

RESOLUTION NO. 4722

A RESOLUTION PROPOSING THE ANNEXATION OF PROPERTY LOCATED EAST OF INTERSTATE 5 (AN-02-00), AND FORWARDING THE QUESTION OF ANNEXATION TO THE VOTERS ON THE NOVEMBER 5, 2002 BALLOT.

THE CITY COUNCIL OF THE CITY OF ALBANY resolves that the findings and conclusions contained in Resolution Exhibit B (which consists of the complete staff report to the Albany City Council, including attachments, and dated July 2, 2002; File AN-02-00), and by this reference incorporated herein, are hereby adopted.

THE CITY COUNCIL OF THE CITY OF ALBANY FURTHER RESOLVES that this "Brandis" annexation, which would annex approximately 446 acres of property generally located east of Clover Ridge Road and Goldfish Farm Road, bounded on the north by Truax Creek and on the south by Santiam Highway, all within Linn County, Oregon, is to be submitted to the legal voters of Albany, Oregon, for their approval or rejection pursuant to Albany City Charter Chapter 54 at an election to be held on November 5, 2002. This election will be conducted by mail-in ballots.

The ballot title of this measure and the form in which it shall be printed on the official ballot is as follows:

CAPTION: MEASURE PROPOSING ANNEXATION OF PROPERTY EAST OF INTERSTATE 5

QUESTION: Shall the eleven parcels totaling approximately 446 acres east of Clover Ridge Road and Goldfish Farm Road, be annexed?

SUMMARY: Approval of this measure would annex approximately 446 acres to the City of Albany. The property to be annexed is generally located east of Clover Ridge Road and Goldfish Farm Road, bounded on the north by Truax Creek and on the south by Santiam Highway. Upon annexation, the initial zoning would allow for a mixture of residential, commercial, office, educational and recreational uses.

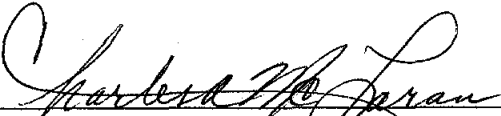
The text of the measure is as follows:

The following described real property, all located in Linn County, Oregon, shall be annexed to the City of Albany upon obtaining a favorable majority vote of the people.

The property generally located east of Clover Ridge Road and Goldfish Farm Road, bounded on the north by Truax Creek and on the south by Santiam Highway, shown on Linn County Assessor's Map Nos. 11S-03W-03A, Tax Lot 10500; 11S-03W-03B, Tax Lots 100, 200 and 2100; 11S-03W-03C, Tax Lot 100; 11S-03W-03D, Tax Lots 200 and 201; 11S-03W-10, Tax Lots 200 and 800; 10S-03W-34, Tax Lots 1500 and 1600, as further described in the attached legal description labeled Resolution Exhibit A. The subject properties containing 446 acres, more or less.

The City Clerk is authorized and directed to give notice of the submission of this question to the voters, including a true copy of the complete text and the ballot title for the measure in the form in which it shall be printed on the official ballot and any other information required by law to be published. That notice shall be published in not less than two successive and consecutive weekly issues of the *Albany Democrat-Herald*.

DATED THIS 10TH DAY OF JULY, 2002.



Mayor

ATTEST:



City Clerk Recorder

LEGAL DESCRIPTION
FILE AN-02-00

That parcel of land in Linn County, Oregon, described as follows:

Beginning at the Southeast corner of the Hugh Nickerson Donation Land Claim No. 39, in Government Lot 3, Section 10, Township 11 South, Range 3 West of the Willamette Meridian, Linn County, Oregon, which is the point of beginning of this description;

Thence along the South line of said DLC South 89° 49' West 624.80 feet from the Southeast corner of said Donation Land Claim No. 39;

Thence South 0° 26' East 888.85 feet to the center line of the South Santiam Highway;

Thence South 88° 09' West along said Highway 136.02 feet to the Southeast corner of that certain tract conveyed to Oriel V. Giroux et al by deed recorded January 29, 1960, Book 269, Page 388, Deed Records of Linn County;

Thence North 0° 26' East 183.03 feet to the Northeast corner of said Giroux parcel;

Thence South 88° 30' West 93 feet to the Northwest corner of said Giroux parcel;

Thence South 0° 26' East 183.60 feet to the centerline of said Highway;

Thence South 88° 09' West along the centerline of said Highway 260.08 feet to the projection of the East line of that parcel conveyed to John C. and Barbara E. Lane by deed recorded in MF 419-782, Linn County Deed Records;

Thence North 0° 11' East approximately 903 feet to the South line of said DLC No. 39 to a point which is the Northeast corner of that parcel conveyed to Berton D. Johnson by Deed recorded February 20, 1963 in Book 292, Page 363, Deed Records of Linn County, which point is East 1109.90 feet along said South line of said DLC from the Southeast corner of said DLC;

Thence West along the South line of said DLC to a point which is South 19.5 chains from the Northeast corner of Eden Park Subdivision and the North line of Section 10, which point is on the West line of that property conveyed to Elmer Dickerson by deed recorded February 23, 1900 in Book 52, Page 366, Deed Records of Linn County;

Thence North 19.5 chains to the North line of Section 10, Township 11 South, Range 3 West of the Willamette Meridian at the Northeast corner of Eden Park Subdivision;

Thence West along the North line of Eden Park Subdivision to the West right-of-way line of Goldfish Farm Road;

Thence North along said West line of said Goldfish Farm Road to the Southerly right-of-way line of Knox Butte Road;

Thence Easterly along said Southerly right-of-way line to a point which intersects with the West line of said Hugh Nickerson DLC No. 39 extended Southerly from the Northeast corner of said DLC;

Thence North across Knox Butte Road to said West line of said DLC, and North along said West line to the Southeast corner of that property conveyed to Gary D. Coakley et ux, by deed recorded July 30, 1992, in Book 607, Page 400, which point is 16.56 chains South along the East line of the Robert Houston DLC No. 38 from the Northeast corner of said DLC No. 38;

Thence North 89° West 19.09 chains;

Thence North 0° 16' West 3.808 chains;

Thence North 89° 39' West 5.252 chains to the centerline of Clover Ridge Road;

Thence North 0° 21' West along the centerline of said Road 4.412 chains to a point in the center of said Road from which an iron pipe bears South 89° 44' East 22.0 feet, said point also being the Southwest corner of that parcel conveyed to Timberhill Corporation by Deed recorded June 29, 2001 in Book 1194, Page 292;

Thence along the centerline of said Road North 4° 22' East 181.45 feet, to a 5/8-inch iron rod in the center of said Road;

Thence South 89° 39' East 233.78 feet, to a 5/8-inch rod;

