards, or
    - (iii) Immediately surrounding land uses are similarly nonconforming and the reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.
- (5) Rebuilding structures that have been intentionally destroyed and that contained nonconforming uses and which have been intentionally destroyed is prohibited.

2.345 Nonconforming Lots of Record. Lots of record that do not meet the dimensional or area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform with the development standards (such as setbacks, lot coverage, etc.) for that zoning district in which the lot is located (such as setbacks, lot coverage, etc.). [Ord. 5338, 1/28/1998]

2.350 Nonconforming Uses.

- (1) Nonconforming uses may continue to operate. Changes in operations are allowed. However, nonconforming uses in residential zones may not extend their hours of operation into the period between 11 p.m. and 6 a.m.
- (2) A change to another use in the same use category is allowed. A change to a use in a use category prohibited by the base zone may be allowed through a nonconforming use review.
- (3) Structural expansions shall be limited to the following:

Existing Gross Floor Area	% of Expansion Allowed
Buildings under 4,000 sq. ft.	25%
Buildings under between 4,000 and 10,000 sq. ft.	20%
Buildings larger than 10,000 sq. ft.	15%

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- (4) Nonconforming uses and buildings may expand one time only.
- (5) Expansion of a nonconforming use onto another site is prohibited, except ~~in the following situations when:~~
  - (a) The expansion site is abutting the site of the nonconforming use; and
  - (b) The expansion site was in the same ownership as the nonconforming site when it became nonconforming; and
  - (c) The prior zoning regulations on the expansion site would have allowed the use; and
  - (d) The expansion is approved through a nonconforming use review.
- (6) ~~The addition of new residential units to a nonconforming residential use is prohibited.~~

2.360 **Nonconforming Residential Densities.** Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site. There may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards.

2.370 **Nonconforming Development.** This section is primarily aimed at ~~promotes~~ upgrading to features of nonconforming development elements that affect a site's the appearance and impacts of a site. Nonconforming developments may continue unless specifically limited by Subsection (2) below or by other regulations in this Title.

- (1) ~~Changes may be made to the site that are in conformance with to the base zone development standards of the site may be made.~~

*Staff Comment: Design standards for new buildings were added to the Code after this section was last evaluated. Commercial and multi-family design standards are being added to this list since buildings are considered "development" as used in this section of the Code.*

- (2) Development that does not comply with the following standards must be brought into compliance with the base zone standards to an extent commensurate with the proposed changes.
  - (a) Landscaped setbacks for surface parking and exterior development areas;
  - (b) Interior parking lot landscaping;
  - (c) Landscaping in existing building setbacks;
  - (d) Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
  - (e) Screening; and
  - (f) Paving of surface parking and exterior storage and display areas; and
  - (g) Commercial and multi-family design standards.

2.380 **Sites That Are Nonconforming in Parking Spaces.** When a site is nonconforming in the number of required parking spaces and changes to a use or building are made that increase the number of required parking spaces, only the number of spaces relating to the increase need to be provided.

2.390 **Procedure.** A nonconforming situation is reviewed through a Type II procedure.

2.400 **Review Criteria.** ~~A~~ request will be approved if the review body finds that the application has shown that meets all of the following criteria are met:

- (1) The nonconforming situation was not created unlawfully. See Section 2.310.

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- | (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.
- | (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 facade;
  - (b) Parking area placement;
  - (c) Buffering and the potential loss of privacy to abutting residential uses; and
  - (d) Lighting and signs.
- | (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.

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### SITE PLAN REVIEW

- 2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. ~~Site Plan Review~~ It mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Site Plan Review is not intended to evaluate the proposed use or the structural design of the proposal. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping. [Ord. 5445, 4/12/2000]
- 2.410 Levels of Review. ~~These sections establish three levels of Site Plan Review. A site plan is reviewed at one of three levels, with the degree of detail required for submittal and review criteria based on the its~~ projected land use impacts. Option A review is primarily for new development and is subject to the greatest scrutiny. Option B review is primarily for review of those projects which are expansions of existing development and for projects that will generally result in fewer impacts on the surrounding area than a new development. Option C review is used when the proposal is for a change in use or another modification to a developed site that will not result in a greater impact on the neighborhood or on public facilities. [Ord. 5445, 4/12/2000]
- 2.420 Relationship to Other Regulations. ~~Approval of~~ When a land use application is approved based on review criteria in this Code, does not relieve the applicant must still be responsible for compliance with other applicable codes, ordinances, statutes, and/or regulations. [Ord. 5445, 4/12/2000]
- 2.430 When Site Plan Review is Required. In general, a Site Plan Review covers all proposed exterior alterations included in the development proposal, but does not cover portions of the existing development that are not being modified. An exception to this is parking areas, where any proposed change to a parking lot will result in the entire parking area being reviewed. Site Plan Review is required in all of the following instances:
- (1) New development.
  - (2) Building expansions of 500 square feet or more, or any expansion that results in a reduction of parking spaces.
  - (3) Parking area expansions of 1,000 square feet or more.
  - (4) Any development listed in Articles 3, 4, or 5 that specifically requires Site Plan Review. [Ord. 5445, 4/12/2000]
- 2.440 When Site Plan Review is not Required. Activities and developments listed below are excluded from the requirement for ~~ado~~ not require Site Plan Review, land use application but are nevertheless still subject to the applicable provisions of the Code ~~where applicable~~:
- (1) Agricultural uses permitted outright in any zone.
  - (2) ~~A~~ Detached single-family dwellings or one duplex/two-unit dwellings.
  - (3) Accessory buildings and building additions of less than 500 square feet that conform to the provisions of this Code and the adopted building code.
  - (4) Accessory buildings in residential districts that meet the following standards. ~~(Information must be submitted that shows the standards are met. The applicant must submit the information shall be submitted at the time the applicant when he or she applies for building permits showing that the standards are met. The Community Development Director or his/her designee will determine~~

## EXHIBIT B

whether the standards are met.)

- (a) The proposed building ~~does not exceed the height of~~ ~~is not taller than~~ the tallest building on adjacent property. Height here means the height of the building at its highest point.
- (b) The ~~square footage of the area enclosed by the foundation of the proposed building does not exceed the square footage of~~ ~~is not larger than~~ the area enclosed by the foundation of the largest building on adjacent property (in square feet).
- (c) The amount of land that will be covered by buildings if the proposed building is constructed ~~does not exceed~~ ~~is not more than~~ the applicable lot coverage allowances of the Development Code.
- (d) The proposed building meets or exceeds the applicable setback requirements ~~in the Code for the primary residential structure listed in the Development Code.~~
- (e) The materials ~~that will be used on~~ of the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those ~~used on~~ of the primary residential structure on the subject property.
- (f) If the proposed building is located in ~~any of the~~ special purpose districts listed in Articles 6 and/or 7 of the Development Code, ~~the building~~ it must also be reviewed for conformance with the requirements of ~~that~~ applicable district.

| Staff Comment: The standard below is covered in (f) above.

Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6.

- (5) Landscaping and routine property maintenance.
- (6) Improvement of parking areas containing less than 1,000 square feet and otherwise meeting the provisions of this Code.
- (7) A change ~~in Internal changes~~ to a building, ~~or other structure, or usage of land that does not constitute a change of use.~~
- (8) A change in use inside an existing structure when the following criteria are satisfied:
  - a) No structural expansion ~~in excess of~~ ~~larger than~~ 500 feet or no additional exterior storage is proposed.
  - b) The use will not create additional adverse affects for abutting properties or the neighborhood (e.g. visual, noise, or air pollution, increased parking requirements, or improvements to public facilities.)
  - c) Any non-conformance with ~~the provisions of~~ this Code has been addressed, including compliance with sign, landscaping, and parking requirements except where restricted by building location or limiting site characteristics.
- (9) An emergency measure necessary for ~~the~~ safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (10) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations and public health and safety requirements, some of which may further limit such uses ~~in terms of~~ the location, scope, and/or duration of the use.
- (11) The establishment, construction, alteration, or maintenance of a public facility authorized by the Public Works Director including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six

## EXHIBIT B

months duration but does not include major substations, treatment facilities, storage tanks, reservoirs, or towers.

- (12) Excavation and fill for foundations and all other excavation or fill involving 50 cubic yards or less which that does not adversely affect drainage patterns and is not located within a floodplain, or slope area. [Ord. 5381, 3/26/1997; Ord. 5445, 4/12/2000]

2.450 **Review Criteria.** A site plan approval will be granted if the review body finds that the application meets all of the following criteria that are applicable to the proposed development.

- (1) Public utilities can accommodate the proposed development.
- (2) The transportation system can safely and adequately accommodate the proposed development.
- (3) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.
- (4) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.
- (5) Any special features of the site (such as floodplains, hillsides, wetlands, riparian corridors, topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.

[Ord. 5445, 4/12/2000; Ord. 5635, 1/11/2006]

2.460 **Conditions of Approval.** The City may attach conditions to the approval of a Site Plan Review application in order to ensure that the proposal will conform to the applicable review criteria. [Ord. 5445, 4/12/2000]

*Staff Comments: We have had some projects built differently than what was on the approved plans. The proposed language references existing regulations for modifications to approved plans.*

2.465 **Approved Plans are Final.** Projects shall be completed according to the approved site plan and landscape plan. Modifications to approved plans are subject to the standards in Section 1.226.

### **OPTION A REVIEW**

2.470 **Applicability.** This level of review is intended for new development within the City. Any proposal that is not appropriately reviewed under Options B or C will be reviewed under Option A. [Ord. 5445, 4/12/2000]

2.480 **Procedure.** A Type I-L limited land use procedure is followed for an Option A Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/2000]

2.490 **Application Contents.** An application for Option A Site Plan Review consists of the following must include:

- (1) A completed application form.
- (2) A mailing list of property owners within 100 feet contiguous to of the entire site, except that a mailing list of property owners within 300 feet must be provided when a subdivision, manufactured home park, or multi-family development is proposed. The list will must be compiled

## EXHIBIT B

from the most recent property tax assessment roll. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

- (3) One set of conceptual drawings, including floor plans, **lighting details**, and building elevations and materials.
- (4) A conceptual landscape plan showing the type and location of proposed landscaping and screening.

*Staff Comments: The following changes to application contents are being requested by Public Works so that they get enough information to adequately evaluate the project for natural and storm drainage patterns.*

*Example: Smart Centers is a good example of a recent project that required all of this information. Although each item wasn't specifically listed in the Development Code, the information was required in order for Public Work's to identify potential conflicts. Because of the size and location of the project, Smart Centers dealt with a wide range of issues such as fill in the floodplain, capacity concerns with the existing drainage system, drainage concerns between properties, private detention systems, public detention systems, sub-surface drainage concerns, filled in an existing pond, and it covered two drainage basins.*

*Reason for proposed language: Stormwater management is a critical element of most development proposals. The Public Works Department is tasked with reviewing the stormwater component of these development applications. As such, Public Works requires that enough information is provided to make an educated decision on the proposal. The requested changes reflect the type of information Public Works typically requires when engineering plans for a subdivision are submitted to the City. The updated list will better prepare applicants for what is actually required during review and should help reduce delays as a result of incompleteness.*

*Unlike a subdivision, when a project goes through Site Plan review, Engineering staff may not get another opportunity to review the stormwater system. Therefore, it is imperative that a comprehensive review be completed during the land use process.*

*It was noted that the Planning Commission would like to add the word "applicable" when defining what is required to be shown on the Site Plan. This addition is appropriate and provides some flexibility for the applicants and staff.*

- (5) A site plan showing the following **applicable** information:
  - (a) Assessor's map and tax lot number and lot and block description or other legal description.
  - (b) Lot dimensions and total lot area.
  - (c) North arrow.
  - (d) Location of all existing and proposed structures, including minimum distances from all structures to ~~lot~~-**property** lines.
  - (e) Percentage of the lot covered by ~~any and all~~ **existing and proposed** structures and paved areas.
  - (f) Adjacent zoning designations and land uses including approximate location of buildings, accesses, streets, sidewalks, curbs, easements, and utilities.
  - (g) Locations and dimensions of rights-of-way of all abutting streets (whether public or private) and existing and proposed driveways.
  - (h) Size and location of all utilities.
  - (i) Locations, dimensions, and nature of any **existing and proposed** easements.
  - (j) Location of any non-access strips.
  - (k) Natural drainage patterns, **flow arrows showing existing and proposed drainage patterns, and existing and proposed finished grade contours at 1-foot intervals, or at a larger interval if approved by the City Engineer.** (~~existing contour lines at two-foot intervals if~~

## EXHIBIT B

- (l) required by Director.)
- (m) Clearly identify any existing and proposed swales, ditches, or other drainage ways.
- (n) Location, size, and capacity of the existing and proposed drainage system including pipe size, and slope, detention facilities, and water quality facilities. Show existing and proposed finished grade elevations at collection points and property lines. Include the location, size, and capacity of facilities identified in the Drainage Master Plan the downstream drainage system that would serve the proposed development. Also provide any supporting calculations.
- (o) Proposed cuts and fills of more than two feet and any changes in elevations proposed at property lines. Typical cross sections at adjacent property boundaries showing pre-and post-development conditions and clearly identify any changes in elevation at the property line not captured in the typical section.
- (p) Location and dimensions of delivery and loading areas.
- (q) Location and dimensions of parking and circulation areas.
- (r) Location and dimensions of trash disposal areas.
- (s) Location of proposed signs. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

*Staff Comments: The following additional application contents are necessary for Planning staff to evaluate the application against the review criteria. This list comes from application content required for land divisions.*

- (t) Location and type of proposed pedestrian amenities and common areas (when applicable).
- (u) Location of airport height restrictions.
- (v) Location of floodplains.
- (w) Location of hillsides with slopes greater than 12 percent.
- (x) Location of wetlands.
- (y) Location of riparian corridors.
- (z) Location of Willamette Greenway.
- (aa) Location of historic districts, structures and sites on the City's adopted Local Historic Inventory, including individually designated National Register Historic Landmarks and archaeological sites.

2.500 Appeals. An Option A Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/2000]

### OPTION B REVIEW

2.510 Applicability. This level of review is intended for expansion of existing structures or development that will have a minimal impact on the surrounding area. An Option B Site Plan Review must be filed when the following developmental activities are proposed:

- (1) An addition (exceeding larger than 500 square feet-) to an existing structure.
- (2) Parking lot additions of over 1000 square feet.
- (3) A change in occupancy to a more intensive use in an existing building.
- (4) Reduction in the number of parking spaces.

Any development consistent in scope and impact with those listed here may also be reviewed under an Option B review, at the Director's discretion. [Ord. 5265, 12/18/1996; Ord. 5445, 4/12/2000]

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- 2.520 Procedure. A Type I-L limited land use procedure is followed for the Option B Site Plan Review with the Director acting as the review body. [Ord. 5445, 4/12/2000]
- 2.530 Application Contents. The Director may require any of the information listed for Option A Site Plan Review in Section 2.490. In many cases, not all of this information will be required due to lack of applicability. [Ord. 5445, 4/12/2000]
- 2.540 Appeals. An Option B Site Plan Review decision is a limited land use decision and may be appealed in accordance with Section 1.330. [Ord. 5445, 4/12/2000]

### OPTION C REVIEW

- 2.550 Applicability. An Option C Site Plan Review is intended for review of development in existing buildings. It is appropriate for the following types of development proposals:
- (1) A change in occupancy to a use which is not more intense in off-site impacts.
  - (2) Resurfacing of nonconforming parking lots.
  - (3) Other development with similar impacts. [Ord. 5445, 4/12/2000]
- 2.560 Procedure. A Type I procedure is followed for the Option C Site Plan Review. [Ord. 5445, 4/12/2000]
- 2.570 Application Contents. An Option C Site Plan Review requires submittal of only the completed application form. [Ord. 5445, 4/12/2000]
- 2.580 Review Criteria. The following criteria must be met in order for the Director to approve the proposed development.
- (1) Off-street parking is adequate to serve the proposed use.
  - (2) The proposed use will not generate more traffic than the previous use.
  - (3) The site is in, or can be brought into, compliance with the spirit of the Code regarding landscaping, screening and buffering.
  - (4) Any applicable criteria from Section 2.450.

[Ord. 5445, 4/12/2000]

## EXHIBIT B

### VACATIONS

- 2.600 Purpose. This section states the procedures and review criteria for vacation of an easement, right-of-way, or plat.
- 2.610 Initiation. A vacation proposal may be initiated by the City Council or by petition of adjoining area owners in accordance with Oregon Revised Statutes (ORS) 271.080.
- 2.620 Procedure. Type IV procedures as outlined in Section 1.370 shall be used as supplemented by the provisions of ORS Chapter 271. State law defines the affected area and mandates notice requirements that are more stringent than the City's Type IV procedure.
- 2.630 Review Criteria. A vacation request may be approved if the review body finds that the applicant has shown that all of the following review criteria are met:
- (1) The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.
  - (2) The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.
  - (3) The requested vacation will not have a negative effect on traffic circulation or emergency service protection.
  - (4) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.
  - (5) The public interest, present and future, will be best served by approval of the proposed vacation.
- 2.640 Zoning of Vacated Rights-of-Way. Except as otherwise provided in the vacation ordinance or when the official City Zoning Map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of the vacated territory shall be the same as the adjoining property to which the ownership of the parcel automatically reverts.
- 2.650 Conditions of Approval. The City may attach conditions to the approval of a vacation request to ensure that the proposal will conform to the review criteria.

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### VARIANCES

*Staff Comments: Note: Nationally and historically, variances were included in zoning ordinances to address unusual circumstances or alleviate unnecessary hardship due to unusual sites or circumstances. In 1991, the City removed the requirement that there be some kind of unique circumstance or condition of the property. The staff comment was, "the proposed changes result in more realistic criteria."*

*Without the unique or unusual circumstance criterion, the variance criteria can be relatively easy to meet and may be too easy to meet if we intend for them to apply only to unusual situations as the purpose statement in 2.470 states. It is also hard to apply these standards equitably.*

*The original "unusual circumstance" variance criterion is proposed to be reinstated in the Code as well as former purpose statement language.*

*Public Comment: We received comments from Multi-Tech Engineering Services on June 10 and June 15, 2009 on the proposed changes to the variance and adjustment review criteria. The letter states, "'Unusual situation' is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City."*

2.660 **Purpose.** When a practical difficulty, unusual hardship, or the literal interpretation of a provision of this Code results in rendering a property incapable of reasonable economic use or causes specific hardships unintended by the Comprehensive Plan or this Code, a variance may be granted as provided in this article. Variances provide flexibility for unusual situations, while continuing to providing certainty and rapid processing for land use applications. Variances are necessary when the applicant requests a for deviation from numerical standards of more than 10 percent, or a for variation from non-numerical development standards. Requests for changes of 10 percent or less of a numeric standard are processed as adjustments.

2.670 **Procedure.** A variance request shall be reviewed as a Type II procedure. The Director will determine whether applications for minor changes from a numeric standard may be processed as adjustments through the Type I procedure.

2.680 **Regulations That May and May Not Be Varied.**

(1) Unless listed in Subsection (2) below, all regulations in this Title-Code may be modified using the variance process.

(2) Variances are prohibited for the following items:

- (a) To allow a primary or accessory use that is not allowed by the regulations.
- (b) As an exception to any restrictions on uses or development that contain the word "prohibited."
- (c) As an exception to going through a review process or meeting standards required by a review process in this Code, such as minimum lot size a threshold for a review, such as the size of accessory structures.
- (d) As an exception to a definition or classification.
- (e) As an exception to the procedural steps of a procedure or to change assigned procedures.

2.690 **Review Criteria.** The review criteria for sign variances are stated in Sections 13.710 and 13.711 of the Sign Code. All other variance requests will be approved if the review body finds that the applicant has shown that all of the following criteria have been met:

- (1) The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography,

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**trees, wetlands, or drainage ways.**

- (3)(2) The proposal will be consistent with the desired character of the area ~~purpose, overview, and description for the zone in which the property is located~~; and
- (4)(3) If more than one variance is requested, the cumulative effect of the variances results in a project that is still consistent with the ~~overall~~ purpose, ~~overview and description~~ of the zone; and
- (5)(4) The requested variance is the minimum necessary to ~~allow the proposed use~~ address the **peculiar or unusual conditions** of the site; and
- (6)(5) Any impacts resulting from the variance are mitigated to the extent practical; or
- (7)(6) Application of the regulation in question would preclude all reasonable economic use of the site.

## ZONING MAP AMENDMENTS

*No changes are proposed to this last section, so 2.700 through 2.760 are not shown.*

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## ARTICLE 9

### ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

*Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black bold and strikethrough. Staff comments in italics are not amendments and will be removed.*

9.010 Overview. The City of Albany has established standards for on-site improvements and environmental protection. These standards are intended to foster high quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public. This article contains the following standards:

- Off-Street Parking
- Landscaping
- Street Trees
- Tree Felling
- Buffering and Screening
- Environmental

[Ord. 5445, 4/12/2000]

#### OFF-STREET PARKING

*No changes are proposed to Sections 9.020 through 9.110, so they are not shown.*

9.120 Parking Area Improvement Standards. All public or private parking areas, loading areas and outdoor vehicle sales areas must be improved based on the following standards:

- (1) General. ~~All~~ parking spaces must be improved in accordance with these standards and available for use at the time of project completion.
- (2) Other Requirements. All parking areas shall conform to the setback, clear vision, landscaping, and buffering/screening provisions of this Code.
- (3) Surfacing. All areas of a parking area, slot, including travel aisles and access, shall have a durable, dust-free surfaceing of asphalt, cement concrete, or other materials approved by the Director of Public Works. Parking lot surfacing shall not encroach upon the public right-of-way except where it abuts a concrete public sidewalk, or has been otherwise approved by the Director of Public Works.
- (4) Drainage. All parking lots must provide a drainage system Adequate drainage shall be provided to dispose of the runoff generated by the impervious surface area of the parking area. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property. All drainage systems must be approved by the Director of Public Works.
- (5) Perimeter Curb. Perimeter curbing is required for protection of landscaped areas, and pedestrian walkways, and to prevent runoff onto adjacent properties. All parking areas except those required in conjunction with a single- or two-family dwelling shall provide a curb at least 6 inches high along the perimeter of all parking areas.

*Staff Comments: The proposed changes are recommended by the disability access coordinator to make the Code more compliant with ADA standards. There is concern that if the wheel bumper is setback too far from the front of the stall, that there will not be enough room for parking the car.*

- (6) Wheel Bumper. All parking stalls fronting a sidewalk, alleyway, street or property line, except for Article 9 Amendments

## EXHIBIT C

those required in conjunction with a single- or two-family dwelling, shall provide a secured wheel bumper at least 6 inches high and at least 6 feet long, set back from the front of the stall a minimum of **at least 2-1/2 feet, but no more than 3 feet.** If the sidewalk is widened to 7 feet 6 inches to allow for vehicle encroachment, no wheel bumpers are required.

- (7) Turnaround. Except for ~~single~~-family and duplex dwellings, groups of more than two (2) parking spaces must be located and served by an aisle or turnaround so that their use will require no backing movements or other maneuvering in a street right-of-way other than an alley.
- (8) Striping. Lots containing more than two (2)-parking spaces must have all required spaces permanently and clearly ~~striped~~marked. **Stripes must be at least four inches wide.** ~~If parking spaces are provided for When motorcycle parking, compact, or handicapped parking spaces are provided,~~ they shall be so-designated **within the stall.**
- (9) Connecting to Adjacent Parking Areas. Where a proposed parking area is adjacent to a developed or undeveloped site within the same zoning district, the proposed parking area must be designed to connect to the existing or future adjacent parking area. This requirement may be waived by the Director when it is deemed impractical or inappropriate due to the nature of the adjoining uses.
- (10) Parking Lot Landscaping. Parking lots shall be landscaped ~~in accordance with~~ to the standards listed in Section 9.150.

*Staff Comments: The dimensions are in Section 9.130 so the sentence is being deleted here.*

- (11) Compact Car Parking. Not more than 40% of the total parking spaces in a parking lot~~provided~~ may be designated for compact cars. The minimum dimensions for a compact space are 8 feet by 16 feet. ~~Such Compact~~ spaces must be signed and/or the space painted with the words "Compact Car Only."
- (12) Handicapped Parking. All parking areas must provide handicapped parking spaces in conformance with the Oregon State Structural Specialty Code.
- (13) Bicycle Parking. Bicycle parking space requirements are as follows:
  - (a) For multiple-family dwellings (three or more units) – one space per four units.
  - (b) For industrial development – one space for every 10 automobile spaces required.
  - (c) For commercial or office development - at least two spaces, ~~and plus~~ one space for every 10 automobile spaces required. Up to two motor-vehicle parking spaces may be deleted if additional sheltered bicycle parking is provided at a rate of five bicycle spaces to one motor-vehicle space.
  - (d) Exemptions -- the Director may allow exemptions to or reductions in required bicycle spaces in connection with temporary uses or uses that are not likely to need bicycle parking.

Bicycle parking spaces shall 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 tall. Bicycle

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parking spaces within roofed buildings and bike lockers are considered sheltered spaces.

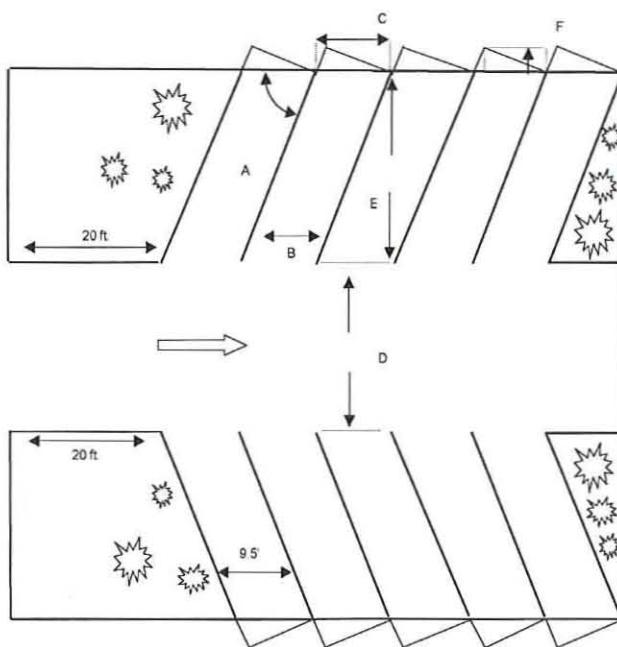
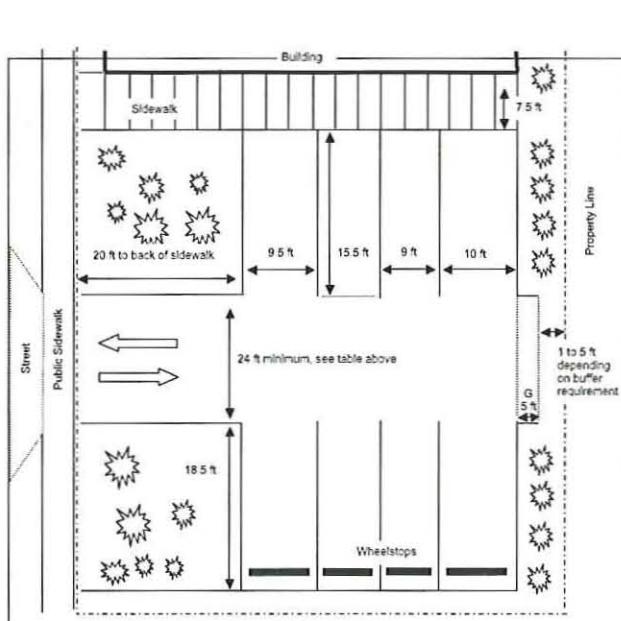
[Ord. 5673, 6/27/2007]

- (14) **Lighting.** Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent residential district properties.
- (15) **Pedestrian Access.** Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrances of new buildings. **All new public walkways and handicapped accessible parking spaces must meet the minimum requirements of the Oregon Structural Specialty Code.**
- (16) **When** employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located nearest the employee entrances to buildings.

**9.130 Off-Street Parking Lot Design.** All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in Table 1: Parking Lot Design and supplemental drawings. **Stall dimensions are measured from inside the stripes.**

**Table 1: PARKING LOT DESIGN (in feet)**

A Parking Angle	B Stall Width	C Curb Width	D Aisle Width	E Stall Depth	F Bumper Overhang	G Dead-end Back-up
(Parallel)	8.0 feet	8.0 feet	N/A	25.0 feet	N/A	N/A
45°	8.5	12.0	13.0	17.5	2.0	5.0
	9.0	12.7	12.0	17.5	2.0	5.0
	9.5	13.4	11.0	17.5	2.0	5.0
	10.0	14.1	11.0	17.5	2.0	5.0
60°	8.5	9.8	18.0	19.0	2.5	5.0
	9.0	10.4	16.0	19.0	2.5	5.0
	9.5	11.0	15.0	19.0	2.5	5.0
	10.0	11.6	14.0	19.0	2.5	5.0
Compact	8.0 C	8.0 C	26.0 C	16.0 C	3.0	5.0
90°	8.5	8.5	26.0	18.5	3.0	5.0
	9.0	9.0	26.0	18.5	3.0	5.0
	9.5	9.5	26.0	18.5	3.0	5.0
	10.0	10.0	24.0	18.5	3.0	5.0



## NOTES:

- (1) For one row of stalls, use "D" plus "E" as the minimum width.
- (2) The dimensions for compact car spaces shall be 8 feet by 16 feet.
- (3) For estimating available parking area, use 350 square feet per vehicle for stall, aisle, and access areas.
- (4) The stall width for self parking of long duration is 8.5 feet; for higher turnover, self parking is 9.0 feet; and for supermarkets and similar facilities (shoppers with packages), it is 9.5-10 feet.
- (5) The minimum aisle width for two-way traffic and for emergency vehicle operations area is 24 feet. The minimum aisle width for one-way emergency vehicle access is 20 feet.
- (62) When appropriate bumper overhang area is provided (extruded curbs), "F" can be subtracted from "E" to determine stall depth.
- (73) All handicapped spaces shall be 15 feet wide. Back-up areas identified as "G" must be at least 5 feet from the property line and are excluded from required setback areas or buffer yards.

*Staff Comments: Some of the parking standards get lost in the notes under Table 1. Several are proposed to become their own subsections. (2) is being updated to reflect the current standards for handicapped spaces.*

- (1) **Compact spaces** shall be at least 8 feet wide by 16 feet long.
- (2) **Handicapped spaces** shall be a minimum of 9 feet wide and 17 feet long and designed in accordance with the Oregon Structural Specialty Code (OSSC). An adjacent access aisle must be provided that is at least 8 feet wide and 17 feet long for a van-accessible space, and 6 feet wide for a standard accessible space.
- (3) **Stall Width.** Long-term parking spaces must be at least 8.5 feet wide. Parking stalls for grocery stores or adjacent to planter islands must be at least 9.5 feet wide.
- (4) **Minimum Aisle Widths.** Aisles for two-way traffic and emergency vehicle operations must be at least 24 feet wide. One-way aisles and one-way emergency vehicle access must be at least 20 feet wide.

*Staff Comments: The illustrations above show 20 feet of "stacking" room, but are not written as a standard.*

- (5) The design of driveways and on-site maneuvering and loading areas for commercial and industrial developments shall include 20 feet of storage length for entering and exiting vehicles, in order to prevent vehicles from backing into the flow of traffic on the public street or causing unsafe conflicts with on-site circulation.

