

ORDINANCE NO. 5772

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP, AND ADOPTING FINDINGS, CONCLUSIONS AND CONDITIONS FOR PROPERTY LOCATED AT 120 CLOVER RIDGE ROAD NE (AN-05-11 and ZC-06-11).

WHEREAS, the Albany Planning Commission recommended approval of the annexation and the proposed Zoning Map amendment following a public hearing on January 17, 2012, for City of Albany File Nos. AN-05-11 and ZC-06-11;

WHEREAS, the Albany City Council held a public hearing, deliberated and approved the concurrent applications on February 8, 2012; and

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

Section 1: The Zoning Map designation of the property identified in the legal description in Ordinance Exhibit A is hereby amended from Linn County UGM-20 (Urban Growth Management – 20 acre minimum lot size) to City of Albany RM (Residential Medium Density).

Section 2: The property affected by the Annexation and Zoning Map amendment is a single parcel of approximately 0.21 acres (plus public right-of-way). A legal description and map for the area is attached as Ordinance Exhibit A and Ordinance Exhibit B, respectively.

Section 3: The Findings of Fact, Conclusions of Law, and Conditions in the staff report attached as Ordinance Exhibit C (Files AN-05-11 and ZC-06-11), are hereby adopted in support of this decision.

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

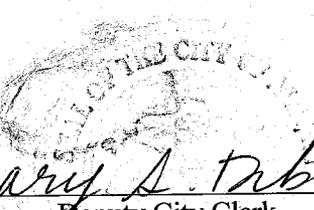
Section 5: A copy of the legal description of the affected properties and the map showing the amendment to the Zoning Map shall be filed with the Linn County Assessor's Office within 90 days after the effective date of this ordinance. This Zoning Map amendment will only take effect if the question of annexation for the subject property is approved by the voters on the May 15, 2012, ballot.

Passed by Council: Feb 8, 2012

Approved by Mayor: Feb 8, 2012

Effective Date: March 9, 2012

ATTEST:

