



NOTICE OF PUBLIC HEARING

**CITY OF ALBANY
PLANNING COMMISSION
City Council Chambers, 333 Broadalbin Street SW
Monday, July 19, 2010
5:30 p.m.**

AGENDA

1. CALL TO ORDER

(Chair Faller)

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

4. APPROVAL OF THE January 25, 2010, MINUTES

5. QUASI JUDICIAL PUBLIC HEARING
(Memo, Staff Report, Summary of Conditions)

SD-01-10: Subdivision Tentative Plat application that would divide 15.26 acres into 32 residential single-family lots and two open-space tracts. The subdivision has been designed using Cluster Development standards.

SP-03-10: Site Plan Review-Tree Felling application to remove 17 trees that have trunks larger than 25 inches in circumference measured at 54 inches from the base of the tree.

6. ACTIVITY UPDATE

7. NEXT PLANNING COMMISSION MEETING DATES:

- a. Monday, July 26, 2010, Public Hearing, 5:15 p.m.
- b. Monday, August 2, 2010, Hearings Board, 4:30 p.m.
- c. Monday, August 9, 2010, Public Hearing, 5:15 p.m.

8. 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.

U:\Community Development\Planning\Agendas\PlanCom2010\PC Agenda 10.0719.docx

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

City of Albany Web site: www.cityofalbany.net



TO: Albany Planning Commission

VIA: Greg Byrne, Community Development Director
Heather Hansen, Planning Manager AHH

FROM: Janet Morris, Planner III jm

DATE: July 9, 2010, for the July 19, 2010, Planning Commission Meeting

SUBJECT: Subdivision Tentative Plat application to create 32 lots (File: SD-01-10)
Site Plan Review application to remove 17 trees (File: SP-03-10)

Action Requested:

Make the final decision on the two land use applications referenced above.

Discussion:

The proposed 15.26 acre subdivision site is currently five separate parcels that are located north of 15th Avenue SW, and generally west of Hop Street SW and Gale Street SW. The applicant's 2006 land use approval was to divide this same site into 46 lots and to fell 23 trees has expired.

The current Tentative Plat proposal would create 32 residential single-family lots and set aside 9.3 acres in permanent open space areas, Tracts A and B. The applicant requests phasing construction of the subdivision in up to four phases. The land is zoned RS-6.5, Residential Single Family and much of it is located within the 100 year floodplain of the Calapooia River. The site contains fill that will be examined and reprocessed as engineered fill. Portions of the site will be filled to raise the level of the lots above the 100-year floodplain. This will result in filling in some existing wetlands that are located on the site.

The subdivision has been designed using an optional form of development called Cluster Development. The cluster development provisions were created as an incentive to a developer to protect natural features or other features unique to Albany, which would not otherwise be protected in the standard development of a site. In return for protecting natural resources, a few of the development standards are reduced, such as lot sizes and front building setback.

There are more than 76 trees located within the subdivision. Most of these trees are located within the area proposed as undeveloped open space, including a wooded grove of trees of undetermined number and size. The applicant proposes to remove 17 trees from the site due to their location in relation to street construction, home development, or for safety considerations to future homes and persons.

Please call me before the meeting if you have any questions about the attached information.

Budget Impact:

No impact in making the decision to approve the applications.

Attachments: Staff Report, Summary of Tentative Conditions of Approval

U:\Community Development\Planning\Current\2010\10SD01.etal.PCcovermemo.jm.docx



Community Development Department

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

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

STAFF REPORT

Tentative Plat (Cluster Development Subdivision)

Site Plan Review (Tree Felling)

HEARING BODY	PLANNING COMMISSION
HEARING DATE	July 19, 2010
HEARING TIME	5:30 p.m.
HEARING LOCATION	Municipal Court Room, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT: July 9, 2010

FILES: SD-01-10 and SP-03-10

TYPE OF APPLICATIONS: SD-01-10: Subdivision Tentative Plat application that would divide 15.26 acres into 32 residential single-family lots and two open-space tracts. The subdivision has been designed using Cluster Development standards.

SP-03-10: Site Plan Review-Tree Felling application to remove 17 trees that have trunks larger than 25 inches in circumference measured at 54 inches from the base of the tree.

REVIEW BODY: Planning Commission

REPORT PREPARED BY: Janet Morris, AICP

PROPERTY OWNER/APPLICANT: Byron Hendricks; 1901 13th Avenue LLC; 1220 20th Avenue, Suite 150; Salem, OR 97302

APPLICANT REP: Mark Grenz; MultiTech Engineering Services, Inc; 1155 13th Street SE; Salem, OR 97302

ADDRESS/LOCATION: West of Broadway Street SW and North of 15th Avenue SW
Tax Lot 2901: 1901 13th Avenue SW; Other Tax Lots: No addresses yet

MAP/TAX LOTS: Linn County Assessor's Map No. 11S-4W-12BC, Tax Lots 100, 2900, 2901, and 3000; and Map No. 11S-4W-12CB; Tax Lot 11400.

ZONING: RS-6.5 (Residential Single Family)

TOTAL LAND AREA: 15.26 acres

EXISTING LAND USE: Vacant land

NEIGHBORHOOD: West Albany

SURROUNDING ZONING: North: RS-6.5 (Residential Single Family)
South: RS-6.5 (Residential Single Family)
East: RS-6.5 (Residential Single Family)
West: OS (Open Space) west of the railroad tracks

SURROUNDING USES: North: Vacant land
South: Single-family houses
East: Single-family houses and duplexes
West: Railroad tracks, vacant and farmed land

PRIOR HISTORY: Part of the property on the north side of 13th Avenue was annexed to the City in 1992 (File AN-04-92). A subdivision was also approved on the property that was annexed in 1992 (File M1-03-92), but the subdivision was not built. The rest of the property was annexed to the City in 2005 (File AN-A1-04). A 2006 Subdivision Tentative Plat and Site Plan Review approval to construct 46 lots and fell 23 trees on this same set of five properties expired in 2009 (Files SD-09-06/SP-15-06).

NOTICE INFORMATION

The property owner/applicant had a neighborhood meeting on January 26, 2010, as required by Albany Development Code (ADC) Section 1.203. A Notice of Public Hearing on these applications was mailed on July 9, 2010, to surrounding property owners and residents in accordance with ADC 1.360. The notice area was extended beyond the minimum 300 feet to include properties that had frontage on 13th Avenue between Broadway Street and the proposed development because 13th Avenue is likely to be the main access to the subdivision. Also, on or before July 9, 2010, the subject properties were posted with a notice board in accordance with ADC 1.410

RECORD INFORMATION

Nothing from the expired 2006 Tentative Plat approval to divide this same land area into 46 lots and open space and Site Plan Review approval to remove 23 trees is part of the record for the current applications. Only the new and/or updated studies and reports submitted by the applicant in support of the current applications are made a part of the City record. Due to their technical nature and length, some of these supporting documents have been summarized by staff and are not included as part of the staff report. Anyone may review all documents related to these applications at the Community Development Department, and they will be present at the hearing. They may be checked out by members of the Planning Commission.

STAFF RECOMMENDATIONS

The staff recommendation on the two applications referenced above is APPROVAL WITH CONDITIONS. The conditions of approval for each application are listed in this staff report.

PLANNING COMMISSION DECISION

[NOTE TO PLANNING COMMISSIONERS: CHOOSE FROM ONE OF 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 application based on the findings and conclusions of the staff report.

I MOVE that the Planning Commission APPROVE WITH CONDITIONS both the Subdivision Tentative Plat application to divide 15.26 acres into 32 residential lots and open space tracts, and the Site Plan Review application to remove 17 trees from the property (Files SD-01-10 and SP-03-10). I ALSO MOVE that the Planning Commission APPROVE WITH CONDITIONS the construction and platting of the subdivision in four phases. This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

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 application.

I MOVE that the Planning Commission APPROVE WITH CONDITIONS AS MODIFIED (Describe modifications here) both the Subdivision Tentative Plat application to divide 15.26 acres into 32 residential lots and open space tracts, and the Site Plan Review application to remove 17 trees from the property (Files SD-01-10 and SP-03-10). I ALSO MOVE that the Planning Commission APPROVE WITH CONDITIONS the construction and platting of the subdivision in four phases. This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

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 application based on the staff report, the new information, and the additional findings.

I MOVE that the Planning Commission grant TENTATIVE APPROVAL WITH CONDITIONS of both the Subdivision Tentative Plat application to divide 15.26 acres into 32 residential lots and open space tracts; and the Site Plan Review application to remove 17 trees from the property in order to build the subdivision (Files SD-01-10 and SP-03-10). I ALSO MOVE that the Planning Commission grant TENTATIVE APPROVAL WITH CONDITIONS the construction and platting of the subdivision in four phases. 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.

MOTION TO TENTATIVELY 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 tentatively deny the application and direct staff to prepare findings for denial for review at the next available meeting. The Planning Commission would review the findings, and if they are satisfactory, deny the application based on those findings for denial.

I MOVE that the Planning Commission TENTATIVELY DENY the Subdivision Tentative Plat application that would divide 15.26 acres into 32 residential lots and open space tracts in phases; and the Site Plan Review application to remove 17 trees from the property in order to build the subdivision (Files SD-01-10 and SP-03-10).

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 available meeting.

APPEAL OF THE PLANNING COMMISSION DECISION

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 of Appeal and the associated filing fee with the City's Community Development Department within 10 days from the date the City mails the Notice of Decision.

OVERVIEW OF THE APPLICATIONS

Land Division - Subdivision Tentative Plat Application – SD-01-10

Land divisions are processed in two steps. The first step is the review of the Tentative Plat, which is the current step of this subdivision. This review is to see that it has been designed to provide connectivity to both existing and planned future streets, adequate public water, sanitary and storm drainage main lines, on-site natural features have been considered, including floodplain, slope, wetlands, and trees, as well as compliance with other various standards and regulations found in the Development Code such as lot size, dimensions, and density. The review and decision of this Tentative Plat is by a public hearing body, rather than staff, because it will create more than 20 lots, uses cluster development provisions, and is located within a 100-year floodplain. The second step of a land division process is a staff review of the Final Plats to ensure that the relevant conditions of approval have been met and that it is in substantial accord with the Tentative Plat approval.

The proposed 15.26 acre subdivision site is currently five separate parcels that are located north of 15th Avenue SW, and generally west of Hop Street SW and Gale Street SW. All of the parcels are under the single ownership of a corporate entity named "1901 13th Avenue LLC" and are zoned RS-6.5 (Residential Single Family). The Tentative Plat proposal shows creating 32 residential single-family lots and setting aside 9.3 acres in permanent open space areas, Tracts A and B. The Tentative plat shows this development constructed in up to four phases.

The subdivision has been designed using an optional form of development called Cluster Development. The cluster development provisions were created as an incentive to a developer to protect natural features or other features unique to Albany, which would not otherwise be protected in the standard development of a site. In return for this protection, flexibility in some of the standards are allowed, such as reduced and/or varied lot sizes, and setbacks of a home placed on a lot. It is not the intent of cluster development to increase the overall housing density of property above the density that would have been allowed in a standard subdivision.

Site Plan Review - Tree Felling Application – SP-03-10.

In any zoning district Site Plan Review approval is required to fell five (5) or more trees that have trunks that are larger than 25 inches in circumference (which is about 8 inches in diameter) and that are located on a single lot or properties in contiguous single ownership that is in excess of 20,000 square feet (ADC 9.207). The circumference of a tree is measured at 4.5 feet above mean ground level from the base of the trunk. To obtain the circumference of a tree with multiple trunks, the individual trunks which are greater than six inches in circumference are added together.

There are 76 trees located throughout the site that meet the above size criteria; most of which are located within the proposed open space tracts. In addition, there is a wooded grove of trees of undetermined number and size that are located in the northwest portion of the site. These trees are shown located within the protected open space Tract A. The applicant proposes to remove 17 of the regulated trees. The applicant states it is necessary to remove these trees due to their location in relation to street construction, lot development, and safety of future homes built on the lots.

STAFF ANALYSIS

Subdivision Tentative Plat (cluster development)

File SD-01-10

In addition to meeting the review criteria for the land division (ADC 11.180), the review body must also find that the applicant has demonstrated that the all of the following Cluster Development requirements and review criteria (ADC 11.440-510) are met. The analysis of the tentative plat application will begin with assessment of it meeting the Cluster Development requirements and review criteria, followed by the land division review criteria.

The Cluster Development requirements and review criteria are listed in *bold italics*, followed by findings, conclusions, and conditions, where conditions are necessary in order to meet the requirements or criteria.

CLUSTER DEVELOPMENT REQUIREMENTS

Eligibility (ADC 11.410). To be eligible to apply for cluster development, all of the following are required:

- (1) Residential Zoning. The site must be located in a residential zoning district.***
- (2) Natural Features. The site must contain one or more of the features listed in Section 11.460(1).***
- (3) Professional Designer. An applicant for cluster development approval must certify in writing that a certified landscape architect, site planner, or landscape designer, approved by the Director, will be used in the planning and design process for the proposed development.***

FINDINGS OF FACT

- 1.1 The proposed development site is zoned RS-6.5 (Residential Single Family). This is a residential zoning district.
- 1.2 The City's Local Wetland Inventory shows there are wetlands (a natural feature) on the proposed development site. ZION Natural Resources Consulting prepared a wetlands delineation report of the site (dated January 2006). A copy of this delineation report was submitted with the application. The Wetlands Program of the Department of State Lands (DSL) concurred with the delineation. The expiration date has been extended by DSL to February 29, 2013 (DSL file number WD06-0093). A Removal/Fill application related to wetlands is under review.
- 1.3 Other natural features on the site include 76 trees (ash, cottonwood, and oak trees). The trees are shown on Sheet 3 of 7, Wetlands and Tree Plan as mainly located within the area proposed for an open space tract. Seventeen trees are requested for removal due to location with lots or proposed streets. The removal is reviewed under separate application below (SP-03-10).
- 1.4 The Director approves of the applicant's engineering firm, Multi/Tech Engineering Services Inc., as providing acceptable professional site planning and design services.

CONCLUSIONS

- 1.1 The subdivision is eligible for cluster development because it is located in a residential zoning district, contains eligible natural features (delineated wetlands and wooded areas), and was designed by professional site planners.
- 1.2 This requirement is met.

Natural Area Requirements (ADC 11.450). Cluster developments must provide a minimum of 20 percent of the site as permanent natural areas. Land shown as Open Space on the Comprehensive Plan map may not be used to fulfill this requirement.

FINDINGS OF FACT

- 2.1 The tentative plat shows that this property is 15.26 acres. The plat shows that 9.3 acres, which is 61.23 percent of the site, will be set aside in two permanent open space tracts that are not part of the proposed lots. These tracts will be platted with Phase 1 of the development.
- 2.2 None of this property is zoned Open Space.

CONCLUSIONS

- 2.1 At least 20 percent of the site is designated as open space and none of that area is zoned Open Space on the Comprehensive Plan map.
- 2.2 This requirement is met.

Designation of Permanent Natural Area (ADC 11.460). The required natural area may be public or private. The minimum 20 percent of the gross acreage of the development site set aside as natural area in a cluster development should be designated in the following priority order:

- (1) The first priority for natural area designation is the protection of natural features, environmentally sensitive areas, and scenic features of the site not shown as Open Space on the Comprehensive Plan map. This priority is satisfied by any of the following:**
 - (a) Lake.**
 - (b) Wetland identified on the City's Local Wetland Inventory or by a delineation approved by the Oregon Department of State Lands.**
 - (c) Riparian area identified on the City's Riparian Inventory.**
 - (d) Existing channel identified in the City of Albany Storm Water Master Plan or the draft North Albany Storm Water Master Plan.**
 - (e) Spring.**
 - (f) Slopes 12 percent or greater.**
 - (g) Wooded area with five or more healthy trees over 8 inches in diameter measured 4½ feet from the ground, if approved by the City Forester.**
 - (h) Land that will provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas.**
 - (i) Other features of the site unique to Albany, if approved by the Director.**
- (2) The second priority for natural area designation is to create open spaces in and around neighborhoods. This priority is satisfied by any of the following:**
 - (a) Continuity of adjacent open space corridors or parkways.**
 - (b) A network of interconnected open space corridors.**
 - (c) A buffer between neighborhoods.**
- (3) The third priority for natural area designation is to incorporate public parks, trails or open space designated in the Parks, Recreation and Open Space Plan and the North Albany Refinement Plan.**

FINDINGS OF FACT

- 3.1 The gross acreage of the development is 15.26 acres. Of this acreage, 9.34 acres, or 61 percent, of the site will be placed in protected open space tracts.
- 3.2 The plan shows protection of wetlands, a first priority natural area, within the open space tracts. The applicant hired ZION Natural Resources Consulting to conduct a delineation of the wetlands on the site. The City's Willamette River, Calapooia River, and Oak Creek Local Wetland Inventory (LWI) showed most of these wetlands. The delineation found additional wetlands for a total of 6.25 acres of wetlands on the site (see locations on attached Sheet 1 of 7). On February 29, 2008, the Department of State Lands (DSL) concurred with ZION's delineation of the wetland boundaries. The applicant's plans show impacting 0.83 acres (13.28 percent) of the total wetlands. None of the impacted wetlands are locally significant. [See the more detailed discussion on wetlands under Subdivision Review Criterion (5).]
- 3.3 The City's "Riparian Inventory for the Willamette River, Calapooia River, and Oak Creek" does not show a riparian corridor on this property.
- 3.4 There are four wooded areas with five or more trees over 12 inches in diameter on the property (see Sheet 3 of 7). All but 15 trees on the site are also located within the open space tracts.

