TO: Albany Planning Commission

FROM: Don Donovan, Planning Manager DON.

DATE: April 14, 2008

SUBJECT: April 14, 2008, Planning Commission Meeting
File PA-01-08 Public Hearing

We have one public hearing scheduled for the April 14, 2008, Planning Commission meeting.

The hearing will be on a partition that would divide a 1.59-acre parcel of land into two parcels. The property that would be divided is located on the north side of Valley View Drive in North Albany (2543 Valley View Drive NW).

Part of the property is inside the city limits and part of the property is outside the city limits. Benton County is also reviewing the partition because part of the property is outside the city limits. Benton County must decide if the partition meets their requirements for the part of the property that is outside the city limits. Benton County has not made a decision on the application yet. They have told us that they will wait to make a decision until the City makes a decision.

The property has steep slopes on it. The Development Code requires land divisions with steep slopes to have a public hearing. Usually, we would schedule a small land division like this one for Hearings Board, not the entire Planning Commission. But the property also has a drainage swale on it and the applicant has requested a variance to allow four properties to use an easement when the maximum number is usually three properties.

Several neighbors have written us letters that object to the proposed partition. The letters are attached to the staff report as exhibits. The Hearings Board has occasionally expressed a preference that complicated applications, including partitions, go to the full Planning Commission. So, we have scheduled this one for a hearing before the full Commission.

The staff report concludes that the partition and variance will meet the applicable review criteria and the applications can be approved. The Planning Commission may hear additional information at the hearing and/or may see the facts differently.

Please let me know if you have questions before the meeting.

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NOTICE OF PUBLIC HEARING

CITY OF ALBANY
PLANNING COMMISSION
City Council Chambers, 333 Broadalbin Street SW
Monday, April 21, 2008
5:15 p.m.

AGENDA

1. CALL TO ORDER (Chair Faller)
2. PLEDGE OF ALLEGIANCE TO THE FLAG
3. ROLL CALL
4. APPROVAL OF THE MINUTES
   a. February 11, 2008
   b. March 3, 2008
5. CONSOLIDATED QUASI-JUDICIAL PUBLIC HEARING

   PA-01-08: Tentative Partition Plat that would divide a 1.59-acre parcel of land into two parcels. Parcel 1 would be 27,617 square feet (outside city limits). Parcel 2 would be 42,970 square feet (inside city limits). The existing house would be on Parcel 1.

   VR-05-08: Variance to allow four parcels to share an access easement where usually no more than three parcels are allowed to share an access easement (ADC 12.090).

   The applicant is Orezona Building Company LLC. The subject property is located at 2543 Valley View Drive NW.
6. APPOINTMENT OF HEARINGS BOARD ALTERNATE
7. ACTIVITY UPDATE
8. NEXT PLANNING COMMISSION MEETING DATE: Tentatively scheduled for Monday, May 5, 2008, at 5:15 p.m. in Council Chambers.
9. ADJOURN

Rules of Conduct for Public Hearing

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

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

City of Albany Web site: www.cityofalbany.net

Community Development Department

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Albany, OR 97321

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www.cityofalbany.net

STAFF REPORT
Land Division - Partition

HEARING BODY	PLANNING COMMISSION
HEARING DATE	Monday, April 21, 2008
HEARING TIME	5:15 p.m.
HEARING LOCATION	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:	April 14, 2008
FILES:	PA-01-08
TYPE OF APPLICATIONS:	PA-01-08: Tentative Partition Plat that would divide a 1.59-acre parcel of land into two parcels. Parcel 1 would be 27,617 square feet (outside city limits). Parcel 2 would be 42,970 square feet (inside city limits). The existing house would be on Parcel 1. VR-05-08: Variance to allow four parcels to share an access easement where usually no more than three parcels are allowed to share an access easement (ADC 12.090).
REVIEW BODY:	Planning Commission
STAFF REPORT PREPARED BY:	Evan Fransted, Project Planner Don Donovan, Planning Manager
PROPERTY OWNER/ APPLICANT:	Orezona Building Company LLP; Jason Schaefer 1645 9th Avenue SE, Suite 323; Albany, OR 97321
APPLICANT REP:	K & D Engineering; Jason Cota; PO Box 725; Albany, OR 97321
ADDRESS/LOCATION:	2543 Valley View Drive NW
MAP/TAX LOT:	Benton County Assessor's Map No. 10S-4W-25BC; Tax Lot 5100
ZONING:	RS-10 (Residential Single Family) and Benton County RR-2
TOTAL LAND AREA:	70,588 square feet
EXISTING LAND USE:	There is a single-family house on this property.
NEIGHBORHOOD:	North Albany
SURROUNDING ZONING:	North: Benton County RR-2 South: RS-10 (across Valley View Drive NW) East: RS-10 West: RS-10

SURROUNDING USES:	North: Single-family houses South: Single-family houses East: Single-family houses West: Single-family houses
PRIOR HISTORY:	No other land use applications for this property have been reviewed by the Planning Division.

NOTICE INFORMATION

A notice of public hearing was mailed to surrounding property owners on April 11, 2008. The property was posted on April 11, 2008, with a sign that advertises the public hearing in accordance with Section 1.410 of the Albany Development Code.

On March 7, 2008, the Planning Division mailed out a Notice of Filing of the application. Typically, a notice of filing is not mailed (or required) when a public hearing is to be scheduled. When the comment period listed in the notice expired on March 20, 2008, the Planning Division had received six letters from people who received the notice. The letters are attached to this staff report (Exhibit E – J). Staff responses to the questions and concerns raised in the letters are included following the letters.

STAFF RECOMMENDATIONS

APPROVAL with CONDITIONS of the Partition Tentative Replat and Variance applications. The proposed conditions of approval are listed in this staff report.

PLANNING COMMISSION DECISION

[NOTE TO PLANNING COMMISSION: CHOOSE ONE FROM THE MOTIONS LISTED BELOW.]

MOTION TO APPROVE WITH CONDITIONS

If no new evidence is presented at the public hearing, the Planning Commission may approve the applications based on the findings and conclusions of the staff report.

I MOVE that the Planning Commission APPROVE WITH CONDITIONS the Tentative Partition Plat application that would divide a 1.59-acre parcel of land into two parcels; and the Variance application to allow four parcels to share an access easement (Files PA-01-08 and VR-05-08). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO APPROVE WITH CONDITIONS AS MODIFIED

If there is information not included in the staff report or new information presented at the public hearing, the Planning Commission may propose new findings and conditions and approve the applications.

I MOVE that the Planning Commission APPROVE WITH CONDITIONS AS MODIFIED the Tentative Partition Plat application that would divide a 1.59-acre parcel of land into two parcels; and the Variance application to allow four parcels to share an access easement (Files PA-01-08 and VR-05-08). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

OR

MOTION TO GRANT TENTATIVE APPROVAL WITH CONDITIONS

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

I MOVE that the Planning Commission TENTATIVELY APPROVE WITH CONDITIONS the Tentative Partition Plat application that would divide a 1.59-acre parcel of land into two parcels; and the Variance application to allow four parcels to share an access easement (Files PA-01-08 and VR-05-08). I also MOVE that the Planning Commission direct staff to prepare findings that address the new information presented at the public hearing for consideration at the next meeting.

OR

MOTION TO DENY

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

I MOVE that the Planning Commission DENY the Tentative Partition Plat application that would divide a 1.59-acre parcel of land into two parcels; and the Variance application to allow four parcels to share an access easement (Files PA-01-08 and VR-05-08). I also MOVE that the Planning Commission direct staff to prepare findings to support denial based on the testimony presented at the public hearing and to present these findings for consideration at the next meeting.

APPEALS

Within five days of the Planning Commission's final decision on these applications, the Community Development Director will provide written notice of the decision to the applicant and any other parties entitled to notice.

A decision of the Planning Commission may be appealed to the City Council if a person with standing files a completed Notice to Appeal and the associated filing fee to the Planning Division within 10 days of the date of the notice of decision is mailed.

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STAFF ANALYSIS
Partition File PA-01-08

Descriptions of the Applications

The Partition application proposes to divide a 1.59-acre property into two parcels. The property that would be divided is located partly with the Albany city limits and partly outside the city limits. Benton County is reviewing a concurrent partition application because part of the property is under its jurisdiction.

There are steep slopes on the property. There is a drainage swale on the property. There are trees on the property to the extent that at least one neighbor describes the property as "forested." The applicant does not propose to cut any trees with the partition application.

The Variance application proposes to allow four lots to use an access easement when Albany Development Code 12.090 says, "[n]o more than two parcels or uses are to be served by the proposed access easement." This provision is interpreted to mean that the owner of the property has the right to use the access because they own the property and not more than two other properties may be granted an easement to use the access. So, a total of three properties may use an access that has easements over it.

Review Criteria

The Albany Development Code (ADC) contains the following review criteria which must be met for this application to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

(1) Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.

FINDING OF FACT

1.1 The Partition application proposes to divide the 1.59-acre parcel of land shown on Benton County Assessor's Map No. 10S-4W-25BC as Tax Lot 5100. This parcel is owned by Orezona Building Company LLP. The entire parcel will be included in the partition.

CONCLUSION

1.1 There will be no remainder of property to be considered. This review criterion is not applicable.

(2) Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.

FINDINGS OF FACT

2.1 This review criterion has been interpreted by the City Council to require only that adjoining land either have access, or be provided access, to public streets.

2.2 ADC 12.060 requires that development must have frontage on, or approved access to, a public street currently open to traffic.

2.3 ADC 12.110 says that 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.

2.4 Property to the north: The properties to the north and northwest have access to an unimproved public right-of-way to the north and to Valley View Drive NW on easements.

Property to the south: Valley View Drive NW abuts the partition property on the south.

Property to the east: The subdivision lots to the east have access to Kingston Way NW.

Property to the west: The property to the west has access to Valley View Drive NW.

CONCLUSIONS

2.1 All of the adjoining land has access to public streets.

2.2 This criterion is met.

(3) The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.

FINDINGS OF FACT

3.1 The property that would be divided is located on north side of Valley View Drive NW, about 140 feet west of Kingston Way NW. The property has about 150 feet of frontage on Valley View Drive NW.

3.2 Valley View Drive NW is classified as a major collector street and is under the jurisdiction of Benton County. It is not constructed to City standards. The road does not have curb, gutter, or sidewalk. The width of the paved road is about 22 feet, which provides for a vehicle travel lane in each direction. The right-of-way width is 60 feet.

3.3 Access to this property is currently on a shared driveway that is located along the western boundary of the property. The driveway is shared by two other parcels. These two parcels have access and utility easements across the partition property. The easements are recorded in Benton County Deed Records (M-65983). Currently, three parcels use the same shared driveway for access. The partition would create one new parcel that would share the driveway.

3.4 ADC 12.090 limits the number of parcels that can share an easement to three parcels. The applicant has submitted a Variance application to allow four parcels to share the easements on the driveway. The review that follows this review of the partition application finds that the review criteria for the variance are met.

3.5 A traffic study was not required with the partition application. The City's Traffic Impact Study Guidelines require a traffic study only when a proposed development is expected to generate at least 50 vehicle trips during the peak hour, or if there are specific capacity or safety issues that need to be addressed.

Staff uses Institute of Transportation Engineers (ITE) trip generation rates to estimate the volume of traffic that will be generated by development. Based upon ITE trip generation rates, single-family houses generate 9.57 vehicle trips per day. The partition will create one new parcel. When a house is built on that parcel it is expected that ten new vehicle trips will be generated on the street system.

3.6 Albany's Transportation System Plan (TSP) does not identify any level-of-service or congestion problems on Valley View Drive NW adjacent to the property that would be divided.

3.7 ADC 12.060 requires that streets within and adjacent to a development must be improved to City standards. Where 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.

3.8 The City Engineer has determined that it is not timely to improve Valley View Drive NW along the frontage of this property with the partition because the partition creates only one new lot which will

generate only ten additional vehicle trips per day and the property is located in the middle of long block which would make it difficult to determine the grade of the street improvements that would be required.

CONCLUSIONS

3.1 Access for the house on this property is currently provided on a driveway along the west boundary of the property. The driveway is shared by two other houses that have easements on the driveway. The partition would create one new parcel that would share the driveway.

3.2 The applicant has applied for a variance that would allow four lots to share the driveway with easements when usually only three lots may share an access with easements.

3.3 ADC 12.060 requires that Valley View Drive NW across the frontage of the partition property be improved to City standards unless the City Engineer determines that the improvement is not timely. The City Engineer has determined that the improvement is not timely.

3.4 The City Engineer will accept a Petition/Waiver for the future improvement of Valley View Drive NW.

3.5 Valley View Drive NW, in its present condition, can accommodate the ten new trips per day that will be generated by a new house on the one new parcel that will be created by the partition.

3.6 The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.

3.7 This review criterion will be met when the following condition of approval is met.

CONDITION

3.1 Before the City will sign the final partition plat, the property owner must sign a Petition for Improvement/Waiver of Remonstrance for construction of street improvements on Valley View Drive NW. The City will provide the form.

Signing the Petition/Waiver obligates the property to be part of a local improvement district (LID) if one is formed to improve the street. A public hearing will be held if an LID is formed and the property owner may participate in the discussion about how costs will be allocated to the properties that benefit from the street improvements.

(4) The location and design allows development to be conveniently served by various public utilities.

FINDINGS OF FACT

Sanitary Sewer

4.1 ADC 12.470 requires that all new development must extend and connect to the public sewer system when service is available within 300 feet of the property. A land division (partition) is included in the definition of development (ADC Article 22).

4.2 ADC 12.490 requires that sewer collection mains must be extended along the full length of a property's frontage, or to a point identified by the City Engineer as necessary to accommodate likely system expansion.

4.3 The City's utility maps show that there is a public sanitary sewer main in Valley View Drive NW that extends to the east boundary of this property. The existing house on the northern portion of the property is outside the Albany city limits and Urban Growth Boundary. The house is currently served by a private septic system. The existing house will remain on the septic system, since it is outside the city limits.

Water

4.4 ADC 12.410 requires that 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.

4.5 ADC 12.430 requires that 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.

4.6 The City has the sole right to determine size, location and type of facilities to be constructed. All engineering of public water facilities must be based on both domestic and fire protection design criteria, and in accordance with the City's water facility plan [AMC 11.01.120 (2)(c)].

4.7 The City's utility maps show 10-inch and 12-inch water mains in Valley View Drive NW, and a 2-inch line running along the west boundary of this property. The 2-inch line currently serves the existing house on the property and two other parcels outside the city limits west of the house.

4.8 There does not appear to be a public utility easement over the existing public 2-inch line that runs through the property. In order to provide adequate access to this main for City personnel, the property owner must provide a minimum 15-foot-wide public utility easement centered over the main and its appurtenances (i.e., water services and meters).

Storm Drainage

4.9 The City's utility maps show that there are no piped storm drainage facilities along the property's Valley View Drive NW frontage. Valley View Drive NW is under the jurisdiction of Benton County and is not constructed to City standards. There is a culvert under Valley View Drive NW that carries stormwater from the partition property to the area south of Valley View Drive NW. The partition will not alter this drainage pattern.

4.10 This partition will create one new parcel. The property is zoned RS-10, Residential Single Family. The new parcel can have one new house on it. There is a natural drainage swale on this property that provides drainage for this property and about 3-4 acres of surrounding property.

4.11 Benton County has jurisdiction over Valley View Drive NW and drainage within the public road right-of-way.

CONCLUSIONS

4.1 An 8-inch public sanitary sewer extension must be constructed along the frontage of this property before the City will sign the final plat.

4.2 The public water mains along the property's full Valley View Drive NW frontage are adequate to provide water service to this area, so no public water main extension will be required. New development on Parcel 2 will be required to connect to the public water system.

4.3 The property owner must provide a minimum 15-foot-wide public utility easement centered over the existing water line (and appurtenances) that exists along the property's west boundary.

4.4 There is a natural drainage swale on this property. Public storm drainage within the Valley View Drive NW right-of-way is under the jurisdiction of Benton County.

CONDITIONS

4.1 Before the City will approve the final partition plat, the applicant must construct an 8-inch public sanitary sewer main extension along the property's Valley View Drive NW frontage.

4.2 Before the City will approve the final partition plat, the applicant must provide a public utility easement over the existing public water line and appurtenances within the western portion of the subject property. The applicant must submit a legal description for a public utility easement. The City's Engineering Division must approve the legal description and will create a document for the applicant to sign.

4.3 When a house is built on the new parcel, if drainage is directed to the public right-of-way for Valley View Drive NW, the property owner must obtain permits from the Benton County Road Department.

(5) Any special features of this site (such as topography, floodplains, wetlands, vegetation, historic sites, etc.) have been adequately considered and utilized.

FINDINGS OF FACT

5.1 Topography: *Comprehensive Plan, Plate 7: Slopes,* shows that there are steep slopes on this property. Contours on the tentative plat show that the elevation of the property varies from about 416 feet to 438 feet.

The highest elevation of the property is in the north area where the existing house is located. Parcel 2 slopes generally towards the middle from east to west and down toward the south boundary of the property. The southern portion of the Parcel 2 is a low area that collects stormwater runoff from a relatively small watershed of approximately 3-4 acres. Runoff that is collected in this area flows through a culvert under Valley View Drive NW to the south. There is no mention of this drainage feature in any storm drainage plans for the City that identifies it as a significant drainage feature. The proposed partition would not alter the current drainage patterns on the subject property.

5.2 ADC 6.170 through 6.230 includes Hillside Development Standards.

5.3 ADC 6.200 says that the applicant must provide a geologic and soils report prepared and stamped by a certified engineering geologist or a licensed civil engineer, licensed in the specialty of geotechnical engineering with the State of Oregon. The report must identify the following:

(1) All geologic and soils hazards and certify that the site, and each individual lot if land division is proposed, are suitable for the proposed development.
(2) Area(s) suitable for building and describe how slopes will be stabilized.
(3) Suitable building footprint(s) for development on each lot.
(4) Any requirements that must be met from the time construction begins to the time construction is completed.
(5) Any requirements that must be met after construction is completed (e.g., maintenance requirements for continued slope stabilization).