  
Mary A. Dibble  
Deputy City Clerk

  
Mayor

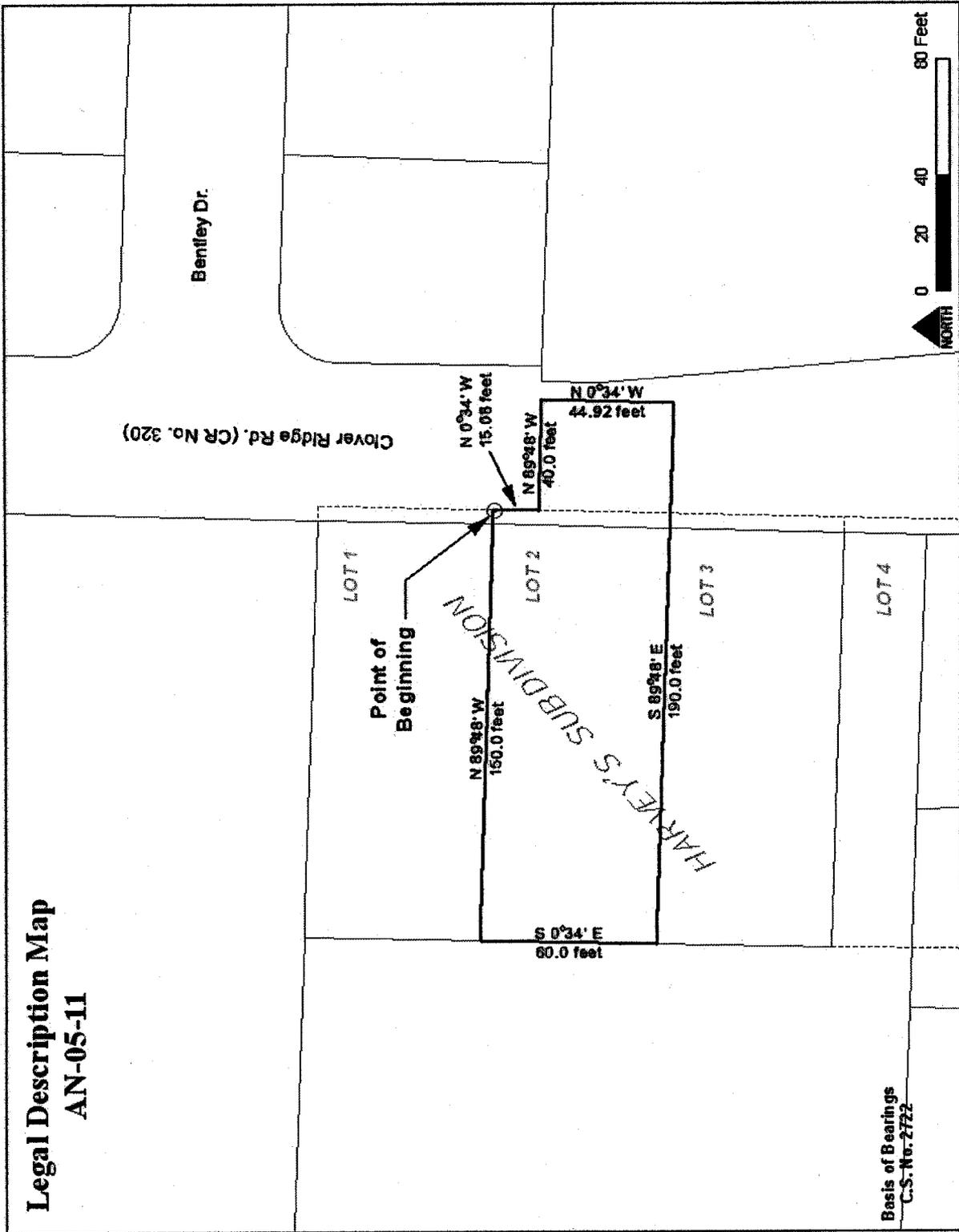
**ORDINANCE EXHIBIT A  
RESOLUTION EXHIBIT A  
LEGAL DESCRIPTION  
FILES AN-05-11/ZC-06-11**

A tract of land located in the Northeast one-quarter of Section 4 in Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon that is more particularly described as follows:

Beginning at a point on the current city limits boundary of the City of Albany, said point also being described as the Northeast corner of Lot 2 of Harvey's Subdivision; thence, along the north line of said Lot 2, North 89°48' West 150.0 feet to the Northwest corner of said Lot 2; thence, along the west boundary of Lot 2 of Harvey's Subdivision, said west boundary also being the existing city limits boundary of the City of Albany, South 0°34' East 60.0 feet to the Southwest corner of said Lot 2; thence, along the South boundary of said Lot 2 and its easterly extension, South 89°48' East 190.0 feet to the current city limits boundary of the City of Albany; thence, parallel to the centerline of County Road Number 320, along said current city limits line, North 0°34' West 44.92 feet; thence, along the current city limits line, North 89°48' West 40.0 feet to a point on the east boundary of Harvey's Subdivision; thence, along said east boundary of Harvey's Subdivision North 0°34' West 15.08 feet to the Point of Beginning.

Said area containing 0.25 acres, more or less.

**ORDINANCE EXHIBIT B  
ANNEXATION RESOLUTION EXHIBIT B  
LEGAL DESCRIPTION MAP  
AN-05-11/ZC-06-11**



ORDINANCE EXHIBIT C



# Community Development Department

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## STAFF REPORT

### Annexation and Zoning Map Amendment (AN-05-11 and ZC-06-11)

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<b><u>HEARING BODIES</u></b>	PLANNING COMMISSION	ALBANY CITY COUNCIL
<b><u>HEARING DATE</u></b>	Tuesday, January 17, 2012	Wednesday, February 8, 2012
<b><u>HEARING TIME</u></b>	5:15 p.m.	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	

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### **EXECUTIVE SUMMARY**

Periodically, the City receives a request to connect to city sewer or water for a property that is outside the city limits. These are usually cases of failed septic systems or wells. Under normal circumstances, we don't provide utility service to properties outside the city limits. But, because of the long timeline associated with the vote on annexation process that we currently use, it can be a great hardship on a home that needs sewer or water service. For these cases, we allow the property owner to sign an Irrevocable Request to Annex, whereby they are allowed to connect to city utilities and the city is given the authority to annex the property at any time it deems appropriate.