CONCLUSIONS

- 3.1 Sixty-one percent of the gross acreage is being set aside in open space tracts. The tracts contain locally significant wetlands and wooded areas, both of which are first priority resources. The Oregon Department of State Lands has approved the delineation of the wetlands.

- 3.2 ADC 11.460 says that, "natural area in a Cluster Development should be designated in the following priority order..." We have to conclude that the priority list is not mandatory, because the sentence says, "should be," not "must be."
- 3.3 Wetlands and wooded areas have been designated for inclusion in the open space areas.
- 3.4 This requirement is met.

Creation of Permanent Open Space [ADC 11.470(1) and (2)].

- (1) *Natural areas in a cluster development may be set aside and managed in one or more of the following ways:*
- (a) *Portions of one or more individual lots; or*
 - (b) *Common ownership by residents of the development; or*
 - (c) *Third party (non-profit organization) whose primary purpose is to hold or manage the open space, subject to a reversionary clause in the event of dissolution of the non-profit organization; or*
 - (d) *Dedicated to City of Albany, if the City agrees to accept ownership of and to maintain the space.*
- (2) *Except for Subsection (1)(d) above, natural areas shall be subject to restrictive covenants and easements reviewed by the Community Development Director and recorded and filed when the subdivision plat for the project area is recorded. Except when allowed in 11.480, an easement shall include permanent provisions prohibiting the placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of these provisions.*

FINDINGS OF FACT

- 4.1 The Tentative Plat (Sheet 1 of 7) shows the open space tracts (A and B) being platted with the first phase of the subdivision. All of the lots are located outside the open space tracts. The City has not been approached about taking dedication of the tracts.
- 4.2 In applicant's findings submitted with the subdivision application say that the opens space will be held in a form of common ownership (Home Owners Associate) by residents of the subdivision. Conditions Covenants and Restrictions (C,C&R's) that will be recorded with the first subdivision plat must specify the maintenance requirements and responsibilities of the owners of this area.

CONCLUSIONS

- 4.1 The applicant intends to create a home owners association that will result in the property owners of the 32 lots within the subdivision having common ownership and maintenance responsibility of the open spaces.
- 4.2 The open space tracts will be platted with the first phase to be recorded. Any protective covenants and easements must be submitted for review with the first final plat application and recorded with the final plat.
- 4.3 This requirement is satisfied when the following conditions are met.

CONDITIONS

- 4.1 The open space tracts A and B shown on the tentative plat must be platted with the first final plat submitted to the City for approval.
- 4.2 The ownership and management of open space tracts A and B must be shown on the final plat and be one of the four options outlined in ADC 11.470(1).

- 4.3 Unless the City accepts dedication and maintenance of the open space tracts, the open space tracts must be subject to restrictive covenants and easements. A draft of the proposed covenants and easements shall be submitted for review and approval by the Community Development Director with the final plat that will create the tracts. The covenants and easements must include permanent provisions prohibiting placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of the Cluster Development provisions or as allowed under section 11.480 of the Albany Development Code.

Protection of Permanent Open Space [ADC 11.480(1)-(6)].

- (1) *The development may encroach into permanent natural areas, only under the following circumstances:*
- (a) *To meet transportation or utility infrastructure requirements, or*
 - (b) *To provide bike or walking trails that connect to existing or proposed parks or trails, inventoried natural features, or areas zoned Open Space or otherwise protected as permanent natural areas.*

FINDINGS OF FACT

5.1 The "Local Wetlands Inventory for the Willamette River, Calapooia River, and Oak Creek" shows that wetlands designated CAL-7A and CAL-7B meet the criteria for locally significant wetlands. These wetlands are within the wetland identified as Wetland A on Figure 7 in the ZION delineation. The tentative plat shows that these wetlands will be located in areas set aside as permanent open space. These areas will not be disturbed.

5.2 There are no riparian corridors on the property.

CONCLUSIONS

5.1 The proposed subdivision development does not encroach into the areas that will be set aside for permanent natural areas (open space tracts A and B).

5.2 This requirement is met.

- (2) *Permanent alteration by grading may be authorized for the purpose of natural resource enhancement such as wetland, riparian, or wildlife habitat restoration.*

FINDING OF FACT

6.1 The applicant's findings states: "There will be no permanent alteration by grading or place of structure or impervious surfaces in the open space. "...regrading the site to elevate the building sites above the base flood elevation for this area will take place on the lots proposed. This grading necessitates removal of trees. The applicant has submitted a tree felling application."

6.2 The applicant proposes to fill 0.835 acres of the non-significant wetlands that were identified in the ZION delineation in order to construct streets within the subdivision and raise lots above the 100-year base flood elevation. The impacted wetlands are located outside the permanent open space.

6.3 The applicant intends to mitigate the affect of filling the wetlands off-site. The Oregon DSL administers federal and state wetland regulations. When they issue a permit to fill wetlands, DSL typically requires that a larger wetland be created in the same basin. [See further discussion about wetlands under subdivision Review Criterion (5).]

6.4 There are steep slopes at the northwest corner of 13th Avenue and Hop Street that are not natural. They were created by a previous owner of the land placing (unapproved) fill on the site. Some of the steep slopes are located in the permanent open space and on the perimeter of some of the lots. As part of the grading and fill to raise the lots above the base flood elevation there will be some regarding of the slope areas. The

grading plan shows the resulting slope will be 2:1 or less. The fill will be engineered fills monitored by a geotechnical engineer. At this slope, the applicant states that no shoring-up (such as the use of retaining walls) of the slope areas is needed. All slopes will be protected for erosion control when completed.

CONCLUSIONS

- 6.1 Grading of the steep slopes at the northerly edges of the permanent open space tracts will occur where they abut lots. Filling some of the non-significant wetlands will occur to raise the land to above the base flood elevation. This fill will be mitigated by providing new wetlands in the same basin as permitted by the DSL.
 - 6.2 The steep slopes on the property are not natural features of this property. They were created by a previous owner filling part of the property.
 - 6.3 This requirement is met.
- (3) *Significant wetlands, riparian corridors, and intermittent streams preserved as natural areas in a cluster development may be used for conveyance of storm waters only when the applicant has demonstrated that the discharge is compatible with the protection of the natural resource. These natural features shall not be used for drainage improvements, such as detention or retention ponds, or any other utility improvement necessary for development of the lots.*

FINDING OF FACT

- 7.1 There are significant wetlands on the property. There are no riparian corridors on the property. There are watercourses on the property which may or may not be intermittent streams. The tentative plat shows that storm drainage from the subdivision will be discharged to the significant wetlands in the open space at a single control point in the northeast portion of the site. The wetlands will not be used for drainage improvements such as detention ponds or any utility improvements.

CONCLUSION

- 7.1 This requirement is met.
- (4) *Areas set aside for permanent natural areas in a cluster development cannot be further subdivided.*

FINDING OF FACT

- 8.1 This will be a condition of approval of the subdivision.

CONCLUSION

- 8.1 This requirement is satisfied when the following condition is met.

CONDITION

- 8.1 The final plat that creates the open space tracts shall include a statement that the tracts cannot be further subdivided. This statement shall also be included in the private Covenants, Conditions and Restrictions (CC&R's) for the subdivision.

- (5) *Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas.*

FINDING OF FACT

- 9.1 No fences are proposed by the applicant. Fences are likely to be installed later by home owners. Any CC&R's created in the formation of a homeowners association shall address fence locations on the property that are consistent with this requirement.

CONCLUSIONS

- 9.1 Fences are not proposed by the applicant, but likely will be installed by future homeowners.
 9.2 This requirement is satisfied when the following condition is met.

CONDITION

- 9.1 Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas. Any CC&R's created for this subdivision shall address the permitted locations of fences in relation to the natural areas (open space tracts).
 (6) *Provisions must be established to ensure the continued maintenance of areas designated as natural areas through Cluster Development. See Section 11.470.*

FINDING OF FACT

- 10.1 The applicant's findings state that he intends to use the allowance ADC 11.470 by creating a Homeowners Association for the lots within the subdivision and placing ownership and maintenance of the open space tracts under the common ownership of the lot owners. The Homeowner Association's CC&R's to be recorded with each plat must specify the maintenance responsibility of each lot owner within the subdivision.

CONCLUSIONS

- 10.1 The open space areas will be owned and maintained by the owners of lots that abut the open space areas.
 10.2 The open space areas must be subject to restrictive covenants and easements. Covenants and easements have not yet been submitted to the Community Development Director for review and acceptance. Covenants and easements must be approved by the City and recorded with the first final subdivision plat.
 10.3 This requirement is satisfied when the following condition is met.

CONDITION

- 10.1 The open space areas (Tracts A and B) shown on the proposed tentative subdivision plat must be subject to restrictive covenants and easements. The covenants and easements must include an assignment of who will be responsible to maintain the open space tracts. The restrictive covenants and easements must be approved by the City and recorded with the first final subdivision plat.

Development Standards (ADC 11.490). In a Cluster Development, the following development standards supersede the same standards in Section 3.190, Table 1. The number of allowable lots is based on the density range for the zone as specified in the following table.

<i>Standard</i>	<i>RS-10</i>	<i>RS-6.5</i>	<i>RS-5</i>	<i>RM-5</i>
<i>Max. dwelling units per gross acre</i>	<i>4</i>	<i>6</i>	<i>8</i>	<i>20</i>

<i>Minimum Lot size (1):</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
<i>Minimum Lot Width</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
<i>Minimum Lot Depth</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
<i>Minimum front house setback (2)</i>	<i>15 ft.</i>	<i>10 ft.</i>	<i>10 ft.</i>	<i>10 ft.</i>
<i>Maximum Lot Coverage (3)</i>	<i>70%</i>	<i>70%</i>	<i>70%</i>	<i>70%</i>

- (1) *Lots on the perimeter of the cluster development shall meet the standards in 11.495.*
- (2) *Except, when lots are adjacent to existing development on the same side of the street, the setback shall be within 5 feet of the adjacent houses(s) setbacks(s).*
- (3) *The maximum lot coverage may be up to 100 percent for lots that provide land only for the building footprint.*

FINDINGS OF FACT

- 11.1 This subdivision site is zoned RS-6.5. The table above shows that the maximum density for cluster developments in RS-6.5 zoning districts is six dwelling units per acre. RS-6.5 is a single-family zoning district. This means the average lot size within a development is to be no less than 6,500 square feet and each lot can have one single-family house.
- 11.2 The land area of the subdivision is 15.26 acres. If the land was developed at six units per acre, a maximum of 91 units could be developed. Thirty-two (32) lots are proposed, which is 2.1 units per acre.
- 11.3 The proposed cluster development subdivision does not abut any existing developed property. Except on the north, which will abut an open space tract, the development is separated from other properties by existing street rights of ways or the railroad right-of-way on the west.
- 11.4 Building footprints have not been proposed.
- 11.5 The smallest lot within the subdivision is 5,000 square feet; the largest lot is 13,848 square feet. The average size of the 32 lots is 6,386 square feet, which is 114 square feet below the standard of the zone. (The area of the open spaces is not included in these calculations.)

CONCLUSIONS

- 11.1 The proposed subdivision is below the allowable maximum number of units per gross acre.
- 11.2 There is no restriction on size or configuration of the lots within the proposed subdivision.
- 11.3 There are no abutting properties to further restrict the front setback of future homes on the lots.
- 11.4 Building footprints were not proposed.
- 11.5 This requirement is satisfied when the following condition is met.

CONDITION

- 11.1 The minimum front setback for a house shall be 10 feet (rather than 15 feet) and the maximum lot coverage shall be 70 percent (rather than 60 percent). All other development standards listed in ADC 3.190, Table 1, remain unchanged.

Perimeter Lot Compatibility (ADC 11.495). The following standards and exceptions will apply to the lots on the perimeter of a proposed cluster development:

- (1) ***Standards.*** *The term "standard minimum lot size" as used in this section, means the minimum lot size allowed in the underlying base zone without any reductions in size allowed elsewhere in this Code.*

- (a) *When the proposed cluster development abuts developed property in a lower density residential zoning district, the size of lots on the perimeter of the proposed cluster development shall be at least the standard minimum lot size allowed in the zone underlying the cluster development.*

Example:

<p>Proposed Cluster Development RS-6.5 <i>Perimeter lots must be at least 6,500 sf</i></p>	<p>Abutting Property w/ Lower Density Residential Zoning RS-10.0</p>
--	---

- (b) *When the proposed cluster development abuts developed property in the same residential zoning district as the proposed cluster development, the size of lots on the perimeter of the cluster development shall be at least 70 percent of the standard minimum lot size of the underlying zoning district.*

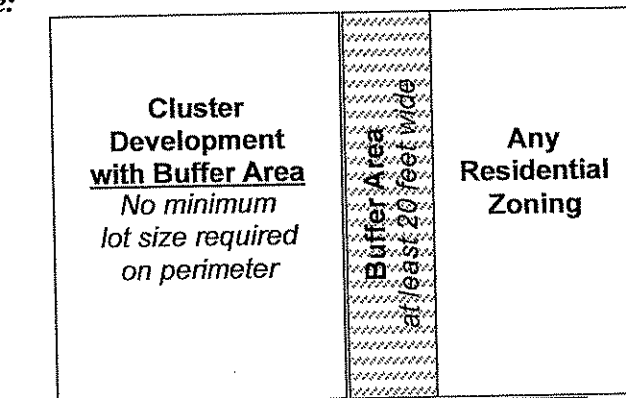
Example:

<p>Proposed Cluster Development RS-10.0 <i>Perimeter lots must be at least 7,000 sf (70% of minimum lot size for underlying zoning)</i></p>	<p>Abutting Property w/ Same Residential Zoning RS-10.0</p>
---	--

- (2) Exceptions. *The Perimeter Lot Compatibility standards do not apply in the following cases:*

- (a) *Perimeter lots that are adjacent to land that is zoned for higher density housing, mixed-use or non-residential uses, or to residentially zoned property not in residential use (such as educational, institutional, religious or park uses).*
- (b) *Where the same property owner owns the property abutting the proposed cluster development or when the perimeter lots share a property line with the Urban Growth Boundary.*
- (c) *If a buffer area is created as a separate property along the perimeter and is at least 20 feet wide, the buffer area shall become a permanent natural area and shall meet the provisions in Sections 11.470 and 11.480.*

Example:



- (d) *Cluster developments abutting property that is at least 1 acre in size.*

FINDINGS OF FACT

- 12.1 Adjacent properties are zoned RS-6.5. To the west of the railroad tracks the land is zoned Open Space.
- 12.2 The proposed cluster development subdivision does not abut any existing developed property. It is separated from other properties by existing street rights of ways or the railroad right-of-way on the west.

CONCLUSIONS

- 12.1 The proposed lots does not create an incompatibility with adjacent or abutting properties.
- 12.2 This requirement is met.

Permitted Uses (ADC 11.500). The uses allowed within cluster developments outside the permanent natural areas are determined by the underlying zoning district standards in Section 3.050, with the following exceptions:

- (1) *On development sites greater than 20 acres, up to 20 percent of the housing units in RS-6.5 and RS-10 may be attached single-family or condominium housing.*
- (2) *On development sites greater than 50 acres, up to 2 acres may be developed with neighborhood commercial uses through a conditional use review. The maximum building footprint of commercial or office uses shall be 3,000 square feet. Commercial and office uses shall be limited to restaurants with no drive-through service, and convenience-oriented and personal service-oriented uses as described in Article 22.*

FINDINGS OF FACT

- 13.1 The proposed subdivision is 15.26 acres.
- 13.2. The underlying zoning district is RS-6.5, which is primarily intended for single family uses. The proposed use of the lots is one detached single-family home per lot.

CONCLUSIONS

- 13.1 The proposed use of the lots within the subdivision is permitted in ADC 3.050.
- 13.2 This requirement is met.

Street Standards for Cluster Development. (ADC11.510) All local streets in a cluster development may be constructed to the Residential Street Design for Constrained Sites as described in Section 12.122(6). If the City subsequently adopts street standards specifically designated for cluster development, those standards shall supersede and replace this section.

