



ORDINANCE NO. 5983

AN ORDINANCE PROCLAIMING ANNEXATION OF A PROPERTY IDENTIFIED ON LINN COUNTY ASSESSOR'S MAP NO. 11S-03W-29 AS TAX LOT 402; AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP BY AMENDING THE ALBANY ZONING MAP AND ADOPTING FINDINGS OF FACT AND CONCLUSIONS.

WHEREAS, on April 8, 2022, the Albany Community Development Department received an application for annexation with concurrent zoning map amendment for a 26.61-acre parcel located on Lochner Road, north of 823 Ellingson Road SE (Planning Files AN-03-22 and ZC-05-22); and

WHEREAS, the application for zoning map amendment would assign a Single-Family Residential (RS-5) zone to this property, concurrent with annexation. Prior to annexation, the property was subject to Linn County zoning and related development requirements. The Albany RS-5 zone has an average minimum lot size of 5,000 square feet; and

WHEREAS, on June 20, 2022, the Albany Planning Commission held a public hearing, considered public testimony, deliberated on the proposed annexation with zoning map amendment, and recommended approval of the proposal based on evidence presented in the staff report and during the public hearing; and

WHEREAS, the analysis and findings of fact and conclusions as provided in the staff report dated June 6, 2022, are presented as an attachment to this ordinance as Exhibit C; and

WHEREAS, on July 13, 2022, the Albany City Council held a public hearing on the proposal, reviewed the findings of fact and conclusions of the staff report and testimony presented at the public hearing, and then deliberated.

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

Section 1: The territory shown on the map in Exhibit A and described in Exhibit B of this ordinance is hereby proclaimed to be annexed to the City of Albany.

Section 2: The zoning district map is hereby amended to the RS-5 zoning district for the property located in the City of Albany, Linn County, Oregon, as shown on the map in Exhibit A and described in Exhibit B of this ordinance.

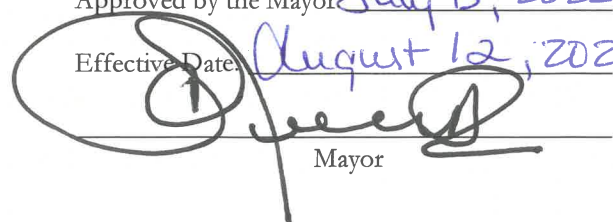
Section 3: The findings of fact and conclusions included in the staff report dated June 6, 2022, in Exhibit C of this ordinance, are hereby adopted in support of the decision.

Section 4: A copy of this ordinance shall be filed in the Office of the City Clerk of the City of Albany and these changes shall be made on the official City of Albany zoning map.

Passed by the Council: July 13, 2022

Approved by the Mayor: July 13, 2022

Effective Date: August 12, 2022

  
\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
City Clerk



South Albany  
Community Park



✓ After recording return to:  
City of Albany  
P.O. Box 490  
Albany, OR 97321

Until a change is requested all tax statements shall be sent to the following address:  
City of Albany  
P.O. Box 490  
Albany, OR 97321

File No.: 7091-1285011 (CLH)  
Date: September 24, 2008

THIS SPACE RESERVED FOR RECORDER'S USE

LINN COUNTY, OREGON 2008-18868  
D-WD  
Cnt=1 Str=1 COUNTER 09/30/2008 12:04:58 PM  
\$15.00 \$11.00 \$10.00 \$36.00



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



### STATUTORY WARRANTY DEED

**Chad C. Curry**, Grantor, conveys and warrants to **City of Albany**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

**Subject to:**

1. Fiscal year real property taxes, a lien not yet payable.
2. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$1,246,875.00**. (Here comply with requirements of ORS 93.030)

First American Title 1285011

APN: 0128609

Statutory Warranty Deed  
- continued

File No.: 7091-1285011 (CLH)  
Date: 09/24/2008

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195-336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195-336 AND SECTIONS 5 TO 11, OF CHAPTER 424, OREGON LAWS 2007.

Dated this 29<sup>th</sup> day of September, 2008.

Chad C. Curry  
Chad C. Curry

STATE OF Oregon )  
)ss.  
County of Linn )

This instrument was acknowledged before me on this 29<sup>th</sup> day of September, 2008  
by **Chad C. Curry**.

Cindy L Hurst

Notary Public for Oregon  
My commission expires: 6-6-12



APN: 0128609

Statutory Warranty Deed  
- continued

File No.: 7091-1285011 (CLH)  
Date: 09/24/2008

**EXHIBIT A**

**LEGAL DESCRIPTION:**

Parcel 2, PARTITION PLAT NO. 2008-67, Record of Partition Plats, Linn County, Oregon.



## COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

# Staff Report

## Annexation with Zoning Map Amendment

AN-03-22 and ZC-05-22

June 6, 2022

### Hearing Information

Review Body: **Planning Commission**Hearing Date and Time: **Monday, June 13, 2022, at 5:15 p.m.**

Hearing Locations: This hearing will be conducted virtually:

Virtual: At 5:15 p.m., join the meeting using the link below:<https://council.cityofalbany.net/groups/plc/zoom>Phone: 1-253-215-8782; meeting id: 837-8633-4863; passcode: 464432In-person: Appear in person at the meeting and register to speak using the sign-up sheet.Review Body: **City Council**Hearing Date and Time: **Wednesday, July 13, 2022, at 6:00 p.m.**

Hearing Locations: This hearing will be conducted virtually:

Virtual: To comment/testify, please email [cdaa@cityofalbany.net](mailto:cdaa@cityofalbany.net) with your name, address, phone number, and if you are speaking for, against, or neutral on the topic.Watch Livestream at 6:00 p.m.: <http://www.cityofalbany.net/livestream>In-person: Appear in person at the meeting and register to speak using the sign-up sheet.