## LANDSCAPING

9.140 **General Requirements.** Landscaping requirements by type of use are listed below:

- (1) **Landscaping Required – Residential.** All front setback yards (exclusive of access-ways and other permitted intrusions) are required to be landscaped prior to issuance of before an occupancy permit will be issued or final building permit approved. In all residential districts except Rural Residential (RR), the minimum landscaping acceptable per-for every 50 lineal feet of street frontage (or portion thereof, deducting the width of the driveway) of street frontage is:
  - (a) One tree at least 6 feet tall.
  - (b) Four (4)-1-gallon shrubs or accent plants.
  - (c) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, and evergreen shrubs).
- (2) **Landscaping Required — Commercial and Industrial Non-Residential.** All required front and interior setback yards, exclusive of access-ways and other permitted intrusions, must be landscaped prior to issuance of before an occupancy permit will be issued. Minimum landscaping acceptable per-for every 1,000 square feet of required setback yards areas—in all commercial

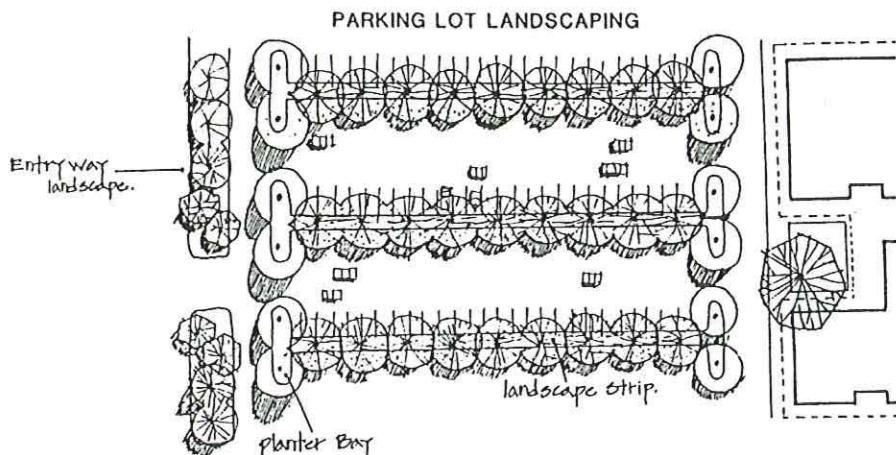
industrial districts is as follows:

- (a) One tree at least 6 feet tall is required for every 30 feet of street frontage.
- (b) Five 5-gallon or eight 1-gallon shrubs, trees or accent plants.
- (c) The remaining area treated with suitable living ground cover, lawn, or decorative treatment of bark, rock, or other attractive ground cover.
- (d) Where the yard adjacent to a street of an industrially zoned property is across a right-of-way from other industrially or commercially zoned property, only 30 percent of such yard area must be landscaped.

9.150 **Parking Lot Landscaping.** The purpose of landscaping in parking lots is to provide shade, reduce storm water runoff, and direct traffic. Parking lots must be landscaped in accordance with the following minimum standards:

*Staff Comments: The last sentence is proposed to ensure handicapped walkways are clear of vegetation.*

- (1) **Planter Bays.** Parking areas shall be divided into bays of not more than 12 parking spaces. Between or at both ends of each parking bay there shall be curbed planters at least 5 feet wide, **excluding the curb.** Each planter shall contain one canopy tree at least 10 feet high and decorative ground cover containing at least two shrubs for every 100 square feet of landscape area. **Neither planter bays nor their contents may impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.**
- (2) **Entryway Landscaping.** Both sides of a parking lot entrance 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.
- (3) **Parking Space Buffers.** Parking areas shall be separated from the exterior wall of a structure by pedestrian entrance walkways or loading areas or by a 5-foot strip of landscaping materials.
- (4) **Alternate Plan.** An alternate plan may be submitted that provides landscaping of at least five percent of the total parking area exclusive of required landscaped yard areas and that separates parking areas of more than 100 spaces into clusters divided by landscape strips. Each planter area shall contain 1 tree at least 10 feet tall and decorative ground cover containing at least 2 shrubs for every 100 square feet of landscape area. **Landscaping may not impede access on required public sidewalks or paths, or handicapped-accessible parking spaces.**
- (5) **Landscape Protection.** Required landscaped areas adjacent to graveled areas must be protected, either by railroad ties secured by rebar driven 18 inches into the ground, by large boulders, or by another acceptable means of providing protection.



*No changes are proposed to Sections 9.130 through 9.330, so they are not shown.*

## ENVIRONMENTAL

- 9.400 Purpose. These regulations are designed to protect all uses in all zones from certain objectionable off-site impacts associated with nonresidential uses. These impacts include noise, vibration, odors, and glare. The standards ensure that uses provide adequate control measures or locate in areas where the community is protected from health hazards or nuisances. ~~The use of objective standards provides a measurable means of determining specified off-site impacts. This method protects specific industries or firms from exclusion in a zone based solely on the general characteristics of similar industries in the past.~~ [Ord. 5555, 2/7/2003]
  
- 9.405 Exemptions. The off-site impact standards do not apply to machinery, equipment, and facilities that were at the site and in compliance with existing regulations at the effective date of these regulations. Any new or additional machinery, equipment, and facilities must comply with the standards of this chapter. Documentation is the responsibility of the proprietor of the use if there is any question about when the equipment was brought to the site. [Ord. 5555, 2/7/2003]
  
- 9.410 Relationship to Other Regulations. The environmental standards are in addition to all other regulations of the Albany Municipal Code. These standards do not replace or supersede regulations of the Department of Environmental Quality (DEQ), relevant county regulations, or standards such as the Uniform Building Code or Uniform Fire Code. [Ord. 5555, 2/7/2003]
  
- 9.420 Evidence of Compliance. Prior to Before approving a development application, the Director may require submission of evidence demonstrating compliance with state, federal and local environmental regulations and receipt of necessary permits.
  
- 9.425 Responsibility. Compliance with state, federal and local environmental regulations is the continuing obligation of the property owner and operator.
  
- 9.430 Measurements. Measurements for compliance with these standards are made from the property line or within the property of the affected site. Measurements may be made at ground level or at habitable levels of buildings.  
  
If the City does not have the equipment or expertise to measure and evaluate a specific complaint, it may request assistance from another agency or may contract with an independent expert to perform such measurements. The City may accept measurements made by an independent expert hired by the owner or operator of the off-site impact source. If the City contracts to have measurements made and no violation is found, the City will bear the expense, if any, of the measurements. If a violation is found, City expenses will be charged to the violator. Nonpayment of the costs is a violation of the Code. [Ord. 5555, 2/7/2003]
  
- 9.435 Neighborhood Compatibility. If a site is located within 300 feet of residentially-zoned property and environmental impacts regulated by this article have not been adequately determined, the Community Development Director may require that a proposed use be considered under the Conditional Use process to provide an opportunity for public review and comment and to establish conditions to mitigate potential impacts. [Ord. 5555, 2/7/2003]

*Staff Comments: The City attorney recommends adopting the state's noise standards for industry and commerce in our Code for enforcement purposes. These standards are adopted by reference.*

- 9.440 Noise. The City noise standards are stated in Albany Municipal Code Title 7, Public Peace, Morals and Safety. **Oregon Administrative Rules (OAR) 340-035-0035, Noise Control Regulations for Industry and Commerce, is adopted here in its entirety, and as may be subsequently amended by**

## EXHIBIT C

**the State of Oregon. Tables 7, 8, and 9 referenced in OAR are included here for reference only.**  
In addition, the Department of Environmental Quality (DEQ) has regulations that apply to firms adjacent to or near noise-sensitive uses such as dwellings, religious institutions, schools, and hospitals.

**TABLES 7 & 8 (OAR 340-035-0035)**  
**New and Existing Industrial and Commercial Noise Source Standards**  
**Allowable Statistical Noise Levels in Any One Hour**

<b>7 am – 10 pm</b>	<b>10 pm – 7 am</b>
$L_{50}$ – 55 dBA	$L_{50}$ – 50 dBA
$L_{10}$ – 60 dBA	$L_{10}$ – 55 dBA
$L_{01}$ – 75 dBA	$L_{01}$ – 60 dBA

**TABLE 9 (OAR 340-035-0035)**  
**Industrial and Commercial Noise Source Standards for Quiet Areas**  
**Allowable Statistical Noise Levels in Any One Hour**

<b>7 am – 10 pm</b>	<b>10 pm – 7 am</b>
$L_{50}$ – 50 dBA	$L_{50}$ – 45 dBA
$L_{10}$ – 55 dBA	$L_{10}$ – 50 dBA
$L_{01}$ – 60 dBA	$L_{01}$ – 55 dBA

- (6) **Additional City Standards.** The following restrictions are in addition to the State DEQ standards for purposes of City noise regulation:
  - (a) For purposes of measuring permitted sound levels from ~~noise~~-noise-generating sources under the provisions of DEQ rules, any point where a ~~noise~~-noise-sensitive building could be constructed under the provisions of this Code shall apply as if such point contained a noise sensitive building.
  - (b) Within the Industrial Park (IP) and Waterfront (WF) zoning districts, each property or building under separate ownership shall be considered a ~~noise~~-noise-sensitive property under the provision of DEQ rules, with the exception that the allowable noise levels shall be increased by 5 db.
- (7) **Expert Evaluation.** A noise analysis may be required in the development review process to show that a proposed activity can meet the noise standards or that residential uses are adequately buffered from noise sources.
- (8) **Mitigation Measures.** The following noise mitigation measures may be required through development review:
  - (a) increased building setbacks;
  - (b) special berms and heavy vegetation areas;
  - (c) site layout to establish buffer areas or locate low-noise buildings to serve as buffer between the noise-sensitive areas and the sound source;
  - (d) special sound insulation construction techniques;
  - (e) improvements as recommended by the DEQ or a qualified noise consultant;
  - (f) posting a bond or other financial agreement to ensure that the required noise reduction features are installed.

[Ord. 5555, 2/7/2003]

*No other changes are proposed to the rest of this article, so the rest is not included.*

## ARTICLE 11

### LAND DIVISIONS AND PLANNED DEVELOPMENTS

*Staff Comment: The amendments and comments in red are proposed policy amendments. Staff comments in italics are not amendments and will be removed.*

- 11.000 Overview. The most permanent feature of a community is the way land is divided into parcels. This article describes the process of converting raw land into building sites. The primary goals of this design review are to better ensure that natural features have been taken into account; that roads and utilities are properly designed and installed, and that adequate open space has been provided. This article establishes the standards and procedures for property line adjustments, partitions, subdivisions, planned developments, and condominiums.

The following is a list of the main headings in this article.

- General Provisions
- Lot and Block Arrangement
- Property Line Adjustments
- Subdivisions and Partitions
- Planned Developments
- Condominiums
- Cluster Development

[Ord. 5668, 4/11/07]

*Staff Comments: Public Works has requested additional language be added to the Tentative Plat Submittal Section, (9) to clarify what needs to be shown on the plat. No other changes are proposed, so the rest of the Article is not shown.*

- 11.210 Tentative Plat Submittal. All applications for tentative partition or subdivision approval must include a complete application form and copies of a plat showing the following details. The tentative plat need not be a finished drawing but it should show all pertinent information to scale.
- (9) The location on the site and in the adjoining streets or property of existing and proposed **sanitary sewers, storm sewers,** and water mains and services, culverts, ditches and drain pipes, **all other utilities such as** electric, gas and telephone conduits with invert elevations of **sanitary and storm** sewers at points of proposed connections.

## ARTICLE 12

### PUBLIC IMPROVEMENTS

*Staff Comment: The amendments and comments in red are proposed policy amendments. Other edits to clarify the existing regulations are proposed in black bold and strikethrough. Staff comments in italics are not amendments and will be removed.*

- | 12.000 Overview. This article contains the City's standards for public improvements that relate to the development process.

The following is a list of the main headings in this article.

- General Provisions
- Streets
- Sidewalks
- Street Trees
- Bikeways
- Utilities—General
- Water
- Sanitary Sewer
- Storm Drainage
- Improvement Assurances
- Addresses and Street Names

[Ord. 5673, 6/27/2007]

#### GENERAL PROVISIONS

- | 12.010 Purpose. The provisions ~~in this article~~ for new public improvements ~~in this article~~ are intended to address the City's concerns relative to public health, safety, and welfare.
- | 12.020 Relationship to Other Local Regulations. This article supplements other municipal ordinances. ~~In the event of a conflict between~~If a provision of this article ~~and conflicts with~~ another City ordinance, ~~that~~ the ordinance that most specifically deals with the issue in question shall control. Whenever possible, the two provisions shall be interpreted in a manner that renders the provisions of both ordinances consistent. Only when such interpretation is impossible will one provision be deemed to supersede the other.
- | 12.030 Relationship to Specialty Codes or State Law. This article ~~is intended to~~ supplements other existing state and local codes. Examples of these codes include, but are not limited to, the adopted building, fire, and plumbing codes. ~~In the event of a conflict between~~If any provision of this article ~~and conflicts with~~ a specialty code, the specialty code shall control.
- | 12.040 Conditions of Approval. Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in an adopted ~~P~~ublic ~~F~~acilities ~~M~~aster ~~P~~lan, or any other public improvements necessitated by the development. Development approval may likewise be conditioned ~~when~~ private facilities are proposed to be shared by two or more parcels. Construction of off-site improvements may be required ~~when necessary~~ to mitigate impacts resulting from development that relates to capacity deficiencies and public safety; and/or ~~when necessary~~ to upgrade or construct public facilities to City standards.

All development decisions shall be consistent with constitutional limitations concerning the taking of private property for public use.

To provide an adequate transportation system, development approvals may include conditions that

require facilities that accommodate for safe and convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

- (1) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;
- (2) "Safe, convenient and adequate" means bicycle and pedestrian routes, facilities and improvements that:
  - (a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
  - (b) Provide a reasonably direct route of travel between destinations, such as between a transit stop and a store; and
  - (c) Meet travel needs of cyclists and pedestrians, considering destination and length of trip, and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile. [Ord. 5281, 3/26/1997; Ord. 5339, 1/28/1998]

12.045 Relationship to Other Development Code Articles. This article provides the public improvements standards to be used in conjunction with the procedural and design requirements contained in the articles on land divisions, site plan review, and manufactured home parks.

12.050 Relationship to Construction Standards. Public improvements shall be designed to comply with adopted facility master plans to the greatest extent as much as possible. Unless otherwise approved by the City Engineer, public improvements shall be constructed according to the standard construction specifications. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs, gutters and other public improvements within the City are as contained in the City's "Standard Construction Specifications." The City Engineer may make changes to the standard specifications consistent with the application of engineering principles to the conditions in Albany. [Ord. 5339, 1/28/1998]

## STREETS

12.060 General Provisions. No development may occur unless the development has frontage on or approved access to a public street currently open to traffic. A currently non-opened public right-of-way may be opened by improving it to City standards.

Streets shall be interconnected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a greater long-range effect on land use patterns, greater than do parcelization patterns or building location.

Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this Article.

When the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district. [Ord. 5445, 4/12/2000]

12.070 Creation of Streets. Streets are usually created through the approval of a subdivision or partition plat. However, the City Council may also approve the creation of a street by acceptance of a deed. If the creating of a street unintentionally results in a land partition, the owner is not required to apply for

partition approval as long as the resulting parcels comply with Code standards.

12.080 Classification of Streets. Arterial and collector streets are designated in the Transportation System Plan. [Ord. 5445, 4/12/2000]

12.090 Creation of Access Easements. In general, the creatingen of access easements between property owners is discouraged. However, ~~there are some instances when sometimes~~ an access easement is the only viable method ofway to providing access to a developable lot. The review body will approve an access easement when the applicant has demonstrated that all of the following criteria have been met:

- (1) No more than two parcels or uses ~~are to~~ will be served by the proposed access easement;
- (2) There is ~~insufficient~~ **not enough** room for a public right-of-way due to topography, lot configuration, or placement of existing buildings; and;
- (3) The City Engineer has determined that there is ~~a~~ not a need for a public street in this location.

12.100 Access to Public Streets. With the exceptions noted in Section 1.070, the location and improvement of an access point onto a public street shall be included in the review of a development proposal. In addition, the following specific requirements shall apply to all access points, curb cuts, and driveways:

*Staff Comments: The proposed language most often relates to "flag" lots, although shared driveways are sometimes required to limit access to arterial and collector streets. Access and maintenance easements are required to be recorded at the land division stage.*

- (1) Approaches and driveways to City streets and alleys must be paved and constructed in accordance with the Standard Construction Specifications. **Driveways serving more than one property shall be paved the full length of the shared portion.**
- (2) Driveways for single- and two-family dwellings must have a minimum width of 10 feet, **and a** maximum width of 24 feet (not to exceed the width of the driveway curb cut) and minimum separation of 5 feet.

Up to four multiple-family units that front on a public street may have separate driveways. The driveways shall meet the same standards as **for** single- and two-family dwellings.

Driveways for all other uses must have widths of 12-16 feet for one-lane (one-way) driveways, 24-32 feet for two-lane driveways, and 36 feet for three-lane driveways. Three-lane driveways must have designated lanes and turning movements. Industrial driveways shall have a width of 24-48 feet. There must be a minimum separation of 22 feet between all driveways except for single- and two-family dwellings. The width of a driveway will be determined by measuring at the curb line and will exclude the transitions which must conform to standards fixed by the City Engineer.

- (3) All driveways must be located ~~the maximum distance~~ as far as practical from a street intersection, and in no instance shall the distance from an intersection be ~~closer less~~ than the following, as measured from the nearest curb return radius:

Arterial Street	40 feet
Collector Street	20 feet
Local Street	10 feet

When ~~streets of different functional classification~~ different classes of streets intersect, the distance required is that of the classification that requires the greatest distance between the ~~an~~ access point and the intersection is that of the street type that requires the greater distance.

- (4) The location, width, and number of accesses to a public street may be limited for developments that are subject to site plan review ~~provisions of this Code~~. All development that proposes access to an arterial street is subject to site plan review procedures and the design requirements of 12.230.

*Staff Comments: The last two sentences are confusing at best. The first sentence contains the intent of this regulation, so the last two sentences are proposed to be removed.*

- (5) Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe circulation and carrying capacity of the street. ~~Except as further restricted by this Article, local street access to properties of less than 100 feet of frontage is limited to two access lanes per frontage, which may be together or separate and properties exceeding 100 feet of frontage are limited to two access lanes per each 100 feet of frontage.~~
- (6) Properties with frontage on more than one street may be restricted to access on the street(s) of a lower classification through site plan, land division, or other review procedures.
- (7) A common access point at a property line is encouraged and, ~~in some instances~~, may be required in order to reduce the number of access points to streets. Construction of common access points must be preceded by recording of joint access and maintenance easements.
- (8) With the exception of single-family residential development, approach grades must not exceed 10 percent slope within 20 feet of a public street. Driveways for single-family residential development shall comply with applicable fire and building codes.
- (9) Access to designated state highways is subject to the provisions of this Article in addition to requirements of the State Highway Division, ~~and~~ State Department of Transportation. When regulations of the City and State ~~may~~ conflict, the more restrictive requirements apply.
- (10) For developments on ~~parcels~~ property larger than five acres in ~~of~~ contiguous ownership exceeding five acres in size which fronting on an arterial street or limited access highway, a frontage road may be required in order to provide a single access determined by the review body to be the most appropriate location for safety and convenience.
- (11) When access is allowed on an arterial street, efforts shall be made to locate the ~~access~~it adjacent to the interior property line where ~~such access~~it could be shared by the adjacent property. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

- 12.110 Street Location, Width and Grade. The location, width, and grade of all streets must conform to any approved transportation master plan or recorded subdivision plat. When location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding areas or conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions made continuance of or conformance to existing streets impractical or where no plan has been previously adopted.

In addition, new streets may be required to be located where the City Engineer determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties. In determining the location of new streets in a development or street plan, consideration shall be given to maximizing available solar access for adjoining development sites.

Street grades must be approved by the City Engineer, who will consider drainage and traffic safety.

- 12.120 Rights-of-Way and Roadway Widths. Unless otherwise indicated on an approved street plan or in

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Section 12.130, the street right-of-way and roadway widths shall not be less than the minimum width in feet shown in the following table. Where a range is indicated, the width shall be determined by the City Engineer.

*Staff Comments: The sentence below the table was accidentally removed in 2000 and is being restored. In addition, we propose adding "unless waived" by the City Engineer," to the end incase the City Engineer determines the easements are not needed.*

Type of Street	Minimum Rights-of-Way Width	Minimum Roadway Width
Arterial	(70-120) feet	(40-70) feet
Collector	(60-80) feet	(36-48) feet
Local*	(42-56) feet	(22-32) feet
Radius for turnaround at end of cul-de-sac	(43) feet	(36) feet
Alley	(14-20) feet	(12-20) feet

\* When street rights-of-way are less than 60 feet wide, a parallel public utility easement 7-feet-wide shall be dedicated on both sides of the right-of-way unless waived by the City Engineer.

[Ord. 5445, 4/12/2000]

12.122 Local Residential Streets. There are two classifications of local streets, based on projected traffic volumes. The applicant is responsible for demonstrating that each proposed street is designed for the appropriate traffic volume.

- (1) Minor Local Streets. The minor local street design is intended to be the predominant street type in residential neighborhoods. A minor local street will have fewer than 1,000 average trips per day (ADT) when all future street connections are made. The standard design is a 30-foot wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 54-foot right-of-way. There is a parallel 7-foot public utility easement dedicated on each side of the street unless waived by the City Engineer. Parking is allowed on both sides of the street. See Figure 1.

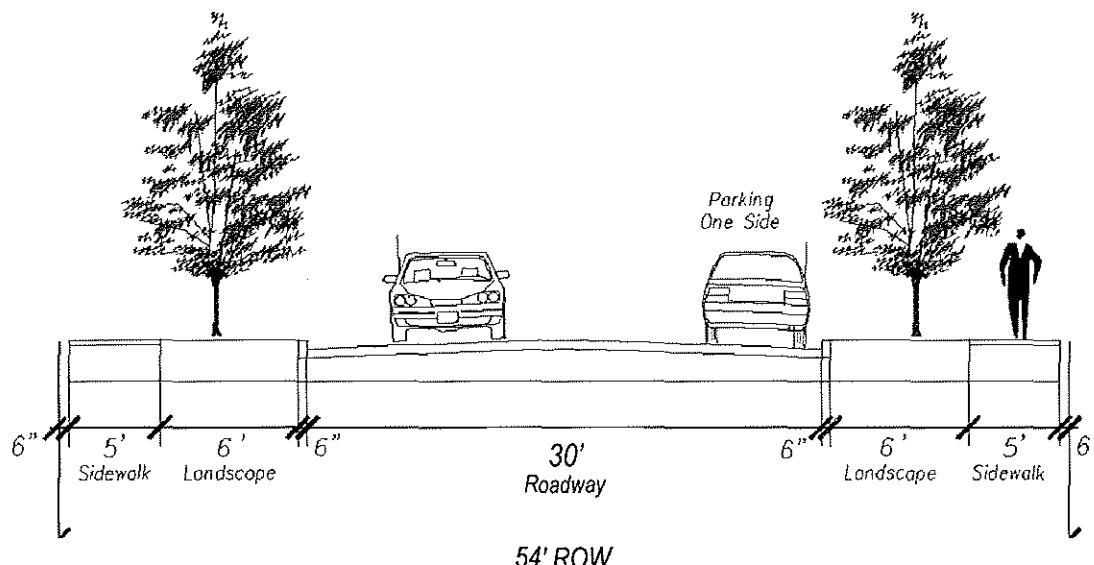


Figure 1: Minor Local Street

- (2) Optional Design for Minor Local Streets. In lieu of the standard design in subsection (1), a minor

## EXHIBIT E

**local street may have a 28-foot-wide paved surface within a 52-foot right-of-way, with parking on both sides, for minor local streets is allowed when the following performance standards are met:**

- (a) Provisions are made to ensure that emergency response vehicles have adequate access to all parcels properties on the street. A 40-foot-long clear area must be provided at a rate of one perfor every two lots properties along each side of the street. The clear area may be created with parking restrictions created by adjoining driveways or other method approved by the City Engineer.
- (b) The street will have fewer than 1,000 average daily trips per day (ADT) when all future street connections are made.
- (3) **Network Local Streets.** A network local street will have greater than 1,000 ADT. The standard design is a 28-foot-wide paved surface with curb and gutter, a 6-foot landscape strip, and a 5-foot sidewalk on each side within a 52-foot right-of-way. There is aA parallel 7-foot public utility easement is dedicated on each side of the street unless waived by the City Engineer. Parking is restricted to one side of the street. See Figure 2.

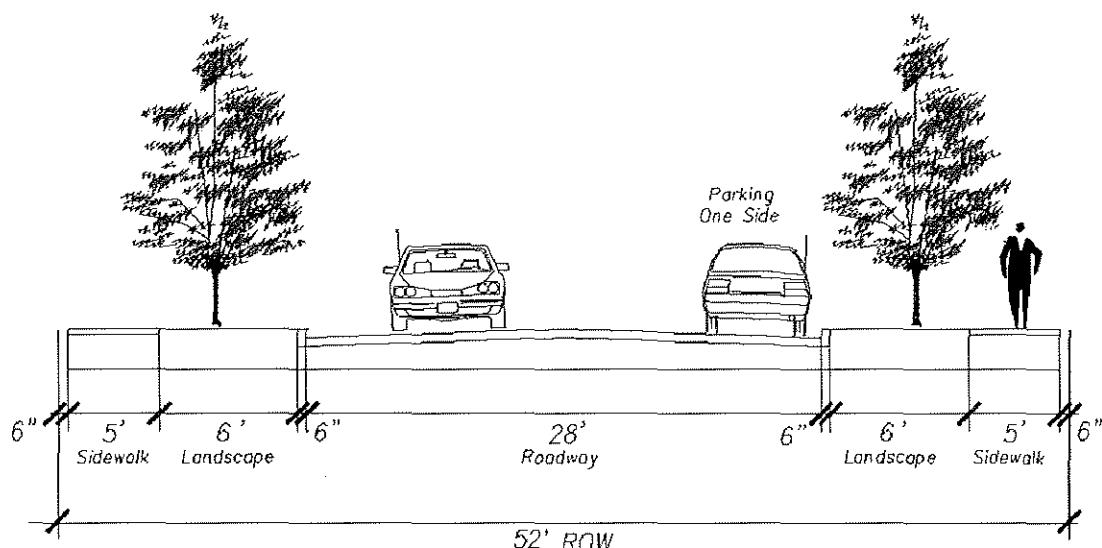


Figure 2: Network Local Street

- (4) **Alley Option.** Use of alleys are encouraged in residential neighborhood design. A narrower minor local street (22-foot paved surface) will be allowed with alley access because the alley will reduce some of the parking and access functions usually found on the frontage street. All private utilities must be located in the alley, and no curb cuts will be permitted along the frontage street. The standard six-foot planter strip and five-foot setback sidewalks are required along the frontage street. See Figure 3. As an incentive, lots with alley access may be up to 10 percent smaller than the minimum lot size of the zone. See Table 1, Article 3.

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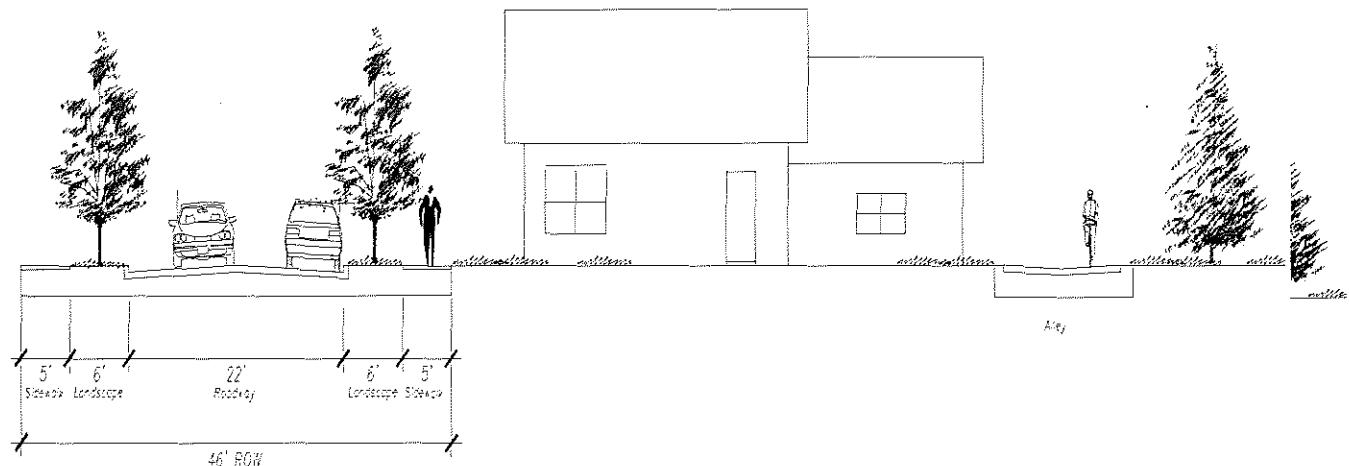
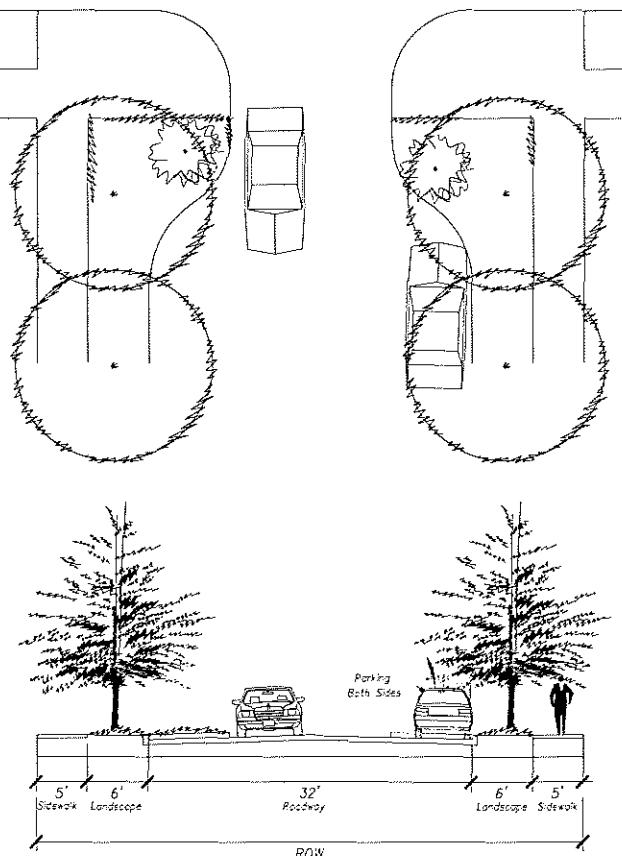


Figure 3: Alley Option

- (5) Wide Local Street Option. A wider local street (32-foot paved surface) may be proposed to accommodate on-street parking on both sides of the street. Additional pedestrian amenities, such as bulb-bulb-outs at intersections and larger street trees, will be required as a condition of the subdivision or planned development approval to offset the wider street section. See Figure 4.

Figure 4: Wide Local Street Option



- (6) Residential Street Design for Constrained Sites. There are instances where a development is proposed on land that has natural features that may constrain the standard local street design. Examples of such natural features include floodplains, steep slopes, drainageways, wetlands, riparian corridors, and tree groves. Through the subdivision or planned development review

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process, the City will consider a narrower street section that does not compromise the goals for street design in a great neighborhood. For example, the sidewalks may be placed curbside and parking may be removed from the street in order to narrow the street paving and preserve natural areas. See Figure 5.