Thence North along the West boundary of that parcel conveyed to Fred C. and Sue A. Koos, Trustees by deed recorded in Book 565, Page 847, Linn County Deed Records to a point on the Southerly right-of-way line of Clover Ridge Road which intersects with the East line of that parcel conveyed to Pankalla by deed recorded February 7, 1994 in Book 681, page 172, Deed Records of Linn County;

Thence Northeasterly along the Southerly right-of-way line of Clover Ridge Road to the South bank of Truax Creek;

Thence following the South bank of said Truax Creek Southeasterly to the East line of the Milton Houston Donation Land Claim No. 43;

Thence South along said East line of said DLC to the Southerly Southeast corner of said DLC No. 43, which is also the Northeast corner of DLC No. 39;

Thence South along the East line of said DLC No. 39 to the Southwest corner of San Felicia Acres Subdivision;

Thence North $87^{\circ} 02'$ East 1244.20 feet along the South line of said subdivision to the Southeast corner of said San Felicia Acres;

Thence South to the Southerly North line of that parcel conveyed to Howard Holmes, et al., by deed recorded in MF 1194-954 in Linn County Deed Records;

Thence South $72^{\circ} 30'$ West 7.15 chains to a point on the East line of that parcel conveyed to Beverley R. Mitchell by deed recorded in MF 169-704 in Linn County Deed Records;

Thence South to the Southeast corner of said Mitchell parcel, said point also being on the South line of the Matthew C. Chambers DLC No. 40;

Thence West along said South line of said DLC No. 40, 12.03 chains to the Southwest corner of said DLC No. 40, which is also on the East line of DLC No. 39;

Thence South along the East line of said DLC No. 39 to the Southeast corner of DLC No. 39, which is the point of beginning of this description.

EXCEPT that portion of the premises herein described lying within the limits of public roads, streets and highways.



Community Development Department

333 Broadalbin Street SW, PO Box 490, Albany OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

**STAFF REPORT
Annexation**

<u>REVIEW BODY</u>	ALBANY CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, July 10, 2002
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Albany City Hall Council Chambers, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT: July 2, 2002

FILE: AN-02-00

TYPE OF REQUEST: Annexation of 11 parcels east of Interstate 5.

REVIEW BODY: City Council for Timeliness; Referred to Electorate if Deemed Timely

OWNERS/APPLICANTS: Timberhill Corporation; Fred C. and Sue A. Koos Living Trust; Gary and Connie Coakley; John S. Brandis, Jr.; Susan B. Decker; Charles and Roberta J. Briggs; Don C. Goldson; Beverly Mitchell; Trinity O. Lind; Evelyn F. Brandis Charitable Remainder Trusts #1 and #2.

ADDRESS/LOCATION: Properties generally located east of Clover Ridge Road and Goldfish Farm Road, and from Truax Creek on the north to Santiam Highway on the south. These properties are shown on **Attachment A**.

MAP/TAX LOT: Linn County Assessor's Map Nos. 10S-03W-34, Tax Lots 1500 & 1600; 11S-03W-03A, Tax Lot 10500; 11S-03W-03B, Tax Lots 100, 200 & 2100; 11S-03W-03C, Tax Lot 100; 11S-03W-03D, Tax Lots 200 & 201; 11S-03W-10, Tax Lots 200 & 800.

TOTAL LAND AREA PROPOSED USES: 446± acres. The applicants' conceptual development plan shows approximately 265 acres as low density residential. Their plan shows a 30.5 acre school site; a 13.5 acre park site; 20 acres in major roads, and 50 acres in greenways. The remainder is shown as medium/high density and live/work (36 acres); medium density residential (17 acres); neighborhood commercial (8.5 acres), and commercial part of Village Center (5.5 acres). This plan is **Attachment B**.

PHASING: The applicants have indicated that development would occur in phases. Each phase would require its own land use application, giving the city the opportunity to address the specific impacts of each phase.

EXISTING LAND USE: Agricultural (grass seed fields); five of the parcels include a house.

COMPREHENSIVE
PLAN DESIGNATIONS:

Currently: Urban Residential Reserve (URR); *Proposed:* **Attachment C** shows the Comprehensive Plan designations for this area that were recently recommended by the Planning Commission.

ZONING:

Currently: Linn County UGM-20 (Urban Growth Management – 20 acre minimum lot size); *Proposed:* City of Albany. The Annexation Agreement (**Attachment D**) details future zoning based on changes proposed on Comprehensive Plan Map under consideration as part of Periodic Review.

SURROUNDING
ZONING:

Adjacent properties not within the Albany city limits are zoned Linn County UGM-20; properties within the current city limits that abut the subject parcels are all zoned RS-6.5 (Residential Single-Family), except for a small area north of Knox Butte Road at Goldfish Farm Road, which is zoned RM-5 (Medium Density Multiple Family).

SURROUNDING USES:

Single-family residential. The existing uses are made up of pockets of lots, each less than one acre in size (Timber Linn, Draperville, Christopher Avenue), and larger lots well in excess of one acre. Many of the larger lots in the area are used for agricultural purposes, and some have a single home on them.

BACKGROUND
INFORMATION:

In the past several years, property owner representatives have discussed with City staff and the City Council their interest in proposing an annexation. City staff encouraged them to postpone their request until we were able to complete several Periodic Review projects. These included the Buildable Lands Inventory, the Economic Opportunities Analysis, the Housing Needs Assessment, Great Neighborhoods, and Balanced Development Patterns. All of these projects are now complete or nearing completion. Balanced Development (BDP) turned out to be particularly relevant in evaluating this annexation request because the City Council selected the East I-5 area for a refinement plan. This plan was developed in May and June of 2001. The applicants' conceptual development plan (**Attachment B**) is in substantial conformance with the BDP map. In addition, the City is in the final stages of updating our Comprehensive Plan and Development Code. The applicants have participated in the public process associated with this update.

ANNEXATION
AGREEMENT:

Over the past year or so, the applicants have worked with City staff in preparing an Annexation Agreement to address major issues such as streets, utilities, zoning, natural resources, and schools. This agreement is **Attachment D**. City Staff is pleased with the terms of this agreement and anticipates that it will become a model for future annexation agreements. Past agreements have tried to identify in advance specific infrastructure improvements, which may or may not turn out to be the best method of addressing future infrastructure needs. This particular agreement maximizes the city's authority to fashion conditions that are truly responsive to specific development proposals and minimizes the risk that changes in development plans will create a gap between actual and potential public facility needs.

FINDINGS AND CONCLUSIONS
FILE AN-02-00

INTRODUCTION

On May 27, 1998, the City Council adopted policies and procedures for voter-approved annexation. The ordinance spells out the eligibility and timeliness criteria that the City Council must deem are met before they refer an annexation request to the voters.

Listed below are findings and conclusions that address the review criteria. *Review criteria are listed in bold italics.*

REVIEW CRITERIA

ELIGIBILITY CRITERIA:

- A. The property is contiguous to the existing city limits.***

Finding of Fact:

1. When considered in total, the area is contiguous to the current city limits in the northeast and northwest, and in the area near the intersection of Knox Butte Road and Goldfish Farm Road (See attached map labeled **Attachment A**).