### Summary

This application is a request to annex a ±26.61-acre parcel, located north of 823 Ellingson Road SE at Linn County Tax Assessor's Map No. 11S-03W-29; Tax Lot 402, concurrently with a Zone Map Amendment from Linn County's Urban Growth Area – Urban Growth Management 20-acre minimum (UGA-UGM-20) zoning designation to Albany's Residential Single Family (RS-5) zoning designation upon annexation (Attachment A). The Comprehensive Plan map designation of the subject site is Urban Residential Reserve (URR). According to the Planning Designation Zone Matrix found in Albany Development Code (ADC) Table 2.760-1, the proposed RS-5 zoning designation is consistent with the Comprehensive Plan designation of the site (Attachment B). The subject property is eligible for annexation as it is contiguous to the city limits, located within the Albany Urban Growth Boundary (UGB), and can be served by public services.

With the annexation, the subject property will also be removed from the taxing district of the Albany Rural Fire Protection District (ARFPD). Public notice will publish prior to the city council public hearing, in accordance with Oregon Revised Statutes (ORS) 222.524. The criteria for annexation are found in ADC 2.110, and the criteria for amending a zoning map are found in ADC 2.740. These criteria are addressed in the staff report and must be satisfied to grant approval for this application. As shown in this report, the proposal satisfies all applicable review criteria; therefore, the staff recommendation for the proposal is to grant APPROVAL.





## Application Information

|                           |   |
|---------------------------|---|
| Proposal:                 | Annexation with concurrent Zone Map Amendment from UGA/UGM-20 to RS-5 for future development of a community park and public facilities. |
| Review Body:              | Planning Commission and City Council (Type IV, Legislative and Quasi-Judicial Decision)   |
| Staff Report Prepared By: | David Martineau, project planner  |
| Property Owner:           | City of Albany<br>333 Broadalbin Street SW, Albany, Oregon 97321  |
| Applicant:                | Kim Lyddane, Parks and Recreation Director, City of Albany<br>333 Broadalbin Street SW, Albany, Oregon 97321                            |
| Address/Location:         | Unassigned / North of 1131 Ellingson Road SE  |
| Map/Tax Lot:              | Linn County Assessor's Map No. 11S-03W-29; Tax Lot 402  |
| Zoning:                   | Linn County Zone: Urban Growth Area – Urban Growth Management<br>20-acre minimum (UGA-UGM-20)   |
| Comprehensive Plan Map:   | Urban Residential Reserve (URR) (Albany)  |
| Overlay:                  | South Albany Area Plan (SAAP) – Community Park and Public Facility Site<br>and Significant Wetland                                      |
| Total Land Area:          | ±26.61-acres  |
| Existing Land Use:        | Rural / Agriculture   |
| Neighborhood:             | South Albany  |
| Surrounding Zoning:       | North: UGA-UGM-20<br>South: UGA-UGM-20<br>East: Residential Single Family (RS-5) District<br>West: UGA-UGM-20                           |
| Surrounding Uses:         | North: Unimproved<br>South: Single-Family Residential<br>East: Unimproved<br>West: Single-Family Residential                            |

## Review Process and Appeals

The proposal for annexation concurrent with zoning map amendment is processed through a Type IV legislative and quasi-judicial land use review process. The planning commission will hold a public hearing to consider proposed amendments and will make a recommendation to the city council. The city council will hold a subsequent public hearing to consider the proposed amendments. After closing the public hearing, the city council will deliberate and make a final decision.

Within five days of the city council's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice. The city council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a notice of intent to appeal not later than 21 days after the notice of decision is mailed [ADC 1.250(8) and (9)].

## Public Notice

Public notice was provided in accordance with Type IV legislative and quasi-judicial procedures. Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on May 16, 2022, prior to the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and ADC 1.250(4) and 1.260(2).

A public notice was mailed to surrounding property owners within 300 feet of the subject property on May 23, 2022, in accordance with ADC 1.250(3) and ADC 1.260(2). A public notice was posted on the property by June 6, 2022, in accordance with ADC 1.410. Notice of the public hearings was published in the Albany Democrat-Herald on June 3, 2022, in accordance with ADC 1.250(4) and 1.260(2).

The staff report for the proposed annexation with concurrent zoning map amendment was posted on the City's website on June 6, 2022, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had not received any written comments regarding the proposed project.

## Analysis of Development Code Criteria

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

### Annexation Review Criteria (ADC 2.110)

***The review body shall make a quasi-judicial land use decision as to whether the proposed annexation complies with all of the following criteria:***

#### Criterion 1

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

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

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

#### Findings of Fact

- 1.1 The proposed annexation is a ±26.61-acre parcel located to the east of Lochner Road, approximately 740 feet north of the Lochner Road and Ellingson Road intersection. The subject property is identified on Linn County Assessor's Map No. 11S-03W-29 as Tax Lot 402, which is immediately north of 823 Ellingson Road SE (Attachment A).
- 1.2 The subject property is contiguous to the current city limits along the east property line. The property is currently designated as Linn County's Urban Growth Area – Urban Growth Management 20-acre minimum (UGA-UGM-20).
- 1.3 The subject property is located within the Albany Urban Growth Boundary (UGB) and designated on the Comprehensive Plan Map designation as Urban Residential Reserve (Attachment B).

#### Conclusions

- 1.1 The subject property is contiguous to the existing Albany city limits and located within the UGB as established by the Albany Comprehensive Plan.
- 1.2 The subject property is eligible for annexation and these criteria are satisfied.