FINDING OF FACT

- 14.1 The subdivision streets have not been constructed under the provisions of a constrained site. See Criterion 3 under the analysis of the subdivision against the land division review criteria for further detail on the streets.

CONCLUSION

- 14.1 This requirement is not applicable.

CLUSTER DEVELOPMENT REVIEW CRITERIA

Criterion (1). *The proposed development meets all of the requirements for cluster development.*

FINDING OF FACT

- 1.1 Review of the subdivision against the cluster development requirements (ADC 11.410-11.510) is outlined above in this report. All requirements were either met outright or can be met with satisfaction of the conditions as stated therein.

CONCLUSION

- 1.1 The proposed development meets all of the requirements for cluster development when the following conditions are met.

CONDITIONS

- 1.1 The minimum front setback for a house shall be 10 feet (rather than 15 feet) and the maximum lot coverage shall be 70 percent (rather than 60 percent). All other development standards listed in ADC 3.190, Table 1, remain unchanged.
- 1.2 The open space areas (Tracts A and B) shown on the proposed tentative subdivision plat must be subject to restrictive covenants and easements. The covenants and easements must include a requirement that the individual lot owners who own the open space must maintain the open space as necessary.
- 1.3 Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas. Any CC&R's created for this subdivision shall address the permitted locations of fences in relation to the natural areas (open space tracts).
- 1.4 The final plat that creates the open space tracts shall include a statement that the tracts cannot be further subdivided. This statement shall also be included in the private CC&R's for the subdivision.
- 1.5 The open space Tracts A and B shown on the tentative plat must be platted with the first final plat submitted to the City for approval.
- 1.6 The ownership and management of open space Tracts A and B must be shown on the final plat and be one of the four options outlined in ADC 11.470(1).
- 1.7 Unless the City accepts dedication and maintenance of the open space tracts, the open space tracts must be subject to restrictive covenants and easements. A draft of the proposed covenants and easements shall be submitted for review and approval by the Community Development Director with the final plat that will create the tracts. The covenants and easements must include permanent provisions prohibiting placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of the Cluster Development provisions or as allowed under section 11.480 of the Albany Development Code.

Criterion (2). *The proposed development preserves natural or unique features that normally would not be preserved under conventional development standards.*

FINDINGS OF FACT

- 2.1 Under conventional development the subdivision would not be required to permanently set aside and protect an amount of the natural features of the site. The flexibility allowed by clustering development is resulting in the developer placing 61 percent (where the minimum is 20 percent) of the land in protected open space.

CONCLUSIONS

- 2.1 The development is preserving natural or unique features that normally would not be preserved under conventional development standards.
- 2.2 This criterion is met.

TENTATIVE SUBDIVISION PLAT REVIEW CRITERIA

The applicant must demonstrate that the proposed tentative plat can meet all the land division review criteria listed at sections 11.180 (1)-(5) of the Albany Development Code (ADC). The review criteria are written in *bold italics* and are followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

Criterion (1). Development of any remainder of property under the same ownership can be accomplished in accordance with this Code [ADC 11.180(1)].

FINDINGS OF FACT

- 1.1 The development contains 15.26 acres. It is currently made up of five separate tax lots. All of the tax lots are owned by 1901 13th Avenue LLC.
- 1.2 The proposed tentative plat shows that all of the 15.26 acres of property are placed within the 32 residential single-family lots or protected open space areas. Due to current economic conditions, the applicant requests approval to construct the subdivision in up to four phases as shown. Approval of a phasing plan extends the tentative plat approval from three to five years.
- 1.3 ADC 11.070 states: "When an applicant desires to develop and record in stages final subdivision plats covering portions of an approved tentative plat, the City may authorize a time schedule for platting and otherwise development the various states in periods of time in excess of one year. In no case shall the total time period for all stages be greater than five years without resubmission of the tentative plat. Each stage so platted and developed shall conform to the applicable requirements of this title. Portions platted after the passage of one year may be required to have modifications to avoid conflict with any changes in the Comprehensive Plan or implementing regulations."
- 1.4 If the applicant does not plat all of the phases within the allotted time, a "remainder" will be created. In anticipation of that possibility, the conditions of approval for this subdivision will be crafted to ensure that any unexpected remainder of land can be developed to City standards in the future.

CONCLUSIONS

- 1.1 The five parcels that make up the boundaries of the proposed subdivision is under a single ownership.
- 1.2 The proposed tentative plat does not exclude any of the parent five parcels. There is no planned "remainder of property."
- 1.3 The applicant requests approval to stage the construction of the subdivision in up to four phases. Conditions of approval will be crafted to ensure that if unexpectedly any remainder land is created, it can be developed in the future to City standards.
- 1.4 This review criterion is satisfied when the following condition is met.

CONDITION

- 1.1 The 32-lot subdivision may be constructed as tentatively approved in up to four phases. The phases shall be platted in the order shown on the tentative plat. The tentative plat approval of any and all phases will expire after five years unless before that date the final plat application for a phase has been submitted to the City for approval. Each phase must be constructed and platted in conformance with applicable requirements and conditions of approval. Phases platted three years after the date of tentative plat approval may be required to be modified to avoid conflict with any changes in the Comprehensive Plan or implementing regulations.

Criterion (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 ADC 12.060 requires that development must have frontage on or approved access to a public street currently open to traffic.
- 2.2 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. 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 (ADC 12.110).
- 2.3 The land to the north is undeveloped and abuts a public right-of-way (Gale Street) on its northeast boundary.
- 2.4 The land to the south and east is already subdivided. These lots do not adjoin (abut) the subdivision and all have access to Hop Street, 12th Avenue, 13th Avenue, 14th Avenue, or 15th Avenue.
- 2.5 Railroad tracks are located on the west side of the subdivision. The land on the other (west) side of the railroad tracks is zoned Open Space and is predominantly in crop production. Fifteenth Avenue runs under the railroad tracks and provides access to the land on the west side of the tracks.

CONCLUSIONS

- 2.1 All of the land that adjoins the proposed subdivision has access.
- 2.2 This review criterion is met.

Criterion (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 proposed subdivision will subdivide 15.26 acres of land into 32 single family lots. The development is proposed to be constructed in four phases and is located on the east side of the Oregon Electric rail line at the end of 12th, 13th, and 14th Avenues.
- 3.2 Access to the subdivision is proposed to be provided by extending several local streets into and through the subdivision. Existing streets that would be extended into the development include: 12th Avenue, 13th Avenue, 14th Avenue, 15th Avenue, and Hop Street.

- 3.3 The subdivision is bounded on the west by a railroad and farmland. As a result, most traffic to and from the development is expected to use existing local streets that connect to Broadway Street, a minor collector street located three blocks east of the subdivision.
- 3.4 Albany's Transportation System Plan (TSP) does not identify any congestion or level of service problems adjacent to the proposed development.
- 3.5 The City's traffic study guidelines do not require a traffic impact analysis (TIA) or a trip generation analysis unless a development generates 50 or more peak hour trips and/or staff knows of any existing or possible specific traffic problems that the development may create. Based on the current ITE Trip Generation Manual, staff has estimated that when completed, the 32 single-family homes in this subdivision would generate about 306 new vehicle trips per day. Of these trips, 25 would occur during the A.M. peak traffic hour, and 32 during the P.M. peak traffic hour.
- 3.6 The new trips generated by the subdivision can be disbursed among several local streets that connect the subdivision with Broadway Street to the east. The connecting streets include: 12th Avenue, 13th Avenue, 14th Avenue, and 15th Avenue.

Existing Streets

- 3.7 Broadway Street is classified as a minor collector street and is constructed to City standards. Improvements include: curb, gutter, and sidewalks; a vehicle travel lane in each direction; and on-street parking. The speed limit is 25 miles per hour (mph). The street does not have bike lanes, but traffic volumes are low enough, about 2,000 average daily trips (ADT) to allow the street to function as a shared-use street. Oregon's *Bicycle and Pedestrian Plan* recommends shared-use facilities on low-speed streets with volumes less than 3,000 ADT.
- 3.8 None of the local streets that adjoin the subdivision are constructed to full City standards. None are improved with sidewalk. Some of the streets lack curb and gutter, some lack asphalt paving, and some have an oil-mat driving surface.
- 3.9 The three blocks of 12th Avenue between the subdivision and Broadway Street are improved with curb and gutter and have a concrete driving surface in good condition.
- 3.10 Of the three blocks of 13th Avenue between the subdivision and Broadway Street, only the west block is improved with curb, gutter, and an asphalt driving surface. The east two blocks lack curb and gutter and have an oil-mat driving surface.
- 3.11 The three blocks of 14th Avenue between the subdivision and Broadway Street are improved with curb and gutter and have an asphalt driving surface in fair condition.
- 3.12 Of the four blocks of 15th Avenue between the subdivision and Broadway Street, the east three blocks are improved with curb and gutter and have an asphalt driving surface in fair condition. The west block lacks curb and gutter and has an oil-mat driving surface.

Pedestrian Access

- 3.13 Section 12.040 of the Development Code allows development approvals (a subdivision is "development") to include conditions that require facilities to accommodate safe and convenient pedestrian and bicycle access within and from new subdivisions to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.
- 3.14 Broadway Street is a collector street and is a route on Albany's transit system. Broadway Street is located three blocks (about 730-feet) from the east boundary of the subdivision. No sidewalk exists between the proposed development and Broadway Street.

- 3.15 The lack of sidewalk between this development and Broadway Street would result in pedestrians walking between the subdivision and City's transit system to walk within vehicle travel lanes. The combination of new pedestrian trips and increased vehicle trips would result in an increase in the risk of vehicle and pedestrian accidents.
- 3.16 Tadena Elementary School is located on 12th Avenue about 1,200-feet east of the proposed subdivision. With the exception of a short section along Broadway Street, there is no existing sidewalk between the proposed subdivision and Tadena Elementary School.
- 3.17 The lack of sidewalk between the subdivision and Broadway Street would require pedestrians walking from the subdivision to transit facilities on Broadway Street, and adults and children walking to Tadena Elementary School, to walk within vehicle travel lanes. The combination of new pedestrian trips and increased vehicle trips that would result from the subdivision would increase the risk of vehicle/pedestrian accidents within the neighborhood.
- 3.18 During review of a previous subdivision application on this same site, residents from the neighborhood testified that most children use 13th Avenue as the route to walk to and from Tadena Elementary School as opposed to using 12th, 14th, or 15th Avenues. There is no reason to think this has changed since the school has not moved.
- 3.19 The applicant, in their application, noted that "*Thirteenth Avenue will provide the primary access route to and from Broadway Street to the east.*" Installation of concrete sidewalks on 13th Avenue is impractical due to the lack of curb, gutter, and drainage improvements along the street. Construction of paved and striped shoulders along 13th Avenue between the development and Broadway Street would provide pedestrians with a facility to travel between the development, transit facilities on Broadway Street, and Tadena Elementary School. Installation of speed humps on 13th Avenue would help ensure that vehicle speeds on the street are low. Because paved shoulders are not physically separated from vehicle travel lanes (standard sidewalks are separated from vehicle lanes by a raised concrete curb and landscape strip), keeping vehicle speeds low will be important to maintaining the paved shoulders as a safe pedestrian facility.

Construction Route

- 3.20 All of the streets that could potentially be used as a construction route for the project are local residential streets. All lack pedestrian facilities. One is concrete (12th Avenue), and the others (13th, 14th, and 15th Avenues) have either asphalt or oil mat driving surfaces.
- 3.21 The applicant did not propose a construction traffic route for the project. The lack of pedestrian facilities along the streets that link the development to Broadway Street would put pedestrians in the existing neighborhood at risk from conflicts with heavy construction vehicles. In addition, the existing asphalt and oil-mat streets that link the development to Broadway Street, because of their condition and design, are very likely to be damaged by the loads imposed by construction vehicles.
- 3.22 Section 12.060 of the Development Code requires that all streets within and adjacent to a new development be improved to City standards. Streets are also required to be interconnected to reduce travel distance, provide multiple travel routes, and promote the use of alternative modes. Street patterns have a long-range effect on land use patterns, greater than lot patterns or building location.
- 3.23 After the subdivision phases are constructed and the lots open to building permits, the City does not have a mechanism to enforce use of a particular route for traffic related to development of the lots.

Proposed Streets

- 3.24 Section 12.110 of the Development Code requires that new development provide for the continuation or appropriate projection of existing principal streets in the surrounding areas.

- 3.25 The tentative plat shows an interior street system that is a continuation of the existing street system adjoining the site. The interior street right of way and curb-to-curb widths comply with ADC 12.122. Streets to be constructed to full street standards will have right-of-way width of 54-feet, curb-to-curb pavement width of 30-feet, 6-foot-wide planter strips and 5-foot sidewalks on both sides of the street. Some partial width streets are proposed within the boundary of the subdivision.
- 3.26 The one block section of Fisher Street right of way located between 14th and 15th Streets and the east side of proposed Lots 24, 30, 31 and 32, is proposed to be constructed as a 12-foot-wide public alley. It is proposed to be constructed as a public alley because the existing properties on the east side of this existing 30-foot right of way have frontage on 14th or 15th Avenues, and proposed Lots 24, 30, 31 and 32 will have a fully improved street constructed on their western frontage. ADC 12.120 requires that the minimum alley roadway width be 12 to 20 feet.
- 3.27 The other streets within the boundaries of the subdivision the applicant proposes to construct as partial-width streets are Hop Street, 14th Street, and 15th Street. These partial width streets would have curb and gutter along one side (next to the subdivision lots), and a pavement width of 28-feet (measured from the face-of-curb). Twenty-eight feet of pavement is sufficient width to provide for a travel lane in each direction and on-street parking along one side.
- 3.28 Section 12.200 of the Development Code says "*The City Engineer may approve construction of a partial width street provided the design is determined to be adequate to accommodate needed public facilities, storm drainage runoff, traffic volumes, and traffic loadings.*" The City Engineer has determined that the proposed partial-width streets accommodate this development.
- 3.29 West of Lot 13, 14th Avenue only provides access to large parcels located west of the Oregon Electric Railway zoned Open Space (OS). Because that area is not expected to develop with urban improvements, the portion of 14th Avenue serving that area does not need to be fully improved to City standards.
- 3.30 The Tentative Plat includes a hammerhead to be constructed in Tract A, north of 14th Avenue and west of Lot 13. A turnaround is needed at that location so that neighborhood traffic, garbage trucks, delivery vehicles, and emergency vehicles can turn around to exit the street without the use of private residential driveways. The dimensions of the hammerhead are indicated on the Tentative Plat as 20 feet by 25 feet, which appears to be sized to accommodate standard passenger vehicles. The final size and ultimate location may need to be different to accommodate the expected large vehicles.
- 3.31 Tentative Plat shows a driveway for Lot 1 to be constructed within the Hop Street right-of-way north of where Hop Street intersects with 12th Avenue. That portion of Hop Street right-of-way also provides access to an existing vacant tax lot east side of proposed Lot 1. According to the Linn County Tax Assessor maps (11S-4W-12BC) is made up of Lots 7 and 8, Block 14 of the Hazelwood Addition subdivision. Because the driveway will be shared by three properties, is within public right-of-way and, will be the maintenance responsibility of City, the City Engineer has determined that the driveway should be: constructed to alley standards; have a paved width of 20 feet; and be extended far enough to allow use by proposed Lot 1 of this subdivision and the two lots to the east. The minimum distance would be to the south property line of Lot 8 of the Hazelwood Addition.
- 3.32 In order to provide for the safe and efficient circulation of traffic, street name signs are needed on the street system within the proposed development.
- 3.33 In order to provide for the safe and efficient circulation of traffic during night-time conditions, the installation of street lights is needed within the proposed development.
- 3.34 When new streets are created in conjunction with a development, the developer is to install street trees in accordance with the standards provided in the Standard Construction Specifications manual and the Urban Forestry Management Plan (ADC 12.321). Two planting options are outlined at ADC 12.324.