The applicants provided a Geotechnical Site Assessment done by Branch Engineering, Inc., dated April 7, 2008. The report is attached to this staff report as Exhibit D.

The report concludes that "[t]here are no adverse geologic or geotechnical site conditions that preclude residential development of the site. The only area not suitable for building pad construction is the south central portion below elevation 418 due to water drainage to this area."

The report explains that all other areas will require excavation to remove soft topsoil and roots, and proper control and routing of surface and near surface drainage. Depending on building pad placement, footing drains may be required. Excavation depths of 12-24-inches are expected in the building pad area

to remove soft soil; however, the subgrade condition should be verified at the time of building pad construction. Onsite slopes and fill slopes, comprised of native soil, shall not exceed 5 feet in height, or an angle of 2:1 (horizontal: vertical) without geotechnical oversight.

5.3 Grading, Cut and Fill Standards. ADC 6.220 requires that no cut and fill slopes may exceed a two (horizontal) to one (vertical) ratio. Slopes which are steeper (i.e. 1:1-1/2 or 1:1) may be conditionally approved by the Public Works Director upon certification by a qualified soils engineer or geologist that the slope will remain stable under foreseeable conditions. The certification must delineate any specific stabilization measures deemed necessary by the soils engineer or geologist.

5.4 Grading Permit. Albany Municipal Code (AMC) 18.04.015 requires that a grading permit be obtained from the City of Albany Building Division if more than 50 cubic yards of material are to be excavated or filled on slopes steeper than 12 percent. (The City's Engineering Division now reviews grading permits.)

The grading permit is not the subject of this Partition application. Albany Development Code (ADC) specifically excludes grading from the definition of development in the Code. Grading is regulated by AMC Title 18. At the time the application for a grading permit is received, the City will mail out a notice to property owners within 100 feet of the property where grading is proposed. Neighbors will have an opportunity to review and comment on the proposed grading.

5.5 Floodplains: *Comprehensive Plan, Plate 5: Floodplains,* does not show a 100-year floodplain on the property. FEMA/FIRM Community Panel No. 410137 0001F, dated 7/07/99, shows the property is in Zone X, an area determined to be outside any 100-year floodplain.

5.6 Wetlands: *Comprehensive Plan, Plate 6: Wetland Sites,* does not show wetlands on the property. The U.S. Department of Interior, Fish and Wildlife Service National Wetland Inventory Map dated 1994, does not show wetlands on the property. This property is included in the "North Albany Local Wetlands Inventory." The Local Wetlands Inventory does not show any wetlands on the property.

5.7 Vegetation: *Comprehensive Plan, Plate 3: Natural Vegetation and Wildlife Habitat,* does not show any areas of vegetation or wildlife habitat on the property.

There are many large trees on the property. The Partition application does not propose to remove any trees.

ADC 9.207 requires Site Plan Review Tree Felling if 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) are to be removed. AMC 7.98.040(2) requires that a permit be obtained from the City Forester to remove any tree larger than 25 inches in diameter.

5.8 Archaeological and Historic Sites: *Comprehensive Plan, Plate 9: Historic Districts,* shows the property is not in a historic district. There are no known archaeological sites on the property.

CONCLUSIONS

5.1 There are no floodplains, wetlands, or historic sites on this property.

5.2 The property has steep slopes and is subject to the Hillside Development Standards. The applicant submitted a Geotechnical Site Assessment. The report concludes that there are no adverse geologic or geotechnical site conditions that preclude residential development of the site.

5.3 The proposed partition would not alter the current drainage patterns on the property.

5.4 There are large trees on the property. No trees will be removed with the partition. If 5 or more trees larger than 8 inches in diameter are to be removed at any time in the future, Site Plan Review will be required.

5.5 This criterion will be met when the following conditions are met.

CONDITIONS

5.1 Grading Permit. The property owner must obtain a grading permit if more than 50 cubic yards of material are to be excavated or filled on slopes steeper than 12 percent (AMC 18.04.015).

5.2 All of the recommendations included in the Geotechnical Site Assessment that was submitted with the Partition application must be followed for any grading and/or construction on this property. The report was done by Branch Engineering, Inc. The report is dated April 7, 2008.

5.3 ADC 9.207 requires Site Plan Review Tree Felling if 5 or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) are to be removed. AMC 7.98.040(2) requires that a permit be obtained from the City Forester to remove any tree larger than 25 inches in diameter.

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STAFF ANALYSIS
Variance File VR-05-08

(1) The proposal will be consistent with the desired character of the area.

FINDINGS OF FACT

1.1 Albany Development Code (ADC) 12.090 says, "[n]o more than two parcels or uses are to be served by the proposed access easement." This provision is interpreted to mean that the owner of the property has the right to use the access because they own the property and not more than two other properties may be granted an easement to use the access. So, a total of three properties may use an access that has easements over it.

1.2 Three properties currently use the shared driveway that provides access for this property. The easements for utilities and access are recorded on the Benton County Deed Records (M-65983).

1.3 The partition would create one new parcel that would also share the driveway.

1.4 The partition property is densely forested and has steep slopes on it.

1.5 If the new parcel shares the driveway, this would avoid the need to construct a separate driveway access to Valley View Drive NW.

1.6 A geotechnical report provided by the applicant concluded that the area of the property adjacent to Valley View Drive NW is not suitable for building. A new house will have to be located on the north area of the property.

CONCLUSIONS

1.1 General opinion of North Albany residents and letters from neighbors about the proposed partition indicated that construction should avoid steep slopes and removal of trees where possible.

1.2 Construction of a new driveway for the new parcel that would be created by the partition would make it necessary to clear existing trees and vegetation over a strip of land approximately 30 feet wide.

1.3 Allowing the new parcel to use the same driveway will avoid the necessity to construct a new driveway on steep slopes and remove trees.

1.4 The proposed variance is consistent with the desired character of the area.

1.5 This review criterion is met.

(2) If more than one variance is being requested, the cumulative effect of the variances results in a project which is still consistent with the overall purpose of the zone.

FINDING OF FACT

2.1 Only one variance is requested.

CONCLUSION

2.1 This review criterion is not applicable.

(3) The requested variance is the minimum necessary to allow the proposed use of the site.

FINDING OF FACT

3.1 The requested variance would allow one more parcel to use a shared access easement than is usually allowed by ADC 12.090.

CONCLUSIONS

3.1 The requested variance is the minimum necessary to allow the proposed use of the site.

3.2 This review criterion is met.

(4) Any impacts resulting from the variance are mitigated to the extent practical

FINDINGS OF FACT

4.1 Granting the variance would add about ten new vehicle trips per day on the existing shared driveway.

4.2 One additional house on the new parcel that would be created would increase the risk and chance that the Fire Department or emergency personnel would need to use the existing access during an emergency response.

4.3 The applicant proposes to create a 40-foot-wide access easement along the west boundary of the property, and widen the existing paved driveway from about 12 feet wide to 20 feet wide.

4.4 The 40-foot-wide easement will allow more area to align the driveway in a way that saves as many trees as possible.

CONCLUSIONS

4.1 The impact of more traffic on the shared driveway and the increase in the potential for emergency vehicles to use the driveway will be mitigated by providing a 40-foot-wide easement and widening the paved driveway to 20 feet. The 20-foot width allows two vehicles to pass each other in opposite directions and is the minimum width needed by emergency vehicles.

4.2 Locating the driveway within a 40-foot-wide easement will allow the driveway to be located so as to save as many trees as possible.

4.3 This review criterion will be met when the following conditions are met.

CONDITIONS

4.1 The property owner must provide the 40-foot-wide shared access easement along the west boundary of the site as shown on the tentative plat.

4.2 The property owner/developer must widen the shared driveway from its existing (12 foot) width to 20 feet in width. The driveway must be constructed to a standard that will withstand the weight of the City's heaviest emergency vehicles. Contact the Fire Department for construction details.

4.3 The new driveway must be aligned within the 40-foot easement so as to minimize the impacts on trees, other vegetation, and site grading.

4.4 The alignment of the driveway must be approved by the City Forester.

FILE PA-01-08, OREZONA BUILDING COMPANY LLP

Comments from Surrounding Property Owners

The Planning Division received the following letters in response to the notice of filing:

1. Daryl Bechtolt: "I am the property owner of tax lot #4900 and I object to this partition because:

   1. An additional residence will impinge on our very narrow access road."

   Staff Response: The existing driveway is 12 feet wide. The applicant proposes to widen the driveway to 20 feet. Traffic and the road width are addressed in Review Criterion (3) of the Partition and Review Criterion (4) of the Variance.

   2. "The property in question is a ravine that serves as a drain field for the septic system of the existing residence as well as a drain for adjoining properties on Kingston."

   Staff Response: The tentative plat shows the existing drain field for the house on Parcel1 and that an easement for the drainfield will be provided. No information that shows any other property has a drainfield or easement on the property has been provided. Storm drainage is addressed under partition Review Criterion (4).

   3. "The three homeowners on this little street are all members of the Countryman Acres Property Owners Association (CAPOA) which advocates an anti-subdivision policy."

   Staff Response: The property where the partition is proposed is not in Countryman Acres subdivision and is not subject to the policies of the CAPOA

   4. "The property in question is a forest which shelters a herd of deer, birds, rabbits and other wildlife. It also filters the carbon monoxide from Valley View Drive."

   Staff Response: The applicant does not propose to remove trees from the property with either the partition or variance application. Natural features of the property are addressed under partition Review Criterion (5).

2. Donald Kerr: "You will note some 16 ft drop from north to south draining...this drainage is served by a 30" concrete culvert...directly south is the culvert outlet. Parcel 2 feeds this drainage...hence I am concerned with a developer putting 3 or 4 houses on parcel 2."

   Staff Response: Neither the partition application nor the variance application proposes three or four houses. One new parcel is proposed, which would allow one new house. Storm drainage is addressed under partition Review Criterion (4).

   "I would also add there are about 30 large trees on the land, yet only 4 appear to be marked on K & D map attached to the city letter."

   Staff Response: Some trees are shown on the tentative plat and a note on the plat acknowledges that the rest of the property has "dense trees 8" to 20" dia. firs" on it. The applicant does not propose to remove trees from the property with either the partition or variance application.

   "Also I am concerned about precise zoning applied to this project. County vs. City issues are raised and seem very cloudy regarding the footage required for houses."

   Staff Response: The zoning of the property located within the city limits is RS-10 which allows for a minimum lot size of 10,000 square feet. Parcel 2 would be within the city limits. Parcel 2 is shown on the

tentative plat to be 42, 970 square feet. This exceeds the minimum 10,000 parcel size required in RS-10 zoning districts. Benton County will also review a partition application for this property and will review the size of the parcel outside the city limits.

"I would ask for a revisit of the wetlands..."

Staff Response: The City looked at three sources of wetland information for this property. None of the three sources shows wetlands on this property. Wetlands are addressed under partition Review Criterion (5).

3. Michael & Karen Johnston: "The lot is currently zoned RR-2 which is defined as: 'intended to recognize areas, because of topography, level of service or other natural or development factors are best served by a large lot designation. Two acre minimum lot size.'

"As described in Article 6.085 (ADC); 'Watercourse: Any natural or artificial stream, river, creek, ditch, channel, conduit, culvert, drain...this also includes any topographic feature not meeting the above definition which is identified in the Storm Water Drainage Master Plan for North Albany as needing preservation.'

"I believe this lot was zoned primarily because of it topography. The large gully-shaped lot provides natural runoff of surrounding lots and feeds the protected wetlands located just across Valley View. Nothing has changed to the topography of this lot since its original zoning – it is a natural watercourse as described in the Albany Development Code and needs to be preserved. If the land were allowed to be split and developed, it would have a devastating environmental impact on the designated wetlands it feeds."

Staff Response: The area of this property inside the city limits is zoned RS-10. The minimum lot size in RS-10 zoning districts is 10,000 square feet. Parcel 2 is inside the city limits and will be larger than 10,000 square feet. The rest of the property is outside the city limits (and outside the Albany Urban Growth Boundary). A separate partition application has been submitted to Benton County and will be reviewed by them. They will decide whether the parcel outside the city limits meets their standards. Benton County expects to make a decision on the partition application on or about April 18th.

There is a drainage swale on this property. The drainage swale is not identified in the Storm Water Drainage Master Plan for North Albany as needing preservation. The drainage swale collects storm water runoff from a relatively small watershed of approximately 3-4 acres. Runoff that is collected in this area flows through a culvert under Valley View Drive NW to the south. There is no plan to fill or alter the drainage. The applicants submitted a geotechnical report that explains no construction should take place in this drainage swale below elevation 418 feet. If at some time in the future someone proposes to grade the property in excess of 50 cubic yards, a grading permit must be obtained from the City. See additional discussion under Review Criterion (5).

"What prevents the person who takes possession of the city lot zoned RS-10 from splitting that into 4 parcels..."

Staff Response: The minimum lot size in RS-10 zoning districts is 10,000 square feet. Parcel 2 would be 42,970 square feet. Theoretically, this parcel could be divided into four lots. But, the topography will create a challenge in providing access and utilities to four lots. A review of any proposal to divide Parcel 2 again would require that a new land division application be submitted to the City.

4. Greg & Beth Hawk: "We purchased the property in 1998 for several reasons and will also explain our concerns and reflect on the Countryman Acres Convent that we belong to. We have agreed to and have been told by YOUR office that all properties within the convent cannot be subdivided if they are below the standard of 2 acres. We believe that subdividing the properties effect the following:

- security and safety issues are increased
- increased traffic and noise
- aesthetic and natural beauty, wildlife are misplaced
- decreases the value of what we own."

Staff Response: The property where the partition is proposed is not in Countryman Acres subdivision. Whatever covenants exist for Countryman Acres do not apply to the partition property.

City is required to review the partition application based on the partition review criteria. Security and safety issues, noise, and the effect of the partition on "the value of what we own" are not included in the review criteria and therefore cannot be considered in the partition review. Traffic is addressed under partition Review Criterion (3). Special features of the site, such as wildlife, are addressed under Review Criterion (5).

The remainder of the Hawk's letter is the same as the Johnston letter referenced above.

5. Mark & Donna Van Eaton: "If we continue to allow unsafe development, all North Albany residents in the lower elevations can find themselves in disastrous situations, i.e. flooding.

"Wetland, springs, water flowways and sloughs need to be protected. The project could also have an impact and/or destroy the adjacent wetland on the West side of Valley View Drive.

"The development of this area will contribute substantially to the destruction of one of the few remaining areas in upper North Albany. It would also destroy rare core foraging habitat for the upper North Albany wildlife residents."

Staff Response: Storm drainage is addressed under partition Review Criterion (4). Special features of the site, such as floodplains, wetlands, and wildlife habitat are addressed under Review Criterion (5).

6. Eric & Kristie Briggs: "Many of the surrounding houses storm drainage feeds into the lower acre of this lot."

Staff Response: Storm drainage is addressed under partition Review Criterion (4).

"We are very concerned that our septic drain field at 2543 Valley View Dr NW may extend into the new partitioned lot."

Staff Response: 2543 Valley View Drive is the address of the property where the partition is proposed. The property is owned by Orezona Building Company LLP. The existing house would be located on Parcel 1. The drainfield is shown on the tentative plat. The drainfield is located partly on Parcel 1 and partly on Parcel 2. An easement will be provided for the part of the drainfied that is on Parcel 2.

"A large amount of trees will need to be cleared in order to make room for the construction as there is not enough room currently on the existing roadways to support machinery and materials.

"The abundance of trees is a refuge to many wildlife including; deer, squirrels, and many different types of nesting birds."

"Will cutting down the trees in this lot in order to prepare it put added strain on remaining trees around existing homes."

Staff Response: No tree removal is proposed with the partition application. Albany Development Code Section 9.207 says, "[s]ite plan review approval is required for the felling of five or more trees larger than 25 inches in circumference (approximately 8 inches in diameter) on a lot or property in contiguous single ownership in excess of 20,000 square feet in any zone." A Site Plan Review application will be

required if the owner of Parcel 2 proposed to remove five or more trees larger than eight inches in diameter. Special features of the site, including wildlife habitat, are addressed under partition Review Criterion (5).

"The terrain of the proposed lot slopes down on all sides which would more than likely require large amounts of fill material to support development, therefore, changing the drainage of the entire neighborhood."

Staff Response: Storm drainage is addressed under partition Review Criterion (4). Steep slopes are addressed under Review Criterion (5).

"With the 3 houses that already occupy the private county drive, there is already a strain on space for Allied Waste containers. With the new change to the recycle carts, we will be even more space constrained. Our recycle, yard waste, and glass tubs must be put at the entrance at Valley View Dr."

Staff Response: The City's Development Code does not include standards or requirements for solid waste management.

"Increase wear and tear on our very narrow private drive."

Staff Response: Access for the partition is addressed under partition Review Criterion (4) and in the review of the variance application.