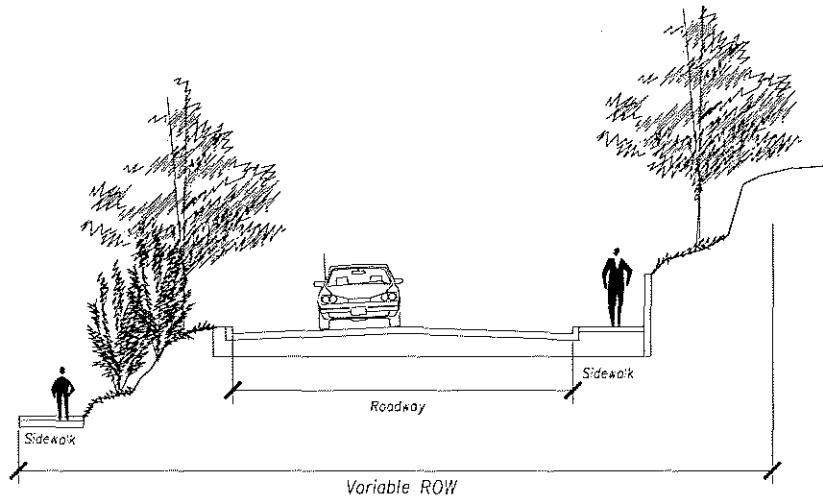


Figure 5: Residential Street Design (Constrained)

(7) Alternate Street Standard for Cluster Development. (Reserved)

SUMMARY OF STREET DESIGN STANDARDS	SINGLE-FAMILY DEVELOPMENT				MULTI-FAMILY DEVELOPMENT
	MINOR LOCAL STREETS		NETWORK LOCAL STREETS	WIDE OPTION	
Design Elements	Standard Design	Street with Alley Option	Standard Design	Wide Option	Standard Design
Right-of-way	54' <sup>3</sup>	46'	52'	56'	56'
Pavement width	30' <sup>3</sup>	22'	28'	32'	32'
On-street parking	Both sides	One side	One side	Both sides	Both sides
Bike lanes	No	No	No	No	No
Curb & gutter	Yes	Yes	Yes	Yes	Yes
Sidewalks <sup>1</sup>	5' setback	5' setback	5' setback	5' setback	5' setback
Planter strip	6' planter	6' planter	6' planter	6' planter	6' planter
Examples of "add backs" <sup>2</sup>	None	14-20' rear alley with all private utilities	None	Traffic calming, taller street trees	Traffic calming, taller street trees

<sup>1</sup> Curbside sidewalks are allowed on cul-de-sac bulbs. See Section 12.300(2).

<sup>2</sup> In exchange for building a street that does not meet the standard design, additional design features are required to more than compensate for the loss of one or more design objectives.

<sup>3</sup> A 28-foot street in a 52-foot right-of-way is allowed subject to the provisions of Section 12.122(2).

[Ord. 5445, 4/12/2000; Ord. 5562, 10/10/2003]

12.130 Mini-Subdivision Street and Rights-of-Way Standards. The standards listed in this section are intended for use in developing residential infill parcels. The review body will approve variations to the standards listed in Section 12.120 above, when the following criteria are met:

- (1) The property to be divided is less than two acres in size and no more than eight lots will be created or served by the street; and
- (2) The proposed land division, as a whole, meets the standards for lot size and configuration for the zoning district; and

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- (3) Surrounding parcels are developed or are so physically incapable of being developed so that combining the proposed land division with adjoining properties in a conventional land division is not feasible.
- (4) The property is not needed for a continuation of continuing the adjacent public street pattern. However, pedestrian connections may be required for the continuation of continuing the pedestrian circulation system.

The review body may also modify other standards in this Code as indicated below:

Dedication & Maintenance	Paved Width (b)	On-Street		Rights-of-Way (c)	
	Street/Cul-de-sac	Curbs	Parking	Sidewalk	Street/Cul-de-sac
Public (a)	22' / 25' (radius)	Yes	no	4' (1 side)	30' / 35' (radius)
Public (a)	28' / NA	Yes	one side	4' (1 side)	36' / NA

- (a) A 7-foot public utility easement may be required on each side of the right-of-way.
- (b) Maximum street length is 400 feet.
- (c) A "hammerhead" turnaround may be allowed only if no more than four residential lots are created, and the City Engineer determines that no other options exist and no traffic hazards will be created. [Ord. 5445, 4/12/2000]

- 12.140 Additional Rights-of-Way. A development project requiring land use approval is required to dedicate additional right-of-way if an existing street abutting or within the development does not meet the widths designated in Section 12.120. This provision does not apply to property line adjustments or historic review. While not required to dedicate additional right-of-way, single- and two-family dwellings (and related accessory buildings) are subject to being setbacks from future street rights-of-way as provided in Section 3.190.

*Staff Comment: We have the ability to restrict access to public right-of-way through the use of barricades, so reserve strips do not provide any additional deterrent. Public Works has not been requiring the strips for over 10 years and they have had no problems. Therefore, the "reserve strip" sentence is proposed to be deleted because the requirement is not necessary.*

- 12.150 Future Extensions of Streets and Reserve Strips. When it is necessary to give access to or permit a future division of adjoining land, streets shall be extended to the adjoining tract. ~~A reserve strip across the end of a dedicated street shall be deeded to the City. In addition, a~~ barricade at the end of the street shall be installed and paid for by the property owners. It shall not be removed until authorized by the City Engineer.

- 12.160 Street Alignment. As far as practical, streets shall be dedicated and constructed in alignment with existing streets ~~by continuing the centerlines thereof~~. Arterial and collector streets shall have continuous alignments without offset or staggered intersections. In no case shall ~~the staggering of~~ streets be designed ~~where so that~~ jogs of less than 300 feet are created as measured from the centerline of any intersection involving an arterial or collector street. [Ord. 5338, 1/28/1998]

- 12.170 Intersections. Streets must be laid out so as intersect as nearly as possible at right angles. Proposed intersection of two streets at an acute angle of less than 75 degrees is not allowed. An oblique street should be curved approaching an intersection to provide at least 100 feet of street at right angles with the intersection. Not more than two streets shall intersect at any one point.

- 12.180 Clear Vision Area. A clear vision area must be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between the heights of 2 and 8 feet

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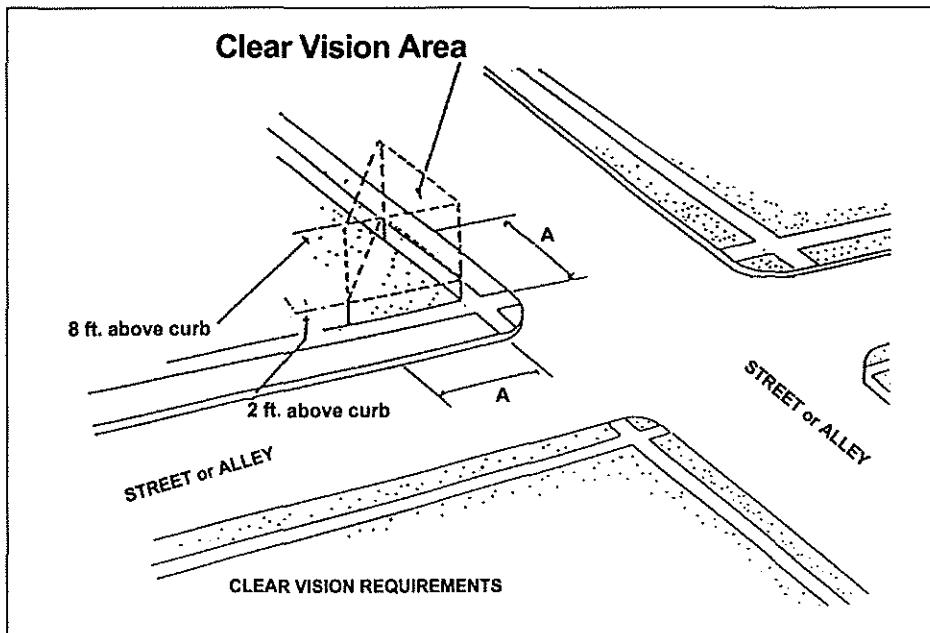
shall be established in the clear vision area. Visibility is not considered impeded by a fence where materials are 35 percent or less of the surface area of that portion of the fence above 2 feet. Fence posts spaced at 8 feet or more apart are not counted as part of the fence surface area. Height measurements shall be made from the top of the curb or, when no curb exists, from the established street center line grade.

- (1) The clear vision area provisions do not apply to the following:

- (a) a public utility pole,
  - (b) a tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection,
  - (c) another plant species of open growth habit that is not planted in the form of a hedge and that is planted and trimmed to leave at all seasons a clear and unobstructed cross-view,
  - (d) a supporting member or appurtenance to a permanent building lawfully existing on the date this standard becomes effective,
  - (e) an official warning sign or signal,
  - (f) the post section of a pole sign when there are no more than two posts and any post is less than eight inches in diameter, and
  - (g) existing or new buildings that meet the minimum setbacks.
- (2) A clear vision area consists of a triangular area, two sides of which are lot lines or a driveway and a lot line for a distance specified in this section, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides (See illustration below). The following measurements shall establish the clear vision areas:

<u>Type of Intersection</u>	<u>Measurement Along Each Lot Line or Drive Edge*</u>
Controlled Intersection (stop sign or signal)	20 feet
<del>Uncontrolled Intersection (60' right-of-way)</del>	<del>30 feet</del>
Uncontrolled Intersection (less than 60' right-of-way)	30 feet
Commercial and Industrial District driveways	20 feet
Residential District driveways	15 feet
Alley (less than 25 feet)	20 feet

\* When there is an intersection of two or more streets of different right-of-way width intersect, the distance to be measured along the lot lines shall be the distance specified for each type street.



12.190 **Cul-de-sacs.** The street pattern may include cul-de-sacs and bulbs only if connectivity and block length standards have been met. A cul-de-sac must be as short as possible and is not to exceed 400 feet. A cul-de-sac must terminate without in a circular turnaround, except as provided in 12.130 (4)(c). Dead-end streets longer than 400 feet may be approved by the City Engineer if no other means is available for development of the property.

A 10-foot-wide lighted concrete bikeway/pedestrian accessway shall be dedicated and constructed from the end of each cul-de-sac to the nearest street or property line of adjacent property, except where the cul-de-sac abuts developed property and/or the City Engineer determines there is no need for a connection. [Ord. 5338, 1/28/1998; Ord. 5445, 4/12/2000]

12.200 **Street Abutting New Development.** Sections of existing streets not meeting that directly abut a new development and do not meet City standards that directly abut new development shall be constructed to City standards. The City Engineer may approve construction of a partial-width street, provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings. The design of the improvement shall consider the ultimate design of the fully widened street. For purposes of this section, "development" means a land division, new commercial or industrial development, construction of multi-family residential units, or a manufactured home or recreational vehicle park.

A future improvement assurance, as described in Section 12.600, may be accepted by the City when the City Engineer determines that the street improvement would not be timely. [Ord. 5338, 1/28/1998]

12.210 **Slope and Curves.** Slope shall not exceed 6 percent on arterials, 10 percent on collector streets, or 12 percent on other streets. Center line radii or curves shall not be less than 600 feet on arterials, 400 feet on collectors, or 200 feet on other streets. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, steeper grades and sharper curves may be approved by the review body. In flat areas, allowance shall be made for finished street grades having a minimum slope of at least 0.5 percent, when possible.

12.220 **Street Adjacent to Railroad.** Whenever a proposed development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for the appropriate use of the land between each street and

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the railroad. The distance shall be determined with due consideration at each cross street of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.

12.230 Access to Arterials. When a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic; or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:

- (1) A parallel access street along the arterial;
- (2) Lots **abutting the arterial** of suitable depth abutting the arterial to provide adequate buffering and having frontage along another street;
- (3) Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial; or
- (4) Other treatment, as determined by the **City EngineerDirector**, suitable to meet the objectives of this subsection.

12.240 Property Monuments. Upon completion of a street improvement and prior to before acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon-Oregon-licensed surveyor retained by the developer.

12.250 Private Streets. Unless the review body determines that public streets are needed to provide for circulation and/or access to neighboring properties, private streets are permitted within P planned U unit D developments, M manufactured H home P parks, and singly-ularly-owned developments of sufficient size to warrant interior circulation on private streets. Streets classified as arterials or collectors that run through these developments must be public streets. Local streets needed for connectivity purposes shall be public streets. Gated residential streets are prohibited. Private streets shall be designed and constructed with a 20-year design life. Plats for developments containing private streets must show that streets are private and that upkeep and maintenance are the responsibility of the abutting property owners. The review body may require legal assurances for the construction and continued maintenance of private streets. [Ord. 5338, 1/28/98; Ord. 5445, 4/12/00]

12.260 Traffic Signals. Where a single development or concurrent group of developments will create a need for a traffic signal at an intersection, such installation may be a condition of development approval.

12.270 Railroad Crossings. When an adjacent development results in a need to install or improve a railroad crossing, such improvement may be a condition of development approval.

*Staff Comments: The developer installs and pays for street signs. The proposed language clarifies the current process.*

12.280 Street Signs. The City shall **approve the** installation of all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. **The applicant shall provide and install all required street and traffic control signs.** The cost of signs and installation shall be included in the developer's project costs.

## SIDEWALKS

12.290 Requirement. All development for which land use applications are required by Section 1.060 must include sidewalks adjacent to public streets. This requirement also applies to new single-family houses

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and duplexes if they are located on arterial or collector streets or on curbed local streets, if there is an existing sidewalk within 500 feet on the same side of the street.

Sidewalks shall be built during when arterial and collector streets are their constructedion and considered at the discretion of the City Engineer during their reconstruction. This provision shall also apply to local streets that serve commercial and multi-family development. Sidewalks are required on both sides of all streets. If an interim street standard is being constructed which does not include bike lanes or sidewalks, interim bikeways or walkways for pedestrians shall be provided through construction ofby paved roadway shoulders at least 8 feet in widthwide on arterials and 6 feet on other streets. The pProvision of sidewalks may be waived when the street serves a use or combination of uses that generate fewer than 50 trips a day (based on ITE standards) and cannot be continued or extended to other properties. [Ord. 5445, 4/12/2000]

12.300 Design, Width, and Location. All sidewalks must be constructed, replaced or repaired in accordance with the Standard Construction Specifications. The required width and location of sidewalks is as follows:

- (1) The required width for a sidewalk on an arterial or collector street is 7 feet. This widthmay be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. In those instances whereWhen there is inadequate right-of-way for additional width and no additional right-of-way can be obtained as a condition of development approval, the sidewalk width may be reduced to 5 feet. In all cases, any right-of-way remaining outside the sidewalk is to be landscaped and maintained by the adjoining property owner.
- (2) Sidewalks along residential and other local streets must be a minimum ofat least 5 feet in widthwide. A planter strip at least 6 feet wide shall separate the sidewalk from the street. Street trees shall be selected from the list of approved street trees established by the City. The planter strip shall be of permeable materials.
- (3) In the Historic Downtown and Central Business districts, as defined on the zoning map, sidewalks must be at least 10 feet in widthwide and be installed adjacent to the curb.
- (4) Regardless of other provisions contained in this article, any sidewalk project that is less than 200 feet in length and connects on either end to an existing sidewalk may be designed to match the existing pattern with the approval of the City Engineer.
- (5) When obstructions exist or are proposed (including, but not limited to, mail-boxes, utility poles, trees, planters, fire hydrants, signs, benches, bus stops, etc.), provisions must be made to maintain a minimum of 4 feet of unobstructed sidewalk width on local streets, 5 feet on collector and arterial streets, and 6 feet in the Historic Downtown (HD) and Central Business (CB) districts.
- (6) Maintenance of sidewalks and planter strips shall be the continuing obligation of the adjacent property owner except when the lot backs onto an arterial. Planter strips shall be landscaped and maintained in like manner to the front yard setback requirements of Article 9.
- (7) Sidewalks shall be designed to parallel streets in line and grade and shall avoid unnecessary meandering from the curb line and elevation changes except as necessary to avoid significant trees or traverse topographic barriers.
- (8) **Public Pedestrian accessways-paths** not adjacent to a public street shall be a minimum of 10 feet wide. [Ord. 5445, 4/12/2000]

12.310 Conformance to Street Grades. All sidewalks constructed adjacent to a street must be placed upon the street grade as established at the time of sidewalk construction. If a space is left between the property

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line and the sidewalk and/or between the sidewalk and the curb, the space shall be filled and surfaced with earth or other approved material level with the sidewalk.

- 12.320 **Timing of Sidewalk Construction.** Sidewalk construction may be deferred until the proposed improvement on the property is completed. No occupancy permit shall be issued by the Building Official for a development until the provisions of this Article are satisfied.

The City Engineer may authorize a future improvement assurance (as described in Section 12.600) when, in his opinion, the construction of the sidewalk is impractical for one or more of the following reasons:

- (1) Sidewalk grades have not **been** and cannot be established for the property in question within a reasonable length of time;
- (2) Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;
- (3) Street right-of-way is insufficient to accommodate a sidewalk on one or both sides of the street; or
- (4) Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.

## STREET TREES

- 12.321 **General Requirements.** When a new public street is created in conjunction with development, street trees are required in accordance with the standards provided in the Standard Construction Specifications and the Urban Forestry Management Plan.

- 12.324 **Street Tree Planting Options.** The following options are available to meet this requirement:

- (1) Submit a street tree plan to the City for planting and establishing trees within the public rights-of-way that meets the **City tree planting standards in the Urban Forestry Management Plan.** The City Forester shall either approve or deny the plan based on the plan's compliance with these requirements.
- (2) Pay a fee to the City based upon a requirement for one tree per thirty linear feet (30') of street frontage. This fee shall be deposited into the City's Urban Forestry Program Fees Fund. The City shall thereafter assume responsibility for the purchase, **installation**, **planting**, and establishment of street trees **with-within** the public right-of-way or **on** public lands maintained by the City within or abutting the specified development.

[Ord. 5673, 6/27/2007]

## BIKEWAYS

- 12.330 **Master Bikeways Plan.** The City's adopted Master Bikeways Plan is in the Comprehensive Plan.

- 12.340 **Provisions for Bikeways.** Developments adjoining or containing proposed bikeways identified on the adopted Master Bikeways Plan shall include provisions for the future extension of such bikeways. Land use approvals issued for **P**lanned **D**evelopments, **G**reenway **C**onditional **U**se **P**ermits, subdivisions and other developments that will principally benefit from such bikeways may be conditioned to include bikeway improvements.

In the case of arterial or collector streets, bike lanes shall be built during their construction, and considered during their reconstruction. This provision shall also apply to local streets in other than single-family residential developments.

- 12.350 **Bikeway Design.** Where possible, bikeways should be separated from other modes of travel, including pedestrian. Minimum width for bikeways shall be 6 feet per travel lane when adjacent to a curb (one-way) and 10 feet when not on a roadway (two-way). A reduction in standards may be allowed when the City Engineer finds that no safety hazard will be created and other special circumstances (such as physical constraints) exist.

## **UTILITIES—GENERAL**

- 12.360 **Utility Easements.** The developer shall make arrangements with the City of Albany and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. All utility easements must be public easements.
- 12.370 **Utility Easement Width.** The standard width for public utility easements adjacent to street rights-of-way is 7 feet. The minimum width for all other public utility easements shall be 15 feet for water, 20 feet for sewer, and 15 feet for piped storm drainage unless otherwise specified by the utility company or City Engineer. When feasible, utility easements shall be centered on a lot line.
- 12.380 **Information on Development Plans.** The developer must show easements for all utilities. Plans showing the location of all utilities shall be submitted to the City as part of the site plan review or land division process.
- 12.390 **Requirement for Underground Utilities.** Except as exempted in Section 12.400, all utility lines, cables, or wires (including but not limited to those used for electricity, communication, street lighting, and cable television) constructed upon, adjacent to, or within land subdivided or prepared for development after the effective date of this Code, must be placed underground. The intent of the City is that no poles, towers, or other structures associated with utility facilities shall be permitted on any street or lot within such a subdivision or development.
- 12.400 **Exceptions.** Overhead facilities are only permitted in the following instances:
- (1) Emergency installations, electric transmission lines, or through feeders operating at distribution voltages which act as a main source of supply to primary laterals and to direct connected distribution transformers and primary loads.

Should it be necessary to increase the capacity of major power transmission facilities for service to the area, ~~such~~ new or revised installations shall be made only on rights-of-way or easements on which overhead facilities exist at the time of ~~such~~ the capacity increase.
  - (2) Appurtenances and associated equipment such as surface-mounted transformers, pedestal-mounted terminal boxes, meter cabinets, telephone cable closures, connection boxes, and the like.
  - (3) Structures without overhead wires, used exclusively for fire alarm boxes, street lights, or municipal equipment installed under the supervision and with the approval of the City Engineer.
  - (4) Power substations, pumping plants, and similar facilities necessary for transmission or distribution of utility services.
  - (5) Television antennas and satellite dishes [See Section 3.080 (12)].

- (6) Industrial developments, except for those utility lines, cables, and/or wires providing service to an individual lot. Such lines must be placed underground from the nearest power pole to the facility ultimately being operated on the individual lot. Certain industries requiring exceptionally large power supplies may request direct overhead power as a condition of site plan approval. Underground utilities may be required in Industrial Park developments and planned developments in the Industrial Districts.
- (7) New development on existing individual lots of record in areas where service is currently by overhead utilities.

| 12.405 Property Monuments. Upon completion of a utility project and prior to acceptance by the City, all property corners and other monuments disturbed or removed by the project shall be reestablished and protected by an Oregon licensed surveyor retained by the developer.

## WATER

- | 12.410 When Public Water is Available. All new development, including a single-family residence, must extend and connect to the public water system when service is available within 150 feet of the property. Fire hydrants, mains, and related appurtenances shall be installed as required by the City Fire Marshal.
- | 12.420 When Public Water is Not Available. No new development is allowed on private well systems, except for construction of one single-family dwelling on an existing lot of record. Residential lots created by a land partition may be served by private wells if approved by the City, and provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel, the application will be subject to the subdivision requirement that the development be served by public water.
- | 12.430 Extension Along Property Frontage and Within Interior. Water distribution mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. Main extensions may be required through the interior of properties when necessary to provide for service to other properties or to provide looping for fire flows.

*Staff Comments:* The proposed changes to 12.440, 12.500, and 12.530 relate to providing only enough information with applications and plans for Public Works to conduct an adequate and timely review.

*Reason for language:* Based on the LUBA remand for Fabian Estates, the existing language requires more of an applicant than what was intended, or than has been required in past practice. The revisions will clarify the requirements and not result in any process changes when compared to typical past practices.

*The intent of the Code is to have applicants demonstrate to the City's satisfaction that their proposed development is feasible. Engineered construction drawings are not necessary at this stage and are required through the Site Improvement (SI) process, after land use approval. If the existing language were to remain, developers would be required to submit fully engineered drawings for the land use application before they knew if they had land use approval. This would be an unnecessary, and costly, requirement for the developer.*

12.440 **Water Plan Approval.** Preliminary water plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide

**enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.** All proposed water plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.

- 12.450 **Design Requirements for New Development.** All new development within the City must, when appropriate, make provisions for the continuation or appropriate projection of existing principal water lines serving surrounding areas.
- 12.460 **Restriction of Development.** The review body may restrict development approvals when a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements.

## SANITARY SEWERS

- 12.470 **When Public Sewer is Available.** All new development must extend and connect to the public sewer system when service is available within 300 feet of the property.
- 12.480 **When Public Sewer is Not Available.** Where sewer is not available within 300 feet of the property, no development is allowed on private septic systems, except for construction of one single-single-family dwelling on an existing lot of record or on a parcel no smaller than five acres created through the land division process. Any private on-site system allowed by this section must be approved by the county.
- 12.490 **Extension Along Property Frontage and Within Interior.** Sewer collection mains must be extended along the full length of the property's frontage along the right-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. When private sanitary sewer services will exceed 100 feet ~~in lengthlong~~, as measured from the public main to the structure, the City Engineer may require extension of public sewers into the interior of the property.

*Staff Comments: The proposed change relates to providing enough information with applications and plans for Public Works to conduct an adequate and timely review. See comments before 12.440.*

- 12.500 **Sewer Plan Approval.** **Preliminary sewer plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.** All proposed sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.
- 12.510 **Design Requirements for New Developments.** All new development within the City must, where appropriate, make provisions for the continuation or appropriate projection of existing sewer lines serving surrounding areas. Line extensions may be required through the interior of a property to the developed when the City Engineer determines that the extension is needed to provide service to upstream properties.
- 12.520 **Restriction of Development.** The review body may restrict development approvals where a deficiency exists in the sewer system or portion thereof that cannot be corrected as a part of the development improvements.

## STORM DRAINAGE

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*Staff Comments: The proposed change relates to providing enough information with applications and plans for Public Works to conduct an adequate and timely review. See comments before 12.440.*

12.530 General Provisions. The review body will approve a development request only when adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. The storm water drainage system must be separate from and independent of any sanitary sewer system. When possible, inlets should be provided so surface water is not carried across any intersection or allowed to flood any street. Surface water drainage patterns and proposed storm drainage must be shown on every development proposal plan. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process.

**Preliminary storm sewer plans and systems must be submitted to the City Engineer as part of the tentative plat or site plan review application. These plans must provide enough information to enable the City Engineer to determine that the proposed development is feasible, but are not required to be detailed construction level documents. The City's Engineering Standards, while not land use criteria, may be used, in whole or in part, by the City Engineer to determine the feasibility of a proposed plan.**

Ditches are not allowed without specific approval of the City Engineer. Open natural drainageways of sufficient width and capacity to provide for flow and maintenance may be permitted. For the purposes of this article, an open natural drainageway is defined as a natural path that has the specific function of transmitting natural stream water or storm water run-off from a point of higher elevation to a point of lower elevation.

12.540 Easements. When a subdivision is traversed by a water-course, drainageway, channel or stream, a public storm water easement or drainage right-of-way conforming substantially with to the lines of such the water-course and such further width as the City Engineer determines will be adequate for conveyance and maintenance shall be provided. Improvements to the drainageway, streets, or parkways parallel to water-courses may be required.

12.550 Accommodation of Upstream Drainage. A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on the provisions of the Storm Drainage Master Plans, and sound engineering principles, and assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan.

12.560 Effect on Downstream Drainage. When it is anticipated by the City Engineer anticipates that the additional run-off resulting from the development will overload an existing drainage facility, the review body will withhold approval of the development until provisions have been made for improvement of said potential condition.

12.570 Drainage Management Practices. Development must employ drainage management practices approved by the City Engineer that minimize the amount and rate of surface water run-off into receiving streams or drainage facilities or onto adjoining properties. Drainage management practices must include, but are not limited to, one or more of the following practices:

- (1) Temporary ponding or detention of water;
- (2) Permanent storage basins;
- (3) Minimization of impervious surfaces;
- (4) Emphasis on natural drainageways;
- (5) Prevention of uncontrolled water flowing from the development in an uncontrolled fashion;

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- (6) Stabilization of natural drainageways as necessary below drainage and culvert discharge points for a distance sufficient to convey the discharge without channel erosion;
- (7) ~~Collection of Rrunoff from impervious surfaces must be collected and transportationed to a natural drainage facility with sufficient capacity to accept the discharge; and~~
- (8) Other practices and facilities designed to transport storm water and improve water quality.

12.580 Design Requirements for New Development. All new development within the City must, when appropriate, make provisions for the continuation or appropriate projection of existing storm sewer lines or drainageways serving surrounding areas. Extensions may be required through the interior of a property to be developed when the City Engineer determines that the extension is needed to provide service to upstream properties.

*Staff Comment: This requirement was reduced to one acre. The proposed change is needed to be consistent with the Department of Environmental Quality's standards.*

12.585 NPDES Permit Required. A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb ~~five (5)~~ one or more acres of land, or whatever the current standard is at the time the application is submitted.

## IMPROVEMENT ASSURANCES

12.590 Purpose. The purpose of improvement assurances is to provide the City with a guarantee that the improvements called for in this article, whether public or private, will be made. The type of guarantee will be determined by the City. Before issuing or renewing a development approval when the applicant has an obligation to design and construct improvements shown on the development plan, the review body may require that the applicant acknowledge the obligation.

12.600 Form and Contents. The assurance shall contain the time within which the obligation is to be met. It may take the form of a surety or performance bond, cash, a negotiable security deposit, a mutual improvement agreement, a monetary contribution to a fund for future improvements if established by a separate city ordinance, or other guarantees approved by the City Attorney sufficient to cover the cost of the work as estimated by the City. The bond shall be conditioned upon the developer's carrying out the obligation and fulfilling the other requirements of this Title that bear on the approval of the development. The deposit or bond shall be forfeited to the City if the developer does not fulfill the requirements. The bond or deposit shall remain in the custody of the City until the obligation is completed or the bond or deposit is forfeited, or shall be placed in an escrow account subject to City control.

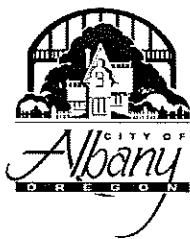
12.610 Noncompliance with Provisions Under Obligation. If the Director finds that a developer is not fulfilling an obligation, the Director shall, in written notice to the developer and the developer's surety, specify the details of noncompliance. Unless the Director allows more time for compliance because of circumstances beyond the developer's control, within 30 days after receiving the notice, the developer or the developer's surety shall commence the begin compliance and proceed diligently to complete fulfillment of the obligation.

- (1) If the developer or the developer's surety does not commence the begin compliance within the 30 days or the additional time allowed by the Director, or has commenced--begun but fails to diligently to complete the compliance, or the compliance is otherwise not completed within the time specified in granting the development approval, the City may take the following action:

## EXHIBIT E

- (a) Enter upon the site of the development and carry out the obligation in accordance with the provisions agreed upon under the acknowledgement;
  - (b) Notify the developer and the developer's surety of the developer's failure to perform as required by this Code;
  - (c) Demand payment from the developer's for the unfulfilled obligation;
  - (d) If the security for the obligation is a bond, notify the surety that has furnished the bond that reimbursement for the expense for fulfillment of the obligation is due and payable to the City or, if the security is a deposit of cash or other assets, appropriate as much of the deposit as is necessary to recoup the expense; or
  - (e) Void all approvals granted in reliance on the improvement assurance.
- (2) If a bond or other required security is not sufficient to compensate the City for expenses necessary to fulfill the obligation, the amount due to the City for the obligation is a lien in favor of the City and upon the entire contiguous real property of the owner of the land subject to the obligation.
- (3) The lien attaches upon the filing with the City Recorder of notice of the claim for the amount due for the fulfillment of the obligation. The notice shall demand the amount due, allege the insufficiency of the bond or other security to compensate the City fully for the expense of the fulfillment of the obligation, and allege the developer's failure to do the required obligation.
- (4) The lien may be foreclosed in the manner prescribed by law for foreclosing other liens on real property.
- (5) The remedies set forth for non-compliance are cumulative. In addition to the remedies set forth above, non-compliance by the developer or his surety with any term of a performance guarantee shall entitle the city to pursue any civil remedy permitted by law.

*U:\Community Development\Planning\Current\2009\09dc02\city council\exhe.Article 12.docx*



# Community Development Department

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

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

## STAFF REPORT Development Code Amendments

<b><u>REVIEW BODY</u></b>	CITY COUNCIL
<b><u>MEETING DATE</u></b>	Wednesday, August 12, 2009
<b><u>MEETING TIME</u></b>	7:15 p.m.
<b><u>MEETING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

### **GENERAL INFORMATION**

DATE OF REPORT:	August 5, 2009
FILE:	DC-02-09
TYPE OF APPLICATION:	Legislative amendments to the following Development Code Articles:

#### Article 1, Administration and Procedures (Exhibit A):

- Return to one-year approvals or building permit expiration for historic review approvals.
- Add a reference to Albany Municipal Code Title 18 where compliance and enforcement processes are located.

#### Article 2, Review Criteria (Exhibit B)

- Require more information on storm drainage and natural and unique features with Site Plan applications.
- Reincorporate the “unusual circumstance” language into the Adjustment and Variance review criteria.

#### Article 9, On-site Development and Environmental Standards (Exhibit C)

- Minor changes to parking lot and landscaping language to comply with handicapped accessibility requirements in the Oregon Structural Specialty Code.
- Adopt by reference the Department of Environmental Quality’s noise standards for industry and commerce.

#### Article 11, Land Divisions (Exhibit D)

- Require preliminary water, sewer, and storm drainage plans be submitted with land division applications.

#### Article 12, Public Improvements (Exhibit E)

- Require preliminary water, sewer, and storm drainage plans be submitted with applications.

REVIEW BODY:

City Council

APPLICANT:

City of Albany Community Development Department

**INTRODUCTION**

The Albany Development Code (ADC) allows for the Community Development Director to initiate legislative amendments.

Periodically, the ADC needs updating to meet current standards and changing needs, to clarify the intent, or to correct unintended consequences. We are implementing a process to periodically evaluate and adopt changes to the ADC. Staff will take requests to evaluate changes to the Code throughout the year from the public and internally, and will prepare amendments to the Code semi-annually.