CONCLUSIONS

- 3.1 When developed with single family houses, the 32 new lots will add about 306 new vehicle trips per day (ADT) to the existing street system. Of those trips, 25 would occur during the a.m. peak traffic hour, and 32 during the p.m. peak traffic hour. The new trips would be disbursed among several existing local streets connecting the development with Broadway Avenue.
- 3.2 The subdivision has frontage along several streets not yet constructed to City standards. The Development Code requires that all streets adjoining new development be improved to City standards. The applicant has proposed construction of partial width streets along the boundary of the development and a one-block section to alley standards. The access for proposed Lot 1 and a tax lot on the east side that is composed of two legal lots should be constructed to alley, rather than private driveway, standards. The design of the interior street system conforms to the standards in the Development Code.
- 3.3 Because the area west of the terminus of 14th Avenue is not expected to develop with urban improvements, the portion of 14th Avenue serving it does not need to be fully improved to City standards. However, a hammerhead turnaround is needed to accommodate turn around movements for neighborhood traffic, garbage trucks, delivery vehicles, and emergency vehicles.
- 3.4 The local streets that connect the development to Broadway Street and Takena Elementary School lack sidewalks. When necessary to provide an adequate transportation system, new subdivisions may be conditioned to provide "safe and convenient" pedestrian facilities to schools and transit stops located within one-half mile of the development.
- 3.5 The lack of pedestrian facilities along the streets that link the subdivision site to Broadway Street will put pedestrians in the existing neighborhood at risk from conflicts with heavy construction vehicles used to build the subdivision.
- 3.6 The applicant did not propose a traffic route for the construction of the subdivision. Thirteenth Avenue has been identified as the most direct route to the subdivision site so it should be designated as the construction route for the development of each phase of the subdivision. It is also the expected primary pedestrian route. To provide an adequate and safe route of travel, this street needs to have a pavement overlay that will accommodate construction traffic of all phases, be widened to include striped shoulders on both sides of the street, and include a speed hump to slow down traffic.
- 3.7 The City currently does not have a mechanism to enforce 13th Avenue as the construction traffic route of the contractors that will be building homes on each of the lots after they are platted.
- 3.8 The installation of street name signs and street lights are needed within the development in order to provide for the safe and efficient circulation of traffic.
- 3.9 Street trees are to be installed in conjunction with the new street construction.

CONDITIONS

Note: The following conditions were written assuming the phases of the subdivision will be constructed in the same order they are shown, i.e. Phase 1 will be constructed first, Phase 2 second, and so on. If the applicant later wants to construct them in a different order, the applicant will need to apply to modify the original conditions.

All Phases

- 3.1 Each phase shall dedicate right of way necessary to construct the public streets within the boundary of the subdivision as shown on the Tentative Plat and Site Plan. The applicant shall construct all public streets within the subdivision to City standards.

- 3.2 Full standard streets shown on the Tentative Plat shall be constructed within right-of-way widths of 54 feet and the curb to curb widths of 30 feet, six-foot planters and five-foot sidewalks on each side of the street.
- 3.3 Partial-width streets as shown on the Tentative Plat shall be constructed to consist of curb and gutter along the subdivision's side of the street; 28 feet of pavement as measured from the face of curb; and either curb and gutter or drainage ditch and inlet improvements along the opposite side of the street as needed by the Albany Public Works Department. A six-foot-wide planter and five-foot sidewalk will be constructed on the side of the street adjacent to the proposed lots.
- 3.4 Thirteenth Avenue west of Broadway Street shall be designated as the traffic route for all vehicles related to construction of the subdivision. It shall be the developer's responsibility to ensure that all contractors use this route.
- 3.5 The developer shall install street lighting and street name signs to City standards on all public streets within the development.
- 3.6 The developer shall provide street trees within the public right-of-way to City standards as outlined in ADC 12.321 and 12.324.

Phase 1 Additional:

- 3.7 Before the City will permit any construction of the subdivision, the applicant shall place a 2-inch thick asphalt overlay on 13th Avenue between the boundary of the subdivision and Broadway Street. The overlay shall be 28 feet in width, providing for a 20-foot-wide travel way and a 4-foot-wide striped shoulder on each side. The overlay shall also include placement of two speed humps at locations approved by the City Engineer.
- 3.8 The driveway to be constructed to serve proposed Lot 1 (north of 12th Avenue and Hop Street) shall be constructed of concrete to alley standards, have a width of 20 feet, and extend to the south property line of Lot 8, Block 14, of the Hazelwood Addition to Albany located within Tax Lot 2300, Linn County Tax Assessor Map 11S-04W-12BC.
- 3.9 Dedicate with the final plat the public right of way as shown on the Site Plan along 14th Avenue between Tracts A and B, as well as the land in which a hammerhead turnaround will be constructed.

Phase 2 Additional:

- 3.10 The hammerhead shown on the west side of Lot 13 shall be constructed with Phase II. It shall be designed to accommodate turn around movements of trash trucks and emergency vehicles. The curb around the hammerhead shall be painted yellow to restrict parking. The City Engineer shall approve the final design of the hammerhead.

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

Sanitary Sewer

- 4.1 City utility maps show a 12-inch public sanitary sewer main in Fisher Street that runs from the south to 14th Avenue, turns east in 14th Avenue to Hop Street, turns north in Hop Street and runs to the south boundary of proposed Lot 3, where the main becomes a 20-inch pipe and runs through proposed Lot 1 and beyond. The City's Wastewater Facility Plan does not show system deficiencies downstream of this site.

- 4.2 ORS 92.090 states that no subdivision plat shall be approved unless sanitary sewer service from an approved sewage disposal system is available to the lot line of each and every lot depicted in the proposed subdivision plat.
- 4.3 The Albany Development Code requires all new development to extend and/or connect to the public sanitary sewer system if the property is within 300 feet of a public sewer line (ADC 12.470).
- 4.4 Sewer collection mains must be extended along the full length of a property's frontage(s) along the right(s)-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion (ADC 12.490). Main extensions may be required through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide access to the public system for current or future service to upstream properties (ADC 12.510). Extension of the sewer across the frontage and/or through the interior of a property makes the system available to adjacent properties. Then, when the adjoining property connects, that property owner must extend the sewer in a similar manner, making the sewer available to the next properties. In this way, each property owner shares proportionately in the cost of extending sewer mains.
- 4.5 Many of the proposed lots in this subdivision will have direct access to the existing 12-inch public sewer mains. Any lots that do not have access to these mains must be provided sewer service by extending public sanitary sewer mains through the proposed subdivision.
- 4.6 The applicant's preliminary utility plan shows 8-inch public sanitary sewer main extensions along the streets within and adjacent to the proposed subdivision where existing sewers do not exist, in order to provide service to the lots in this subdivision. The applicant's preliminary utility plan shows public sewer extensions which include mains in 14th Avenue (west of Fisher Street) and Edison Street to Lot 27; 13th Avenue west of Hop Street to Lots 13 and 14; and, 15th Avenue west of Fisher Street to Lot 28. While it does not appear that a public main can be extended for the full length of 15th Avenue (to the railroad tracks) due to grade and pipe depth issues, it may be possible to extend a public main far enough to the west to serve Tax Lot 11200. The length of the extension of public sewer in 15th Avenue will be determined when utility plans are reviewed for this project. This plan appears to be generally acceptable, but final design details will be reviewed and approved by the City's Engineering Division as part of the required Permit for Private Construction of Public Improvements.
- 4.7 A public utility easement exists over the public main that runs through proposed Lots 1, and 2. Public right-of-way will be dedicated for the widening of Hop Street adjacent to Lots 3-6, which may eliminate the need for a public utility easement over the existing main along those lots.

Water

- 4.9 City utility maps show 6-inch public water mains in 16th Avenue, 15th Avenue east of Hop Street, 14th Avenue east of Hop Street, 12th Avenue east of Gale Street, and an 8-inch main in 13th Avenue east of Hop Street.
- 4.10 ORS 92.090 states that no subdivision plat shall be approved unless water service from an approved water supply system is available to the lot line of each and every lot depicted in the proposed subdivision plat.
- 4.11 The Albany Development Code requires all new development to extend and/or connect to the public water system if the property is within 150 feet of an adequate public main (ADC 12.410).
- 4.12 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 service to other properties or to providing looping for fire plows (ADC 12.430). Extension of the water across the property's frontage and through the interior of the property makes the system available to adjacent properties. Then, when the adjoining property connects, that property owner must extend the

water mains in a similar manner, making the water available to the next properties. In this way, each property owner shares proportionately in the cost of extending water mains.

- 4.13 The applicant's preliminary utility plan shows the extension of 8-inch public water mains in 13th Avenue west of Hop Street to the west boundaries of Lots 13 and 14; in 14th Avenue from the end of the existing main east of Hop Street to Edison Street and south to 15th Avenue; in 15th Avenue from the end of the existing main at Hop Street to the west boundary of Lot 28; and in Hop Street from 16th Avenue to 12th Avenue.
- 4.14 Public water main extensions that are not shown on the applicant's plan that will likely be required in order to meet the City Development Code standards and provide access to the water system to adjacent properties include, the extension of an 8-inch main in 15th Avenue to Bonnie Street, and the extension of a public main north of 12th Avenue to provide service to Lot 1 of the proposed subdivision and Tax Lot 2300 east of Lot 1. A public water extension to the subject property's west boundary in 13th Avenue will not be required with this project, but a Petition for Improvements/Waiver of Remonstrance must be signed by the property owner in lieu of the main extension.

Storm Drainage

- 4.15 City utility maps show an 18-inch public storm drain line in 15th Avenue which runs from the west and discharges into the subject property near 15th Avenue and Fisher Street; a 10-inch main in 14th Avenue that discharges to the subject property west of Hop Street; and, a 15-inch main in 12th Avenue that discharges to the subject property west of Hop Street. Stormwater runoff in this vicinity ultimately flows to a drainage way along the west edge of the subject property, where it flows to the north, and discharges to the Calapooia River.
- 4.16 All new development within the City must, where appropriate, provide for the extension of existing storm sewer lines or drainage ways serving surrounding areas. Extensions may be required along all frontages and/or through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide service to upstream properties (ADC 12.580). Any public drainage facility proposed for a development shall be designed large enough to accommodate the maximum potential runoff from its entire upstream drainage area, whether inside or outside of the development, as specified in the City's storm drainage facility plan or separate storm drainage studies (ADC 12.550).
- 4.17 A development will be approved only where adequate provisions for storm and flood water run-off have been made, as determined by the City Engineer (ADC 12.530).
- 4.18 According to the City's Storm Drainage Master Plan, this area lies within the Calapooia Basin. The Master Plan does not indicate that there is a capacity problem with the drainage way within (and downstream of) the subject property. Page 4.2 of this Plan states: "*A [second] problem area occurs at 13th and 15th Avenues, between Hop Street and the Calapooia River. During periods of severe rainfall, the water surface in the Calapooia River rises to cause backwater flooding. There is little that can be done to alleviate this problem.*" The Plan also suggests that there is a need to install a parallel pipe at 15th Avenue and Fisher Street (Node 50b in Figure 4.1) to provide extra flow capacity.
- 4.19 The applicant submitted a preliminary storm drainage plan and associated drainage calculations for the proposed development. The plan shows the construction of new streets to serve the site, and in conjunction with those streets new public storm drainage facilities will be built to collect and carry storm water runoff. The applicant's submittal appears to be generally acceptable, and is designed not only to collect stormwater runoff from the subject properties and adjacent streets, but also to intercept and carry drainage from upstream streets that flows through the subject property. All drainage that will be collected and routed through these new public storm drainage facilities will be carried to a detention basin to be located in the north portion of the site that will provide not only detention capacity for this drainage, but also will provide some measure of stormwater "treatment" before releasing the runoff into the open space area that ultimately flows to the Calapooia River.

- 4.20 While the applicant's preliminary utility plan has been reviewed by the City's Engineering Division and appears to be generally acceptable, there may be slight modifications to details associated with the plan that will be dealt with in conjunction with the required grading and fill permits and the Permit for Private Construction of Public Improvements.

General

- 4.21 The applicant's utility plan is preliminary to show how the project can be served by public infrastructure. The final design for required infrastructure must conform to all City code requirements and standard utility construction specifications. The utility designs must be reviewed and approved by the City's Engineering Division as part of the *Permit for Private Construction of Public Improvements*.

CONCLUSIONS

- 4.1 The public sanitary sewer system can accommodate the proposed development. Public sewer system improvements must be constructed to provide direct access to all lots within the proposed subdivision, and to the boundaries of the property, where possible, to provide for future service and/or extensions to serve surrounding properties.
- 4.2 The applicant's preliminary utility plan shows the extension of public water mains for this project being connected to the existing public water system at numerous points. These connections will provide system looping that should improve flows and provide system redundancy ("secondary feed sources") in this area.
- 4.3 The City's Storm Drainage Master Plan shows no system deficiencies downstream of this site. It indicates that existing culverts/pipes that run under 15th Avenue (near Fisher Street) are undersized, but these will be removed with the improvement of 15th Avenue, where new drainage facilities will be constructed with the street improvements.
- 4.4 The City's Engineering Division has reviewed the applicant's preliminary storm drainage plan and calculations and has determined that the plan is generally acceptable. Final design details will be reviewed in conjunction with the Permit for Private Construction of Public Improvements.
- 4.5 The design for all public infrastructure work associated with this project must be reviewed and approved by the City's Engineering Division as part of the Permit for Private Construction of Public Improvements.
- 4.6 This criterion is satisfied when the following condition is met.

CONDITION

- 4.1 Before the City will approve a final subdivision plat, the developer must financially assure or construct public sanitary sewer, water, and storm drainage system improvements to serve the proposed development, and to provide for future service and/or extensions to surrounding properties. These public improvements must generally conform to the submitted preliminary utility plans, but final design details will be determined by the City's Public Works Department in conjunction with their review of the developer's application for a *Permit for Private Construction of Public Improvements*.

Criterion (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

Topography

- 5.1 The tentative plat shows the contours of the property. The elevations on the property vary from about 186 to 208 feet, a difference in elevation of about 22 feet on land that is 340 feet wide at its narrowest point and 730 feet wide at its widest point. The average slope of the site is approximately four (4) percent. The majority of the property to be divided is at elevations between 196 and 209 feet. The property slopes generally from northeast to southwest.
- 5.2 ADC 6.180 shows that the Hillside Development regulations only apply to any property proposed for development that has slopes of 12 percent or greater as shown on Plate 7 of the Albany Comprehensive Plan. Plate 7 does not show steep slopes on the property where the subdivision is proposed.
- 5.3 The Grading Plan (Sheet 6) shows that the edges of some lots will have a change in elevation. The applicant submitted information stating that the grading and fill plan is set up for 2:1 or less slopes. These will be engineered fills, monitored by a geotechnical engineers. No future shoring of the slope will be necessary. All slopes will be protected for erosion control when completed. This grade ratio also pertains to the front of the lots resulting in only a three foot change in elevation at most from the top of curb to the finished building pad. They do not see this grade difference creating any problems for construction of driveways for the future homes.
- 5.4 A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one acre or more of land.

Existing Fill

- 5.5 There is an area of the property at the northeast corner of 13th Avenue and Hop Street that has been filled. The slope from the filled area to the undisturbed ground to the west appears to be about 32-35 percent. These areas are located partially on proposed Lots 4, 5, 13, and 14. According to the records of the Linn County Planning and Building Department, filling began as early as 1980. Additional fill was placed beginning in about 1992 when the property was outside the Albany city limits and continued until at least 1994. A fill permit, for this fill, was issued by the Linn County Planning and Building Department. There were ongoing discussions about the quantity and quality of the fill through 1994.
- 5.6 The applicant resubmitted with this application a copy of a letter dated September 22, 2006, from Mark Grenz of Multi/Tech Engineering Services Inc. to Brian Moore of Salem, Oregon. This letter discusses on behalf of the applicant the existing fill on the site. The applicant says that the remarks and information provided in that letter have not changed relative to this current application.

The letter says that a preliminary site investigation indicates that the fill material on the property was not placed in a manner consistent with engineered fills and that the fill may require "reprocessing." The preliminary investigation did not locate any material or substance that Multi/Tech believes to be a contaminant. Multi/Tech does not have any information from prior owners, Linn County, City of Albany, or others that lead them to believe any contaminated material has been placed or disposed of on the site.

The letter further says that "during the construction process of this development, all of the fill material will be picked up, sorted, reprocessed, and compacted into engineered fill. Should any material be encountered during that operation that is inconsistent with the findings that we have so far, that material will be removed and disposed of in a manner that meets the requirements of the Oregon State Department of Environmental Quality."

- 5.7 In support of the above findings, the applicant submitted with the application a copy of a geotechnical investigation report of the site prepared by Foundation Engineering, Inc. dated November 30, 2007, and memorandum from the same firm dated May 10, 2007. These are not attached to the staff report, but are available for review.