U:\Community Development\Planning\Current\2008\08pa01.sr.ef.doc

EXHIBIT A

Orezona Partition
PA-01-08 & VR-05-08

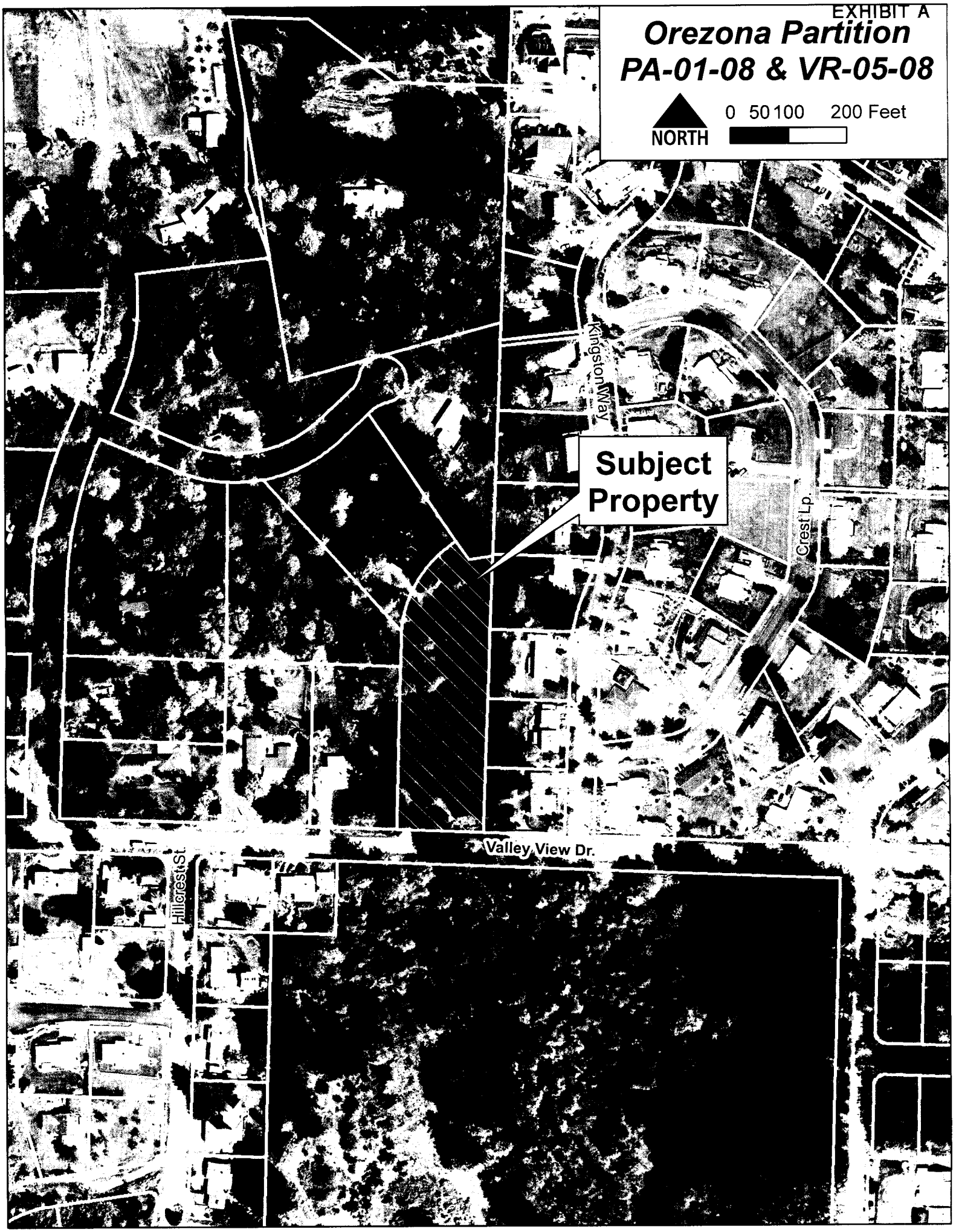
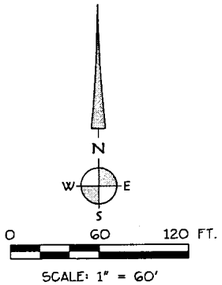
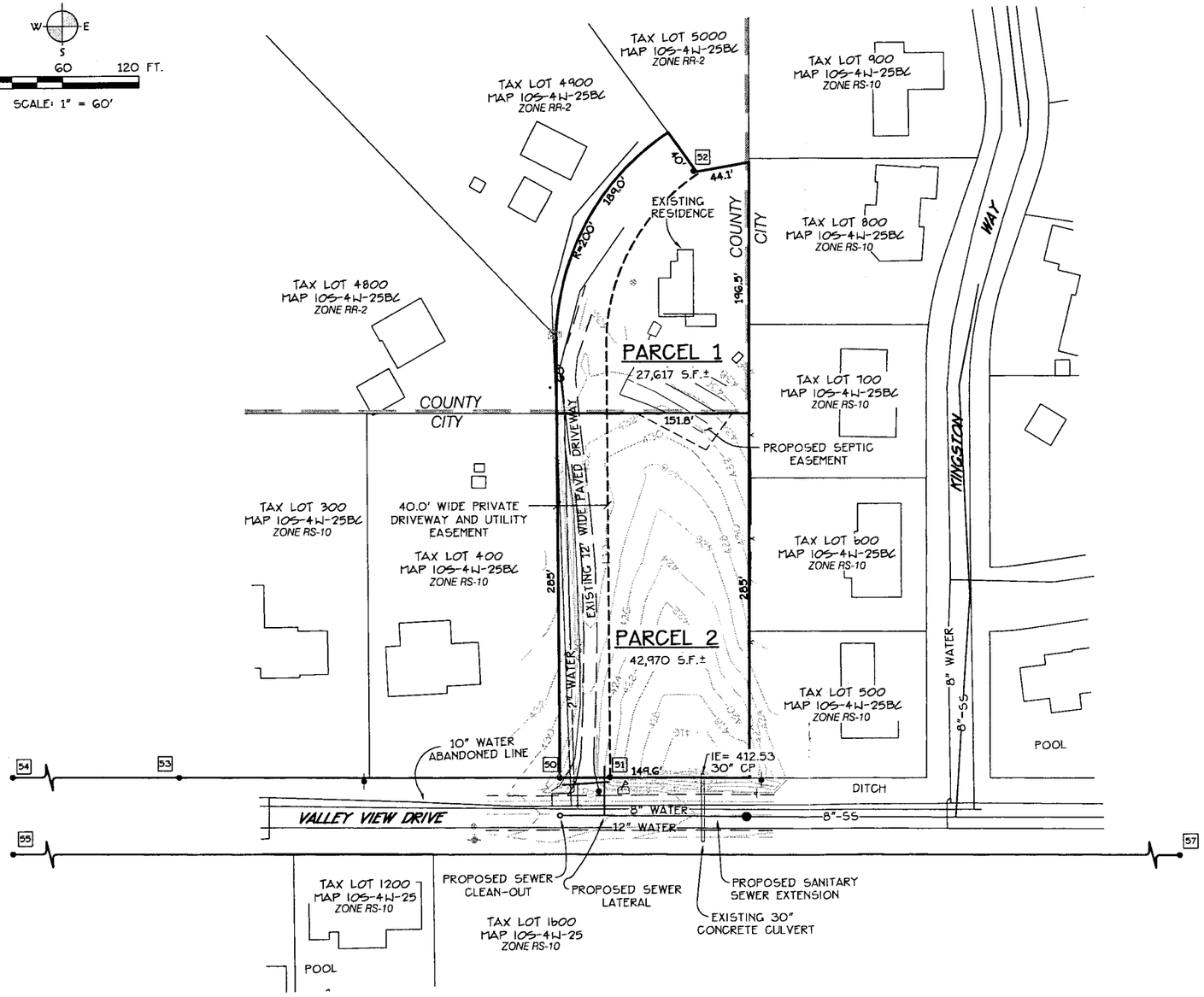


EXHIBIT B

TENTATIVE PARTITION PLAT
FOR
OREZONA BUILDING CO., LLP
LOCATED IN
NW 1/4 SEC. 25, T. 10 S., R. 4 W., W.M.
IN THE
CITY OF ALBANY, BENTON COUNTY, OREGON
DECEMBER 19, 2007





PROPERTY OWNER:
OREZONA BUILDING CO., LLP
2543 VALLEY VIEW DRIVE NW
ALBANY, OREGON 97321

APPLICANT:
JASON SCHAEFER
OREZONA BUILDING CO., LLP
1645 9TH AVENUE SE, SUITE 323
ALBANY, OREGON 97321

ENGINEER/SURVEYOR:
K+D ENGINEERING, INC.
276 NW HICKORY STREET
ALBANY, OREGON 97321
(541) 928-2583

PARTITION INFORMATION:

TAX LOT:
TAX LOT 5100 [10S-4W-25BC]

ZONING:
CITY: RS-10 (RESIDENTIAL SINGLE FAMILY)
COUNTY: RR-2 (RURAL RESIDENTIAL)

CURRENT USE:
EXISTING RESIDENCE

TOTAL PROJECT AREA:
70,587 S.F.

TOTAL NUMBER OF PARCELS:
2

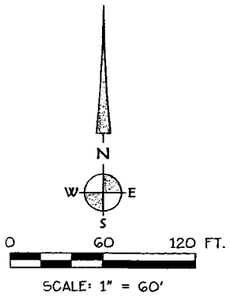
AVERAGE PARCEL SIZE:
35,294 S.F.

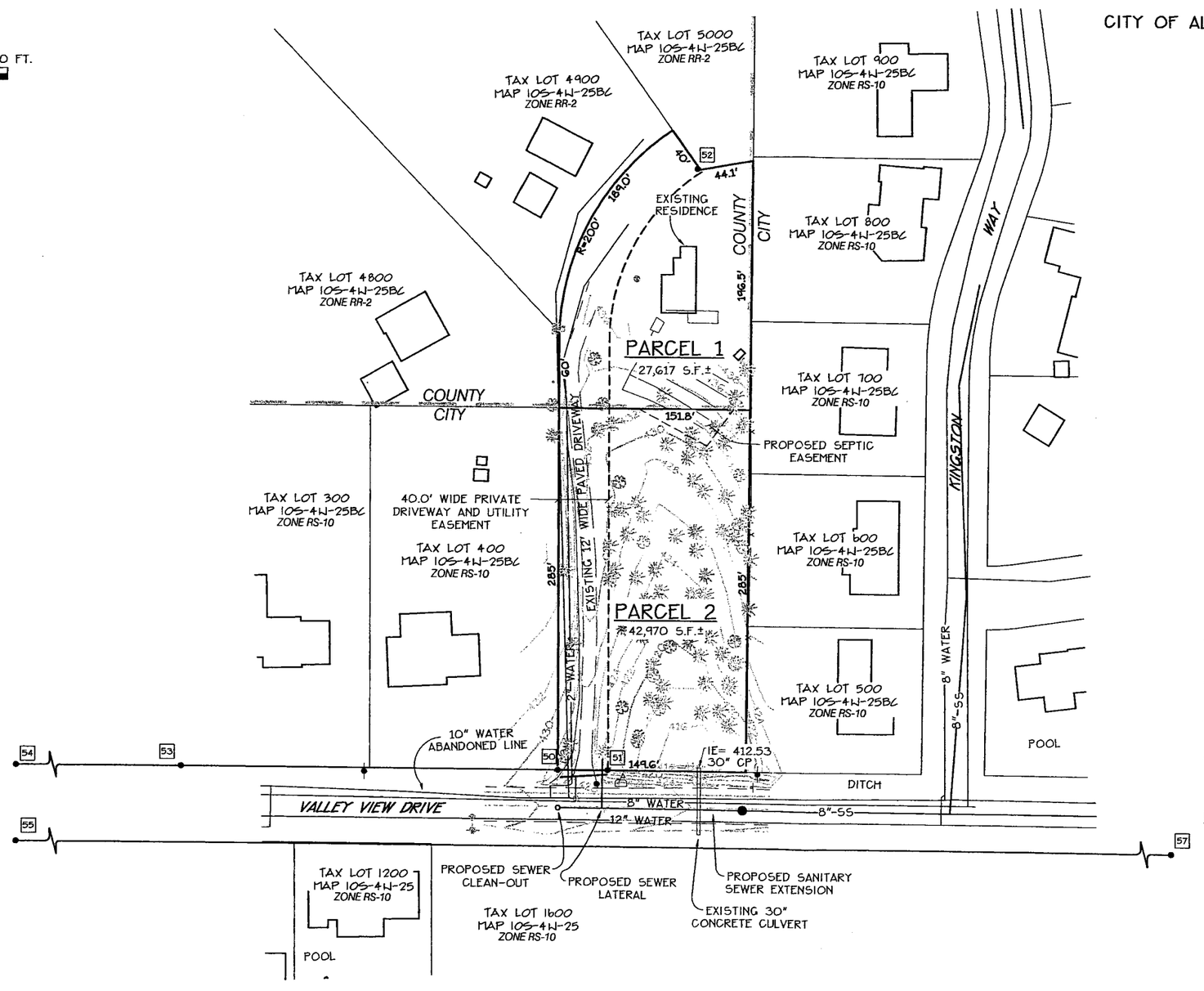
K&D
K & D ENGINEERING, Inc.
276 N.W. Hickory Street P.O. Box 725
Albany, Oregon 97321
(541) 928-2583

Date: 4/8/2008 Time: 9:24
Scale: 1=60
File: dwg\2007\07-177\07-177bm.dwg (Brian E)

EXHIBIT C

TENTATIVE PARTITION PLAT
FOR
OREZONA BUILDING CO., LLP
LOCATED IN
NW 1/4 SEC. 25, T. 10 S., R. 4 W., W.M.
IN THE
CITY OF ALBANY, BENTON COUNTY, OREGON
APRIL 11, 2008





PROPERTY OWNER:

OREZONA BUILDING CO., LLP
2543 VALLEY VIEW DRIVE NW
ALBANY, OREGON 97321

APPLICANT:

JASON SCHAEFER
OREZONA BUILDING CO., LLP
1645 9TH AVENUE SE, SUITE 323
ALBANY, OREGON 97321

ENGINEER/SURVEYOR:

K+D ENGINEERING, INC.
276 NW HICKORY STREET
ALBANY, OREGON 97321
(541) 928-2583

PARTITION INFORMATION:

TAX LOT:

TAX LOT 5100 [10S-4W-25BC]

ZONING:

CITY: RS-10 (RESIDENTIAL SINGLE FAMILY) COUNTY: RR-2 (RURAL RESIDENTIAL)

CURRENT USE:

EXISTING RESIDENCE

TOTAL PROJECT AREA:

70,587 S.F.

TOTAL NUMBER OF PARCELS:

2

AVERAGE PARCEL SIZE:

35,294 S.F.

NOTE: TREE SYMBOLS SHOWN ARE NOT TO SCALE.

K&D
K & D ENGINEERING, Inc.
276 N.W. Hickory Street P.O. Box 725
Albany, Oregon 97321
(541) 928-2583

Date: 4/11/2008 Time: 11:46
Scale: 1=60
File: dwg\2007\07-177\177-tp-trees.dwg (Brian E)

EXHIBIT D

Branch Engineering, Inc.
310 5th Street • Springfield, Oregon 97477 • (541) 746-0637 • FAX (541) 746-0389

PRINCIPALS:
James A. Branch, P.E., P.L.S.
Rene' Fabricant, P.E., S.E.
Michael Lane Branch, P.E.
Damien Gilbert, P.E.
Renee C. Clough, P.E., P.L.S.

April 7, 2008

K&D Engineering Inc.
PO Box 725
Albany, Oregon 97321
Attn: Jason

RECEIVED
APR 7 2008

RE: GEOLOGIC SITE ASSESSMENT
OREZONA BUILDING COMPANY LLC
2543 VALLEY VIEW DRIVE NW
ALBANY, OREGON
FILE PA-01-08

Pursuant to your request, an experienced geotechnical engineer from Branch Engineering Inc. (BEI) has conducted a geologic and soils hazard assessment of the subject site. The site was visited on April 4, 2008, and the following information was reviewed with respect to developing the site for residential building. The approximately 1.6 acres site is intended to be partitioned into two parcels, the north parcel will contain an existing residence, the approximately 1 acre south parcel is undeveloped, and is moderately forested with fir trees and an undergrowth of blackberry, fern, and scrub trees. The site slopes to the south as a broad swale and is bordered on the east and west sides by single-family residences and by Valley View Drive on the south side. A paved accessway is located on the west side of the site that serves three existing residence to the north. Site elevations range from about 415 to 440 feet.

Site Information Resources

The following site investigation activities were performed and literature resources were reviewed for pertinent site information:

- Review of the United States Department of the Interior Geological Survey (USGS) on-line Quadrangle Map, 7/1/1986.
- Review of the United States Department of the Interior Geological Survey (USGS) on-line aerial photograph, 7/30/2000.
- Site reconnaissance and hand-probing.
- Review of the Benton County area Web Soil Survey, United States Department of Agricultural (USDA) Natural Resources Conservation Service (NRCS), see Appendix A.
- Review of the USGS Geologic Map of Oregon, USGS 1991

- Review of Oregon Department of Water Resources Well Logs, see Appendix A.

Site Observations

The site is well drained with some water collecting in the southern most portion of the site near the culvert under Valley View Drive. Site slopes are gentle with maximum grades of 15% to 20% and no apparent gross land instability. It was observed that some of the properties adjacent to the east side of the site have placed fill in their backyards, thereby oversteepening the natural slopes off site. There are many tall (over 50 feet high) fir trees on site, most of which have straight trunks except for a couple of trees near the low point of the drainage, which is typical due to soil creep and erosion in drainages. Near surface probing indicates silty clay with abundant organic material in the upper 12- to 24-inches. Geologic mapping and my prior geotechnical investigation work near the site show the site to be underlain by upper to middle Eocene age tuffaceous silt/sandstone to depths of over 300 feet. The silt/sandstone has weathered to significant depths to light brown silty clay with low to moderate shrink/swell potential. The soil survey maps the site as part of the Willakenzie-Wellsdale complex, which is described as a well drained colluvial soil comprised of clay loam, and has ground water depths over 80 inches below ground surface.

Conclusions and Recommendations

There are no adverse geologic or geotechnical site conditions that preclude residential development of the site. The only area not suitable for building pad construction is the south central portion below elevation 418 due to surface water drainage to this area. All other areas will require excavation to remove soft topsoil and roots, and proper control and routing of surface and near surface drainage. Depending on building pad placement, footing drains may be required. Excavation depths of 12- to 24-inches are expected in the building pad area to remove soft soil; however, the subgrade condition but should be verified at the time of building pad construction. On-site cut slopes and fill slopes, comprised of native soil, shall not exceed 5 feet in height, or an angle of 2:1 (horizontal:vertical) without geotechnical oversight.

Limitations

The conclusions and recommendations described in this report are subject to the conditions described in this report and are intended for the exclusive use of the addressee and their representatives for use in design and construction of the development described herein. The recommendations may not be suitable for other structures or purposes. Services performed by the geotechnical engineer for this project have been conducted with the level of care and skill exercised by other current geotechnical professionals in this area under similar budget and time constraints. No warranty is herein expressed or implied. The conclusions in this report are based on the site conditions as they currently exist and it is assumed that the limited site locations that were physically investigated generally represent the subsurface conditions at the site. Should site development or site conditions change, or if a substantial amount of time goes by between our site investigation and site development, we reserve the right to review this report

for its applicability. This report is not intended to address any environmental impacts that may be associated with development of the site.

