

ORDINANCE NO. 5350

AN ORDINANCE PROCLAIMING THE APPROVAL OF A TENTATIVE SUBDIVISION PLAT APPLICATION (FILE M1-10-97), A CONCURRENT SITE PLAN REVIEW APPLICATION (FILE SP-98-97), AND A DEVELOPMENT AGREEMENT (DA-01-98) FOR PROPERTY LOCATED SOUTH OF GRAND PRAIRIE ROAD SE AND WEST OF INTERSTATE 5 (TAX LOT 1400, LINN COUNTY ASSESSOR'S MAP 11-3W-16); ADOPTING FINDINGS; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council, on February 11, 1998, adopted Resolution No. 3903 (AN-05-97) annexing the above listed property in accordance with the provisions of ORS 222.750, described by attached Exhibits "A and B" and defined as Tax Lot 1400, Linn County Assessor's Map 11-3W-16, more commonly known as 3320 Grand Prairie Road SE, which is adjacent to the City of Albany; and

WHEREAS, the Zoning Map designation of the 46.540-acre subject property was amended from Linn County UGM-20 (Urban Growth Management - 20 Acre Minimum) to City of Albany RS-6.5 (Residential Single Family 6 to 8 units per acre).

WHEREAS, the City of Albany Planning Commission on February 2, 1998, recommended approval with conditions of the proposed Subdivision and Site Plan applications for property more commonly known as 3320 Grand Prairie Road SE (City of Albany File Nos. M1-10-97 and SP-98-97); and

WHEREAS, the Albany City Council held a public hearing on these cases and on the Development Agreement on February 11, 1997.

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

Section 1: That the Findings of Fact contained in the staff report and attached as Exhibit "C" (Subdivision) are hereby adopted in support of this decision.

Section 2: That the Tentative Subdivision application for the division of a 42.89-acre parcel into 58 lots and 2 Tracts is hereby approved with the conditions listed in the attached Exhibit "E" on property described in Exhibits "A and B." A drawing showing the approved Tentative Subdivision plan is attached as Exhibit "D."

Section 3: That the Findings of Fact contained in the staff report and attached as Exhibit "F" (Site Plan Review) are hereby adopted in support of this decision.

Section 4: That the Site Plan for the construction of a 100-space manufactured home park expansion is hereby approved with the conditions listed in the attached Exhibit "H" on property described in Exhibits "A and B." A drawing showing the approved Site Plan is attached as Exhibit "G."

Section 5: That the City Council hereby authorizes the City Manager to sign a Development Agreement, attached Exhibit "I," for property more commonly known as 3320 Grand Prairie Road SE which shall be binding upon the undersigned, and his/her heirs, successors, and assigns, and shall become a covenant running forever with the land described in Exhibits "A and B," regardless of whether said parties are signatories to this agreement.

Section 6: That the City Council hereby adjudges and declares that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, and an emergency is hereby declared to exist. This Ordinance shall take effect and be in full force and effect when signed by the Mayor, William S. Wilt acquires title to the property, and the City Manager thereafter files the abstract of the annexation

proceedings with the Secretary of State as provided in Section 5 of this Ordinance. The City Manager shall make that filing after receiving proof of acquisition of title to the property by William S. Wilt.

Passed by the City Council: February 11, 1998

Approved by the Mayor: March 11, 1998

Effective Date: March 11, 1998



Mayor

ATTEST:



City Recorder

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**EXHIBIT A
LEGAL DESCRIPTION
DEVELOPMENT AGREEMENT FOR CASE FILES M1-10-97, AND SP-98-97**

Linn County Assessor's Map 11-3W-16, Tax Lot 1400

The following described real property in the County of Linn and State of Oregon:

Beginning at a 5/8" iron rod which marks the Northeast corner of Lot 3, Block 1 of EDGEWOOD ESTATES in the Southwest 1/4 of Section 16, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon; THENCE North 00 degrees 33 minutes 12 seconds East for a distance of 10.62 feet to the south line of that property described in Deed Volume 420, Page 518; THENCE South 89 degrees 46 minutes 14 seconds East for a distance of 41.79 feet to the southeast corner of said property described in Deed Volume 420, Page 518; THENCE North 00 degrees 31 minutes 09 seconds East for a distance of 805.32 feet to a 5/8" iron rod on the southerly right of way line of Grand Prairie Road; THENCE South 65 degrees 55 minutes 48 seconds East, along said southerly right of way line, for a distance of 889.06 feet; THENCE South 63 degrees 01 minutes 08 seconds East, continuing along said southerly right of way line, for a distance of 406.61 feet; THENCE, continuing along said southerly right of way line, along a curve to the left having a radius of 2929.79 feet and an arc length of 162.03 feet, being subtended by a chord of South 73 degrees 11 minutes 14 seconds East for a distance of 162.01 feet; THENCE South 74 degrees 46 minutes 18 seconds East, continuing along said southerly right of way line, for a distance of 203.92 feet to the westerly right of way line of Interstate 5; THENCE South 00 degrees 11 minutes 40 seconds East, along said westerly right of way line, for a distance of 893.63 feet; THENCE North 89 degrees 49 minutes 30 seconds West for a distance of 1585.14 feet to the Northwest corner of Lot 5, Block 5, EDGEWOOD ESTATES; THENCE North 00 degrees 33 minutes 12 seconds East 720.59 feet to the point of beginning.

Contains 42.89 acres, more or less.

**EXHIBIT B
EXHIBIT MAP
DEVELOPMENT AGREEMENT FOR CASE FILES M1-10-97, AND SP-98-97**

Linn County Assessor's Map 11-3W-16, Tax Lot 1400

FEBRUARY 2, 1998

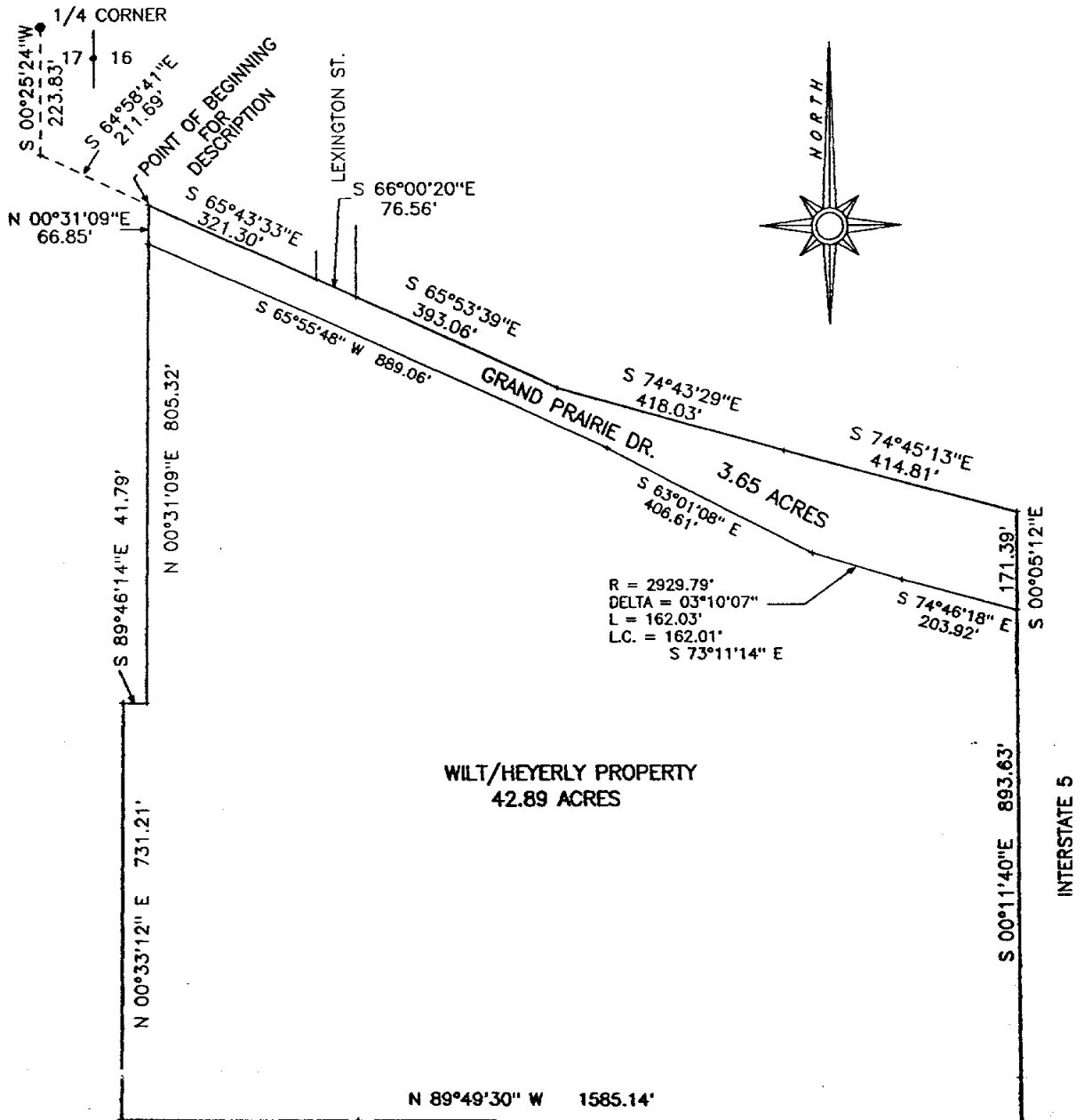


EXHIBIT C
FINDINGS OF FACT FOR TENTATIVE SUBDIVISION APPROVAL
FILE M1-10-97

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

- 1.1 The applicant has submitted a subdivision tentative plat titled "Edgewood Estates Second Addition Tentative Plat," prepared by Ling & Associates Engineering, dated December 1, 1997, and revised February 3, 1998. The plat shows the subject property to be divided into 57 residential single-family lots, two tracts, and one lot that is 18.5 acres (Lot 58). The property to be divided includes all of Linn County Tax Assessor's Map 11S-3W-16, Tax Lot 1400 owned by Mildred Heyerly.
- (a) The applicant has submitted a concurrent Site Plan Review application that shows how Lot 58 can be developed as a manufactured home park in accordance with Development Code standards.
 - (b) The tentative plat shows Tract A to be sold to the City for a park. The applicant has also submitted a plan that shows how Tract A can be developed in accordance with the Code if it is not developed as a park.
 - (c) The tract of land that contains the Periwinkle Creek easement cannot be developed because it contains a floodway, and has an easement on it that allows maintenance of the creek (by Grand Prairie Water Control District). This tract has no designation (such as Tract B).

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

- 2.1 For the purposes of this review criterion, "In accordance with the Development Code" means in accordance with ADC 12.060: "No development shall occur unless the development has frontage on or approved access to a public street currently open to traffic."
- 2.2 The subject property is adjoined to the north by Grand Prairie Road and to the east by Interstate 5. These transportation routes are located within public rights-of-way that cannot be developed further.
- 2.3 The subject property is adjoined to the south and west by land developed with an existing manufactured home park and an existing residential single-family subdivision. All of the lots in the subdivision and all of the spaces in the manufactured home park are provided access with a system of public and private streets.

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

- 3.1 The streets within the proposed subdivision, and the proposed connections to the existing street system, are the "street plan" that must be evaluated under this criterion.
- 3.2 The tentative plat submitted by the applicant shows the streets within the proposed subdivision, and the streets to which the proposed subdivision will connect.

Streets within the proposed subdivision

- 3.3 The Albany Development Code (ADC) contains standards that are intended to produce street systems within subdivisions that are economic, safe, and efficient. The applicable standards provide the basis for a review of streets within proposed subdivisions.
- 3.4 ADC 12.110 requires that the location, width, and grade of all streets must conform to any approved transportation master plan. No streets through the subject property are shown on the City's Transportation System Plan (TSP) map of 20-year needed streets.
- 3.5 ADC 12.110 also requires that, where the location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either provide for the continuation or appropriate projection of existing principal streets in the surrounding area. Brookside Avenue, Wilt Court, and Mountain View Drive have been extended through the existing subdivision that lies to the south and west of the subject property to the property line of the subject property. These streets are all classified as local streets, improved to City standards. The tentative plat shows that these streets will be continued into the proposed subdivision.
- 3.6 ADC 12.120 shows required street right-of-way widths and roadway widths. The tentative plat shows that Mountain View Drive through the proposed subdivision will have a 60-foot wide right-of-way and a 36-foot wide street. Brookside Avenue will have a 60-foot right-of-way and a 36-foot street. Wilt Court, Heyerly Street, and the four cul-de-sac streets that connect to Heyerly Street, will have 50-foot rights-of-way and 32-foot streets. Bartley Place will have a 50-foot right-of-way and a 36-foot street. All of these streets will be classified as local streets, and all the proposed widths conform with the required minimums shown in ADC 12.120.
- 3.7 ADC 12.210 requires that center line radii or curves be not less than 200 feet on local streets. However, where existing conditions, particularly topography, make it otherwise impractical to provide buildable sites, sharper curves may be approved by the review body. The applicant has not identified the length of the curve radii for the proposed streets on the plat, but using an engineer's scale, staff estimates that the curves on Mountain View Drive range from 200 feet to 400 feet. These curves meet the 200-foot minimum requirement. There are two curves shown on Heyerly Drive. One has a radius of about 700 feet, and the other is about 150 feet. The 150-foot radius curve does not meet the 200-foot minimum standard. It appears the curve is designed to follow the curvature of Periwinkle Creek, which may create a more aesthetic design, but does not achieve the required minimum radius. There appears to be no topographic constraint that makes it impractical to provide buildable lots if the curve radius is increased to 200 feet. This will be a condition of subdivision tentative plat approval.
- 3.8 ADC 12.160 requires that as far as practical, streets shall be dedicated and constructed in alignment with existing streets by continuing the center lines thereof.

The extensions of Brookside Avenue, Wilt Court, and Mountain View Drive into the proposed subdivision are shown on the plat extended in alignment with the existing street ends. Mountain View Drive, where it intersects Grand Prairie Road, is aligned with the center line of Lexington Avenue where it intersects Grand Prairie Road across the street.
- 3.9 ADC 12.170 requires that streets be laid out so as to intersect as nearly as possible at right angles. The plat shows that Brookside Avenue, Wilt Court, and Heyerly Street will all intersect Mountain View Drive at right angles. The three cul-de-sacs that intersect Heyerly Street all intersect at right angles. Mountain View Drive intersects Grand Prairie Road at a right angle.

- 3.10 ADC 12.190 requires that a cul-de-sac must be as short as possible, and is not to exceed 400 feet in length. A cul-de-sac must terminate with a circular turnaround. Four cul-de-sacs are shown within the proposed subdivision. The cul-de-sacs vary from about 150 feet to 280 feet in length. None is longer than 400 feet. All terminate in circular turnarounds.
- 3.11 ADC 12.290 requires sidewalks are required adjacent to public streets. Sidewalks along residential streets must be a minimum of 4 feet wide. Planter strips 4 feet wide may be provided between the curb and the sidewalk, at the property owner's option. The sidewalk along the frontage of each lot may be constructed at the time each house is built.
- 3.12 The tentative plat identifies the northwest corner of the subject property as "Park area, reserved for sale to the City." If the property is sold to the City as a park, it is likely that no development that requires construction of a sidewalk (such as a single-family residence) will occur on the property. Therefore, the sidewalk along this section of Mountain View Drive must be constructed at the time the street is built. The sidewalks along the frontage of the proposed manufactured home park (Lot 58) must also be constructed at the time the street is built. ADC 12.290 allows construction of the sidewalks along the residential lots in the subdivision to be deferred until residences are built on the lots.

And, because there are no residential lots proposed in the floodplain of Periwinkle Creek, the sidewalk along this new section of Mountain View Drive must also be built at the time the street is constructed. Due to the grade differential between the roadway and creek, and the hazard of water, the sidewalks across the creek will require pedestrian railings for safety.

- 3.13 ADC 6.130 floodplain regulations require that 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. All streets within the proposed subdivision must conform with this requirement. The tentative plat includes a note which says "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 City's development review engineer has reviewed the elevation of the subject property and the 100-year flood elevation and determined that it is feasible to construct all the streets within the proposed subdivision with an elevation one foot below the flood elevation, or higher. Final alignment and elevation of streets is reviewed at the time construction drawings are submitted to the City for review through the Site Improvement (SI) process.

- 3.14 The speed limit for all streets within the development will be 25 mph, resulting in a minimum sight distance requirement at intersections of 250 feet. Several intersections along Mountain View Place appear to have sight distance slightly less than this amount and will require minor alignment modifications. Because the available sight distances along Mountain View Place will be at, or only slightly exceed the minimum required, the applicant may wish to consider construction of curb extensions ("bulb-outs") at intersections along the street. Curb extensions would eliminate parking near intersections, improve visibility and sight distance, shorten pedestrian crossing distances, and function as traffic calming features by narrowing the roadway.
- 3.15 ADC 12.040 allows development approvals 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 neighborhood activity centers, such as parks. The tentative plat shows a 20-foot wide emergency access between Lots 21 and 22. The access will provide a connection between Heyerly Place and Grand Prairie Road, that can also serve as a pedestrian and bicycle connection. The City's Parks Master Plan identifies a future bicycle trail along the north bank of Periwinkle Creek. To allow

for a connection between the bike path and the connection from Heyerly Place to Grand Prairie Road, a 10-foot wide easement is needed between Lots 30 and 31.

- 3.16 ADC 12.120 requires that where a street right-of-way is less than 60 feet wide, a 7-foot wide public utility easement must be dedicated on both sides of the right-of-way. All of the streets within the proposed subdivision have rights-of-way less than 60 feet, except Mountain View Drive. The easements are not shown on the plat.

Streets to which the proposed subdivision will connect

- 3.17 The applicant has submitted a "Traffic Impact Study," prepared by Lancaster Engineering, dated September 1997, and a letter that serves as an addendum to that traffic impact study, also prepared by Lancaster Engineering, dated January 5, 1998. Together these documents are the traffic impact study that provide the basis for a review of the impact of the proposed subdivision on the existing street system.
- 3.18 The traffic impact study estimates that full development of the proposed subdivision will generate a total of 668 weekday vehicle trips. Eighty-five percent of these trips will use the intersection of the new Mountain View Drive and Grand Prairie Road to enter and exit the subdivision. Eighty percent of those trips will use Grand Prairie Road west of Mountain View Drive, and the other 5 percent will use Grand Prairie Road east of Mountain View Drive.
- 3.19 ADC 12.060 requires that streets within and adjacent to a new development must be improved in accordance with the standards of ADC Article 12. Where the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district.
- 3.20 Grand Prairie Road is not improved in accordance with the standards for street widths shown in ADC 12.120, the standards for sidewalks shown in ADC 12.290-12.320, or the standards for bikeways shown in ADC 12.340-12.350.
- (a) ADC 12.120: Grand Prairie Road is classified as a minor arterial street on the TSP functional classification map. The required paved street width for an arterial street is 40 feet to 70 feet. The paved width of Grand Prairie Road from about 100 feet east of Waverly Drive to Interstate 5, including along the frontage of the subject property, is approximately 26 feet. The pavement is beginning to crack within vehicle wheel paths, indicating that it cannot accommodate existing vehicle loading and is beginning to fail structurally. The posted speed limit on Grand Prairie Road is 45 miles per hour. The lack of sidewalks or paved shoulders, combined with high traffic volumes and speeds, prevents the road from safely accommodating bicycle and pedestrian trips.
 - (b) ADC 12.290-12.320: All development must include sidewalks adjacent to public streets. There are no sidewalks along Grand Prairie Road from about 100 feet east of Waverly Drive to Interstate 5, including along the frontage of the subject property. In the case of arterial streets, sidewalks must be built during construction of the street. The required width for a sidewalk on an arterial street is 7 feet. This width may be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. The sidewalk along the new street section of Grand Prairie Road that has been built from Waverly Drive east for about 100 feet includes sidewalks set back from the curb.
 - (c) ADC 12.340-12.350: In the case of arterial streets, bike lanes must be built when the street is constructed. The minimum width for a bikeway is 6 feet per travel lane when adjacent to a curb.