Floodplain

- 5.8 FEMA/FIRM (Federal Emergency Management Agency/Flood Insurance Rate Map) show the 100-year floodplain and the floodway. The *floodplain* is the entire area inundated by a 100-year flood. The *floodway* is the area needed to carry a 100-year flood. The floodway must be kept open to allow a 100-year flood to pass through it. The area between the outer boundary of the floodway and the outer boundary of the floodplain is called the flood fringe. The flood fringe can be entirely filled without raising the elevation of the 100-year flood more than one foot, based on modeling done by the U.S. Army Corps of Engineers.
- 5.9 *Comprehensive Plan Plate 5: Floodplain,s* shows this property is in the 100-year floodplain of the Calapooia River. FEMA/FIRM Community Panel No. 410138 0180B, dated 9/29/1986 shows that part of this property is in Zone A13. Zone A13 is an area of 100-year flood where base flood elevations and flood hazard factors have been determined. Community Panel No. 410137 003 F shows that part of this property is in Zone AE. Zone AE is a special flood hazard area inundated by a 100-year flood where the base flood elevation has been determined. As shown on the Tentative Plat (Sheet 1), the base flood elevation (BFE) on the property is about 204 feet. The property is not located in a floodway.
- 5.10 The applicant's Floodplain Plan (Sheet 5) shows that 13.48 of the subdivision's 15.26 acres are located in the floodplain. The subdivision is not located in a floodway. The applicant states that grading and fill must occur to ensure that all of the home sites are raised to meet or exceed the base flood elevation of 204 feet so that flood damage will not result from this land division. Streets will be graded so the crown is one-foot below the base flood elevation. The Grading Plan (Sheet 6) submitted with the subdivision application shows how the applicant intends the property to be graded.
- 5.11 Excavation and fill (grading) is specifically excluded from the definition of development as used in the floodplain section of the Development Code. Grading is regulated by the Albany Municipal Code. (ADC 6.071)
- 5.12 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 or if grading is to be done in the floodplain. (The City's Engineering Division of Public Works currently reviews grading permits.) Part of this property (13.48 acres) is in the floodplain of the Calapooia River.
- 5.13 A land division is included in the definition of "development" (ADC 6.071). ADC 6.130 requires that development in the floodplain shall be subject to the following standards.

(I) *All land division proposals shall be consistent with the need to minimize flood damage.*

- a. The total area of the subdivision is 15.26 acres, of which about 13.48 acres are located in the floodplain of the Calapooia River. The Floodplain Plan, (Sheet 5) shows the location of the floodplain within the subdivision and the area that would need to be filled (4.3 acres) in order to raise the lots above the 100-year base flood elevation of 204. Streets will be graded to an elevation within the allowable one-foot below the based flood elevation to facilitate drainage from the home sites to the storm drainage facilities located in the streets.
- b. A grading permit is required to fill in the floodplain. Grading regulations are found in the Albany Municipal Code (AMC) and are currently administered by the Public Works Engineering division. ADC 6.133 includes standards that apply to buildings in the floodplain. These standards are applied when fill is proposed and when building permit

applications are reviewed. The land division application itself does not propose fill or buildings.

- c. Related to the impact this subdivision may have on flooding in the area, the applicant resubmitted a 9/22/06 letter/report prepared by Roger Sutherland P.E. of Pacific Water Resources for the earlier 46-lot subdivision. In addition, Mr. Sutherland provided an update to that report, dated June 7, 2010, that specifically addresses how the current proposed 32-lot subdivision and fill would affect flooding in the area of the subdivision. Mr. Sutherland concluded that the current subdivision proposal will have no greater effect on flooding in the area than the first subdivision proposal.

Mr. Sutherland's 2006 base report states that based on his site visit and data collected, it was not necessary to do a detailed hydraulic modeling of flooding in this area to evaluate the affect of the 46-lot subdivision on flooding.

Mr. Sutherland begins discussion of his findings on page 4 of the letter and summarizes them on page 6. He says "It is my professional opinion that the proposed floodplain fill associated with the 13th Avenue Subdivision will result in no significant change in the floodplain elevations that are likely to be observed immediately adjacent, upstream or downstream of the site." He goes on to explain why he can make such a strong statement without doing detailed modeling. First, the amount of fill is an insignificant amount when compared to the width and depth of the floodplain at this location. Second, the only way for flood waters from the Calapooia River to enter the site is through 13th Avenue and 15th Avenue where they cross under the railroad grade. The flooding on the subdivision property is backwater or standing water from the Calapooia River and no conveyance of floodwaters occurs across the site."

On September 29, 2006, City staff called to the attention of the applicant that there are culverts under the railroad tracks that allow flood water to enter and exit the subdivision property. In an email to Mark Grenz on October 2, 2006, Mr. Sutherland says, "A small volume of this [flood] water will also enter through these small culverts. What is important here is that the flood waters are not entering from the southeast and flowing along the railroad tracks themselves so no significant conveyance needs to be maintained along the tracks and yet the proposed site filling plan does not include any fill along the tracks anyway. Water backing up through the culverts should not be an issue." [The railroad is elevated along the west boundary of the subdivision, so it acts like a dam that keeps the flood water out of the area to the east, except for the water that comes under the tracks.]

The City Engineer has reviewed all of Mr. Sutherland's findings and agrees that no significant change in the floodplain water surface elevations would be observed immediately adjacent, upstream or downstream of the site with development of the subdivision. The area where the subdivision is proposed is flooded in the 100-year flood as a result of backwater passing under the railroad tracks.

- (2) *All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.*

Public utilities and facilities will be underground. Underground utilities and facilities will not be flooded.

- (3) *All land division proposals shall have adequate drainage provided to reduce exposure to flood damage.*

New streets will be constructed in the subdivision. A piped storm drainage system will be built with the streets. The storm drainage system will provide drainage for the street and the adjacent

lots. Lots will be filled to raise them above the 100-year base flood elevation. [See the discussion about storm drainage under subdivision Review Criterion (4) above.]

- (4) *Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Code.*

FEMA/FIRM Community Panel No. 410136 0180, which shows the floodway and floodplain for the Calapooia River, shows that none of this property is in the floodway. The floodway is located on the west side of the railroad tracks.

- (5) *Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.*

The 100-year base flood elevation is shown on the Tentative Plat as about 204 feet. The applicant's findings and Grading Plan (Sheet 6) shows that the roadway crown elevation is intended to be at least one foot below the 100-year base flood elevation.

- (6) *All land divisions or planned developments in the floodplain district shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. Where elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: "Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City."*

The 100-year base flood elevation is shown on the Tentative Plat as 204 feet. A note on the plat says "base flood elevation based on FEMA map Community Panel Number 410136 01680B, September 29, 1986." This information must also be included on the final plat.

- 5.13 ADC 6.133, 6.140, and 6.150 list standards for buildings in floodplains. These regulations are applied at the time building permits are reviewed and issued, and are not part of the land division review.
- 5.14 Building Code requirements apply to structures built in the floodplain. It is recommended that the property owner apply to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision-Fill (LOMR-F) so that the FEMA/FIRM (flood insurance) map is revised to show the filled areas of the property that will no longer be in the floodplain. If the LOMR-F is not done and approved before construction of homes on the relevant lots, FEMA's map remain unchanged and lenders will most likely require flood insurance unless the homeowner shows the house was built above the flood elevation.

Wetlands

- 5.15 *Comprehensive Plan Plate 6: Wetland Sites* shows wetlands on this property. In 1988, the City did an inventory of wetland areas in Albany for a Comprehensive Plan update. The inventory includes the area on this property on the east side of the railroad tracks. The narrative in the inventory says:

"The Comprehensive Plan designates this area as Low Density Residential up to the railroad tracks. However, wetland characteristics begin at the end of the paved streets and extend both north and south, adjacent to the easterly side of the railroad tracks. The entire residential area, between 12th Avenue and 16th Avenue and east of Broadway probably exhibited similar wetland characteristics as the present site, prior to development. If urban pressures were intense, it would be difficult to preserve this area for its wetland values due to the proximity of the site to current development. The existing railroad tracks appear to make a reasonable physical and psychological boundary between urban and open space land uses. This same boundary was followed when the City established the Open Space Designation which starts on the westerly side of the railroad tracks."

- 5.16 This property was included in the City's 1999 "Local Wetlands Inventory for the Willamette River, Calapooia River, and Oak Creek." The Local Wetlands Inventory (LWI) identifies two wetlands, CAL-7A and "CAL-7B" as locally significant. They are located in the low-lying area in the western portion of the site. The Local Wetland Inventory does not establish the actual the boundary and qualities of the wetlands. It is used to provide a land owner with information that wetlands may exist on their property.
- 5.17 The Oregon Department of State Lands (DSL) administers federal wetlands regulations. Oregon Revised Statutes (ORS) Section 227.350 says the City must notify the DSL of subdivision applications that are wholly or partially within wetland areas. The City notified DSL of this subdivision application. Depending on the amount of impact proposed with a development, permits from DSL and the U.S. Army Corps of Engineers may be required.
- 5.18 ZION Natural Resources Consulting prepare a delineation of the wetlands within the area of the subdivision for the applicant. The report is dated January 2006, and was submitted with the subdivision application, along with a copy of a letter dated February 29, 2008, from DSL that states that based upon the information in the delineation report and additional information requested by DSL, they concurred with the wetland boundaries as mapped in the revised figure (dated 2/29/08) of the report. (DSL file #WN-2010-0046; Project #51097). The wetland delineation approval expires 2/29/2013. The approved revised map shows a delineation of six wetlands totaling approximately 6.25 acres (as opposed to 4.64 acres initially identified in the delineation report). This is more acreage than was shown on the Local Wetlands Inventory.
- 5.19 The Wetlands Plan (Sheet 3) attached to the staff report shows that location of the final approved wetlands boundaries and which they propose to fill. The applicant proposes to fill 0.83 acres (36,375 square feet/13.28 percent) of the identified wetlands because they are located within proposed lots and accesses. None of the wetlands proposed for fill are the ones identified as locally significant. The significant wetlands are located in the tracts to be set aside as permanent undeveloped open space. Response from DSL states that the applicant's Removal /Fill Application #39793 is currently under review and that at the consultants request the decision deadline was extended to 11/17/2010. The applicant has indicated the intention at this time is to mitigate the impacts off-site. DSL's decision on whether wetlands can be filled may affect the design of the subdivision.
- 5.20 ADC sections 6.280 through 6.300 include local wetlands regulations. ADC 6.280 says that the wetland regulations apply to those areas meeting the Oregon Division of State Lands (DSL) criteria, identified as wetlands on the Comprehensive Plan Wetlands Map exhibit, and designated as Open Space in the Comprehensive Plan. The wetlands on this property are not designated as Open Space on the Comprehensive Plan Map, so the local wetlands regulations do not apply.
- 5.21 ORS 227.350(3) says approval of a subdivision by the City must include a statement that says "issuance of a permit under ORS 196.600 to 196.905 by DSL [may] be required for the project before any physical alteration takes place within the wetlands." This statement will be included as a condition of approval of the subdivision.

Riparian Area

- 5.22 The City has a riparian inventory for this area. The inventory is the "Riparian Inventory for the Willamette River, Calapooia River, and Oak Creek." The inventory does not show a riparian corridor on within this subdivision.

Vegetation/Trees

- 5.23 *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat* shows a small area of vegetation and/or wildlife habitat near the railroad tracks on the north side of 13th Avenue on this property. This area will be in an open space area provided with the subdivision and will not be disturbed.

ADC 9.207 requires Site Plan Review if five or more trees are to be cut. The applicants submitted a concurrent Site Plan Review application to cut 17 trees (File SP-03-10). The tree-felling application is reviewed following this review of the subdivision.

Historic Sites

5.24 *Comprehensive Plan Plate 9: Historic Districts*, shows the property is not in a historic district.

Archaeological Sites

- 5.25 In Oregon there are laws in place that protect archaeological sites and objects and human remains located on public and private land (ORS 358.905; ORS 97.740-97.460). Based on archeological predictive models, because the subject development is in the near vicinity of the Calapooia River, it is within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains of Native Americans.
- 5.26 The location of archaeological sites is a sensitive issue with Oregon Tribes as well as other groups. To protect these sensitive resources from possible looting and/or destruction, per ORS 192.501(11), information regarding archaeological site description and location is excluded from the Freedom of Information Act (FOIA). The Oregon State Historic Preservation Office (SHPO) can provide general information concerning the presence or absence of an archaeological site within the subject site to agencies or individuals needing such information for management purposes. Site-specific data on known sites, however, will only be provided by them to professional archaeologists.
- 5.27 If archaeological materials or sites are discovered on the site during any construction activities related to this subdivision, including but not limited to grading, removal of the existing fill and development of the individual lots by home builders, per ORS 358.905, all work must stop immediately and a professional archaeologist notified to assess the discovery. The consulting archaeologist shall make a preliminary assessment of whether the cultural material or site is potentially significant and recommend additional steps to mitigate effect. The assessment and recommendation must be sent to the Oregon SHPO for concurrence before commencement of any further ground disturbing activities. Depending on the project, the nature of the discovery, and the statutory jurisdiction, Oregon SHPO may ask the developer to retain a consulting archaeologist to assist in development of a treatment plan.

CONCLUSIONS

- 5.1 There are areas of slopes steeper than 12 percent on this property, but this site is not located on Plate 7 of the Comprehensive Plan. The City's Hillside Development regulations do not apply.
- 5.2 The applicant will pick up the existing fill on site, sort, reprocess and compact into engineered fills. Any material that is determined to be a contaminant will be removed and disposed of in accordance with DEQ requirements.
- 5.3 Part of the property that will be divided is in the 100-year floodplain of the Calapooia River. Most of the floodplain will be in permanent open space areas provided with the subdivision. Some of the property in the floodplain will be filled to raise it above the 100-year base flood elevation. It is recommended that the applicant file a Letter of Map Revision-Based on Fill (LOMR-F) with FEMA so that the areas filled above the floodplain level can be removed from the FEMA maps as being located in the floodplain.
- 5.4 The City Engineer has concluded that based on information provided by the applicant, no significant change in the floodplain water surface elevations would be observed immediately adjacent, upstream, or downstream of the site due to development of this subdivision.
- 5.5 Erosion control during grading and subdivision construction is required.

- 5.6 The wetlands within the subdivision have been delineated. Most of the wetlands, including all of the significant wetlands, are located in the proposed undevelopable open space tracts. Permits from the U.S. Army Corps of Engineers and/or DSL will be required by them to fill wetlands. The applicant intends to mitigate the impacts to the wetlands off-site.
- 5.7 The applicant has applied for a Site Plan Review approval to remove 17 trees that have trunks larger than 25 inches in circumference. Review of that application follows in this staff report.
- 5.8 This site is not located within an historic district.
- 5.9 The subdivision is located in an area that has a high probability of containing archaeological resources. Information regarding archeological sites is excluded from the Freedom of Information Act. If discovered during construction of the subdivision, the developer must comply with all applicable State statutes regarding the protection and treatment of these cultural resources.
- 5.10 To disturb one acre or more of land an NPDES permit from DEQ is required.
- 5.11 This criterion is satisfied when the following conditions are met.

CONDITIONS

- 5.1 Before any of the proposed grading and fill is done on the site, the property owner must obtain a grading permit from the City of Albany Public Works Engineering Division.
- 5.2 All slope areas, impervious surface drainage from roofs, driveways, and parking areas must be directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of stormwater in natural drainageways without prior approval from the Public Works Director.
- 5.3 Public streets in the subdivision must have a roadway crown elevation of not lower than one foot below the 100-year base flood elevation.
- 5.4 The location of the 100-year flood contour line, followed by the date the flood elevation was established, must be shown on the final plat. The following statement shall be located on, or attached to, the subdivision plats to be recorded with Linn County: "Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City."
- 5.5 Unless the City receives a letter from Federal Emergency Management Agency (FEMA) that they have approved a Letter of Map Revision-Based on Fill (LOMR-F) application for this site, the floodplain maps remain unchanged. Building Code requirements will apply to structures constructed in the floodplain.
- 5.6 Before issuance of any construction permit for the subdivision the applicant must provide the City with a copy of an approved Removal/Fill Permit from Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers to fill the wetlands. The decisions of these agencies may affect the design of the subdivision. If the Removal/Fill Permit requires a substantial change in the subdivision design the applicant will need to submit a revised or new land division application to the City's Planning Division.
- 5.7 The property owner/developer must comply with Oregon Revised Statues regarding archaeological objects, sites, and graves, and recommendation or requirements of the Historic Preservation Office of the State Parks and Recreation Department. If any cultural material is discovered during construction activities, all work must cease immediately and not be resumed until permitted to do so by the Oregon State Historic Preservation Office (SHPO).
- 5.8 A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one acre or more of land.

STAFF ANALYSIS
Site Plan Review-Tree Felling Application
File: SP-03-10

Description of the Application

ADC 9.207 says that Site Plan Review approval is required for the felling of five or more trees that have trunks individually or cumulatively 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.

The subject property is currently five adjoining parcels that total 15.26 acres. The applicant owns all five parcels. To construct a 32 lot subdivision the applicant has submitted a Site Plan Review application to remove 17 of the 76 trees on a 15.26 acre site that have trunks larger than 25 inches in circumference (about 8 inches in diameter). The application says that the trees to be removed are in the areas where proposed public improvements and home site are to be created and installed, and where grading and filling must take place to comply with floodplain regulations.