Conclusion: This criterion is met because the subject properties when combined are adjacent to the existing city limits.

- B. The property is located within the Albany Urban Growth Boundary as established by the Albany Comprehensive Plan.***

Finding of Fact:

2. Plate 1 of the City's Comprehensive Plan shows the Urban Growth Boundary (UGB). Of all the subject parcels, only Tax Lot 1600 (Linn County Assessor's Map 10S-03W-34) is not entirely within the Urban Growth Boundary. The applicant is proposing to annex only that portion of Tax Lot 1600 that lies within the Albany UGB (south of Truax Creek).

Conclusion: This criterion is met because the properties proposed for annexation are within the UGB.

TIMELINESS CRITERIA:

- A. An adequate level of urban services and infrastructure is available, or will be made available in a timely manner.***
- a. "Urban services" means police, fire, and other city-provided services.***
 - b. "Infrastructure" means sanitary sewer, water, storm drainage, and streets.***
 - c. "Adequate level" means conforms to adopted plans and ordinances.***
 - d. "Be made available in a timely manner" means that improvements needed for an adequate level of urban services and infrastructure will be provided in a logical, economical, and efficient manner. Improvements for needed infrastructure may be secured by a development agreement or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.***

Findings of Fact:

Water

3. Water utility maps indicate that existing water facilities near the site consist of: an 8-inch main and a parallel 16-inch main in Goldfish Farm Road that extend from Knox Butte Road south 850 feet; a 24-inch main that extends from the ends of the 8-inch and 16-inch mains to Santiam Highway; a 24-inch main in Knox Butte Road that terminates just east of Timber Street.
4. The current water master plan, which will be amended as noted in Finding #5 below, indicates that 16-inch mains will be needed on Clover Ridge Road and across the north portion of the site through Santa Maria Avenue to Scrael Hill Road. Twenty-four-inch mains will be needed along the full length of Goldfish Farm Road and Knox Butte Road. The master plan also calls for a 30-inch main in Knox Butte Road that would parallel the 24-inch main and would serve a water reservoir that will be needed near the intersection of Knox Butte Road and Scrael Hill Road. Sizes and locations of public water mains and appurtenances within the interior of the property will be determined when specific development proposals are submitted by the property owner(s) after annexation. The sizes specified in the City's existing Water Facility Plan will likely change as a result of Finding #5 below.
5. The existing water master plan was completed in 1988. The City has hired a consultant to develop a new water master plan. At this time it is unclear what major changes to the existing master plan may result; however, there may be significant changes. The applicants will be required to build whatever the new master plan recommends. The applicants would be eligible for SDC credits for any over-sized lines or water reservoirs they are required to construct.

Conclusion: This criterion is met because the attached Annexation Agreement details the method of providing that adequate infrastructure is in place as development occurs on the subject properties.

Sanitary Sewer

6. Sanitary sewer utility maps indicate that existing public sanitary sewer facilities in the area of the site include: a 15-inch main in Bernard Avenue that terminates in the Clover Ridge Station subdivision west of Clover Ridge Road; a 10-inch main in Knox Butte Road that terminates near Onyx Street; shallow 8-inch mains in the Timber Linn Subdivision west of Goldfish Farm Road; shallow 8-inch mains in the Blue Ox RV Park west of Goldfish Farm Road; 8-inch and 12-inch mains in Santa Maria Avenue, Charlotte Street, and Knox Butte Road within the Draper Subdivision; a sewer pump station at the intersection of Santa Maria and Charlotte Street which pumps the Draperville Subdivision sewage to the 10-inch main at Knox Butte and Onyx within a 4-inch pressure main along Charlotte Street and Knox Butte Road; and a 15-inch main in Timber Linn Park.
7. The Wastewater Facility Plan indicates that the subject properties would be served by sewers that lie within two different sanitary sewer basins: Basin #10 and Basin #11.
8. The Wastewater Facility Plan indicates that in Basin #10 the 15-inch main in Bernard Avenue is to be extended easterly from its current end point to the pump station at Santa Maria and Charlotte. The 15-inch main extension would eliminate the need for the pump station and could accommodate a large portion of the site that lies north of Knox Butte Road, and a small area south of Knox Butte Road.
9. The Wastewater Facility Plan indicates that in Basin #10 the 10-inch main that terminates at Knox Butte Road and Onyx Street is not sized to accommodate ultimate development and eventually needs to be replaced with 12-inch and 15-inch sections of main. In order to determine how much capacity the line currently has, and how much additional sewer volume it can handle, the applicants must fund a basin study, which the City will conduct. The study will determine current and ultimate capacity

and determine how much of the applicants' site could be served without upgrading the entire 10-inch line with 12-inch and 15-inch mains.

10. The Wastewater Facility Plan indicates that in Basin #10 there is an area south of San Felicia Avenue and Pitt Street that probably cannot be served by gravity sanitary sewer. It is likely that this area must be served by a future pump station that must be installed prior to developing this area. A portion of the proposed annexation lies within this area.
11. The existing mains west of Goldfish Farm Road in the Timber Linn Subdivision and the Blue Ox RV Park are too shallow to be extended to serve the applicants' site. The Wastewater Facility Plan indicates that a 12-inch main will need to be extended from the 15-inch main in Timber Linn Park (near Price Road) across Goldfish Farm Road and through the applicants' site. This 12-inch extension would serve the area of the applicants' site that lies roughly south of Dogwood Avenue and Burkhart Creek and east of Goldfish Farm Road. The facility plan shows that there are capacity problems in Basin #11, in the 15-inch main in Timber Linn Park, and downstream (west) of the park to Salem Avenue. The facility plan shows that the existing 15-inch and 18-inch mains are to be replaced with 27-inch, 24-inch, and 21-inch mains. In order to determine how much capacity the line currently has, and how much additional sewer volume it can handle, the applicants must fund a basin study, which the City will conduct. The study will determine current and ultimate capacity and determine how much of the applicants' site could be served without upgrading the downstream sewer mains.
12. According to Attachment C-2 of the recently adopted Sewer System Development Charge Resolution (#4293), the 15-inch Bernard Avenue extension, the 15-inch and 12-inch Knox Butte Road replacement line, and the 12-inch extension from the main in Timber Linn Park all qualify for SDC credits for off-site and oversizing credits.

Conclusion: This criterion is met because the attached Annexation Agreement details the method of providing that adequate infrastructure is in place as development occurs on the subject properties.