This first “round” of semi-annual amendments includes relatively minor revisions identified by the Public Works and Community Development departments that are necessary for adequate and timely development review, to meet disability requirements, or to address compliance issues. In addition, staff received direction from the Planning Commission at a November 7, 2008, retreat to consider restoring the “unusual circumstance” language to the Variance review criteria (Article 2).

This package of amendments also includes non-policy revisions to all of Articles 2 and 12, and to a small portion of Article 9 near proposed revisions.

**ATTACHMENTS TO THE ORDINANCE**

All amendments to the Code are shown as Exhibits A through E to the ordinance.

Article 1, Administration and Procedures (Exhibit A):

Article 2, Review Criteria (Exhibit B)

Article 9, On-site Development and Environmental Standards (Exhibit C)

Article 11, Land Divisions (Exhibit D)

Article 12, Public Improvements (Exhibit E)

Policy amendments are shown in red in the attached exhibits. Other amendments are shown in black **bold** and ~~strike-through~~.

**NOTICE INFORMATION**

A table summarizing the proposed ADC amendments was mailed to persons believed to have a particular interest in the proposed amendments and details of the amendments were posted to the City website on May 29, 2009. The persons believed to have a particular interest included engineering and design firms, developers, land use attorneys, architects, land use planners, and the business community. The Landmarks Advisory Commission received notice of the proposed amendments to Article 1 on June 5, 2009. A Notice of Public Hearing was published in the *Albany Democrat-Herald* on June 5, 2009.

The City received one letter from Multi-Tech Engineering dated June 9, 2009, and a letter that was emailed on June 15, 2009. They provided comments on the proposed amendments to the Adjustment review criteria and also on information required in applications.

There was no testimony or public present at the Planning Commission public hearing on June 15, 2009, or June 29, 2009.

**The City Council hearing was opened July 8, 2009 and continued to July 22, 2009. Mark Azevedo and Kathy Cook met with staff prior to the hearing to discuss issues related to application requirements related to storm drainage. The following residents testified at the July 22 hearing on the proposed Code amendments.**

## **EXHIBIT F**

- Vi Anderson suggested in the Adjustments review criteria section that the “unusual situations” language in 2.060 and “unusual circumstances” in 2.080 be clarified.
- Dirk Olsen asked that the North Albany Citizens in Action group be notified of all future Development Code amendments.
- Merle Anderson supported the changes to the Adjustments and Variances review criteria.
- Mark Azevedo wanted to ensure that the best storm water treatment occurs on the site and that sensitive areas that could be impacted by development are scrutinized so we don’t lose something unique in the long term.

These residents also made suggestions for future Code amendments not included in the attached Ordinance or exhibits. Staff made a list of the suggestions and will consider including them in future amendments.

### **PLANNING COMMISSION RECOMMENDATION**

APPROVAL WITH MODIFICATIONS of the proposed Development Code amendments.

The Planning Commission held a public hearing on the proposed amendments on June 15, 2009. No public attended the public hearing. The letters received from Multi-Tech Engineering were distributed and reviewed at the hearing.

The Planning Commission discussed the amendments and recommended that staff clarify some of the proposed language. Those clarifications have been made in the attached exhibits.

### **APPEALS**

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.

### **NOTICE OF DECISION**

Within five days of final action on a land use application, the Director shall provide written notice of the decision to the applicant and any other parties entitled to notice.

## FINDINGS AND CONCLUSIONS

**File DC-02-09**

**Recommended by the Planning Commission on June 29, 2009  
Adopted by the Albany City Council on August 12, 2009**

The proposed Development Code amendments are found in Exhibits A through E to the attached Ordinance. The findings and conclusions supporting the changes are Exhibit F to the Ordinance.

### **STAFF ANALYSIS**

#### **Development Code Amendment File DC-02-09**

The review criteria for Development Code amendments require that the proposed amendments better achieve the goals and policies of the Comprehensive Plan and that they be consistent with the policies and purposes of the Code. The long-range interests of the general public are considered by reviewing the proposed amendments in the context of Comprehensive Plan goals and policies. The proposed policy amendments are evaluated against the review criteria.

### **REVIEW CRITERIA**

The following review criteria that must be met for these Development Code amendments to be approved. Code criteria are written in ***bold italics*** and are followed by Findings and Conclusions.

- (1) ***The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.***

The Comprehensive Plan goals and policies that are relevant to review of the proposed Development Code amendments are written in *italic* type and considered as a separate review criterion.

### **FINDINGS**

- 1.1 Proposed amendment related to expiration of Historic Review approvals: Return to one-year approval or building permit expiration for historic review approvals only. These amendments are in former Section 1.060(5), now 1.080(b), Expiration of Land Use Approvals (Exhibit A).

Reason: The 3-year time limit and “substantial construction” language for land use approvals is problematic for enforcing conditions of approval for historic review projects.

Result of Amendments: Easier to get compliance with historic review conditions of approval.

- 1.2 The proposed amendments better achieve the following Comprehensive Plan goal and policy:

*Historic Resources Goal: Protect Albany's historic resources and utilize and enhance those resources for Albany residents and visitors.*

*Historic Resources Policies: Periodically review and update the city historic ordinance concerning demolition, historic alteration, and new construction within historic districts.*

- 1.3 Proposed amendment to review criteria for Adjustments and Variances: Restore the “unusual circumstance” language to the criteria. In addition, we propose that the Director determine whether an application is processed as an adjustment or a variance (rather than the current 10% threshold). These amendments are in the following sections of the Development Code:

- 2.060-2.080, Adjustments (Exhibit B), and
- 2.660-2.680, Variances (Exhibit B).

Reasons: Adjustments have become “automatic reductions,” rather than limited flexibility for unusual situations. The current standards are hard to apply equitably. The “unusual circumstance” review criterion is essential to the legal framework for variances.

Result of Amendments: Improves the integrity of the Adjustment process and ability to administer the standards equitably. Restoring the “unusual circumstance” language also restores the integrity of the purpose of the Variance and its process.

Public Testimony: Two residents asked that “unusual situations” and “unusual circumstances” be clarified (ADC 2.060 and 2.080).

Response: The City Attorney explained that most land use review is subjective and it is difficult to make all land use criteria objective. Where the City can provide criteria that are meaningful, give guidance and certainty we will try. Regarding the specific suggestions, the term “unusual situations” is in the purpose statement and “unusual circumstances” is further described in the review criteria.

- 1.4 The proposed amendments better achieve the following Comprehensive Plan policy:

*Consider variance, conditional use and special request procedures when strict interpretation of regulations would impede fulfillment of these criteria.*

- 1.5 Proposed amendments related to information submitted for Water, Sewer, and Storm Drainage Plans: Public Works staff is asking that more information be submitted with land use applications about existing and proposed natural and storm drainage patterns, and proposed water, sewer, and storm drainage plans. These amendments are in the following sections of the Development Code:

- 2.490 (k) – (n). Site Plan Review Application Contents (Exhibit B),
- 11.210 Tentative Plat Submittal (Exhibit D), and
- 12.440 Water Plans; 12.500 Sewer Plans; 12.530 Storm Drainage Plans (Exhibit E).

Reasons, 2.490 (k) – (n): Stormwater management is a critical element of most development proposals. The Public Works Department is tasked with reviewing the stormwater component of these development applications. As such, Public Works requires that enough information is provided to make an educated decision on the proposal. The requested changes reflect the type of information Public Works typically requires when engineering plans for a subdivision are submitted to the City. The updated list will better prepare applicants for what is actually required during review and should help reduce delays as a result of incompleteness.

Reasons, 12.440, 12.500, 12.530: Based on the LUBA demand for Fabian Estates, the existing language requires more of an applicant than what was intended, or than has been required in past practice. The intent of the Code is to have applicants demonstrate to the City’s satisfaction that their proposed development is feasible. Engineered construction drawings are not necessary at this stage and are required through the Site Improvement (SI) process, after land use approval. If the existing language were to remain, developers would be required to submit fully engineered drawings for the land use application before they knew if they had land use approval. This would be an unnecessary, and costly, requirement for the developer.

Result of Amendments: Applications can include only the information necessary and be considered complete in a shorter time period, resulting in faster review and processing, and unnecessary costly requirements for the applicant.

**Public Testimony:** North Albany residents Mark Azevedo and Dirk Olsen both testified about the importance of having adequate review of stormwater plans to ensure that natural and special features are not compromised by development.

**Response:** The proposed amendments will not eliminate the review of stormwater drainage plans, only clarify the timing of when preliminary and more detailed final plans are received.

- 1.6 The proposed amendments requiring more information on utilities to be submitted with applications will better achieve the following Comprehensive Plan policies:

*Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards.*

*Water and Wastewater Policy: Review and regulate development proposals, in accordance with the Development Code, to ensure that adequate water and wastewater service improvements are provided for the proposed development as well as to serve future land uses as identified in the Comprehensive Plan.*

*Storm Drainage Policy: Storm drain facilities in developing areas should be designed with the capacity to accommodate the projected storm drainage flows to at least the end of the planning period based on the land use designations.*

- 1.7 Proposed amendment for additional application content for Site Plan Review on pedestrian amenities, natural features, historic sites, and airport zones with Site Plan Review applications. These amendments are in Section 2.490 (t)-(aa), Site Plan Review Application Content (Exhibit B).

Reason: Community Development needs enough information to adequately evaluate the project against the existing review criteria.

Result of Amendments: Applications will be deemed complete in a shorter time period resulting in faster processing time.

- 1.8 The proposed amendments requiring more applicable information to be submitted with Site Plan applications will better achieve the following Comprehensive Plan policy:

*Land Use Planning: Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards.*

- 1.9 Proposed amendments for accessible parking spaces and walkways: Minor revisions to ensure parking stalls, landscaping, and public walkways are in compliance with the Americans with Disabilities Act (ADA) and the state building Codes. These amendments are in Section 9.120-9.150, Off-Site Improvements (Exhibit C).

Reason: Several parking lots are out of compliance with the ADA standards in the Oregon Structural Specialty Code.

Result of Amendments: Minor revisions will help ensure compliance and better accessibility for persons with disabilities.

- 1.10 The proposed amendments related to off-site improvements will better achieve the following Comprehensive Plan policy:

## EXHIBIT F

*Transportation: Develop safe and convenient bicycle and pedestrian routes, facilities, and improvement, which are reasonably free from hazards, provide a direct route of travel between destinations such as a transit stop and a store, and meet travel needs of cyclists and pedestrians.*

- 1.11 Proposed amendment to adopt by reference the Department of Environmental Quality (DEQ) noise standards for industry and commerce. These amendments are in Section 9.440, Noise Standards (Exhibit C).

Reason: The City attorney recommends adoption to allow better enforcement and compliance with state land local standards.

Result of Amendments: Easier compliance case processing and consistency with state standards.

- 1.12 The proposed amendment to adopt by reference DEQ's noise standards will help Albany businesses are in compliance with state standards, including Goal 6: Air, Water and Land Resources Quality. This amendment will better achieve the following Comprehensive Plan policies:

*Sound Quality Goal: Reduce the adverse effects of noise in the Albany Area.*

*Sound Quality Policy: Require each new or expanding industry with noise-generating operations or equipment to meet state and local noise regulations.*

- 1.14 Proposed amendment regarding Street Signs: Add language that says the developer will provide and install street signs. These amendments are in Section 12.280, Street Signs (Exhibit E).

Reason: Updates the Code to reflect the current process.

Result of Amendments: Easier and quicker compliance case processing.

- 1.15 In general, Goal 1-Citizen Participation has the following goal: Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process. The following Comprehensive Plan policies are applicable to Development Code amendments in general:

*Citizen Involvement: When making land use and other planning decisions:*

- a. *Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.*
- b. *Utilize all criteria relevant to the issue.*
- c. *Ensure the long-range interests of the general public are considered.*

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

A table summarizing the proposed Development Code amendments was mailed to persons believed to have a particular interest in the proposed amendments on May 29, 2009. Persons believed to have a particular interest included engineering and design firms, developers, land use attorneys, architects, land use planners, and the business community. The table and details of the amendments were posted to the City website on May 29, 2009. The Landmarks Advisory Commission received notice of the proposed amendments to Article 1 on June 5, 2009. Notice was also published in the Democrat Herald on June 5, 2009.

Two letters were received from Muli-Tech Engineering Services regarding the proposed amendments. These letters were distributed to the Planning Commission and the City Council. Their content was considered in deliberations.

CONCLUSIONS

- 1.1 This proposed Development Code amendments better achieve the goals and policies of the Comprehensive Plan.
- 1.2 The criterion is satisfied.
  
- (2) *The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.*

The applicable Development Code policies and purposes are identified in *italic* type and considered as a separate review criterion.

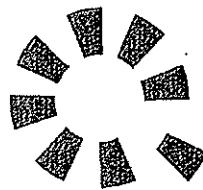
FINDINGS

- (1) *Serve as the principal vehicle for implementation of the City's Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.*
- 2.1 The proposed policy amendments better achieve the goals and policies of the Comprehensive Plan as identified in findings under criterion 1.
- (2) *Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.*
- 2.2 The proposed amendments will better address state and federal requirements for disabled persons, noise regulations, and protection of our historic districts and resources.
- (3) *Facilitate prompt review of development proposals and the application of clear and specific standards.*
- 2.3 Clarifying the type of information that is needed with land use applications will ensure prompt review of land use proposals and reduce unnecessary costs for the applicant.
- (4) *Provide for public information, review, and comment on development proposals that may have a significant impact on the community.*
- 2.4 In general, the proposed amendments were selected for this ordinance because they will not have a significant impact on the community. Interested parties were notified of the proposed amendments and public testimony was considered in decision-making.
- (5) *Guide public and private planning policies and actions to ensure provision of adequate water, sewage, transportation, drainage, parks, open space and other public facilities and services for each development.*
- 2.5 Clarifying what information is needed for existing and proposed water, sewer, and storm drainage with applications will ensure that adequate public utilities are provided with development.
- 2.6 The proposed Code amendments are not specific to any site or zoning district. Reducing the time period for Historic Review approvals will support the purposes of the Historic Overlay Ordinance and of preserving the historic character of the National Register Historic Districts.
- 2.7 The amendments will improve the clarity intent of the Code and make it a more accurate and consistent document.

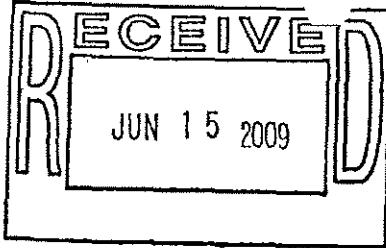
**CONCLUSIONS**

- 2.1 The proposed Development Code amendments are consistent with the purposes of the Code.
- 2.2 The proposed amendments are not specific to a particular site or zone.
- 2.3 This criterion is satisfied.

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MULTI / TECH  
ENGINEERING SERVICES, INC.



CONSULTANTS  
1155 13th Street, S.E.  
Salem, Oregon 97302  
(503) 363-9227

Don,

Thank you for your e-mail regarding our comments to the proposed Code Amendments. We appreciate you forwarding our letter dated June 9, 2009 and this e-mail onto the Planning Commission and City Council.

We understand that the purpose statement for a variance and adjustment does not mention "develop the property to its maximum potential," and that the purpose is to "provide limited flexibility for unusual situations." A variance and adjustment is a land-use action that allows an applicant to seek flexibility in the Code, therefore, aiding in developing a site to its maximum potential. We also understand that the Code Amendments specifically mention "unusual situations." "Unusual situation" is subjective criteria and make it difficult for an applicant to prove that one exists on the site. What is determined to be an unusual situation or hardship for the applicant may not be interpreted as a hardship by the City. That is where some of our concern is directed. As stated in our letter dated June 9, 2009, the terms unique and unusual circumstances are criteria that is open for interpretation. So if the City feels there is no unusual situation, than the request is denied and the applicant is forced to appeal.

A lot of other jurisdictions do require that there be an unusual circumstance or hardship to grant a variance. However, State Law does not require that all jurisdictions have these criteria in their code. It is our understanding that this criteria was removed from the Albany Code in 1991. We would like information on why this criteria was removed from the Albany Code in 1991, and justification on why Albany feels it is necessary to put this criteria back into the Code. Why create more obstacles for developers instead of tools. We believe that with the current code wording that staff has all of the control. If the goal is to make sure that any variance, if appealed to LUBA would be overturned, than adding that language will assure that occurrence. The ability to provide the existence of "unusual situations" is virtually impossible.

In regards to our comments on ADC 12.440, 12.500, and 12.530, we believe that some clarification is needed on what is meant by Preliminary Plans. Does this mean conceptual plans, design plans, profile plans, etc.? As stated in our letter dated June 9, 2009, in order to avoid confusion on an application, it is recommended that staff be clear and provide detailed information on what is meant by preliminary plans. This will help in providing an outline of requirements for an applicant to determine what is actually needed with submittal. Clarifying the Code will help avoid incomplete applications being submitted to the City.

We would recommend that you add clarification to ADC 12.440 to state "Preliminary Plan view water plans ...."

We would recommend that you add clarification to ADC 12.500 to state "Preliminary Plan view sewer plans with some references to proposed depths of pipes and systems ....."

We would recommend that you add clarification to ADC 12530 to state " Preliminary Plan view storm sewer plans and systems with pipe sizes and slopes must ...."

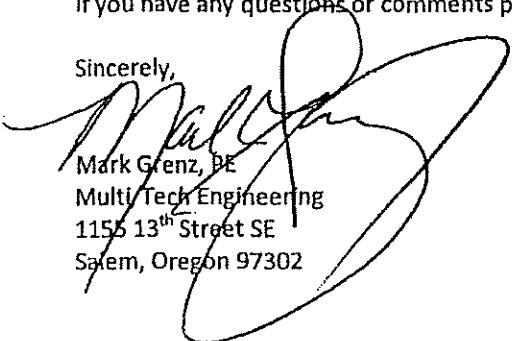
We provide a full spectrum of engineering & related technical services

Design, Coordination & Construction Management

Thanks again for the opportunity to provide comments on the proposed Code Amendments. Please provide a copy of our letter dated June 9, 2009 and this e-mail to the City of Albany Planning Commission and City Council. We would also like to be provided with a copy of the Ordinance adopted pertaining to these amendments.

If you have any questions or comments please feel free to contact me at (503) 363-9227.

Sincerely,

  
Mark Grenz, PE  
Multi-Tech Engineering  
1155 13<sup>th</sup> Street SE  
Salem, Oregon 97302

MULTI / TECH ENGINEERING SERVICES, INC.



CONSULTANTS  
1155 13th Street, S.E.  
Salem, Oregon 97302  
(503) 363-9227

June 9, 2009

Anne Catlin  
City of Albany  
Community Development Department  
333 Broadalbin Street SW  
Albany, OR 97321

RE: City of Albany Code Amendments

To Anne Catlin:

We have reviewed the proposed City of Albany Code Amendments as posted on the City website. We appreciate the hard work of staff on writing the Code Amendments and providing the opportunity to comment. However, there are some comments that we would like to make regarding these Amendments. Please take into consideration our comments prior to adopting the new Code Amendments.

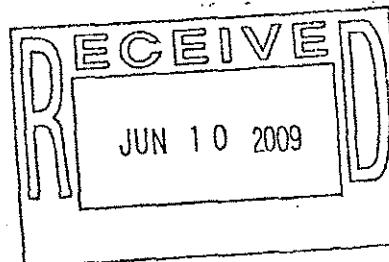
**Proposed Amendments:**

***Article 2, Adjustments 2.060-2-080: Restore the "unusual circumstance" language to the criteria. Director will determine whether an application is processed as an adjustment or a variance.***

***Article 2, Variances 2.660-2.690: Restore the criterion that a "unique or unusual circumstance" or hardship must exist.***

**Our Comments:** A variance and an adjustment are part of the Code to allow applicant's to deviate from requirements. The variance and adjustment procedures are intended to provide flexibility and allow an applicant to develop a property to its maximum potential. By requiring an applicant to provide evidence that unusual circumstances exist on the site defeat the purpose of the adjustment and variance. The terms unique and unusual circumstances are criteria that is up for interpretation. The applicant may feel that an unusual circumstance exists to warrant granting a variance or an adjustment in order to best utilize their property. However, the interpretation is left up to the City and if the City feels there is no unusual circumstance, than the request is denied and the applicant is forced to appeal.

Therefore, we believe that these two Code Amendments are more of an obstacle for applicant's instead of a tool to help fully utilize the potential of their property.



**Proposed Amendments:**

**Article 2, Site Plan Review Application Content 2.490 (k)-(n):** *Require applications to include information on natural and proposed storm drainage.*

**Article 2, Site Plan Review Application Content 2.490 (t)-(aa):** *Require more information related to pedestrian amenities, airport zones, natural features, and historic sites.*

**Article 11, Tentative Plat Submittal 11.210:** *Require sanitary and storm sewer locations be shown on the tentative plat.*

**Article 12, Water, Sewer, and Storm Drainage 12.440, 12.500, 12.530:** *Require preliminary plans and systems to be submitted to the City Engineer as part of the tentative plat or site plan review.*

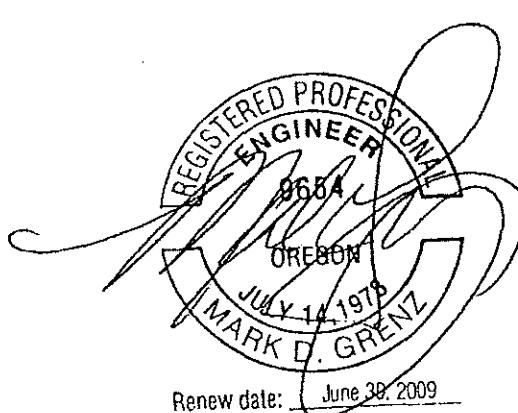
**Our Comments:** The changes made to the Code as listed above, leave the area of required information open for interpretation by the City and places an undue burden on the applicant because of the vagueness of the proposed language. In order to avoid confusion on an application, it is recommended that staff be clear and provide a detailed list of required materials. This will help in providing an outline of requirements for an applicant to determine what is needed with submittal. Clarifying the Code will help avoid incomplete applications being submitted to the City.

Thank you for the opportunity to provide comments on the proposed Code Amendments. We believe in order to avoid appeals; it is our recommendation that you take into consideration our comments above.

Please provide us with a copy of the Ordinance adopted pertaining to these amendments. If you have any questions or comments please feel free to contact me at (503) 363-9227.

Sincerely,

Mark Grenz, PE



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

AN ORDINANCE TO LEVY ASSESSMENTS AGAINST PROPERTY SPECIFICALLY BENEFITED BY SEWER AND WATER CONNECTIONS AND THE ASSESSMENT OF SEWER, WATER, PARKS, AND TRANSPORTATION SYSTEM DEVELOPMENT CHARGES FOR PROPERTY DESCRIBED AS TAX LOT 4700, OF PARCEL 11S-03W-17AA, AND SITE ADDRESS 2479 BAIN CT SE; AND DECLARING AN EMERGENCY.

WHEREAS, the Sewer and Water System Development Charges, as referred to in this ordinance, are to provide sewer and water connections to serve the structures on this property; and

WHEREAS, the Transportation System Development Charge is intended to assess charges for future expansion or capacity increases to the system, and is aimed at providing additional levels of services to the existing road network; and

WHEREAS, the Parks System Development Charge is intended to impose a portion of the public cost of capital improvements for parks upon properties where developments create the need, or increase the demand for park improvements; and

WHEREAS, these charges will be assessed on the property described as Tax Lot 4700, of Parcel number 11S-03W-17AA, and site address 2479 Bain Ct SE. (See attached **Exhibit "A"**)

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

Section 1: The Sewer, Water, and Transportation System Development Charges and the assessments for the same will be levied according to the provisions of Albany Municipal Code, Chapter 15.16. The Parks System Development Charge and the assessment for the same will be levied according to the provision of Albany Municipal Code, Chapter 15.20.

Section 2: The total cost of the Sewer, Water, Transportation, and Parks System Development Charges is \$7,508.24.

(See attached assessment sheet)

Section 3: The City Recorder is hereby directed to enter a statement of the assessments as provided above in the docket of the City liens and give notice thereof as provided by law.

Section 4: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance will be in full force and effect immediately upon passage by the Council and approval by the Mayor.

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

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

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

\_\_\_\_\_  
Mayor

ATTEST:

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

<u>Owner of Record</u>	<u>Property Description</u>	<u>Assessment Description</u>
Stephanie Fry Inc 777 Sahalee Dr SE Salem, OR 97306	2479 Bain Ct SE Albany, OR 97322 11S 03W 17AA 04700	Parks SDC Amount: \$ 1,390.24 Acct # psdc0001-0001-000
Stephanie Fry Inc 777 Sahalee Dr SE Salem, OR 97306	2479 Bain Ct SE Albany, OR 97322 11S 03W 17AA 04700	Sewer SDC Amount: \$2,376.00 Acct # ssdc0001-0001-000
Stephanie Fry Inc 777 Sahalee Dr SE Salem, OR 97306	2479 Bain Ct SE Albany, OR 97322 11S 03W 17AA 04700	Transportation SDC Amount: \$ 1,719.00 Acct # stsd0001-0001-000
Stephanie Fry Inc 777 Sahalee Dr SE Salem, OR 97306	2479 Bain Ct SE Albany, OR 97322 11S 03W 17AA 04700	Water SDC Amount: \$ 2,023.00 Acct # wsdc0001-0001-000

Report Total: \$7,508.24

THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSES ONLY

Exhibit "A"

NE1/4 NE1/4 SEC.17 T.11S. R.03W. W.M.  
LINN COUNTY, OREGON

11 3W 17AA  
ALBANY

1" = 100'

8-27

SEE MAP 11 3W 17A

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1301

1302

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1305

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A RESOLUTION ENCOURAGING COMPREHENSIVE NATIONAL HEALTH CARE REFORM

WHEREAS, the Albany City Council believes that every person and every family living in our city, Linn and Benton Counties, the state of Oregon, and the United States will benefit from affordable and quality health care and believes that disruptive health care costs to local economics and governments would be reduced hereby; and

WHEREAS, more than 82 million Americans have major health care insurance problems, including 42 million Americans currently uninsured and more than 40 million Americans nationwide currently underinsured; the burden on both small and large employers, both private and public, of providing employee health insurance is becoming increasingly difficult and prohibitively expensive, which impacts their ability to remain competitive; and

WHEREAS, such matters as health care affordability and access ultimately are community issues with local importance and long-term impacts that strain city budgets in diverse ways, directly in city budgets as well as in public safety, school health, and other issues; and

WHEREAS, even those people who have insurance experience high medical debt and medical costs are a frequent cause of filing personal bankruptcy for those that are insured as well as those who lack insurance; and

WHEREAS, bills have been filed in Congress seeking health care reform; and

WHEREAS, health care reform has been endorsed by other health care professionals from the National Medical Association, American Medical Women's Association, American Medical Student Association, American Nurses Association, National Nurses Organizing Committee, and the American Public Health Association; and

WHEREAS, citizens of Albany, Oregon, and the United States will benefit from an honest and full debate on health care reform proposals.

NOW, THEREFORE, BE IT RESOLVED that the Albany City Council, in order to ensure that all Americans, like citizens of other developed nations, will have access to higher quality and cost-effective health care, urge the Oregon Congressional Delegation and the United States Congress to enact comprehensive health system reform after conducting an honest, full, and fair debate of options. The Council hereby directs a copy of this resolution be sent to city and county newspapers, radio and television stations, posted on the Internet, and to our federal representatives for their due consideration and enactment.

DATED AND EFFECTIVE THIS 12TH DAY OF AUGUST 2009.

---

Mayor

ATTEST:

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City Clerk

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

A RESOLUTION SUPPORTING THE ADMINISTRATION'S HEALTH CARE REFORM PRINCIPLES

WHEREAS, cities are on the frontlines of the healthcare crisis with high rates of uninsurance and rapidly escalating costs affecting residents, businesses, and workers; and

WHEREAS, city governments spend billions of dollars to provide health coverage to millions of employees, dependents, and retirees, and rising health costs affect cities' ability to provide other city services; and

WHEREAS, cities face serious health workforce shortages, particularly among primary care professionals in low-income communities; and

WHEREAS, many families and individuals served by city programs have unmet health and mental health needs, complicating city efforts to provide effective services; and

WHEREAS, city public health agencies receive limited federal and state support despite the cost-effectiveness of public health strategies in preventing and addressing chronic diseases; and

WHEREAS, nearly 46 million Americans lack health insurance and are less likely than their insured counterparts to receive recommended preventive and screening services or medicines and treatments that meet the professional standard, and are more likely to die prematurely; and

WHEREAS, nearly nine million children lack health insurance coverage and, therefore, have fewer well-child visits, worse access to specialists, fewer immunizations, and more visits to the emergency room than children with health coverage; and

WHEREAS, millions more Americans are underinsured and at risk of financial ruin if they experience a major illness; and

WHEREAS, health care costs and employment-based health insurance premiums in particular have increased at rates much higher than inflation or wage growth for the last decade; and

WHEREAS, health costs threaten the global competitiveness of American businesses; and

WHEREAS, our current health care system focuses on treating disease rather than preventing it or promoting wellness; and

WHEREAS, there are large disparities in health status and health outcomes based on race, ethnicity, and physical ability, and many health care providers do not offer adequate service to patients with limited English proficiency or limited physical or mental ability; and

WHEREAS, chronic diseases pose the greatest challenge to our health care system and our health care delivery system is not well-organized to prevent and treat them; and

WHEREAS, public hospitals and clinics, community health centers, and other safety net providers provide care to millions of underserved individuals regardless of income, health coverage, or immigration status; and

WHEREAS, many cities have developed innovative programs to expand access to quality health care, make health services more affordable, and improve health care quality while acknowledging that any comprehensive reform must be led by the federal government; and

WHEREAS, leaders in both political parties serving in Congress and the White House have called for enactment of comprehensive health care reform; and

WHEREAS, the President has pledged enactment of comprehensive reform this year, and substantial progress is being made in Congress to engage stakeholders and craft comprehensive reform; and

WHEREAS, local governments, as representatives of their citizens, as employers, as health care providers and as partners to small and large businesses who struggle with health care costs, should have their voices heard in the crafting of comprehensive reform proposals; and

NOW, THEREFORE, BE IT RESOLVED that the City of Albany supports and calls for the immediate enactment of the Administration's health care reform principles and agrees that comprehensive reform should reduce long-term growth of health care costs for businesses and government; protect families from bankruptcy or debt because of health care costs; guarantee choice of doctors and health plans; invest in prevention and wellness; improve patient safety and quality of care; assure affordable, quality health coverage for all Americans; maintain coverage when someone changes or loses a job; and end barriers to coverage for people with preexisting medical conditions; and

BE IT FURTHER RESOLVED that the City of Albany urges Congress to support public hospitals and other providers in the health care safety net so that those who fall through the cracks of expanded health coverage may still receive care; so that surge capacity is available in case of public health emergencies; and so that the cultural competencies achieved by providers serving diverse populations are preserved and enhanced in a reformed health care system.

BE IT FURTHER RESOLVED that a copy of this resolution is forwarded to the White House.

DATED AND EFFECTIVE THIS 12TH DAY OF AUGUST 2009.

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Mayor

ATTEST:

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City Clerk



TO: Albany City Council

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

FROM: Guy Mayes, Airport and Transit Manager *GM*  
Barry Hoffman, Paratransit Services Supervisor

DATE: July 21, 2009, for the August 12, 2009, City Council Meeting

SUBJECT: Intergovernmental Agreement for Linn County to Purchase Paratransit Service from Albany Call-a-Ride

RELATES TO STRATEGIC PLAN THEME:

- Great Neighborhoods
- An Effective Government

Action Requested:

Staff requests Council authorization to enter into an Intergovernmental Agreement (IGA) with Linn County.

Discussion:

Linn County has applied for and received a Federal Transit Administration Section 5310 2009-2011 Biennium Discretionary Operating Grant No. 26083 from the Oregon Department of Transportation, Transit Division, in the amount of \$84,836 to purchase service from Albany Call-a-Ride. The grant consists of \$76,124 from the Oregon Department of Transportation (ODOT) and \$8,712 required as the 10.27 percent match from the City of Albany.