Tree Felling Review Criteria [ADC 9.207(2)]

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

For property where a site plan review, conditional use or land division application has been approved or is currently under review, the Community Development Director, City Forester, or his/her designee shall approve a site plan review for tree felling when the applicant demonstrates that all of the following review criteria are met (emphasis added):

- (a) *It is necessary to fell tree(s) in order to construct proposed improvements in accordance with an approved site plan review or conditional use review, or to otherwise utilize the applicant's property in a manner consistent with its zoning, this Code, applicable plans adopted by the City Council, or a logging permit issued by the Oregon Department of Forestry.*

FINDINGS OF FACT

- a1. The property that will be subdivided is zoned RS-6.5 (Residential Single Family). A subdivision and construction of houses is allowed in RS-6.5 zoning districts.
- a2. As addressed in the subdivision staff report (SD-01-10) above the subdivision will meet the applicable review criteria listed in the Albany Development Code, and applicable (master) plans adopted by the City Council, when subdivision conditions of approval are met.
- a3. Written information submitted with the application says that the trees to be removed are "...at locations of proposed streets and grading/filling to comply with floodplain regulations."
- a4. ADC 6.133(1) requires that houses be constructed at least one foot above the 100-year base flood elevation.
- a5. The applicants submitted a "Wetlands & Tree Plan" (Sheet 3). The Tree Plan was prepared by Multi/Tech Engineering and shows the location of the trees on the property. They indicate there are 76 trees with trunks larger than 8 inches in diameter are identified individually on the plan, plus there are an undetermined number of trees in an area located in the northwest corner of the property. The trees in the northwest corner of the property were not located or identified individually because they are in a protected open space area that will not be disturbed by construction of the subdivision.
- a6. The Tree Plan, Sheet 3, shows the location type and size of trees requested for removal. They are located

in Lots 1, 6, 25, 27, 28 and 29. With the exception of a Hawthorn tree on Lot 1, the subject 17 trees are Ash and Cottonwood. The trees vary in size from 14 inches to 28 inches in diameter. The applicant states that the trees need to be removed to provide adequate building sites, are in areas that will be graded and filled, or are in proximity of areas to be filled or disturbed to construct improvements. The removal of a 14-inch Cottonwood located in the rear setback area of Lot 6 is requested due to potential safety issues to future structures or persons in the yard. Cottonwood trees are not known for being stable trees. They are known for being brittle and falling down. (On-line source: Ron Smith, Horticulturist, NDSU Extension Service, www.ext.nodak.edu/extnews/hortiscope/tree/cttnwood.htm).

- a7. A logging permit has not been issued by the Oregon Department of Forestry (ODF).

CONCLUSIONS

- a1. The tentative plat shows 17 trees located in areas subject to fill and grading to raise them above the 100-year flood elevation, or within the building areas of lots. A Cottonwood on Lot 6 is requested for removal due to potential safety reasons.
- a3. It may be necessary to obtain a logging permit from the ODF.
- a4. This review criterion will be met when the following condition is met.

CONDITION

- a1. The property owner must obtain a logging permit from the Oregon Department of Forestry (ODF), if required by ODF.
- (b) *The proposed felling is consistent with State standards, City ordinances, and the proposed felling does not negatively impact the environmental quality of the area, including but not limited to: the protection of nearby trees and windbreaks; wildlife; erosion; soil retention and stability; volume of surface runoff and water quality of streams; scenic quality, and geological sites.*

FINDINGS OF FACT

- b1. Review by the Department of Forestry ensures that State standards regarding logging practices are met (a State standard). The property owner/developer may need a logging permit from the ODF.
- b2. This review explains how the proposed tree cutting will be consistent with the City's tree felling ordinance.
- b3. The trees proposed for removal are widely scattered on the property. None of the trees protects nearby trees or acts as a windbreak.
- b4. The applicants did not provide an assessment of the wildlife habitat or scenic quality of the trees on the property. The trees are used by birds, at least, as habitat. However, because this property is zoned for urban uses (the zoning is Residential Single Family), it must be expected that the property will be developed and the environmental quality of the area will change. Retention of 59 of the 76 large trees identified individually on the property plus all of the trees in a wooded area in the northwest corner of the property will retain any scenic qualities they provide the site and continue to provide wildlife habitat in the area.
- b5. Erosion control will be required during subdivision construction. A NPDES permit is required as Condition 5.8 of the subdivision approval.
- b6. A storm drainage system will be constructed with the subdivision. The drainage system will collect stormwater and discharge it to the wetlands/drainageway that runs along the western boundary of the property.

- b7. New trees will be provided with front yard landscaping on subdivision lots (a minimum of one per lot) and within the planter strips in the public right-of-way.
- b8. There are no known geological sites on the property.

CONCLUSIONS

- b1. The proposed felling will be consistent with State standards if a logging permit is obtained from the ODF, if required.
- b2. Consistency with City standards is determined by this review.
- b3. The trees that are proposed to be removed do not protect nearby trees or act as a windbreak.
- b4. The applicants did not provide an assessment of the wildlife habitat or scenic qualities of the site. But given that a subdivision is an allowed use of this property, a large number of trees will remain on the property, and new trees will be planted in front yards, the scenic and environmental qualities of the area will not be negatively impacted.
- b5. Soil retention and stability and water quality will be managed by erosion control during subdivision construction. The open space areas designated on the tentative plat will not be disturbed.
- b6. Surface runoff will be managed by a storm drainage system in the subdivision.
- b7. This review criterion will be met when the condition listed under Review Criterion “a” above to obtain a logging permit (if necessary) is met.
- (c) *The uniqueness, size, maturity, structure, and historic value of the trees have been considered and all other options for tree preservation have been exhausted. The Director may require that trees determined to be unique in species, size, maturity, structure, or historic value, are preserved.*

FINDINGS OF FACT

- c1. The proposed trees to be removed are Ash, Cottonwood, and Hawthorn. These tree species are not unique in Albany. The trunk sizes range from 14 to 28 inches. These sizes are not unique.
- c2. None of the subject trees have been identified by the City as historic.
- c3. More than 59 trees will be preserved on the property.
- c4. There are two Oak trees (20 inches and 24 inches) to be retained that are in the near proximity of a detention basin and outfall to be constructed in the northeast portion of the site. These trees as well as all retained trees will need to be protected during construction per City regulations.

CONCLUSIONS

- c1. The uniqueness, size, maturity, structure, and historic value of the trees requested for removal have been considered. Trees to be retained must be protected during the construction processes.
- c2. This review criterion will be met when the following conditions are met.

CONDITIONS

- c1. ADC 9.208(5) states that trees on the property that will not be cut must be protected during construction as follows:

Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process.

The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

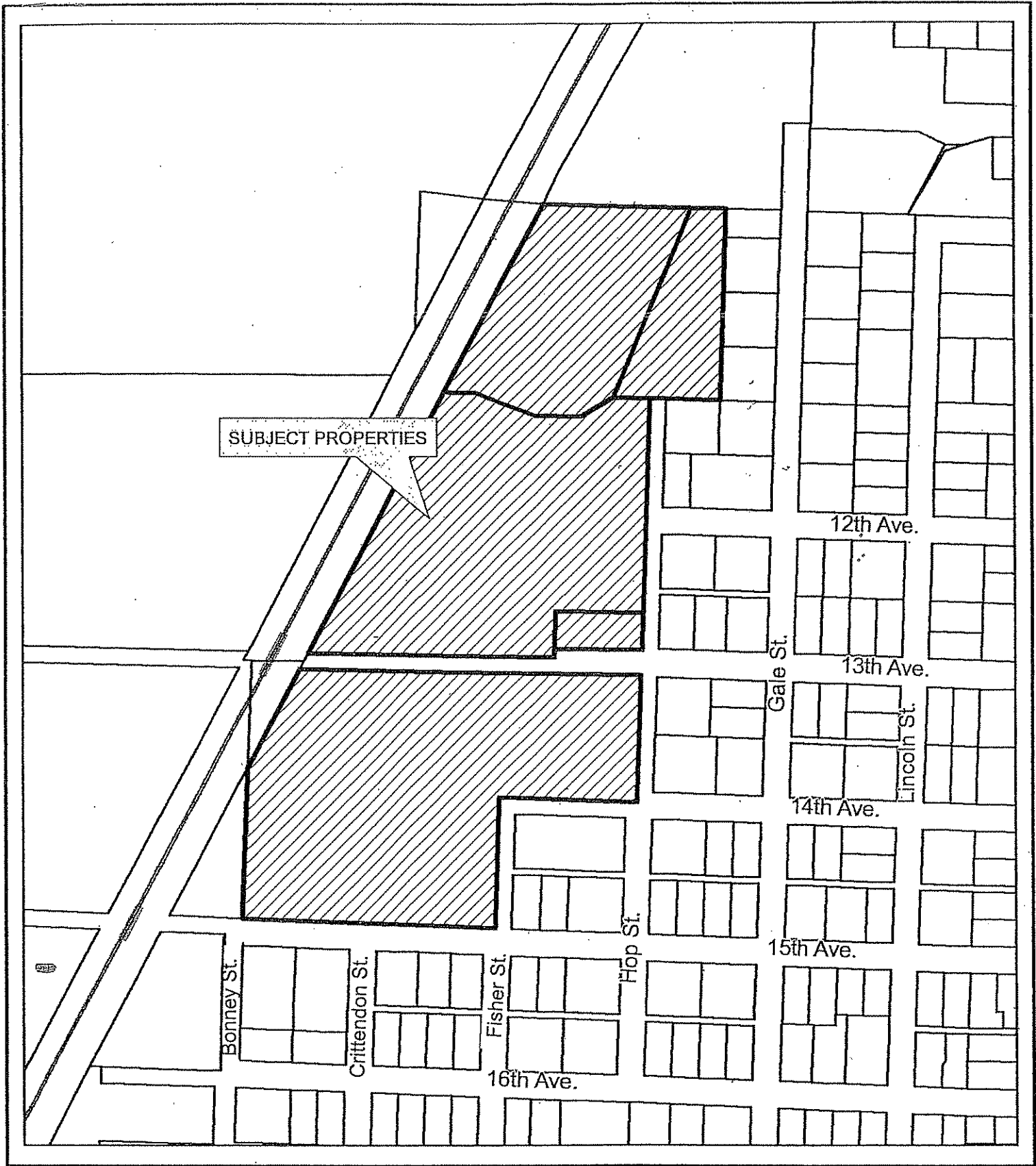
- (a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.
- (b) Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four (4) feet in height, secured with metal T-posts, no closer than six (6) feet from the trunk or one-half (½) of the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris, or fill within the fenced tree protection zone.
- (c) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil, or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.
- (d) No damaging attachment, wires, signs, or permits may be fastened to any protected tree.
- (e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be “ribboned off,” rather than erecting protective fencing around each tree, as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
- (f) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree diameter at breast height as described in the chart below.

Tree Diameter at Breast Height (inches)	Auger Distance from Face of Tree (feet)
8-9	5
10-14	10
15-19	12
Over 19	15

C2. To ensure the preservation measures are followed, advance notice of all pre-construction meetings and actual construction activity shall be given to the City Forester, Craig Carnagey, at 541-917-7679.

Attachments: Location Map, 2006 aerial photo of subdivision site (Exhibit A), Tentative Plat (Sheet 1); Site Plan (Sheet 2), Wetlands and Tree Plan (Sheet 3), Utility Plan (Sheet 4), Floodplain Plat (Sheet 5), Grading Plan (Sheet 6), Detail Sheet (Sheet 7)

U:\Community Development\Planning\Current\2010\10sd01.10SP03.PC.StaffReport.jm.doc



PROPOSED 32-LOT SUBDIVISION AND TREE FELLING APPLICATIONS



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 of the data provided represents current information in a readily available format. While the data provided is generally believed to be accurate, occasionally it proves to be incorrect. Due to its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the material provided, it is specifically advised that you independently verify the information contained within our records.