Storm Drainage

13. The applicants' site is traversed by several watercourses, including Truax Creek, Burkhart Creek, a man-made diversion structure that transfers flood water from Burkhart Creek to Truax Creek, and several smaller tributaries to Cox Creek. The applicants will be required to comply with the Endangered Species Act as it relates to the watercourses across the site. The details of the requirements, including setbacks from streams, have not yet been determined. The applicant will be required to comply with the future rules after they are developed.
14. The City's Storm Drainage Master Plan shows this area as lying within the Truax Creek, Cox Creek and Burkhart Creek drainage basins. This Master Plan was completed in 1988. Each specific development proposal on the property proposed for annexation must be accompanied by a detailed storm drainage plan that will determine the improvements needed to assure adequate drainage facilities for those areas.
15. The City of Albany does not currently collect a System Development Charge for storm drainage for new development. This means that there are no City funds available for participation in oversizing of storm drainage facilities. Should the City adopt a storm drainage System Development Charge in the future, it is possible that funding and/or SDC credits for storm drainage improvements may be available for qualifying projects as listed in the SDC methodology.

Conclusion: This criterion is met because the attached Annexation Agreement details the method of providing that adequate infrastructure is in place as development occurs on the subject properties.

Transportation

16. The existing transportation system in the vicinity of the proposed annexation is made up of three major roads: Knox Butte Road, Clover Ridge Road, and Goldfish Farm Road. These roads are currently under the jurisdiction of Linn County, and, except for a stretch of Knox Butte Road near Timber Street, are constructed to county standards (i.e., no curb and gutter or sidewalks). Transportation impacts resulting from development over an area of this size are likely to extend south to Highway 20 and the I-5 interchange, west to the freeway interchange at Knox Butte Road, and Waverly Drive at Santiam Highway (Highway 20) and at Pacific Boulevard (Highway 99E).
17. The City of Albany Transportation System Plan indicates that a network of major and minor collector streets projected for the East Albany area includes at least three major streets that would run through the subject property. One of the streets is a major collector that is expected to run from Clover Ridge Road near the Urban Growth Boundary to Highway 20. Virtually the entire length of this street will likely lie within the boundaries of the proposed annexation. Also, two east-west collector streets are shown on the Transportation Master Plan within the boundaries of the subject properties. One will extend from Adah Avenue to Santa Maria Avenue, and the other from Dogwood Avenue to Scrael Hill Road. Again, large portions of these anticipated streets will lie within the area proposed for annexation.
18. The City of Albany and Linn County have an existing Intergovernmental Agreement (IGA) which addresses the transfer of roads from County jurisdiction to City jurisdiction. This IGA requires that if Linn County funds the improvement of any of the qualifying roads to urban standards, the City will collect an "in-lieu-of assessment" from fronting parcels that develop, and repay Linn County for the road improvement costs. Goldfish Farm Road, Clover Ridge Road, and Knox Butte Road are all listed in the IGA as qualifying roads for repayment.
19. Goldfish Farm Road is currently scheduled for some form of reconstruction and widening by Linn County. It is likely that additional improvements on Goldfish Farm Road will be required to accommodate the traffic generated by development on the property proposed for annexation. The southern portion of this annexation will be able to provide extra right-of-way for over half of the distance from Knox Butte Road to Highway 20. Most of the properties on the west side of Goldfish Farm Road are already developed, and it is unlikely that additional right-of-way can be obtained from these properties. Clover Ridge Road is lined with existing residential uses, which restricts the ability to obtain additional right-of-way for road widening purposes. The combination of properties in the proposed annexation request will allow for the routing of the alternative major collector street that will run north-south through the property, thereby lessening traffic concerns on Clover Ridge Road.
20. The applicants provided a traffic study for the entire site. As each individual development proposal within this property is submitted to the City, it must be accompanied by an updated traffic study based on current data and the specific development being proposed.

Conclusion: This criterion is met because the attached Annexation Agreement details the method of providing that adequate infrastructure is in place as development occurs on the subject properties.

Police & Fire Protection

21. This area is currently within the service area of Albany Rural Fire Protection District and thus is served by the Albany Fire Department. There is a fire department substation just south of the annexation area near the corner of Three Lakes Road and Spicer Drive. As the property is developed, incremental water system and public street network improvements will be required.

22. The subject property is contiguous to the city limits. The Albany Police Department already serves properties east and west of this site.

Conclusion: This criterion is met because police and fire service to this property would be a logical extension of the current service boundaries.

- B. *Sufficient planning and engineering data have been provided and all necessary studies and reviews have been completed such that there are no unresolved issues regarding appropriate Comprehensive Plan and implementing ordinances. It may not be timely to annex property if the appropriateness of the proposed use could be altered by plans or studies that are underway, or are needed, to update, clarify, or provide additional specificity to the Comprehensive Plan, background reports and studies. Examples of needed studies may include public infrastructure plans, buildable lands inventories, area refinement plans, or any task in an approved work program for Periodic Review.***

Findings of Fact

23. This annexation request is for a total of approximately 446 acres. At the time this staff report was prepared (July 2, 2002), the Comprehensive Plan Map designation was Urban Residential Reserve (URR). Current Comprehensive Plan language states that, absent a zone change request, URR land becomes zoned RS-6.5, low-density single family residential, upon annexation. The City Council is currently considering changes to the Comprehensive Plan Map and text. If the changes proposed by the Planning Commission are adopted, the Comprehensive Plan Map shows this land as Low-Density Residential, Village Center, Medium-Density Residential, and Light Commercial. In the attached Annexation Agreement, the developer agrees that the zoning upon annexation would be RS-6.5 (Single Family Residential), RS-5 (Single Family Residential), Knox Butte (Commercial), RM-5 (Medium-Density Multiple Family), and OP (Office Professional). Reference the proposed Comprehensive Plan Map (**Attachment C**) and the Plan-Designation Zoning Matrix in the Annexation Agreement (**Attachment D**).
24. Several infrastructure plans cover this area. These include the Wastewater Facility Plan (1998); the Storm Drainage Master Plan (1988), and the Transportation System Plan (1997).
25. The City's current Water System Facility Plan was completed in 1988. The City is currently in the process of having an updated Water Master Plan developed. This new master plan will replace the one that includes numerous outdated recommendations pertaining to water system improvements required within the proposed annexation area. It will be required that upon development, the annexed property will follow the recommendations of the new water system master plan.
26. Other studies and plans that have been completed that cover the area in which the subject properties lie include: the Balanced Development Patterns (BDP), Buildable Lands Inventory, area traffic study, market study, Parks & Recreation Dept. Master Plan, Riparian Corridor Inventory, and East I-5 Local Wetlands Inventory.

Conclusion: This criterion is met because of the information provided by recent city planning studies combined with the flexibility provided by the Annexation Agreement.

- C. *The City shall attempt to discourage islands or enclaves of unincorporated territory surrounded on all sides by the City.***

Finding of Fact

27. Annexation of the subject property would create islands of unincorporated territory. See **Attachment A**. The islands would consist of 62± parcels, totaling approximately 84 acres. There are numerous
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islands of unincorporated land currently within the boundaries of the City. If this annexation occurs, and additional islands are created, the City can initiate annexations of these islands at any time.