#### Criterion 2

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

- a. ***An adequate level of urban services and infrastructure is available or will be made available in a timely manner.***
- b. ***As used in this section:***
  - i. ***“Adequate level” means conforms to adopted plans and ordinances.***
  - ii. ***“Urban services” means police, fire, and other City-provided services.***
  - iii. ***“Infrastructure” means sanitary sewer, water, storm drainage, and streets.***
  - iv. ***“Be made available in a timely manner” means that improvements needed for an adequate level of urban services and infrastructure will be provided at the time and place needed to serve the anticipated development. Improvements may be secured by a***



***development agreement, annexation agreement, or other funding mechanism that will place the primary economic burden on the territory proposed for annexation and not on the City of Albany generally.***

### Findings of Fact

- 2.1 **Fire:** Adequate public water and access for fire protection is available for this area. There are properties to the east that are currently being served by the Albany Fire Department. Fire service to this property would be a logical expansion of the current service boundaries.
- 2.2 **Police:** There are properties to the east that are currently being served by the Albany Police Department. Police service to this property would be a logical expansion of the current service boundaries.
- 2.3 **Sanitary Sewer:** City utility maps show no public sanitary sewer facilities adjacent to the subject property. The nearest sewer that can be extended to serve the property is in Ellingson Road SE approximately 2,100 feet west of Lochner Road. The public sewer in Ellingson Road, east of the site, serves a different sewer basin and is not intended to serve this property.
- 2.4 Future development on the subject property will require public sanitary sewer facilities be available to the site. This will necessitate the public sewer in Ellingson Road, west of the subject property, be extended easterly to Lochner Road and northerly in Lochner Road to the north boundary of the subject property.
- 2.5 **Water:** City utility maps show no public water facilities adjacent to the subject property. The nearest water facilities are being constructed in Ellingson Road, east of the site. These water facilities have not yet been accepted by the City as public. It is expected the utilities being constructed for the development to the east will be accepted as public within the next few months.
- 2.6 Future development on the subject property will require public water facilities be available to the site. This will necessitate the public water in Ellingson Road, east of the subject property, be extended westerly approximately 1,800 feet to the westernmost boundary of the subject property. The Henshaw Farms development to the east shows a public street with associated utilities being constructed adjacent to the southeast corner of the subject property. If these public improvements are in place and accepted by the City prior to development of the subject property, access to these utilities may provide a means of serving the site.
- 2.7 The City's Water Facility Plan calls for oversized piping in Ellingson Road SE. The existing main in Ellingson Road, west of the site, is 24-inch diameter and the main east of the site is 16-inch diameter. It is anticipated that the extension of the 16-inch main from the east will remain a 16-inch diameter at least to Lochner Road SE.
- 2.8 **Storm Drainage:** City utility maps show no piped public storm drainage improvements in Ellingson Road SE or Lochner Road SE along the subject property's frontages. Ellingson Road SE and Lochner Road SE, in this area, are not improved to City standards, as they lack curb, gutters, and piped storm drainage.
- 2.9 Future development on the subject property will likely require Lochner Road SE be improved to City standards with curb, gutter, and public storm drainage facilities. Upon development of the site, the developer must submit a drainage study showing how stormwater runoff from this area will be accommodated by improvements to the property and Lochner Road SE. This study will help determine what type of storm drainage improvements will be needed for a development on this site.
- 2.10 **Transportation Infrastructure:** The proposed annexation is a ±26.61-acre parcel east of Lochner Road, approximately 740 feet north of the Lochner Road and Ellingson Road intersection. Lochner Road SE is classified as a minor arterial and unimproved along the property's west frontage, except for two paved travel lanes. A condition to improve curb, gutter, sidewalk along the site's west frontage can be applied to a future development proposal for the site.

Albany's Transportation System Plan (TSP) assumed this site would be annexed into the City and developed with low- to medium-density residential uses.

## Conclusions

- 2.1 Police and Fire services are currently available to serve the property proposed for annexation.
- 2.2 No public utilities (sanitary sewer, water, storm drainage) exist adjacent to the subject property.
- 2.3 Future development of the subject property will necessitate that all public utilities be extended/constructed to the site, along the Lochner Road SE frontage, and within the site as needed to provide utility services to any proposed development.
- 2.4 Utility extensions needed to serve the subject property may require off-site improvements and oversized piping to be installed to satisfy the recommendations of the various facilities plans.
- 2.5 The area proposed for annexation adjoins a minor arterial street that requires an improvement of curb, gutter, and sidewalk along the site's west frontage. Any future development application on the site can be conditioned to require street dedication and installation of improvements.
- 2.6 The transportation system can support development of the site.
- 2.7 An adequate level of urban services and infrastructure is available or will be made available in a timely manner.

## Criterion 3

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

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

## Findings of Fact

- 3.1 The proposed annexation is a ±26.61-acre parcel to the east of Ellingson Road, 740 feet north of the Lochner Road and Ellingson Road intersection. The Comprehensive Plan Map designation for the subject property is URR. The proposed includes a concurrent request to apply a City of Albany zoning district of RS-5, which are consistent with the URR plan map designation.
- 3.2 The site is also located within the SAAP planning area, and the SAAP was adopted as part of the Comprehensive Plan. The SAAP shows the site planned for a community park and public facilities. The proposed RS-5 zone is consistent with the SAAP land use designation.
- 3.3 Public infrastructure facility plans that deal with this area include the City's Capital Improvement Program, Water Facility Plan, Wastewater Facility Plan, Storm Drainage Master Plan, and the Transportation System Plan.
- 3.4 Public facilities that would be required to serve future development on the subject property are available at or near the site. As discussed under Criterion Two (above), an adequate level of urban services and infrastructure are available to serve the subject property; those findings are included herein by reference.

## Conclusions

- 3.1 Long range planning has been conducted for the region of the subject property. These plans include various public facilities plans, the SAAP, and the Albany Comprehensive Plan.
- 3.2 As discussed under Criterion Two, an adequate level of urban services and infrastructure are available to serve the subject property.
- 3.3 A park and public facilities under the proposed RS-5 zoning is consistent with the Comprehensive Plan.
- 3.4 This criterion is satisfied because the proposed annexation is consistent with various studies and plans covering this area.

## Criterion 4

***Reasonableness: The city council shall determine that the proposed annexation is reasonable.***

### Findings of Fact

- 4.1 The subject property abuts the existing city limits and the property proposed for annexation lies within the UGB. Because the property proposed for annexation is within the UGB, the area is intended to be served by City services.
- 4.2 An adequate level of urban services and infrastructure is currently available to serve the property proposed for annexation.
- 4.3 The annexation is requested by the property owner and applicant.
- 4.4 The proposed annexation is consistent with the SAAP of the Comprehensive Plan.