3.21 The tentative plat submitted by the applicant shows that Grand Prairie Road will be improved at least across the frontage of the subject property. The improvements required by the standards of Article 12 cited above, and needed to accommodate vehicle, bicycle, and pedestrian trips include:

- (a) A 12-foot wide travel lane in each direction;
- (b) A continuous two-way center left-turn lane;
- (c) A bicycle lane in each direction;
- (d) A sidewalk on each side of the street.

This results in a paved street width of 48 feet curb to curb. This street width must be constructed from where the existing improvements end about 100 feet east of Waverly Drive to a point opposite the last driveway to the east on the north side of Grand Prairie Road, a distance of approximately 750 feet. From that point, the street improvements must taper to 36 feet by eliminating the center turn lane as the street approaches the bridge over Interstate 5, and match the width of the bridge.

3.22 ADC 12.140 requires that, if an existing street right-of-way that abuts new development does not meet the minimum widths specified in ADC 12.120, additional right-of-way must be dedicated.

Grand Prairie Road is designated as a minor arterial street on the TSP functional classification map (Figure 5.1.1-1). The minimum right-of-way width required for an arterial street is 70 feet. The right-of-way width of Grand Prairie Road across the westerly frontage of the subject property is only 60 feet for about 750 feet, then it widens to accommodate slopes that result from filling to construct the street.

An additional 5-foot width of right-of-way is needed along the Grand Prairie frontage of the property from its westerly boundary to a point opposite the last driveway to the east on the north side of Grand Prairie Road, a distance of approximately 750 feet. (The other additional 5 feet of width needed to provide the 70-foot wide right-of-way should come from the property which abuts the road on the north).

Construction of the street from the end of the 48-foot section to the bridge over Interstate 5 may require the dedication of additional right-of-way on the subject property. The elevation of the street rises to cross over Interstate 5 creating a fill slope that may extend on to the proposed subdivision lots. An alternative to providing additional right-of-way through this area may be to build a retaining wall so that the fill slope stays within the existing right-of-way. It is feasible to construct the street using either alternative.

3.23 Intersection capacity is typically the factor that constrains the ability of streets to accommodate traffic. The traffic impact study submitted by the applicant estimates how much traffic the proposed subdivision will generate at full build-out during the hour of the day that has the highest volume of traffic. The number of trips that will be generated by the new development is then added to the amount of existing traffic and traffic from other expected development (for example, a new manufactured home park approved at the corner of Waverly Drive and Grand Prairie Road, and the new Lexington Subdivision across Grand Prairie Road from the proposed subdivision).

The study then analyzes the capacity of the intersections of the streets to which the streets in the subdivision will connect. The ability of the intersections to accommodate the additional traffic from the proposed development is then evaluated. A letter from A-F is assigned to describe the operation of the intersection. An A rating is the best and F is the worst. The City of Albany has adopted D as the lowest acceptable level of service for the operation of intersections impacted by new development. The additional traffic from a proposed development may not cause the operation of an intersection that is impacted by the development to fall below level of service D.

- 3.24 The traffic impact study finds, from counts of existing traffic, that the peak hour for traffic is between 4:35 p.m. and 5:35 p.m. Development of the proposed subdivision will add 70 new trips during this evening peak hour. The trips are then distributed among the intersections that traffic will use. To determine the directional distribution of trips, the proximity of land uses such as employment, shopping, schools, and entertainment are considered. The study finds that 85 percent of the traffic that will be generated by the proposed subdivision will use the intersection of Grand Prairie Road and the new Mountain View Drive, and 15 percent will use the existing intersection of Waverly Drive and the existing Mountain View Drive.
- 3.25 The study finds that the intersection of Grand Prairie Road and the new Mountain View Drive is expected to operate at level of service C at the evening peak hour. The intersection of Grand Prairie Road and Waverly Drive was also evaluated, and it was found that it will operate at level of service C. (It now operates at level of service B.) The intersection of Waverly Drive and the existing Mountain View Drive now operates at level of service C, and it will also operate at level of service C during the evening peak hour after development of the proposed subdivision.

Other considerations

- 3.26 ADC 12.230 requires where a development abuts an existing arterial street, the design of the development must provide adequate protection for residential properties. Design requirements may include "lots of suitable depth abutting the arterial to provide adequate buffering and having frontage along another street," and/or "screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial."
- 3.27 Grand Prairie Road and Interstate 5 are arterial streets. The lots along Grand Prairie Road range in depth from about 90 feet to 200 feet. This depth allows required 15-foot front setbacks on Heyerly Place to be met with 75 to 185 feet of depth remaining for placement of a house, a backyard, and buffering and screening that the resident of the house may wish to plant or build.

Along Interstate 5, ADC 3.320 requires a "special noise corridor setback" of 50 feet in addition to the required 15-foot front setback. The review body may require additional noise mitigating features such as berms, landscaping, fences, or walls within the setback. The tentative plat shows that the 50-foot additional setback has been provided. Who will own and maintain this area along Lots 26 and 27 is unclear. The area should be combined with Lots 26 and 27. Who will own the area labeled "open space" west of Lot 57 on the tentative plat is also unclear. It must be combined with one of the lots shown on the plat, or otherwise combined with another parcel.

On a drawing submitted with a concurrent application to develop Lot 58 of the proposed subdivision, the applicant shows a 6-foot high berm, 24 to 36 feet in width to be constructed within the 50-foot noise setback for Lot 58. We assume the berm will also be placed in the setback along the rest of the subdivision lots that abut I-5 (Lots 26 and 27), but this will be made a condition of approval of the proposed subdivision.

- 3.28 Improvement of Grand Prairie Road for its full width, from where the existing street improvements end east of Waverly Drive, to Interstate 5, may be more than the minimum improvement needed to serve the proposed subdivision, and may not be roughly proportional to the impact of new traffic from the subdivision. However, because the subject property must be annexed to the City before the subdivision can be developed, other policies apply. See the "Information for the Applicant" section attached at the end of this staff report, and Condition 3.5 below.

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

SANITARY SEWER

- 4.1 ADC 12.500 requires that all proposed sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process. The applicant has submitted a drawing titled "Edgewood Estates Second Addition, Sanitary Sewer and Storm Drain Plan," prepared by Ling & Associates Engineering, dated December 1, 1997, and revised February 3, 1998.
- 4.2 Sanitary sewer utility maps show that there are 8-inch mains in Brookside Avenue, Bartley Place, Mountain View Drive, and Wilt Court, and a 15-inch main that has been extended along Grand Prairie Road to a point 100 feet east of Waverly Drive.
- 4.3 The tentative plat shows that the area of the proposed subdivision west of the new Mountain View Drive, and south of Periwinkle Creek, will be served by extending the existing mains in Brookside Avenue, Wilt Court, and Bartley Place. No size for the pipes is shown on the plat, but the minimum size must be 8-inch.
- 4.4 The tentative plat shows that the area of the proposed subdivision north of Periwinkle Creek will be served by extending the existing 15-inch main in Grand Prairie Road to the new Mountain View Drive, then an 8-inch line south into the proposed subdivision. Other 8-inch lines will serve the lots along Heyerly Place and the cul-de-sacs that connect to it.

However, ADC 12.490 requires that new development extend sewer collection mains along the full length of the property to be developed, or a point identified by the City Engineer as necessary to accommodate likely system expansion. The City's sanitary sewer master plan shows that the 15-inch main in Grand Prairie Road must be extended east across Interstate 5, so the 15-inch main must be extended across the full frontage of the subject property to provide for later system expansion.

- 4.5 In reviewing the proposed subdivision and the manufactured home park to be constructed on Lot 58 of the subdivision, staff has discovered that the sanitary sewer system proposed for the manufactured home park shows top of manhole elevations that are higher than the surrounding ground elevation in the most eastern part of the park. This means that the area where this is shown would have to be filled, but it is not clear if this is what the applicant proposes. It also appears that the elevation of the sanitary sewer proposed in this area of the manufactured home park would conflict with the elevation of a proposed storm drain pipe.

An alternative for serving this area of the park would be to extend the line that will be constructed in Heyerly Place across Periwinkle Creek to serve the area of the manufactured home park. This would have to be considered in determining the grade for the sewer in Heyerly Place to make sure it was deep enough to also serve the manufactured home park. Either alternative, however, is feasible. Final alignments and grades are reviewed when construction plans are submitted for review to the City prior to construction.

WATER

- 4.6 ADC 12.440 requires that all proposed water plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process. The tentative plat submitted by the applicants shows how water service will be provided to the proposed subdivision.
- 4.7 Water utility maps show that there are 6-inch mains in Wilt Court and Bartley Place, an 8-inch main in Brookside Avenue, 12-inch mains in Mountain View Drive and Lexington Drive (across Grand Prairie Road), and a 24-inch main in Grand Prairie Road at the intersection of Waverly Drive.

- 4.8 The plat shows that the 24-inch main in Grand Prairie Road at Waverly Drive will be extended east to a point about 800 feet east of the intersection of Grand Prairie Road and the new Mountain View Drive. The 12-inch mains in Lexington Street and Mountain View Drive will be connected with a new 12-inch main. A 12-inch water main will be extended south along the new Mountain View Drive, with extensions along Brookside Avenue and Wilt Court to serve the lots along those streets. An existing line in Bartley Place will be extended to serve the new lots along the new cul-de-sac. A new main will be extended along Heyerly Place and extensions will be provided to the cul-de-sacs that connect to that street. The sizes of these lines is not specified on the plat.

All of the lines within the proposed subdivision must be a minimum of 8 inches in diameter to provide adequate fire flows. It may be possible to install 6-inch lines in some of the shorter cul-de-sacs if fire hydrants are not needed in the cul-de-sac. Lot 58 (the lot on which the manufactured home park is proposed) must have two 8-inch connections to the 12-inch main proposed in the new Mountain View Drive. Two connections are needed to provide a looped system for fire flows and to limit service interruptions at times when part of the line is being repaired.

ADC 12.430 requires that new development must extend water distribution mains along the full length of the frontage of the property to be developed, or to a point identified by the City Engineer as necessary to accommodate likely system expansion. So, the 24-inch main in Grand Prairie Road must be extended across the entire frontage of the subject property. It appears that the most likely east end of the line will be on the north side of the street, within the old Grand Prairie Road roadbed.

STORM DRAINAGE

- 4.9 ADC 12.530 requires that development approval be given only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plat review process.
- 4.10 Storm drain utility maps show that storm drainage to the subject property is provided by Periwinkle Creek, which flows from east to west across the site. There is a 30-inch private storm drain pipe through the existing manufactured home park to the south of the subject property, which discharges to a drainageway in the southeast quadrant of the property. The drainageway then flows to Periwinkle Creek. There are also roadside ditches along Grand Prairie Road and a drainageway in the northwest quadrant of the property. Water flows from the ditches along Grand Prairie Road into the drainageway in the northwest quadrant of the property. There is also a 30-inch public storm drain main on the west edge of the property between Wilt Court and Periwinkle Creek.
- 4.11 The sanitary sewer and storm drain plan submitted by the applicant shows that a 30-inch diameter storm drain pipe will be placed in the drainageway in the northwest quadrant of the property. The 30-inch pipe will pick up the water that enters the drainageway now, and part of the storm drainage from the proposed subdivision. The plan originally submitted by the applicant also showed that a 36-inch pipe would be placed in the drainageway in the southeast quadrant of the property, but that plan has been revised. This pipe would have picked up the water which now enters the drainageway, and the storm drainage from another part of the subdivision. The storm drain plan also shows that the storm drainage from other areas of the subdivision will be collected by a system of pipes that ultimately discharge to Periwinkle Creek. No drainage system for Grand Prairie Road is shown, but it can drain south to Periwinkle Creek. Pipe sizes are not shown on the plan, but final design details are reviewed when construction plans are submitted to the City prior to construction.
- 4.12 ADC 12.550 requires that a drainage facility be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must

review and approve the necessary size of the facility, based on the provisions of the storm drain master plan, and sound engineering principles, and assuming conditions of maximum potential watershed development.

The City's storm drain master plan shows that the drainageways in the northwest and southeast quadrants of the subject property are not adequate to accommodate expected flows without improvement. The master plan specifies a 30-inch pipe for the drainageway in the northwest quadrant, and a 54-inch pipe for the drainageway in the southeast quadrant.

The 30-inch pipe proposed in the northwest drainageway is adequate. The master plan shows that the 36-inch pipe proposed in the southeast drainageway must be a 54-inch pipe, but the pipe would be constructed in a wetland (see Finding 5.3 below). The flows which will enter the drainageway come from the existing manufactured home park to the south of the subject property (owned by the applicant) and from the proposed subdivision.

- 4.13 The applicant has agreed not to develop within the wetland identified as PER 8-A on the City's East I-5 Local Wetlands Inventory. It has been determined by the City's development review engineer that the existing drainageway in the southeast quadrant of the property can accommodate the drainage that will flow to it, if it is improved within a 30-foot wide easement. The applicant has revised the plan presented to the Planning Commission to show that the wetland will not be developed, except for improvements to the drainageway described above.
- 4.14 The City's storm drain master plan also shows that the existing 30-inch pipe that runs through the manufactured home park to the south is under-sized and should be replaced with a 48-inch pipe. Staff recommends that the 30-inch pipe be replaced with a 48-inch pipe.
- 4.15 The City's storm drainage master plan shows that Periwinkle Creek across the subject property can accommodate a 100-year storm flow, including the additional storm drainage from the proposed subdivision. The Periwinkle Creek channel was improved in 1978 by the Soil Conservation Service. The as-built plans show that the improvements included creating a channel with a 5-foot stream bed; 3:1 side slopes; a 7-foot wide shelf on the south bank; a 13-foot wide shelf on the north bank; and finally 3:1 side slopes to the natural ground. The Grand Prairie Water District currently has maintenance responsibility for the creek.

The applicant has submitted a letter to the City of Albany, with attached drainage calculations for Periwinkle Creek, prepared by Ling & Associates, dated January 12, 1998. The drainage calculations include a series of cross-sections across the Periwinkle Creek channel. The cross-sections show that the creek channel has generally retained its improved shape. The cross-sections show that some sections of the stream bed have narrowed, and some of the side slopes have slumped, thereby reducing the storm water carrying capacity of the creek.

The drainage calculations show that the existing creek can accommodate a 100-year storm flow with no further improvements. The high water elevation would range from 228.5 feet to 230.5 feet. The water at its highest elevation would be 0.9 feet below the top of the existing bank. The City prefers that there be at least 1.0 feet of freeboard, to provide a safety factor. The study finds that this can be accomplished by modifying the creek channel in some locations. The recommended modifications are:

- (a) Widen the bed of the creek at Lot 39 to yield a base width of 6 feet. Currently, the base width here is only 3 feet. The channel here can pass the 100-year runoff event with adequate freeboard, but the existing constriction causes backwater effects that may reduce freeboard upstream of this section.

- (b) Review other creek channel cross-sections and excavate as required to maintain a minimum base width of 6 feet.
- (c) Maintain the existing growth of short grass in the channel. It appears the channel is currently maintained this way. Certain assumptions used in this analysis are not valid if these conditions are not maintained in the future, and the estimated water surfaces will no longer apply.

These improvements should be made to provide for accommodation of the storm drainage from the proposed subdivision.

- 4.16 The tentative plat shows Periwinkle Creek located within an "existing drainageway easement." The current property owner apparently owns the land within the drainage easement, but that area is not identified on the plat as a lot or tract. The existing easement is 70 feet wide, 40 feet on the north side of the creek and 30 feet on the south side of the creek.

The applicant has stated that this area is intended to be sold to the City of Albany Parks Department at some time in the future, along with Tract A (shown on the plat). The area of the drainage easement must be shown on the plat as a separate tract, as required in Condition 1.1 above. (This area cannot be shown as a lot, because it is not configured to provide a buildable lot.)

- 4.17 The area where the drainageway in the northwest quadrant of the property will discharge to Periwinkle Creek is shown on the tentative plat as "open space." The area where the drainageway in the southeast quadrant of the property will discharge to the creek is shown with an "x" through it. It is uncertain who will own these areas. They must be combined with one of the subdivision lots, or be included with the area shown as the Periwinkle Creek drainage easement that will be shown as a tract.

- 4.18 There are a total of six outlets to Periwinkle Creek. ADC 12.370 requires 15-foot wide public easements to be dedicated, centered on pipes, so that the pipes can be maintained. A 30-foot wide public easement is needed to maintain the southeast drainageway.

- 4.19 The existing 30-inch pipe along the west boundary of the subject property is located within a 10-foot wide public easement (Linn County deed records MF-115-795). The tentative plat does not show the easement. It appears the easement is located along the west edge of proposed Lots 43, 45, and 48. The easement must be shown on the plat.

- 4.20 The storm drain plan submitted by the applicant does not show a specific type of drainage structure where the new Mountain View Drive will cross Periwinkle Creek. City staff observes that there are far fewer problems with drainage structures that have one clear span than there are with multiple span structures. The major problems with multiple span structures include head loss at the inlet, and plugging with brush, trees, and debris. A single span structure will be required (either a culvert or a bridge) to minimize the possibility of flooding that might occur if a multiple span structure was constructed.

- 4.21 Excavation and/or fill within the Periwinkle Creek channel may be subject to regulation by the Oregon Division of State Lands and/or the U.S. Army Corps of Engineers. Excavation and/or fill may be subject to regulation by the City of Albany Building Division. The applicant must meet applicable regulatory requirements of these agencies.

- 4.22 A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Oregon Department of Environmental Quality (DEQ) for construction activities that disturb five or more acres of land.

- 4.23 ADC 6.130 requires that all land divisions 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 the flood elevation has not been otherwise established, the elevation must be determined and certified by a registered engineer. This has been done in the drainage calculations for Periwinkle Creek submitted by the applicant.

In addition, a statement which says: "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" must be located on or attached to the recorded map or plat.

Other considerations

- 4.24 Extension of the 15-inch sanitary sewer line from where the existing line ends approximately 100 feet east of Waverly Drive to Interstate 5, and extension of the 24-inch water line from where the existing line ends approximately 100 feet east of Waverly Drive, may be more than the minimum improvement needed to serve the proposed subdivision, and may not be roughly proportional to the impact on the sewer system by the subdivision, but because the subject property must be annexed to the City before the subdivision can be developed, other policies apply. See the "Information for the Applicant" section attached at the end of this staff report.

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

- 5.1 *Comprehensive Plan Plate 7: Slopes* shows no areas of concern on the subject property. The tentative plat submitted by the applicant shows the property varies in elevation from approximately 232 to 240 feet. The property slopes generally from southeast to northwest.

- 5.2 *Comprehensive Plan Plate 5: Floodplains* shows that Periwinkle Creek across the subject property has a floodplain. FEMA/FIRM Community Panel No. 410136 0190B, dated September 29, 1986, shows that Periwinkle Creek across the subject property is in Zone A, "contained in channel." Zone A is described as an area of 100-year flood, base flood elevations and flood hazard factors not determined.