The property owners of 120 Clover Ridge Road NE previously signed an Irrevocable Request to Annex document in order to be allowed to connect the parcel to city sewer and water facilities (March 2007). The parcel is developed with one single family house. The City is proposing a concurrent zoning map amendment that, if the annexation is approved, would zone the property RM (Residential – Medium Density).

### **GENERAL INFORMATION**

DATE OF REPORT:	February 1, 2012
FILE:	AN-05-11 and ZC-06-11
TYPE OF APPLICATIONS:	Annexation and Zoning of Property located at 120 Clover Ridge Road NE
REVIEW BODIES:	Planning Commission and City Council
STAFF REPORT PREPARED BY:	Mike Leopard, Infrastructure Analyst
PROPERTY OWNER:	Juan and Fidelina Plascencia 120 Clover Ridge Road NE, Albany, OR 97322
APPLICANT:	City of Albany
ADDRESS/LOCATION:	120 Clover Ridge Road NE; Albany, OR 97322
MAP/TAX LOT:	Linn County Assessor's Map No. 11S-03W-04AC; Tax Lot 2101
CURRENT ZONING:	Linn County UGA-UGM-20 (20 acre min.)
TOTAL LAND AREA:	0.2 acres (+ right-of-way)
EXISTING LAND USE:	Single-family house

EXISTING COMP PLAN  
DESIGNATION:

Residential – Medium Density

SURROUNDING ZONING:

North: Linn County UGA-UGM-20 (20-acre minimum lot size)  
South: Linn County UGA-UGM-20 (20-acre minimum lot size)  
East: RS-6.5 (Single-Family Resid.) and NC (Neighborhood Comm.)  
West: RM (Residential – Medium Density)

SURROUNDING USES:

Single-family residential to east; vacant parcel and apartment complex to west; single-family home on large parcel to north; single-family home and vacant lots to south.

PROPOSED ZONING:

RM (Residential - Medium Density)

### **REASON FOR ANNEXATION**

Property owners have signed Irrevocable Request to Annex as a condition of receiving City utilities prior to being annexed. Staff believes it is timely to consider this property for annexation.

### **NOTICE INFORMATION**

On December 23, 2011, a notice of public hearing for this project was mailed to property owners within 300 feet of the subject property. As of the date this staff report was completed, staff had not received any written comments on this project. The subject property was posted with signs on December 23, 2011.

### **PLANNING COMMISSION RECOMMENDATION**

On February 17, 2011, the Albany Planning Commission voted to recommend that the City Council approve the annexation of this property located at 120 Clover Ridge Road NE.

The Planning Commission also recommended that, upon voter approval of the annexation, this same property be given a City zoning designation of RM.

### **STAFF RECOMMENDATION**

Staff agrees with the Planning Commission recommendation.

### **SUGGESTED COUNCIL ACTION**

Passage of the attached ordinance would approve the annexation and change the zoning of the subject property from Linn County UGM-20 to City of Albany RM, if the annexation is approved by the voters. *(Second reading of the ordinance may occur at a subsequent City Council meeting should the annexation be approved by the voters.)*

Passage of the attached resolution that would forward the question of the annexation of the property located at 120 Clover Ridge Road NE, and forward the question of annexation to the voters on the May 15, 2011, ballot.

**FINDINGS AND CONCLUSIONS  
ANNEXATION FILE AN-01-11**

**INTRODUCTION**

On January 11, 2006, the City Council adopted modified procedures for voter-approved annexation in the City of Albany. These procedures are detailed in Article 2 of the City of Albany Development Code (ADC 2.090 – 2.140).