Linn County has created an intergovernmental agreement for Linn County to purchase Albany Call-a-Ride Paratransit Service. Linn County will pay eight quarterly payments to Call-a-Ride in the amount of \$9,134.88 (\$9,515.50 minus 4 percent for county administrative expenses). City of Albany will be responsible for the 10.27 percent local match to the ODOT Discretionary Grant No. 26083 in the amount of \$8,712. The required match is included in the FY 2009-10 Paratransit Operating budget. This IGA will commence on July 1, 2009, and terminate on June 30, 2011.

These operating funds replace the Special Transportation Funds (STF) that Call-a-Ride has been receiving. STF funds are being used elsewhere in the county for this biennium.

The City Attorney has reviewed the IGA and has found it satisfactory as to form.

Budget Impact:

The grant amounts are included in the 2009-2010 Paratransit Budget 213-50-1108-42030. The required match is included in the 2009-2010 Paratransit Operating Budget 213-50-1108.

BH:GM:kw  
Attachments 1

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

A RESOLUTION ADOPTING AN INTERGOVERNMENTAL AGREEMENT FOR CALL-A-RIDE PARATRANSIT SERVICE BETWEEN THE CITY OF ALBANY AND THE LINN COUNTY.

WHEREAS, the City of Albany is the operator of the Call-a-Ride paratransit system, which provides public transportation to seniors and qualified persons with disabilities anywhere within three quarters of a mile of the Albany city limits; and

WHEREAS, Linn County has received an Oregon Department of Transportation 5310 Operating Grant to purchase paratransit service from Albany Call-a-Ride; and

WHEREAS, Linn County will pay quarterly payments to the City of Albany of \$9,515.50 less four percent (4%) for Linn County administrative expenses; 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, the City Manager or his designee is authorized to execute the intergovernmental agreement between the City of Albany and the Linn County.

DATED AND EFFECTIVE THIS 12<sup>th</sup> DAY OF AUGUST 2009.

---

Mayor

ATTEST:

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City Clerk



TO: Albany City Council

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

FROM: Mark W. Shepard, P.E., Assistant Public Works Director / City Engineer *MWS*  
Ron Irish, Transportation Systems Analyst

DATE: August 6, 2009, for the August 12, 2009, City Council Meeting

SUBJECT: Bridle Springs Parking Removal Request

RELATES TO STRATEGIC PLAN THEME: • A Safe City

Action Requested:

Staff recommends Council consider restrictions to on-street parking in the Bridle Springs subdivision as follows:

- Elimination of on-street parking on both sides of Bridle Springs Street between Knox Butte Road and Thoroughbred Avenue.
- Elimination of on-street parking on both sides of Rosehill Avenue between Goldfish Farm Road and Casting Street.

A Resolution is attached for Council action should you choose to move forward with the parking restrictions.

Discussion:

This item came before City Council at the July 22, 2009, Council meeting. At that meeting, Council chose to table the item in order to get input from the entire neighborhood. Council directed staff to send a letter to the residents in the neighborhood informing them of the proposed change and requesting that residents provide feedback regarding the change. Staff has sent the letter out, and will provide Council with a verbal report at the August 12, 2009, meeting regarding the feedback that was received.

*Background*

Staff received the request from the president of Bridle Springs Home Owners Association to remove on-street parking at selected locations within the development. Residents of the development have expressed safety concerns regarding vehicles parked at the entrances to the development and at two locations (both 90 degree curves) within the development. There are three entrances into the development: Dogwood Avenue from Goldfish Farm Road, Rosehill Avenue from Goldfish Farm Road, and Bridle Springs Street from Knox Butte Road.

Dogwood Avenue is classified as a minor collector street. The first block of Dogwood within the development is 32-feet wide and striped for two travel lanes and on-street bike lanes. No on-street parking is currently allowed on that first block. The road becomes wider east of Casting Street and provides for on-street parking on the south side of the street.

Rosehill Avenue and Bridle Springs Street are both classified as local streets, are 28 feet in width, and allow for on-street parking along both sides. The streets are designed in accordance with

ADC 12.122(2) and are intended to operate as queuing streets in order to minimize vehicle speeds within the development. While the queuing street concept is working well within the development, it has caused some problems for residents at the entrances to the development. The entrances to the development have short block lengths of about 110 feet in length. Vehicles parking along those short blocks force queuing movements immediately adjacent to higher speed arterial streets and can restrict turn movements by larger vehicles at intersections. Imposing a parking restriction on the short blocks into the development would eliminate those problems.

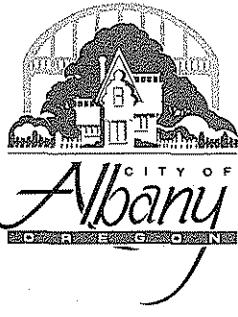
The Bridle Springs development includes two 90 degree corners: Casting Street/Thoroughbred Avenue and Canterbury Street/Thoroughbred Avenue. Drivers that park on the inside of the curves too close to the intersections can obstruct the passage of larger vehicles through the curves. Because the curves are classified as intersections, the Oregon Vehicle Code already restricts parking within 20 feet of the curves. Many drivers are apparently not aware of that restriction and park within the curves due to the lack of yellow curb. Because a legal restriction on parking in the curves is already in place, yellow curb can be striped in those areas without a resolution by Council.

Budget Impact:

None.

MWS:kw

Attachment(s)



**CITY HALL**  
333 Broadalbin SW  
P.O. Box 490  
Albany, OR 97321-0144  
[www.cityofalbany.net](http://www.cityofalbany.net)

(541) 917-7500

**ADMINISTRATIVE SERVICES**  
City Manager's Office  
(541) 917-7500  
FAX (541) 917-7511

Finance/Recorder  
(541) 917-7500  
FAX (541) 917-7511

Municipal Court  
(541) 917-7740  
FAX (541) 917-7748

COMMUNITY DEVELOPMENT Planning  
(541) 917-7550  
FAX (541) 917-7598

Building Division  
(541) 917-7553  
FAX (541) 917-7598

ECONOMIC DEVELOPMENT  
(541) 917-7500  
FAX (541) 917-7511

Call-A-Ride  
(541) 917-7770  
FAX (541) 917-7573  
TDD (541) 917-7762

Transit  
(541) 917-7667  
FAX (541) 917-7573  
TDD (541) 917-7678

FIRE ADMINISTRATION  
(541) 917-7700  
FAX (541) 917-7716

HUMAN RESOURCES  
(541) 917-7500  
FAX (541) 704-2324

INFORMATION TECHNOLOGY  
221 Third Avenue SW  
(541) 917-7500  
FAX (541) 917-7511

PARKS & RECREATION ADMINISTRATION  
(541) 917-7777  
FAX (541) 917-7776

Urban Forestry/  
Building Maintenance  
(541) 917-7679  
FAX (541) 917-7776

PUBLIC WORKS Engineering  
(541) 917-7676  
FAX (541) 917-7573

Water/Sewer Billing  
(541) 917-7547  
FAX (541) 917-7511

July 24, 2009

Dear Property Owner:

#### LIMITED ON-STREET PARKING REMOVAL

Albany Public Works staff has been working with the Bridle Springs Homeowners' Association to address the concern some homeowners have regarding on-street parking in several locations within your subdivision. The Homeowners' Association submitted a request to the City Council to restrict on-street parking at the following locations:

- Both sides of Bridle Springs Street between Knox Butte Road and Thoroughbred Avenue.
- Both sides of Rosehill Avenue between Goldfish Farm Road and Casting Street.
- The inside of the 90 degree curves at the intersections of Casting Street/Thoroughbread Avenue and Canterbury Street/Thoroughbread Avenue.

The attached map shows the locations where the proposed parking removal would take place.

The City Council considered the parking restriction request at its July 22, 2009, City Council Meeting. Before taking action, the Council asked City staff to make contact with all property owners in the subdivision about the proposed parking removal.

If you have specific concerns about the removal of the on-street parking as proposed, please contact Ron Irish at 917-7656 or by e-mail at [ron.irish@cityofalbany.net](mailto:ron.irish@cityofalbany.net). Any concerns should be made known before 5:00 p.m., Tuesday, August 4, 2009. Staff will forward any concerns received to the City Council for their consideration in determining these parking restrictions. The Council is expected to make a decision on this issue at their meeting on August 12, 2009.

Sincerely,

Ronald G. Irish  
Transportation Systems Analyst

RGI:prj  
Enclosure

RECEIVED

Bridle  
Springs

JUN 24 2009

PUBLIC WORKS/ENGINEERING

Thursday, June 11, 2009

Ron Irish  
Public Works  
333 Broadalbin Street SW  
Albany, OR 97321

Hi Ron,

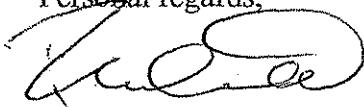
My name is Bob Carruth and I am the president of Bridle Springs Home Owners Association here in Albany. We spoke a few months ago regarding painting the curbs at the entrances and two corners within the development to designate a no parking zone. Many of the residents have expressed concern over vehicles parking in these areas and feel that blocking these areas with parked cars poses a safety issue.

Please accept this letter to request that you approve the painting of these curbs or to suggest alternatives that would help us to keep our neighbor hood a safe area.

Enclosed is a map showing the areas that we are suggesting.

We appreciate your help and if you have any questions please feel free to call. My cell number is 541-760-3200.

Personal regards,



Bob Carruth  
243 SE Canterbury St  
Albany, Oregon, 97322

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\* No Darkning Stripes  
Submitted to City of Albany  
Approved by: *Oneida* 4/9/09

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

RESOLUTION ESTABLISHING PARKING RESTRICTIONS WITHIN THE BRIDLE SPRINGS SUBDIVISION.

WHEREAS, the Bridle Springs Homeowners Association has requested that Council establish on-street parking restrictions on the street segments entering the development; and

WHEREAS, a restriction on on-street parking at the entrances to the development would improve access into the neighborhood by emergency and large vehicles and reduce the likelihood of blockages on the arterial street system.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the following parking restrictions:

1. Elimination of on-street parking on both sides of Bridle Springs Street between Knox Butte Road and Thoroughbred Avenue.
2. Elimination of on-street parking on both sides of Rosehill Avenue between Goldfish Farm Road and Casting Street.

DATED AND EFFECTIVE THIS 12<sup>th</sup> DAY OF AUGUST 2009.

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\_\_\_\_\_  
Mayor

ATTEST:

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

**APPROVED:**

CITY OF ALBANY  
CITY COUNCIL (WORK SESSION)  
Municipal Court Room  
Monday, June 22, 2009  
4:00 p.m.

**MINUTES**

**CALL TO ORDER**

Mayor Sharon Konopa called the meeting to order at 4:01 p.m.

**ROLL CALL**

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

Councilors absent: None.

**BUSINESS FROM THE PUBLIC**

There was no business from the public.

**PARKS & RECREATION COMMISSION REPORT**

Mike Graham, Parks & Recreation Commission Chair, commented that the City has a very good Parks & Recreation Commission. He referred to the annual report and asked if the Council had any questions.

Councilor Floyd Collins thanked the Commission members for volunteering their time.

Graham said that an advantage of having a Commission is that it offers a different venue for public input. Sometimes the public will say something to the Commission that they might not say to the Council.

Konopa asked for the status of the bike park. Graham said the park is moving along but funding will be an issue. He said the students deserve a pat on the back for working towards this goal. There is a core group of kids who have been sticking to this project. It is a positive experience for them to learn how local government works. It also improves relationships with the community. Parks & Recreation Commission member Sharon Edwards said the park design is in the process of being refined.

**HEARINGS OFFICER PROPOSAL**

City Attorney Jim Delapoer said that this Council has considered a Hearings Officer periodically over the last few years, as land use hearings have become more common and more complicated. Now that Community Development Director Greg Byrne is on board, his experience with Hearings Officers in his previous employment will be useful. Delapoer said staff has met with the Hearings Officer from the city of Bend and tried to learn some of the options. At today's worksession, the Council will discuss the options and gauge the interest of the Council in obtaining a Hearings Officer.

Delapoer explained that with the recent rapid growth in North Albany, many citizens have approached the Council with petitions or have tried to contact the Councilors individually to talk about the developments. However, per state law and quasi-judicial land use restraints, Councilors are not allowed to talk to them. This has made it difficult for the Council, as described in the staff memo. Discussion followed.

Delapoer said a Hearings Officer could at least conduct the initial quasi-judicial hearings. The law doesn't say the Council has to conduct them, just that it has to be done. There are a number of communities that engage one or more professionals for this purpose, such as retired mayors, attorneys, and retired planning directors. The more experience a person has, the better.

Delapoer recommends that the Hearings Officer be substituted for the Planning Commission only for quasi-judicial land use hearings. This way, the Planning Commission could focus on assisting the Planning staff with actual planning decisions rather than having their time consumed with being a hearings body. The Council would still have an opportunity to review the decision on appeal by an "on the record" review; or by conducting an "on the record" review of the Hearings Officer's decision; or to have a "de novo" public hearing if the matter were deemed sufficiently important. The result would be a very professional hearing at the planning level stage. Folks rarely appeal if they feel their hearing got a fair shot. There is a strong possibility that most people would feel a Hearings Officer would render a fair decision; and if not, they would have a vehicle to present their case to the Council and ask for it to be reviewed. The Council could always choose to review the case "de novo" or "on the record."

Delapoer said this process will require as much time from staff as the current process does, but it would result in decisions which would be considered to be more objective by the public. Developer application fees could be increased to cover the cost of a Hearings Officer.

Delapoer noted that even if the Council does not want a Hearings Officer, the Development Code should still be reviewed.

Councilor Bill Coburn asked, with a Hearings Officer would the Councilors be free to talk to constituents? Delapoer said the Councilors would have to avoid contact with the public if there was a possibility they might review the case. It would depend on how the Council set up the system and at which level the Council is removed as a possible judge. The possibility for appeals to the Land Use Board of Appeals remains, since those appeals are based on the last local decision.

Collins said he has several comments. He has seen a model where the Hearings Officer attends the Planning Commission to verify that the rules were followed. He asked what the Planning Commission thinks of the City moving to a Hearings Officer. He is also concerned that by removing the Council from the process, they might miss the opportunity to identify flaws in the Albany Development Code (ADC) that often become apparent when evidence is heard. He thinks that most of the community already understands why the Councilors cannot talk to them during a land use hearing. Finally, he wants to get public input about using a Hearings Officer.

Councilor Jeff Christman thinks a Hearings Officer should be pursued because it would allow the Council and the Planning Commission to spend more time on planning, as opposed to spending their time on laborious decisions about specific land use issues. It would still allow the Council the opportunity to find the holes in the ADC, as Collins has suggested. It would also allow the Planning Commission to go into more detail on how to fix the holes as opposed to being burned out after sitting through hours and hours of hearings on just one application; that time could have been spent on the ADC instead. A Hearings Officer could provide more consistent, professional decisions that would be more criteria-driven, as they should be.

Collins supports having more professional decisions because it is fairer to our citizens, but he thinks it can be achieved with an attorney or by having the Hearings Officer involved at the Planning Commission level.

Coburn asked, is Bend unique? Does Portland have a Hearings Officer? Delapoer said many cities are moving towards a Hearings Officer, especially in larger cities such as Portland. If growth had continued, it would have reached a point where land use would have dominated the Council's time. Once the economy turns around, the City will be headed that direction again. The need for housing has not changed.

Councilor Dick Olsen said a weakness of having a Hearing Officer is that the Council will not learn about things that are omitted. For example, previous Councils missed the ecological lake and grove of trees, which both contributed to the regulation of water flow in a controversial North Albany development. If the City had a Hearings Officer, the Council would continue to miss these opportunities for review. There is a value to listening to things other than what is in the ADC. Christman noted that a Hearings Officer would actually free up the Council's time to look at the bigger picture.

City Manager Wes Hare said a consideration is if a Hearings Officer is going to be more likely to reach a decision that all parties would be more willing to consent to, as opposed to a decision made by the Planning Commission. Larger cities find that more often, parties are more satisfied with the Hearings Officer process. The job of a Hearings Officer is to make sure everyone feels they had a fair chance to offer their side. The Hearings Officer then makes a written decision. It is one person speaking with one voice, with one well-reasoned justification. He thinks the Council will still likely hear about the holes in the ADC even with a Hearings Officer.

Coburn said a Hearings Officer would provide more consistent decisions than a new Council could. He thinks there is a value to the process, but is also curious about what the Planning Commission thinks.

Councilor Ralph Reid sees the pros and cons of a Hearings Officer, but ultimately thinks that land use hearings are part of his responsibility as a Councilor. He is reluctant to relinquish that responsibility.

Councilor Bessie Johnson feels that as a Councilor, land use involvement is part of her job. She does not want the Hearings Officer to take the place of the Council. She does think the process has been working, though it is sometimes cumbersome and it does take a lot of time.

Christman clarified that his idea for having a Hearings Officer was not to shirk his duties as a Councilor, but rather to give the Council the opportunity to focus on the ADC as opposed to spending time on the land use hearings. It would be a much more productive use of the Council's time.

Collins would like to investigate having a professional at the Planning Commission level and to have the public help the Council to refine the ADC proactively on a periodic basis, rather than reactively.

Due to lack of time, Delapoer said he will address procedural and time limits at the next regular Council meeting.

#### ROBERT'S RULES OF ORDER REFRESHER

This item was postponed to a future meeting due to time limits.

#### SYSTEMS DEVELOPMENT CHARGES ADJUSTMENTS

Public Works Director Diane Taniguchi-Dennis said the staff is seeking Council direction on the annual increase to the System Development Charges (SDCs), Connection Charges (CC), and Special Assessment (SA) fees. The increases are based on the Engineering News-Record (ENR). Currently Albany's SDCs rates are at 100 percent capacity for sewer, 90 percent capacity for water, and transportation is under the old methodology.

Collins thinks the City should hold the fees at status quo. These particular fees are optional, whereas the nine percent scheduled increase for July 1, 2009, to the sewer rates is driven by the need to fulfill state mandated requirements. Since the City has to raise sewer rates this year, these other fees should not be increased. During a recession, Collins thinks fees should only be raised if there is no choice.

Taniguchi-Dennis suggested holding a public hearing even if the Council chooses not to raise the SDCs because it will provide citizen input and have a formal action on the public record. Based on the ENR, the SDC for a 1,500 square foot house would increase by \$58. She would like to set a public hearing for July 8, 2009.

Reid reminded the Council that for 7-8 years previous Councils did not raise building permit fees. No fee increases over the year has had dire results, which did not manifest until this year. If they choose to forgo this SDC rate increase, they should be aware that somewhere down the road, the fees will have to be increased to close the inevitable gap.

Taniguchi-Dennis will provide two resolutions at the July 9, 2009, Council meeting and public hearing; one to maintain the current rates and the other to increase it.

Johnson asked staff to provide a schedule of the SDC increases over the last ten years.

#### ANNUAL SEWER RATE INCREASE

Taniguchi-Dennis introduced Consultant Debbie Galardi.

Taniguchi-Dennis said that a nine percent sewer rate increase is scheduled for July 1, 2009. She gave a PowerPoint presentation (see agenda file).

Galardi said several cities have to increase rates in the double digits in order to meet the debt service coverage requirement of 125 percent.

Hare said that defaulting on the Department of Environmental Quality (DEQ) loan would result in a higher interest rate for future loans and as well as compromising the City's ability to get money in the future. He supports this increase. There is much at stake.

Taniguchi-Dennis said that the Wetland Treatment Project, to address the temperature TMDL requirements, is also pending. The City has applied to the Department of Environmental Quality Clean Water State Revolving Loan Fund for a \$5 million stimulus loan with 50 percent principal forgiveness and no interest over 20 years. The city of Millersburg has applied for the same loan and is eligible for 75 percent loan forgiveness based on their population. The two cities would use the combined loans to complete project.

Taniguchi-Dennis said that in addition to the nine percent increase for sewer effective July 1, 2009, rates will need to be increased incrementally over the next three fiscal years, 2010-11 through 2012-13, with seven percent July 1, 2010, six percent in July 1, 2011, and then five percent in July 1, 2012. These increases are needed to close the gap to meet the City's debt service obligations. This is predicated on the City controlling operation and maintenance costs at 2.3 percent and that revenue is received as planned.

Delapoer said that part of the SVC/Pepsi-Co litigation is lost revenues for water and sewer that would have been available for future capital programs. Part of that was included in the analysis being used in the litigation. The City is now facing a difficult situation that would not be so dire, if SVC/Pepsi-Co had kept its contractual commitments.

Finance Director Stewart Taylor said the City has a good financial plan. The scheduled sewer rate increases are an example of continuing with a forward-thinking plan. The City's Standard & Poor's rating is A+ because of this type of strategy. As a City, we want to maintain those high ratings. Taylor defined the City's three financial obligations: principal and interest, cash reserve (which is a percent of principal and interest), and the debt coverage requirement.

Collins said, we need to be careful what is done with sewer revenues. They should not be used to fund non-Public Works staff.

The next action will be in January 2009 to consider the adoption of the three-year rate plan for FY 2010-11 through 2012-13, when the City proposes the increases to the DEQ.

COUNCILOR COMMENTS

Christman said he will be in Portland on June 24 so will likely be late to the Council meeting.

Johnson said she will also be late to that Council meeting.

Olsen handed out documents regarding Pet Overpopulation Prevention Advocates (POPPA) Inc (see agenda file). He is unclear about the amount that remains in the fund for spaying and neutering. He recalled seeing a spreadsheet during the Budget Committee meetings that showed there was \$4,500 remaining. He contacted POPPA and they said they could use more money. Olsen wants to restore that line item to \$10,000. He thinks POPPA provides the best value for the dollar and is doing something for the community. He will bring this item to the next Council meeting.

Hare said Allied Waste was scheduled for the next Council meeting, but asked to have a work session on July 6 instead.

Coburn asked, has staff found out if other waste management vendors are interested in providing this service? Hare said no. The Council discussed what a reasonable rate of return is during a recession.

CITY MANAGER REPORT

There was no report from the City Manager.

ADJOURNMENT

There being no other business, the Work Session adjourned at 6:20 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC  
Deputy City Clerk

Stewart Taylor  
Finance Director

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APPROVED: \_\_\_\_\_

CITY OF ALBANY  
CITY COUNCIL  
Council Chambers  
Wednesday, July 8, 2009  
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Konopa opened the meeting at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Konopa led the pledge of allegiance to the flag.

ROLL CALL

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

PROCLAMATION

Oregon National Guard Month Proclamation

Konopa read the proclamation proclaiming July 2009 as Oregon National Guard Month.

SCHEDULED BUSINESS

Legislative Public Hearing

DC-02-09, considering proposed amendments to the Albany Development Code (ADC) regarding Articles 1, 2, 9, and 11.

Konopa opened the public hearing at 7:21 p.m., and asked if there was anyone wanting to testify on the proposed amendments to the ADC. No one wished to testify.

Konopa said that staff had asked that the public hearing be postponed for two weeks because the proposed revisions did not print correctly on the version provided to the City Council.

MOTION: Councilor Collins moved to continue the public hearing to the July 22, 2009, City Council meeting. Councilor Reid seconded the motion and it passed 6-0.

Public Hearing

Reaffirming the water, sewer, and transportation System Development Charges (SDC); the water, sewer, storm, and street connection charges; and four special assessment fees for the North Albany Sanitary Sewer, the Lochner Road utilities, the Columbus Street Lift Station, and the North Albany Street Improvement Assurance Fee.

Konopa opened the public hearing at 7:22 p.m.

Assistant Public Works Director/City Engineer Mark Shepard said that staff was asking the Council what they would like to do with the SDC charges. It has been the Council's policy to tie any increases to these fees to construction costs as reflected in the Engineering News Record Index for Construction Costs. The current index would result in a fee increase to 0.88%. Because that increase is minor, staff has included a resolution with no increase in fees out of consideration for the current economic climate. However, if the Council chooses to increase the fees, staff will bring back a new resolution reflecting the increase.

Councilor Johnson asked, when the City raises the fees, would this year's 0.88% increase be picked up as well? Shepard said that is correct. Johnson said a small hike now might be better than adding on later.

Konopa closed the meeting at 7:27 p.m.

Collins said he would support this resolution as he figures it would potentially be around \$55 on a single family unit. It would be a symbolic gesture and the City would lose very little money. He feels the Council has discretionary authority here as it isn't linked to debt or other obligation of any kind. He feels the City should hold the line.

Councilor Coburn said he doesn't want to seem wishy-washy and thinks the Council should stick with the methodology. He believes it is a minor impact as well.

Johnson would rather do it now than two fold next year.

Albany City Council Regular Session Minutes  
Wednesday, July 8, 2009

MOTION: Collins moved to adopt the resolution reaffirming the water, sewer, and transportation SDC; the water, sewer, storm, and street connection charges; and four special assessment fees for the North Albany Sanitary Sewer, the Lochner Road utilities, the Columbus Street lift station, and the North Albany street improvement assurance fee. The motion died for lack of a second.

MOTION: Coburn moved for staff to bring a new resolution to the next City Council meeting on July 22, 2009, that reflects the 0.88% change in the Construction Cost Index. Johnson seconded the motion and it passed 5-1, with Collins voting no.

Business from the Public

Rhea Avery, 330 24<sup>th</sup> Avenue, representing the Albany Archimedes Group, which is an organization formed by former Governor Kitzhaber to get everyone in Oregon health insurance that is affordable and available, presented a petition to the Council (in the agenda file). They are also involved in the national health care movement. She said one person dies everyday directly related to the fact that they do not have insurance. She has worked in the health care industry for 38 years and currently works for a doctor at the Corvallis Clinic. This concern happened to them personally as they had a patient die because he couldn't get insurance. His employer had dropped insurance coverage as they were unable to afford the premiums and he couldn't get private insurance because of a preexisting condition. Even if he had been accepted he wouldn't have been able to pay the costs of a private policy because he didn't earn enough money. When he became ill, he didn't have the \$4-5,000 for the diagnostic tests that he needed nor the \$10,000 for the surgery that the tests would have shown he needed. By the time he was on state assistance, it was too late. The United States is the only industrial country in the world that lets its citizens die, rather than provide them with health care. There is a desperate need for health care reform in America. That is why they are here tonight; to ask the Council's help.

Edith Orner, 2054 54<sup>th</sup> Avenue SE, said they thought it appropriate to bring to the Council the resolution (in the agenda file). They are asking the Council to pass the resolution that encourages the Oregon congressional delegation to examine all options to provide health care for everyone. Individuals and the business community are finding it difficult to deal with increasing healthcare costs. There needs to be congressional intervention. She asked the Council to adopt the resolution and forward it to Oregon's congressmen.

Councilor Olsen said he is in favor of healthcare reform and single payer insurance. He would like to postpone the decision to the next meeting so he would have a chance to read the resolution. He also mentioned that he had heard many sad stories about health insurance when he was campaigning. In particular, stories about not receiving the sometimes life saving health care they need because the care wasn't covered by their insurance. The insurance companies claiming that it was a preexisting condition.

Johnson mentioned that working in the tax office; she sees a lot of people with health problems and can sympathize with this issue. She would also like to read it over and have it come back to the Council.

Olsen mentioned that 60 percent of bankruptcies are because of health care issues.

Christman said he doesn't understand the request to hold it over. He received the resolution two weeks ago and also received a phone call. He assumed everyone else did too. He is not in favor of sending this out because he believes it is not the Council's position to do so.

MOTION: Christman moved to not support the health care resolution presented here. Reid seconded the motion and it failed 2-4, with Collins, Olsen, Coburn, and Johnson voting no.

Collins said they should consider adding a request for Congress to debate the costs, service levels, and revenue streams.

Konopa said it is just a request to the congressional representatives that something needs to change.

A majority of the Council agreed to have the resolution come back to the July 22, 2009, City Council meeting.

Jon Bell, 3810 South Pacific Boulevard, representing the Linn County Kennel Club, said he was here to plea to the Council for the limit on the number of dogs allowed per household to be lifted. He believes all parties are back to square one. He said the exemption process is still cumbersome. Don't charge responsible dog owners like they are criminals. He is afraid that people will not license dogs and therefore be in violation of the law. This ordinance may take officers away from more important work.

Jennifer Hughes, 6121 SW Warwick Place, would like to see the limit on the number of dogs lifted as well. She considers herself a responsible owner. Her dogs are not disturbing her neighbors. She continues to volunteer to collect data for the City in order to base a decision on the most up to date information. She thinks Albany has a barking problem, a roaming problem, but not a number problem.

Susan Pisia, 3406 WW Chintimini, in Corvallis, commended the task force for considering licensing dogs in Albany. She described a scenario in Calgary, Alberta, Canada that got rid of all the barriers for licensing. They got rid of limits and they enabled people who were low income to license on a sliding scale. They ended up with a much greater number of people licensing their dogs. She said that revenue can be had from licensing. License money can be used for a dog officer. The issue isn't the number of dogs it is the education of owners. The Council should consider creating information pieces on how to be a responsible dog owner. She said, educate, license, and enforce.

Lori Bell, 3810 South Pacific Boulevard, representing the Linn County Kennel Club as well, explained the advantages of having dog shows in Albany to the economy. She said if dogs are taken from the community, because of the number limit, revenues from shows will dry up. \$140,000 was brought to the community from the two most recent shows in Albany. If breeders and people who show dogs are held to a two dog limit, they will be forced to move or become criminals. As a club, they do a lot of good things. They have given over \$7,000 this year to nonprofit agencies.

Second Reading of Ordinance

Amending AMC 6.04 and requiring the licensing of dogs, regulating the circumstances under which more than two mature dogs can be kept on a single property, and establishing an animal control assessment to be imposed upon violators.

City Attorney Jim Delapoer read for the second time in title only "AN ORDINANCE AMENDING AMC 6.04 AND REQUIRING THE LICNESING OF DOGS, REGULATING THE CIRCUMSTANCES UNDER WHICH MORE THAN TWO MATURE DOGS CAN BE KEPT ON A SINGLE PROPERTY, AND ESTABLISHING AN ANIMAL CONTROL ASSESSMENT TO BE IMPOSED UPON VIOLATORS."

MOTION: Reid moved to adopt the ordinance. Coburn seconded the motion.

Olsen disagrees with that portion of the ordinance that provides for an Animal Control Assessment fee of \$100, which he called an "incentive" fee. The fee proposed would help offset animal control which is currently paid from the Police Department's General Fund allocation. He believes the fee is excessive and that there are valid reasons for having more than two dogs. Olsen said budget discussions centering on special fees have all decided that those fees should go into the General Fund and that is what he would like to see rather than it be used to offset animal control.

MOTION: Olsen moved to remove the \$100 Animal Control Assessment fee from the ordinance. The motion died for lack of a second.

Coburn feels the Council has lost sight of the concern here. The City has had a two dog limit since the mid-eighties. This topic first came to the Council because of a request for an exemption to the two dog limit. He believes the ordinance before them tonight is going back to the ordinance that was in place before the Council enacted the change for the exemption. It is like the one in place during the mid-eighties. People were able to work with that one.

Johnson said she is against the ordinance for many reasons. She is concerned about people like the Bell's who have extra dogs. What happens to them? The City doesn't get a penny of the licensing fees, they go to the counties. If the City doesn't have a limit, nothing will change. Dogs need to be licensed and the public needs to be educated.

Officer Jim Doer said if the Police are contacted it would be because of barking, dog running at large, neglect, or abuse. Linn County Animal Control is barely able to meet their funding needs. The Albany Police Department (APD) tries to educate every time they go out on a call. Doer feels that if there is no limit to the number of dogs, it opens up abuse and neglect problems. He said there is low conformance to licensing laws, but the majority of dog owners are responsible owners.

Olsen said we need to educate the public and license dogs, not fine responsible owners.

MOTION: Olsen moved to amend the motion by removing the limit on the number of dogs from the ordinance. Johnson seconded the motion and the motion failed 2-4, with Christman, Reid, Collins, and Coburn voting no.

Collins said he would consider an exemption for service dogs. Discussion followed.

Delapoer asked for clarification regarding the wording and the number of dogs per person.