Sincerely,
Branch Engineering Inc.

REGISTERED PROFESSIONAL ENGINEER
16,170
OREGON
SEPT. 15, 1992
RONALD J. DERRICK
Exp 12-31-09

Ronald J. Derrick, P.E.

APPENDIX

A

MONITORING WELL REPORT LOGS & SOIL SURVEY

BENT 52226

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.765)
Instructions for completing this report are on the last page of this form.

Bent 52226

(WELL I.D.)# L 61140
(START CARD) # 153159

(1) OWNER: Well Number 3779
Name Jim & Linda Allen
Address 1859 NW Valley View Dr.
City Albany State Oregon Zip 97321

(2) TYPE OF WORK
☐ New Well ☒ Deepening ☒ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other

(4) PROPOSED USE:
☒ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 334 ft.
Explosives used ☐ Yes ☒ No Type Amount

HOLE Diameter	From	To	SEAL Material	From	To	Sacks or pounds
10	0	99	Cement	20	99	23 sacks
6	184	~~334~~ 334		0	20	8 Sacks*

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☐ Other *Poured dry
Backfill placed from ft. to ft. Material
Gravel placed from ft. to ft. Size of gravel

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	6	+1	99	250	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s)

(7) PERFORATIONS/SCREENS:
☐ Perforations Method
☐ Screens Type Material

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
40	All	330	1 hr.

Temperature of water 56 Depth Artesian Flow Found
Was a water analysis done? ☐ Yes By whom
Did any strata contain water not suitable for intended use? ☐ Too little
☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other
Depth of strata:

(9) LOCATION OF WELL by legal description:
County Benton Latitude Longitude
Township 10 S Range 4 W WM.
Section 25 SE 1/4 NW 1/4
Tax Lot 400 Lot Block Subdivision
Street Address of Well (or nearest address) 1859 NW Valley View Dr.
Albany, OR 97321

(10) STATIC WATER LEVEL:
117 ft. below land surface. Date 11-07-02
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:
Depth at which water was first found 250

From	To	Estimated Flow Rate	SWL
Existing		5gpm	117
250	310	35gpm	117

(12) WELL LOG:
Ground Elevation

Material	From	To	SWL
Topsoil	0	2	
Red sandy clay	2	70	
Blue Sandstone	70	99	
Blue sandstone and Lime	184	334	117

RECEIVED
NOV 13 2002
WATER RESOURCES DEPT
SALEM, OREGON

JONES DRILLING CO., INC.
29400 SANTIAM HWY
LEBANON, OR 97355
541-367-2560 541-451-2686
1-800-915-8388

RECEIVED DEC 1 4 2003 WATER RESOURCES DEPT SALEM, OREGON

Date started 11-06-02 Completed 11-07-02

(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
WWC Number
Signed Date

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
WWC Number 1681
Signed Date 11-8-02

ORIGINAL & FIRST COPY-WATER RESOURCES DEPARTMENT SECOND COPY-CONSTRUCTOR THIRD COPY-CUSTOMER

NOTICE TO WATER WELL CONTRACTOR
The original and first copy of this report are to be filed with the
STATE ENGINEER, SALEM, OREGON 97310
within 30 days from the date of well completion.

Bent 1878

WATER WELL REPORT
STATE OF OREGON
(Please type or print)
(Do not write above this line)

RECEIVED
OCT 28 1974
STATE ENGINEER
SALEM, OREGON

State Well No. 10S/4W-25ba
State Permit No.

(1) OWNER:
Name Bill Affolter
Address 3512 N. W. Ridgeview Lane
Albany, Oregon 97321

(2) TYPE OF WORK (check):
New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐
If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:
Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):
Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED: Threaded ☐ Welded ☒
6" Diam. from 0 ft. to 80 ft. Gage .250
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

(6) PERFORATIONS: Perforated? ☐ Yes ☒ No.
Type of perforator used
Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS: Well screen installed? ☐ Yes ☒ No
Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS: Drawdown is amount water level is lowered below static level
Was a pump test made? ☐ Yes ☒ No If yes, by whom?
Yield: gal./min. with ft. drawdown after hrs.
" " " "
" " " "
Air test 50 gal./min. with 70 ft. drawdown after 2 hrs.
Artesian flow g.p.m.
Temperature of water 50 Depth artesian flow encountered ft.

(9) CONSTRUCTION:
Well seal—Material used cement
Well sealed from land surface to 35 ft.
Diameter of well bore to bottom of seal 10 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 11 sacks
Number of sacks of bentonite used in well seal sacks
Brand name of bentonite
Number of pounds of bentonite per 100 gallons of water lbs./100 gals.
Was a drive shoe used? ☐ Yes ☒ No Plugs Size; location ft.
Did any strata contain unusable water? ☐ Yes ☐ No
Type of water? depth of strata
Method of sealing strata off
Was well gravel packed? ☐ Yes ☒ No Size of gravel:
Gravel placed from ft. to ft.

(10) LOCATION OF WELL:
County Benton Driller's well number 1541074K
NE ¼ NW ¼ Section 25 T. 10S R. 4W W.M.
Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.
Depth at which water was first found 110 ft.
Static level 145 ft. below land surface. Date 10-21-74
Artesian pressure lbs. per square inch. Date

(12) WELL LOG: Diameter of well below casing 6"
Depth drilled 225 ft. Depth of completed well 225 ft.

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. *Report each change in position of Static Water Level and indicate principal water-bearing strata.*

MATERIAL	From	To	SWL
Soil	0	3	
light grey clay	3	30	
light brown clay	30	35	
grey clay	35	45	
light brown clay	45	74	
grey sand stone	74	92	
brown sand stone	92	119	145'
grey sand stone	119	223	

Work started 10-21 1974 Completed 10-21 1974
Date well drilling machine moved off of well 10-21 1974

Drilling Machine Operator's Certification:
This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.
[Signed] Kenneth Nafzier (Drilling Machine Operator) Date 10/24 1974
Drilling Machine Operator's License No. 951

Water Well Contractor's Certification:
This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.
Name Schoen Electric & Pump (Person, firm or corporation) (Type or print)
Address 626 W. Queen Ave. Albany, Or. 97321
[Signed] Larry E. Schoen (Water Well Contractor)
Contractor's License No. 513 Date 10/25 1974

(USE ADDITIONAL SHEETS IF NECESSARY)

SP-45056-119

BGNT 4151

RECEIVED
SEP 21 1995
WATER RESOURCES DEPT.
SALEM, OREGON

STATE OF OREGON
WATER WELL REPORT
(as required by ORS 537.765)

Instructions for completing this report are on the last page of this form.

(START CARD) # 76118

(1) OWNER: Well Number 59138
Name Thomas L Ketsdever
Address 2409 NW Woodcrest Dr
City Albany State Ore Zip 97321

(2) TYPE OF WORK
☑ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☐ Rotary Air ☐ Rotary Mud ☑ Cable ☐ Auger
☐ Other

(4) PROPOSED USE:
☑ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☑ No Depth of Completed Well 126 ft.
Explosives used ☐ Yes ☑ No Type Amount

HOLE Diameter	From	To	SEAL Material	From	To	Sacks or pounds
10	0	25	cement	0	25	16
6	17	79	steel			
6	79	126	open hole			

How was seal placed: Method ☐ A ☐ B ☑ C ☐ D ☐ E
☐ Other
Backfill placed from ft. to ft. Material
Gravel placed from ft. to ft. Size of gravel

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	6 HN	17	79	250	☑	☐	☑	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s) 79

(7) PERFORATIONS/SCREENS: none
☐ Perforations Method
☐ Screens Type Material

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☑ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
30	66		1 hr.

Temperature of water 52 Depth Artesian Flow Found
Was a water analysis done? ☐ Yes By whom
Did any strata contain water not suitable for intended use? ☐ Too little
☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other
Depth of strata:

(9) LOCATION OF WELL by legal description:
County Benton Latitude Longitude
Township 10 S N or S Range 4W E or W. WM.
Section 25 SW 1/4 NW 1/4
Tax Lot 2100 Lot Block Subdivision
Street Address of Well (or nearest address) 2409 NW Woodcrest Dr. Albany.

(10) STATIC WATER LEVEL:
9 ft. below land surface. Date 8-31-95
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:
Depth at which water was first found 85

From	To	Estimated Flow Rate	SWL
85	120	30+	9

(12) WELL LOG:
Ground Elevation 320

Material	From	To	SWL
Top Soil	0	5	
Silty Dark Brown	5	15	
Sandstone Light Brown	15	55	
Sandstone Dark Brown	55	73	
Sandstone Gray Brown	73	118	9
Sandstone Third Gray	118	126	

Date started 8-28-95 Completed 8-31-95

(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
WWC Number
Signed Date

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
WWC Number 610
Signed Bob Schler Date 9-1-95

ORIGINAL & FIRST COPY-WATER RESOURCES DEPARTMENT SECOND COPY-CONSTRUCTOR THIRD COPY-CUSTOMER

Soil Map–Benton County, Oregon
(Orezona Building Co. Property, 2543 Valley View Drive)

Soil Map–Benton County, Oregon
(Orezona Building Co. Property, 2543 Valley View Drive)

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Map Units

Special Point Features

- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spot Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other

Special Line Features

- Gully
- Short Steep Slope
- Other

Political Features

Municipalities

- Cities
- Urban Areas

Water Features

- Oceans
- Streams and Canals

Transportation

- Rails

Roads

- Interstate Highways
- US Routes
- State Highways
- Local Roads
- Other Roads

MAP INFORMATION

Original soil survey map sheets were prepared at publication scale. Viewing scale and printing scale, however, may vary from the original. Please rely on the bar scale on each map sheet for proper map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: UTM Zone 10N

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Benton County, Oregon
Survey Area Data: Version 5, Dec 23, 2006

Date(s) aerial images were photographed: 5/7/1994

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Benton County, Oregon (OR003)			
Map Unit Symbol	**Map Unit Name**	**Acres in AOI**	**Percent of AOI**
161	Wellsdale-Willakenzie-Dupee complex, 2 to 12 percent slopes	7.3	54.3%
162	Wellsdale-Willakenzie-Dupee complex, 12 to 20 percent north slopes	3.3	24.6%
167	Willakenzie-Wellsdale complex, 12 to 20 percent south slopes	2.8	21.1%
Totals for Area of Interest (AOI)		13.4	100.0%

EXHIBIT E

Daryl H. Bechtotlt
2567 NW Valley View Dr.
Albany, Or 97321
541-926-0715

March 15, 2008

City of Albany Planning Division
333 Broadalbin Street
PO Box 490
Albany, Or. 97321

Ref: Tentative Partition Plat PA-01-08 (copy attached)

Dear Sir or Madam,

I am shocked that the Planning Division would even consider building another residence on tax lot #5100. Has anyone from the Planning Division actually seen this property?

I am the property owner of tax lot #4900 and I object to this partition because:

1. An additional residence will impinge on our very narrow access road.
2. The property in question is a ravine that serves as a drain field for the septic system of the existing residence as well as a drain for the adjoining properties on Kingston.
3. The three homeowners on this little street are all members of the Countryman Acres Property Owners Association (CAPOA) which advocates an anti-subdivision policy.
4. The property in question is a forest which shelters a herd of deer, birds, rabbits, and other wildlife. It also filters the carbon monoxide from Valley View Drive.

The Oregon Lottery is running a television ad which states "We should be known not by what we build, but by what we save."

Please, I beg you, Save Our Forest.

Sincerely,

Daryl H. Bechtolt

Daryl H. Bechtolt

RECEIVED
MAR 17 2008

EXHIBIT F

Community Development Dept.
333 Broadalbin St SW
PO Bx 490
Albany, Or. 97321

16 March, 2008

MAR 18 2008

Gentlemen:

I am concerned re: your March 7 letter to landowners within 100 ft. of 2643 Valley View Drive NW. Detail: Benton Co. map No. 10S -4W -25BC tax lot 5100, file PA-01-08, see your letter.

You will note some 16 ft drop from north to south draining what has been for over thirty years a small creek in winter and wetland remainder of the year in parcel 2.

This drainage is served by a 30" concrete culvert. The proposed development of the property directly south is the culvert outlet. The proposal at meetings last summer provided for a "green way" clear thru to crocker lane for winter seepage and flow. The parcel 2 water feeds this drainage.

As you will recall this is named Spring Hill. Hence I am concerned with a developer putting 3 or 4 houses on parcel 2.

There are 2 other major ditches from west and east(my ditch) which have standing water in them most of the year. Last summer the city also added a cross street pipe from the Jacobsen's property directly east of my lot #500 at 3040 NW Kingston Way.

I would also add there are about 30 large trees on the land, yet only 4 appear to be marked on K & D map attached to city letter.

Also I am concerned about precise zoning applied to this project. It is confusing to us neighbors. County vs. City issues are raised and seem very cloudy regarding the footage required for houses.

I would ask for a revisit of the wetlands and zoning of this land and a clear explanation to the adjacent landowners and what the future implications might be.

Donald T. Kerr, MD
3040 NW Kingston Way
Tax lot 500

In agreement,

Donna Van Eto 967-1854 > ~~TAX~~ lot 700
Mark Van Eto 967-1854
Karen Johnston 926-3591 > TAX lot 600
Michael Johnston

EXHIBIT G

RECEIVED
MAR 20 2008

March 18, 2008

City of Albany Planning Division
333 Broadalbin Street
PO Box 490
Albany, Or. 97321

Ref: Tentative Partition Plat PA-01-08

Dear Sir or Madam,

I am writing in response to the Tentative Partition Plat (PA-01-08) which would divide the lot located at 2543 Valley View Drive into 2 parcels. According to your letter, my comments must relate to the Land Division Review Criteria standards. I have taken some excerpts from the Albany Development Code to help support and defend my strong desire to defeat this Partition Plat and preserve the natural setting and benefits this land currently provides to the surrounding area.

I would like to address standard (5) – "Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized."

The lot is currently zoned RR-2 which is defined as:

> "Intended to recognize areas, which, because of topography, level of service, or other natural or development factors are best served by a large lot designation. Two acre minimum lot size."

As described in Article 6.085;

"Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water. This also includes any topographic feature not meeting the above definition which is identified in the Storm Water Drainage Master Plan for North Albany as needing preservation."

I believe this lot was zoned primarily because of it topography. The large gully-shaped lot provides natural runoff of surrounding lots and feeds the protected wetlands located just across Valley View (see attached Wetlands and Riparian Areas Map from 2002). Nothing as changed to the topography of this lot since its original zoning – it is a natural watercourse has described in the Albany Development Code and needs to be preserved. If the land were allowed to be split and developed, it would have a devastating environmental impact on the designated wetlands it feeds.

Concerns & Questions:

If these lots are split according to the plans, the larger lot (42,970 sq. ft) would be zoned RS-10 and be in the city. The smaller lot (27,617 sq. ft) would be zoned RR-2 and be in the county. In order to be zoned RR-2, don't you need to have a minimum lot size of approx. 2 acres? What prevents the person who takes possession of the city lot zoned RS-10 from splitting that into 4 parcels further impacting the surrounding environment and diminishing the property value of adjoining lots.

The North Albany area has several sub-divisions in progress which are going to be destroying much of the forested areas and natural beauty that surround our neighborhood. Please help preserve what little remains of the natural environment by rejecting this Partition Plat request.

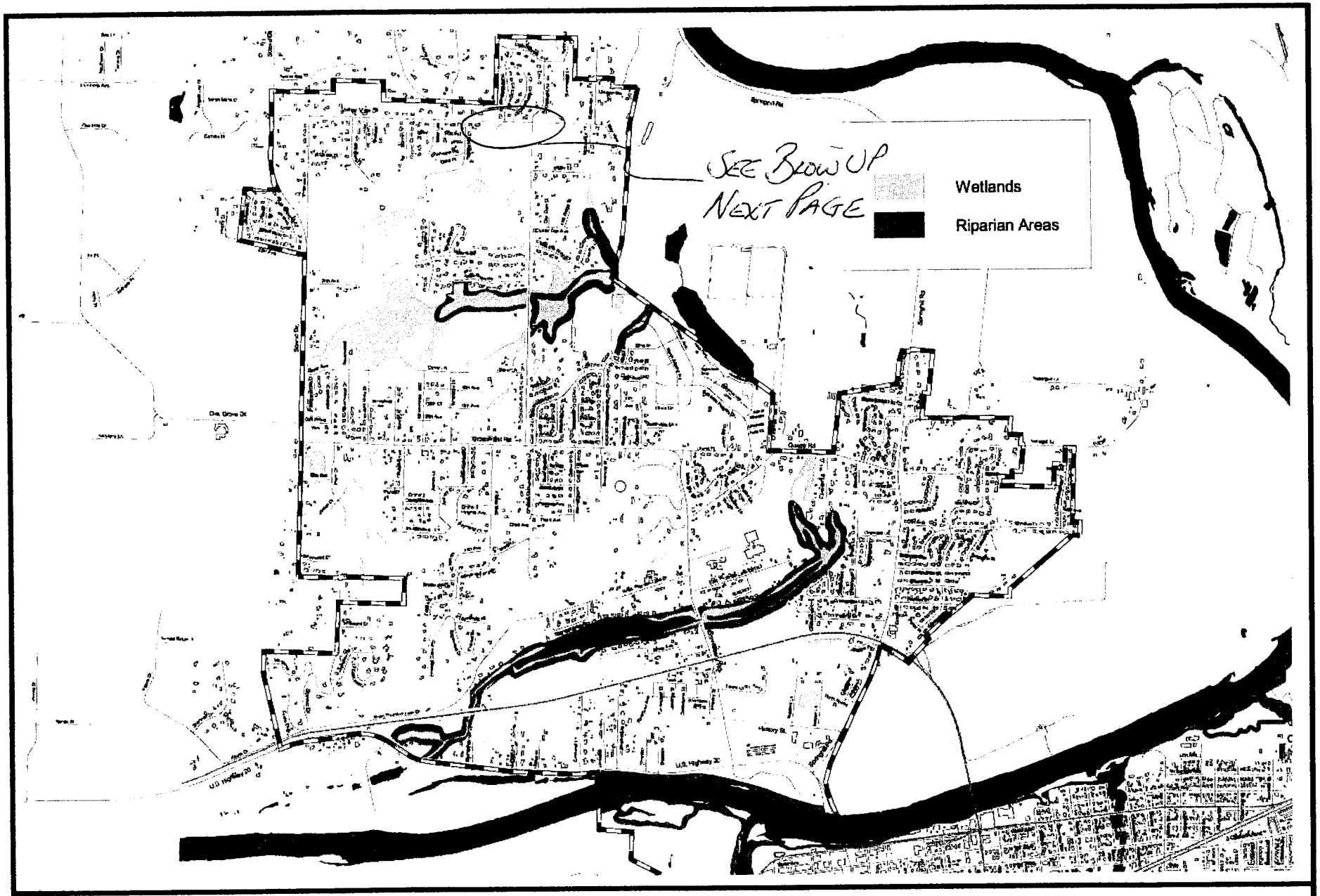
Sincerely,

Michael Johnston
Karen Johnston

Michael & Karen Johnston
Tax Lot 600

In agreement,

Dave Van Eeto 967-1854 > tax lot 700
Mar Van Eeto 967-1854
Donald T. Kerr



Wetlands and Riparian Areas

N

Planning

Rich Catlin

Apr 8, 2002

richc l:\richclev_proj\north albany plan\web maps.apr

1000 0 1000 2000 3000 4000 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 the information proves to be incorrect, and thus its accuracy is not guaranteed. 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 the information contained within our records.