The base (100-year) flood elevation is not shown on the FEMA/FIRM map, so the applicant was asked to submit calculations that show the elevation of a 100-year flood along Periwinkle Creek. The applicant has provided that information as described under Criterion (4). The applicant has not incorporated the floodplain area into the proposed subdivision with the intent of developing it. The applicant proposes to sell this area to the City for use as a park. Setting the floodplain area aside as a separate tract on the subdivision plat has been required as a condition of approval.

ADC 6.130 requires that "In addition to the general review criteria for land divisions and planned developments in Article 11, applications within the floodplain district shall also be subject to the following standards."

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

The proposed subdivision has been designed to minimize flood damage by siting the lots outside the 100-year flood boundary of Periwinkle Creek. The 100-year flood is contained within the channel of Periwinkle Creek, and a condition of approval is that the property owner make minor improvements to the channel so that 1 foot of freeboard is provided between the 100-year flood water elevation and the top of the bank of Periwinkle Creek.

- (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 sanitary sewer and water facilities serving the proposed subdivision will be located primarily underground, and are, therefore, not subject to flood damage. Gas, electrical, telephone, and cable television systems are privately owned.

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

The lots within the proposed subdivision are located outside the 100-year flood boundary of Periwinkle Creek. The 100-year flood is contained within the channel of Periwinkle Creek, and a condition of approval is that the property owner make minor improvements to the channel so that 1 foot of freeboard is provided between the 100-year flood elevation and the top of the bank. The drainage system for the proposed subdivision has been reviewed under Review Criterion (4) above, and it has been found that the system can be made adequate if certain conditions of approval are met.

- (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.***

No lots are proposed within a the 100-year floodplain for Periwinkle Creek. The floodway lies within the floodplain. No lots are proposed in the floodway.

- (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.***

None of the lots within the proposed subdivision are within a floodplain. None of the streets that serve the lots are within a floodplain. One street, Mountain View Drive, is proposed to cross the floodplain for Periwinkle Creek. No elevation for this crossing is shown on the tentative plat, but a note on the plat that says "Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than 1 foot below the 100-year flood elevation."

The City's development review engineer has reviewed the elevation of the subject property and the 100-year flood elevation and determined that it is feasible to construct all the streets within the proposed subdivision with an elevation 1 foot below the flood elevation, or higher. Construction of the streets in conformance with this requirement is a condition of approval of the subdivision. Final alignment and elevation of streets is reviewed at the time construction drawings are submitted to the City for review through the Site Improvement (SI) process.

- (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 tentative plat submitted by the applicant does not show the location of the 100-year flood contour line followed by the date the flood elevation was established. The elevation has been determined in the drainage calculations submitted by the applicant. The calculations have been certified by a registered

engineer. Placement on the final plat of the contour line and the statement required above is a condition of approval of the subdivision.

- 5.3 *Comprehensive Plan Plate 6: Wetland Sites* shows a wetland site on the subject property, but designates it as one on which there is incomplete information. (We now have more information, however.) The U.S. Department of Interior, Fish and Wildlife Service, National Wetland Inventory map (dated 1994) shows the area of Periwinkle Creek is wetlands.

The City is required to notify the Oregon Division of State Lands (DSL) when an application is received for land that has wetlands shown on the NWI map. That notification has been given to DSL. DSL has responded that a removal-fill permit is required from DSL. DSL has also noted that the applicant has submitted a wetland delineation to them, but approval of the delineation has not yet been given. Approval of the delineation is the next step in DSL's process for applying their regulations. The applicant has also submitted a delineation to the City, prepared by Jay R. Lorenz, Ph.D., and dated September 1997.

ADC 6.280 regulates wetlands in certain areas, but the area in which the subject property is located is not one of those areas. The applicant originally proposed to fill two of the wetlands identified in the delineation (two existing ditches), and preserve the third (along Periwinkle Creek). The applicant has now agreed not to develop one of the wetlands, but improve the drainageway that runs through it. Whether filling the other wetland will be allowed is a decision that will be made by DSL and the U.S. Army Corps of Engineers. If DSL determines it has jurisdiction of the identified wetland, they will decide whether the wetland can be filled, and then, if filling is allowed, whether the applicant must "mitigate" the filling of the wetland. Mitigation might include replacing the wetland on the same property, or elsewhere.

As part of Periodic Review of the City's Comprehensive Plan, the Planning Division has retained a consultant to map and evaluate wetlands within an area that includes the subject property. The work done by the consultant (the East I-5 Local Wetlands Inventory) shows that the wetlands within the banks of Periwinkle Creek could be classified as locally significant wetlands. The work also shows that the wetlands along the ditch in the southeast quadrant of the subject property could be classified as locally significant. (These wetlands are identified as PER-4 and PER 8-A in the consultant's work.) These wetlands may be regulated by the City in the future, but there are not applicable regulations in place now. City staff plans later this year to propose regulations for locally significant wetlands as part of the work being done on Goal 5 of the Comprehensive Plan for Periodic Review.

(The wetland consultant's work shows that the wetlands along Periwinkle Creek total about 2.47 acres; the wetland along the ditch in the northwest quadrant of the property is about 0.3 acres; and the wetland along the ditch in the southeast quadrant is about 0.8 acres. The consultant also identified two additional areas of wetlands that total about 0.1 and 0.8 acres on the property.)

ORS 227.350 allows City approval of a subdivision application, when DSL has responded, if the approval includes notice that issuance of a permit under ORS 196.600 to 196.905 by DSL is required for the project before any physical alteration takes place within the wetlands. This notice will be included in the conditions of approval for the subdivision.

The applicant has agreed to set aside the wetland identified as PER 8-A as open space.

- 5.4 *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat* shows an area of natural vegetation and wildlife habitat that corresponds roughly to the wetlands identified as PER-4 and PER 8-A in the wetland consultant's work referenced in Finding 5.3 above. However, neither the

Comprehensive Plan, nor the ADC, currently provide any reference to regulating or otherwise managing these areas.

The property is currently being farmed to produce ryegrass, so the predominant vegetation on the property is ryegrass. There are also areas that are covered with blackberries, and wooded areas with ash, cottonwood, red alder trees along Periwinkle Creek and in the wetland area along the ditch in the southeast quadrant of the property. There are also a variety of other grasses on the property, and what remains of an old apple orchard in the southeast corner of the property.

- 5.5 *Comprehensive Plan Plate 9: Historic Districts* shows the subject property is not in a historic district, and the City's Preservation Planner advises there are no known archaeological sites on the property.

EXHIBIT D TENTATIVE SUBDIVISION MAP FILE M1-10-97

EDGEWOOD ESTATES SECOND ADDITION TENTATIVE PLAN A PART OF TAX LOT 1400 SECTION 16, TOWNSHIP 11 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN LINN COUNTY, OREGON

REVISED FEBRUARY 4, 1998

OWNER: BILL WILT
35215 SE 84TH ST
ALBANY, OREGON 97321
(541) 882-9844

ENGINEER: GLENN A. LING
LING & ASSOCIATES ENGINEERING
605 NW 5th STREET, SUITE 1A
CORVALLIS, OREGON 97330
(541) 754-7200

NOTES

08/24/98

A form shall be constructed in the 80' buffer area with this project. This project shall be constructed in one phase.
A list of all owners within 200 feet of the proposed development is attached to the application.
Name of "W" Court, "V" Court and "C" Court to be provided at time of Final Platting.

SANITARY SEWER

Property south of Parkside is served by sanitary sewer. The 12" sanitary sewer at Garden Prairie will require extension to serve the area north of Rosewood Court. This will also be extended to 18" and ultimately to the New Line sewer.

WATER

12" water to be installed on Garden, New Drive and Lockhart. The City requests that a 24" water line be installed along Garden Prairie to 1-2. This will result in water supply for industrial area. Applicant agrees.

POWER

The applicant has elected to not install power to serve the site plan for peak purposes. Rosewood Court would also become a part of the Power System. This would increase open space in this area in perpetuity.

TRANSFORMATION

Garden Prairie Drive is a major collector street. The City has determined that certain improvements need to be made to Garden Prairie. It is proposed to improve the facility to 3-lane divided, 4' median, 40' total width and 12' 6" side lanes. The applicant has agreed to sign a notice of discontinuance for the strip of these improvements at each time as the City creates and approves a Local Improvement District.

PLACED PLAN

The eastern half of Parkside has within the 100 year flood plain. The FEMA map indicates that the flood plain is confined to the channel boundary and all such will not be affected by improvements to the affected property.

We warrant that all other zoning provisions apply to a residential development and that a rezoning is required for any other use not shown on the 100-year flood plain.

LOT AREAS

1	6181 sq. ft.	25	3888 sq. ft.
2	4878 sq. ft.	26	5611 sq. ft.
3	1234 sq. ft.	27	6287 sq. ft.
4	1589 sq. ft.	28	4780 sq. ft.
5	1462 sq. ft.	29	7180 sq. ft.
6	7400 sq. ft.	30	7910 sq. ft.
7	2142 sq. ft.	31	7772 sq. ft.
8	6242 sq. ft.	32	10080 sq. ft.
9	6842 sq. ft.	33	6180 sq. ft.
10	6242 sq. ft.	34	11070 sq. ft.
11	6842 sq. ft.	35	6180 sq. ft.
12	6242 sq. ft.	36	6180 sq. ft.
13	6842 sq. ft.	37	6180 sq. ft.
14	6242 sq. ft.	38	6180 sq. ft.
15	6842 sq. ft.	39	6180 sq. ft.
16	6242 sq. ft.	40	6180 sq. ft.
17	6842 sq. ft.	41	6180 sq. ft.
18	6242 sq. ft.	42	6180 sq. ft.
19	6842 sq. ft.	43	6180 sq. ft.
20	6242 sq. ft.	44	6180 sq. ft.
21	6842 sq. ft.	45	6180 sq. ft.
22	6242 sq. ft.	46	6180 sq. ft.
23	6842 sq. ft.	47	6180 sq. ft.
24	6242 sq. ft.	48	6180 sq. ft.
25	6842 sq. ft.	49	6180 sq. ft.
26	6242 sq. ft.	50	6180 sq. ft.
27	6842 sq. ft.	51	6180 sq. ft.
28	6242 sq. ft.	52	6180 sq. ft.
29	6842 sq. ft.	53	6180 sq. ft.
30	6242 sq. ft.	54	6180 sq. ft.
31	6842 sq. ft.	55	6180 sq. ft.
32	6242 sq. ft.	56	6180 sq. ft.
33	6842 sq. ft.	57	6180 sq. ft.
34	6242 sq. ft.	58	6180 sq. ft.
35	6842 sq. ft.	59	6180 sq. ft.
36	6242 sq. ft.	60	6180 sq. ft.
37	6842 sq. ft.	61	6180 sq. ft.
38	6242 sq. ft.	62	6180 sq. ft.
39	6842 sq. ft.	63	6180 sq. ft.
40	6242 sq. ft.	64	6180 sq. ft.
41	6842 sq. ft.	65	6180 sq. ft.
42	6242 sq. ft.	66	6180 sq. ft.
43	6842 sq. ft.	67	6180 sq. ft.
44	6242 sq. ft.	68	6180 sq. ft.
45	6842 sq. ft.	69	6180 sq. ft.
46	6242 sq. ft.	70	6180 sq. ft.
47	6842 sq. ft.	71	6180 sq. ft.
48	6242 sq. ft.	72	6180 sq. ft.
49	6842 sq. ft.	73	6180 sq. ft.
50	6242 sq. ft.	74	6180 sq. ft.
51	6842 sq. ft.	75	6180 sq. ft.
52	6242 sq. ft.	76	6180 sq. ft.
53	6842 sq. ft.	77	6180 sq. ft.
54	6242 sq. ft.	78	6180 sq. ft.
55	6842 sq. ft.	79	6180 sq. ft.
56	6242 sq. ft.	80	6180 sq. ft.
57	6842 sq. ft.	81	6180 sq. ft.
58	6242 sq. ft.	82	6180 sq. ft.
59	6842 sq. ft.	83	6180 sq. ft.
60	6242 sq. ft.	84	6180 sq. ft.
61	6842 sq. ft.	85	6180 sq. ft.
62	6242 sq. ft.	86	6180 sq. ft.
63	6842 sq. ft.	87	6180 sq. ft.
64	6242 sq. ft.	88	6180 sq. ft.
65	6842 sq. ft.	89	6180 sq. ft.
66	6242 sq. ft.	90	6180 sq. ft.
67	6842 sq. ft.	91	6180 sq. ft.
68	6242 sq. ft.	92	6180 sq. ft.
69	6842 sq. ft.	93	6180 sq. ft.
70	6242 sq. ft.	94	6180 sq. ft.
71	6842 sq. ft.	95	6180 sq. ft.
72	6242 sq. ft.	96	6180 sq. ft.
73	6842 sq. ft.	97	6180 sq. ft.
74	6242 sq. ft.	98	6180 sq. ft.
75	6842 sq. ft.	99	6180 sq. ft.
76	6242 sq. ft.	100	6180 sq. ft.

SITE DATA

TOTAL AREA: 42.88 acres
EXISTING USE: ONE HOUSE
PROPOSED USE: SINGLE FAMILY RESIDENTIAL
EXISTING ZONE:
PROPOSED ZONE: RS-44
MIN. LOT SIZE: 4000 sq. ft.
MAX. LOT SIZE: 10000 sq. ft.
AREA TO BE DEDICATED TO PUBLIC USE: none
INCLUDING PARK (TRACT 43, 44) acres
(This does not include Parkside Court)
PERMISSIBLE CREEK: 1.00 acres
(This includes Open Space on eastern north
and south of creek)
STREET: 3.30 acres

NOTE: PERMISSIBLE CREEK AND
SOUTH OPEN SPACE ARE NOT
INCLUDED IN AREA OF LOT 38.

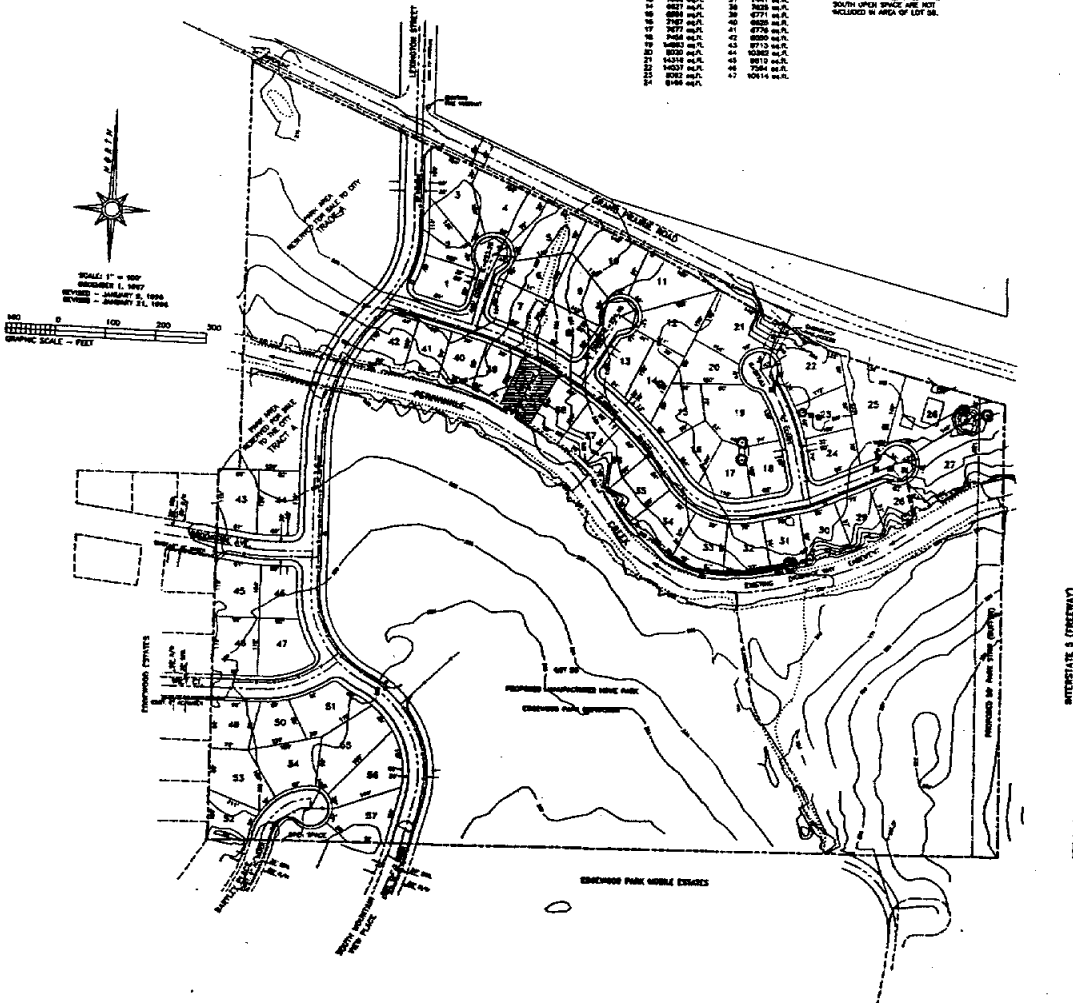


EXHIBIT E
LAND USE CONDITIONS OF APPROVAL
Subdivision File M1-10-97

The following land use conditions of approval relate to the Land Division Criteria for approval in the Albany Development Code and to the findings of fact in the staff report. Unless otherwise noted, all conditions of approval must be completed to the satisfaction of the City's representative prior to signing of the Final Subdivision Plat.

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

1.1 The tract of land shown on the tentative plat that contains the Periwinkle Creek easement shall be shown on the final plat as a separate tract (Tract B).

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

None.

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

3.1 Center line curve radii for streets within the proposed subdivision shall be a minimum of 200 feet. The tentative plat appears to show a 150-foot radius curve on Heyerly Place. The final plat shall be revised to show a 200-foot minimum radius curve.

3.2 Sidewalks shall be constructed on both sides along all the streets within the proposed subdivision. The sidewalks must be a minimum of 4 feet wide. Planter strips 4 feet wide may be provided between the curb and the sidewalk, at the property owner's option. The sidewalk along Mountain View Drive along the frontage of the property proposed to be sold to the City for a park, the sidewalk on both sides of Mountain View Drive where it crosses Periwinkle Creek, and the sidewalk along the frontage of Lot 58, shall be constructed at the time the street is built. The sidewalk along the frontage of each other proposed lot may be built at the time the house is built.

3.3 **Prior to final plat approval** (except as allowed in Condition 3.5 below), construct Grand Prairie Road to City standards from where the existing street improvements end approximately 100 feet east of Waverly Drive to the bridge over Interstate 5. The street section shall be 48 feet wide from where the existing improvements end to the east side of the last driveway on the north side of Grand Prairie Road, a distance of about 750 feet. The street section shall include: one 12-foot wide travel lane in each direction; a continuous two-way center left-turn lane; a bicycle lane in each direction; and a sidewalk on each side of the street.

From that point the street section shall taper to 36 feet by eliminating the center turn lane as the street approaches the bridge over Interstate 5, and match the width of the bridge. This street section shall include one 12-foot wide travel lane in each direction; a bicycle lane in each direction; and a sidewalk on each side of the street. All transitions shall conform to AASHTO standards.

The sidewalks to be constructed along Grand Prairie Road shall be 6 feet wide, set back from the curb by a landscaped planter strip at least 5 feet wide.