MOTION: Collins moved to revise language in the ordinance to exempt service dogs, service dogs in training, and dogs temporarily referred to a person's care by a medical facility or from animal control. Olsen seconded the motion, and it failed 2-4, with Christman, Reid, Coburn, and Johnson voting no.

There was discussion about enforcement and Delapoer reminded the Council that if they put an ordinance on the books, they need to expect that officers would enforce the ordinance.

Hare said there is an historic precedence for limiting dogs. Most communities do have a limit on the number of dogs allowed.

**VOTE ON THE MAIN MOTION:** A vote was taken on the main motion and it passed 4-2, with Olsen and Johnson voting no, and was designated Resolution No. 5718.

Adoption of Resolutions

Establishing rates for the collection of refuse inside the Albany city limits.

Hare said he and Collins met with Allied Waste yesterday and felt that both parties had a differing idea of what the meeting was to accomplish. Allied Waste's new proposal is before the Council (in agenda file) and Hare explained they have added a new residential category that would have a reduced service but no change in rate. The City would be losing one glass collection, lose weekly comingled recycle bin, but would gain leaf pickup.

Dave Hauser, General Manager for Allied Waste, said Hare provided a good summary of their proposal. They understand the sensitivity of a cost increase at this time.

Collins said that in the past, the Council simply accepted rate increases. Now the Council wants to exercise more responsibility. The difference between Allied Waste and the City is one of interpretation of the existing agreement. Allied Waste was coming from the point of view that they would have a rate increase no matter the situation of the economy or the City. He acknowledged the proposed increase will not give them the original increase they sought, but he is having a problem with any rate increase, considering the internal numbers the City was given. Businesses are complaining about any increases being a burden on them.

Hare said he could not support the proposed rate increases with the loss of collection that is being proposed. He asked, what kind of increase is the Council willing to recommend to the community. He believes more negotiating needs to take place. He proposed a 5 percent increase in rates, reducing the glass collection by one pick-up per month, adding the leaf collection, and leaving recycling at the same level.

There followed Council discussion regarding Allied Wastes internal accounting practices.

Coburn would like to see any future increases tied to a consumer index.

Hauser said he would agree to look at the methodology and process for raising rates.

There followed discussion regarding leaf pick up and the streets and times it happens.

**MOTION:** Coburn moved to direct the City Manager to continue discussion and negotiations with Allied Waste return with a proposal for a rate not to exceed a five percent increase, and include a rate certain methodology for future increases. Reid seconded the motion and it passed 6-0.

Adopting a new fines and fees schedule for the Albany Public Library.

Library Director Ed Gallagher said it had been nine years since the Library had a fee change. In the past year there was a total of 1,167 nonresident Library cards. The change would replace the tiered rate schedule with one rate that comes closer to the \$100 equivalent in taxes that an Albany resident pays. The \$75.00 charge is only applicable to nonresident library card holders.

Hare mentioned that there is a scholarship program through the Library Board available for those families unable to pay the fee.

Coburn said he likes the one card per residence concept, but feels the jump to \$75.00 is too drastic. He suggested lowering it to \$50. That keeps it affordable but increases revenues.

Gallagher said he was concerned about equity for Albany residents. Residents pay \$100 in their taxes.

Reid would like a discussion with the Greater Albany Public Schools (GAPS) regarding library service and the slack that the Albany Library has taken up since the school closed their libraries.

**MOTION:** Coburn moved to adopt the resolution adopting a new fines and fees schedule for the Albany Public Library and repealing Resolution No. 4439, setting the Nonresident fee at \$50.00/year, and eliminating the "Family Card", "Individual Card", and "Youth Card". Christman seconded the motion and it passed 4-2, with Reid and Collins voting no, and was designated Resolution No. 5800.

Albany City Council Regular Session Minutes  
Wednesday, July 8, 2009

Adoption of Consent Calendar

- 1) Approval of Minutes
  - a) May 11, 2009, Work Session.
  - b) May 27, 2009, City Council.
  - c) June 10, 2009, City Council.
- 2) Entering into a contract with the state of Oregon to accept an Oregon Community Development Block Grant for the Regional Housing Rehabilitation Program and entering into a related Intergovernmental Agreement with Community Services Consortium. RES. NO. 5801
- 3) Approving the following liquor licenses:
  - a) Ledgends, LLC, D/B/A Henry's at Hickory, 640 Hickory NW.
  - b) Vault 244, Inc., D/B/A Vault 244 Bistro/Lounge, 244 First Avenue SW.

MOTION: Collins moved to adopt the Consent Calendar as presented. Reid seconded the motion and it passed 6-0.

Report

Authorizing appraisal, title report, and negotiation of price with property owner located at 2352 Front Street NE.

Shepard clarified that the address is 2352 Front Street NE. He said staff is asking for authorization to start negotiations and do an appraisal.

MOTION: Collins moved to authorize staff to procure an appraisal and title report, and to negotiate a price with the property owner for the purchase of 2352 Front Street. Reid seconded the motion and it passed 6-0.

BUSINESS FROM THE COUNCIL

Public Information Officer/Management Assistant Marilyn Smith reviewed the upcoming Council meeting schedule:

Monday, July 20, 4 p.m. ~ Work Session on the Strategic Plan  
Monday, August 3, 4 p.m. – Executive Session with the Markowitz firm  
Monday, August 17, 4 p.m. – City Manager performance evaluation  
Thursday, August 27, 4 p.m. – Joint meeting with the Planning Commission to review the Transportation System Plan

Management Systems Director Bob Woods informed the Council that the City of Albany has received the *Performance Measurement ICMA Award of Distinction*.

NEXT MEETING DATE:

The next City Council Work Session is scheduled for Monday, July 20, 2009, at 4:00 p.m., in the Municipal Court Room of City Hall.

The next City Council Regular Session is scheduled for Wednesday, July 22, 2009, at 7:15 p.m., in the Council Chambers of City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:31 p.m.

Respectfully submitted by,

Betty Langwell, MMC  
City Clerk

Reviewed by,

Stewart Taylor  
Finance Director

**APPROVED:**

CITY OF ALBANY  
CITY COUNCIL EXECUTIVE SESSION  
AND  
WORK SESSION  
Municipal Court Room  
Monday, August 3, 2009  
4:00 p.m.

**MINUTES**

**CALL TO ORDER**

Mayor Sharon Konopa called the meeting to order at 4:00 p.m.

**ROLL CALL**

Councilors present: Councilors Ralph Reid Jr., Jeff Christman, Bill Coburn, Bessie Johnson, Dick Olsen, and Floyd Collins (via telephone).

Councilors absent: None.

City Attorney Jim Delapoer did not wish to start the Executive Session until Councilor Bessie Johnson arrived.

Konopa asked if the Councilors had any business items (see agenda file).

**BUSINESS FROM THE COUNCIL**

Via conference call, Councilor Floyd Collins said he will be out of town an extra week so would not be at the July 12, 2009, Council meeting. He would like Bill Root to be his Guest Councilor for that meeting.

MOTION: Councilor Dick Olsen moved to accept Bill Root as the Guest Councilor in Councilor Collins' absence at the August, 12, 2009, City Council meeting. Councilor Bill Coburn seconded the motion and it passed 5-0.

Councilor Bessie Johnson arrived at 4:05 p.m.

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

The Council recessed into executive session at 4:05 p.m.

**RECONVENE**

The Council reconvened at 6:27 p.m.

**ADJOURNMENT**

There being no other business, the Work Session adjourned at 6:27 p.m.

Respectfully submitted,

Reviewed by,

Mary A. Dibble, MMC  
Deputy City Clerk

Stewart Taylor  
Finance Director



TO: Albany City Council

VIA: Wes Hare, City Manager 

FROM: Ed Hodney, Director of Parks and Recreation

DATE: August 5, 2009, for the August 12, 2009 City Council Meeting

SUBJECT: Authorization to apply for a State of Oregon Department of Environmental Quality 2009 Solid Waste/Recycling/HHW Grant to support Event Recycling

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

Action Requested:

Approve a Resolution authorizing an application to the State of Oregon Department of Environmental Quality (DEQ) Solid Waste/Recycling/Household Hazardous Waste (HHW) Grant program for event recycling and authorizing the Parks and Recreation Director to sign the application.

Discussion:

Oregon law requires DEQ to assess a fee on each ton of domestic solid waste disposed of and, in turn, provide grant funds to local governments for waste reduction and planning projects. The grants fund supports waste prevention, reuse, and recycling projects that help Oregon meet its waste generation and recovery goals.

Albany Parks & Recreation would like to expand its recycling collection efforts at events like River Rhythms, Mondays @ Monteith, and the Northwest Art & Air Festival by purchasing equipment designed for this purpose.

Staff seeks authorization to pursue a \$2,850.00 grant from the State of Oregon DEQ for event recycling. In order to take advantage of this funding opportunity, the Parks and Recreation Department will need to submit an application by August 28, 2009. If awarded, grant funding would be available in January 2010 following contract completion.

Budget Impact:

If awarded, revenues and expenditures in the FY 2009-2010 Parks and Recreation Fund budget would be increased \$2,850.00.

Attachments: Resolution

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

A RESOLUTION AUTHORIZING THE CITY OF ALBANY PARKS AND RECREATION DEPARTMENT TO APPLY FOR A STATE OF OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY 2009 SOLID WASTE/RECYCLING/HHW GRANT TO IMPROVE RECYCLING EFFORTS AT EVENTS AND DELEGATING AUTHORITY TO THE PARKS AND RECREATION DIRECTOR TO SIGN THE APPLICATION.

WHEREAS, the State of Oregon Department of Environmental Quality (DEQ) is accepting applications for the 2009 Solid Waste/Recycling/Household Hazardous Waste (HHW) Grant; and

WHEREAS, the City of Albany desires to participate in this grant program to the greatest extent possible as a means of contributing to the sustainability of our community; and

WHEREAS, the City of Albany Parks & Recreation Commission, City Council, and staff have identified sustainability and greening as a priority in the City of Albany; and

WHEREAS, the City of Albany has the ability to establish infrastructure and program support for policy, systems, and environmental changes that support the requirements of the funding announcement; and

WHEREAS, there are no matching funds required for this application.

NOW THEREFORE LET IT BE RESOLVED that the City Council authorizes the Parks and Recreation Director to apply for an NRPA ACHIEVE Healthy Communities Grant from the National Recreation and Park Association as specified above and that the Parks and Recreation Director is delegated authority to sign the application.

DATED AND EFFECTIVE THIS 12th DAY OF AUGUST, 2009.

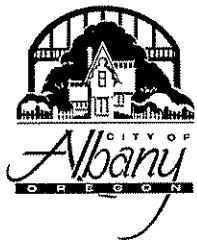
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\_\_\_\_\_  
Mayor

ATTEST:

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



TO: Albany City Council

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

FROM: Mark Shepard, P.E., City Engineer  
Gordon Steffensmeier, P.E., P.L.S., Civil Engineer III *G. S.*

DATE: August 5, 2009, for August 12, 2009, City Council Meeting

SUBJECT: Acceptance of Easements and Right-of-Way Dedication Deeds.

Action Requested:

Staff requests that Council accept the dedication deeds and easements.

In an effort to save a considerable amount of paper, the documents are not being reproduced and included in each of the Council packets. The vicinity maps for each document are attached to this memo. Each of the ten original documents is included with the "master" City Council agenda and can be reviewed upon request.

Discussion:

**FABIAN ESTATES DOCUMENTS:**

<u>Grantor</u>	<u>Purpose</u>	
1. William and Kathryn McKinley	Variable width Access Easement for Fabian Estates Subdivision	RES NO. _____
2. Layne and Kimberly Westberg	18-foot-wide Patrick Lane Right-of-Way Dedication for Fabian Estates Subdivision	RES NO. _____
3. Layne and Kimberly Westberg	15-foot-wide Patrick Lane Slope Easement for Fabian Estates Subdivision	RES NO. _____
4. Gary and Patricia Davenport	Variable width Patrick Lane and Maier Lane Right-of-Way Dedication for Fabian Estates Subdivision	RES NO. _____
5. Gary and Patricia Davenport	10-foot-wide Patrick Lane and Maier Lane Public Utility Easement for Fabian Estates Subdivision	RES NO. _____

**CALAPOOIA INTERCEPTOR SEWER DOCUMENTS:**

6. Riverside Cemetery Association	20-foot-wide Sanitary Sewer Easement for Calapooia Interceptor Project	RES NO. _____
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7. 1901 13th Avenue LLC	Sanitary Sewer Easement for Calapooia Interceptor Sewer Project	RES NO. _____
8. 1901 13th Avenue LLC	20-foot-wide Sewer Easement for Calapooia Interceptor Sewer Project	RES NO. _____
9. Jean Leone Lovell Trust	20-foot-wide Sewer Easement for Calapooia Interceptor Sewer Project	RES NO. _____
10. Samaritan Albany General Hospital	20-foot-wide Sewer Easement for Calapooia Interceptor Sewer Project	RES NO. _____

Budget Impact:

None.

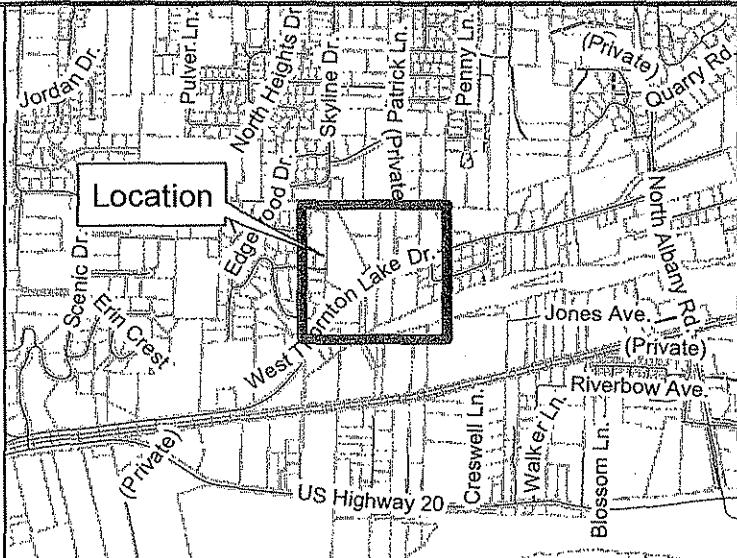
GPS:prj

Attachments: Ten Vicinity maps

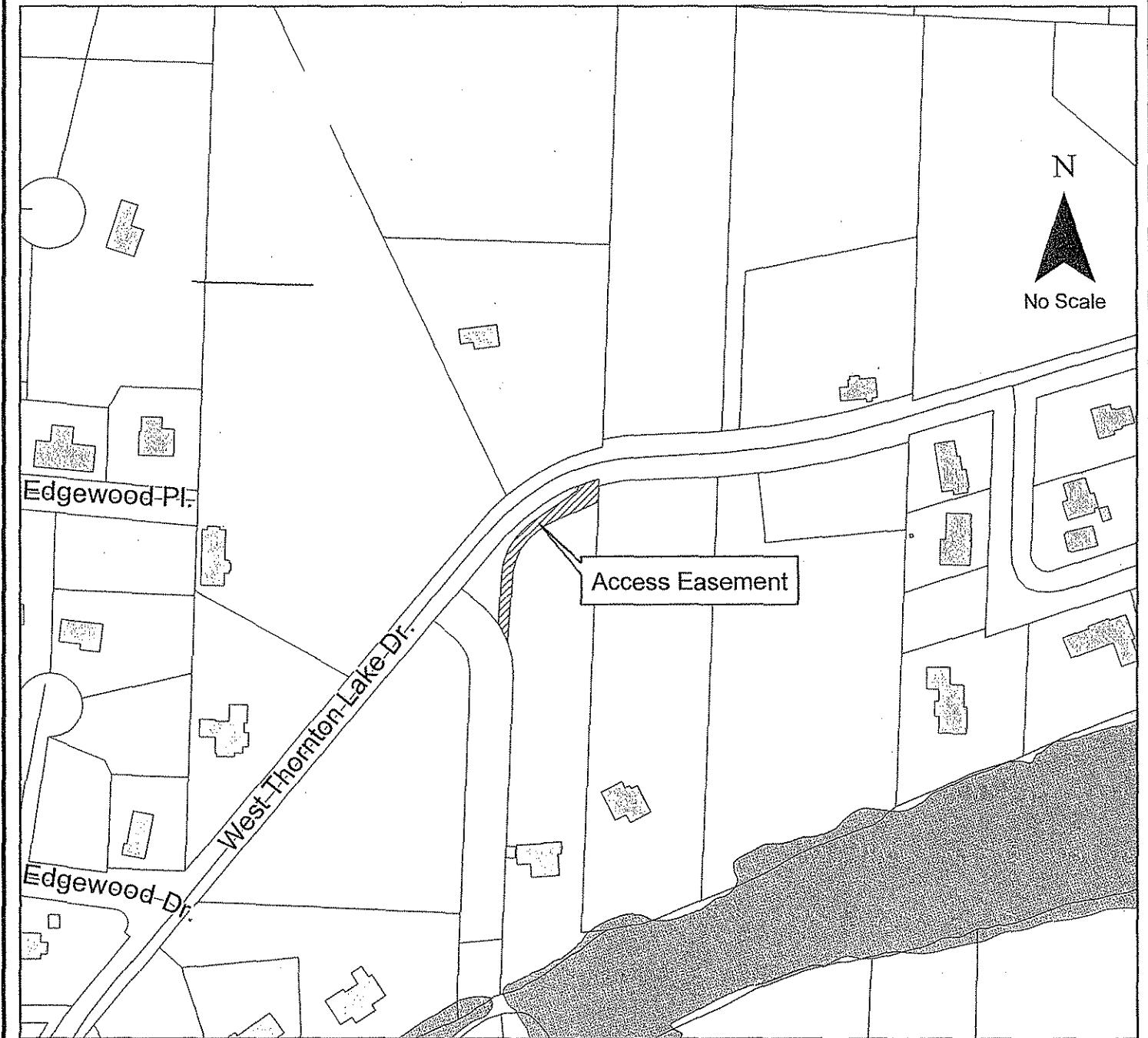
# EXHIBIT D

11SO4W01BB00400

Variable width access  
easement for Fabian  
Estates Subdivision.



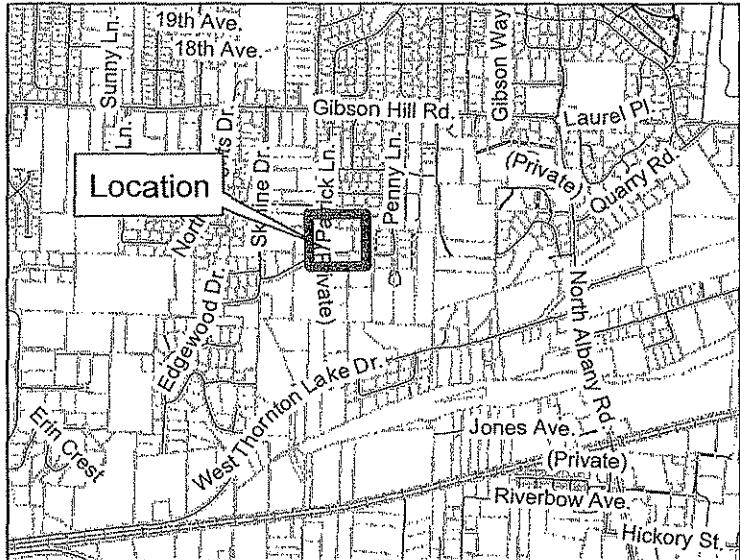
Geographic Information Services



# EXHIBIT C

10SO4W36CD00400

Expanding the right-of-way of Patrick Lane by 18-feet, as required by a condition of approval for Fabian Estates development.



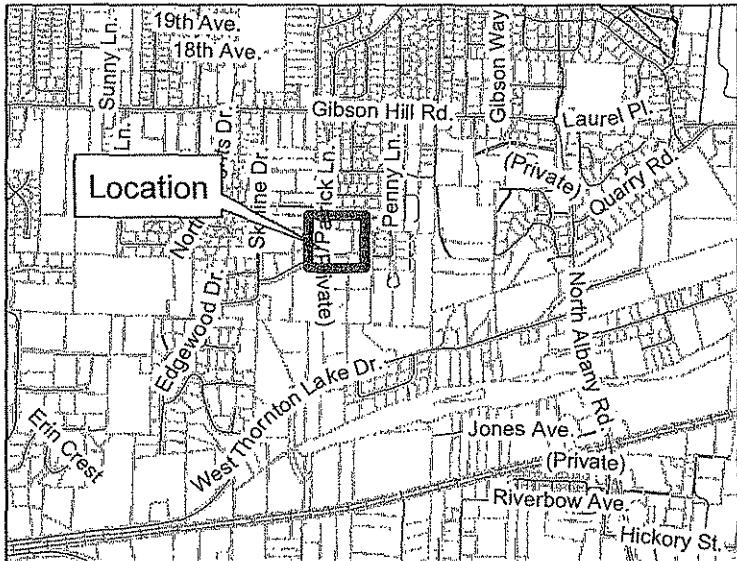
Geographic Information Services



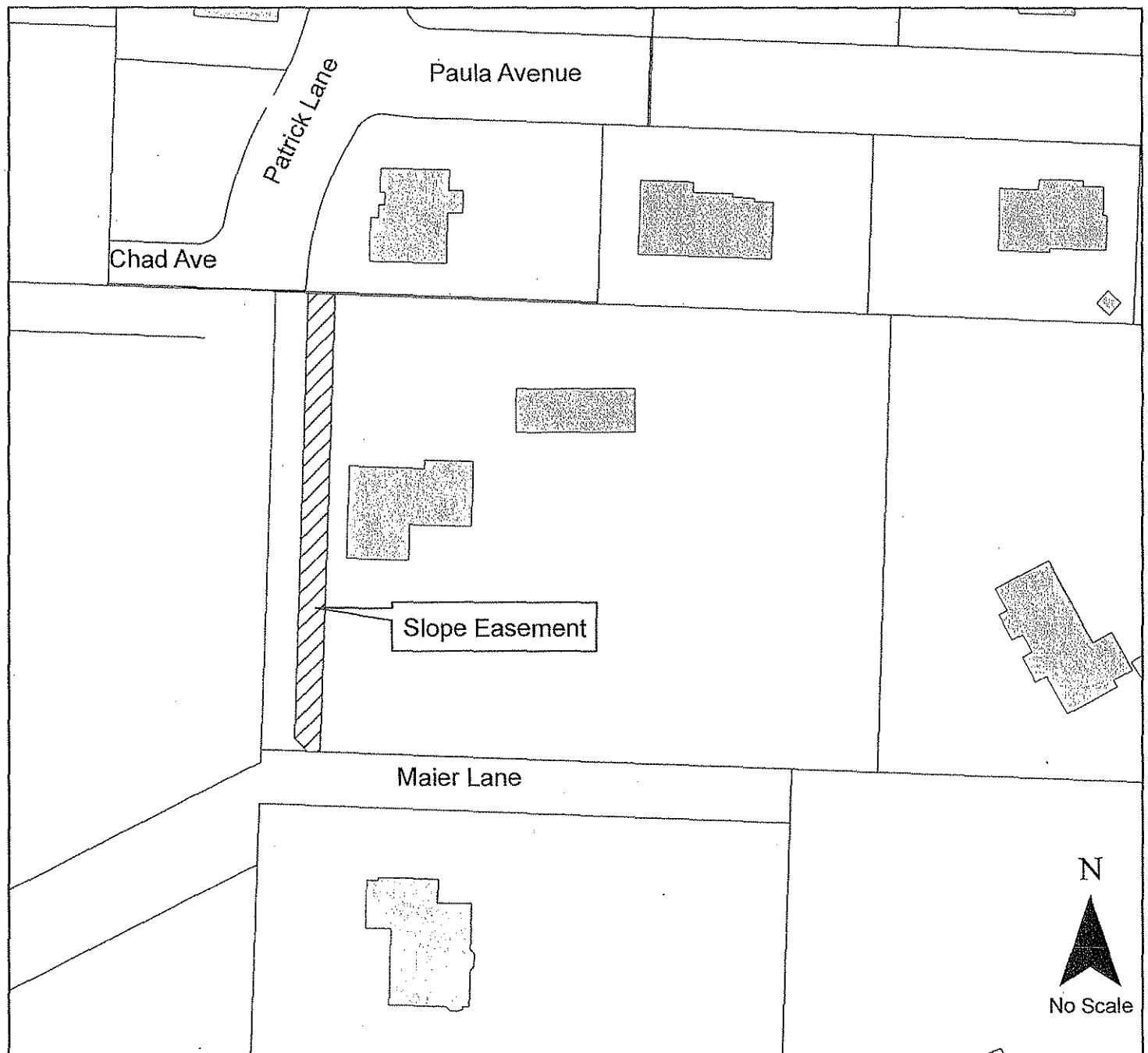
# EXHIBIT C

10SO4W36CD00400

A permanent slope easement along  
Patrick Lane as required by a  
condition of approval for Fabian  
Estates development.



Geographic Information Services



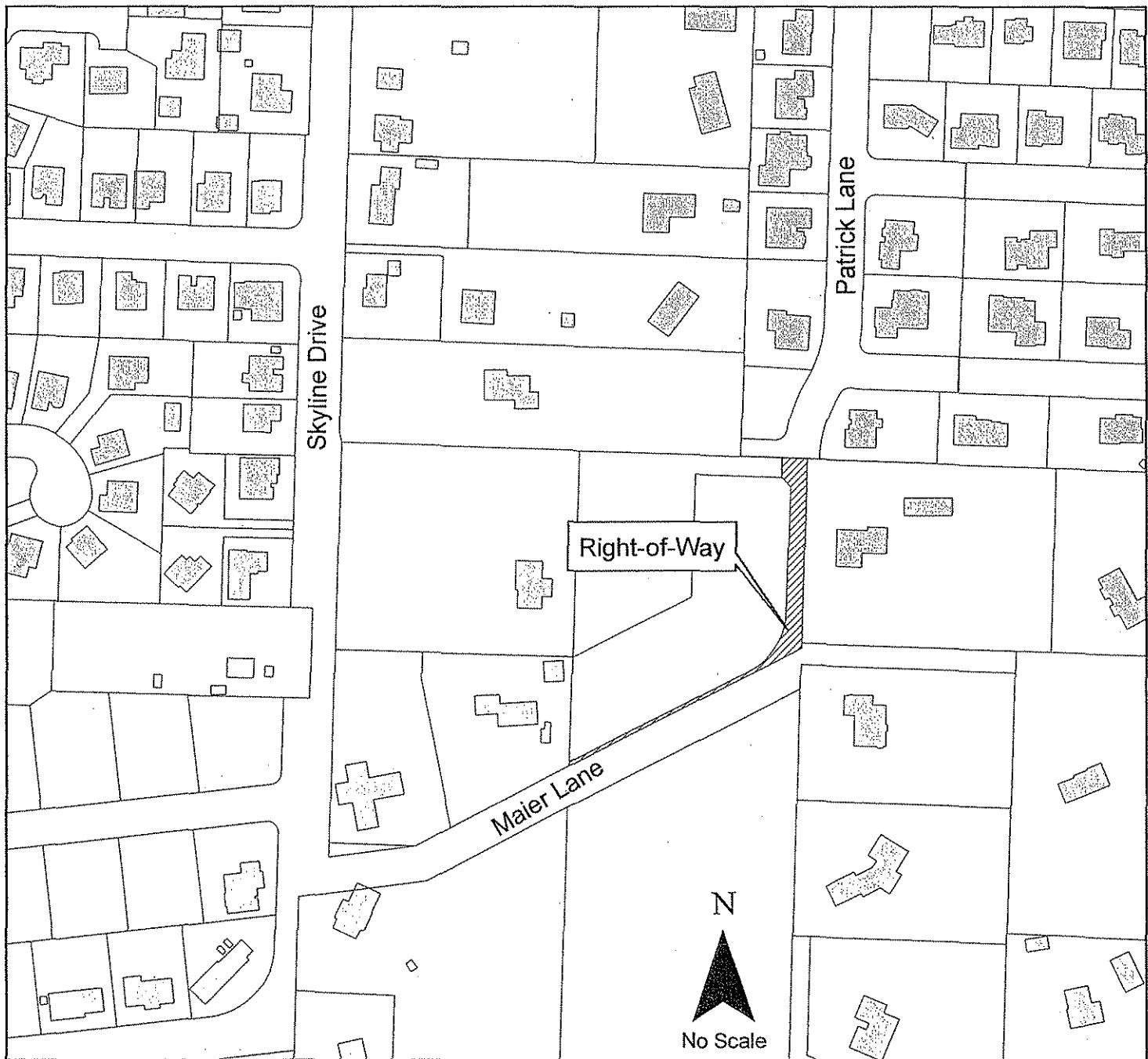
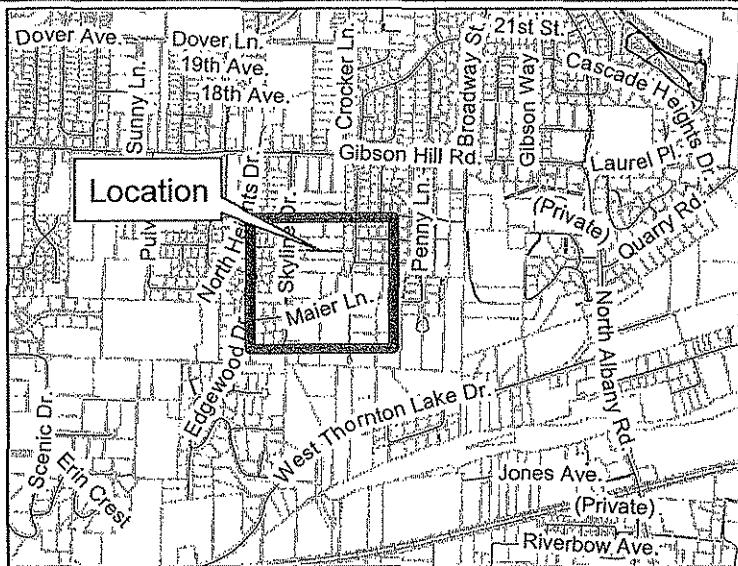
# EXHIBIT C

10SO4W36CC03311

Expanding the right-of-way of Maier Lane and Patrick Lane as required by a condition of approval for Fabian Estates development.