Conclusion: This criterion is met because cities have the authority to initiate the annexation of islands per ORS 222.111.

D. The City Council may consider, at its discretion, any other factor which affects the timeliness or wisdom of any particular annexation petition.

Findings of Fact

28. Schools. In the attached Annexation Agreement (**Attachment D**), the Developer agrees to hold open a site of approximately 30 acres for a school or schools until the streets are in place to the edge of the school site. The School District shall have a 5-year option to buy or trade for such site from the date said streets are put in place and the School District receives written notice from Developer that the 5-year option period has begun to run. This option will be offered to the School District to purchase the site at no more than its fair market value. This option is not assignable or transferable by the School District.

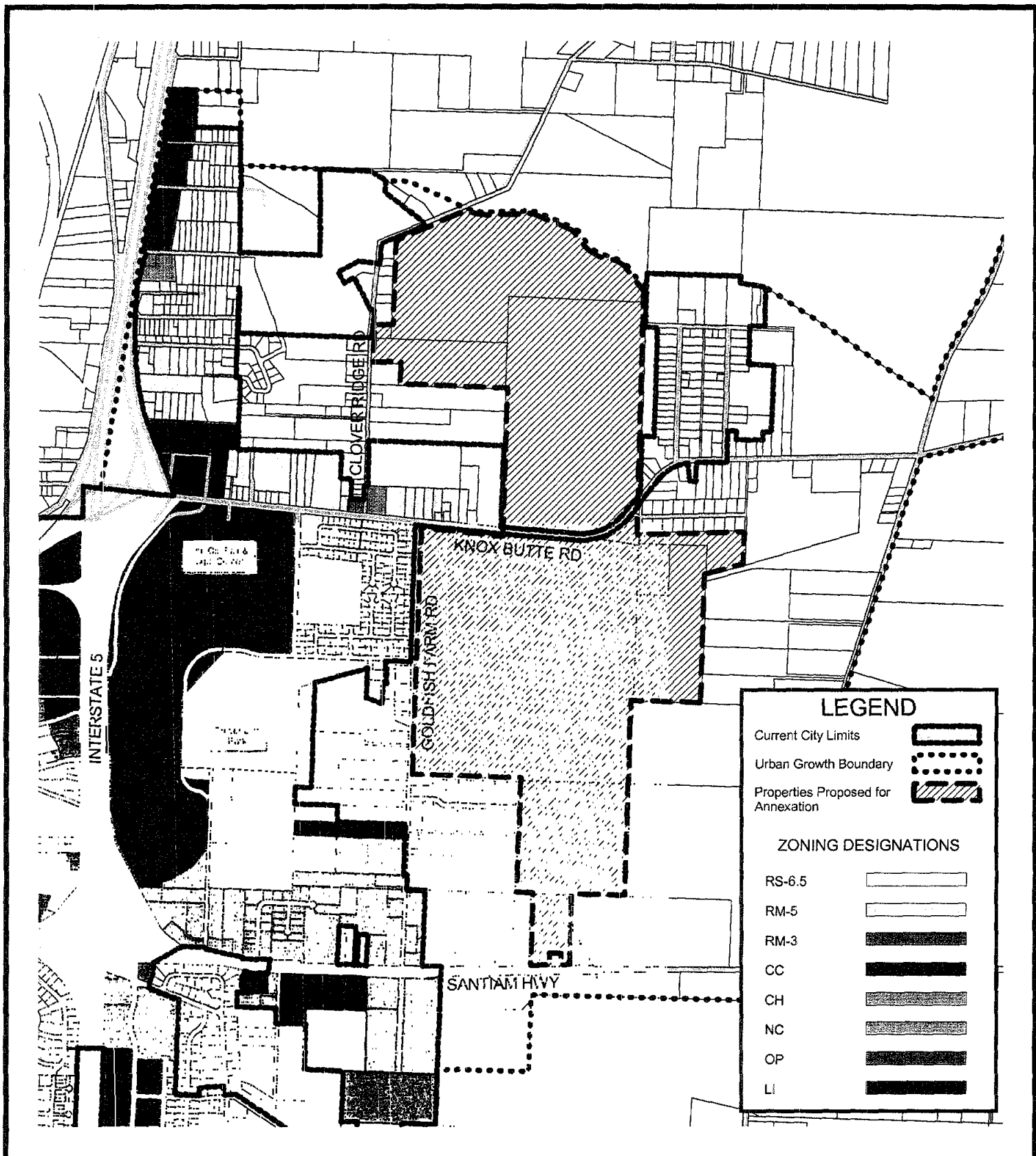
29. Waiver of Rights. In the attached Annexation Agreement, the Developer has agreed to waive a number of legal rights relative to their responsibilities for public infrastructure.

30. Indemnification. In the attached Annexation Agreement, the Developer has agreed to indemnify and hold the City of Albany harmless relative to a number of legal claims.

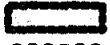
31. Natural Resources. In the attached Annexation Agreement, the Developer has agreed to the following relative to natural resource protection:


- Developer agrees to protect riparian corridors and significant wetlands by providing a minimum 75-foot buffer along natural streams and a minimum 50-foot buffer on artificial canals, to be measured from the top of the bank.
- Prior to or at the time of development, Developer agrees to restore the full width of riparian corridors on both sides of the stream adjacent to land proposed for development.
- Any development in a floodplain would proceed only after studies of onsite and offsite mitigation and the creation of a “greenway” strip, or undevelopable property, down the center of the floodplain.


Conclusion: This criterion is met because the attached Annexation Agreement (**Attachment D**) maximizes the city’s ability in the future to fashion conditions of approval that are responsive to specific development proposals.



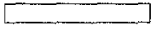
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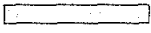
Current City Limits 


Urban Growth Boundary 


Properties Proposed for Annexation 


ZONING DESIGNATIONS


RS-6.5 


RM-5 


RM-3 

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AN-02-00 Proposed Annexation Area

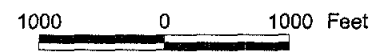


Staff Report Attachment A

Planning

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Jun 28, 2002



The City of Albany's Infrastructure records, drawings, and other documents have been gathered over many decades using differing standards for quality control, documentation, and verification. All the information provided represents current information in a readily available format. While the information provided is generally believed to be accurate, occasionally this information proves to be incorrect, and thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the information provided, it is specifically advised that you independently field verify the information contained within our records.