- 3.4 **Prior to final plat approval** (except as allowed in Condition 3.5 below), the property owner shall dedicate an additional 5-foot width of public right-of-way along the Grand Prairie Road frontage of the subject property, from the westerly boundary of the subject property to the east side of the last driveway on the north side of Grand Prairie Road, a distance of about 750 feet.

From that point, the property owner shall dedicate sufficient additional width along the Grand Prairie Road frontage of the subject property to allow street construction to taper in width to 36 feet, and match the width of the bridge over Interstate 5. The elevation of the street rises to cross over Interstate 5 creating a fill slope that may extend on to the proposed subdivision lots. An alternative to providing additional right-of-way through this area may be to build a retaining wall so that the fill slope stays within the existing right-of-way. The choice of which alternative to use will be made by the City Engineer through the Site Improvement (SI) review process.

- 3.5 The applicant does hereby petition the City for the improvements to Grand Prairie Road described above and waives his right to remonstrate against such improvements. Other properties determined by the Albany City Council to benefit from the street improvements will also be included in the Local Improvement District (LID).

The applicant also agrees to bear and pay the proportionate share of the cost for improving Grand Prairie Road for properties within the LID boundary on which single family residences are now located, and those properties which do not now have access to Grand Prairie Road.

As of the date this staff report was written, February 4, 1998, the City has approved two developments that will access Grand Prairie Road -- Creekside Manufactured Home Park at the southeast corner of Grand Prairie Road and Waverly Drive, and Lexington Subdivision Phases 5-16, east of Lexington Street and north of Grand Prairie Road across from the subject property.

A condition of approval for Creekside is that the owners construct Grand Prairie Road across the frontage of their property (to partial width), or form an LID for that construction. A condition of approval for Lexington Phases 5-16 is that the owner sign a Petition for Improvement/Waiver of Remonstrance for construction of Grand Prairie Road from Waverly Drive to Interstate 5. No development of these properties can occur until the petition/waivers have been signed. At the time they are signed, the property owner petitions the City to form an LID to make the improvements, and waives the right to remonstrate against the street project. (The owners still have the opportunity to discuss the method by which the cost of the project is distributed among the benefitting properties.)

Grand Prairie Road shall be improved before vehicular traffic from either the subdivision or the manufactured home park proposed by the applicant are allowed access to Grand Prairie Road. The City will not issue a Site Improvement permit for construction of an access to Grand Prairie Road on the applicant's property prior to the time the street is improved. Temporary construction access will be allowed.

Development of subdivision lots or manufactured home spaces south of Periwinkle Creek that will have access on existing streets (Wilt Court, Bartley Place, Brookside Avenue, and Mountain View Drive) will be permitted by the City. The number of lots or spaces that will be permitted by the City will be limited to the number that will contribute 172 vehicle trips per day, or fewer. (This is the number of trips estimated to be the total number of trips that will access these existing streets at full development of the proposed developments.) Development of these lots and spaces will be permitted only when all other applicable provisions of development approval and other applicable regulations have been met.

- 3.6 Dedicate a 7-foot wide public utility easement both sides of the right-of-way for all streets within the proposed subdivision that have right-of-way widths less than 60 feet. The dedication must be shown on the final plat.
- 3.7 The speed limit for all streets within the proposed subdivision will be 25 mph, resulting in a minimum sight distance requirement at intersections of 250 feet. Several intersections along Mountain View Place appear to have sight distances slightly less than this, and will require minor alignment modifications. Because the available sight distances along Mountain View Place will be at, or only slightly exceed, the minimum required, the applicant shall construct curb extensions ("bulb-outs") at intersections along the street. Curb extensions would eliminate parking near intersections, improve visibility and sight distance, shorten pedestrian crossing distances, and function as traffic calming features by narrowing the roadway.
- 3.8 Construct the streets within the proposed subdivision as shown on the tentative plat. Right-of-way and street widths shall be as shown. All streets within the proposed subdivision shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- 3.9 The tentative plat shows that the required 50-foot additional noise setback has been provided along Interstate 5. It is unclear who will own and maintain this area. It shall be combined with Lot 26 and/or 27 on the final plat. Who will own the area labeled "open space" west of Lot 57 on the tentative plat is also unclear. It must be combined with one of the lots shown on the plat, or otherwise combined with another parcel.

On a drawing submitted with the concurrent application to develop Lot 58 of the proposed subdivision, a 6-foot high berm, 24 to 36 feet in width, is shown to be constructed within the 50-foot noise setback for Lot 58. This berm shall also be constructed in the setback along the rest of the subdivision lots that abut I-5 (Lots 26 and 27).

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

SANITARY SEWER

- 4.1 Construct the sanitary sewer main extensions shown on the tentative plat in Brookside Avenue, Wilt Court, and Bartley Place to serve the area of the proposed subdivision west of the new Mountain View Drive and south of Periwinkle Creek. The minimum size of these lines shall be 8 inches in diameter.
- 4.2 The 15-inch sanitary sewer main which now ends in Grand Prairie Road approximately 100 feet east of Waverly Drive shall be extended east and across the entire frontage of the subject property. The most likely east end of this line will be on the north side of Grand Prairie Road within the old Grand Prairie Road roadbed.
- 4.3 In reviewing the proposed subdivision and the manufactured home park to be constructed on Lot 58 of the subdivision, staff has discovered that the sanitary sewer system proposed for the manufactured home park shows top of manhole elevations that are higher than the surrounding ground elevation in the most eastern part of the park. This means that the area where this is shown would have to be filled, but it is not clear if this is what the applicant proposes. It also appears that the elevation of the sanitary sewer proposed in this area of the manufactured home park would conflict with the elevation of a proposed storm drain pipe. An alternative to serving this area of the park would be to extend the line that will be constructed in Heyerly Place across Periwinkle Creek to serve the area of the manufactured home park. This would have to be considered in determining the grade for the sewer in Heyerly Place to make sure it was deep enough to also serve the manufactured home park. Either alternative is feasible. The

property owner shall select one alternative or the other, and show it on the construction drawings that are submitted to the City for review through the Site Improvement (SI) process.

WATER

- 4.4 The 24-inch water main which now ends in Grand Prairie Road approximately 100 feet east of Waverly Drive shall be extended east and across the entire frontage of the subject property. The most likely east end of this line will be on the north side of Grand Prairie Road within the old Grand Prairie Road roadbed.
- 4.5 Connect the 12-inch mains in Lexington Street and Mountain View Drive with a new 12-inch main.
- 4.6 Construct the 12-inch water main extension shown on the tentative plat south from Grand Prairie Road along the new Mountain View Drive, with the extensions shown along Brookside Avenue and Wilt Court to serve the lots along those streets.
- 4.7 Extend the existing line in Bartley Place as shown on the tentative plat to serve the lots along the new cul-de-sac. Extend the main along Heyerly Place and the extensions to serve the lots on the cul-de-sacs that connect to that street, as shown on the plat.
- 4.8 Lot 58 (the lot on which the manufactured home park is proposed) must have two 8-inch connections to the 12-inch main proposed in the new Mountain View Drive. Two connections are needed to provide a looped system for fire flows and to limit service interruptions at times when part of the line is being repaired.
- 4.9 All of the lines within the proposed subdivision must be a minimum of 8 inches in diameter to provide adequate fire flows. It may be possible to install 6-inch lines in some of the shorter cul-de-sacs if fire hydrants are not needed in the cul-de-sac.

STORM DRAINAGE

- 4.10 Construct the 30-inch storm drain pipe in the existing drainageway that is located in the northwest quadrant of the subject property. Improve the drainageway that is located in the southeast quadrant of the property.
 - (a) The 30-inch pipe is shown on the storm drain plan that was submitted with the tentative plat. The plan was prepared by Ling & Associates, and dated December 1, 1997, and revised February 3, 1998.
 - (b) A 36-inch pipe is shown on the storm drain plan to be constructed in the southeast drainageway, but, instead the drainageway shall be improved by excavating a continuous straight line grade from the outlet of the existing 30-inch storm drain pipe to the flow line of Periwinkle Creek. The width and side slopes of the drainageway may vary, but the capacity of the drainageway after improvement shall be 63 cubic feet per second.
- 4.11 Except as described in 4.10 above, construct the storm drainage system that will provide drainage to the proposed subdivision, as shown on the storm drain plan (revised to avoid the PER 8-A wetland). No storm drainage system is shown for Grand Prairie Road is shown. A system must be designed and constructed. No pipe sizes are shown on the plan. Final design details including alignment and pipe sizes must be reviewed and approved by the City Engineer through the Site Improvement (SI) process.

- 4.12 The 30-inch storm drain pipe that runs through the existing manufactured home park to the south of the subject property shall be replaced with a 48-inch diameter pipe. The City's storm drain master plan shows the 30-inch pipe is undersized.
- 4.13 Improve the Periwinkle Creek channel as recommended in the drainage study included in the letter to the City from Ling & Associates, dated January 12, 1998. The improvements are as follows:
- (a) Widen the bed of the creek at Lot 39 to yield a base width of 6 feet. Currently, the base width here is only 3 feet. The channel here can pass the 100-year runoff event with adequate freeboard, but the existing constriction causes backwater effects that may reduce freeboard upstream of this section.
 - (b) Review other creek channel cross-sections and excavate as required to maintain a minimum base width of 6 feet, unless it is determined by the City that the original channel was 5 feet wide, in which case the width can be 5 feet.
 - (c) Maintain the existing growth of short grass in the channel. It appears the channel is currently maintained this way. Certain assumptions used in this analysis are not valid if these conditions are not maintained in the future, and the estimated water surfaces will no longer apply.
- 4.14 The area along Periwinkle Creek shown on the tentative plat that is identified as an "existing drainageway easement" shall be shown on the plat as a separate tract.
- 4.15 The area where the proposed pipe in the northwest drainageway will discharge to Periwinkle Creek shown on the tentative plat as "open space," and the area where the proposed pipe in the southeast drainageway will discharge to the creek shown with an "x" through it shall be combined with one of the subdivision lots, shown as separate tracts, or be included with the area shown as the Periwinkle Creek drainage easement.
- 4.16 There are a total of six outlets to Periwinkle Creek. Dedicate 15-foot wide public easements, centered the pipes, as required in ADC 12.370. Dedicate a 30-foot wide public easement centered on the drainage way located in the southeast quadrant of the property.
- 4.17 The existing 30-inch pipe along the west boundary of the subject property is located within a 10-foot wide public easement (Linn County deed records MF-115-795). The tentative plat does not show the easement. It appears the easement is located along the west edge of proposed Lots 43, 45, and 48. The easement must be shown on the plat.
- 4.18 The storm drain plan submitted by the applicant does not show a specific type of drainage structure where the new Mountain View Drive will cross Periwinkle Creek. This crossing must be constructed as a single span structure (either a culvert or a bridge).
- 4.19 Excavation and/or fill within the Periwinkle Creek channel may be subject to regulation by the Oregon Division of State Lands and/or the U.S. Army Corps of Engineers. Excavation and/or fill may be subject to regulation by the City of Albany Building Division. The applicant must meet the applicable regulatory requirements of these agencies.
- 4.20 Obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ) for construction activities that disturb five or more acres of land.
- 4.21 The location of the 100-year flood contour line along Periwinkle Creek, followed by the date the flood elevation was established, shall be included on the final plat. In addition, a statement which says:

"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" must be located on or attached to the recorded map or plat.

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

- 5.1 Issuance of a permit under ORS 196.600 to 196.905 by the Oregon Division of State Lands (DSL) is required before any physical alteration takes place within the wetlands on the subject property. The wetlands include the land within the banks of Periwinkle Creek, the ditch within the northwest quadrant of the property, and the ditch within the southeast quadrant of the property, as shown on the tentative plat.
- 5.2 The applicant has agreed to set aside the wetland identified on the City's East I-5 Local Wetland Inventory as PER 8-A as "open space." This shall be done on the final plat, and a note shall be included on the plat that states no development is allowed in this area. This area may be included in the tract that includes Periwinkle Creek. (See Condition 1.1 above.)

EXHIBIT F
FINDINGS OF FACT FOR SITE PLAN REVIEW
FILE SP-98-97

(1) Public facilities can accommodate the proposed development.

- 1.1 The applicant has submitted a three-page set of plans that shows the proposed manufactured home park. The plans were prepared by Ling & Associates Engineering, dated December 1, 1997, and revised February 3, 1998.

STREETS

Streets within the manufactured home park

- 1.2 ADC 12.250 allows private streets within manufactured home parks, unless the review body determines that public streets are needed to provide for circulation and/or access to neighboring properties.

Although it is not shown on the plans, the applicant has stated that the streets within the proposed park will be private.

- 1.3 ADC 10.260 requires streets in manufactured home parks to have a minimum surfaced width of 30 feet if no parking is allowed on one side of the street only.

The plans show that the streets within the park will be 30 feet wide. So, no parking will be allowed on one side of the street.

- 1.4 ADC 10.290 requires that walkways a minimum of 4-foot wide connect each manufactured home space with common areas, public streets, and play areas. All walkways must be separated, raised, or protected from vehicular traffic and provide access for handicapped persons.

The plans do not show a system of walkways that would meet this requirement. Sheet 3 of 3 of the plans shows a plot plan of a typical manufactured home space, with a 3-foot wide sidewalk behind the curb of the street. It is implied from this drawing that each home will be connected to the other homes by constructing sidewalks along the frontage of each space. It is feasible to do this, but it is not clear from the plan that is what is intended. In addition, the sidewalks must be 4-foot wide. A walkway that connects the streets to the proposed common area within the freeway noise buffer area and then to the existing manufactured home park to the south where most of the recreation facilities for the park expansion will be located is shown. A revised plan that shows the entire sidewalk system, with 4-foot wide sidewalks, must be submitted. This will be a condition of approval of the manufactured home park.

- 1.5 The speed limit on Mountain View Drive will be 25 miles per hour, resulting in a minimum sight distance requirement at the intersection of 250 feet. The intersection of the street that connects the proposed manufactured home park with Mountain View Drive appears to have less sight distance than this, and will require a minor alignment modification. Because the available sight distance along Mountain View Place will be at, or only slightly exceed, the minimum required, the applicant may wish to consider construction of curb extensions ("bulb-outs") at intersections along the street. Curb extensions would eliminate parking near intersections, improve visibility and sight distance, shorten pedestrian crossing distances, and function as traffic calming features by narrowing the roadway.

Streets to which the proposed manufactured home park will connect

- 1.6 The streets within the proposed manufactured home park will connect to a new section of Mountain View Drive that will be extended from where it ends now, at the south boundary of the subject property, north to Grand Prairie Road. The new section of Mountain View Drive has not yet been built. The street must be built.

A parcel along the west side of Mountain View Drive has been shown on the tentative plat for the subdivision that will create the lot on which the manufactured home park will be developed as reserved for sale to the City as a park. If the property is sold to the City as a park, it is likely that no development that requires construction of a sidewalk (such as a single-family residence) will occur on the property. Therefore, the sidewalk along this section of Mountain View Drive must be constructed at the time the street is built. The sidewalks along the frontage of the proposed manufactured home park (Lot 58) must also be constructed at the time the street is built. And, because there are no residential lots proposed in the floodplain of Periwinkle Creek, the sidewalk along this new section of Mountain View Drive must also be built at the time the street is constructed. Due to the grade differential between the roadway and creek, and the hazard of water, the sidewalks across the creek will require pedestrian railings for safety.

- 1.7 The applicant has submitted a "Traffic Impact Study," prepared by Lancaster Engineering, dated September 1997, and a letter that serves as an addendum to that traffic impact study, also prepared by Lancaster Engineering, dated January 5, 1998. Together these documents are the traffic impact study that provide the basis for a review of the impact of the proposed manufactured home park on the existing street system.

- 1.8 The traffic impact study estimates that full development of the proposed manufactured home park will generate a total of 480 weekday vehicle trips. Eighty-five percent of these trips will use the intersection of the new Mountain View Drive and Grand Prairie Road to enter and exit the manufactured home park. Eighty percent of those trips will use Grand Prairie Road west of Mountain View Drive, and the other 5 percent will use Grand Prairie Road east of Mountain View Drive. Fifteen percent of the trips will use the existing section of Mountain View Drive to Waverly Drive. This street is classified as a local street, and is improved to City standards. Development of the proposed manufactured home park will also generate bicycle and pedestrian trips.

- 1.9 Grand Prairie Road is not improved in accordance with the standards for street widths shown in ADC 12.120, the standards for sidewalks shown in ADC 12.290-12.320, or the standards for bikeways shown in ADC 12.340-12.350.

- (a) ADC 12.120: Grand Prairie Road is classified as a minor arterial street on the TSP functional classification map. The required paved street width for an arterial street is 40 feet to 70 feet. The paved width of Grand Prairie Road from about 100 feet east of Waverly Drive to Interstate 5, including along the frontage of the subject property, is approximately 26 feet. The pavement is beginning to crack within vehicle wheel paths, indicating that it cannot accommodate existing vehicle loading and is beginning to fail structurally. The posted speed limit on Grand Prairie Road is 45 mile per hour. The lack of sidewalks or paved shoulders, combined with high traffic volumes and speeds, prevents the road from safely accommodating bicycle and pedestrian trips.
- (b) ADC 12.290-12.320: All development must include sidewalks adjacent to public streets. There are no sidewalks along Grand Prairie Road from about 100 feet east of Waverly Drive to Interstate 5, including along the frontage of the subject property. In the case of arterial streets, sidewalks must be built during construction of the street. The required width for a sidewalk on an arterial street is 7 feet. This width may be reduced to 6 feet if the sidewalk is separated from the curb by a landscaped planter strip at least 5 feet wide. The sidewalk along the new street

section of Grand Prairie Road that has been built from Waverly Drive east for about 100 feet includes sidewalks set back from the curb.

- (c) ADC 12.340-12.350: In the case of arterial streets, bike lanes must be built when the street is constructed. The minimum width for a bikeway is 6 feet per travel lane when adjacent to a curb.

1.10 The tentative plat submitted by the applicant shows that Grand Prairie Road will be improved at least across the frontage of the subject property. The improvements required by the standards of Article 12 cited above, and needed to accommodate vehicle, bicycle, and pedestrian trips include:

- (a) a 12-foot wide travel lane in each direction;
- (b) a continuous two-way center left-turn lane;
- (c) a bicycle lane in each direction;
- (d) a sidewalk on each side of the street.

This results in a paved street width of 48 feet curb to curb. This street width must be constructed from where the existing improvements end about 100 feet east of Waverly Drive to a point opposite the last driveway to the east on the north side of Grand Prairie Road, a distance of approximately 750 feet. From that point, the street improvements must taper to 36 feet by eliminating the center turn lane as the street approaches the bridge over Interstate 5, and match the width of the bridge.

1.11 ADC 12.140 requires that, if an existing street right-of-way that abuts new development does not meet the minimum widths specified in ADC 12.120, additional right-of-way must be dedicated.

Grand Prairie Road is designated as a minor arterial street on the TSP functional classification map (Figure 5.1.1-1). The minimum right-of-way width required for an arterial street is 70 feet. The right-of-way width of Grand Prairie Road across the westerly frontage of the subject property is only 60 feet for about 750 feet, then it widens to accommodate slopes that result from filling to construct the street.

An additional 5-foot width of right-of-way is needed along the Grand Prairie frontage of the property from its westerly boundary to a point opposite the last driveway to the east on the north side of Grand Prairie Road, a distance of approximately 750 feet. (The other additional 5 feet of width needed to provide the 70-foot wide right-of-way should come from the property which abuts the road on the north.)