BLOW UP

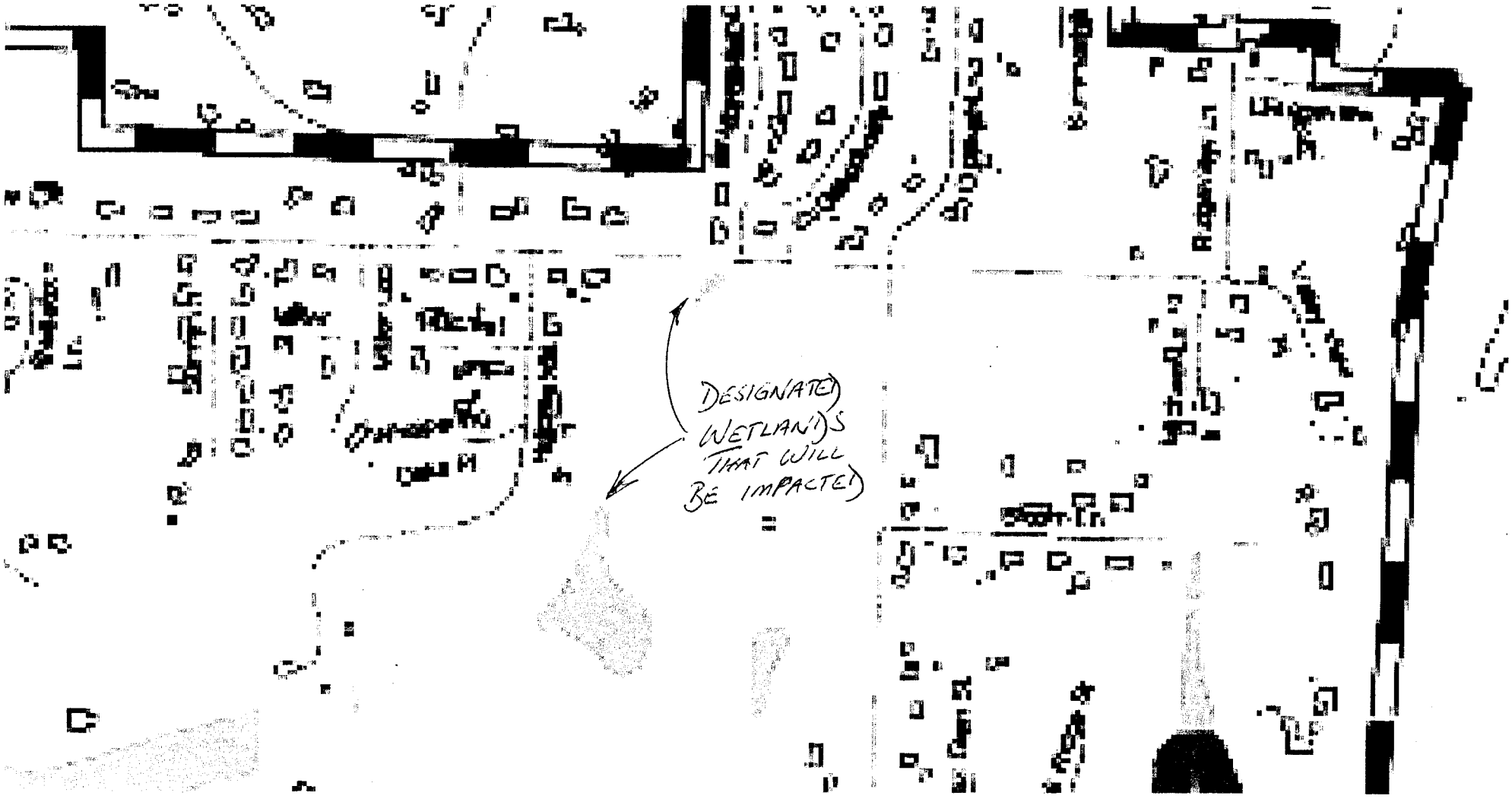


EXHIBIT H

March 19, 2008

RECEIVED
MAR 21 2008

City of Albany Planning Division
333 Broadalbin Street
PO Box 490
Albany, Or. 97321

Ref: Tentative Partition Plat PA-01-08

To Whom It May Concern:

We are writing in response to the Tentative Partition Plat (PA-01-08) which would divide the lot located at 2543 Valley View Drive into 2 parcels. According to your letter, our comments must relate to the Land Division Review Criteria standards. I have taken some excerpts from the Albany Development Code to help support and defend our strong desire to defeat this Partition Plat and preserve the natural setting and benefits this land currently provides to the surrounding area.

We purchased the property in 1998 for several reasons and will also explain our concerns and reflect on the Countryman Acres Covent that we belong to. We have agreed to and have been told by YOUR office that all properties within this convent cannot be subdivided if they are below the standard of 2 acres. We believe that subdividing the properties effect the following:

- security and safety issues are increased
- increased traffic and noise
- aesthetic and natural beauty, wildlife are misplaced
- decreases the value of what we own

We would like to address standard (5) – "Any special features of the site (such as topography, floodplains, wetlands, vegetation, historic sites) have been adequately considered and utilized."
The lot is currently zoned RR-2 which is defined as:

"Intended to recognize areas, which, because of topography, level of service, or other natural or development factors are best served by a large lot designation. Two acre minimum lot size."

As described in Article 6.085;
"Watercourse: Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water. This also includes any topographic feature not meeting the above definition which is identified in the Storm Water Drainage Master Plan for North Albany as needing preservation."

We believe this lot was zoned primarily because of it topography. The large gully-shaped lot provides natural runoff of surrounding lots and feeds the protected wetlands located just across Valley View. Nothing as changed to the topography of this lot since its original zoning – it is a natural watercourse as described in the Albany Development Code and needs to be preserved. If the land were allowed to be split and developed, it would have a devastating environmental impact on the designated wetlands it feeds.

Other Concerns & Questions:
If these lots are split according to the plans, the larger lot (42,970 sq. ft) would be zoned RS-10 and be in the city. The smaller lot (27,617 sq. ft) would be zoned RR-2 and be in the county. In order to be zoned RR-2, don't you need to have a minimum lot size of approx. 2 acres? What prevents the person who takes possession of the city lot zoned RS-10 from splitting that into 4 parcels further impacting the surrounding environment and diminishing the property value of adjoining lots.

Once again the concern that the North Albany area has several sub-divisions in progress which are going to be destroying much of the forested areas and natural beauty that surround our neighborhood. Please help preserve what little remains of the natural environment by rejecting this Partition Plat request.

Sincerely,

Greg and Beth Hawk
Tax lot #4800

Beth Hawk 3.19.08
Greg D. Hawk 3.19.08

EXHIBIT I

Mark & Donna Van Eaton
3120 N.W. Kingston Way, Albany, OR 97321
Home: (541) 967-1854 Cell: (541) 619-6355
Email: d.vaneaton@comcast.net
m.vaneaton@comcast.net

MAR 20 2008

March 18, 2008

City of Albany
Planning Division
PO Box 490
Albany, OR 97321

Benton County Planning Commission
PO BOX 3020
Corvallis, OR 97339

RE: Tentative Partition Plat PA-01-08
Map/Tax Lot: 10S-4W-25BC; Tax Lot 5100
Address: 2543 NW Valley View Drive

Dear Planning Division:

My wife and I wish to bring to your attention the following things prior to you making any decision in regards to the above matter.

1. The Citizens of North Albany are NOT against development, but we do want RESPONSIBLE development that does not overrun the infrastructure's capacity. Safety must come before private profit. The developer has the right to develop his property, however in so doing; the developer does not have the right to adversely impact neighbors and the public in general. Zoning does not take precedence over safety. (Source: *North Albany Neighborhood Association*)

2. If we continue to allow unsafe development, all North Albany residents in the lower elevations can find themselves in disastrous situations, i.e. flooding. (Attached is an article from the Seattle Times dated December 7, 2007)

3. Two types of flooding occur in Albany. Riverine flooding is the overbank flooding of rivers and streams, the natural processes of which add sediment and nutrients to fertile floodplain areas. Urban flooding results from the conversion of land from fields or woodlands to parking lots and roads, through which the land loses its ability to absorb rainfall.

4. Wetlands, springs, water flowways and sloughs need to be protected.

5. The development of this area will contribute substantially to the destruction of one of the few remaining wildlife areas in upper North Albany. This project could also have an impact and/or destroy the adjacent wetland on the West side of Valley View Drive. It would also destroy rare core foraging habitat for the upper North Albany wildlife residents.

If you do not hear our pleas and allow this development, please assure us that you will seek restoration of the habitats where commercial and residential developments continue to degrade our natural ecosystems, and give back to the wildlife.

Sincerely,

Mark Van Eaton
Donna Van Eaton

Mark & Donna Van Eaton
3120 NW Kingston Way
Albany, Benton County, OR

IN AGREEMENT:

Michael Johnston
Karen Johnston

The Seattle Times

Sunday, December 9, 2007 - Page updated at 02:37 PM

Permission to reprint or copy this article or photo, other than personal use, must be obtained from The Seattle Times. Call 206-464-3113 or e-mail resale@seattletimes.com with your request.

Did development, logging set the stage for disaster?

By Lynda V. Mapes
Seattle Times staff reporter

For more than a decade in the Chehalis River watershed, developers have been allowed to roll the dice.

In 1996, the worst flood Lewis County had ever known blew through, drowning communities in muddy water high enough to close Interstate 5. Since then, the county has granted more than 100 permits for new development in the floodplain. The cities of Centralia and Chehalis added to the rush.

Big-box stores, restaurants and strip malls galore. A railroad line extension, parking lots for a church. A coal-unloading facility, a new natural-gas pipeline, a mine expansion. And barns, homes, carports and shops. All built in the floodplain.

Then last Monday, heavy rain punched into the watershed from the southwest. Faster than anyone had ever seen before, torrents of water gouged hillsides, broke levees and overtopped dikes as flood gauges reached record highs and some blew out altogether. At the worst of it, some 10 feet of water covered parts of Chehalis, and hundreds of people watched their homes and belongings go under. One man was swept away in the deluge.

Now as the water recedes and residents of Lewis County take stock, many are looking back in time, wondering how much the legacy of development in the floodplain, and clear-cut logging in the upriver drainages, contributed to their woes.

Many state officials and regional experts, including a former county manager who says he was fired after criticizing floodplain development, say they have been warning for years that the hunger for development was running counter to common sense.

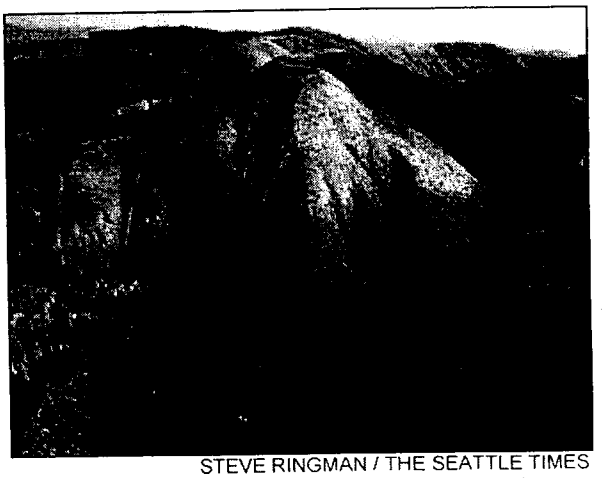
They note that while many counties, including neighboring Thurston, have either banned or seriously crimped development in the floodplain, Lewis County has not.

"It's kind of sad, we keep repeating the same mistakes, even when we know better," said Andy McMillan, a longtime wetlands manager for the state Department of Ecology. "It's the same old things coming into play: There's money to be made, and people want to make the most money for their land."

But in the wake of the storm, Lewis County leaders still say it's unfair to

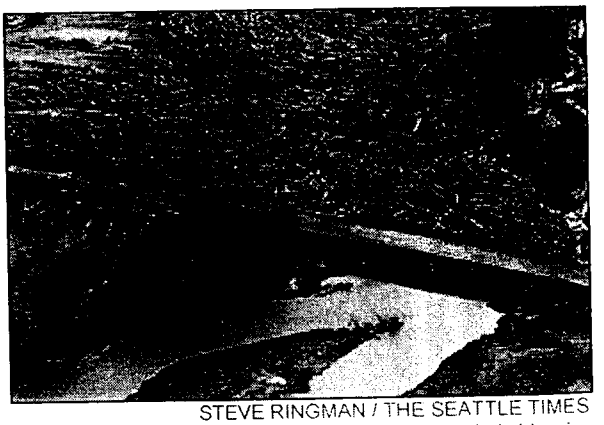
STEVE RINGMAN / THE SEATTLE TIMES

Flooded Chehalis A new automobile dealership, at bottom of photo, is being built just off Interstate 5 on an island of fill in the Chehalis River floodplain. Some nearby stores, including a Home Depot and Wal-Mart, were hard hit by last week's high waters.



STEVE RINGMAN / THE SEATTLE TIMES

Clear-cuts and mudslides Tons of earth and vegetation washed away from clear-cut hillsides last week and slammed into Stillman Creek, a tributary of the south fork of the Chehalis River.



STEVE RINGMAN / THE SEATTLE TIMES

Acres of timber and debris backed up behind this bridge in the Boistfort Valley, which was inundated by the flooding of the south fork of the Chehalis River.

blame them for nature's wrath. And they predict the development will go on.

"The floodplain in the Chehalis is so vast that the filling in the floodplain for local development has no significant impact," said Bob Nacht, the director of community development for the city of Chehalis.

Moratoriums considered

To a large degree, this latest debate is a bit of déjà vu to the people of Lewis County.

After the 1996 flood, arguments broke out about getting tough on development in the floodplain.

"Bans or moratoriums have been considered on many occasions," Nacht said. Locals had debated a moratorium after the flood in 1986, too. And again in 1990 and 1991, 1996 and 2000.

But such talk gets little traction in the "Twin Cities" of Centralia and Chehalis, where as much as 70 percent of the city limits are in the floodplain, according to the county. Cutting floodplain development means cutting economic development in communities that say they need all they can get.

Instead, city leaders focused on making sure new development was built on fill — enough to bring it above the 1996 levels.

It's not that they didn't expect more damage. It was just seen as acceptable risk. "We are certainly not going to guarantee any development won't get flooded here," Nacht said

And in their defense, they point out that their rules are actually tougher than existing state and federal rules.

"As long as the pressure is on the government to permit development in the floodplain, these kinds of events will continue to occur, and we will continue to have damage," Nacht said.

Effects are cumulative

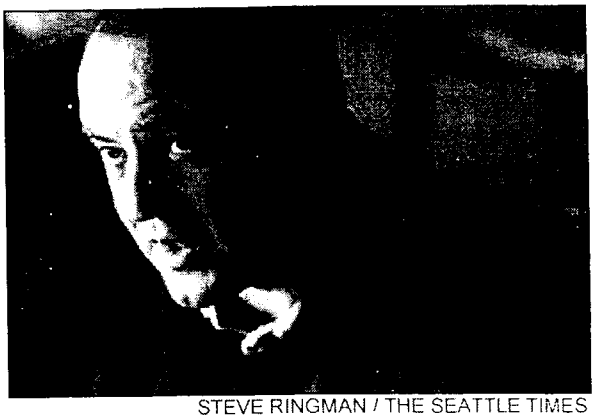
Though Lewis County isn't the only place where floodplain development is allowed, others have cracked down.

While individual filling projects might not appear to have an impact, the cumulative effect of repeated development in a floodplain can mean big trouble, the experts argue. It's like putting bricks in a bathtub. One brick displaces a little water. But a lot of bricks can force the tub to overflow.

"The more stuff you put in a flood plain, the higher the water the will rise," said David Montgomery, a scientist at the University of Washington who has studied the history of rivers in Western Washington.

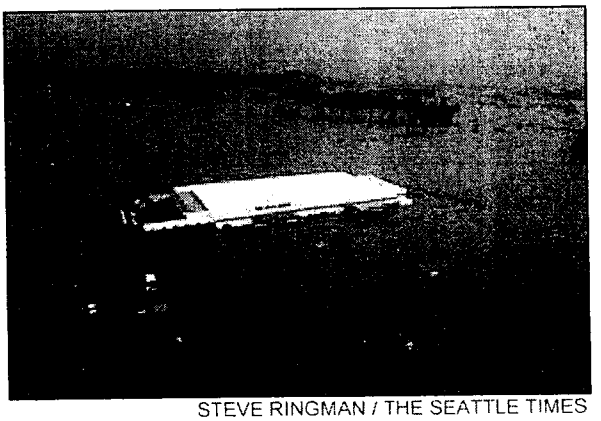
Some local jurisdictions have decided state and federal flood-prevention standards are not protective enough and have gone much further.