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

The following abbreviations are used in these findings:

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

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

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

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

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

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

**FINDINGS OF FACT:**

A1. The subject property is a single parcel of approximately 8,700 square feet. The subject parcel is contiguous to the city limits along its west boundary and east boundary. It lies within an “island” of unincorporated territory. (See Staff Report Attachment A)

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

**CONCLUSION**

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

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

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

***(b) As used in this section:***

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

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

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

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

## FINDINGS OF FACT

- B1. City utility maps show a 12-inch public water main in Clover Ridge Road along the property's frontage. The existing house on the property is currently connected to the public water system.
- B2. City utility maps show an 8-inch public sanitary sewer main in Clover Ridge Road along the property's frontage. The existing house on the property is currently connected to the public sewer system.
- B3. The subject parcel currently has direct access to Clover Ridge Road from a private driveway. Clover Ridge Road NE was improved to City standards by Linn County in 2004. The transportation system adjacent to the site conforms to Albany's adopted Transportation System Plan (TSP).
- B4. An 18-inch public storm drainage main exists in Clover Ridge Road along the property's frontage. Burkhart Creek (south of the site) and Truax Creek (north of the site) are the main drainage features in this area. Storm drainage facilities on Clover Ridge Road NE collect stormwater from the road and adjacent parcels and carry the runoff to these creeks, or to smaller drainage features in the area.
- B5. Adequate public water flow for fire protection is currently available in this area. The property is within an "island" completely surrounded by city limits. The areas outside of the city limits in this vicinity are currently being served by the City of Albany Fire Department under a rural fire protection district.
- B6. Because the subject property is adjacent to the city limits and within an "island" surrounded by city limits, the vast majority of properties nearby are currently being served by the City's Police Department.

## CONCLUSIONS

- B1. This criterion is met because public infrastructure exists adjacent to the subject property, and these improvements are adequate to serve current and future development on the site.
- B2. This criterion is met because fire service is already provided to this parcel by the City through a fire district, and public water facilities are in place to serve the area. Police service to this property would be a logical extension of the current patrol boundaries.

***C. Planning Criteria. The City shall determine that adequate planning has occurred based on the following criterion:***

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

## FINDINGS OF FACT

- C1. This annexation is for one 8,700 square foot parcel with an existing single-family house. The Comprehensive Plan Map designation for this property is RM - Residential - Medium Density (see Staff Report Attachment B). The City is proposing a concurrent zone change for the subject property that would result in a City of Albany zoning designation of RM - Residential - Medium Density (see Staff Report Attachment C). This zoning designation would match that of surrounding properties that lie within the city limits, and would be consistent with the Comprehensive Plan designation.
- C2. Public infrastructure facility plans that deal with this area include: *Water Facility Plan (2004); Wastewater Facility Plan (1998); Storm Drainage Master Plan (1988); Transportation System Plan (TSP) (2010).*

- C3. None of the local wetlands inventories or National Wetlands Inventory indicates that there are any wetlands on this parcel. The recent Goal 5 Natural Resources study shows no riparian corridor on the site (See Staff Report Attachment D).

#### CONCLUSIONS

- C1. This criterion is met because of the information provided in the various studies and plans covering this area.

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

#### FINDINGS OF FACT

- D1. The subject property was connected to the city sanitary sewer and water systems in March, 2007. The property is developed as single-family home on a relatively small lot (8,700 square feet).
- D2. The property owners signed an Irrevocable Request to Annex in exchange for City authorization to connect to the public sanitary sewer and water systems.

#### CONCLUSIONS

- D1. Because the property is adjacent to the city limits, served by both city sewer and water, and lies within an "island" of unincorporated territory, it makes sense to bring the parcel into the city limits.