Construction of the street from the end of the 48-foot section to the bridge over Interstate 5 may require the dedication of additional right-of-way on the subject property. The elevation of the street rises to cross over Interstate 5 creating a fill slope that may extend on to the proposed subdivision lots. An alternative to providing additional right-of-way through this area may be to build a retaining wall so that the fill slope stays within the existing right-of-way. It is feasible to construct the street using either alternative.

1.12 Intersection capacity is typically the factor that constrains the ability of streets to accommodate traffic.

The traffic impact study submitted by the applicant estimates how much traffic the proposed manufactured home park will generate at full build-out during the hour of the day that has the highest volume of traffic. The number of trips that will be generated by the new development is then added to the amount of existing traffic and traffic from other expected development (for example, a new manufactured home park approved at the corner of Waverly Drive and Grand Prairie Road, and the new Lexington Subdivision across Grand Prairie Road from the proposed subdivision).

The study then analyzes the capacity of the intersections of the streets to which the streets in the manufactured home park will connect. The ability of the intersections to accommodate the additional traffic from the proposed development is then evaluated. A letter from A-F is assigned to describe the

operation of the intersection. An A rating is the best and F is the worst. The City of Albany has adopted D as the lowest acceptable level of service for the operation of intersections impacted by new development. The additional traffic from a proposed development may not cause the operation of an intersection that is impacted by the development to fall below level of service D.

- 1.13 The traffic impact study finds, from counts of existing traffic, that the peak hour for traffic is between 4:35 p.m. and 5:35 p.m. Development of the proposed manufactured home park will add 56 new trips during this evening peak hour. The trips are then distributed among the intersections that traffic will use. To determine the directional distribution of trips, the proximity of land uses such as employment, shopping, schools, and entertainment are considered. The study finds that 85 percent of the traffic that will be generated by the proposed manufactured home park will use the intersection of Grand Prairie Road and the new Mountain View Drive, and 15 percent will use the existing intersection of Waverly Drive and the existing Mountain View Drive.
- 1.14 The study finds that the intersection of Grand Prairie Road and the new Mountain View Drive is expected to operate at level of service C during the evening peak hour. The intersection of Grand Prairie Road and Waverly Drive was also evaluated, and it was found that it will operate at level of service C. (It now operates at level of service B.) The intersection of Waverly Drive and the existing Mountain View Drive now operates at level of service C, and it will also operate at level of service C during the evening peak hour after development of the proposed manufactured home park.

Other considerations

- 1.15 ADC 12.230 requires where a development abuts an existing arterial street, the design of the development must provide adequate protection for residential properties. Design requirements may "screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial."
- 1.16 Interstate 5 is an arterial street. Along Interstate 5, ADC 3.320 requires a "special noise corridor setback" of 50 feet in addition to the required 15-foot front setback. This setback is shown on the plans. The review body may require additional noise mitigating features such as berms, landscaping, fences, or walls within the setback. Sheet 3 of 3 of the plans shows a 6-foot high berm, 24 to 36 feet in width to be constructed within the 50-foot noise setback along I-5.
- 1.17 Improvement of Grand Prairie Road for its full width, from where the existing street improvements end east of Waverly Drive, to Interstate 5, may be more than the minimum improvement needed to serve the proposed manufactured home park, and may not be roughly proportional to the impact of new traffic from the manufactured home park. However, because the subject property must be annexed to the City before the manufactured home park can be developed, other policies apply. See the "Information for the Applicant" section attached at the end of this staff report, and Condition 1.6 below.

SANITARY SEWER

- 1.18 ADC 12.500 requires that all proposed sewer plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process. The applicant has submitted a drawing titled "Edgewood Estates Second Addition, Sanitary Sewer and Storm Drain Plan," prepared by Ling & Associates Engineering, dated December 1, 1997, and revised February 3, 1998. This drawing also shows how sanitary sewer service will be provided to the proposed manufactured home park.
- 1.19 Sanitary sewer utility maps show that there is an 8-inch main in Brookside Avenue, and a 15-inch main that has been extended along Grand Prairie Road to a point 100 feet east of Waverly Drive.

- 1.20 The sanitary sewer plan for the proposed manufactured home park shows that sanitary sewer service will be provided by connecting to the existing sewer in Brookside Avenue, and extending lines within the streets in the park. No size for the pipes is shown on the plan, but the minimum size must be 8-inch. ADC 12.490 requires that public sewer mains must be extended to within 100 feet of any structure that is being served.

However, ADC 12.490 requires that new development extend sewer collection mains along the full length of the property to be developed, or a point identified by the City Engineer as necessary to accommodate likely system expansion. The City's sanitary sewer master plan shows that the 15-inch main in Grand Prairie Road must be extended east across Interstate 5, so the 15-inch main must be extended across the full frontage of the subject property to provide for later system expansion.

- 1.21 In reviewing the proposed manufactured home park and subdivision, staff has discovered that the sanitary sewer system proposed for the manufactured home park shows top of manhole elevations that are higher than the surrounding ground elevation in the most eastern part of the park. This means that the area where this is shown would have to be filled, but it is not clear if this is what the applicant proposes. It also appears that the elevation of the sanitary sewer proposed in this area of the manufactured home park would conflict with the elevation of a proposed storm drain pipe.

An alternative for serving this area of the park would be to extend the line that is shown to be constructed for the subdivision in Heyerly Place across Periwinkle Creek to serve this area of the manufactured home park. This would have to be considered in determining the grade for the sewer in Heyerly Place to make sure it was deep enough to also serve the manufactured home park. It also means that the existing sanitary sewer that now ends about 100 feet east of Waverly Drive would have to be extended along Grand Prairie Road, Mountain View Drive, and Heyerly Place to serve the manufactured home park. Either alternative, however, is feasible. Final alignments and grades are reviewed when construction plans are submitted for review to the City prior to construction.

WATER

- 1.22 ADC 12.440 requires that all proposed water plans and systems must be approved by the City Engineer as part of the tentative plat or site plan review process. The tentative plat for Edgewood Estates Second Addition submitted by the applicant also shows how water service can be provided to the proposed manufactured home park.
- 1.23 Water utility maps show that there is a 24-inch main in Grand Prairie Road at the intersection of Waverly Drive.
- 1.24 The plat shows that the 24-inch main in Grand Prairie Road at Waverly Drive will be extended east to a point about 800 feet east of the intersection of Grand Prairie Road and the new Mountain View Drive. The 12-inch mains in Lexington Street and Mountain View Drive will be connected with a new 12-inch main. A 12-inch water main will be extended south along the new Mountain View Drive to connect to the existing line located where Mountain View Drive now ends, and service will be provided to the proposed manufactured home park off this line.
- 1.25 ADC 12.430 requires that new development must extend water distribution mains along the full length of the frontage of the property to be developed, or to a point identified by the City Engineer as necessary to accommodate likely system expansion. So, the 24-inch main in Grand Prairie Road must be extended across the entire frontage of the subject property. It appears that the most likely east end of the line will be on the north side of the street, within the old Grand Prairie Road roadbed.

- 1.26 The manufactured home park must have two 8-inch connections to the 12-inch main proposed in the new Mountain View Drive. Two connections are needed to provide a looped system for fire flows and to limit service interruptions at times when part of the line is being repaired. The size of the lines off the main in Mountain View Drive are not shown, but they must be a minimum of 8 inches in diameter to provide adequate fire flows.

STORM DRAINAGE

- 1.27 ADC 12.530 requires that development approval be given only where adequate provisions for storm and flood water run-off have been made as determined by the City Engineer. All proposed storm sewer plans and systems must be approved by the City Engineer as part of the tentative plat review process.
- 1.28 Storm drain utility maps show that storm drainage to the subject property is provided by Periwinkle Creek, which flows from east to west across the site. There is a 30-inch private storm drain pipe through the existing manufactured home park to the south of the subject property, which discharges to a drainageway in the southeast quadrant of the property. The drainageway then flows to Periwinkle Creek
- 1.29 The sanitary sewer and storm drain plan originally submitted by the applicant showed that a 36-inch pipe would be placed in the drainageway in the southeast quadrant of the property. That plan has been revised. The plan also shows that a storm drainage system will be constructed to drain the park with two additional points of discharge to Periwinkle Creek. Pipe sizes are not shown on the plan, but final design details are reviewed when construction plans are submitted to the City prior to construction.
- 1.30 ADC 12.550 requires that a drainage facility be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside of the development. The City Engineer must review and approve the necessary size of the facility, based on the provisions of the storm drainage master plan, and sound engineering principles, and assuming conditions of maximum potential watershed development.

The City's storm drain master plan shows that the drainageway in the southeast quadrant of the subject property is not adequate to accommodate expected flows without improvement. The master plan specifies a 54-inch pipe. The flows which will enter the drainageway come from the existing manufactured home park to the south of the subject property (owned by the applicant) and from the proposed manufactured home park.

- 1.31 The applicant has agreed not to develop within the wetland identified as PER 8-A on the City's East I-5 Local Wetlands Inventory. It has been determined by the City's development review engineer that the existing drainageway in the southeast quadrant of the property can accommodate the drainage that will flow to it, if it is improved within a 30-foot wide easement. The applicant has revised the plan presented to the Planning Commission to show that the wetland will not be developed, except for improvements to the drainageway.
- 1.32 The City's storm drain master plan also shows that the existing 30-inch pipe that runs through the manufactured home park to the south is under-sized and should be replaced with a 48-inch pipe. Staff recommends that the 30-inch pipe be replaced with a 48-inch pipe.
- 1.33 The City's storm drainage master plan shows that Periwinkle Creek across the subject property can accommodate a 100-year storm flow, including the additional storm drainage from the proposed manufactured home park. The Periwinkle Creek channel was improved in 1978 by the Soil Conservation Service. The as-built plans show that the improvements included creating a channel with a 5-foot stream bed; 3:1 side slopes; a 7-foot wide shelf on the south bank; a 13-foot wide shelf on the north bank; and

finally 3:1 side slopes to the natural ground. The Grand Prairie Water District currently has maintenance responsibility for the creek.

The applicant has submitted a letter to the City of Albany, with attached drainage calculations for Periwinkle Creek, prepared by Ling & Associates, dated January 12, 1998. The drainage calculations include a series of cross-sections across the Periwinkle Creek channel. The cross-sections show that the creek channel has generally retained its improved shape. The cross-sections show that some sections of the stream bed have narrowed, and some of the side slopes have slumped, thereby reducing the storm water carrying capacity of the creek.

The drainage calculations show that the existing creek can accommodate a 100-year storm flow with no further improvements. The high water elevation would range from 228.5 feet to 230.5 feet. The water at its highest elevation would be 0.9 feet below the top of the existing bank. The City prefers that there be at least 1.0 feet of freeboard, to provide a safety factor. The study finds that this can be accomplished by modifying the creek channel in some locations. The recommended modifications are:

- (a) Widen the bed of the creek at Lot 39 to yield a base width of 6 feet. Currently, the base width here is only 3 feet. The channel here can pass the 100-year runoff event with adequate freeboard, but the existing constriction causes backwater effects that may reduce freeboard upstream of this section.
- (b) Review other creek channel cross-sections and excavate as required to maintain a minimum base width of 6 feet.
- (c) Maintain the existing growth of short grass in the channel. It appears the channel is currently maintained this way. Certain assumptions used in this analysis are not valid if these conditions are not maintained in the future, and the estimated water surfaces will no longer apply.

These improvements should be made to provide for accommodation of the storm drainage from the proposed manufactured home park.

- 1.34 The tentative plat shows Periwinkle Creek located within an "existing drainageway easement." The current property owner apparently owns the land within the drainage easement, but that area is not identified on the plat as a lot or tract. The existing easement is 70 feet wide, 40 feet on the north side of the creek and 30 feet on the south side of the creek.

The applicant has stated that this area is intended to be sold to the City of Albany Parks Department at some time in the future, along with Tract A (shown on the plat). The area of the drainage easement must be shown on the plat as a separate tract. (This area cannot be shown as a lot, because it is not configured to provide a buildable lot.)

- 1.35 The area where the proposed pipe in the southeast drainageway will discharge to the creek is shown with an "x" through it. It is uncertain who will own these areas. They must be combined with one of the proposed subdivision lots, or be included with the area shown as the Periwinkle Creek drainage easement that will be shown as a tract on the final plat.

- 1.36 There are a total of three outlets to Periwinkle Creek that will be constructed to serve the proposed manufactured home park. ADC 12.370 requires 15-foot wide public easements to be dedicated, centered on the pipes, so that the pipes can be maintained. A 30-foot wide public easement is needed for the drainageway in the southeast quadrant of the property.

- 1.37 The storm drain plan submitted by the applicant does not show a specific type of drainage structure where the new Mountain View Drive will cross Periwinkle Creek. City staff observes that there are far

fewer problems with drainage structures that have one clear span than there are with multiple span structures. The major problems with multiple span structures include head loss at the inlet, and plugging with brush, trees, and debris. A single span structure will be required (either a culvert or a bridge) to minimize the possibility of flooding that might occur if a multiple span structure was constructed.

- 1.38 Excavation and/or fill within the Periwinkle Creek channel may be subject to regulation by the Oregon Division of State Lands and/or the U.S. Army Corps of Engineers. Excavation and/or fill may be subject to regulation by the City of Albany Building Division. The applicant must meet the applicable regulatory requirements of these agencies.
- 1.39 A National Pollutant Discharge Elimination System (NPDES) permit must be obtained from the Oregon Department of Environmental Quality (DEQ) for construction activities that disturb five or more acres of land.

Other considerations

- 1.40 Extension of the 15-inch sanitary sewer line from where the existing line ends approximately 100 feet east of Waverly Drive to Interstate 5, and extension of the 24-inch water line from where the existing line ends approximately 100 feet east of Waverly Drive, may be more than the minimum improvement needed to serve the proposed manufactured home park, and may not be roughly proportional to the impact on the sewer system by the manufactured home park, but because the subject property must be annexed to the City before the manufactured home park can be developed, other policies apply. See the "Information for the Applicant" section attached at the end of this staff report.

(2) Any special features of the site (such as topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.

- 2.1 *Comprehensive Plan Plate 7: Slopes* shows no areas of concern on the subject property. The tentative plat submitted by the applicant shows the property varies in elevation from approximately 232 to 240 feet. The property slopes generally from southeast to northwest.
- 2.2 *Comprehensive Plan Plate 5: Floodplains* shows that Periwinkle Creek across the subject property has a floodplain. FEMA/FIRM Community Panel No. 410136 0190B, dated September 29, 1986, shows that Periwinkle Creek across the subject property is in Zone a, "contained in channel." Zone a is described as an area of 100-year flood, base flood elevations and flood hazard factors not determined.

The base (100-year) flood elevation is not shown on the FEMA/FIRM map, so the applicant was asked to submit calculations that show the elevation of a 100-year flood along Periwinkle Creek. The applicant has provided that information as described under Criterion (4). The applicant has not incorporated the floodplain area into the proposed manufactured home park.

ADC 6.131 requires that "In addition to the general review criteria applicable to manufactured home parks..., application for such within the floodplain district shall include an evacuation plan indicating alternative vehicular access and escape routes.

The proposed manufactured home park is not proposed with the 100-year floodplain for Periwinkle Creek. The floodplain is located on the parent parcel where the manufactured home park will be developed, but the boundary of the park is located south of the floodplain. The floodplain is contained in the channel of Periwinkle Creek. So, no evacuation plan is required.

2.3 *Comprehensive Plan Plate 6: Wetland Sites* shows a wetland site on the subject property, but designates it as one on which there is incomplete information. (We now have more information, however.) The U.S. Department of Interior, Fish and Wildlife Service, National Wetland Inventory map (dated 1994) shows the area of Periwinkle Creek is wetlands.

The City is required to notify the Oregon Division of State Lands (DSL) when an application is received for land that has wetlands shown on the NWI map. That notification has been given to DSL. DSL has responded that a removal-fill permit is required from DSL. DSL has also noted that the applicant has submitted a wetland delineation to them, but approval of the delineation has not yet been given. Approval of the delineation is the next step in DSL's process for applying their regulations. The applicant has also submitted a delineation to the City, prepared by Jay R. Lorenz, Ph.D., and dated September 1997.

ADC 6.280 regulates wetlands in certain areas, but the area in which the subject property is located is not one of those areas. The applicant originally proposed to fill two of the wetlands identified in the delineation (two existing ditches), and preserve the third (along Periwinkle Creek). The applicant has now agreed not to develop one of the wetlands, but improve the drainageway that runs through it. Whether filling the other wetland will be allowed is a decision that will be made by DSL and the U.S. Army Corps of Engineers. If DSL determines it has jurisdiction of the identified wetland, they will decide whether the wetland can be filled, and then, if filling is allowed, whether the applicant must "mitigate" the filling of the wetland. Mitigation might include replacing the wetland on the same property, or elsewhere.

As part of Periodic Review of the City's Comprehensive Plan, the Planning Division has retained a consultant to map and evaluate wetlands within an area that includes the subject property. The work done by the consultant (the East I-5 Local Wetlands Inventory) shows that the wetlands within the banks of Periwinkle Creek could be classified as locally significant wetlands. The work also shows that the wetlands along the ditch in the southeast quadrant of the subject property could be classified as locally significant. (These wetlands are identified as PER-4 and PER 8-A in the consultant's work.) These wetlands may be regulated by the City in the future, but there are not applicable regulations in place now. City staff plans later this year to propose regulations for locally significant wetlands as part of the work being done on Goal 5 of the Comprehensive Plan for Periodic Review.

(The wetland consultant's work shows that the wetlands along Periwinkle Creek total about 2.47 acres; the wetland along the ditch in the northwest quadrant of the property is about 0.3 acres; and the wetland along the ditch in the southeast quadrant is about 0.8 acres. The consultant also identified two additional areas of wetlands that total about 0.1 and 0.8 acres on the property.)

ORS 227.350 allows City approval of a subdivision application, when DSL has responded, if the approval includes notice that issuance of a permit under ORS 196.600 to 196.905 by DSL is required for the project before any physical alteration takes place within the wetlands. This notice will be included in the conditions of approval for the subdivision.

The applicant has agreed to set aside the wetland identified as PER 8-A as open space. The open space must be shown on the site plan for the manufactured home park.

2.4 *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat* shows an area of natural vegetation and wildlife habitat that corresponds roughly to the wetland identified as PER 8-a in the wetland consultant's work referenced in Finding 2.3 above. However, neither the Comprehensive Plan, nor the ADC, provide any reference to regulating or otherwise managing these areas.

The property is currently being farmed to produce ryegrass, so the predominant vegetation on the property is ryegrass. There are also areas that are covered with blackberries, and wooded areas with ash, cottonwood, red alder trees along Periwinkle Creek and in the wetland area along the ditch in the southeast quadrant of the property. There are also a variety of other grasses on the property, and what remains of an old apple orchard in the southeast corner of the property.

- 2.5 *Comprehensive Plan Plate 9: Historic Districts* shows the subject property is not in a historic district, and the City's Preservation Planner advises there are no known archaeological sites on the property.

(3) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

- 3.1 The design of the proposed manufactured home park is a 30-foot wide looped street through the park. The northern section of the street follows the curve of Periwinkle Creek, and the southern section of the street follows the south boundary of the park. Sidewalks a minimum of 4-feet wide are required along the streets. The plot plan of a typical manufactured home space shown on Sheet 3 of 3 of the plans shows each space will have an attached double-car garage. The plot plan also shows the spaces will be landscaped.
- 3.2 The area covered by the park is 18.5 acres. One-hundred manufactured home spaces will be provided. This results in a gross land area of about 8,000 square feet per space, or a density of about 5.4 homes per acre. ADC allows private streets and common area to be included in the density calculation. Even if the area used for streets is taken out of the calculation, the resulting square footage of land is about 7,000 square feet per manufactured home space. All of the spaces are larger than 4,000 square feet and many are much larger.
- 3.3 A 50-foot wide additional noise setback has been provided along the east boundary of the proposed park adjacent to Interstate 5, in conformance with ADC 3.320. Sheet 3 of 3 of the plans submitted by the applicant shows a 6-foot high berm, approximately 24-36 feet in width to be constructed within the 50-foot setback, with a 4-foot wide path along it.