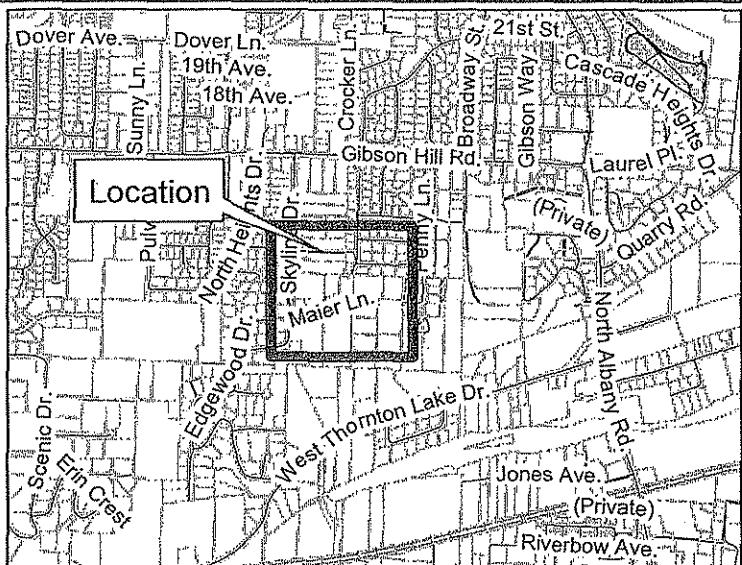
Geographic Information Services



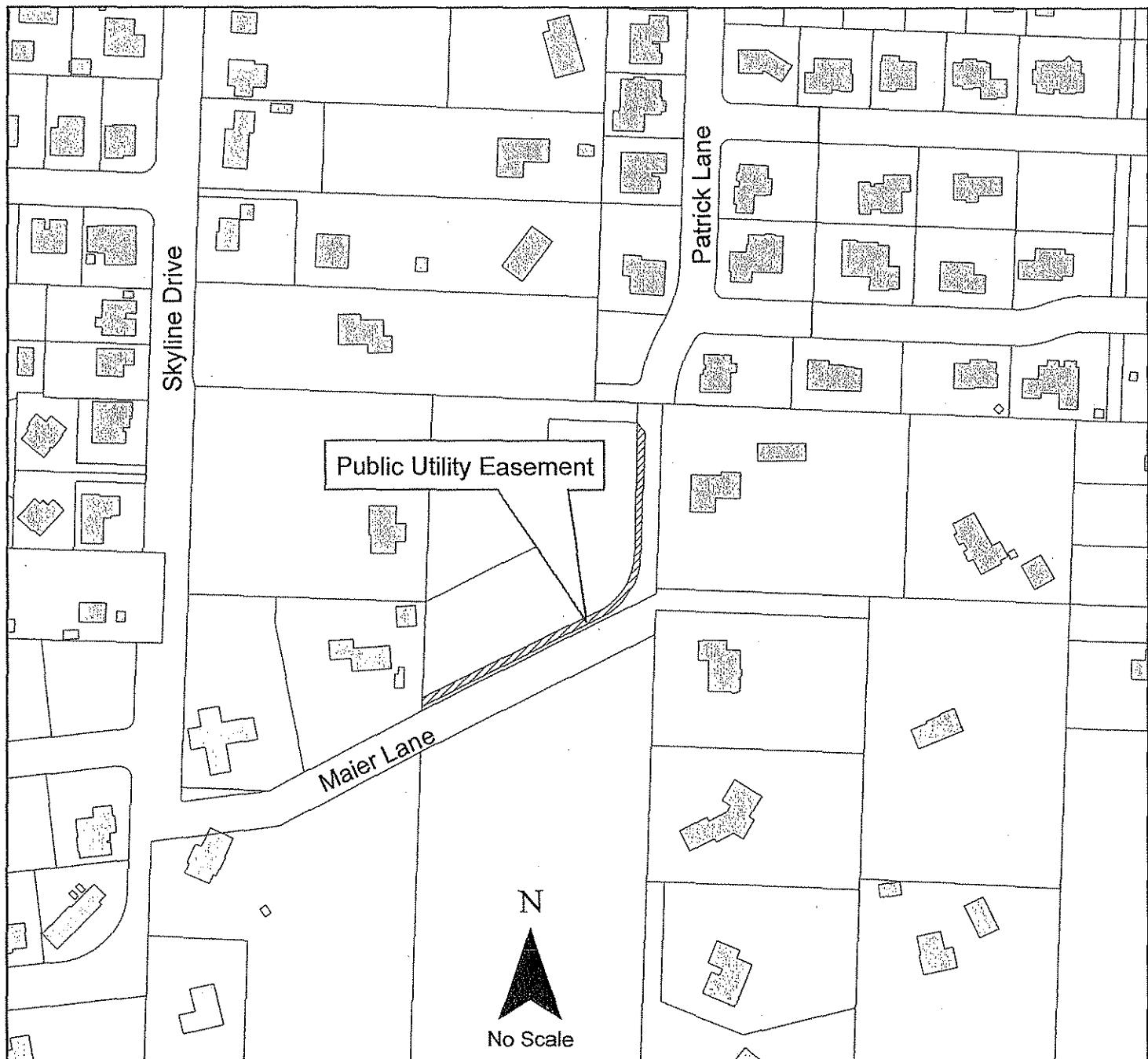
# EXHIBIT C

10SO4W36CC03311

A permanent public utility easement along Patrick Lane and Maier Lane as required by a condition of approval for Fabian Estates development.



Geographic Information Services



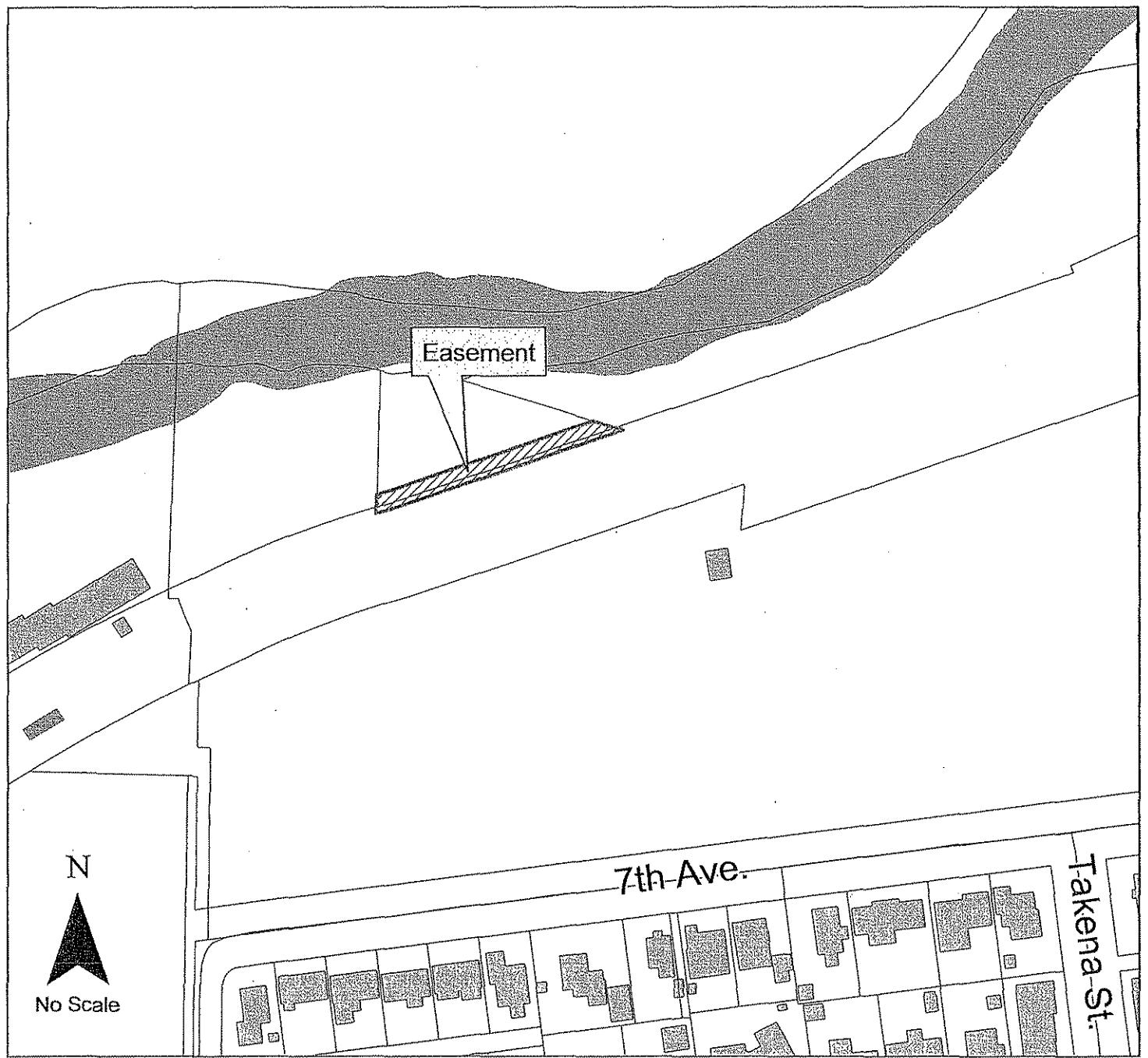
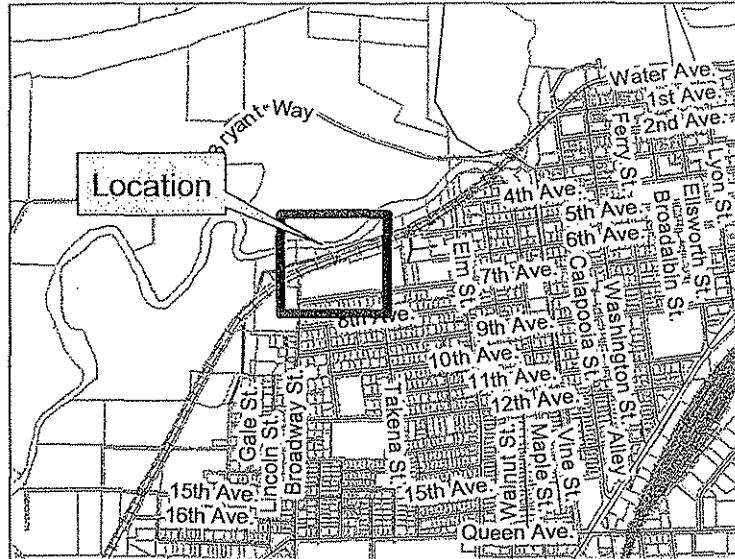
# EXHIBIT C

11SO4W12BA00400

Sanitary Sewer Easement  
for SS-07-01 - Calapooia  
Interceptor Replacement



Geographic Information Services



SS-07-01A.mxd

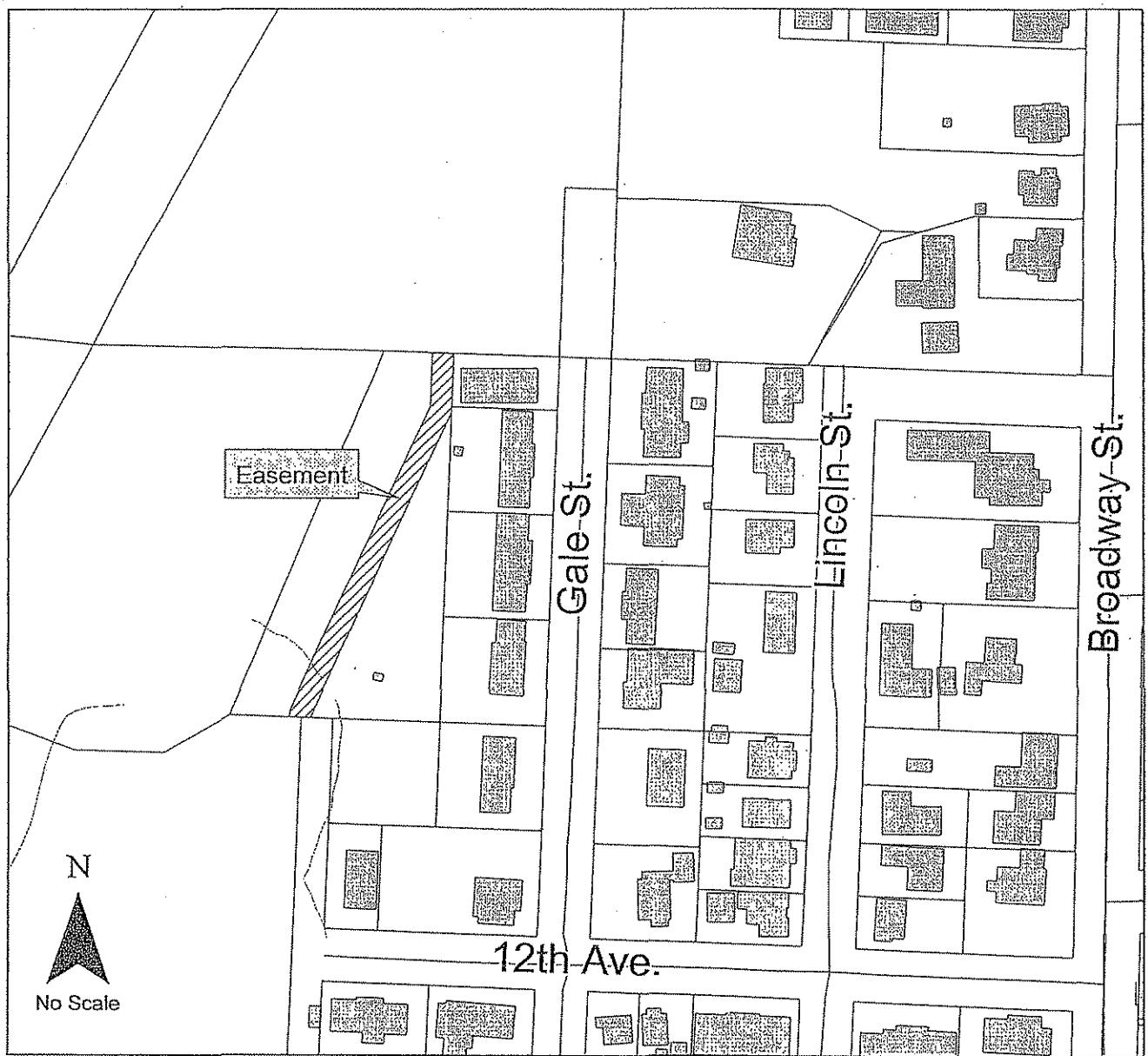
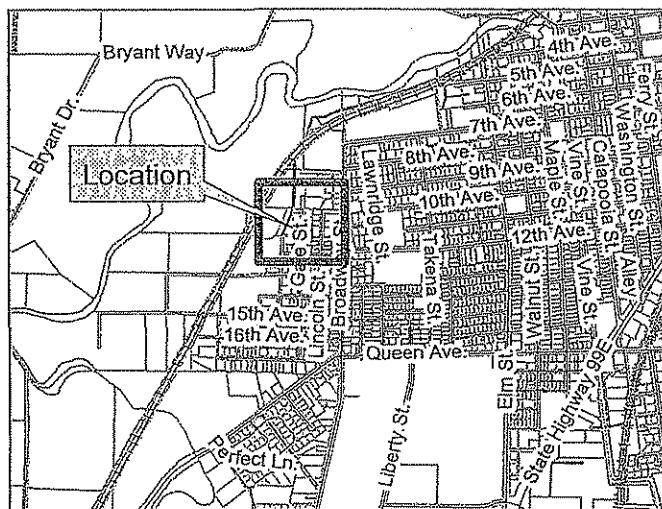
## EXHIBIT C

11SO4W12BC00100

Sanitary Sewer Easement  
for SS-07-01 - Calapooia  
Interceptor Replacement



Geographic Information Services



SS-07-01A.mxd

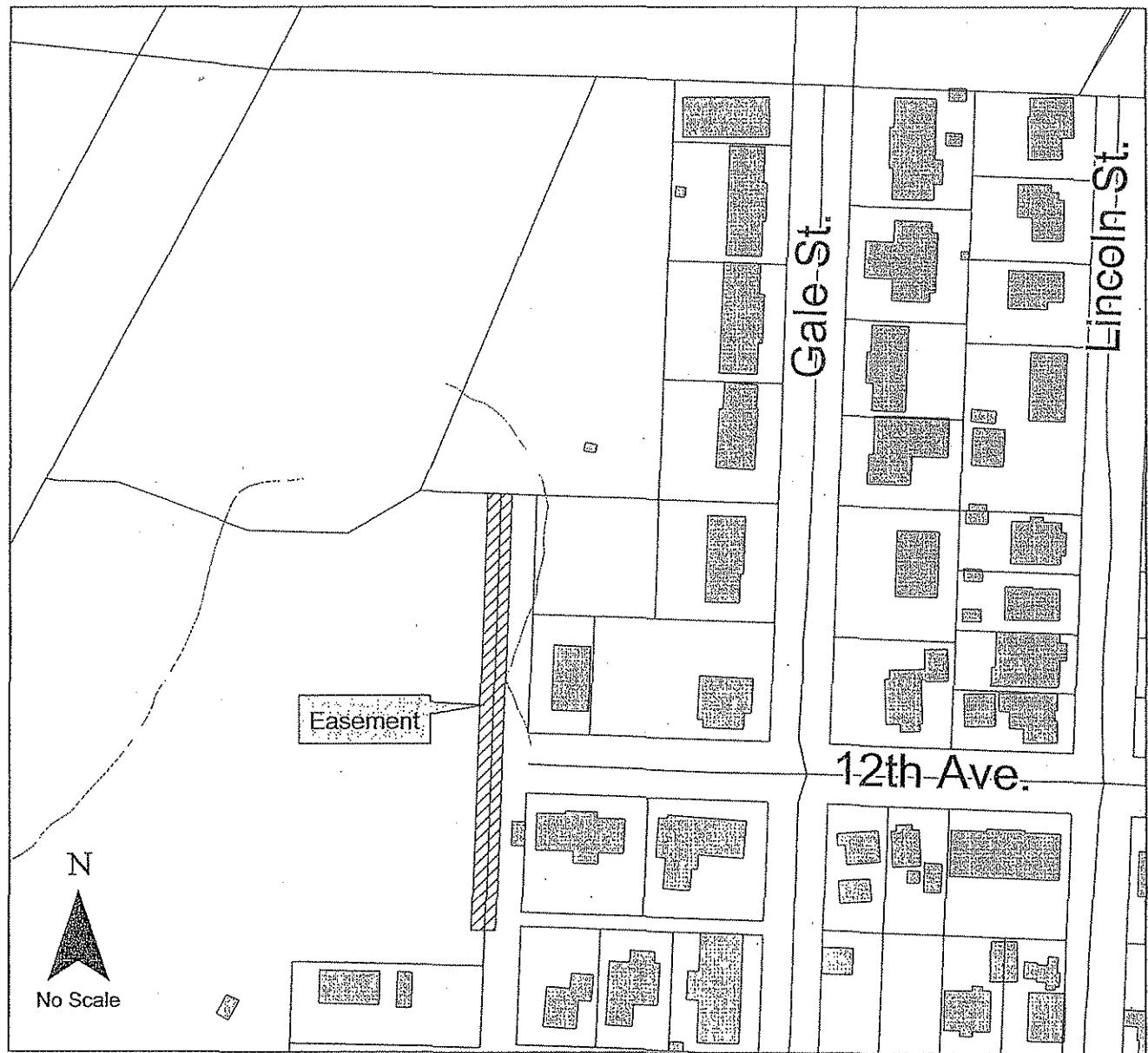
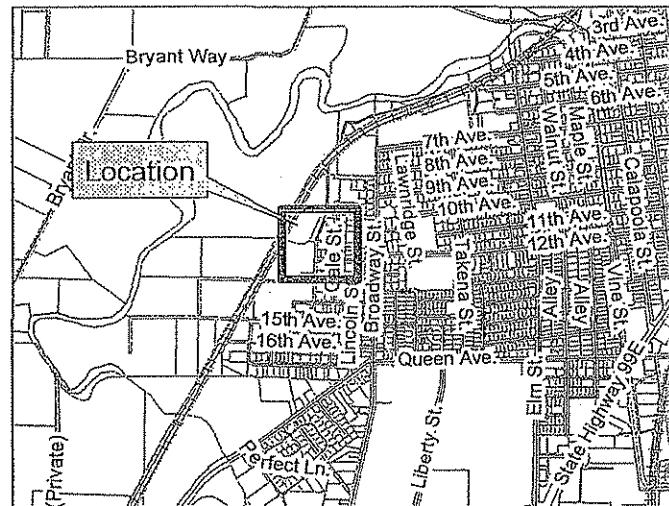
# EXHIBIT C

11SO4W12BC02901

Sanitary Sewer Easement  
for SS-07-01 - Calapooia  
Interceptor Replacement



Geographic Information Services

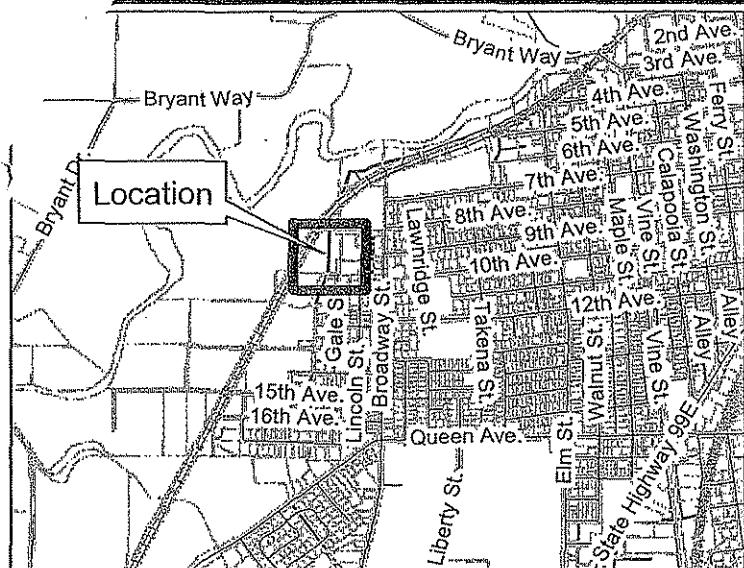


SS-07-01B.mxd

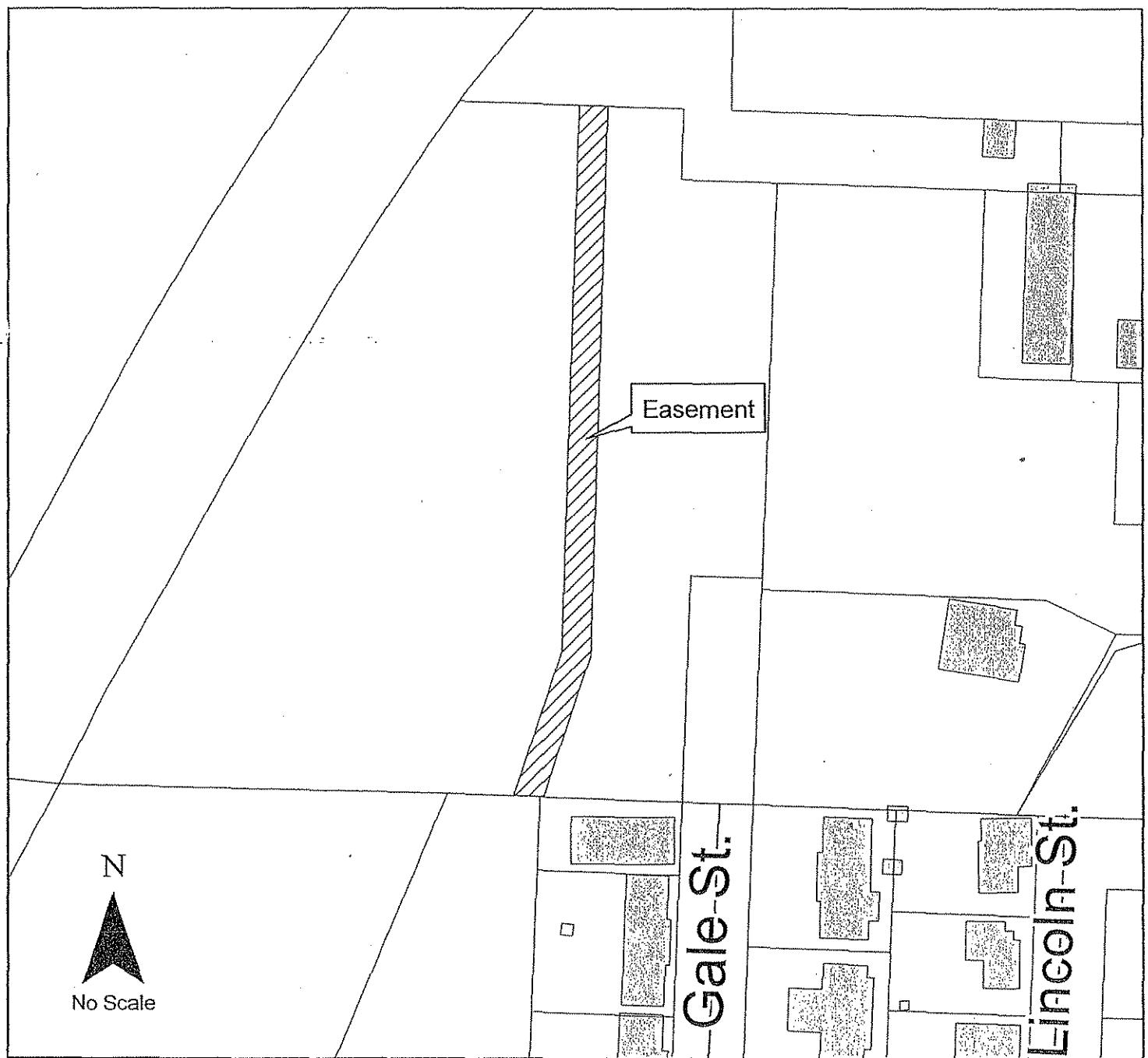
# EXHIBIT C

11SO4W12BB00400

A 20-foot public utility  
easement for a new  
sanitary sewer main.



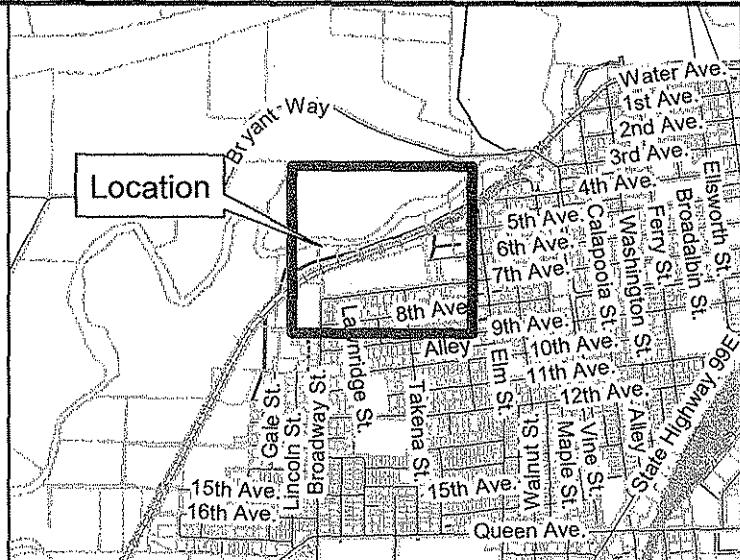
Geographic Information Services



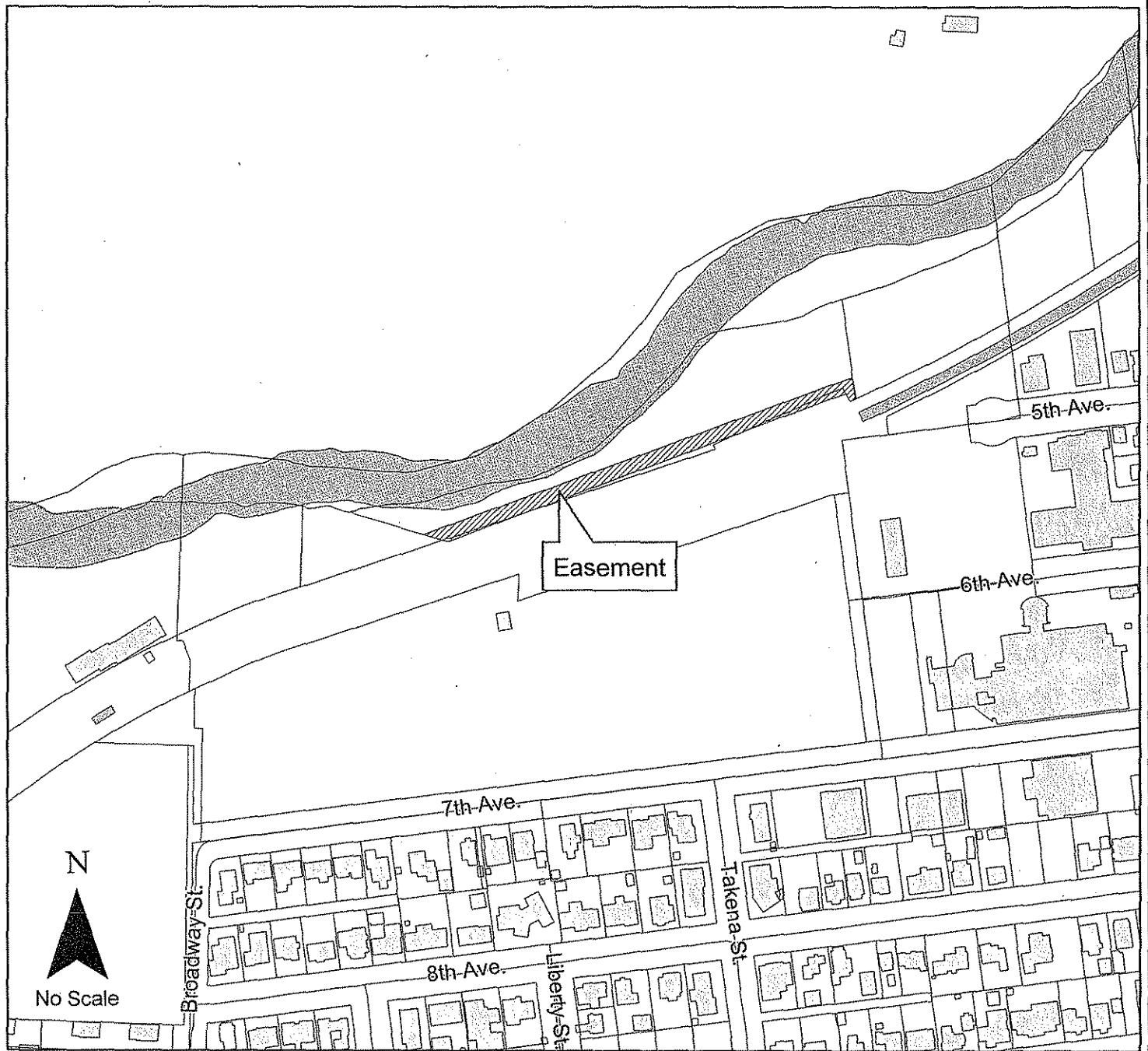
# EXHIBIT C

11SO4W12BA00200

Sanitary Sewer Easement  
for SS-07-01 - Calapooia  
Interceptor Replacement



Geographic Information Services



No Scale



TO: Albany City Council

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

FROM: Mark Shepard, City Engineer, P.E., City Engineer *MWS*  
Ron Irish, Transportation Systems Analyst *R.I.*

DATE: August 3, 2009, for the August 12, 2009, City Council Meeting

SUBJECT: ODOT Highway 99E Safety Project IGA

RELATES TO STRATEGIC PLAN THEME: • Great Neighborhoods

Action Requested:

Staff recommends Council authorize the City Manager, by motion, to sign an intergovernmental agreement with ODOT for safety improvements along Highway 99E.

Discussion:

On March 10, 2008, Council approved the preferred design solution developed by ODOT to address safety problems along Highway 99E. The Pacific Boulevard/Geary Street intersection is the No. 1 SPIS (Safety Priority Index System) site in Oregon on the state highway system. The goal of the project is to reduce the high crash rate that is currently occurring on Pacific Boulevard between Geary Street and the Union Pacific Railroad Overpass.

There are two factors that contribute to the high crash rate. One involves the merging of traffic that occurs just west of where Pacific Boulevard and Santiam Highway come together at Geary street. The second factor is crossing movements across the highway system at minor side streets. In an effort to address these problems, the project will make the following changes:

- Restripe Pacific Boulevard west of Geary Street so that one lane drops on the north side of the highway and a second lane drops on the south side of the highway. Currently, both drop lanes occur on the north side of Pacific Boulevard.
- Restrict the north leg of Sherman Street at Pacific Boulevard to right turns in and right turns out. See Attachment A
- Close the north leg of Main Street at Pacific Boulevard. See Attachment B.
- Close the “gull-wing” on-ramp (located just west of Madison Street) to Pacific Boulevard to all but emergency vehicles.