### **FINDINGS AND CONCLUSIONS ZONING MAP AMENDMENT FILE ZC-02-11**

The Albany Development Code (ADC 2.125-2.140) includes the following review criteria which must be met for this application to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

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

#### FINDINGS OF FACT

- 1.1 Staff is recommending that the Zoning Map designation of the subject parcel be changed from Linn County UGA-UGM-20 (Urban Growth Management – 20-acre minimum lot size) to City of Albany RM - Residential – Medium Density.
- 1.2 The current Comprehensive Plan designation of the property where the Zoning Map amendment is proposed is RM - Residential – Medium Density.
- 1.3 The Plan Designation Zoning Matrix in the Development Code (ADC 2.760) shows that the proposed RM is consistent with the RM - Residential – Medium Density Comprehensive Plan Map designation.

#### CONCLUSION

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

## FINDINGS OF FACT

- 2.1 The property where the map amendment is proposed is located on the west side of Clover Ridge Road, just southwest of Bentley Drive. The property is currently developed as a single-family residence.
- 2.2 The property has approximately 60 feet of frontage on Clover Ridge Road.
- 2.3 Clover Ridge Road is classified minor collector road in Albany's TSP and is improved to City standards with curb and gutter, sidewalks, and storm drainage improvements. The transportation system adjacent to the site conforms to Albany's adopted TSP and has an adequate level of infrastructure to support future development on the site as would be allowed in the proposed RM zone. This portion of the street is under the jurisdiction of the City of Albany. The speed limit is 25 miles per hour.

## CONCLUSIONS

- 2.1 The transportation system adjacent to the site has an adequate level of infrastructure to support current and future development on the site.
- 2.2 This review criterion is met.
- (3) ***Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area.***

### Water

- 3.1 The City's utility maps show that there is a 12-inch public water main in Clover Ridge Road along the subject property's frontage. The existing home on the property is connected to the public water system.
- 3.2 The City's *Water Facility Plan* does not show any system deficiencies in the vicinity of the subject properties.

### Sanitary Sewer

- 3.3 The City's utility maps show that there is an 8-inch public sanitary sewer main in Clover Ridge Road along the subject property's frontage. The existing home on the property is connected to the public sewer system.
- 3.4 The City's *Wastewater Facility Plan* does not show any collection system deficiencies downstream of the subject properties.

### Storm Drainage

- 3.5 The City's utility maps show that this section of Clover Ridge Road is built to city standards, with curb and gutter, sidewalks, and with public storm drainage improvements. There is an 18-inch public storm drainage main along the subject property's frontage.
- 3.6 The public storm drainage improvements that were constructed in conjunction with the Clover Ridge Road improvements were designed to accommodate the ultimate future development in the area.

### Schools

- 3.7 This proposed zoning of the property would allow for medium density residential development. The relatively small size of the lot limits the potential number of dwelling units that could be developed on the property. The Greater Albany Public School system already serves this area. The annexation and zoning of

the property would not adversely impact the school district. Any new residential development on the site would be obligated to pay school System Development Charges.

#### Police and Fire Protection

- 3.8 The Albany Police Department and Fire Department provide services to all development within the City of Albany. When a property is annexed, these departments will provide service to the property regardless of its zoning designation.
- 3.9 There are adequate public water facilities in this area for firefighting purposes.

#### CONCLUSIONS

- 3.1 The public sanitary sewer, water, and storm drainage systems in this area have the capacity to serve development on the property if the zoning is changed to RM. Providing Police and Fire service to the subject property would not adversely impact service to surrounding properties.
- 3.2 The proposed zoning designation of RM would allow for higher density development on the lot, but likely only if the existing single-family home is removed. The relatively small size of the lot limits the potential development that could occur.
- 3.3 This review criterion is met.
- (4) *The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.***
- 4.1 The current zoning designation of the property where the Zoning Map amendment is proposed is UGA-UGM-20 (Urban Growth Management – 20-acre minimum lot size). The proposed zoning would result in approximately 0.25 acres of RM - Residential – Medium Density.
- 4.2 There is currently one existing single-family home on the subject property. The RM zone allows for multi-family development that requires a certain amount of land per dwelling unit. While the existing single-family use on the property is allowed, future additional development could occur under this zoning, but would be limited based on the current lot size.