ADC 3.370 requires buffering and screening between a manufactured home park and any arterial street, so this must be provided between the manufactured home park and Interstate 5. Buffering and screening is intended to reduce the impacts between uses that have different impacts.

- 3.4 The operating characteristics of the proposed manufactured home park will be similar to any other residential development—vehicle, bicycle, and pedestrian traffic through the development and outdoor activities by the residents. The residents will have the opportunity to access Periwinkle Creek, and the recreational facilities provided primarily in the area of the park already built. These opportunities include a swimming pool in the clubhouse, a system of walking paths, and open spaces used for baseball, and a playground. There are approximately 2.6 acres of recreation area in the existing section of the park, including the clubhouse. The 50-foot noise buffer along I-5 will also be landscaped and have a walking path along the manufactured home park side of the berm. This will provide about another 1 acre of outdoor common area with a 4-foot wide path that can be used for walking.
- 3.5 Surrounding development and land uses include a proposed residential single-family subdivision to the north across Periwinkle Creek, Interstate 5 to the east, the existing manufactured home park to the south, and a proposed residential single-family subdivision to the west.
- 3.6 The design of the proposed subdivision to the north and west of the proposed manufactured home park includes curvilinear streets with cul-de-sacs. Mountain View Drive, which forms the east boundary of

the subdivision to the west, follows the curves of the street within the manufactured home park. Heyerly Place within the subdivision to the north follows Periwinkle Creek and the curves of the street along the creek within the proposed manufactured home park. The operating characteristics of the proposed residential subdivision are expected to be the same as those of any other residential development.

- 3.7 The applicant intends to buy the parcel on which the subdivision and the park will be located and both will be developed by the applicant. Both developments were designed by the applicants engineer. They are designed to be compatible in their physical characteristics and their operating characteristics.
- 3.8 The design of Interstate 5 includes a straight, paved, four-lane highway with a median. The operating characteristics of the highway include the movement of traffic at relatively high speeds which produces noise. Buffering and screening along the east edge of the proposed manufactured home park is required to mitigate the difference in impact between the park and the highway. The 50-foot wide setback and the berm shown on the plans partially fulfill the buffering and screening requirement as discussed in Finding 3.12 below.
- 3.9 The proposed manufactured home park has been designed as an extension of the existing manufactured home park to the south. The applicant also developed and owns the existing park. The design of the existing park is similar to the proposed park—curvilinear streets, landscaped spaces, and some garages. The operating characteristics of the existing park are similar to those expected in the proposed park.
- 3.10 ADC 3.370 requires a 10-foot wide area of buffering and screening between a manufactured home park and residential single-family development. Where one of these uses would be abutting the other, except for separation by right-of-way, buffering but not screening is required.

The plans submitted by the applicant show a 20-foot wide area with trees planted every 30 feet along Mountain View Drive. The trees meet the ADC requirement for buffering, but shrubs and ground cover are also required. This will be a condition of approval of the manufactured home park. No screening is required.

- 3.11 The vacant land that the applicant proposes to develop as a residential single-family subdivision is located across Periwinkle Creek to the north of the proposed manufactured home park. ADC 3.370 allows only one-half of the 10-foot buffer width that would usually be required to be provided where a proposed use abuts undeveloped property. The plans submitted by the applicant show no buffer area has been provided.

The creek is considered right-of-way for the purpose of evaluating whether screening is required. The width of the creek drainage easement is the same width (or greater) than a street right-of-way, and serves the same function of providing space between the two developments. No screening will be required along the north boundary of the manufactured home park.

- 3.12 ADC 3.370 requires a 10-foot wide area of buffering and screening between a manufactured home park and any arterial street. Interstate 5 is an arterial street, so buffering and screening is required. The 50-foot wide noise setback shown on the plans meets the width requirement for the buffer area, and the berm meets the screening requirement. (ADC 9.250 allows “an earth berm combined with evergreen plantings or a fence which forms a sight and noise buffer a least six feet in width within two years of installation.”) The requirements for the buffer area will be specified as a condition of approval.

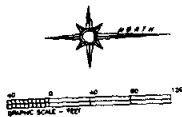
(4) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

- 4.1 The parking areas identified on the plans for the proposed manufactured home park are the double-car garages shown on the plot plan for a typical home space and on-street parking for guests.
- 4.2 The garages are shown to be attached to the manufactured home, so it will be safe for people to walk from the garage to the home.
- 4.3 Parking is allowed on one side of the streets within the park, because the streets will be 30 feet wide, except that the street which runs north/south will be only 24-feet wide, so parking is not allowed on the street. A 4-foot sidewalk must be provided along the streets and a 3-foot wide walk must be provided from the street to each home, so it will be safe for people to walk from a parking place on the street to a home.
- 4.4 One street connection to Mountain View Drive is proposed. As discussed under Finding 1.5, the site distance for this intersection is below or at the minimum. A more detailed evaluation of this intersection and measures to improve its efficiency and safety have been required as a condition of approval of the manufactured home park (Condition 1.6). A sidewalk must be constructed along the street connection to provide pedestrian access to and from Mountain View Drive and the park. This sidewalk must be shown on the revised plans required in Condition 1.2.

EXHIBIT G APPROVED SITE PLAN FILE SP-98-97

EDGEWOOD PARK EXPANSION MANUFACTURED HOME PARK

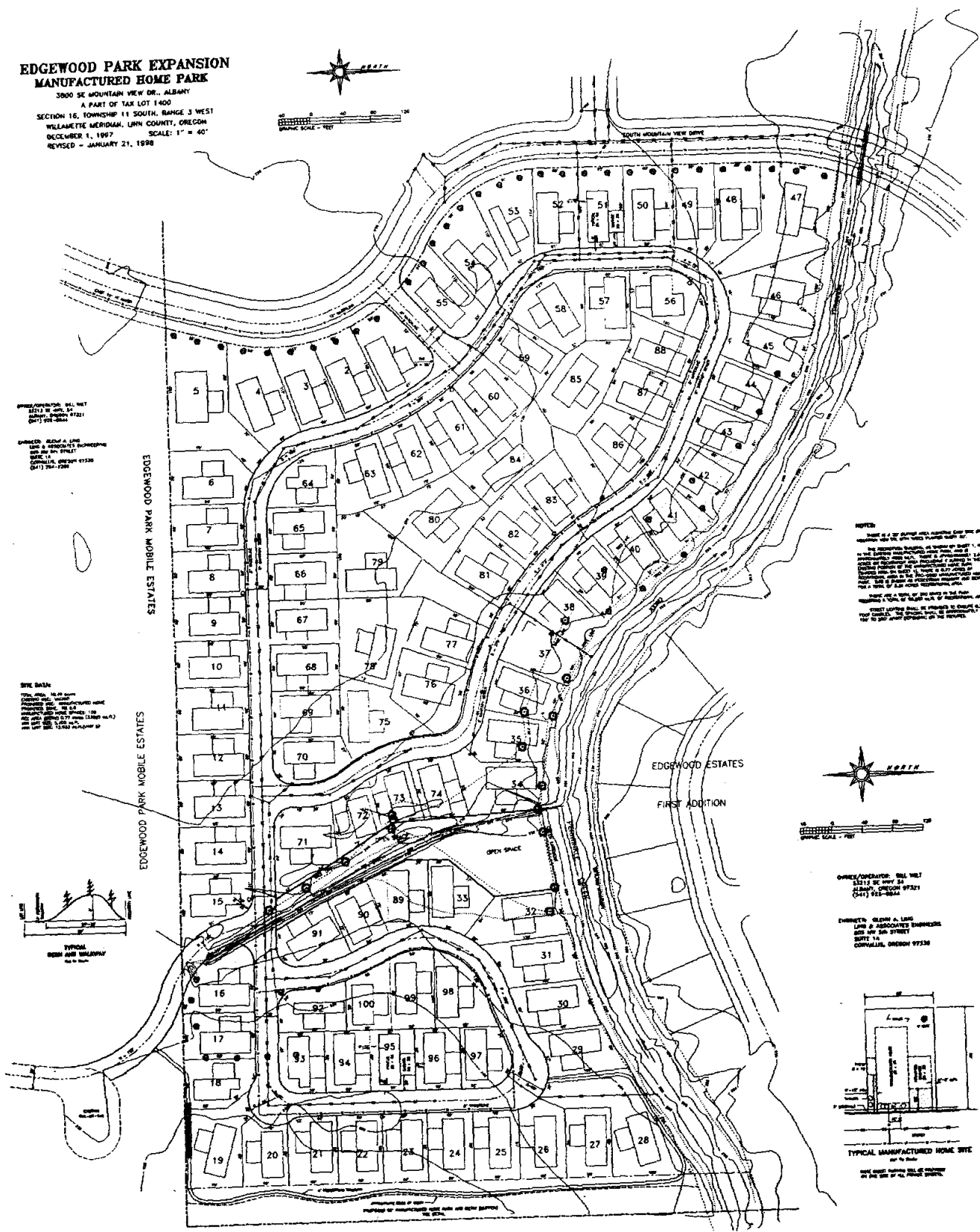
3000 SE MOUNTAIN VIEW DR., ALBANY
A PART OF TAX LOT 1400
SECTION 16, TOWNSHIP 11 SOUTH, RANGE 3 WEST
WILLAMETTE MERIDIAN, Linn County, Oregon
DECEMBER 1, 1997 SCALE: 1" = 40'
REVISED - JANUARY 21, 1998



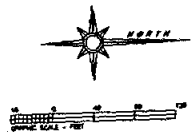
OWNER/OPERATOR: BILL WELT
2312 SE HWY 34
ALBANY, OREGON 97321
(503) 925-3844

ENGINEER: GLENN A. LANG
LAND & ASSOCIATED ENGINEERS
202 NW 5th STREET
CORVALLIS, OREGON 97330
(503) 754-7288

DATE: 01/21/98
THIS PLAN, MAP AND SPECIFICATIONS SHALL BE CONSIDERED AS A PART OF THE MANUFACTURED HOME PARK AND AS SUCH SHALL BE SUBJECT TO THE APPROVAL OF THE Linn County Health Department AND THE Linn County Planning Commission.



NOTES:
1. THIS IS A PART OF THE MANUFACTURED HOME PARK AND AS SUCH SHALL BE SUBJECT TO THE APPROVAL OF THE Linn County Health Department AND THE Linn County Planning Commission.
2. THE MANUFACTURED HOMES, AS SHOWN ON SHEET 1, IN THIS MANUFACTURED HOME PARK, SHALL BE CONSIDERED AS A PART OF THE MANUFACTURED HOME PARK AND AS SUCH SHALL BE SUBJECT TO THE APPROVAL OF THE Linn County Health Department AND THE Linn County Planning Commission.
3. THE MANUFACTURED HOMES, AS SHOWN ON SHEET 1, IN THIS MANUFACTURED HOME PARK, SHALL BE CONSIDERED AS A PART OF THE MANUFACTURED HOME PARK AND AS SUCH SHALL BE SUBJECT TO THE APPROVAL OF THE Linn County Health Department AND THE Linn County Planning Commission.
4. THE MANUFACTURED HOMES, AS SHOWN ON SHEET 1, IN THIS MANUFACTURED HOME PARK, SHALL BE CONSIDERED AS A PART OF THE MANUFACTURED HOME PARK AND AS SUCH SHALL BE SUBJECT TO THE APPROVAL OF THE Linn County Health Department AND THE Linn County Planning Commission.



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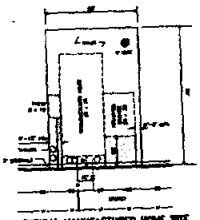


EXHIBIT H
LAND USE CONDITIONS OF APPROVAL
Site Plan Review File SP-98-97

The following land use conditions of approval relate to site plan review criteria in the Albany Development Code and to the findings of fact in the staff report. Unless otherwise noted, all conditions of approval must be completed to the satisfaction of the City's representative prior to occupancy of the manufactured home park.

(1) Public facilities can accommodate the proposed development.

STREETS

- 1.1 No parking will be allowed on one side of the streets within the proposed manufactured home park.
- 1.2 **Prior to any building permits being issued for the manufactured home park**, a revised plan that shows the entire sidewalk system, with 4-foot wide sidewalks, must be submitted. ADC 10.290 requires that walkways a minimum of 4-feet wide connect each manufactured home space with common areas, public streets, and play areas. All walkways must be separated, raised, or protected from vehicular traffic and provide access for handicapped persons.

The plans that were submitted for the manufactured home park do not show a system of walkways that would meet this requirement. Sheet 3 of 3 of the plans shows a plot plan of a typical manufactured home space, with a 3-foot wide sidewalk behind the curb of the street. It is implied from this drawing that each home will be connected to the other homes by constructing sidewalks along the frontage of each space. It is feasible to do this, but it is not clear from the plan that's what is intended. In addition, the sidewalks must be 4-feet wide. A walkway that connects the streets to the proposed common area within the freeway noise buffer area and then to the existing manufactured home park to the south where most of the recreation facilities for the park expansion will be located is shown on the plans.

The system of walkways described above must be constructed.

- 1.3 **Prior to any building permits being issued for the manufactured home park** (except as allowed in Condition 1.6 below), construct Mountain View Drive from where it ends now at the south boundary of the subject property to Grand Prairie Road, as shown on the tentative plat for Edgewood Estates Second Addition (File M1-10-97). The sidewalk along the frontage of the property proposed to be sold to the City for a park, the sidewalk on both sides along Periwinkle Creek, and the sidewalk along the frontage of the manufactured home park, shall be constructed at the time the street is built.
- 1.4 **Prior to any building permits being issued for the manufactured home park** (except as allowed in Condition 1.6 below), construct Grand Prairie Road to City standards from where the existing street improvements end approximately 100 feet east of Waverly Drive to the bridge over Interstate 5. The street section shall be 48 feet wide from where the existing improvements end to the east side of the last driveway on the north side of Grand Prairie Road, a distance of about 750 feet. The street section shall include: one 12-foot wide travel lane in each direction; a continuous two-way center left-turn lane; a bicycle lane in each direction; and a sidewalk on each side of the street.

From that point the street section shall taper to 36 feet by eliminating the center turn lane as the street approaches the bridge over Interstate 5, and match the width of the bridge. This street section shall include one 12-foot wide travel lane in each direction; a bicycle lane in each direction; and a sidewalk on each side of the street.

The sidewalks to be constructed along Grand Prairie Road shall be 6 feet wide, set back from the curb by a landscaped planter strip at least 5 feet wide.

- 1.5 **Prior to any building permits being issued for the manufactured home park** (except as allowed in Condition 1.6 below), the property owner shall dedicate an additional 5-foot width of public right-of-way along the Grand Prairie Road frontage of the subject property, from the westerly boundary of the subject property to the east side of the last driveway on the north side of Grand Prairie Road, a distance of about 750 feet.

From that point, the property owner shall dedicate sufficient additional width along the Grand Prairie Road frontage of the subject property to allow street construction to taper in width to 36 feet, then match the width of the bridge over Interstate 5. The elevation of the street rises to cross over Interstate 5 creating a fill slope that may extend on to the proposed subdivision lots. An alternative to providing additional right-of-way through this area may be to build a retaining wall so that the fill slope stays within the existing right-of-way. The choice of which alternative to use will be made by the City Engineer through the Site Improvement (SI) review process.

- 1.6 The applicant does hereby petition the City for the improvements to Grand Prairie Road described above and waives his right to remonstrate against such improvements. Other properties determined by the Albany City Council to benefit from the street improvements will also be included in the Local Improvement District (LID).

The applicant also agrees to bear and pay the proportionate share of the cost for improving Grand Prairie Road for properties within the LID boundary on which single family residences are now located, and those properties which do not now have access to Grand Prairie Road.

As of the date this staff report was written, February 4, 1998, the City has approved two developments that will access Grand Prairie Road -- Creekside Manufactured Home Park at the southeast corner of Grand Prairie Road and Waverly Drive, and Lexington Subdivision Phases 5-16, east of Lexington Street and north of Grand Prairie Road across from the subject property.

A condition of approval for Creekside is that the owners construct Grand Prairie Road across the frontage of their property (to partial width), or form an LID for that construction. A condition of approval for Lexington Phases 5-16 is that the owner sign a Petition for Improvement/Waiver of Remonstrance for construction of Grand Prairie Road from Waverly Drive to Interstate 5. No development of these properties can occur until the petition/waivers have been signed. At the time they are signed, the property owner petitions the City to form an LID to make the improvements, and waives the right to remonstrate against the street project. (The owners still have the opportunity to discuss the method by which the cost of the project is distributed among the benefitting properties.)

Grand Prairie Road shall be improved before vehicular traffic from either the subdivision or the manufactured home park proposed by the applicant are allowed access to Grand Prairie Road. The City will not issue a Site Improvement permit for construction of an access to Grand Prairie Road on the applicant's property prior to the time the street is improved. Temporary construction access will be allowed.

Development of subdivision lots or manufactured home spaces south of Periwinkle Creek that will have access on existing streets (Wilt Court, Bartley Place, Brookside Avenue, and Mountain View Drive) will be permitted by the City. The number of lots or spaces that will be permitted by the City will be limited to the number that will contribute 172 vehicle trips per day, or fewer. (This is the number of trips estimated to be the total number of trips that will access these existing streets at full development of the

proposed developments.) Development of these lots and spaces will be permitted only when all other applicable provisions of development approval and other applicable regulations have been met.

- 1.7 The speed limit on Mountain View Drive will be 25 miles per hour, resulting in a minimum sight distance requirement at the intersection of 250 feet. The intersection of the street that connects the proposed manufactured home park with Mountain View Drive appears to have less sight distance than this, and will require a minor alignment modification. Because the available sight distance along Mountain View Place will be at, or only slightly exceed, the minimum required, the applicant shall construct curb extensions ("bulb-outs") at intersections along the street. Curb extensions would eliminate parking near intersections, improve visibility and sight distance, shorten pedestrian crossing distances, and function as traffic calming features by narrowing the roadway.
- 1.8 Construct the 6-foot high berm, 24-36 feet in width, and walkway shown on the plans to be constructed within the 50-foot noise setback from Interstate 5.

SANITARY SEWER

- 1.9 The 15-inch sanitary sewer main which now ends in Grand Prairie Road approximately 100 feet east of Waverly Drive shall be extended east and across the entire frontage of the subject property. The most likely east end of this line will be on the north side of Grand Prairie Road within the old Grand Prairie Road roadbed.
- 1.10 Construct the sanitary sewer main extensions shown on the tentative plat for Edgewood Estates Second Addition which also shows how service can be provided to the proposed manufactured home park. The existing main on Brookside Avenue must be extended across the new Mountain View Drive into the park, and along the proposed streets. The minimum size of these lines shall be 8 inches in diameter. All public mains shall be extended to within 100 feet of structures that will be served.
- 1.11 In reviewing the proposed manufactured home park and subdivision, staff has discovered that the sanitary sewer system proposed for the manufactured home park shows top of manhole elevations that are higher than the surrounding ground elevation in the most eastern part of the park. This means that the area where this is shown would have to be filled, but it is not clear if this is what the applicant proposes. It also appears that the elevation of the sanitary sewer proposed in this area of the manufactured home park would conflict with the elevation of a proposed storm drain pipe.