	Residential - Low Density Residential 2.5 - 5 Units Per Acre		Church
	Urban Residential, Semi-Attached / Attached Alley / No Court Access 5 - 8 Units Per Acre		School
	Medium Density Residential 8 - 12 Units Per Acre		Park
	Medium-High Density Residential 10 - 20 Units Per Acre		Open Space / Greenway
	Mixed Use (Live / Work - Attached) 10 - 20 Units Per Acre		Open Water
	Neighborhood Center - Medium-High Density Low/Mid Commercial / Service / Residential 12 - 20 Units Per Acre		Wetlands
	Village Center - Active / Pedestrian Commercial / Service / Public Use		Buildings
	Neighborhood Commercial Commercial / Local Service Food Service		

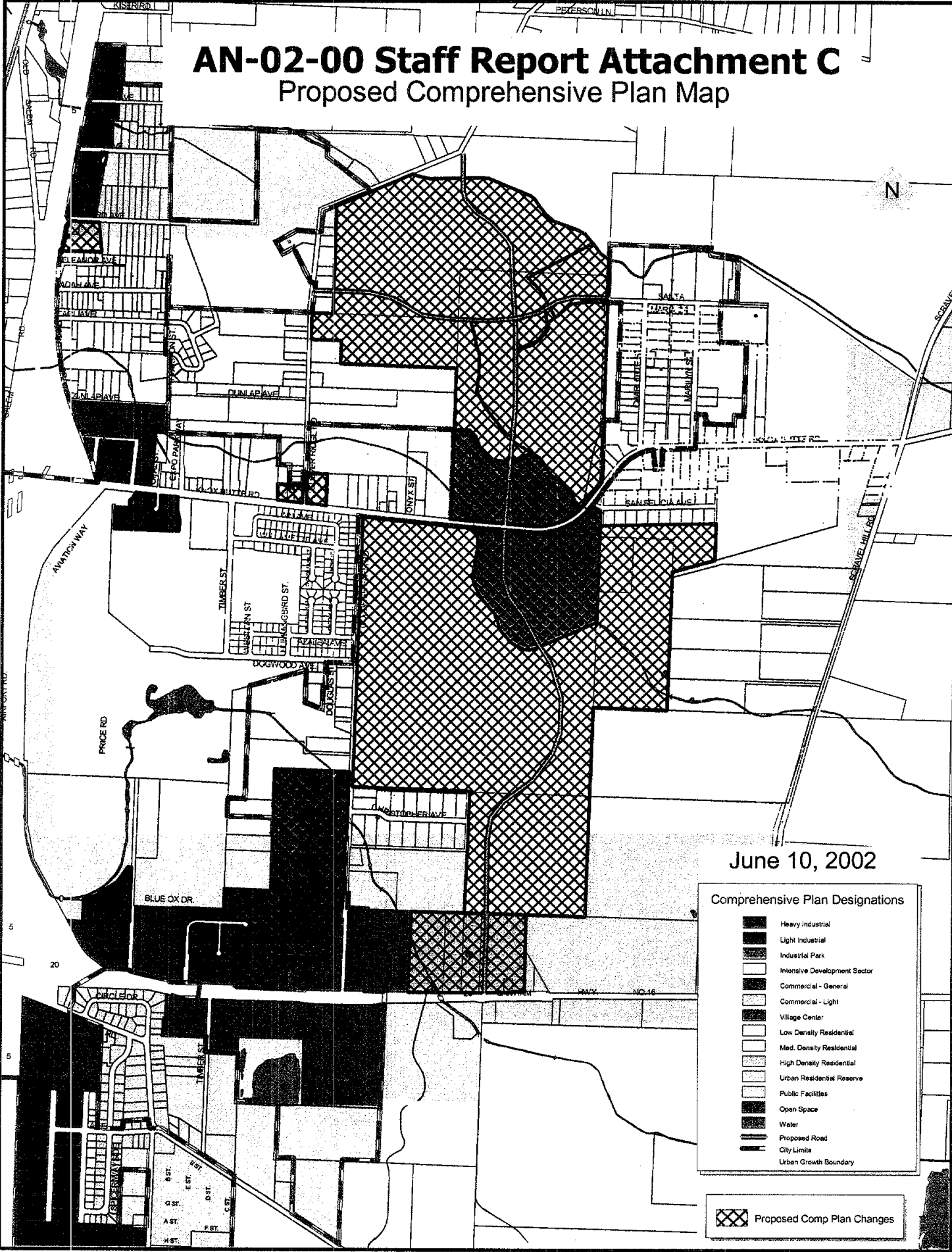
Staff Report Attachment B
 Applicants' Conceptual
 Development Plan

PROPOSED
Brandis Annexation
 Timberhill Corp., Master Developer

General Development Plan by
 John R. Stewart, Landscape Architect

AN-02-00 Staff Report Attachment C

Proposed Comprehensive Plan Map



June 10, 2002

Comprehensive Plan Designations

	Heavy Industrial
	Light Industrial
	Industrial Park
	Intensive Development Sector
	Commercial - General
	Commercial - Light
	Village Center
	Low Density Residential
	Med. Density Residential
	High Density Residential
	Urban Residential Reserve
	Public Facilities
	Open Space
	Water
	Proposed Road
	City Limits
	Urban Growth Boundary

Proposed Comp Plan Changes

PLEASE SEE ORIGINAL FILE
FOR COLOR-CODED MAP

ANNEXATION AGREEMENT

EFFECTIVE DATE: Upon approval of Albany City Council

PARTIES: FRED C. and SUE A. KOOS LIVING TRUST
FRED C. and SUE A. KOOS (TTEE)
925 W. 16th St., Albany

GARY D. and CONNIE J. COAKLEY
425 Clover Ridge Road, Albany

JOHN S. BRANDIS, JR.
2736 NW Skyline Drive, Corvallis

TRINITY O. LIND (Gail B. Jacob)
RR 51A – Eagle Creek Road, Richland, Oregon

SUSAN B. DECKER
25512 SW Airport Road, Corvallis

TIMBERHILL CORPORATION
2725 NW Walnut Blvd., Corvallis

CHARLES and ROBERTA J. BRIGGS
1321 NE Mayview Drive, Albany

BEVERLY MITCHELL
220 Pitt St. SE, Albany

DON C. GOLDSON
2622 – 25th St. SE, Albany

SHEILA R. JACKSON
6455 SW Nyberg Lane, Apt. 1071, Tualatin, Oregon

EVELYN F. BRANDIS CHARITABLE REMAINDER
TRUSTS #1 and #2
Mary Morris (TTEE), Individually and Together (“Developer”)

CITY OF ALBANY, OREGON, a municipal corporation (“City”)

RECITALS:

WHEREAS, Developer owns certain real property outside of and adjacent to City and described in **Exhibit “A”** attached hereto (the “Property”), which they desire to be annexed to the City, and Developer plans to develop in accordance with the map attached hereto as **Exhibit “B”**, and the City desires to put the annexation proposal on the ballot for approval of voters in accordance with Oregon law and the City Charter;

WHEREAS, City does not want annexation to impose express or implied obligations on the City to make and fund infrastructure improvements;

WHEREAS, prior to approving the proposal for the ballot, City staff has requested that Developer enter into an Agreement which will waive many of Developer’s rights and remedies with regards to conditions that may be placed on development of the Property by City if public facilities are insufficient to support the development and which will commit Developer in good faith to make certain enhancements and observe restrictions concerning the Property at such time that the actual development of the Property begins;

WHEREAS, the City has the policy of not placing annexation proposals on the ballot unless the Council first determines that the annexation is timely;

WHEREAS, among the factors considered by the Council in its timeliness determination is the adequacy of public infrastructure to serve the proposed annexation site;

WHEREAS, the Parties do not intend that this Agreement be a land use document or comply with the requirements of a Development Agreement as set forth in ORS 94.504 to 94.528;

WHEREAS, nothing in this Agreement limits the use of the Property for any lawful purposes, so long as any required City approval has been obtained;

WHEREAS, nothing in this Agreement shall require Developer to develop the Property or prohibit Developer from stopping any development after it has begun.