### Conclusions

- 4.1 The proposed annexation is reasonable because the property abuts the city limits, it is within the UGB, it can be served by City services and infrastructure, and it is consistent with the Comprehensive Plan.
- 4.2 This criterion is satisfied.

## Zoning Map Amendments Review Criteria (ADC 2.740)

***Zoning Map amendments will be approved if the council finds that the applicant has shown that all the following criteria are met.***

### Criterion 1

***The proposed based zone is consistent with the Comprehensive Plan Map Designation for the entire subject area unless a Plan map amendment has also been applied for.***

### Findings of Fact

- 1.1 The proposed annexation is a ±26.61-acre parcel east of Ellingson Road, 740 feet north of the Lochner Road and Ellingson Road intersection. The subject property is identified as Linn County Assessor's Map No. 11S-03W-29 Tax Lot 402, and it is located immediately north of 1131 Ellingson Road SE.
- 1.2 The subject property is currently under Linn County zoning as UGA-UGM-20.
- 1.3 The proposal is for a zoning map amendment from the UGA-UGM-20 to the Albany's Low Density (RS-5) zoning district, concurrent with annexation. The annexation criteria are addressed earlier in this report; those findings are included here by reference.
- 1.4 The Comprehensive Plan Map designation for the property is URR. The subject property is also located within the boundary of the SAAP, which calls for a community park and public facilities at this location.
- 1.5 As shown on the Plan Designation Zoning Matrix (ADC 2.760, Table 2-1), the RS-5 zoning district is consistent with the URR Comprehensive Plan Map Designation. In addition, the RS-5 zoning district is compatible with the public land uses planned for the site in the SAAP.

### Conclusions

- 1.1 The proposed RS-5 zone is consistent with the Comprehensive Plan Map Designation and the long-range land use designations that are planned for the subject property.
- 1.2 This criterion is satisfied.

### Criterion 2

***Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.***

### Findings of Fact

- 2.1 This criterion is addressed under Criterion Two of the Annexation review criteria; those findings and conclusions are included here by reference.
- 2.2 The transportation system can support residential development of the site as permitted under the

proposed RS-5 zoning district.

### Conclusions

- 2.1 Existing or anticipated transportation facilities are adequate for the proposed RS-5 zoning district.
- 2.2 This criterion is satisfied.

### Criterion 3

***Existing or anticipated services (water, sanitary sewers, storm sewers, schools, and police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.***

#### Findings of Fact

- 3.1 This criterion is addressed under Criterion Two of the Annexation review criteria; those findings and conclusions are included here by reference.
- 3.2 Public services and infrastructure are available to accommodate potential public facility development of the site, as permitted under the proposed RS-5 zoning district.
- 3.3 Any specific infrastructure requirements for future development would be determined at the time of land use application for the development.
- 3.4 The proposed zoning of the property to RS-5 zoning district would allow for the development of a public park and/or facilities with Site Plan Review or Conditional Use approval.

### Conclusions

- 3.1 Public services and utilities (sanitary sewer, water, and storm drainage) are adequate to serve potential development on the subject property under the proposed RS-5 zoning district.
- 3.2 This criterion is satisfied.

### Criterion 4

***The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.***

#### Findings of Fact

- 4.1 The current zone of the subject property is Linn County's UGA-UGM-20, and the proposed zone for the property is the Albany RS-5 zoning district.
- 4.2 According to ADC 3.020(4)(5), the RS-5 zoning district is "intended primarily for low- to moderate-density single-family development." The intent and purpose of the RS-5 zoning district is consistent with URR Comprehensive Plan Map Designation and with the park and public facility land uses planned for the site in the SAAP.
- 4.3 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed RS-5 zoning designation "best satisfies" the goals and policies of the Comprehensive Plan. Each of the relevant goals and policies are listed below in bold italic print.

***Statewide Planning Goal 1: Citizen Involvement (Chapter 9)***

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

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

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



*e) Where opposing viewpoints are expressed, attempt to reach consensus where possible.*

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

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

4.4 The ADC sets forth provisions for citizen involvement at public hearings before the planning commission and city council. In accordance with the Type IV quasi-judicial process for a zoning map amendment, notice was mailed to surrounding property owners within 300 feet of the subject site and affected government agencies. Notice of the public hearings were also posted on the subject property and published in the Albany Democrat-Herald. People who are notified of the public hearings are invited to submit comments or questions about the application prior to or at the hearing.

4.5 At the public hearing, the application is reviewed based on all criteria relevant to the proposal. The public hearing provides the opportunity for people to express their opinion about the proposed changes, and where opposing viewpoints are expressed, to try to reach consensus. The planning commission and city council facilitate this process at the public hearings. Based on these provisions, citizens have ample opportunity to review and comment on the proposed zoning map amendment.

**Statewide Planning Goal 2: Land Use Planning-Land Use Designations (Chapter 9)**

***To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

4.6 According to the Albany Comprehensive Plan, “The relationship of the Plan designation to the zoning districts is summarized graphically in the ‘Plan Designation Zoning Matrix.’ This matrix is for determining the compatibility of a particular zoning district with any given Plan designation. The matrix shows what zoning districts are compatible with each Plan designation”. The URR Comprehensive Plan Map Designation includes the RS-5 zoning district.

**Statewide Planning Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources (Chapter 1)**

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

***Policy 1: Protect and enhance wetlands adopted as significant in the Local Wetland Inventory.***

***Policy 2: Prohibit development within significant wetlands except for planned public utilities and infrastructure.***

***Policy 3: Within the city limits, wetlands within a floodway or significant riparian corridor shall receive protection and any development proposed shall not degrade the resource.***

4.7 The proposed rezone is for a ±26.61-acre parcel east of Ellingson Road, 740 feet north of the Lochner Road and Ellingson Road intersection. The Significant Wetland natural resource overlay impacts most of the subject property.

The Comprehensive Plan goals and policies for protection of natural resources are implemented through Article 6 of the ADC through clear and objective development standards. Future development of the site under the proposed RS-5 zone will require land use review, which will include evaluation of impacts to the Significant Wetland overlay district. As such, future development can be conditioned to avoid impacts to significant natural resources through application of the ADC.