An alternative for serving this area of the park would be to extend the line that will be constructed in Heyerly Place across Periwinkle Creek to serve the area of the manufactured home park. This would have to be considered in determining the grade for the sewer in Heyerly Place to make sure it was deep enough to also serve the manufactured home park. It also means that the existing sanitary sewer that now ends about 100 feet east of Waverly Drive would have to be extended along Grand Prairie Road, Mountain View Drive, and Heyerly Place to serve the manufactured home park. Either alternative is feasible. The property owner shall select one alternative or the other, and show it on the construction drawings that are submitted to the City for review through the Site Improvement (SI) process.

WATER

- 1.12 The 24-inch water main which now ends in Grand Prairie Road approximately 100 feet east of Waverly Drive shall be extended east to Interstate 5. A 12-inch main shall be extended south along Mountain View Drive to connect with the existing line that is located where Mountain View Drive ends now.
- 1.13 Connect the 12-inch mains in Lexington Street and Mountain View Drive with a new 12-inch main.

- 1.14 The proposed manufactured home park must have two 8-inch connections to the 12-inch main in the new Mountain View Drive. Two connections are needed to provide a looped system for fire flows and to limit service interruptions at times when part of the line is being repaired. These connections and the lines within the park must be a minimum of 8 inches in diameter to provide adequate fire flows.

STORM DRAINAGE

- 1.15 Improve the drainageway that is located in the southeast quadrant of the property. The drainageway is shown on the sanitary sewer and storm drainage plan submitted by the applicant. The plan was prepared by Ling & Associates, and dated December 1, 1997, and revised February 3, 1998. The drainageway shall be improved by excavating a continuous straight line grade from the outlet of the existing 30-inch storm drain pipe to the flow line of Periwinkle Creek. The width and side slopes of the drainageway may vary, but the capacity of the drainageway after improvement shall be 63 cubic feet per second.
- 1.16 Except as described in 1.15 above, construct the storm drainage system that will provide drainage to the proposed park, as shown on the storm drain plan. No pipe sizes are shown. Final design details including alignment and pipe sizes must be reviewed and approved by the City Engineer through the Site Improvement (SI) process.
- 1.17 The 30-inch storm drain pipe that runs through the existing manufactured home park to the south of the subject property shall be replaced with a 48-inch diameter pipe. The City's storm drain master plan shows the 30-inch pipe is under-sized.
- 1.18 Improve the Periwinkle Creek channel as recommended in the drainage study included in the letter to the City from Ling & Associates, dated January 12, 1998. The improvements are as follows:
- (a) Widen the bed of the creek at Lot 39 to yield a base width of 6 feet. Currently, the base width here is only 3 feet. The channel here can pass the 100-year runoff event with adequate freeboard, but the existing constriction causes backwater effects that may reduce freeboard upstream of this section.
 - (b) Review other creek channel cross-sections and excavate as required to maintain a minimum base width of 6 feet, unless it is determined by the City that the original width was 5 feet, in which case the excavated width can be 5 feet.
 - (c) Maintain the existing growth of short grass in the channel. It appears the channel is currently maintained this way. Certain assumptions used in this analysis are not valid if these conditions are not maintained in the future, and the estimated water surfaces will no longer apply.
- 1.19 The area where the proposed pipe in the southeast drainageway will discharge to the creek shown with an "x" through it shall be combined with one of the proposed subdivision lots, be shown as a separate tract, or be included with the area shown as the Periwinkle Creek drainage easement.
- 1.20 There are a total of two outlets to Periwinkle Creek for storm drain pipes that will serve the proposed manufactured home park. Dedicate 15-foot wide public easements, centered on the pipes, as required in ADC 12.370. Dedicate a 30-foot wide public easement for the drainageway located in the southeast quadrant of the property, centered on the drainageway.
- 1.21 The storm drain plan submitted by the applicant does not show a specific type of drainage structure where the new Mountain View Drive will cross Periwinkle Creek. This crossing must be constructed as a single span structure (either a culvert or a bridge).

- 1.22 Excavation and/or fill within the Periwinkle Creek channel may be subject to regulation by the Oregon Division of State Lands and/or the U.S. Army Corps of Engineers. Excavation and/or fill may be subject to regulation by the City of Albany Building Division. The applicant must meet the applicable regulatory requirements of these agencies.
- 1.23 Obtain a National Pollutant Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality (DEQ) for construction activities that disturb five or more acres of land.

(2) Any special features of the site (such as topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized.

- 2.1 Issuance of a permit under ORS 196.600 to 196.905 by the Oregon Division of State Lands (DSL) is required before any physical alteration takes place within the wetlands on the subject property. The wetlands include the land within the banks of Periwinkle Creek, the ditch within the northwest quadrant of the property, and the ditch within the southeast quadrant of the property, as shown on the tentative plat.
- 2.2 The applicant has agreed to set aside the wetland identified on the City's East I-5 Local Wetland Inventory as PER 8-A as "open space." This shall be done on a revised site plan for the proposed manufactured home park. A note shall be included on the plan that states no development is allowed in this area.

(3) The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.

- 3.1 Provide the 20-foot wide buffer area with trees planted every 30 feet along Mountain View Drive shown on the plans. A 10-foot wide buffer is required within the 20-foot area. This buffering shall conform with the specifications listed in 3.4 below. No screening is required along this west boundary of the park.
- 3.2 Provide a minimum 5-foot buffer area along the north boundary of the park. If another 5-foot width is not provided on the other side of Periwinkle Creek with development of the proposed subdivision, a 10-foot buffer width is required with the manufactured home park. No screening will be required along this boundary of the park.
- 3.3 Provide a 10-foot wide area of buffering and screening along the east boundary of the park, within the 50-foot wide noise buffer along Interstate 5. Construct the 6-foot high, 24- to 36-foot wide berm shown on Sheet 3 of 3 of the plans. This berm meets the screening requirement for this boundary of the park. (ADC 9.250 allows "an earth berm combined with evergreen plantings or a fence which forms a sight and noise buffer a least six feet in height within two years of installation.")
- 3.4 Where buffering is required in these conditions of approval, the buffering shall comply with the requirements of ADC 9.240. The minimum improvements within a buffer area consist of the following:
 - (1) At least one row of trees. These trees will be not less than 10 feet high at time of planting for deciduous trees and spaced not more than 30 feet apart and 5 feet high at time of planting for evergreen trees and spaced not more than 15 feet apart. This requirement may be waived by the Director where it can be demonstrated that such trees would conflict with other purposes of this Code (e.g. solar access).

- (2) At least five 5-gallon shrubs or ten 1-gallon shrubs for each 1,000 square feet of required buffer area.
- (3) The remaining area treated with attractive ground cover (e.g., lawn, bark, rock, ivy, evergreen shrubs).

3.5 The following site development standards apply to each manufactured home space:

- a. All manufactured home spaces shall be landscaped within six months of manufactured home placement. Such landscaping shall be the responsibility of the park owner unless under terms of the space rental agreement grading and materials are supplied by the park owner and labor is furnished by the renter.
- b. Classes A and B manufactured homes inside of manufactured home parks and Classes C and D manufactured homes must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and backup framing shall be weather-resistant materials which blend with the exterior siding of the home. Below-grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding must be installed in accordance with the manufacturer's recommendations or approved equal standards.
- c. Permanent walkways of not less than three feet in width shall be provided from each manufactured home main entrance to the nearest public or private street. A minimum of 4-foot wide walkways shall connect each manufactured home space with common areas, public streets, and play areas. All walkways must be separated, raised or protected from vehicular traffic and provide access for handicapped persons.
- d. Distance between manufactured homes - 10 feet.
- e. Distance from a park building other than an accessory structure - 10 feet.
- f. Distance of a manufactured home or accessory structure from a space boundary - 3 feet, except where a carport, garage, or storage structure is shared by adjoining spaces in which case the shared facilities may be attached at the space dividing line.
- g. Distance of a manufactured home or accessory structure from an exterior park boundary or public right of way - 10 feet.
- h. Distance of a manufactured home or accessory structure from a roadway within the park - 8 feet.
- i. Distance of an accessory structure other than an approved manufactured home accessory structure attachment from a manufactured home - 3 feet.
- j. Each manufactured home shall be provided with a patio adjacent to the manufactured home, constructed of permanent material, and containing at least 120 square feet with a minimum width of 8 feet in its least dimension.

3.6 Prior to issuance of Building Permits, a legal instrument, to the satisfaction of the City Attorney, that residents of the new manufactured home park will have access and use of all recreation areas in the existing manufactured home park (Edgewood Mobile Home Park).

(4) Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion.

4.1 Parking must be prohibited on the street that runs north/south between the loop streets because it is only 24 feet wide.

EXHIBIT I
DEVELOPMENT AGREEMENT
DA-01-98 (FILES AN-05-97, M1-10-97 AND SP-98-97)

This Development Agreement ("Agreement") is entered into this 10 day of MARCH, 1998, by and between the City of Albany, an Oregon municipal corporation ("City") and William S. Wilt (referred to herein as "Wilt" or the "Property Owner"), pursuant to ORS 94.504 to 94.528.

Recitals

A. Mildred P. Heyerly, Trustee, The Heyerly Family Trust, owns property located outside the City of Albany and described in Exhibits A and B of this ordinance and incorporated herein. She has agreed to sell the property to Wilt pursuant to an Agreement of Purchase and Sale dated, 10-77 (together with all supplements and amendments thereto, the "Purchase Agreement"). In connection with the acquisition of the Heyerly property, Wilt wishes to annex the Heyerly property to the City and to develop that property.

B. Wilt wishes to develop the Property with a subdivision and manufactured home park more particularly described in Exhibits D and G of this ordinance and incorporated herein (the "Project").

C. Heyerly and Wilt have applied to the City for annexation of the Heyerly property to the City and for various land use approvals: Tentative Subdivision approval of the division of a 42.89-acre parcel into 57 single family lots (Lots 1 - 57 which range in size from 6,625 square feet to 16,668 square feet), one Lot (Lot 58 that contains 18.5 acres) and two tracts and concurrent Site Plan Review approval of the construction of a 100 space manufactured home park expansion (Edgewood Mobile Estates).

D. City is willing to annex the Heyerly property provided Wilt acquires the Heyerly property and provided further that certain duties in connection with the design, development, financing and construction of certain off-site improvements (the "Improvements") are performed. The Improvements include, among other things, street improvements, extensions to storm drains, sanitary sewers, water systems and other utilities, all as more particularly described in Exhibits E and H of this ordinance and incorporated herein. Wilt is willing to construct the Improvements if he acquires title to the Property, and the annexation and Land Use Approvals are obtained and are final.

E. The parties wish to contract in the same agreement to annex the Heyerly property, to construct the Improvements and to grant the land use approvals. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislative Assembly adopted ORS 94.504 to 94.528 which authorize the City to enter into an agreement with any person having a legal or equitable interest in real property providing for the development of the property and establishing certain development rights and obligations (hereafter referred to as "Development Agreement").

F. The City determines that the Project which is the subject of this Agreement is a development for which a Development Agreement is appropriate. This Agreement will eliminate uncertainty in planning, provide for orderly development of the Property, provide for installation of necessary improvements and payment of fees, remedy existing controversies about the Property, and assist in attaining the most effective utilization of resources within the City at the least economic cost to its citizens. In consideration of these benefits to the City and the public benefits of the Project, Wilt will receive the assurances that the City will grant permits and approvals required for development of the Project in accordance with procedures required by law and this Agreement, and that Wilt may proceed with the Project in accordance with the existing ordinances, rules, regulations, and official policies and regulations of the City except as otherwise provided in this Agreement.

G. The City of Albany Planning Commission has recommended approval of the Tentative Subdivision and Site Plan Review requested by Wilt. This recommendation followed a public hearing conducted on February 2, 1998.

H. The City Council provided notice of a public hearing to consider entry into this Agreement and conducted a public hearing on the annexation, this Development Agreement, and the Land Use Approvals. This public hearing occurred on February 11, 1998. On February 11, 1998, the City Council adopted City of Albany Resolution No. 3903, approving the Annexation, and Ordinance No. 5350, approving this Agreement pursuant to ORS 94.508, the Tentative Subdivision and the Site Plan, the efficacy of which is conditioned upon and subject to Wilt's acquisition of the Property under and pursuant to the Heyerly Purchase Agreement.

I. On the basis of the evidence presented to the Planning Commission and City Council, and the staff reports and applications for Land Use Approvals, and the findings and conclusions entered in connection with the Land Use Approvals, the City finds and declares that this Agreement is consistent with the City of Albany Comprehensive Plan and Albany Municipal Code, including the Albany Development Code.

J. This Agreement vests the rights to develop the Project on the Property in accordance with the Land Use Approvals. Nothing in this Agreement limits use of the Property for other lawful purposes, so long as any required City approved process is followed. Nothing in this Agreement should be construed as setting a precedent for future development or annexation agreements.

AGREEMENT

Now therefore, in consideration of the promises and the mutual covenants contained in this Agreement, the parties agree as follows:

Section 1. General Provisions:

1.1. Incorporation of Recitals. The Preamble, the Recitals, and all defined terms set forth in both, are hereby incorporated into this Agreement as if set forth herein in full.

1.2. Property Description and Binding Covenants. The Property is that property described in Exhibits A and B of this ordinance. It is intended and determined that the provisions of this Agreement shall constitute covenants which shall run with title to the Property and the benefits and burdens hereof shall bind and inure to all successors in interest to the parties hereto.

1.3. Term. The term of this Agreement shall commence on the date upon which Wilt acquires title to both the Heyerly property and shall run for a period of four years from that date.

1.4. Amendment to the Agreement.

1.4.1. Generally. This Agreement may be amended only in a writing, signed by the City and the Owner vested in title as of the date of such writing, in accordance with Oregon Laws, 1993, ch. 780, subject to the foregoing provisions.

1.4.2. Amendments Requiring Notice and an Opportunity For a Hearing. Any amendment to this Agreement relating to the term, permitted uses, density or intensity of use, height or size of buildings, provisions for reservation or dedication of land, conditions, terms, restrictions and requirements relating to subsequent discretionary actions, monetary contributions by Property Owner, or any conditions, covenants and restrictions relating to the use of Property shall require notice and an opportunity for a public hearing before the parties may execute an amendment hereto unless ministerial in which case the matter may be decided by the City Community

Development Director. Amendments to any other aspect of this Agreement shall not require notice or an opportunity for a public hearing before the parties may execute such an amendment to this Agreement.

1.5. Enforceability. Unless this Agreement is amended or terminated pursuant to the provisions of this Agreement, and its adopting ordinance, this Agreement shall be enforceable by any party hereto notwithstanding any change hereafter in any applicable comprehensive plan, building regulation, zoning ordinance or other land use regulation, adopted by the City which changes, alters or amends the rules, regulations and policies applicable to the development of the Property at the time of approval of this Agreement.

1.6. City Findings. The City hereby finds and determines that execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the City of Albany Comprehensive Plan and Albany Municipal Code, including the Albany Development Code.

1.7. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Property Owner and City of Albany and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

Section 2. Development of the Property:

2.1. Permitted Uses, Density and Intensity of Uses, Height and Size of Allowed Structures. Following final City action on City of Albany Ordinance No. 5350, approving the Land Use Approvals, and Wilt's acquisition of the Heyerly property, the Property may be used for the Project described in Exhibits D and G of this ordinance. The uses allowed under this Agreement generally include a 57 residential single-family lot subdivision and a 100-space manufactured home park expansion. The approximate square footage of the building in the Project may be increased or decreased by 15% without an amendment to this Agreement. The Property may also be used for and the Project may consist of any residential use allowed by the City of Albany RS-6.5 (Residential Single Family - 6 to 8 units per acre) zoning district, which has equivalent transportation and sewer and water utility impacts as the proposed Project.

2.2. Vesting of Development Rights. Subject to the provisions of this Agreement, the City grants Property Owner and their successors and assigns a fully vested entitlement and right to develop the Property for the Project. In consideration of the City's entry into this Agreement, the Property Owner will comply with the requirements of Section 2 of this Agreement. The parties acknowledge that the execution of this Agreement by the City is a material consideration for Property Owners' agreement to comply with conditions of approval to this Agreement. Except as specifically authorized in this Agreement, no further transportation mitigation or public facilities and improvement requirement or fee shall be required for any part of the Project, except to the extent the requirement or fee is imposed on all new and existing developments within the City.

2.3. Dedication of Real Property. In exchange for annexation of the Heyerly property, Property Owner agrees to dedicate by statutory warranty deeds or easements the real property interests described in Exhibits E and H of this ordinance and incorporated herein. These property interests include, but are not limited to, right-of-way dedications for Grand Prairie Road, and South Mountain View streets and utility easements for a sewer line, water line and pedestrian ways. The City shall have an option to purchase, for park purposes, the property shown on the Tentative Subdivision map as Tract A at fair market value. If the parties cannot agree upon the fair market value, said value shall be determined by appraisal. If the parties cannot agree on an appraiser, the City shall nominate 3 appraisers and, Wilt shall select an appraiser from City nominees. The appraiser thus selected may obtain such testing as shall be deemed necessary. The cost of said appraisal and testing shall be borne equally by both parties. City's option to purchase shall last one year from the City's acceptance of the improvements to Grand Prairie Road and Mountain View Drive. Both parties agree to cooperate as necessary to secure a market value appraisal.

2.4. Conditions of Annexation. In exchange for annexation of the Heyerly property, Property Owner agrees to construct the Improvements specified in Exhibits E and H of this ordinance.

2.5. Schedule of Fees and Charges. The City is limited in the imposition of fees and charges for development of the Project to those fees and charges listed in the resolutions attached as Attachment 1 of this exhibit and incorporated herein. In addition, the City may charge any processing fee for land use approvals, building permits and similar permits and entitlements which are in force and effect on a Citywide basis at the time application is submitted for those permits. The City shall not be entitled to impose any system development charge for development of the Project or connection to City utilities and services which is not listed in Attachment 1.

2.6. Annexation Approval. City agrees to annex the Heyerly property in exchange for the conditions of annexation specified herein. This annexation shall be allowed by City of Albany Resolution No. 3903.

2.7. Land Use Approvals. City agrees to approve the Land Use Approvals requested by Wilt for the Property. These approvals shall be granted in other portions of City of Albany Ordinance No. 5350 and shall be subject to the same conditions as are stated in Section 2.6.

Section 3. Limitations on the Use of the Property:

3.1. Future Rules, Ordinances and Regulations. Except as otherwise provided in this Agreement, the ordinances, rules, regulations and official policies governing the Property including, but not limited to, the law governing the issuance of permits and approvals for the Project and the land use regulations applicable to the Project shall be those ordinances, rules, regulations in effect as of the date of the applications for Land Use Approvals. To the extent any future rules, ordinances, regulations or policies are inconsistent with the permitted uses, density and intensity of use, maximum building height and size, as provided in Section 2.1 of this Agreement, the terms of Section 2.1 prevail. To the extent any future rules, ordinances, regulations or policies are not inconsistent with the permitted uses, density and intensity of use, maximum building height and size, limitation on fees, or any other term of this Agreement, such rules, ordinances, regulations or policies shall be applicable to the same extent as to other property in City. Notwithstanding anything in this Agreement to the contrary, the City shall apply the Uniform Building Code and state structural specialty codes to building permits for the Project that are in effect at the time of application for those permits .