AGREEMENT:

NOW, THEREFORE in consideration of the above Recitals and the mutual promises contained herein, the Parties agree as follows:

1. **Incorporation of Recitals.** The Recitals are hereby incorporated into this Agreement as if set forth herein in full.

2. **Location.** The property is adjacent to the City Limits of the City of Albany and within the Urban Growth Boundary for the City of Albany.
3. **Term.** The term of this Agreement shall commence on the date upon which it is approved by the Albany City Council and shall continue until superceded or terminated by the mutual agreement of the parties or shall terminate upon rejection of the proposed annexation by the voters of the City. The parties may enter into individual agreements, including but not limited to, Development Agreements, at any future date, which agreements will supercede this Agreement as applied to the Property as a whole or to portions of the Property or individual phases of development, as specified in said future agreements.
4. **Definitions.** For purposes of this Agreement, specific terms shall be defined as follows:
 - a. *"Public Facilities"*. Physical infrastructure necessary or beneficial to the development of real property in the City of Albany. Such facilities include, but are not limited to, streets, curbs, gutters, bridges, culverts, intersections, traffic signals, signage, ditches, piping, valves, pump stations, landscaping, trails, bicycle paths, parks, sewer, storm sewer, and/or water facilities.
 - b. *"Development"*. The meaning prescribed for said term at Albany Municipal Code 20.22.010.
 - c. *"Developer"*. Any person or legal entity having the right or responsibility to control the development of the Property. This terms includes, without limitation, all owners of property proposed for development.
5. **Ballot.** The Property shall be proposed to the voters of the City of Albany for annexation subject to the terms of this Agreement.
6. **Waiver of Rights and Indemnification:** If Developer proceeds with development of the Property, Developer agrees that if City determines, in the exercise of reasonable discretion, based on substantial evidence in the record, that Public Facilities are insufficient to support a proposed development, and there is a reasonable relationship between any condition or denial and said deficiency in Public Facilities, and the City therefore conditions or denies an application based on such a determination:
 - 6.1 Developer will waive the right to claim that such condition or denial constitutes a moratorium under ORS § 197.505 - .540.

- 6.2 Developer will waive any right to seek judicial or administrative relief including, but not limited to, claims for injunction or damages, that may result from the delay or denial of development opportunities.
- 6.3 Developer will waive any claim under any present or future legislation, judicial determination, or Oregon Constitutional amendments that require local government to compensate a property owner for damages which result from governmental regulations which are deemed to constitute a complete or partial taking of such property.
- 6.4 Developer waives any right to appeal said condition or denial or to seek any other form of judicial or administrative relief, on the grounds that it places a “disproportionate burden” on Developer. This waiver is intended to include, but not be limited to, claims that the disproportionate burden constitutes a partial or complete taking of Developer’s property. This waiver shall relieve City of any requirement to make individualized findings that justify a condition on the proposed development or a denial of the proposed development, but the condition or denial must be directly related to a deficiency in Public Facilities caused or contributed to by the proposed development.
- 6.5 None of the rights waived by Developer shall waive Developer’s right to just compensation in the event that the City initiates eminent domain proceedings to acquire all or a part of Developer’s property.
- 6.6 The Developer and its successors and assigns agree to indemnify and hold harmless the City of Albany, its agents, officers, and employees, from any of the following claims including, but not limited to, the attorneys’ fees and other expenses incurred by the City in resisting said claims:
- (a) Any claim challenging the enforceability or binding nature of this Agreement;
 - (b) Any judicial or administrative proceeding which is brought by Developer or its successors or assigns challenging the correctness of any action taken by the City which is authorized under the terms of this Agreement;
 - (c) Any other proceeding of any kind or nature wherein Developer or its successors or assigns seeks damages or injunctive relief as a result of any City decision to deny, condition, or limit development activities.

- 6.7 The Property is currently designated on the City’s Comprehensive Plan Map as Urban Residential Reserve (URR). If URR is the Comprehensive Plan designation at the time of annexation, the zoning of the Property will be RS 6.5 (Low Density Residential). The Developer may later request a change in the Comprehensive Plan and zoning designations consistent with the East I-5 Refinement Plan.
- 6.8 Low Density Residential (LDR). There is a Village Center proposed on either side of a portion of Knox Butte Road, with some Medium Density Residential (MDR) north of the Village Center. The Property adjacent to Santiam Highway is proposed as Light Commercial. If the City has adopted these changes to the Comprehensive Plan at the time of annexation, the zoning of the Property would be as follows:

Plan	Zoning District
Low Density Residential	(RS6.5) OR (RS5)
Village Center (commercial portion)	Knox Butte Zoning District
Village Center (residential portion)	RM-5
Medium Density Residential	RM-5
Light Commercial	OP

7. **Developer Agrees:** If Developer proceeds with development of the Property, Developer agrees as follows:

7.1 ***Natural Resource Protection***

- 7.1.1 Developer agrees to protect riparian corridors and significant wetlands by providing a minimum 75-foot buffer along natural streams and a minimum 50-foot buffer on artificial canals, to be measured from the top of the bank.
- 7.1.2 Prior to or at the time of development, Developer agrees to restore the full width of riparian corridors on both sides of the stream adjacent to land proposed for development.
- 7.1.3 Any development in a floodplain would proceed only after studies of onsite and offsite mitigation and the creation of a “greenway” strip, of undevelopable property, down the center of the floodplain

7.2 **Schools:** Developer will hold an approximately 30-acre site open for a school or schools until the streets are in place to edge of school site. The School District shall have a 5-year option to buy or trade for such site from the date said streets are put in place and the School District receives written notice from Developer that the 5-year option period has begun to run. This option will be offered to the School District to purchase the site at no more than its fair market value. This option is not assignable or transferable by the School District.