The subject property also contains non-significant local wetlands that are regulated by the Oregon Department of State Lands (DSL). If impact to these wetlands occur in the future, a permit from DSL will be required before development could occur.

**Statewide Planning Goal 8: Recreational Needs (Chapter 7)**

***Goal 1: Provide a highway quality and diversified system of safe and attractive parks, open space, recreation programs, and facilities to: 1) Facilitate community access to leisure, recreation, open space, and cultural opportunities; 2) Meet the varied recreation and leisure needs of Albany's Citizens for self-expression, creativity, achievement, imagination, relaxation, and enjoyment; 3) enhance the beauty, livability, and positive image of Albany.***

***Policy 1: Continue to provide and develop a system of multipurpose parks and facilities (...)***

***Policy 2: Where possible, locate schools and parks on the same or adjacent sites and encourage the maximum use of public-school facilities for community recreation and other purposes.***

***Policy 3: Provide a variety of public and private recreation and leisure opportunities (...)***

***Policy 4: Promote the development of linear parks that incorporate hiking, jogging, and bicycle trails and/or provide buffers between incompatible uses.***

***Policy 7: Provide an appropriate level of neighborhood park and recreation facilities to both developed and developing neighborhood which lack readily accessible neighborhood recreation facilities.***

***Policy 8: Use the following minimum standards as guidelines to public policy and action in facilitating communitywide provision of parks and open space: Neighborhood parks, school parks, playfields = 5 acres/1,000 population; Community parks = 10 acres/1,000 population; Regional parks = 15 acres/1,000 population.***

***Policy 10: Maintain an active park and recreation planning effort to: (...) d. Coordinate the development, promotion, and provisions of recreation services, facilities and programs with the efforts of other public, quasi-public, and private interests.***

4.8 As discussed under Annexation Criterion Two, the subject property is in an area accessible to residential, employment, and public services. All City services are available to serve the development of public facilities on the subject property; those findings and conclusions are included here by reference.

4.9 The proposed zone change to RS-5 is the type of zoning anticipated by the Comprehensive Plan. ADC 2.760 states the RS-5 zone is compatible zoning district for the URR Comprehensive Plan Map land use designation; therefore, the zoning map amendment from UGA-UGM-20 to RS-5 is consistent with applicable recreation policies of the Comprehensive Plan. The City further refined this area in the SAAP, which shows the area as appropriate for development of a community park and public facilities. The RS-5 zone is consistent with the development of public facilities envisioned for this site by the SAAP; therefore, the zoning map amendment from UGA-UGM-20 to RS-5 zone is consistent with applicable recreation policies of the Comprehensive Plan.

4.10 **Statewide Planning Goal 14: Urbanization (Chapter 8)**

***Goal 1: Achieve stable land use growth which results in a desirable and efficient land use pattern.***

***Policy 1: Encourage urban level development to locate within the city limits of the Albany Urban Growth Boundary, unless such development can occur under annexation procedures (such as consent, delayed, and contract annexations).***

***Policy 2: Discourage low-density sprawl development within the unincorporated portion of the Urban Growth Boundary that cannot be converted to urban uses when urban services become available.***

***Policy 3: Since the undeveloped portions of the urban fringe are in transition from rural to urban uses, development in these areas shall occur in a manner consistent with the City of Albany and Linn and Benton Counties' Comprehensive Plans and implementing ordinances.***

***Policy 8: Require annexations to be logical and efficient extensions of city limit boundaries to***



***facilitate the economic provision of services.***

4.11 Goal 14 requires the City to forecast future growth needs and establish an urban growth boundary to separate land needed for urbanization from rural land. Goal 14 further states “land within the boundaries separating urbanizable land from rural land shall be considered available over time for urban uses.” The subject property is located within the Urban Growth Boundary and within the SAAP study area.

Public facilities that would be required to serve future development on the subject property are available at or near the site. Connection charges for sanitary sewer, water, and storm drainage will be due when development occurs.

The proposed RS-5 zone will ensure development potential is known, and the property is subject to the applicable City development regulations. By annexing, land can be developed more intensely in this case allowing for the development of recreation and public facilities near surrounding residential development and supporting the logical and efficient extension of public facilities and city services consistent with Comprehensive Plan Policies 1, 2, 3, and 8.

***Statewide Planning Goal 14, Urbanization: South Albany Area Plan (Chapter 8)***

***Policy 3: South Albany’s overall land use pattern of residential, employment, and open space areas shall be generally consistent with the Organizational Framework (see Figure 1).***

***Policy 4: Development patterns in South Albany should promote the efficient use of land and infrastructure and conservation of significant natural resources.***

***Policy 17: Comprehensive Plan and Zoning Map designations shall implement the Land Use Plan (see Figure 5), and be consistent with the following table:***

| SAAP Land Use Concept      | Comprehensive Plan Map Designation                        | Zone Map Designation |
|----------------------------|---|----------------------|
| Low-Density Residential    | Low-Density Residential                                   | RS-5, RS-6.5, RS-10  |
| Medium Density Residential | Village Center <i>at the Lochner and Columbus centers</i> | RM                   |
|                            | Medium Density Residential <i>at Mennonite Village</i>    | NC                   |
| Regional Commercial        | General Residential                                       | RC                   |
| Neighborhood Commercial    | Light Commercial  | NC                   |
| Industrial Park            | Light Commercial  | IP                   |
| Light Industrial           | Light Industrial  | LI                   |
| Heavy Industrial           | Heavy Industrial  | HI                   |
| Community Park             | Low-Density Residential                                   | RS-5                 |
| Open Space                 | Open Space  | OS                   |

4.12 As shown on the SAAP Organization Framework Map, the subject property is intended for residential use. The proposed RS-5 zone is consistent with the long-term vision for the property as residential use.

As shown on the SAAP Land Use Map, the subject property is intended for park and public facilities uses. The table above shows the SAAP Land Use Concept of Low-Density Residential is compatible with the proposed RS-5 zone.