Fourteen years ago, even before the 1996 floods, Thurston County banned

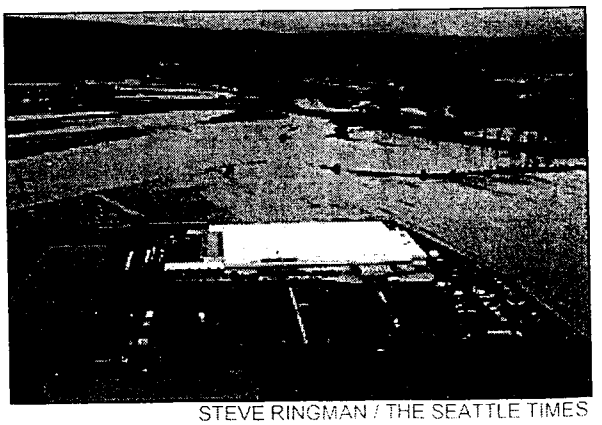


STEVE RINGMAN / THE SEATTLE TIMES
Former Public-works Director for Lewis County Mark Cook

STEVE RINGMAN / THE SEATTLE TIMES
Despite being built on a plateau of fill, this Walgreens pharmacy near the Chehalis River sustained water damage during last week's flooding.



STEVE RINGMAN / THE SEATTLE TIMES
A Home Depot store, above, along Interstate 5 resembles a floating barge in a photograph taken Tuesday.



STEVE RINGMAN / THE SEATTLE TIMES
In a photo taken on Friday, floodwaters have receded

all new development in its floodplains.

"We had a lot of flooding problems and we didn't want to perpetuate the situation," said Mike Kain, Thurston County's manager of planning and environmental services.

It still floods every year in King County. But King has the best insurance rating of any county in the nation from the Federal Emergency Management Agency, according to Jim Chan, director of building services. That's because of restrictions on development in the floodplain.

While he was public-works director for Lewis County, Mark Cook pushed county commissioners for stricter building regulations in the floodplain. "The cities came unglued," said Cook, who lives in Centralia. "There is a way of doing business that has been around a long time."

The county commissioners fired Cook in May after about four years on the job. One commissioner said there had been a "clash of wills," the local paper reported. Cook now says there were a number of reasons, but one was his opposition to continuing to fill and develop the floodplain.

"Change is hard, and sometimes the messenger doesn't always survive the task," said Cook, who now works as a private consultant for a variety of clients, including Lewis County. "No one wants to hear their current allowable permitting practices could have adverse consequences."

Clear-cuts increase risk

All the while Lewis County has debated its floodplain development, logging has been chewing through the forests in the Chehalis watershed since the last flood.

Logging has declined overall in Western Washington in the past 15 years. But the most intensive cutting is still happening on the type of industrial forestlands that dominate the Chehalis watershed.

Since 2002 alone, about 230,972 acres of the watershed — up to 14 percent of the forestland there — have been logged, according to the state Department of Natural Resources.

It's only about 2.3 percent of the watershed a year. But the effects of clear-cuts and logging roads stick around for years, potential ticking time bombs for large landslides, said Gordon Grant, a hydrologist for the federal Forest Service's Pacific Northwest Research Station in Corvallis, Ore. Landslides can happen anywhere, including on forested ground. But forestland that has been clear-cut is up to five times more likely to slide in flood conditions, and forestland with logging roads is even more vulnerable, Grant said. Those landslides can bring down logs, creating debris flows that stop up streams, culverts and even rivers.

That means even more flooding when the big rains finally come.

Last week, they did.

Chehalis watershed huge

This flood was far more damaging than the one in 1996. The water rose enough for employees to reach the store and begin cleaning up the mess.

STORM EXTRAS

Recent stories

Mudslide photo spurs look at logging practices

Olympic National Forest suffers $8 million in storm damage

Three more counties are now eligible for flood relief

Major bridge closed near Vancouver, Wash., new span to be built

Lewis County farmers moving forward after floods

Flood victims need manual labor, financial help

For flood victims, cleanup requires money and people

Gregoire on storm recovery: "We're in for a long haul"

While barbecue restaurant is rebuilt, hotel to be home

Flood dispatches by reporter Tricia Duryee

Did development, logging set the stage for disaster?

In Lewis County, floodwaters leave; breathtaking destruction emerges

Postman on Politics | Seeing flood damage, and politics from up high

Christmastime in Lewis County

The next likely flood: insurance claims

Friends, strangers, love help flooded family get by

Possessions and lives left in pieces after flood

Heroic neighbors fought flood's fury, but many animals couldn't be saved

Be aware of scams in floods' wake

Flood victims may be eligible to get food aid

All the dampness an invitation to mold

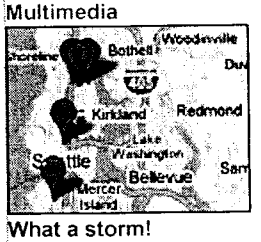
Funding, feuding put flood project on hold

Was deficient drainage or extreme storm to blame?

"The wind meter broke" at 81 mph

What to give? And how will it get there?

Multimedia



What a storm!

Photo Gallery | Returning to the flood's aftermath
Photo Gallery | Images of the storm
Photo Gallery | Reader storm photos
Photo Gallery | Chehalis River flood
Photo Gallery | Flooding in Southwest Washington
Coast Guard video | Search-and-rescue
A changing watershed floods ... Again (PDF)
Slide-prone areas in Seattle (PDF)
Areas affected by the storm (PDF)
Chehalis-Centralia flood problem (PDF)
Map | The Road South with Haley Edwards

faster, and it flooded places that no one remembers being inundated before. There's no question Mother Nature threw her all at the watershed as a weather system barreled in from the southwest.

And geologically speaking, the Chehalis floodplain is a particularly bad place for that kind of punishment. It's broad and flat, and the watershed is huge — the second largest in the state. Drainage is naturally problematic in many places because of a layer of impervious clay just below the shallow soil.

Floodwater high up the Chehalis River stripped gargantuan loads of silt and timber off the hills, and dumped it along with the water that swamped homes, garages and barns to depths of up to 12 feet in some upriver communities, far above levels anyone can remember.

As the high water has retreated, it has left thousands of pieces of wood scattered across fields in the Boistfort Valley, which straddles the south fork of the Chehalis. One rugged, heavily logged drainage was scarred with dozens of landslides that spewed into a creek. Some slides clawed deep ravines.

In one large clear-cut alone, nearly a dozen slides emptied into a creek. In some areas, log jams may have acted like small dams, temporarily holding back water until they toppled over or breached. Some upriver communities got slammed with the mess. Then the floodwater moved on, all the way to the cities of Chehalis and Centralia and the development in the floodplain along I-5.

"There's a lot of stuff in the floodplain that wasn't there in 1996," said Jim Park, senior hydrologist for the state Department of Transportation. "The water goes somewhere; it doesn't just disappear."

Some neighborhoods in Chehalis and Centralia were flooded for the first time ever.

More fill likely in future

As the floodwater recedes over much of Lewis County this weekend, it's too early to tell whether development policies will be different.

But in Chehalis, Nacht said the city plans at least one change: It will demand even more fill in the floodplain. Future development will have to be built on fill piled above the level of this latest disaster, he said.

The city's claims that continued building in the floodplain has no impact is baffling to some experts.

"Fill will have an effect, and those effects will be local," said Park. This flood needs to be analyzed to understand what happened, he said.

"For someone to stand up and say it didn't have any effect is premature, and to say so flies in the face of the whole basis for having regulations."

Dan Sokol, who coordinates flood-insurance programs for the state Ecology Department, said this flood should at least teach that development planning needs to take into account everything from clear-cutting in the headwaters to development in the floodplain.

Tougher restrictions on building are also needed where the river has been known to flood — and will surely flood again, Sokol said.

"The more things you put in the floodplain, the more things are at risk," Sokol said. "We can never assume we have seen the worst of what nature can do."

Montgomery, the UW scientist, argues that commercial and residential floodplain development ends up costing everyone else.

"We should not be subsidizing those land uses through flood-control measures and rebuilding things and bailouts," he said. "The question is why did we build there in the first place?"

Despite the devastation last week, the critics appear unlikely to change many minds in Lewis County.

"If you didn't allow Wal-Mart to come in, people would say, 'Why are you stifling economic development?' " said Bob Johnson, the community-development manager for Lewis County. "It's a really hard balance. I understand why this development is happening."

The current attention on the floodplain ignores the fact that most building in the county is not in the floodplain at all, Johnson said.

"We try to put it where it's dry."

Lynda V. Mapes: 206-464-2736 or lmapes@seattletimes.com

Staff writer Hal Bernton contributed to this story.

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EXHIBIT J

March 19, 2008

Community Development Department – City of Albany
333 Broadalbin Street SW, PO Box 490
Albany, OR 97321

Attn: Evan Fransted – Project Planner

This letter is in regards to the Partition application file PA-01-08 that is proposing to partition parcels of land at 2543 Valley View DR NW, Albany, OR 97321.
We are currently purchasing and occupying the house that resides at 2543 Valley View DR NW.

The following are our concerns with partitioning this 1.59 acre lot.

1) Many of the surrounding houses storm drainage feeds into the lower acre of this lot.
2) We are very concerned that our septic drain field at 2543 Valley View DR NW may extend into the new partitioned lot.
3) A large amount of trees will need to be cleared in order to make room for the construction as there is not enough room currently on the existing roadways to support the machinery and materials.
4) The abundance of trees is a refuge to many wildlife including; deer, squirrels, and many different types of nesting birds.
5) The terrain of the proposed lot slopes down on all sides which would more than likely require large amounts of fill material to support development, therefore, changing the drainage of the entire neighborhood.
6) With the 3 houses that already occupy the private county drive, there is already a strain on space for Allied Waste containers. With the new change to the recycle carts, we will be even more space constrained. Our recycle, yard waste, and glass tubs must be put at the entrance at Valley View DR.
7) Increased wear and tear on our very narrow private drive.
8) Will the cutting down of the trees in this lot in order to prepare it put added strain on remaining trees around existing homes.
9) The owner of this property has no long-term personal interest in either partitioned lots as they are currently selling the house on what would be the .55 acre to us and hoping to turn a quick profit and build a new house on the proposed 1.04 acre lot. It appears, they have no concern on the effects of; drainage to surrounding homes; congestion on a very small single lane county road; and the remaining trees in the surrounding neighborhood.

These are just a few of the concerns we have about this proposed partition and you may be hearing more from other concerned neighbors. Please include us in the notice of the upcoming public hearing regarding this application. Thanks for your time.

Regards,

Eric C Briggs
Kristie Briggs

Eric and Kristie Briggs
2543 Valley View DR NW
Albany, OR 97321 (541) 967-2785

MAR 20 2008

APPROVED: _____

CITY OF ALBANY
PLANNING COMMISSION
City Hall Council Chambers, 333 Broadalbin Street
Monday, February 11, 2008
5:15 p.m.

MINUTES

Planning Commissioners present:	Paul Davis, David Faller, Lolly Gibbs, Cordell Post, Dala Rouse, Mark Spence (arrived at 5:20 p.m.), Michael Styler (excused at 6:00 p.m.), and Scott Whitney
Planning Commissioners absent:	Wayne Rackham
Staff present:	Planning Manager Don Donovan, Infrastructure Analyst Mike Leopard, Planner II Anne Catlin, Transportation System Analyst Ron Irish, and Administrative Assistant Teresa Nix
Others present:	Approximately nine others in the audience

CALL TO ORDER

Chair Cordell Post called the meeting to order at 5:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

ELECTION OF OFFICERS

MOTION: Commissioner Dala Rouse moved to elect Commissioner David Faller as Chair and Commissioner Mark Spence as Vice Chair of the Planning Commission. Commissioner Paul Davis seconded the motion, and it **passed** unanimously.

HEARINGS BOARD APPOINTMENT

Chair Faller said he would entertain nominations for two vacancies on the Hearings Board. These are two-year terms that would end December 31, 2010. Hearings Board typically meets as needed on Thursday afternoons at 4:00 p.m.

Commissioner Michael Styler nominated Rouse.
Rouse nominated Styler, who declined the nomination.
Rouse nominated Spence. Faller stated Spence currently serves as a Board member.
Rouse nominated Davis, who declined the nomination.
Rouse nominated Post, who declined the nomination.
Rouse nominated Commissioner Scott Whitney.

Rouse and Whitney were unanimously appointed to the Hearings Board. (See Activity Update for more information on this agenda item.)

APPROVAL OF THE MINUTES

MOTION: Post moved to approve the December 3, 2007, Planning Commission Work Session minutes as presented. Rouse seconded the motion, and it **passed** unanimously.

QUASI-JUDICIAL PUBLIC HEARING

Faller called to order a public hearing on Planning file VC-03-07, a right-of-way vacation of a portion of Ferry Street located between Queen Avenue on the south and the Southern Pacific Railroad right-of-way on the north. The application was initiated by the City Council at the request of Gary Brown, owner of three adjacent properties.

Declarations:

Davis said he drove down that portion of Ferry Street this morning. He said there is an open ditch all along the street and he thinks it would be nice if it were no longer open.

Staff Report:

Infrastructure Analyst Mike Leopard summarized the staff report. He showed an aerial photo of the site on the overhead and pointed out the subject area. He said the proposal to vacate the right-of-way was prompted by a proposal to develop a mini-storage facility on the three parcels to the east. He showed the proposed development area on the overhead. The applicant submitted a site plan layout that places the structures against the property line on the west boundary. The Development Code requires a 15-foot front yard setback. The requested vacation would eliminate that requirement. Last September, the applicant asked the City Council to initiate the vacation so he would not be required to get signatures from adjacent property owners, which include the railroad company headquartered in Nebraska. The property owners were notified by mail of the application and had the opportunity to comment in writing or at the hearings. He reviewed the applicable criteria, as detailed in the staff report.

Regarding the first criterion, he said the City's Transportation System Plan does not show this section of Ferry Street as part of the City's arterial or collector street system, nor does it anticipate connecting it to another street. The street is not improved; it has a gravel surface. The street currently serves four adjacent parcels and the railroad yard to the north. There are public sewer and water mains in the right-of-way and an open ditch along the east boundary. Other franchise utilities also exist in the area proposed for vacation. In order to maintain access to these utilities, the City would keep a public utility easement over the entire area.

Regarding the second criterion, he said the street does not connect to other streets. Vacation of the right-of-way would create a couple of landlocked parcels, which he showed on the overhead. In order to provide access for those parcels to Queen Avenue, an access easement would be retained over the vacated area for the benefit of the adjacent parcels, the railroad, and emergency response vehicles.

Regarding the third criterion, he said there would be no extension of this portion of Ferry Street in the future so traffic circulation would not be impacted, and the access easement would be retained to provided access rights to emergency vehicles.

Regarding the fourth criterion, he said vacation would eliminate the front yard setback requirement, so there would be no front yard landscaping to consider. Section 12.100 of the Development Code requires approaches, driveways, and alleys to be paved. Two-way traffic requires a paved width of at least 24- feet. Paving the vacated area from Queen Avenue to the railroad right-of-way would meet these requirements and would provide a clean, durable surface for emergency vehicles and other traffic. The applicant is requesting that the requirement to pave the access for the entire length be modified to allow for paving a shorter section, as noted in his letter which was attached to the staff report.

Regarding the fifth criterion, he said staff believes the conditions listed in the staff report would best serve the public interest if the vacation were to be approved. State land use rules require the City to make a final decision within 120 days of receiving a complete application, unless the applicant agrees to extend that limit. The maximum allowed extension is 245 days. Staff believes it is in the City's best interest to require the applicant to extend the 120-day limit to allow for time to complete the paving of the access. If the Planning Commission chooses to recommend approval of the vacation, staff recommends that Condition 5.1 be modified to require the applicant to submit a letter prior extending the 120-day limit the maximum.

Rouse asked if staff has heard from the railroad. Leopard said no. Rouse asked about the state law that requires property owner approval. Leopard stated that, if the vacation is initiated by the City, adjacent property owner approval is not required up front. A notification letter is sent out and property owners may respond in writing or at the public hearings.

Testimony in Favor:

Gary Brown, 120 Main Street, said he asked the City to initiate this vacation. He said he agrees with the staff report with the exception of the requirement that he pave all the way to the railroad yard. He said the last business on this street is about 200 feet from the railroad yard; if he paved to that area, all of the businesses would be served. He requested clarification of the expectations in terms of paving, which adds considerable expense to the project.

Opposing Testimony: None.

Neutral Testimony:

Tim Jordan, 7222 NW Rhoda Way (Corvallis), said he owns the first property at the corner of Queen and Ferry, adjacent to Mr. Brown's property. He said he would like to see the entire width of the street paved, mainly due to dust abatement, and he is willing to pay to pave his side of the area adjacent to his property. He noted a suggestion from Commissioner Davis that the ditch be covered. If covered, he said, the ditch would increase the area that would need to be paved. Also, the intersection at Queen and Ferry Street floods when

there are hard rains and the open ditch makes for readily available access for water dispersement. He would prefer to leave the ditch open.

Styler asked if approval of this request might add to problems making safe left turns onto Queen Street. Jordan said he has not seen any problems entering Queen from the north side of Ferry, but there have been accidents on the other side. He said he does not think this vacation would create additional problems.

Commissioner Lolly Gibbs asked if there is any problem with debris in the ditch. Jordan said the City cleans out the blackberries that grow in there about once per year. Leopard clarified that the ditch would remain a public drainage facility and the City would retain maintenance responsibility.

Rouse asked if the railroad would still be able to use the street if it were vacated. Leopard said the access easement would allow the railroad and property owners to use the street.

Davis asked if access to the mini-storage facility would be from Industrial Way. Leopard said yes. Davis asked if the vacation would decrease traffic on Ferry Street. Leopard said there is the potential of that happening.

Staff Response:

Planning Manager Don Donovan drew attention to information in the staff report that catch basins at Queen and Ferry pick up water and put it into the ditch that runs along Ferry Street.