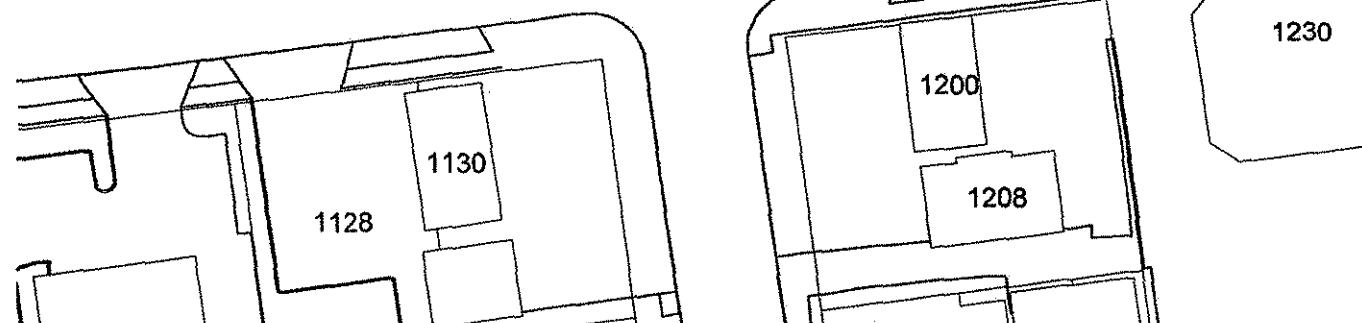
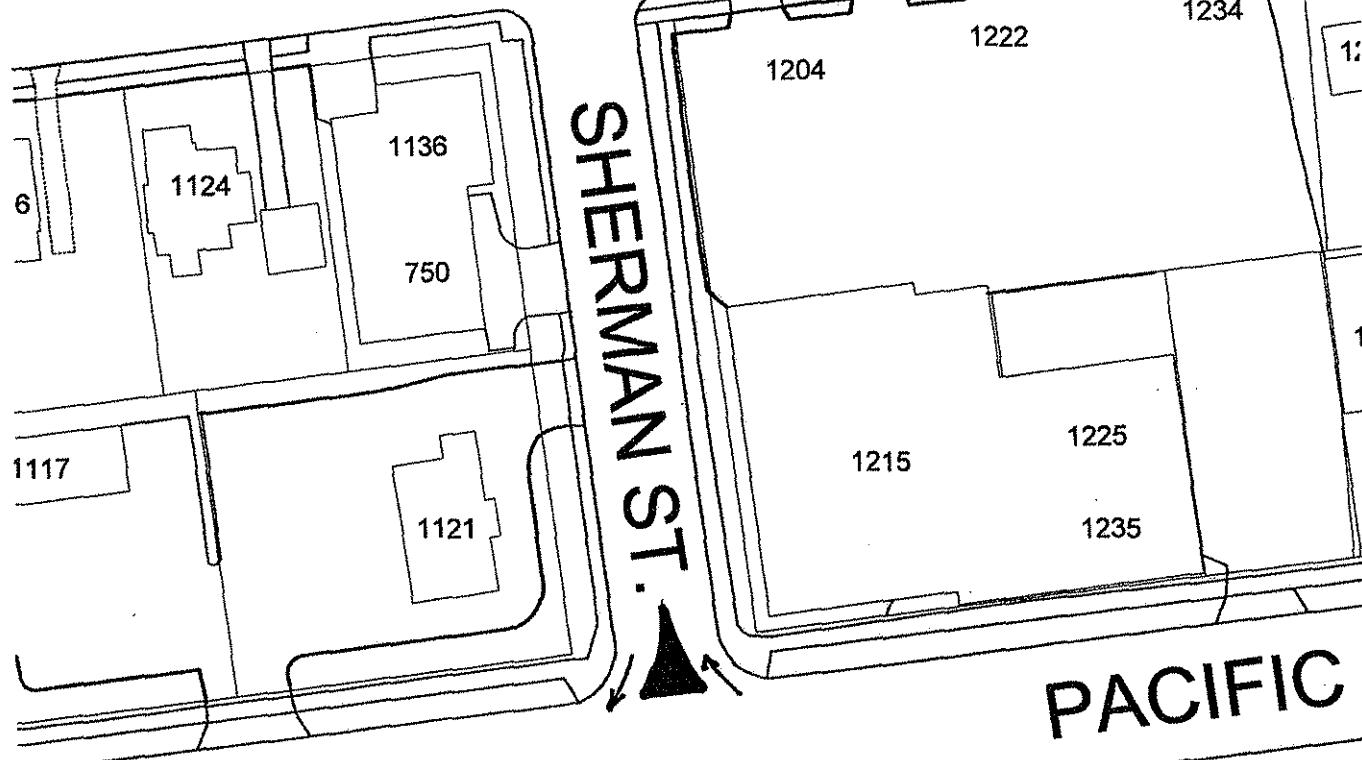
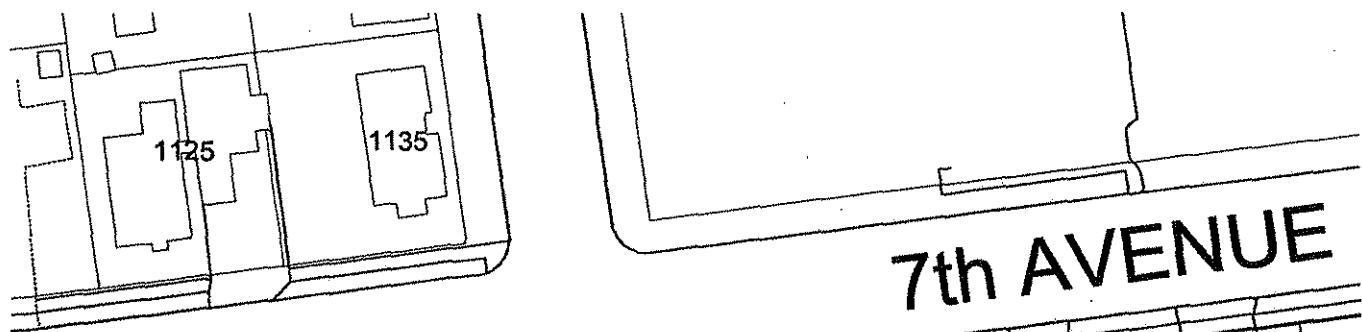
In addition to these safety changes the project will also reconstruct the pavement on Hill Street between 7<sup>th</sup> Avenue and Pacific Boulevard, and modify the traffic signal at the 9<sup>th</sup> Avenue/Hill Street intersection to provide for protected southbound left-turn movements from Hill Street onto 9<sup>th</sup> Avenue.

ODOT has developed and provided the City with an Intergovernmental Agreement (attached) for the project.

Budget Impact:

There is no budget impact to the City. ODOT is paying all project costs.

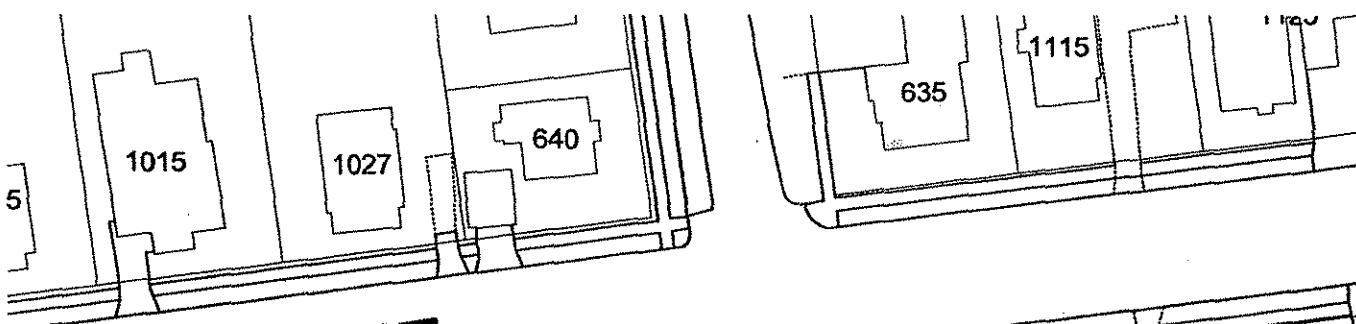
RGI:kw  
Attachment



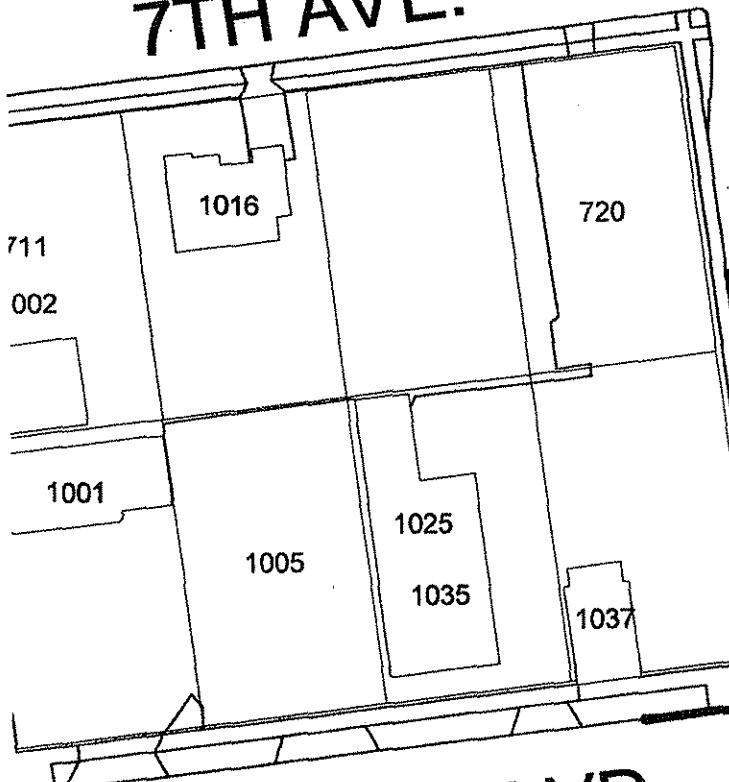
## PACIFIC AND SHERMAN

N	Conceptual Plan	0 100 Feet	
	Engineering		The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily accessible format. While every effort has been made to insure its accuracy, it is not guaranteed to be correct or complete, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify it.
	roni nil	Mar 3, 2008	

Attachment A



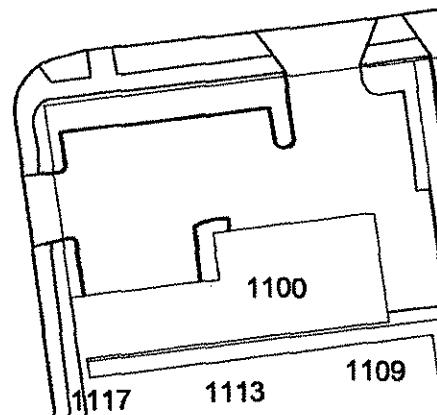
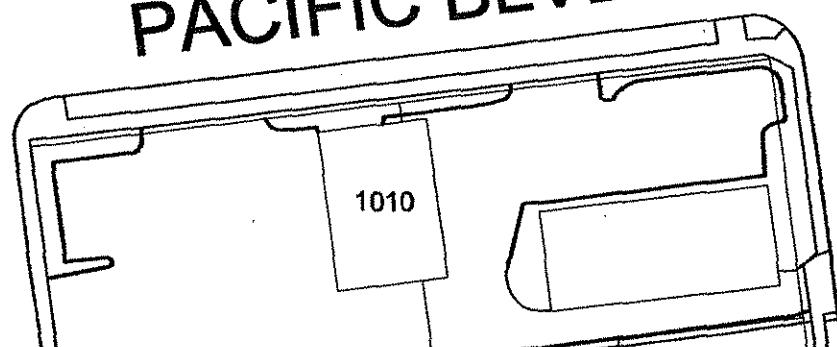
**7TH AVE.**



**MAIN ST.**



**PACIFIC BLVD.**



## **PACIFIC AND MAIN**



### **Conceptual Plan**

Engineering

cont. nill

Mar 3, 2008

0 100 Feet  
 The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incomplete or the contrary to current conditions. Please note that any property purchased or other investments made is full or in part upon the information provided. It is specifically advised that you independently hold verify the information contained within our records.



**Attachment B**

July 7, 2009

Misc. Contracts and Agreements  
No. 25,016

**COOPERATIVE IMPROVEMENT AGREEMENT**  
**Oregon Route 99E: Chicago Street – Southern Pacific Rail Road (SPRR)**  
**City of Albany**

**THIS AGREEMENT** is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and the CITY OF ALBANY, acting by and through its elected officials, hereinafter referred to as "Agency," collectively hereinafter referred to as the "Parties."

**RECITALS**

1. Oregon Route 99E and US 20, also known as Pacific Boulevard, and the portion of 9<sup>th</sup> Avenue within the city limits are part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission (OTC). Geary Street, Sherman Street, Main Street, Hill Street Madison Street and 7<sup>th</sup> Avenue are part of the city street system under the jurisdiction and control of Agency.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.
3. By the authority granted in ORS 810.210, State is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where State deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than State, except with its written approval. Traffic signal work on this Project will conform to the current State standards and specifications.
4. Maintenance and power costs for the signal upgrades at 9th Avenue and Hill Street are addressed in Miscellaneous Contracts and Agreements No. 10663.

**NOW THEREFORE**, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

**TERMS OF AGREEMENT**

1. Under such authority, State and Agency agree that State shall perform the following:
  - a. restripe Pacific Boulevard between Hill Street and Southern Pacific Rail Road (SPRR);

City of Albany/ODOT  
Agreement No. 25,016

- b. signing improvements to the existing Pacific Boulevard sign bridge at Geary Street;
- c. remove and reconstruct the existing raised island at the gull wing on-off ramp, restrict the gull wing on-ramp to emergency vehicles only;
- d. construct and install striping changes, road improvements and curbing at the intersection of Hill Street and 7th Avenue;
- e. construct and install signal improvements at the intersection of Hill Street and 9th Avenue;
- f. close Main Street at Pacific Boulevard;
- g. construct intersection improvements to restrict the north side of the intersection of Sherman Street and Pacific Boulevard to right in/right out access, and additional legends;

all hereinafter referred to as "Project". The location of the Project is approximately as shown on the map attached hereto, marked Exhibit A, and by this reference made a part hereof.

- 2. The Project will be financed at an estimated cost of \$1,203,003 in State funds. The estimate for the total Project cost is subject to change. State shall be responsible for Project costs beyond the estimate.
- 3. This Agreement shall become effective on the date all required signatures are obtained and shall remain in effect for the purpose of ongoing maintenance and power responsibilities for the useful life of the facilities constructed as part of the Project. The useful life is defined as twenty (20) calendar years. The Project shall be completed within ten (10) calendar years following the date of final execution of this Agreement by both Parties.

#### **AGENCY OBLIGATIONS**

- 1. Agency agrees that State shall acquire all right of way needed for construction of the Project. Agency shall, upon completion of Project, accept jurisdiction and control over and provide maintenance of the right of way at the southwest corner of Hill Street and 7<sup>th</sup> Street.
- 2. Agency shall retain power responsibilities for the signal upgrades at the intersection of Hill Street and 9<sup>th</sup> Avenue. Power company shall continue to send power bills to Agency.

City of Albany/ODOT  
Agreement No. 25,016

3. Agency shall, upon successful completion and acceptance of Project by State, accept ownership and control of those improvements connected with operation of city streets.
4. All employers, including Agency, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Agency shall ensure that each of its subcontractors complies with these requirements.
5. Agency acknowledges and agrees that State, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of Agency which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of six (6) years after completion of Project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by State.
6. Agency shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279C.505, 279C.515, 279C.520, 279C.530 and 279B.270 incorporated herein by reference and made a part hereof; Without limiting the generality of the foregoing, Agency expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
7. Agency, by execution of Agreement, gives its consent as required by ORS 373.030(2) and ORS 105.760 to any and all changes of grade within the Agency limits, and gives its consent as required by ORS 373.050(1) to any and all closure of streets intersecting the highway, if any there be in connection with or arising out of the Project covered by the Agreement.
8. Agency grants State the right to enter onto Agency right of way for the performance of duties as set forth in this Agreement.
9. Agency certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of Agency, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind Agency.
10. Agency's Project Manager for this Project is Ron Irish, City of Albany, PO Box 490, Albany, Oregon 97321-0144 ; telephone (541) 917-7634, or assigned

designee upon individuals absence. State's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

## STATE OBLIGATIONS

1. State, or its consultant, shall conduct the necessary field surveys, environmental studies, traffic investigations, preliminary engineering and design work required to produce and provide final plans, specifications and cost estimates for the highway Project; identify and obtain all required permits; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid and contract documents; advertise for construction bid proposals; award all contracts; pay all contractor costs, provide technical inspection, project management services and other necessary functions for sole administration of the construction contract entered into for this Project.
2. State, or its consultant, shall acquire all necessary rights of way according to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, ORS Chapter 35 and State Right of Way Manual. Title to properties acquired shall be in the name of State. Properties adjacent to the southwest corner of Hill Street and 7<sup>th</sup> Street shall be acquired through Temporary and Permanent Easement. Properties adjacent to OR 99E shall be acquired in fee and remain in the name of State after completion of Project.
3. State shall cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature where such relocation or reconstruction is made necessary by the plans of the Project in order to conform the utilities and other facilities with the plans and the ultimate requirements for the portions of the Project which are on Agency right of way.
4. State shall, upon Project completion, transfer to Agency all right of way acquired on the southwest corner of Hill Street and 7<sup>th</sup> Street. The specific method of conveyance will be determined by the Parties at the time of transfer and shall be coordinated by the State's Region 2 Right of Way Manager.
5. State shall be responsible for all costs associated with construction and installation of the Project.
6. State shall, upon completion and acceptance of Project, accept jurisdiction and control over all improvements made within State's right of way as part of the Project.
7. State shall, upon completion of Project, at its own expense, perform and be responsible for maintenance of Project with the exception of the southwest

corner of Hill Street and 7<sup>th</sup> Avenue, as identified in Agency Obligations, paragraph 1.

8. State certifies, at the time this Agreement is executed, that sufficient funds are available and authorized for expenditure to finance costs of this Agreement within State's current appropriation or limitation of the current biennial budget.
9. State shall be responsible for signing and inspection for Project.
10. State's Agreement contact for this Project is Jerry Wolcott, Area 4 Project Leader, 3700 SW Philomath Boulevard, Corvallis, Oregon 97333; telephone (541) 757-4211, or assigned designee upon individual's absence. Agency's Project Manager shall be notified in writing of any contact information changes during the term of this Agreement.

## GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
  - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
  - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
  - c. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
  - d. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or State is prohibited from paying for such work from the planned funding source.
3. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.

City of Albany/ODOT  
Agreement No. 25,016

4. If Agency fails to maintain facilities in accordance with the terms of this Agreement, State, at its option, may maintain the facility and bill Agency, seek an injunction to enforce the duties and obligations of this Agreement or take any other action allowed by law.
5. Both Parties shall, to the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, indemnify, defend, save, and hold harmless each other, their officers and employees from any and all claims, suits, and liabilities which may occur in their respective performance of this Project.
6. Notwithstanding the foregoing defense obligations under the paragraph above, neither party nor any attorney engaged by either party shall defend any claim in the name of the other party or any agency/department/division of such other party, nor purport to act as legal representative of the other party or any of its agencies/departments/divisions, without the prior written consent of the legal counsel of such other party. Each party may, at anytime at its election assume its own defense and settlement in the event that it determines that the other party is prohibited from defending it, or that other party is not adequately defending its interests, or that an important governmental principle is at issue or that it is in the best interests of the party to do so. Each party reserves all rights to pursue any claims it may have against the other if it elects to assume its own defense.
7. The Parties hereto agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.
8. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
9. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision

City of Albany/ODOT  
Agreement No. 25,016

of this Agreement shall not constitute a waiver by State of that or any other provision.

**IN WITNESS WHEREOF**, the Parties, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

This Project is in the 2006-2009 Statewide Transportation Improvement Program, (Key #13664) that was approved by the Oregon Transportation Commission on August 17, 2005 (or subsequently approved by amendment to the STIP).

The Oregon Transportation Commission on December 29, 2008, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

*Signature Page to Follow*

City of Albany/ODOT  
Agreement No. 25,016

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 1, in which authority is delegated to the Deputy Director, Highways, to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program.

**CITY OF ALBANY**, by and through its elected officials

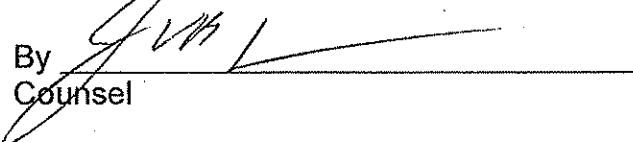
By \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

By   
Counsel

Date \_\_\_\_\_

**Agency Contact:**

Ron Irish  
City of Albany  
PO Box 490  
Albany, Oregon 97321-0144

**State Contact:**

Jerry Wolcott  
Area 4 Project Leader  
3700 SW Philomath Boulevard  
Corvallis, Oregon 97333

**STATE OF OREGON**, by and through its Department of Transportation

By \_\_\_\_\_  
Deputy Director, Highways

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_  
Technical Services Manager/Chief  
Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
State Traffic Engineer

Date \_\_\_\_\_

By \_\_\_\_\_  
Region 2 Manager

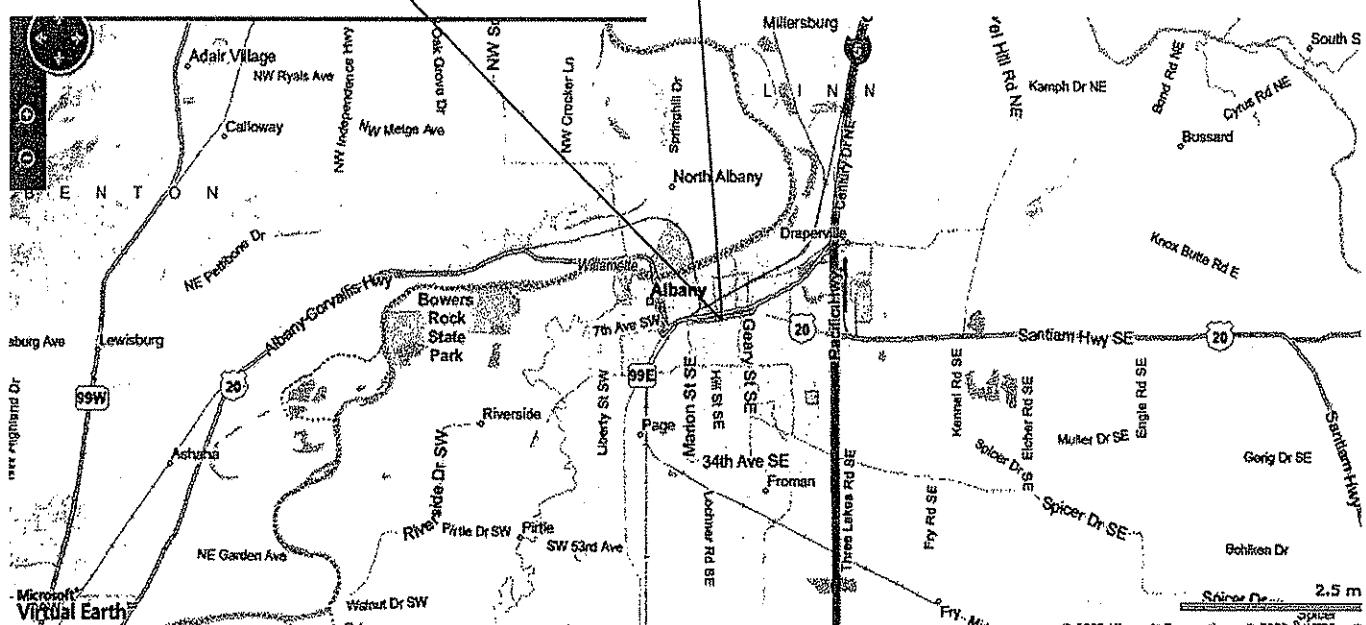
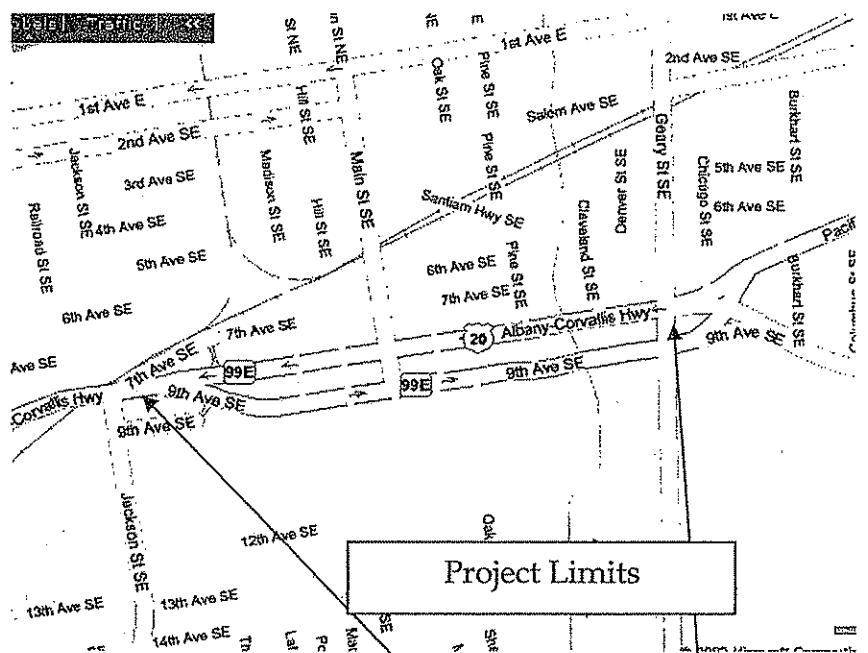
Date \_\_\_\_\_

**APPROVED AS TO LEGAL  
SUFFICIENCY**

By \_\_\_\_\_  
Assistant Attorney General

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

City of Albany/ODOT  
Agreement No. 25,016





TO: Albany City Council  
VIA: Wes Hare, City Manager  
FROM: Ed Gallagher, Library Director *EG*  
DATE: August 5, 2009, for the August 12, 2009, City Council Meeting  
SUBJECT: Adoption of Resolution

RELATES TO STRATEGIC PLAN THEME: • Effective Government

Action Requested:

Adoption of Resolution authorizing expenditure of additional Oregon Community Foundation (OCF) disbursement monies.

Discussion:

At budget preparation time, OCF provided staff with an estimate of \$113,000 for this year's interest earnings disbursement. Several months later when OCF actually cut the check, the total was \$132,000. This resolution authorizes staff to spend the additional funds. This year's funds will add additional RFID equipment; provide for new Library program support; and add additional digital display boards, staff communication tools, early literacy workstations in the Children's department, and other supplemental equipment.

Budget Impact:

Additional \$19,000 revenue to Grants Fund 203-45-5033.

EG:kg  
Attachment

*G:\Editing\EDG\OCFresolutionMemoAug09.docx*

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

**A RESOLUTION APPROPRIATING A SPECIAL PURPOSE GRANT**

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)); and

WHEREAS, the Oregon Community Foundation disbursed \$19,000 from the Albany Library Scharpf Endowment Fund in addition to the \$113,000 budgeted for in FY 2009-2010.

NOW, THEREFORE, BE IT RESOLVED that the additional Oregon Community Foundation Grant in the amount of \$19,000.00 is hereby appropriated as follows:

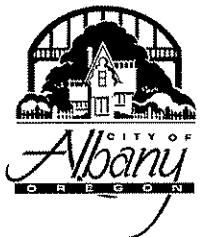
	<u>Resources</u>	<u>Requirements</u>
203-45-5033-42820	Oregon Community Foundation	\$19,000
203-45-5033-61024	Materials & Supplies	\$19,000

DATED AND EFFECTIVE THIS 12th DAY OF AUGUST 2009.

ATTEST:

\_\_\_\_\_  
Mayor

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



TO: Albany City Council

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

FROM: Mark Shepard, P.E., City Engineer *MWS*  
Chris Cerklewski, P.E., Civil Engineer III *CLC*

DATE: August 3, 2009, for the August 12, 2009, City Council Meeting

SUBJECT: ST-09-06-A, ADA Ramp Updates and Sidewalk Infill Contract  
Increase in Excess of 10 Percent

RELATES TO STRATEGIC PLAN THEME:

- Great Neighborhoods
- A Safe City

Action Requested:

Staff requests Council approval of a construction contract increase to D&D Concrete & Utilities, Inc. in the amount of \$29,466 for additional work, which is a contract increase in excess of 10 percent of the original contract bid.

Discussion:

*Project Background*

Council awarded this contract for sidewalk infill and curb ramp installation on several collector streets in Albany on May 14, 2009. This project was done in conjunction with the American Recovery and Reinvestment Act (ARRA) overlay projects the City is currently undertaking. The sidewalk and curb ramp work was completed in order to improve pedestrian access, improve mobility for disabled citizens, and to ensure the City complies with the Americans with Disabilities Act (ADA).

Although the curb ramp and sidewalk work is related to the ARRA overlay projects, it was completed under a separate contract, and with City funds. This allowed the overlay projects to be awarded under a blanket environmental permit provided by Oregon Department of Transportation (ODOT). This blanket permit allowed the overlay projects to be streamlined through the federal approval and permitting process. This enabled the City to meet the required federal and state deadlines for obligation of the City's ARRA funds.

*Change Order*

Often during construction there are unknown or unforeseen circumstances that arise. Since these issues are not in the original contract, they typically are dealt with by issuing a Change Order to the contractor to complete the work. There were several items that came up during construction of the ramp and sidewalk improvements that need to be addressed with Change Orders. Change Orders are usually completed administratively by staff. However, the Albany Municipal Code (AMC 2.66.040) requires that if the Change Orders result in a change in the contract price that exceeds 10 percent of the original contract, the contract increase must be approved by City Council. Therefore, staff is requesting Council approval of these Change Orders in accordance with Albany Municipal Code. The contract changes of \$29,466 increase the original contract amount of \$170,300 by 17 percent to \$199,766.

Following is a description of the items covered by change orders on this project:

- Inclusion of Additional Sidewalk at Oak School: After award of the project, the need for an additional sidewalk and two additional ADA curb ramps was identified by the Greater Albany Public School District in order to improve pedestrian access to Oak Elementary School and South Albany High School. This work was completed by the City in an effort to assist in providing safe routes to school. The work was complete

under this contract in order to take advantage of the excellent bid prices. The cost of this change is \$8,206.

- **Additional Curb Ramps:** After the original contract was awarded, sixteen curb ramps that were not in the original contract were identified as requiring replacement. These were at locations where there were two ramps located on a street corner rather than the customary single ramp. The cost for these additional ramps was \$16,960.
- **Reconstruction of Catch Basins and other small structures:** During the design of the project, several catch basin tops were identified as maintenance and safety hazards that needed to be replaced. Replacement of these tops was included in the original contract. However, when six of the catch basin tops were removed, it was discovered that the entire structure was structurally unsound and needed to be replaced. There was also some water valve cans and water meter boxes that needed to be replaced. The cost of this change is \$4,300.

The total value of these changes orders total \$29,466. No further contract Change Orders are anticipated since all of the contract work has been completed.

While these Change Orders increase the contract amount by \$29,466, there were other bid items that were under run by \$3,000. Therefore, the net contract increase will be \$26,466. The final contract cost is \$196,775.36. This cost is under budget and under the bid price of the second low bidder at time of award.

#### *Summary of Total Estimated Project Costs*

Based on the project bid and anticipated related costs, a summary of the total estimated project cost is shown in the table below. Numbers have been rounded to the nearest one-hundred dollars.

Project Components	Estimated Cost at Time of Award	Estimated Final Cost
<b>I. Costs</b>		
a. Engineering	\$ 6,000	\$ 6,000
b. Construction Management	\$ 5,000	\$ 5,000
<i>Engineering Subtotal</i>	\$ 11,000	\$ 11,000
<b>II. Construction Costs</b>		
a. Construction Contract	\$ 170,300	\$ 167,300
b. Contingency (10%) / Change Orders	\$ 17,000	\$ 29,500
<i>Construction Subtotal</i>	\$ 187,300	\$ 196,800
<i>Total Project Cost</i>	\$ 198,300	\$207,800
<i>Project Budget</i>	\$ 220,000	\$ 220,000
<i>Under/(Over) Project Budget</i>	\$ 21,700	\$ 12,200

#### Budget Impact:

This project is funded from Street Capital and Restoration Fund (250-50-2700).

The Change Orders increase the contract amount by \$29,466 (17%). However, since there were other items in the contract that under ran their estimated quantities by a total of \$3,000, the net project cost increase is only approximately \$26,466 (15.5%).

CLC:kw