The subject property is vacant parcel that is in an area accessible to public services. All City services are available to serve residential development on the subject property. Development of the property supports the efficient use of land and existing infrastructure.

## Conclusions

- 4.1 Goal 1, Citizen Involvement. The proposed zoning map amendment adheres to Goal 1 by following the provisions for conducting quasi-judicial public hearings.
- 4.2 Goal 2, Land Use Planning. The proposed zoning map amendment to the RS-5 zoning district is compatible with the URR Comprehensive Plan Map designation.
- 4.3 Goal 5, Open Spaces – Wetlands. A Significant Wetland natural resource overlay is located on the subject property. Future development of the site under the proposed RS-5 zone will require land use review, which will include evaluation of impacts to the Significant overlay district.
- 4.4 Goal 8, Recreational Needs. The site is identified in the SAAP for future development of a community park and public facilities. The RS-5 zoning district allows parks and public facilities to be developed with site plan review or conditional use approval. The proposed zoning map amendment to the RS-5 zone will make the proposed land use consistent with the intent of the recreational policies of the Comprehensive Plan.
- 4.5 Goal 14, Urbanization. The proposed RS-5 zone is consistent with policies contained in the Comprehensive Plan. The logical extension of public facilities allows development at urban level densities, consistent with Goal 14, Urbanization.
- 4.6 The intent and purpose of the proposed RS-5 zoning district best satisfies the goals and policies of the Comprehensive Plan.
- 4.7 This criterion is satisfied.

## Criterion 5

***The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan, or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.***

### Findings of Fact

- 5.1 The transportation plan relevant for the subject property is the Albany TSP and the SAAP. The site is located within the SAAP planning area, which was adopted as part of the Albany Comprehensive Plan. The TSP identifies improvements necessary to accommodate anticipated development through the year 2030.
- 5.2 OAR 660-012-0060(1) and (2) require land use regulation amendments, including amendments to zoning maps, to determine if the amendment will have a "significant affect" on transportation facilities and, if so, can it be mitigated. However, OAR 660-012-0060(9) provides that a zoning map amendment does not need to include this analysis, and the City can make a finding of no "significant affect", if:
  - a. A zoning map amendment is consistent with the existing comprehensive plan designation and does not change the comprehensive plan map designation.
  - b. The City has an acknowledged the TSP and the proposed zoning is consistent with the TSP; and
  - c. The area of the zoning map amendment was not exempted from the Transportation Planning Rule (TPR) analysis at the time of the UGB amendment. (OAR 660-012-0060(9)(a)-(c)).

The subject property complies with these criteria as follows:

- a. Albany's Comprehensive Plan Map within the acknowledged Albany Comprehensive Plan designates the subject property low- to medium-density residential. The proposed zoning

amendment would not change the Comprehensive Plan Map designation, and the RS-5 zoning designation is an implementing zone for the low- and medium-density residential designations.

- b. The Albany TSP assumed this site would be annexed into the City and developed with low- to medium-density residential uses. The proposed RS-5 zone is compatible with the long-range plan for low- to medium-density residential uses.
  - c. The subject property has been in the City's UGB since the time of adoption of the Comprehensive Plan and was not exempted from the TPR. The City can find all three (3) of these requirements are met.
- 5.3 The subject property adjoins a minor arterial street that is unimproved to City standards, except for two paved travel lanes.
- 5.4 Any future development application on the site can be conditioned to install required improvements, consistent with the TSP and SAAP.

### Conclusions

- 5.1 The proposed zone map amendment to RS-5 zoning district will not modify the transportation pattern envisioned by the TSP or SAAP.
- 5.2 This criterion is satisfied.

### Overall Conclusion

Based on the above analysis, the applications for Annexation concurrent with a Zone Map Amendment from Linn County zone UGA-UGM-20 to Albany's Single-Family Residential (RS-5) zoning designation satisfies all applicable review criteria outlined in this report.

### Staff Recommendation

With respect to the proposed Annexation, the planning commission has three options:

- Option 1: Recommend that the city council approve the Annexation request as proposed;
- Option 2: Recommend that city council approve the Annexation with conditions; or
- Option 3: Deny the Annexation request. The city council will only consider the proposal on appeal by the applicants.

**Based on the analysis in this report, staff recommends that the planning commission recommend that the city council approve the Annexation request.**

Similarly, the planning commission has three options with respect to the proposed Zoning Map amendment request:

- Option 1: Recommend that the city council approve the Zoning Map Amendment request as proposed;
- Option 2: Recommend that city council approve the Zoning Map Amendment with conditions; or
- Option 3: Deny the Zoning Map Amendment request. The city council will only consider the proposal on appeal by the applicants.

**Based on the analysis in this report, staff recommends that the planning commission recommend that the city council approve the Annexation and Zoning Map Amendment request. If the planning commission follows this recommendation, the following motion is suggested:**