3.2. Application of Changes. This Agreement does not preclude the application of changes in City laws, regulations, plans or policies, the terms of which are specifically mandated and required by changes in state or federal laws or regulations. To the extent that such changes in City laws, regulations, plans or policies prevent or preclude compliance with one or more provisions of this Agreement, the City and the Property Owner shall take such action as may be required pursuant to Section 5.1 of this Agreement.

3.3. Authority of the City. This Agreement shall not be construed to limit discretion of the City or any of its officers or officials with regard to building permit approvals, inspections and other decisions of a similar character which require the exercise of discretion by the City or any of its officers or officials, provided that subsequent discretionary actions shall not prevent development of the Property for the uses and to the density and intensity of development as provided by Section 2.1 of this Agreement.

Section 4. Construction of the Improvements:

4.1. Compliance with AMC ch. 15.06. All Improvements required to be constructed by Wilt under Section 2.4 shall be constructed consistent with the provisions of AMC Chapter 15.06, the provisions of which are incorporated herein.

4.2. Compliance with Development Conditions. Property Owner recognize that compliance with all conditions of approval required under Section 2.4 and set out in Exhibits E and H of this ordinance is necessary prior to signing of the Final Subdivision Plat or prior to issuance of building permits for the manufactured home park.

Section 5. Other Rights, Duties and Obligations of the Parties:

5.1. City Cooperation. In accordance with the above provisions, the City agrees to cooperate with Property Owner in securing all permits which may be required by the City, Linn County, or the State of Oregon in connection with the Improvements and the Project. In the event that state or federal laws or regulations or action of any governmental jurisdiction other than the City, prevents or precludes compliance with one or more provisions of this Agreement, or requires changes in plans, maps or permits, the provisions of this Agreement shall be modified, extended or suspended as may be necessary to comply with the county, state and federal laws or regulations or the actions of other governmental jurisdictions. Each party agrees to extend to the other party its prompt and reasonable cooperation in so modifying this Agreement. However, it is specifically understood and agreed by and between the parties hereto that the development contemplated by this Agreement is a private undertaking. No partnership, joint venture or other association of any kind is formed by this Agreement.

5.2. Moratoria, Quotas, Restrictions or Other Limitations. In the event that the City enacts a policy, ordinance, resolution or other measure limiting development, the City shall treat and consider the Property no less favorably than any other property subject to a Development Agreement or other fully vested entitlement to develop property and shall process and issue permits and approve maps for all such similarly situated property in a uniform, equitable and proportionate manner. Nothing in the foregoing shall be deemed to preclude the imposition of a limitation by City on a particular type of development when such limitation is based on an adverse impact on public health or safety specifically related to that type of development and where all development within the City of Albany creating such an adverse impact is uniformly subject to the limitation.

5.3. Effect of Legal Contest to Development Agreement. In the event of an appeal of City of Albany Ordinance No. 5350, Property Owner agrees to intervene in the proceeding and defend the Ordinance in that appeal and any subsequent review proceeding. The Property Owner agrees to record all conditions of the development approvals for the Project as covenants running with the land. In the event of any subsequent invalidation or reversal of any land use approval granted pursuant to this agreement, such covenants and restrictions shall survive and shall forever bind all subsequent owners of the property such that no development may occur without compliance with said conditions unless modified by the City.

5.4. Assignment. This Agreement may be assigned by any of the Property Owner with the consent of the City, which consent shall not be unreasonably withheld.

5.5. Future Discretionary Approvals. The discretionary approvals for use of the Property under this Agreement are those allowed through adoption of Ordinance No. 5350. The requirements for those approvals are stated in Resolution No. 3903 and Ordinance No. 5350 and incorporated as Exhibits E and H hereto. Except as provided in Section 2.1 with respect to *de minimis* changes in square footage, any modification to the site plan approval shall be limited to development of the same general character as the Project and with the same traffic, public infrastructure and utility impacts. Any site plan modification shall be allowed only as provided by City law.

Section 6. Default, Remedies, and Termination:

6.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or unreasonable delay by either party to perform any term or provisions of this Agreement shall constitute default. In the event of an alleged default or breach of any term or condition of this Agreement, the party alleging such default or

breach shall give the other party not less than seven (7) days notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured. During any such seven (7) day period, the party charged shall not be considered in default for purposes of termination or instituting legal proceedings.

After notice and expiration of the thirty-day period without cure, the other party to this Agreement at its option may institute legal proceedings pursuant to this Agreement or give notice of intent to terminate the Agreement.

If this Agreement is rescinded or terminated before substantial completion of the Improvements listed in Exhibit E and H of this ordinance, the Property Owner shall petition for withdrawal of the Heyerly property from the City of Albany.

6.2. Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default where delays or default are due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the City of Albany, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance which is not within reasonable control of the party to be excused, provided written notice of such delay is given by the party suffering the delay to the other parties hereto, within five (5) days of the commencement of such delay, an extension of time for such cause shall be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

6.3. Legal Action. In addition to any other rights or remedies, either party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation. Venue for all legal actions shall be in Linn County Circuit Court, State of Oregon, or Federal District Court for the District of Oregon.

6.4. Applicable Law and Attorneys' Fees. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon. Should any action be brought by either party for breach of this Agreement or to enforce any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs and such other costs as may be fixed by the court. Attorneys' fees shall include attorneys' fees on any appeal, and in addition a party entitled to attorneys' fees shall be entitled to all other reasonable costs for investigating such actions, taking depositions and discovery, and all other necessary costs incurred in the litigation. All such fees shall be deemed to have accrued on commencement of such action and the right to collect such fees as the prevailing party shall be enforceable whether or not such action is prosecuted to a final judgment.

Section 7. Hold Harmless Agreement:

7.1 Property Owner hereby agrees to indemnify, defend and hold the City of Albany, its elective and appointive boards, commission, officers, agents, employees and representatives harmless from any liability for damage or claims for damage for personal injury, or bodily injury including death, as well as from claims for property damage which may arise from Property Owner's performance of this Agreement, whether such performance be by Property Owner, or by any of Property Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Property Owner or any of Property Owner's contractors or subcontractors,, unless such damage or claim arises from the negligence or willful misconduct of the City. Property Owner agree to and shall defend and indemnify the City and its elective and appointive boards, commission, officers, agents and employees from any suits or actions at law or in equity arising out of the execution, adoption or implementation of this Agreement (exclusive of any such actions brought by Property Owner, their heirs, successors or assigns).

Section 8. Miscellaneous Provisions:

8.1. Severability. Except as set forth herein, if any term, provision, covenant or condition of this Agreement or the application of any provision of this Agreement to a particular situation is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties. However, in the event that each or any of the provisions of Section 2 is held to be invalid, void or unenforceable, then this entire Agreement shall be deemed void and unenforceable.

8.2. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other party the full and complete enjoyment of its rights and privileges hereunder.

8.3. Construction. This Agreement shall be subject to and construed in accordance and harmony with the City of Albany Comprehensive Plan and Albany Municipal Code, including the Albany Development Code, and it may be amended, provided that such amendments do not affect the rights granted to the parties by this Agreement. This Agreement has been reviewed and revised by legal counsel for both City and Property Owner, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

8.4. Notices. Formal written notices, demands, correspondence and communications between the City and Property Owner required by this Agreement shall be sufficiently given if dispatched by postage prepaid first-class mail to the principal offices of the City and Property Owner. Such written notices, demands, correspondence and communications may be directed in the same manner to such other persons and addresses as either party may from time to time designate.

Notice required to be given to the City of Albany shall be addressed as follows:

Steve Bryant, City Manager
City of Albany
City Hall
333 Broadalbin Street SW
P.O. Box 490
Albany, Oregon, 97321

with a copy to:

James V. B. Delapoer, City Attorney
City Attorney's Office
425 Second Avenue SW
Albany, Oregon 97321-0014

Notice required to be given to the Property Owner shall be addressed as follows:

William S. Wilt
Inter-City Housing
33213 Highway 34
Albany, OR 97321

with a copy to:

George B. Heilig
566 NW Van Buren Avenue
Corvallis, OR 97330

with a copy to:

Glenn A. Ling
Ling & Associates
605 NW 5th Street, Suite 1A
Corvallis, OR 97330

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

8.5 Recordation. Upon adoption of Ordinance No. 5350, this Agreement shall be presented by City for recordation in the office of the Linn County Clerk, with the appropriate fee which shall be paid by the Property Owner.

8.6. Counterparts. This Agreement may be executed in counterparts and, once a counterpart has been signed and delivered by all of the signatories, all counterparts shall constitute one and the same agreement.

8.7. Warranty of Authority. Each party represents that the person signing this Agreement on behalf of the party is authorized to do so and has authority to bind his or her principal.

DATED AND EFFECTIVE this 10 day of March 1998

DEVELOPER/PROPERTY OWNER (Linn County Assessor's Map No. 11-3W-16 Tax Lot 1400):

Name: William Wilt Signature: [Signature] Date: 3-10-98
Address: _____ Telephone: _____
Name(s): _____ Signature(s): _____ Date: _____
Address: _____ Telephone: _____

STATE OF OREGON)
County of Benton) ss.
City of Corvallis)

STATE OF OREGON)
County of _____) ss.
City of _____)

Personally appeared the above named
William S Wilt and
acknowledged the foregoing instrument
to be their voluntary act and deed. Before
me this 10 day of MARCH, 1998

The foregoing instrument was acknowledged by
_____, President,
and by _____, Secretary,
of _____,
on behalf of the corporation. Before me this
____ day of _____, 19____.

[Signature]
Notary Public for Oregon
My Commission Expires: 2-26-02

Notary Public for Oregon
My Commission Expires: _____



DEVELOPER/PROPERTY OWNER (Linn County Assessor's Map No. 11-3W-16 Tax Lot 1400):

Name: _____ Signature: _____ Date: _____
Address: _____ Telephone: _____
Name(s): _____ Signature(s): _____ Date: _____
Address: _____ Telephone: _____

STATE OF OREGON)
County of _____) ss.
City of _____)

STATE OF OREGON)
County of _____) ss.
City of _____)

Personally appeared the above named
_____ and
acknowledged the foregoing instrument
to be their voluntary act and deed. Before
me this ___ day of _____, 19__.

The foregoing instrument was acknowledged by
_____, President,
and by _____, Secretary,
of _____,
on behalf of the corporation. Before me this
___ day of _____, 19__.

Notary Public for Oregon
My Commission Expires: _____

Notary Public for Oregon
My Commission Expires: _____

CITY OF ALBANY:

STATE OF OREGON)
County of Linn) ss.
City of Albany)

I, Steve Bryant, as City Manager of the City of Albany, Oregon, pursuant to Ordinance No. 5350, do hereby accept on behalf of the City of Albany, the above instrument pursuant to the terms therein this 10th day of March, 1998.

CITY OF ALBANY, OREGON

Steve Bryant
City Manager

STATE OF OREGON)
County of Linn) ss
City of Albany)

Steve Bryant, City Manager, personally appeared and acknowledged acceptance of the foregoing instrument on behalf of the City of Albany. Before me this 10 day of March, 1998

Margaret Langwell
City Recorder
My Commission Expires Sept 2, 2000



APPROVED AS TO FORM:

City Attorney

Date

F:\DATA\WPDATA\COMMDEV\PLANNING\CURRENT\98DA01.DA

**ATTACHMENT 1
REQUIRED FEES AND CHARGES
DEVELOPMENT AGREEMENT
DA-01-98 (AN-05-97, M1-10-97 AND SP-98-97)**

PUBLIC WORKS FEES

WATER METER FEES:

Fees for new water service hook-ups, new meters or deposits vary according to individual main and meter sizes. Please call (541) 917-7676 in Engineering for estimate.

SEWER/WATER IN-LIEU-OF ASSESSMENTS:

An in-lieu-of assessment fee is charged when previously unassessed properties propose to connect to the sewer/water system. At the time when a development request is initiated, the Finance Department determines when the sewer/water lines were built, and how they were paid for to see if an "in-lieu" fee is due. The Engineering Division then determines the amount based on the formula in the Municipal Code. Please call (541) 917-7676 in Engineering for information.

*If you are planning to develop a piece of property, you may want to check on this fee on the front end.
It will not usually show up as an encumbrance in a preliminary title report.*

NORTH ALBANY MAJOR STREET IMPROVEMENT FUND:

Development approval for sites fronting arterial and collector roadways in North Albany are subject to contributing one-half of the cost of a "typical" local street improvement, including sidewalk and drainage (\$155 per front foot) to help pay for the non-oversizing portion of future improvements to major roadways in North Albany. Please call (541) 917-7676 in Engineering for information.

SYSTEM DEVELOPMENT CHARGES:

System Development Charges (SDCs) are those fees charged to satisfy that portion of new demand on parks, transportation, water, and wastewater services generated specifically by a new development. Adequate funding for growth-driven capital improvements is necessary to maintain health, safety, commerce, and quality of life within a community. In an effort to secure a constant, equitable framework by which SDCs are collected and disbursed, the Oregon State Legislature adopted a State law (House Bill 3224) which regulates SDCs.

The bill establishes requirements for the calculation of fees, and specifies that fees collected must be spent on the capital improvement projects for which they have been assessed. The City is required to provide an annual accounting of SDCs showing the amount collected for each system and the projects that were funded.

SDCs are divided into two categories: (1) "Reimbursement Fees," which pertain to existing capital improvements, or those under construction, and (2) "Improvement Fees," which pertain to future capital improvements. An SDC can be assessed for either fee, category, or for both. Credit may be given against an SDC when a developer is required to construct a "qualified public improvement" that meets certain conditions

PUBLIC WORKS FEES

SEWER: Please call (541) 917-7676 in Engineering for information.

RESIDENTIAL:

Per living unit \$ 1,120.00

NON-RESIDENTIAL: (Excluding Industrial)

Other methods of calculation may be used in some situations, such as motels & RV parks

First six drainage fixtures \$ 1,120.00

Each additional fixture \$ 187.00

INDUSTRIAL:

Call for estimate may vary

These fees are in addition to potential in-lieu-of assessment charges, refer to item 11.

WATER: Please call (541) 917-7676 in Engineering for information.

RESIDENTIAL AND NON-RESIDENTIAL:

Residential developments pay the higher fee of \$1,000/unit or the meter size fee.

Example:

3/4" Meter \$ 1,000.00

1" Meter \$ 1,670.00

2" Meter \$ 5,330.00

These fees are in addition to installation and potential in-lieu-of assessment charges, refer to items 10 and 11.

TRANSPORTATION: Please call (541) 917-7676 in Engineering for information.

RESIDENTIAL AND NON-RESIDENTIAL:

Example:

Single Family Residence/Manufactured home on private lot \$ 1,260.00

Apartment/Duplex \$ 854.00

Manufactured home placed in a park (paid for at time of park development) \$ 635.00

Institutional, Commercial, Office & Industrial may vary

These fees are in addition to potential North Albany Major Street Improvement Fund charges, refer to item 12.

ENCROACHMENT PERMITS: Please call (541)917-7676 in Engineering for information.

For permitted activity in the public right-of-way \$ 30.00

e.g. driveways, sidewalks, temporary blocking of public way

PARKS AND RECREATION FEES

PARKS SYSTEM DEVELOPMENT CHARGES:

Please call (541)917-7777 in Parks and Recreation for information.

RESIDENTIAL CONSTRUCTION THAT INCLUDES BEDROOMS:

Including Manufactured Home Placement Permits	
Per Bedroom	\$205.00
Per square foot of new construction	\$.40

L G A L D E S C R I P T I O N
FOR WILT ANNEXATION

Beginning at a 5/8" iron rod which marks the Northeast corner of Lot 3, Block 1 of EDGEWOOD ESTATES in the Southwest 1/4 of Section 16, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon; THENCE North 00 degrees 33 minutes 12 seconds East for a distance of 10.62 feet to the south line of that property described in Deed Volume 420, Page 518; THENCE South 89 degrees 46 minutes 14 seconds East for a distance of 41.79 feet to the southeast corner of said property described in Deed Volume 420, Page 518; THENCE North 00 degrees 31 minutes 09 seconds East for a distance of 805.32 feet to a 5/8" iron rod on the southerly right of way line of Grand Prairie Road; THENCE South 65 degrees 55 minutes 48 seconds East, along said southerly right of way line, for a distance of 889.06 feet; THENCE South 63 degrees 01 minutes 08 seconds East, continuing along said southerly right of way line, for a distance of 406.61 feet; THENCE, continuing along said southerly right of way line, along a curve to the left having a radius of 2929.79 feet and an arc length of 162.03 feet, being subtended by a chord of South 73 degrees 11 minutes 14 seconds East for a distance of 162.01 feet; THENCE South 74 degrees 46 minutes 18 seconds East, continuing along said southerly right of way line, for a distance of 203.92 feet to the westerly right of way line of Interstate 5; THENCE South 00 degrees 11 minutes 40 seconds East, along said westerly right of way line, for a distance of 893.63 feet; THENCE North 89 degrees 49 minutes 30 seconds West for a distance of 1585.14 feet to the Northwest corner of Lot 5, Block 5, EDGEWOOD ESTATES; THENCE North 00 degrees 33 minutes 12 seconds East 720.59 feet to the point of beginning.

Contains 42.89 acres, more or less.

STATUTORY WARRANTY DEED

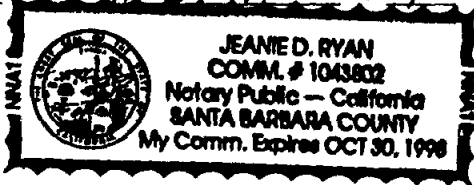
MILDRED P. HEYERLY TRUSTEE OF THE HEYERLY FAMILY TRUST DATED NOVEMBER 24, 1970, TRUST B Grantor, conveys and warrants to WILLIAM S. WILT Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in LINN County, Oregon, to wit:

SEE 'LEGAL DESCRIPTION' ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.0930. The said property is free from encumbrances except for easements, covenants, conditions, restrictions, reservations, set back lines, powers of special districts and easements of record, if any

The true consideration for this conveyance is \$ paid to an accommodator as part of a IRC 1031 exchange. (Here comply with the requirements of ORS 93.030)

Dated this 6 day of March 19 98



THE HEYERLY FAMILY TRUST
Mildred P. Heyerly trustee
MILDRED P. HEYERLY TRUSTEE

State of California, County of Santa Barbara
The foregoing instrument was acknowledged before me 6th day of March, 1998
by Mildred P. Heyerly, Trustee
The Heyerly Family Trust

State of Oregon, County of
The foregoing instrument was acknowledged before me this day of, 19 by President and Secretary of a corporation, on behalf of the corporation.

Jeanie D Ryan
Notary Public for Oregon
My commission expires: 10-30-98

Notary Public for Oregon
My commission expires:

WARRANTY DEED

GRANTOR: THE HEYERLY FAMILY TRUST
GRANTEE: WILLIAM S. WILT

Until a change is requested, all tax statements shall be sent to the following address:
WILLIAM S. WILT
BARE LAND H-3W 16-1400, LINN COUNTY
ALBANY, OREGON 33213 SE HWY 34

Escrow No. 240192L Title No.
recording return to:
WILLIAM S. WILT 33213 SE HWY 34
BARE LAND H-3W 16-1400, LINN COUNTY
ALBANY, OREGON

This Space Reserved for Recorder's Use

RECORDED 3/10/98 @ 11:43 A.M.
MF 927 p. 150

We certify this to be a true and exact copy of the original
TICOR TITLE INSURANCE COMPANY
By: [Signature]