N

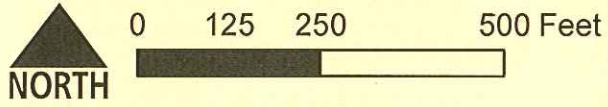


FILES: SD-01-10 and SP-03-10

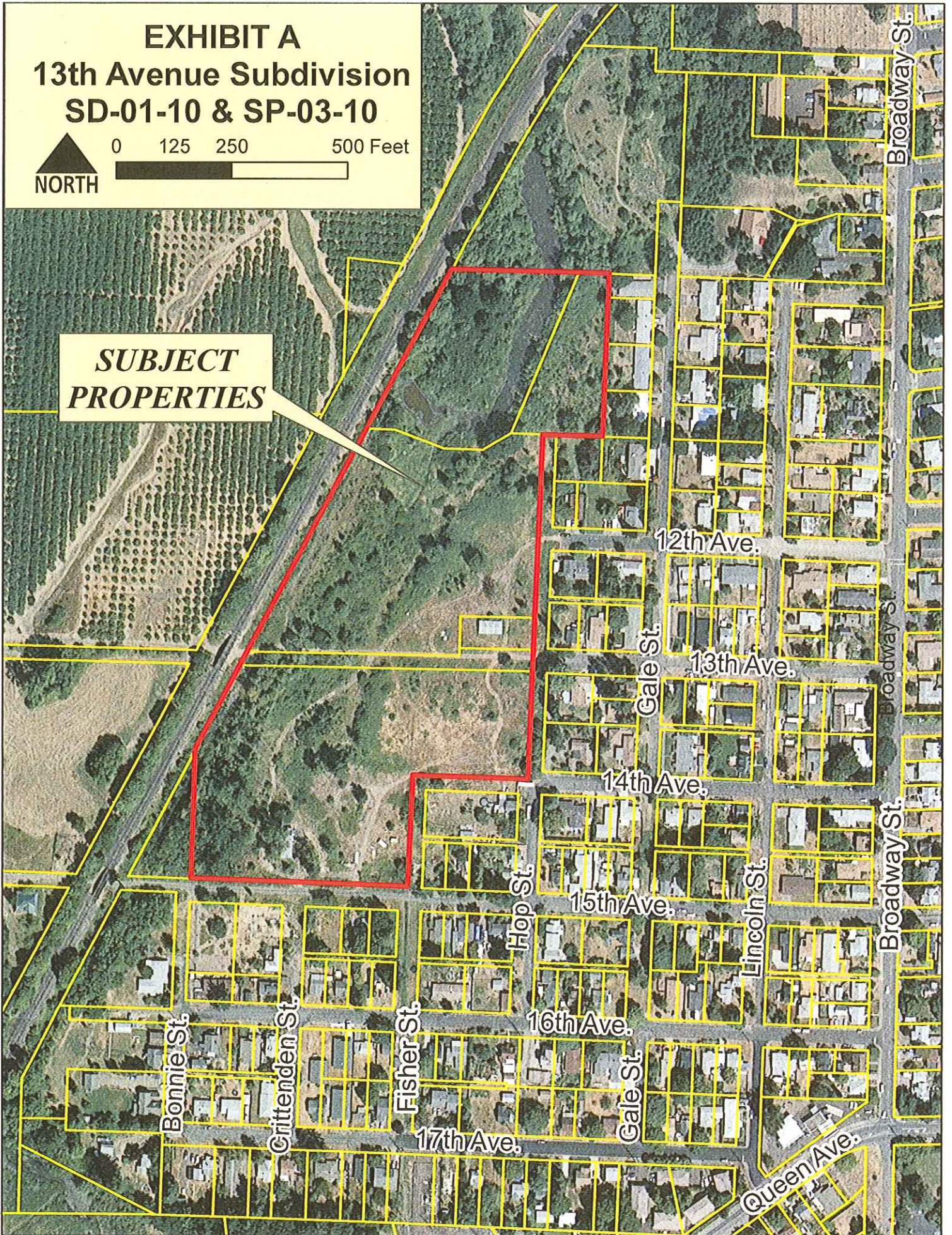
Planning Division

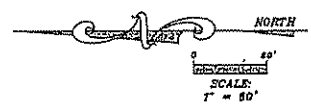
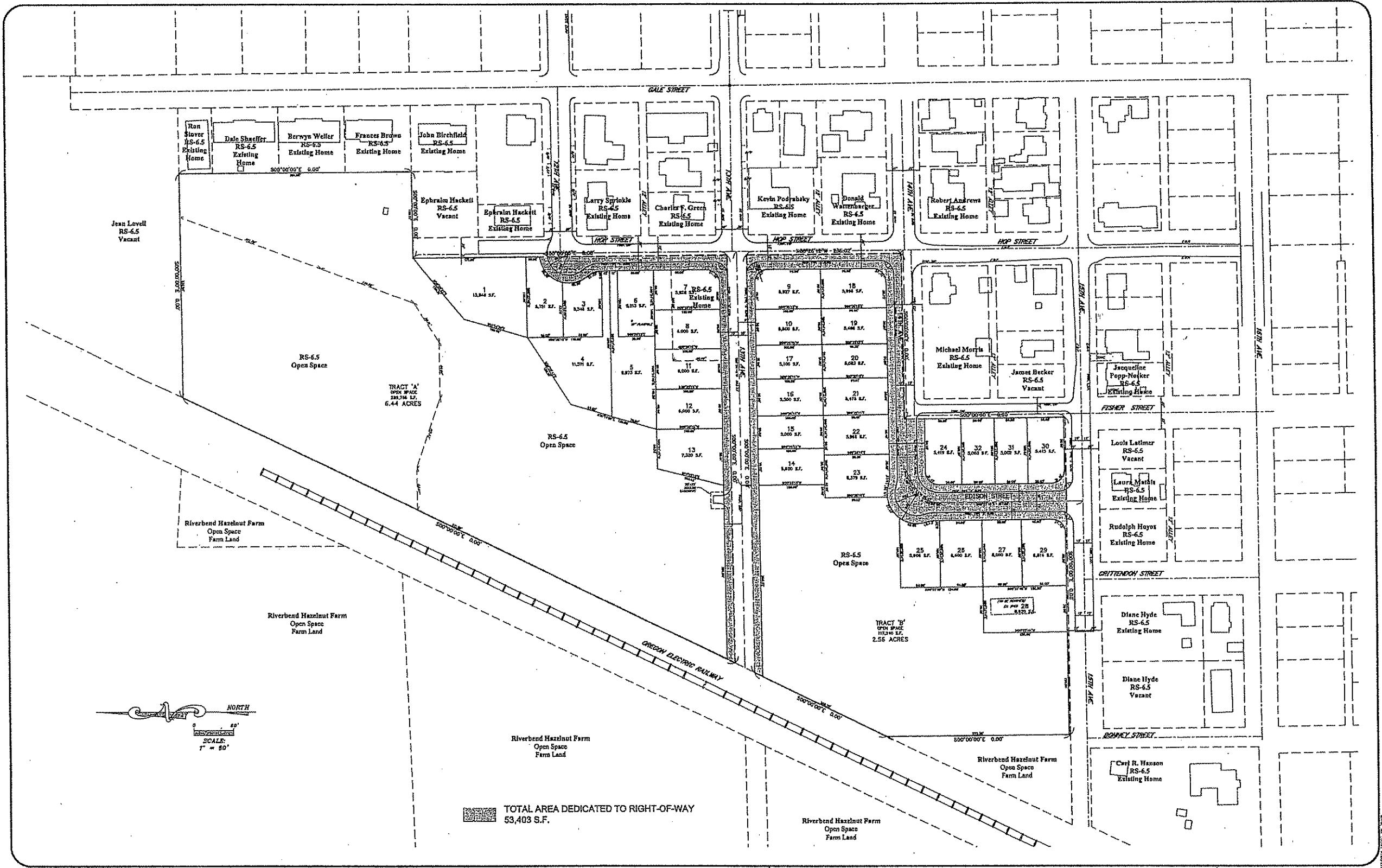
City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917- 7676

EXHIBIT A
13th Avenue Subdivision
SD-01-10 & SP-03-10



**SUBJECT
PROPERTIES**





TOTAL AREA DEDICATED TO RIGHT-OF-WAY
53,403 S.F.

MULTI / TECH
ENGINEERING SERVICES, INC.
3102 12th ST., S.E., GALEN, GA. 30502
PH: (803) 282-2287 FAX: (803) 282-1240
WWW.MULTITECHSERVICES.COM

MULTITECH ENGINEERING EXHIBIT FROM
LIBRARY IF NOT STAMPED APPROVED
**NOT FOR
CONSTRUCTION
UNLESS STAMPED
APPROVED HERE**



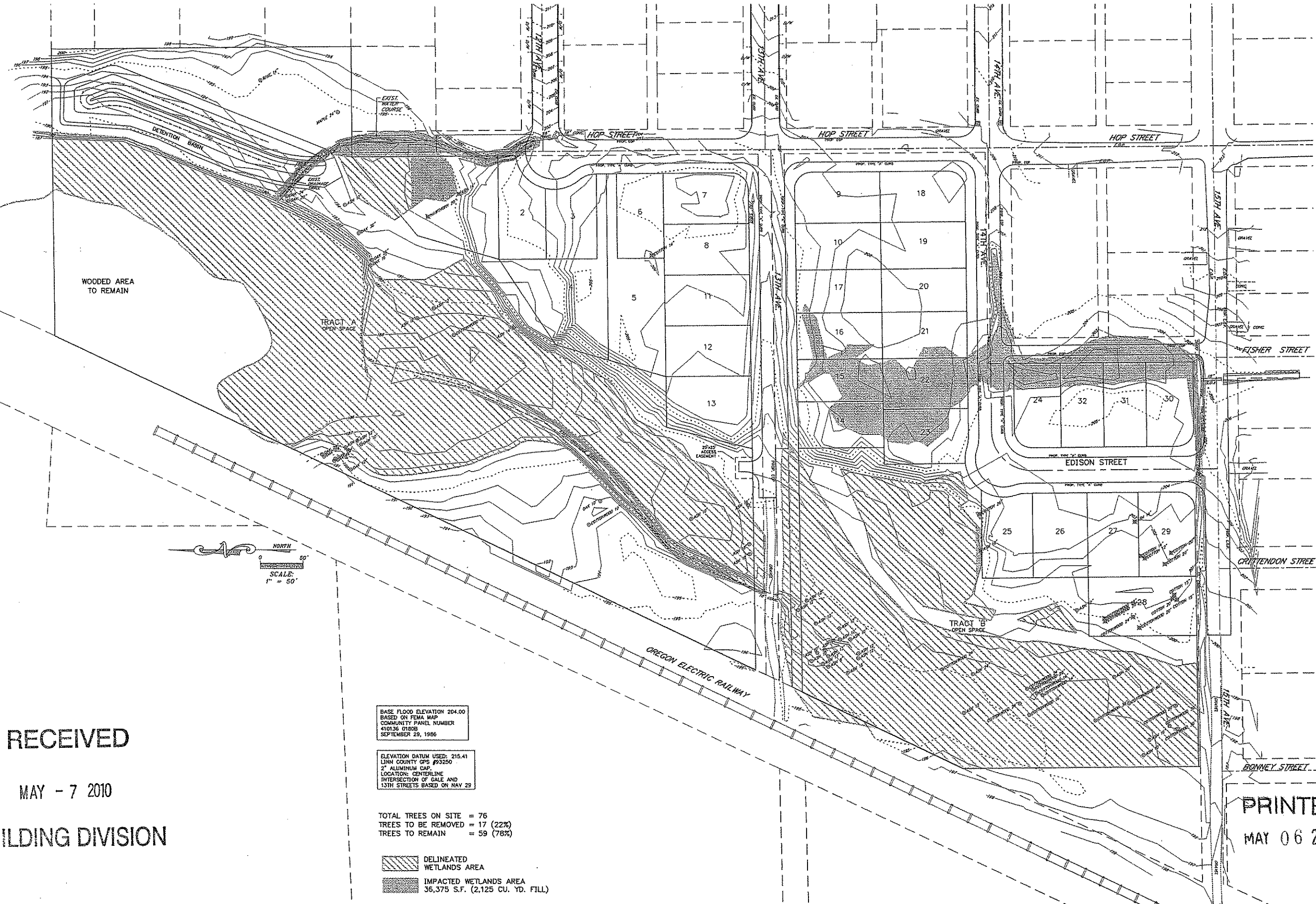
NO CHANGES, MODIFICATIONS OR
REPRODUCTIONS TO BE MADE TO
THESE DRAWINGS WITHOUT WRITTEN
AUTHORIZATION FROM THE DESIGN
ENGINEER.
DIMENSIONS & NOTES TAKE
PRECEDENCE OVER GRAPHICAL
REPRESENTATION.

Design: M.D.S.
Drawn: D.S.S.
Checked: M.D.S.
Date: APRIL 2010
Scale: AS SHOWN
As-Built:

**13TH AVENUE
SUBDIVISION**

**SITE
PLAN**

Drawing Number
4607
Sheet Number
2 of 7



RECEIVED

MAY - 7 2010

BUILDING DIVISION

BASE FLOOD ELEVATION 204.00
 BASED ON FEMA MAP
 COMMUNITY PANEL NUMBER
 410136 01008
 SEPTEMBER 29, 1986

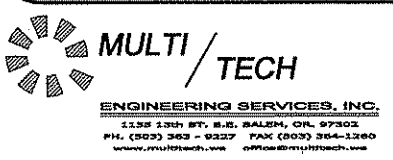
ELEVATION DATUM USED: 215.41
 LINN COUNTY GPS #93250
 2" ALUMINUM CAP.
 LOCATION: CENTERLINE
 INTERSECTION OF GALE AND
 13TH STREETS BASED ON MAY 29

TOTAL TREES ON SITE = 76
 TREES TO BE REMOVED = 17 (22%)
 TREES TO REMAIN = 59 (78%)

DELINEATED WETLANDS AREA
 IMPACTED WETLANDS AREA
 36,375 S.F. (2,125 CU. YD. FILL)

PRINTED

MAY 06 2010



MULTITECH ENGINEERING EXEMPT FROM LIABILITY IF NOT STAMPED APPROVED
NOT FOR CONSTRUCTION UNLESS STAMPED APPROVED HERE



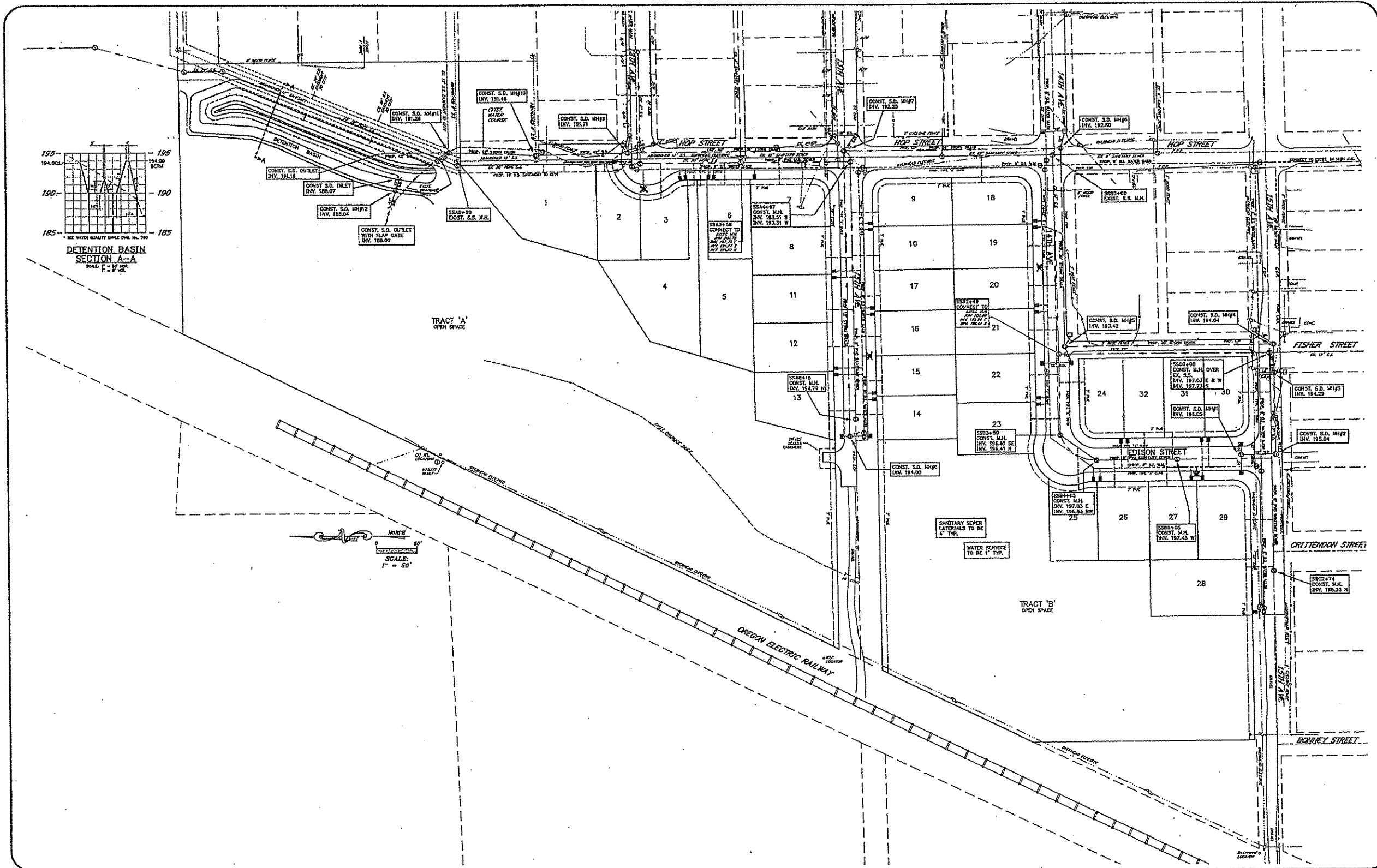
NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.
 DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

4607B.PLOT: PD-TREE
 Design: M.D.G.
 Drawn: D.G.G.
 Checked: M.D.G.
 Date: APRIL 2010
 Scale: AS SHOWN
 As-Built: _____

13TH AVENUE SUBDIVISION

WETLANDS & TREE PLAN

Drawing Number
4607
 Sheet Number
3 of 7



MULTI / TECH
ENGINEERING SERVICES, INC.
 1122 13th St. S.E., Raleigh, NC 27603
 PH: (919) 343-9927 FAX: (919) 343-1380
 www.multitech-usa.com email: info@multitech-usa.com

MULTITECH ENGINEERING EXEMPT FROM
 LIABILITY IF NOT STAMPED APPROVED
**NOT FOR
 CONSTRUCTION
 UNLESS STAMPED
 APPROVED HERE**



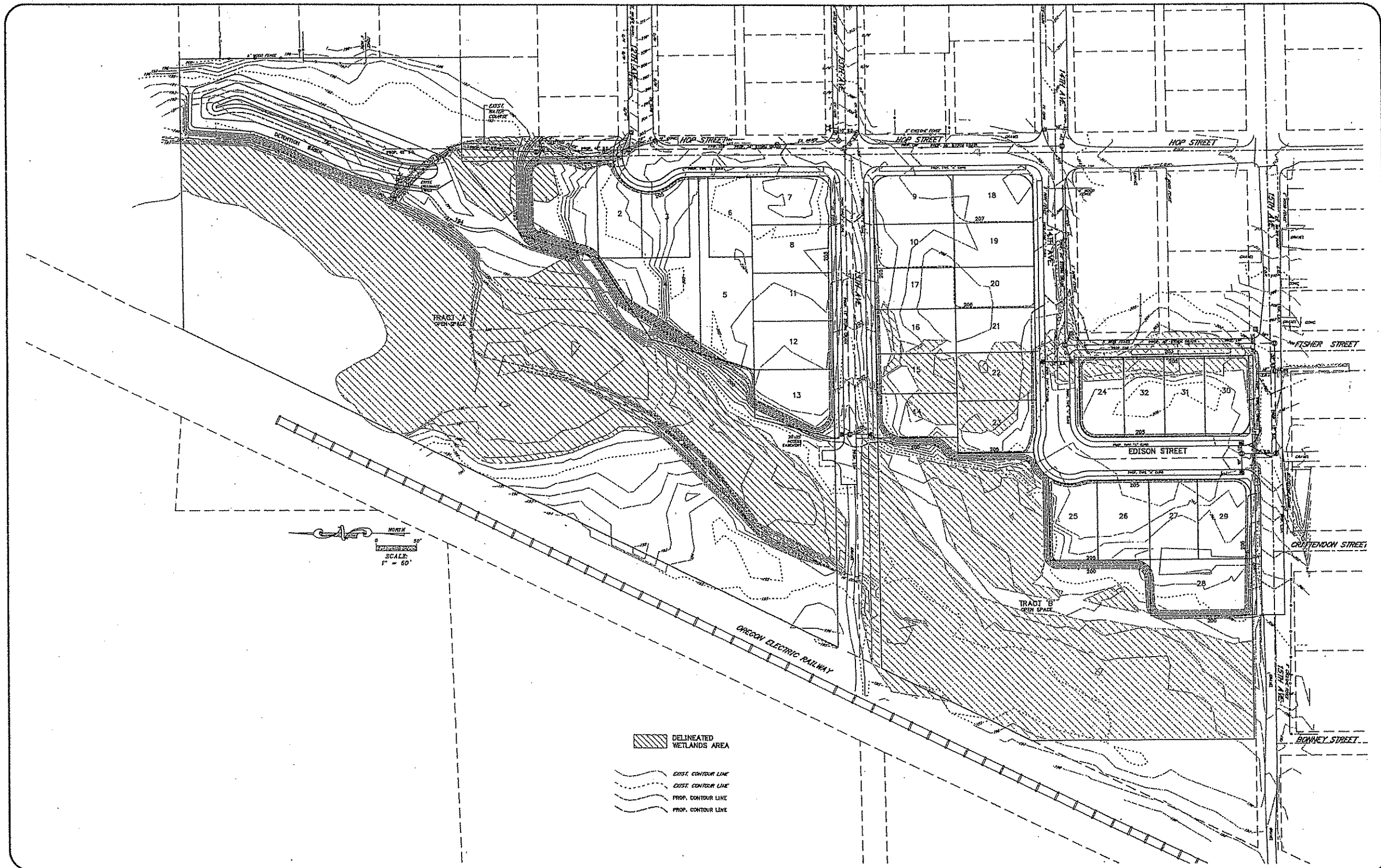
NO CHANGES, MODIFICATIONS OR
 REPRODUCTIONS TO BE MADE TO
 THESE DRAWINGS WITHOUT WRITTEN
 AUTHORIZATION FROM THE DESIGN
 ENGINEER.
 DIMENSIONS & NOTES TAKE
 PRECEDENCE OVER GRAPHICAL
 REPRESENTATION.