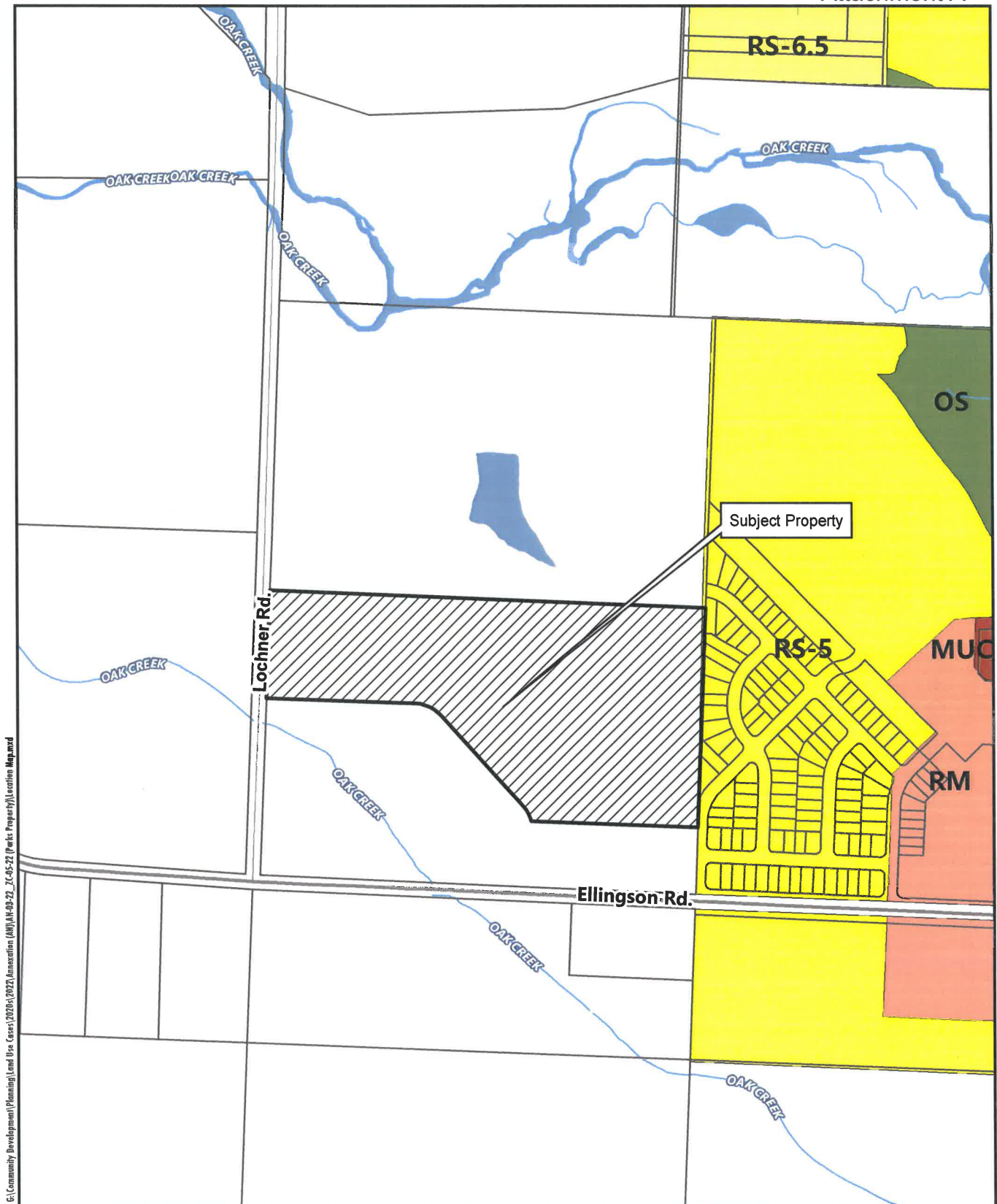
*I move that the planning commission recommend that the city council approve the land use application for annexation with concurrent rezone to RS-5 under planning files AN-03-22 and ZC-05-22, as described in the June 6, 2022, staff report. This motion is based on the findings and conclusions in the staff report and the findings in support of the application made by the planning commission during deliberations on this matter.*

### Attachments

- A. Location Map
- B. Comprehensive Plan Map
- C. Annexation Map
- D. Legal Description

### Acronyms

|            |   |
|------------|---|
| ADC        | Albany Development Code                                     |
| FEMA       | Federal Emergency Management Agency                         |
| FIRM       | Flood Insurance Rate Map                                    |
| UGA/UGM-20 | Urban Growth Area – Urban Growth Management 20-acre minimum |
| UGB        | Urban Growth Boundary                                       |
| URR        | Urban Residential Reserve                                   |
| RS-5       | Residential Single-Family District                          |
| TSP        | Transportation Systems Plan                                 |



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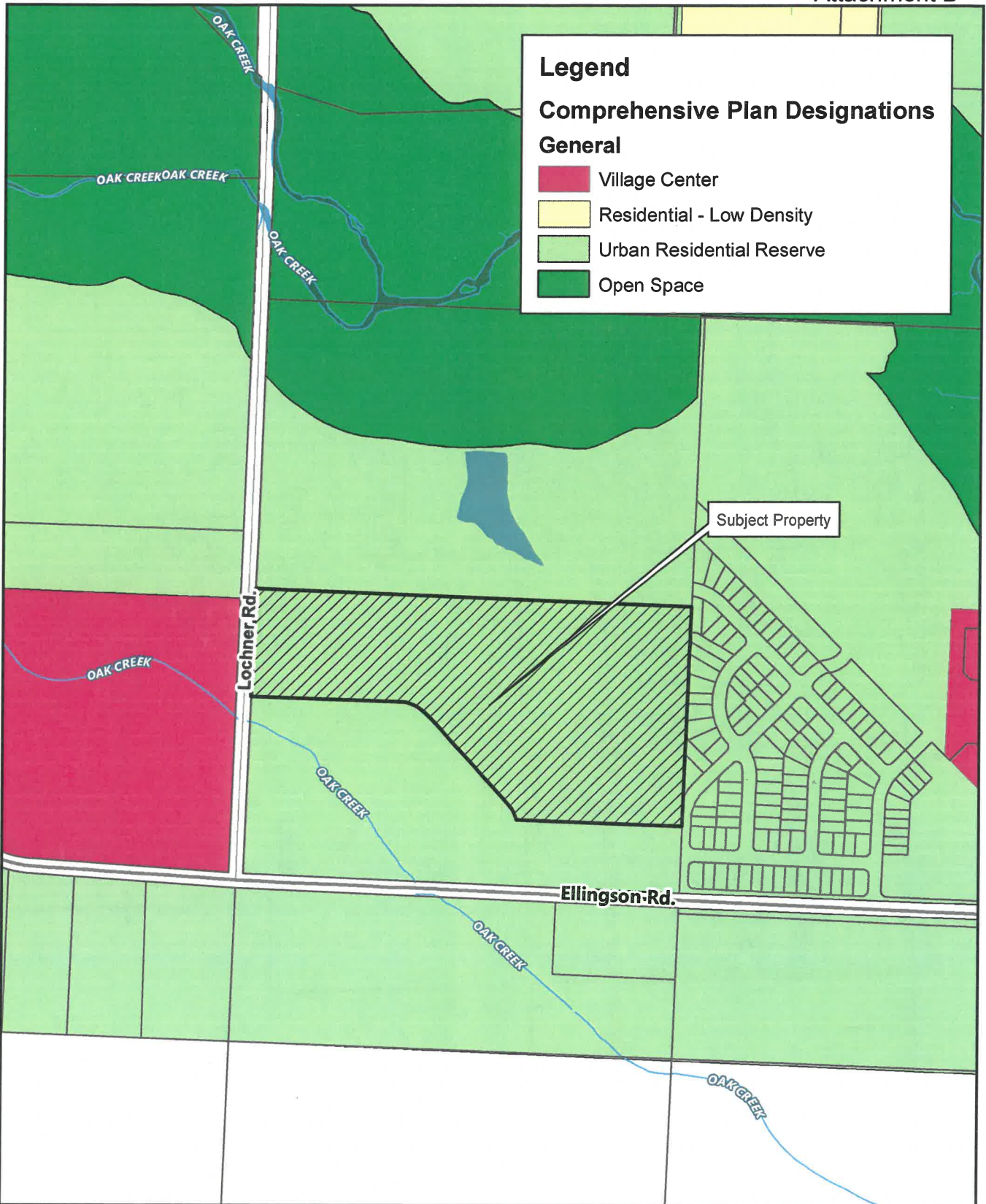