Post asked what the basis is for requiring Mr. Brown to pave the 24-foot width along the entire length of the vacation area. Transportation System Analyst Ron Irish reviewed the fourth review criteria from the staff report, which requires that the portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, including driveway access. He said most of the parcels adjoining this site are already developed, so there will be no other opportunity to ask for pavement of that driveway. In the absence of a vacation, the buildings would be required to meet setbacks and there would be an obligation to pay for half-street improvements to City standards along the same portion of Ferry Street.

Spence asked what the requirements would be if the applicant requested and was granted a variance to build to the lot line. Irish said he would still be required to do half-street improvements to City standards.

Davis asked if an open ditch is allowed next to a driveway. Irish said yes.

Rouse said the City does not usually vacate a street if there is still access from one end to the other end. Irish said there are vacated streets that dead-end into a property. In this case, the street would dead-end into the railroad. He said this is an unusual situation. Rouse asked if the railroad could be asked to put up signs that say no access. Irish said that is not currently a condition of this request. He said he would be fine with the railroad putting up a gate and regulating vehicles going in and out, but he does not know of a way to force that.

Chair Faller closed the public hearing at 5:52 p.m.

Commission Discussion:

Rouse said she has a problem with the fact that the railroad would have access to this private street, but would not have to participate in paving the road.

Spence said the railroad did not request to change the condition of the street. He asked if the railroad uses the street. Leopard said yes. Spence asked if it would be possible to require a 33-foot-wide street with curbs. Leopard said the City would be hard pressed to ask for full street improvements if it were to vacate the street.

Davis said it is unfair that the railroad will get an improved street and not have to participate, but Mr. Brown will be gaining from the vacation and the City is not losing anything. He asked if the City has a standard for private driveways or private streets. Leopard said no.

Rouse said people cannot usually use private property without permission. Leopard noted that there will be an access easement over the entire area. He clarified that the City is stipulating that, in order to meet the criteria in the Development Code, the vacated area must be paved 24 feet wide. The City is not saying who needs to pay for it. If the adjacent property owners will not pay, then Mr. Brown can decide whether or not to go forward.

Commission Action:

MOTION: Post moved that the Planning Commission recommend that the City Council approve with conditions the application that would result in the vacation of a portion of Ferry Street SW, north of Queen Avenue SW (File VC-03-07). This motion was based on the findings and conclusions of the staff report and testimony presented at the public hearing. Davis seconded the motion, and it **passed** by a vote of 7 to 1, with Rouse opposed.

This matter will be heard by the City Council on February 27, 2008, at 7:30 p.m.

Styler was excused at 6:00 p.m.

CONSOLIDATED QUASI-JUDICIAL PUBLIC HEARING

Faller called to order a public hearing on Planning files AN-01-07 and ZC-06-07, an Annexation and Zoning Map Amendment request for properties located at 250, 310, and 320 Clover Ridge Road NE; and 3705, 3749, 3800, and 3855 Dunlap Avenue NE. The applicants are Michael and Roberta Newman and James and Monica Brooks.

Declarations:

Rouse said she has been to the subject property for a garage sale, but not recently.

Staff Report:

Leopard summarized the staff report. He showed an aerial photo on the overhead and reviewed the site location. He said the request is that the City place this annexation on the May 2008 ballot. He reviewed the four basic approval criteria for annexations, as detailed in the staff report and as posted on the wall for the audience.

Regarding the first criterion, he said the property is eligible for annexation when it is contiguous to the existing city limits and is located within the urban growth boundary. These parcels, when considered as a whole, meet this criterion.

Regarding the second criterion, he said this area is surrounded by property in the city limits and in some form of development. Recent city projects and private development have brought public infrastructure to the area. Public utilities and streets have been sized and constructed to serve the area as a whole. Each development constructs its own internal improvements when development occurs. These internal improvements are reviewed when individual development proposals are made. City police and fire protection are already serving the area.

Regarding the third criterion, he said existing utility and street master plans include areas outside the existing City limits because they envision those areas being annexed at some point. Utility sizing and street classifications are typically determined based on what is in the urban growth boundary. A local wetlands inventory has been prepared for this area. Recent periodic review work by the Planning Division has led to changes in the Comprehensive Plan for certain parts of this area, which will be discussed further under the rezoning request.

Regarding the fourth criterion, he said the area is within an existing island surrounded by city limits. As new connections are made to the existing public infrastructure, the city receives some reimbursement for the cost of installing those improvements.

He then reviewed the criteria related to the request to rezone the property, as detailed in the staff report.

Regarding the first criterion, he reviewed current Comprehensive Plan designations for the property. He said the request is for zoning the property RS-5 to the north of Dunlap Avenue and RM to the south of Dunlap. These zones would be consistent with the Comprehensive Plan designations.

Regarding the second criterion, he said recent improvements to Clover Ridge Road have made the transportation system adequate to serve the area. There will be other street improvements required within the subject property when it develops, to be determined when each development request comes in.

Regarding the third criterion, he said many improvements have been made in this area which have brought infrastructure to the area that is adequate to serve development on the subject property. Fire and police protection is already provided to the area surrounding the subject property.

Regarding the fourth criterion, he said the local wetlands inventory indicates that there are very possibly wetlands on the property. Any future development on the property would be required to satisfy State requirements pertaining to wetlands. There are some trees on the property. Development proposals will require site plan approval before trees of a certain size can be removed.

Regarding the fifth criterion, he said the proposed zoning is considered compatible with Comprehensive Plan designations. The RM zone requested for the southern portion allows for both single-family and multi-family development. The proposed zoning would help to create a gradual transition between the existing zoning to the south and to the north of the proposed site.

Applicant Testimony:

Mark Grenz, 1155 13th Street SE (Salem), is with Multi-Tech Engineering and spoke in representation of the applicants. He said he has reviewed the staff report and finds it to be accurate. He said his firm has been involved in development of some of the adjoining properties and has been instrumental in bringing significant improvements to the area. This annexation will help facilitate the utilization of those improvements and is a logical extension of city limits.

Testimony in Favor:

Mike Newman, 3749 Dunlap Avenue NE, said he has no intention to develop this property right away. He has been told by the state they are going to bring Century Drive through the property. The city wants to bring Cameron through and to connect Dunlap through the property. He thinks it is the right time to annex and is doing so to get ready for the future.

Opposing Testimony: None.

Neutral Testimony: None.

Applicant Rebuttal: None.

Staff Response: None.

Chair Faller closed the public hearing at 6:18 p.m.

Commission Discussion:

Spence said he can see the many obvious reasons for annexing this property. He said there is no multiple use project coming in and he questioned whether there is anything that can be put into an annexation agreement that some level of development is conditional on having some multi-use commercial.

Spence noted that the annexation area to the north of the subject site might be a good place for a park. Leopard said the Parks Department receives notification and did not comment on this request. Donovan noted that there

was previously a site identified for a park near this property, but it was moved to the other side of Clover Ridge Road when the Parks Master Plan was adopted.

Commission Action:

MOTION: Post moved that the Planning Commission forward a recommendation to the City Council that the City Council pass a resolution proposing the annexation of property located on Clover Ridge Road NE, and forwarding the question of annexation to the voters on the May 20, 2008, ballot. He further moved that the City Council adopt the findings and conclusions contained in the staff report dated February 4, 2008. By this motion, the Planning Commission finds that this territory meets the eligibility and timeliness criteria for annexation to the City of Albany (File AN–01-07). He further moved that the Planning Commission forward a recommendation to the City Council that this same property be zoned RS-5 and RM, as detailed in the findings and conclusions contained withing the staff report (File ZC-06-07). Rouse seconded the motion, and it **passed** unanimously.

This item is scheduled to be heard by the City Council on February 27, 2008, at 7:15 p.m.

LEGISLATIVE PUBLIC HEARING

Chair Faller called to order a legislative public hearing on Planning File DC-01-08, amendments to Albany Development Code Articles 3, 5, and 12 related to fences. The applicant is the City of Albany Planning Division.

Staff Report:

Planner II Anne Catlin said staff is proposing these amendments in response to numerous complaints and concerns that have been received over the past several years.

The first change would eliminate the 3-foot setback that is currently required for fences up to 6 feet tall on corner properties when there is a landscape strip, on the side where the front door is not located. She said there are many situations that do not meet the requirement. This was discussed with City Council, which directed staff to draft the proposed revisions.

The second change proposed is in response to property owners who would like to have picket fences in the historic districts to enhance the character of their homes. The literal reading of the Code can be restrictive for allowing picket fences, especially at corner properties and in the clear vision triangles at driveways.

This hearing was noticed in the *Albany Democrat-Herald*, and notices were sent to several historic property owners, members of the Landmarks Advisory Commission, and the Friends of Historic Albany. Staff did not feel it was necessary to do a more extensive outreach effort since these changes are not more restrictive, but offer additional flexibility.

She reviewed the proposed changes to Articles 3 and 5 that would remove the 2-foot height restriction in clear vision areas and would define *impede visibility* as follows: *Visibility is not considered impeded by a fence*

when 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. She showed examples of fences on the overhead and reviewed staff's efforts to arrive at a proposal that would balance safety and aesthetics. She said the proposal would not change anything that is currently allowed, but would relax restrictions in clear vision areas.

The third change would allow front yard fences that exceed 4 feet tall for properties listed on the National Register of Historic Places if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Board. She showed examples of historic fence designs on the overhead.

Catlin reviewed Code requirements related to setbacks for corner fences and noted that there have been several complaints about instances where these requirements are not met. Staff had a discussion with Council on this issue and came up with the proposed change that would allow a fence to be on the property line if there is a planter strip in the right-of-way. She suggested one clarifying change to Section 3.410(2)(b), as follows: *If the adjoining street is improved with sidewalks* ***and no planter strip****, the fence is located a minimum of 3 feet from the sidewalk.*

Rouse asked if there is any language to address vegetation that impacts visibility. Irish said the clear vision area standards do address vegetation. Catlin added that 3.410(1) references the clear vision area standards in Section 12.180. She noted that Code compliance is addressed on a complaint-driven basis.

Testimony in Favor: None.

Opposing Testimony: None.

Neutral Testimony: None.

Staff Response: None.

Chair Faller closed the public hearing at 6:50 p.m.

Commission Discussion: None.

Commission Action:

MOTION: Spence moved to recommend that the City Council approve the proposed amendments to Articles 3, 5, 12 of the Albany Development Code related to fences. Post seconded the motion, and it **passed** unanimously.

This item has been scheduled to be heard by the City Council on March 12, 2008, at 7:15 p.m.

Albany Planning Commission
Monday, February 11, 2008

ACTIVITY UPDATE

Donovan provided an activity update including upcoming meeting dates for the Hearings Board and Planning Commission.

Faller said he is not sure when his term on the Hearings Board expires. If it expires at the end of this year, he said, Whitney could wait until that time to take his position on the Hearings Board. Donovan agreed to have staff clarify and advise. (Note: David Faller's term expires December 2008. It was later determined that Rouse and Spence would serve terms set to expire December 2010.)

NEXT PLANNING COMMISSION MEETING DATE

The next meeting of the Planning Commission is scheduled for Monday, March 3, 2007.

ADJOURNMENT

Hearing no further business, Chair Faller adjourned the meeting at 7:05 p.m.

Submitted by

Teresa Nix
Administrative Assistant

Reviewed by

Don Donovan
Planning Manager

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APPROVED_____

CITY OF ALBANY
PLANNING COMMISSION
City Hall Council Chambers, 333 Broadalbin Street
Monday, March 3, 2008
5:15 p.m.

MINUTES

Planning Commissioners present:	Paul Davis, David Faller, Lolly Gibbs, Cordell Post, Wayne Rackham, Dala Rouse (arrived at 5:37 p.m.), Mark Spence, and Scott Whitney
Planning Commissioner absent:	Michael Styler
Staff present:	Planning Manager Don Donovan, Planner III Heather Hansen, and Administrative Assistant I Tracy Swett
Others present:	Three others were in the audience, including Economic Development Director Dick Ebbert (arrived at approximately 5:40 p.m.)

CALL TO ORDER

Chair David Faller called the meeting to order at 5:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

LEGISLATIVE PUBLIC HEARING, Case File Number CP-01-08
(Chapter 3-Economic Development amendments/EOA Update)

Faller called to order a public hearing on Planning file CP-01-08, proposed text amendments to Chapter 3-Economic Development of the Albany Comprehensive Plan in the Economic Development Background Summary section, and adoption of the 2007 Economic Opportunities Analysis Update as a background report to the Comprehensive Plan.

Staff Report:

Planner III Heather Hansen summarized the staff report. She explained that Statewide Planning Goal 9 Economic Development requires cities to provide an adequate number of sites of suitable size, type, location, and service level for a variety of industrial and commercial uses that are consistent with comprehensive plan policies. Both Albany's Comprehensive Plan and Strategic Plan contain economic development goals with similar strategies to ensure an adequate supply of commercial and industrial land for growth and expansion. Periodically the City inventories the commercial and industrial land within the Urban Growth Boundary (UGB) and compares the inventory with expected demand. The Economic Opportunities Analysis (EOA), which is what the analysis is called, was last completed in 2000.

Since then economic trends have changed; development has occurred, reducing the amount of available land; and environmental constraints that limit development potential were not factored in with the 2000

EOA. The City contracted with Winterbrook Planning to update the EOA in 2007. The timeframe for the updated EOA is 20 years, 2007 through 2027.

The proposed amendments to the Comprehensive Plan focus on the background section in the Economic Development chapter. They incorporate the updated information from the EOA Update. Additional changes include incorporating the City's Strategic Plan goal of a healthy economy into the Comprehensive Plan text, updating the economic profile, and replacing the trends and projections. Staff also proposes to adopt the EOA as a background document to the Comprehensive Plan.

Hansen explained the information would be used by staff to determine the types of employment sites that will be needed inside the UGB. Site-specific recommendations are not included at this point. Sites will be reviewed individually and public input will be sought later. Staff will use the amended information to determine the need and use to support incoming applications from property owners seeking zone changes, as well as provide the basis for a UGB amendment should one be pursued.

She said the EOA Update conclusions found that the City has an adequate number of small sites, 5 acres or less, but there is a lack of adequate sites greater than 5 acres. One way to add sites would be to redesignate residential lands or expand the UGB. The recently completed Housing Needs Analysis found there is a surplus of residentially zoned land.

She reviewed the consultant's recommendations, including one industrial site in the 100- to 150-acre range; one to two industrial sites, including a business park site, in the 20- to 50-acre range; one to two commercial sites for a community shopping center or large format retail in the 20 – 50-acre range; one to two medium industrial sites for smaller manufacturing uses; and one medium commercial site in the 5 – 20-acre range for health services or larger neighborhood retail. The recommendations were discussed during a Planning Commission work session in December 2007. General support was received at that time, however the Commission identified the large commercial site for further discussion. Some felt 50 acres was too large, others felt more sites were needed.

Commissioner Mark Spence asked for information on the exact acreage that the recommendations involved. He cited the recommendation for one to two sites of 20 to 50 acres would require redesignation of between 20 and 100 acres. Hansen said Table 15 in the EOA memo (page 49, in agenda packet) identifies a total of 100 acres is needed.

Commissioner Lolly Gibs asked for an example of a 20-acre commercial development. Hansen showed a list on the overhead projection titled Local Examples of Commercial Development (Exhibit A, in agenda packet) which compared building size to site size of several local and regional developments including Home Depot, Costco, North Albany Village, Heritage Mall, and Keizer Station. Hansen explained that the portion of Keizer Station currently visible from the interstate is about 80 acres.

She then showed an overhead titled Types of Big Box, including discount department stores, category giants, outlet stores, and warehouse clubs (Exhibit B, in agenda file) to show each category's typical building size.

Faller said the staff report stated the Heritage Mall site was 32 acres but the overhead (Exhibit A, in agenda file) listed the site as 28 acres. Hansen said the 28-acre reference was only the main building. The remaining 4 acres included the out-parcels. Planning Manager Don Donovan said Pizza Hut, Red Robin, and the strip of retail stores to the west with Selco Credit Union were the out-parcels. He added that roughly each 100,000 of square footage (single-story building) needed 10 acres of land.

Spence asked if there was a formula to calculate the percentage of parking area. He wondered if the ranges given took into account multi-tiered parking. Hansen said multi-tiered parking is more common in high-density urban centers due to cost of land and population. More rural developments are generally comprised of single-story parking. Donovan said roughly 75 percent of a site is utilized for parking in Albany. Discussion followed.

Hansen showed another overhead titled Big Box Clusters (Exhibit C, in agenda file), including power centers, regional center, shopping center with regional examples of each.

Commissioner Paul Davis said the consultants identified a need for sites 5 acres or more. The way to do that would be to redesignate residential lands or add land to the UGB. Table 15 seems to indicate the way to redesignate would be with surplus sites in the 1- to 5-acre range. Hansen said not entirely. She put up the Suitable Employment Lands map on the overhead (Exhibit D, in agenda file) and pointed to an area east of the parcel commonly referred to as the Piano property which is currently residential but is referenced as industrial in several planning documents.

Spence said Table 15 (page 49, in agenda packet) referenced four sites in the 5- to 20-acre range currently in the inventory, but he could not locate those on the Suitable Employment Lands map (Exhibit D, in agenda file). Hansen said properties designated Commercial Light and Commercial General on the map are accounted for in the figure presented in Table 15.

Donovan explained that what the documents do is set the stage for the City to designate commercial and industrial land. There are three ways to implement the consultant's recommendations. The first would be to implement within the South Albany Area Plan that is currently on hold pending the outcome of these hearings. The second method would be for the City to proactively designate land should a need to do so be identified. The third mechanism is to use the EOA and Comprehensive Plan goals and policies to as the basis for findings in favor of property owner requests for zone changes.

Davis said the document did not include discouragement of big box retailers. Hansen agreed; she said only site size was identified as a concern during the Planning Commission's work session. Donovan said the idea of discouraging big box was still a choice and some people seemed to indicate a desire to do so at the joint City Council/Planning Commission work session in September 2007.

Hansen also said her research on the issue found that some communities do not prohibit big box retail, but rather limit building footprint. Exceptions to the limit are then granted if other community goals are achieved such as two-story structures with 50 percent of the parking contained within the structure, financial support for bus service, salary thresholds are met, etcetera.