#### CONCLUSIONS

- 4.1 This review criterion is met.
- (5) *The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.***

#### FINDINGS OF FACT

- 5.1 All public infrastructure is in place adjacent to the subject property, and has been constructed based on anticipated zoning, land uses, and transportation patterns for the area.

#### CONCLUSION:

- 5.1 This criterion is met.

(6) **RELEVANT GOALS AND POLICIES**

The following Comprehensive Plan goals and policies are relevant in considering whether the proposed RM (Residential – Medium Density) zoning designation best satisfies the Goals and Policies of the Comprehensive Plan. Goals and policies are listed below in *bold italic* print, followed by findings of fact and conclusions.

**GOAL 1: CITIZEN INVOLVEMENT**

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

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

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

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

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

6.1 The City of Albany's Comprehensive Plan and Development Code provide requirements for citizen involvement in the decision-making process for Annexations and Zoning Map amendments. Annexations and Zoning Map amendments are processed as Type IV land use decisions with notice to affected parties, including surrounding property owners and affected government agencies. Public hearings before the Planning Commission and City Council are held. Notice of the public hearings is posted on the subject property. The City's Comprehensive Plan and Development Code, including the processes for citizen involvement, have been acknowledged by the Land Conservation and Development Commission (LCDC) as consistent with statewide planning goals.

6.2 People who are notified of the public hearing are invited to submit comments or questions about the application prior to the hearing or at the hearing. Review of the application is based on the review criteria listed in the Development Code. The purpose of the public hearing is to provide the opportunity for people to express their opinion about the proposed changes, and where opposing viewpoints are expressed, to try to reach consensus. The Planning Commission and City Council facilitate this process at the public hearings.

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

**VEGETATION AND WILDLIFE HABITAT**

***Goals:***

- 1. Ensure native vegetation remains an integral part of Albany's environment.*
- 2. Protect and enhance significant wildlife habitat in the urban growth boundary.*
- 3. Balance compact development patterns with natural resource protection.*

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

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

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

- 6.3 *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat, shows no areas of significant vegetation and/or wildlife habitat on the property.*

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

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

- 6.4 *Comprehensive Plan Plate 6: Wetland Sites, does not show any wetlands on the property. The National Wetlands Inventory and the East I-5 Wetlands Inventory and the Goal 5 Natural Resources overlay show no wetlands on the property.*

#### **GOAL 10 HOUSING**

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

***Policy 1: Ensure that there is an adequate supply of residentially zoned land accessible to employment and public services.***

***Policy 6: Encourage residential development on already serviced and vacant residential lots or in areas within which services are available or can be economically provided.***

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

#### **GOAL 12: TRANSPORTATION**

##### ***Goals:***

- 1. Provide an efficient transportation system that provides for the local and regional movement of people and goods.***
- 2. Provide a safe transportation system.***
- 3. Provide a diversified transportation system that ensures mobility for all members of the community and provides alternatives to automobile travel.***
- 4. Provide a transportation system that balances financial resources with community livability and economic vitality.***

***Policy 1: Develop a transportation system with improved connectivity where “barriers” such as I-5, railroad, waterways, or neighborhoods reduce transportation system efficiency in terms of travel time and travel distance.***

***Policy 2: Maintain acceptable roadway and intersection operations where feasible considering environmental, land use, and topographical factors.***

***Policy 3: Identify and remedy unsafe intersection and roadway locations with known safety issues and ensure the multi-modal transportation system is structurally and operationally safe.***

***Policy 4: Minimize conflicts along high volume and/or high speed corridors.***

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

### **ATTACHMENTS**

Attachment A: Vicinity Map

Attachment B: Comprehensive Plan Map

Attachment C: Zoning Map

Attachment D: Natural Resources Map



STAFF REPORT ATTACHMENT A  
FILES: AN-05-11 AND ZC-06-11