Date: 5/16/2022 Map Source: City of Albany

**City Parks Property**

Location Map





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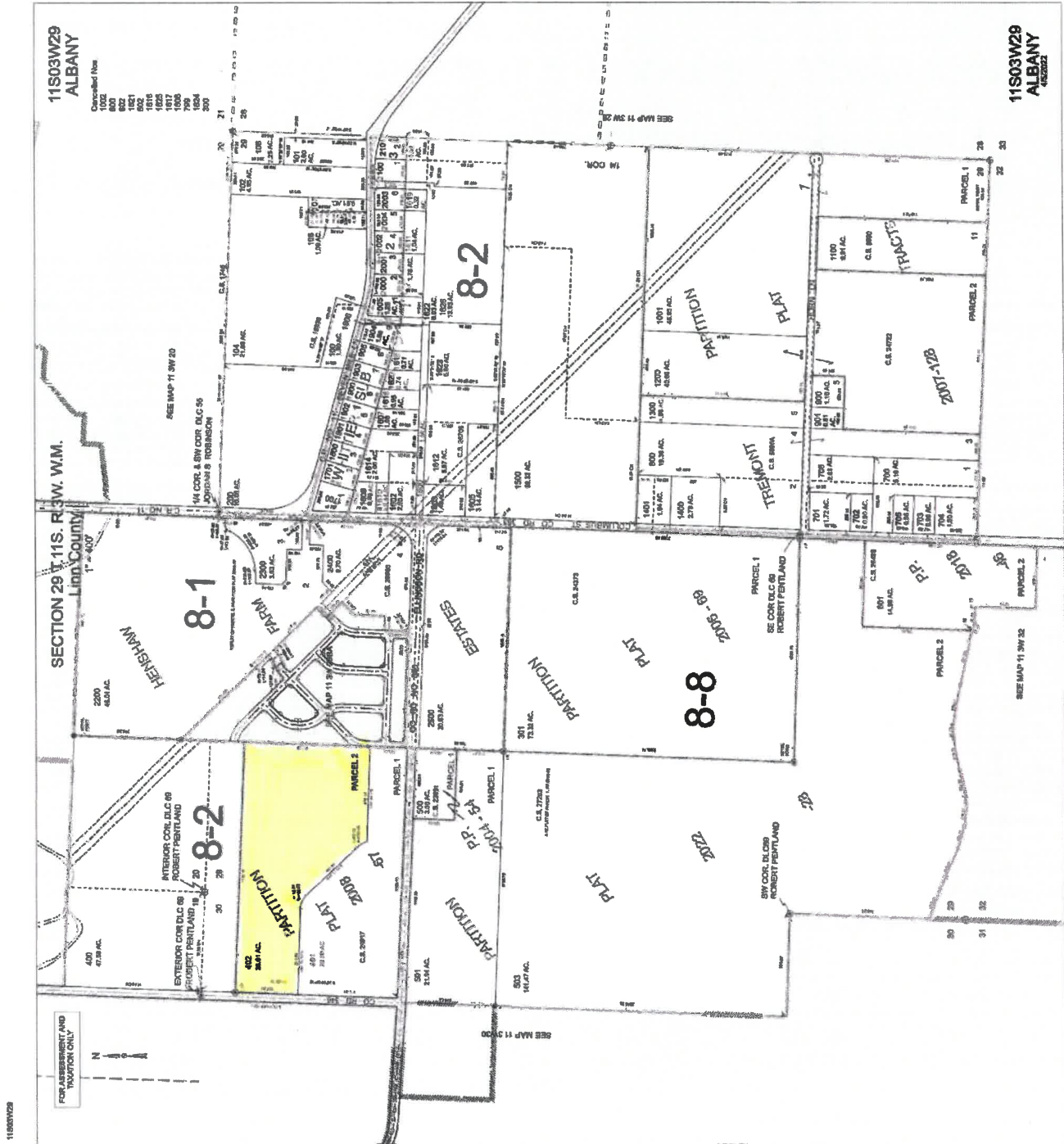


Date: 6/3/2022 Map Source: City of Albany

**City Parks Property**

Location Map





APN: 0128609

Statutory Warranty Deed  
- continued

File No.: 7091-1285011 (CLH)  
Date: 09/24/2008

**EXHIBIT A**

**LEGAL DESCRIPTION:**

Parcel 2, PARTITION PLAT NO. 2008-67, Record of Partition Plats, Linn County, Oregon.