Design: H.D.G.
 Drawn: D.S.G.
 Checked: H.D.G.
 Date: APRIL 2010
 Scale: AS SHOWN
 As-Built: _____

**13TH AVENUE
 SUBDIVISION**

**UTILITY
 PLAN**

Drawing Number
4607
 Sheet Number
4 of 7



MULTI/TECH
ENGINEERING SERVICES, INC.
 5128 SUNNY WAY WALKER, OR 97146
 PH: (503) 348-4227 FAX: (503) 348-4244
 www.multitech.com email@multitech.com

MULTITECH ENGINEERING EXEMPT FROM LIABILITY IF NOT STAMPED APPROVED
NOT FOR CONSTRUCTION UNLESS STAMPED APPROVED HERE



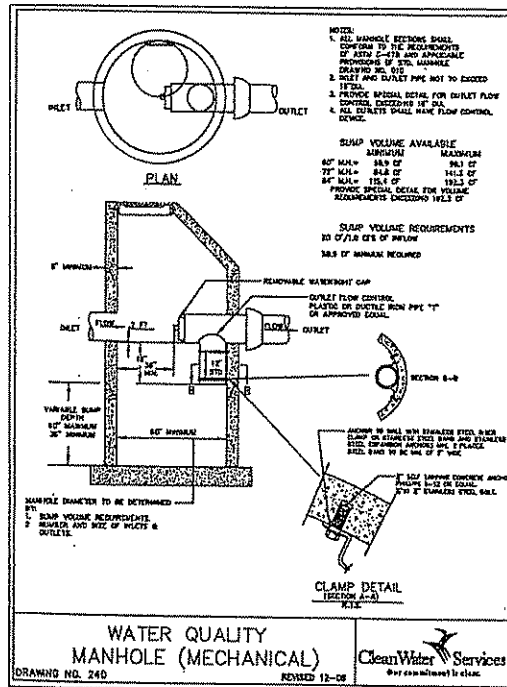
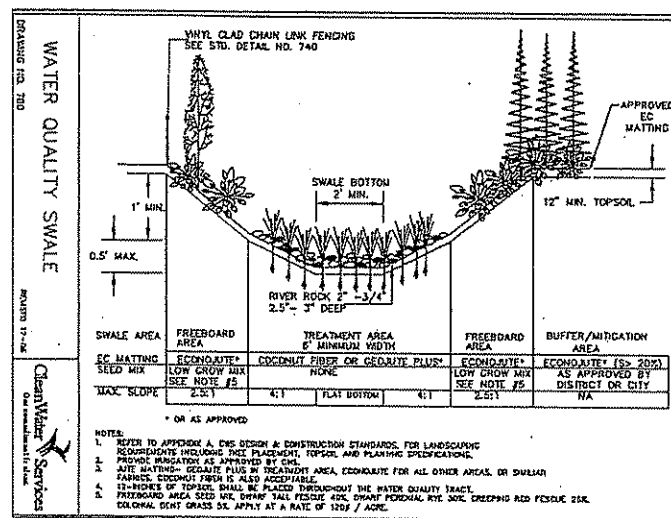
NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.
 DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

Design: M.D.G.
 Drawn: D.G.G.
 Checked: M.D.G.
 Date: APRIL 2010
 Scale: AS SHOWN
 As-Built: _____

13TH AVENUE SUBDIVISION

GRADING PLAN

Drawing Number **4607**
 Sheet Number **6 of 7**



CONSTRUCTION

- Water Quality Swale shall be re-excavated and filled to final grade with 12-inch amended topsoil. Topsoil amendments shall be garden compost, not conventional fertilizer amendment.
- A biodegradable Erosion Control Matting shall be placed over the topsoil throughout the swale cross section, fabric shall be held in place in accordance with the manufacturer's installation requirements. Anchor spacing shall be based on 3 lbs flow over the fabric.
 - Treatment area - high-density jute matting (Geojute Plus or other approved equal)
 - All other areas - low-density jute matting (Econojute or other approved equal)
- 2.5-3 inches of 2" - 3" river run rock shall be placed over the matting evenly throughout the length and width of the swale.
- Plant materials shall be placed in accordance with the plan and plant table as shown on approved plans.
- The water quality swale treatment area plantings can be deemed "substantially complete" once native green growth has occurred to an average growth of 3" and plant density is an average of 50% of 6 plants (minimum 1-inch plugs or equivalent) per square foot.
- The facility shall be deemed acceptable to begin the maintenance period when plant growth and density matches the engineer's design as shown on the approved plans and all other requirements have been met. The engineer must certify the facility to be functional, in accordance with the approved plan design to begin the two-year maintenance period.

MAINTENANCE

- The permittee is responsible for the maintenance of this facility for a minimum of two years following construction and acceptance of this facility per Chapter 2.
- Irrigation is to be provided per separate irrigation plan as approved. Native irrigation needs are to be met using a temporary irrigation system with a timer during the dry season. Systems should be winterized during the wet season to assure longevity and guard against damage from freezing temperatures. Water source shall be as shown on the approved plans.
- Engineer or Owners Representative is to visit and evaluate the site a minimum of twice annually (Spring and Fall). The landscaping shall be evaluated and replanted as necessary to ensure a minimum of 80% survival rate of the required vegetation and 90% aerial coverage. Non-native, invasive plant species shall be removed when occupying more than 20% of the site.
- The facility shall be re-excavated and planted if allision greater than 3 inches in depth occurs within the two-year maintenance period.

WATER QUALITY SWALE CONSTRUCTION & MAINTENANCE NOTES
DETAIL NO. 710 REVISED 12-08

MULTI / TECH
ENGINEERING SERVICES, INC.
1230 2310 ST. W. WALKER, MN 55428
PH: (763) 283-9887 FAX: (763) 284-1280
www.multitech.com info@multitech.com

MULTI/TECH ENGINEERING DESIGNS FROM LIABILITY IF NOT STAMPED APPROVED
NOT FOR CONSTRUCTION UNLESS STAMPED APPROVED HERE



NO CHANGES, MODIFICATIONS OR REPRODUCTIONS TO BE MADE TO THESE DRAWINGS WITHOUT WRITTEN AUTHORIZATION FROM THE DESIGN ENGINEER.
DIMENSIONS & NOTES TAKE PRECEDENCE OVER GRAPHICAL REPRESENTATION.

Design: H.B.G.
Drawn: R.S.G.
Checked: H.B.G.
Date: APRIL 2010
Scale: AS SHOWN
As-Built: _____

13TH AVENUE SUBDIVISION

DETAIL SHEET

Drawing Number
4607
Sheet Number
7 of 7

**SUMMARY OF TENTATIVE CONDITIONS OF APPROVAL
13TH AVENUE SUBDIVISION**

Cluster Development Subdivision - SD-01-10

Cluster Development Criteria

- 1.1 The minimum front setback for a house shall be 10 feet (rather than 15 feet) and the maximum lot coverage shall be 70 percent (rather than 60 percent). All other development standards listed in ADC 3.190, Table 1, remain unchanged.
- 1.2 The open space areas (Tracts A and B) shown on the proposed tentative subdivision plat must be subject to restrictive covenants and easements. The covenants and easements must include a requirement that the individual lot owners who own the open space must maintain the open space as necessary.
- 1.3 Fences are permitted in and around the natural areas if consistent with the expressed purpose of the natural areas. Any CC&R's created for this subdivision shall address the permitted locations of fences in relation to the natural areas (open space tracts).
- 1.4 The final plat that creates the open space tracts shall include a statement that the tracts cannot be further subdivided. This statement shall also be included in the private CC&R's for the subdivision.
- 1.5 The open space Tracts A and B shown on the tentative plat must be platted with the first final plat submitted to the City for approval.
- 1.6 The ownership and management of open space Tracts A and B must be shown on the final plat and be one of the four options outlined in ADC 11.470(1).
- 1.7 Unless the City accepts dedication and maintenance of the open space tracts, the open space tracts must be subject to restrictive covenants and easements. A draft of the proposed covenants and easements shall be submitted for review and approval by the Community Development Director with the final plat that will create the tracts. The covenants and easements must include permanent provisions prohibiting placement of structures or impervious surfaces, alteration of the ground contours, or any other activity or use inconsistent with the purpose of the Cluster Development provisions or as allowed under section 11.480 of the Albany Development Code.

Land Division Criteria

Note: The following conditions were written assuming the phases of the subdivision will be constructed in the same order they are shown, i.e. Phase 1 will be constructed first, Phase 2 second, and so on. If the applicant later wants to construct them in a different order, the applicant will need to apply to modify the original conditions.

Remainder Land

- 1.1 The 32-lot subdivision may be constructed as tentatively approved in up to four phases. The phases shall be platted in the order shown on the tentative plat. The tentative plat approval of any and all phases will expire after five years unless before that date the final plat application for a

phase has been submitted to the City for approval. Each phase must be constructed and platted in conformance with applicable requirements and conditions of approval. Phases platted three years after the date of tentative plat approval may be required to be modified to avoid conflict with any changes in the Comprehensive Plan or implementing regulations.

Transportation

All Phases

- 3.1 Each phase shall dedicate right of way necessary to construct the public streets within the boundary of the subdivision as shown on the Tentative Plat and Site Plan. The applicant shall construct all public streets within the subdivision to City standards.
- 3.2 Full standard streets shown on the Tentative Plat shall be constructed within right-of-way widths of 54 feet and the curb to curb widths of 30 feet, six-foot planters and five-foot sidewalks on each side of the street.
- 3.3 Partial-width streets as shown on the Tentative Plat shall be constructed to consist of curb and gutter along the subdivision's side of the street; 28 feet of pavement as measured from the face of curb; and either curb and gutter or drainage ditch and inlet improvements along the opposite side of the street as needed by the Albany Public Works Department. A six-foot-wide planter and five-foot sidewalk will be constructed on the side of the street adjacent to the proposed lots.
- 3.4 Thirteenth Avenue west of Broadway Street shall be designated as the traffic route for all vehicles related to construction of the subdivision. It shall be the developer's responsibility to ensure that all contractors use this route.
- 3.5 The developer shall install street lighting and street name signs to City standards on all public streets within the development.
- 3.6 The developer shall provide street trees within the public right-of-way to City standards as outlined in ADC 12.321 and 12.324.

Phase 1 Additional:

- 3.7 Before the City will permit any construction of the subdivision, the applicant shall place a 2-inch thick asphalt overlay on 13th Avenue between the boundary of the subdivision and Broadway Street. The overlay shall be 28 feet in width, providing for a 20-foot-wide travel way and a 4-foot-wide striped shoulder on each side. The overlay shall also include placement of two speed humps at locations approved by the City Engineer.
- 3.8 The driveway to be constructed to serve proposed Lot 1 (north of 12th Avenue and Hop Street) shall be constructed of concrete to alley standards, have a width of 20 feet, and extend to the south property line of Lot 8, Block 14, of the Hazelwood Addition to Albany located within Tax Lot 2300, Linn County Tax Assessor Map 11S-04W-12BC.
- 3.9 Dedicate with the final plat the public right of way as shown on the Site Plan along 14th Avenue between Tracts A and B, as well as the land in which a hammerhead turnaround will be constructed.

Phase 2 Additional:

- 3.10 The hammerhead shown on the west side of Lot 13 shall be constructed with Phase II. It shall be designed to accommodate turn around movements of trash trucks and emergency vehicles. The curb around the hammerhead shall be painted yellow to restrict parking. The City Engineer shall approve the final design of the hammerhead.

Public Utilities

- 4.1 Before the City will approve a final subdivision plat, the developer must financially assure or construct public sanitary sewer, water, and storm drainage system improvements to serve the proposed development, and to provide for future service and/or extensions to surrounding properties. These public improvements must generally conform to the submitted preliminary utility plans, but final design details will be determined by the City's Public Works Department in conjunction with their review of the developer's application for a *Permit for Private Construction of Public Improvements*.

Special Features of the Site

- 5.1 Before any of the proposed grading and fill is done on the site, the property owner must obtain a grading permit from the City of Albany Public Works Engineering Division.
- 5.2 All slope areas, impervious surface drainage from roofs, driveways, and parking areas must be directed to a City storm drain or other City-approved drainage system. Development activities must not block the flow of stormwater in natural drainageways without prior approval from the Public Works Director.
- 5.3 Public streets in the subdivision must have a roadway crown elevation of not lower than one foot below the 100-year base flood elevation.
- 5.4 The location of the 100-year flood contour line, followed by the date the flood elevation was established, must be shown on the final plat. The following statement shall be located on, or attached to, the subdivision plats to be recorded with Linn County: "Development of property within the 100-year floodplain as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City."
- 5.5 Unless the City receives a letter from Federal Emergency Management Agency (FEMA) that they have approved a Letter of Map Revision-Based on Fill (LOMR-F) application for this site, the floodplain maps remain unchanged. Building Code requirements will apply to structures constructed in the floodplain.
- 5.6 Before issuance of any construction permit for the subdivision the applicant must provide the City with a copy of an approved Removal/Fill Permit from Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers to fill the wetlands. The decisions of these agencies may affect the design of the subdivision. If the Removal/Fill Permit requires a substantial change in the subdivision design the applicant will need to submit a revised or new land division application to the City's Planning Division.
- 5.7 The property owner/developer must comply with Oregon Revised Statutes regarding archaeological objects, sites, and graves, and recommendation or requirements of the Historic

Preservation Office of the State Parks and Recreation Department. If any cultural material is discovered during construction activities, all work must cease immediately and not be resumed until permitted to do so by the Oregon State Historic Preservation Office (SHPO).

- 5.8 A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Department of Environmental Quality (DEQ) for construction activities (including clearing, grading, and excavation) that disturb one acre or more of land.

Site Plan Review – Tree Felling – SP-03-10

- a1. The property owner must obtain a logging permit from the Oregon Department of Forestry (ODF), if required by ODF.
- c1. ADC 9.208(5) states that trees on the property that will not be cut must be protected during construction as follows:

Precautions shall be made to protect residual trees and tree roots from damaging agents during and after the removal process.

The following tree protection specifications should be followed to the maximum extent feasible for all projects with protected existing trees.

- (a) Within the drip line of any protected existing tree, there shall be no cut or fill over a four-inch depth unless a qualified arborist or forester has evaluated and approved the disturbance.
- (b) Prior to and during construction, barriers shall be erected around all protected existing trees with such barriers to be of orange fencing a minimum of four (4) feet in height, secured with metal T-posts, no closer than six (6) feet from the trunk or one-half (½) of the drip line, whichever is greater. There shall be no storage or movement of equipment, material, debris, or fill within the fenced tree protection zone.
- (c) During the construction stage of development, the applicant shall prevent the cleaning of equipment or material or the storage and disposal of waste material such as paints, oils, solvents, asphalt, concrete, motor oil, or any other material harmful to the life of a tree within the drip line of any protected tree or group of trees.
- (d) No damaging attachment, wires, signs, or permits may be fastened to any protected tree.
- (e) Large property areas containing protected trees and separated from construction or land clearing areas, road rights-of-way and utility easements may be “ribboned off,” rather than erecting protective fencing around each tree, as required in subsection (5)(b) above. This may be accomplished by placing metal t-post stakes a maximum of fifty (50) feet apart and tying ribbon or rope from stake-to-stake along the outside perimeters of such areas being cleared.
- (f) The installation of utilities, irrigation lines or any underground fixture requiring excavation deeper than six (6) inches shall be accomplished by boring under the root system of protected existing trees at a minimum depth of twenty-four (24) inches. The auger distance is established from the face of the tree (outer bark) and is scaled from tree

diameter at breast height as described in the chart below.

Tree Diameter at Breast Height (inches)	Auger Distance from Face of Tree (feet)
8-9	5
10-14	10
15-19	12
Over 19	15

- C2. To ensure the preservation measures are followed, advance notice of all pre-construction meetings and actual construction activity shall be given to the City Forester, Craig Carnagey, at 541-917-7679.

U:\Community Development\Planning\Current\2010\10SD01.et.al.SummaryOfConditions.docx