Commissioner Cordell Post said he thought size limits with exceptions are common in areas where similar stores are within a short driving distance, citing Gresham and Portland. Albany residents drive at least 30 miles to shop those types of stores. Given the populations of both Albany and Corvallis and Albany's status as "Hub City," land should be made available.

Public Testimony:

John Pascone, 266 Crocker Lane NW, spoke representing the Albany Millersburg Economic Development Corporation (AMEDC). He said he agreed with most of the consultant's recommendations but was concerned that the impact from wetlands was understated. He suggested if property is rezoned, the City should consider setting aside larger sites so mitigation can be done onsite rather than off.

He was also concerned that limiting property size for commercial development may ignore economic trends and market factors and limit the feasibility of sites.

Janet Steele, 1540 Patrick Court NW, spoke as a President of the Albany Chamber of Commerce. She agreed with Pascone regarding restricting commercial and industrial properties. She said that local business owners need larger stores to anchor them and draw people in.

Davis asked if the EOA recommendations regarding site sizes are too small. Steel said the recommendations were for one to two sites in the 20- to 50-acre range, but someone mentioned limiting the size to 30 acres. She felt restricting the size to 30 acres would limit more than just big box stores. She said there was a need for shopping in the area.

Commissioner Wayne Rackham asked if limiting the size of the parcels would also restrict traffic patterns. Steele said traffic patterns are restricted by location. When developers come in, staff work with them to make sure the transportation system can accommodate the proposed development. Most are located on Oregon Department of Transportation (ODOT) roads and ODOT will ensure the patterns are appropriate.

Staff Response:

Hansen said to address Pascone's concern about understating the impact from wetlands, a 50-acre site with 20 acres of wetland would be listed as a 30-acre suitable site.

Chair Faller closed the public hearing at 5:55 p.m.

Commission Discussion:

Commissioner Dala Rouse reviewed inconsistencies within page 6, including references to the Albany-Millersburg area and omission of Tangent; omission of the grass seed industry; inclusion of Wah Chang, which is in Millersburg not Albany. Hansen said the first reference to Albany-Millersburg was an acknowledgement that there is a larger employment area, but the document is meant to concentrate on the City of Albany. Economic Development Director Dick Ebbert suggested changing the reference from Wah Chang to "ATI."

Rouse asked why Highway 99 was not included on page 7 under the heading Potential Growth Industries. Hansen agreed to add it.

Rouse asked whether the reference to the EOA Update on page 8 should be 2007 or 2008. Hansen said 2007 would be more appropriate since that was when the data collection was done and changes have since occurred.

Rouse indicated she had sent edits to Donovan on the goals and policies section. Hansen acknowledged receiving the edits from Donovan, but staff did not include them as the goals were not being amended at this time. The section was included so the Commission could see the entire chapter. Donovan assured Rouse that the edits would be kept and incorporated when appropriate.

Faller agreed with Post and Steele that more shopping was needed in Albany. Rouse said she feared Albany was too close to Salem to attract more retail. Discussion followed.

Spence asked what would happen if someone wanted to develop 28 acres if the City designated 50-acre commercial sites. Donovan said larger sites could develop incrementally. Hansen said the intent of the range was to give the City flexibility.

Rouse asked what would occur if a 50-acre site is owned by someone who does not want to have the zoning changed. Donovan said it would be rare for the City to proactively redesignate land. Even as a last resort, the proposal would be part of a public hearing and the owner would have an opportunity to speak to Council before any changes took place.

Rackham asked if the Commission could recommend that the newly designated areas be located on major highways. Donovan said yes, the purpose statement for each zoning district includes goals such as location. Discussion followed.

Spence asked if there was a way to identify a preference to enlarge the UGB. He pointed out there were several light industrial lands on the eastern edge of the UGB. If the boundary were expanded, more light industrial lands could be co-located there. Hansen said it would be considered if an analysis on a UGB expansion were pursued. If the City does consider redesignating or adding a large parcel to the UGB, a market analysis would be done to ensure there is a need and the parcel did not sit vacant for a long time.

Rackham said he liked that Hansen brought up incentives and believed those should be considered by Council.

Commission Action:

Post moved that the Planning Commission recommend that the City Council approve the application for the Comprehensive Plan Map amendment that would adopt text amendments to Chapter 3-Economic Development of the Albany Comprehensive Plan and adopt the 2007 Economic Opportunities Analysis Update as a background document to the Comprehensive Plan (File CP-01-08). The motion was based on the findings and conclusions of the staff report and testimony presented at the public hearing. Gibbs seconded the motion, which passed 8:0.

Rackham asked that the motion be amended to delete the reference to the Map amendment since no map amendments were proposed. Post agreed to the amendment and Spence seconded the amendment. A vote was called and the motion amendment carried 8:0.

ACTIVITY UPDATE

Donovan said Links Club Estates will be before Council on March 26. A senior living community will come before the Commission in a few months.

Faller asked if the two cases (Thornton Lake Estates and Fabian Estates) were still under appeal at the State Land Use Board of Appeals (LUBA). Donovan said yes.

Rouse asked if the tax increment financing district was still at LUBA. Donovan said yes. The case is being handed by the Economic Development Department, not Community Development.

NEXT MEETING DATE

No Planning Commission meetings are currently scheduled at this time.

ADJOURNMENT

Hearing no further business, Chair Faller adjourned the meeting at 6:16 p.m.

Submitted by

Tracy Swett
Administrative Assistant I

Reviewed by

Don Donovan
Planning Manager

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DRAFT

EXHIBIT

M-49949

BYLAWS

OF THE ASSOCIATION OF OWNERS OF

COUNTRYMAN ACRES PROPERTY OWNERS ASSOCIATION

AN OREGON NONPROFIT CORPORATION

ARTICLE I

1. Name. This association shall be named the COUNTRYMAN ACRES PROPERTY OWNERS ASSOCIATION.

2. Principal Office. The principal office of the Association shall be maintained at Countryman Acres, Benton County, Oregon 97330.

ARTICLE II

MEMBERS

1. Composition and Voting Rights. The Association shall be composed of owners of property located in the development known as Countryman Acres, Benton County, Oregon. The owner of each approved building site and each five-acre parcel shall be entitled to one certificate of membership for each such approved building site or five-acre parcel owned. The holder of each certificate of membership shall be entitled to one vote per certificate. The certificate of membership shall not be assignable and shall only be valid and entitle the owner thereof to be a member of this association so long as the owner of said certificate is the legal owner of one of the above described sites or parcels. In the event that the owner of any of the above described sites or parcels shall transfer ownership to another party, said party shall be entitled to receive from the association a new certificate of membership. The certificate of membership in the association previously issued to said party's predecessor in title shall be cancelled and voided. Whenever any parcel is subdivided into two or more building sites, the owner of each approved site shall be entitled to a certificate of membership. A proxy given by an owner to any person to represent such owner at meetings of the Association shall be in writing and signed by such owner, shall be filed

with the Board of Directors, and, unless limited by its terms, shall be deemed valid until revoked in writing. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any certificate of membership owner held by him in such capacity, whether or not the same shall have been transferred to his name; provided that he shall satisfy the Secretary that he is the executor, administrator,guardian, or trustee holding such certificate of membership in such capacity. Whenever any certificate of membership is owned by two or more jointly, according to the records of the Association, the vote therefore, may be exercised by any one of the owners then present, in the absence of protest by a co-owner, but in the event of such protest, no co-owner shall be entitled to vote without the approval of all co-owners.

2. Annual Meeting. The annual meeting of the Association shall be held in the month of March on such date as the President may designate or, if the President shall fail to designate such date by the fifteenth day of February, then on the third Tuesday in March. The annual meeting shall be for the purpose of electing directors and for the transaction of any other business brought before the meeting.

3. Special Meetings. Special meetings of the Association may be called at any time by any director or upon the request of certificate owners owning not less than one-third of the total certificates of membership. At any such special meeting, only such business shall be transacted as shall have been specifically or generally described in the notice of such meeting.

4. Quorum. At any meeting of the Association, owners owning more than fifty percent of the certificate of membership, present in person or by proxy, shall constitute a quorum and the concurring vote of a majority of such owners present and constituting a quorum shall be valid and binding upon the Association, except as otherwise provided by law or by these Bylaws.

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5. Adjourned Meetings. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by a majority vote of the certificate owners present, whether or not a quorum be present, without notice other than the announcement at the meeting. At any such adjourned meeting at which a quorum shall be present any business may be transacted by a quorum at the meeting as originally called.

6. Place of Meetings. All meetings of the Association shall be held at its principal office, unless otherwise stated in the call, and all meetings shall be held in the State of Oregon.

7. Notice of Meetings. No notice of the annual meeting need be given if the meeting is to be held on the third Tuesday in March at the principal office of the Association. If any meeting is to be held elsewhere or at a different time, notice shall be given by the Secretary in writing to each certificate owner, such notice to be given not less than fourteen days and not more than thirty days before the meeting; provided, that no notice of a meeting need be given to any owner who shall waive such notice in writing or who shall be present at such meeting, in person or by proxy. Written notice shall be effective, whether or not received, if mailed to the last known address of a certificate owner shown on the books of the Association's Secretary and shall be effective as of the date mailed or personally delivered. The written ratification by an owner of any action taken at any meeting shall be equivalent of a waiver of notice of such meeting by the one so ratifying.

ARTICLE III

BOARD OF DIRECTORS

1. Election. The certificate owners shall elect from among themselves a Board of Directors consisting of three persons. In the event of the death, resignation or disqualification of any director, then at a special meeting, if a special meeting be called, or at the next annual meeting of the Association, the certificate owners of the Association shall elect a successor director.

2. Powers. The Board of Directors shall be vested with the managerial powers of the Corporation.

3. Removal. Any director may be removed from office at any time, with or without cause, upon the majority vote of the certificate owners at a meeting of the Association; provided, however, that the notice of such meeting shall have stated that such removal was to be considered, and provided further that a substitute director shall be elected at the same meeting for the then unexpired term of the one so removed.

4. Compensation. The directors, as such, shall serve without compensation.

5. Meetings. The Board of Directors may hold meetings when and in such place in Oregon as the President shall designate, or, in the case of his absence from the State, incapacity, or death, then as may be designated by a majority of the other directirs. The annual organizational meeting of the Board of Directors shall be held at the place of the annual meeting of the Association and as soon as practical thereafter, and no written notice thereof shall be necessary.

6. Notice of Meetings. The Secretary shall give notice in writing of each meeting of the Board of Directors (except the meeting following the annual meeting of the Association) to each director at least fourteen days before the meeting. The failures to give notice shall not invalidate any action at a meeting of the Board of Directors at which all the directors are present. The presence of any director at any meeting shall constitute a waiver of any required notice of such meeting.

7. Quorum. A majority of the directors shall constitute a quorum for the transaction of business, and in every case the affirmative vote of a majority of the whole Board shall be necessary to the validity of any act of the Board.

ARTICLE IV

OFFICERS

1. Office, Election and Removal. The Board of Directors shall elect annually, at its first meeting after the annual meeting of the Association, a President, Secretary, and a Treasurer, each of whom shall serve for the ensuing year and until his successor shall be elected. The President shall be elected from among the Board of Directors. The Secretary and the Treasurer need not be members of the Board but must be certificate owners. The Board of Directors may elect such other officers as it may deem necessary, who shall have such authority and perform such duties as from time to time may be prescribed by the Board of Directors. One person may hold more than one office, except that the President shall hold no other office. Any officer shall be subject to removal at any time by the affirmative vote of a majority of the Board of Directors. If the office of any officer shall become vacant for any reason, the Board of Directors may elect a successor to fill the unexpired term.

2. President. The President shall preside over all meetings of the Board of Directors and the Association at which he shall be present. In his absence, the senior of the other members of the Board of Directors who are present shall preside. The President shall have the powers and perform the duties customarily incidental to the chief executive officer of a corporation and such other powers and duties as are assigned to him elsewhere in these Bylaws or as may be assigned to him from time to time by the Board of Directors.

3. Secretary. The Secretary shall keep the minute books wherein all resolutions duly passed and all other action taken at any meeting by the Association and by the Board of Directors shall be recorded. He shall give notice of all meetings of the Association and the Board of Directors. The Secretary shall have the powers and perform the duties customarily incidental to his office and such other powers and duties as may be assigned to him from time to time by the Board of Directors.

4. Treasurer. The Treasurer shall keep all the Association's financial records and books of account and have custody of all funds and securities of the Association and be responsible for the safe-keeping of all moneys, notes, bonds, and other money instruments belonging to the Association. He shall be bonded and shall render statements in such form and as often as required by the Board of Directors or the Association. He shall send an audited financial statement to each certificate owner as soon as practicable after the end of the fiscal year of the Association. He shall have the powers and perform the duties customarily incidental to his office and such other powers and duties as may be assigned to him by the Board of Directors.

5. Compensation. The officers shall serve without compensation.

ARTICLE V

RULES AND REGULATIONS

In order to assure the peaceful and orderly use and enjoyment of the property, and particularly of the common areas of Countryman Acres, the Association from time to time may adopt, modify, and revoke, in whole or in part, rules and regulations governing the conduct of persons and the operation and use of the common areas as it may deem necessary or appropriate, by vote of not less than seventy-five percent (75%) of the certificate owners present, in person or by proxy, at any meeting the notice of which shall have stated that such adoption, modification, or revocation of rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Secretary promptly to each certificate owner and shall be binding on all certificate owners and occupants of all property from the date of delivery.

ARTICLE VI

EXPENSES

1. Expenses and Assessments. The owner of each membership certificate shall contribute prorata toward the expenses of the

Association, including, but without being limited to, the cost of taxes, maintenance and repairs of all property belonging to the Association and maintenance and repairs of all streets and roadways located within Countryman Acres when such maintenance becomes an obligation of the Association beginning January 1, 1977. Contributions shall be apportioned in proportion to the total number of membership certificates outstanding. In allocating these taxes and expenses, the Board of Directors shall assess each certificate of membership equally. The Board shall fix a monthly or annual assessment for each membership certificate in an amount sufficient to provide for all current expenses, a reasonable reserve for future expenses, and such other expenses as the Board of Directors may deem necessary. Such monthly or annual assessments shall be due and payable as the Board of Directors shall determine without demand, and delinquent accounts shall bear interest at the rate of ten percent(10%) per annum from the due date until paid. The amounts received shall be held by the Treasurer in trust until expended for the purposes for which they were assessed. In the event the Association brings legal action to collect any such assessment, the Association shall be entitled to a reasonable attorneys fee to be fixed by the Court including a reasonable attorneys fee on appeal.

ARTICLE VII

MISCELLANEOUS

1. The Corporation shall have the power, either directly or indirectly, either alone or in conjunction or cooperation with others, to do any and all lawful acts and things to engage in any and all lawful activities which may be necessary, useful, suitable, desirable or proper for the furtherance, accomplishment, fostering or attainment of any or all of the purposes for which the Corporation is organized. Notwithstanding anything herein to the contrary, the Corporation shall exercise only such powers as are in furtherance of organization set forth in Chapter 61, Oregon Revised Statutes.

In the event of the liquidation or dissolution of the Corporation, whether voluntarily or involuntarily, no officer, director or member shall be entitled to any distribution or division of its remaining property or its proceeds, and the balance of all monies and other property received by the Corporation from any source, after the payment of all debts and obligations of the Corporation shall be distributed to Benton County, Oregon, to be used in the furtherance of the purposes herein above set forth for which this Corporation is organized and exists.

2. Persons Affected. All owners of sites and parcels of Countryman Acres, Benton County, Oregon, tenants of such owners, employees of owners and tenants, and any other person that may in any manner use the property subject hereto shall be subject to these Bylaws and all rules and regulations promulgated pursuant thereto, as the same may from time to time be amended.

3. Initial Effect. These Bylaws are adopted by the initial Board of Directors on behalf of the Association and shall be in full force and effect until the first annual meeting of said Association. To continue in effect thereafter, these Bylaws must be adopted as herein set forth or as amended by the Association at the said first annual meeting of said Association.

ARTICLE VIII

AMENDMENT

These Bylaws may be amended at any annual or special meeting of the Association in the notice of which such amendment is announced; provided, however, that such amendment shall not be effective unless and until approved in writing by seventy-five percent (75%) of the certificate owners and until a copy of the Bylaws as so amended, certified by the President and Secretary of this Association, is recorded with the recording officer of Benton County, Oregon.

Adopted this 30 day of April, 1974, on behalf of Countryman Acres Property Owners Association by the Board of Directors.

Carl E. Nygren

Dwayne J. Hansen

[illegible]

STATE OF OREGON)
)ss.
County of Linn)

On this 26th day of July, 1974, before me appeared Carl Eugene Nygren, President and Dwayne J. Hansen, Secretary of Countryman Acres Property Owners Association, to me personally known, who being duly sworn did say that Carl Eugene Nygren is the President and DwayneJ. Hansen is the Secretary of the within named corporation, and that the seal affixed to said instrument is the corporate seal of said corporation and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and Carl Eugene Nygren and Dwayne J. Hansen acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my offical seal the day and year last above written.

[illegible]

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON } ss. 42762
County of Benton }

I hereby certify that the within instrument was received for record

1974 JUL 29 AM 11 04

and assigned № 19949

in the Microfilm records of said county

Witness My Hand and Seal of County Affixed

FRED W. RENSTROM
COUNTY CLERK

By [illegible]
DEPUTY

EXHIBIT L

AFTER RECORDING RETUN TO:
K & D Engineering Inc.
276 NW Hickory St.
Albany, Or. 97321

DEED and BUILDING RESTRICTION

I, _____, being the owner of the premised identified as future Parcel 2 of "Partition Plat 2008-_____", a partition recorded in Benton County, Oregon, hereby declare the following deed and building restrictions on said Parcel 2:

1) Parcel 2 cannot be further subdivided or partitioned.
2) The placement of pre-manufactured home on Parcel 2 is prohibited.
3) Parcel 2 is reserved for a single family residence and accessory buildings.

Date this_____day of _____, 2008

_____
By:

STATE OF OREGON)
) ss
COUNTY OF BENTON)

This is to certify that on this _____ day of _____, 2008, did personally appeared the above-named _____, and acknowledged the foregoing to be freely and voluntarily.

_____
Notary Public of Oregon

My Commission Expires:_____