8. **City Agrees:** The City, in consideration for the promises made by Developer, agrees as follows:

- 8.1 There are currently sufficient Public Facilities available to annex the property into the City of Albany upon approval of the voters. This does not imply that available Public Facilities are sufficient for any particular development.
- 8.2 The City shall not impose a Local Improvement District or other financial obligation upon Developer unless it is determined that the Developer benefits from the proposed improvement.
- 8.3 While the City's conditions or denials may place a disproportionate burden on the Developer to make Public Facilities improvements, any such conditions or denials shall be reasonably related to the Public Facilities needs which result from development on the Property. "Objective Engineering Standards" will be used to determine the need for Public Facilities which result from any proposed development. Notwithstanding the foregoing, both parties agree that the Public Facilities needs of third parties or the public generally may also be a contributing factor to the Public Facilities needs which result from development on the Property. The needs of such third parties or the public shall not limit the City's discretion to impose conditions or denials on the Developer.
- 8.4 Subject to the provisions of this Agreement, the City agrees that upon annexation, and subject to the terms and limitations of this Agreement, the Property shall enjoy the same right to development as applies to similarly situated property in the City of Albany. This is a material consideration for the Developer to comply with the conditions and requirements set forth in this Agreement.
- 8.5 City shall make a good faith effort to identify and address planning issues and impacts that may arise as a result of development of the Property and

will share with Developer any information of prospective issues or impacts.

8.6 Subject to the provisions of this Agreement, Developer has full entitlement to apply for development of all or any part of the Property and shall be entitled to the same consideration shown to similarly situated applicants.

9. **Contingency.** This Agreement is expressly contingent on (i) approval by the Albany City Council of the annexation proposal and this Annexation Agreement, and (ii) approval by the voters in accordance with Oregon law of such annexation proposal.

10. **Miscellaneous.**

10.1 **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, personal representatives, successors, and permitted assigns and upon approval of the voters of the City of Albany, the terms of this Agreement shall be recorded in a form approved by the City so as to provide a record of this Agreement to run with the land described in the attached Exhibit "A".

10.2 **Assignment.** Neither this Agreement nor any of the rights, interests, or obligations under this Agreement shall be assigned by any party without the prior written consent of the other parties, which consent will not unreasonably withheld.

10.3 **No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

10.4 **Further Assurances.** Each party agrees (a) to execute and deliver such other documents and (b) to do and perform such other acts and things, as any other party may reasonably request, in order to carry out the intent and accomplish the purposes of this Agreement.

10.5 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to conflict-of-laws principles.

10.6 **Exhibits.** The exhibits referenced in this Agreement are a part of this Agreement as if fully set forth in this Agreement.

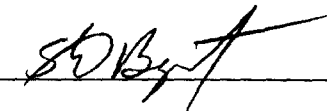
- 10.7 **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.
- 10.8 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement.

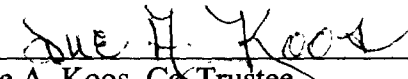
PARTIES:

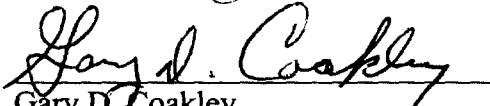
CITY OF ALBANY,
A municipal corporation,

FRED C. and SUE A. KOOS
LIVING TRUST

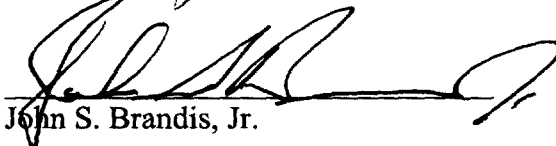
By: 
Its: City Manager


Fred Koos, Co-Trustee


Sue A. Koos, Co-Trustee

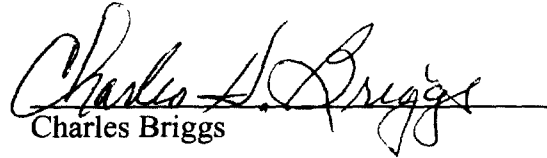

Gary D. Coakley

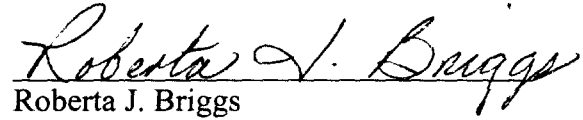

Connie J. Coakley

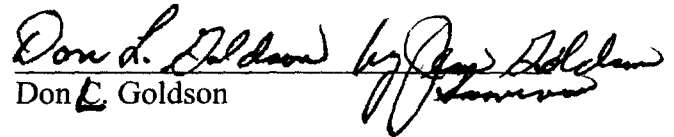

John S. Brandis, Jr.


Susan B. Decker

PARTIES (continued):


Charles Briggs


Roberta J. Briggs

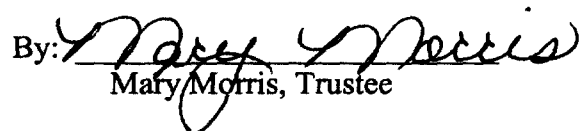

Don L. Goldson

~~Sheila R. Jackson (WITHDRAWN)~~

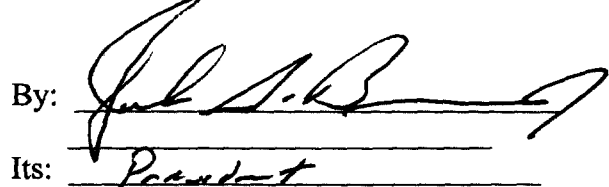

Beverly Mitchell

Trinity O. Lind (Gail B. Jacob)

**EVELYN F. BRANDIS
CHARITABLE REMAINDER
TRUSTS #1 AND #2**

By: 
Mary Morris, Trustee

TIMBERHILL CORP.

By: 
Its: President

PARTIES (continued):

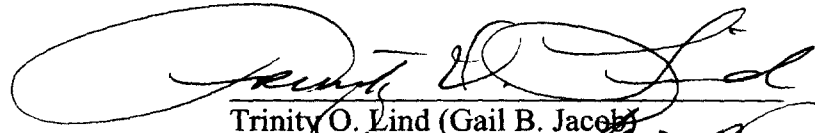
Charles Briggs

Roberta J. Briggs

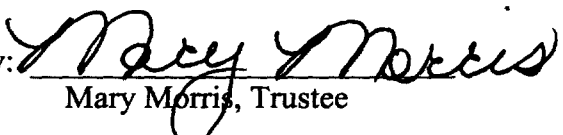
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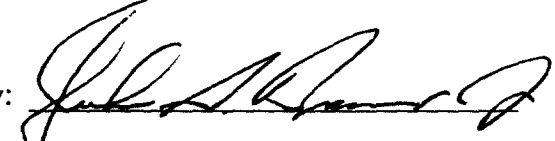
Beverly Mitchell


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AKA Gail B. Jacob

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By: 
Mary Morris, Trustee

TIMBERHILL CORP.

By: 
Its: President

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