



## COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | Building & Planning 541-917-7550

# Staff Report

## Tentative Partition Plat

RL-13-22

June 29, 2023

### Summary

This proposal is a request to consolidate two adjacent platted lots. The subject properties include 2881 Miller Lane NW and the property to the southwest, Tax Lot 2700. The applicant is proposing to combine the two lots into one. Land Division criteria contained in Albany Development Code (ADC) 11.180 are addressed in this report for the proposed development. The criteria must be satisfied to grant approval for this application.

### Application Information

Proposal:	Consolidate two adjacent lots
Review Body:	Planning Staff (Type I-L review)
Staff Report Prepared By:	Liz Olmstead, project planner
Property Owner/Applicant:	Richard Mulasky, 2881 Miller Lane NW, Albany, OR 97321
Address/Location:	2881 Miller Lane NW, Albany, OR 97321
Map/Tax Lot:	Benton County Assessor's Map No. 10S-04W-26DA Tax Lots 2600 & 2700
Zoning:	Residential Single Dwelling Unit District (RS-10)
Comprehensive Plan:	Residential - Low Density
Overlay Districts:	Hillside Development Overlay
Total Land Area:	0.94 acres
Existing Land Use:	Residential single dwelling unit
Neighborhood:	North Albany
Surrounding Zoning:	North: Residential Single Dwelling Unit District (RS-10) East: RS-10 South: RS-10 West: RS-10
Surrounding Uses:	North: Vacant East: Vacant South: Vacant & Park West: Residential
Prior History:	Valley View Heights Subdivision

### Staff Decision

The subject application referenced above is APPROVED as described in this staff report. The approval expires three years from the date of tentative plat approval. The final plat must be recorded with the Linn County Records Division (ADC 11.065) unless an extension is approved by the City and the County Surveyor's Office.

## Appeals

The City's decision may be appealed to the Albany Planning Commission if a person with standing files a completed notice of intent to appeal and the associated filing fee no later than 10 days from the date the City mails the notice of decision [ADC 1.220(7)].

## Notice Information

A Notice of Filing was mailed to property owners identified within 300 feet of the subject properties on June 6, 2023, in accordance with ADC 1.220. At the time the comment period ended on June 20, 2023, the Albany Planning Division had received no comments.

## Analysis of Development Code Criteria

The ADC includes the following review criteria for a Tentative Plat (ADC 11.180), which must be met for these applications 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.

### Tentative Plat Review Criteria

#### Criterion 1

**The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this section.**

#### Findings of Fact

- 1.1 The subject site includes two properties identified on the Benton County Tax Assessor's map as 10S-04W-26DA Tax Lots 2600 & 2700 (lots 18 and 19 of the Valley View Heights Subdivision Plat) (Attachment A).
- 1.2 The underlying zoning district of the subject lots is Residential Single Dwelling (RS-10) The RS-10 district is intended for low-density residential development.
- 1.3 As presented on the Tentative Replat (Attachment B), the proposal is to consolidate tax lots 2600 and 2700.
- 1.4 According to Article 3 of the ADC, Table 3.090-1, the minimum lot size for a single dwelling unit is 10,000 square feet with a minimum lot width of 65 feet. The consolidation of the two lots will result in a lot size of 0.94 acres (40,946 square feet), with a width of approximately 231 feet. The combined lots will comply with the minimum lot size and width after the proposed adjustment.
- 1.5 ADC 11.090(1) states lots must be arranged such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all proposed lots in compliance with the requirements of the Code. The proposed replat will not increase or create any foreseeable difficulties in further development of the site in accordance with ADC standards.
- 1.6 According to ADC 11.090(2), when lots are more than double the minimum area designated by the zoning district, those lots must be arranged to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat. The subject lots are currently greater than double the minimum lot size for properties in the RS-10 zoning district. The consolidation will create a parcel greater than double the minimum lot size. The proposal is for a replat; therefore, an urban conversion plan is not required.
- 1.7 ADC 11.090(3) states double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector or arterial street status or to overcome specific disadvantages of topography and/or orientation. Neither of the properties involved in the adjustment are a corner lot, nor will either property become a corner lot through the consolidation. This standard is met.
- 1.8 ADC 11.090(4) states side yards of lots shall run at right angles to the street the property faces. The consolidated parcel will have side yards that will run at right angles to the street frontage. This standard is met.

- 1.9 ADC 11.090(5) lists dimensional requirements when street blocks are created as part of the land division. The proposed replat does not create any new streets or blocks. This standard is not applicable.
- 1.10 ADC 11.090(6) states off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible. The consolidated property has access to public streets, Miller Lane NW and NW Whispering Oaks Place, which are not developed with off-street pedestrian pathways. This standard is met.
- 1.11 ADC 11.090(7) provides recommendations for the minimum distance between arterial street intersections. No new streets or intersections are proposed; therefore, this standard is not applicable.
- 1.12 ADC 11.090(8) regards developments located on a cul-de-sac lot. The proposed lot does not utilize a cul-de-sac; therefore, this standard is not applicable.
- 1.13 ADC 11.090(9) pertains to flag lots. No flag lot is proposed; therefore, this standard is not applicable.
- 1.14 ADC 11.090(10) regards street intersections and minimum curb radius. No street intersections are created or impacted by the proposed replat; therefore, this standard is not applicable.

## Conclusions

- 1.1 The proposal meets the standards of the underlying zoning district.
- 1.2 The proposed replat does not propose to create new blocks, intersections, cul-de-sacs, or double-frontage lots.
- 1.3 The proposal meets the underlying development and lot and block standards of the RS-10 zoning district.
- 1.4 This criterion is satisfied without conditions.

## Criterion 2

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

### Findings of Fact

- 2.1 The proposed replat will consolidate tax lots 2600 and 2700 into a 0.94-acre unit of land.
- 2.2 The site is owned in its entirety by Richard Mulaskey and Susanna Pfeffer-Mulaskey. There are no other adjacent properties under the same ownership.

## Conclusions

- 2.1 The above criterion is satisfied; there will be no remainder of property to consider.

## Criterion 3

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

### Findings of Fact

- 3.1 This review criterion has been interpreted by the City Council to require only that adjoining land either have access, or be provided access, to public streets.
- 3.2 ADC 12.060 requires that development must have frontage on, or approved access to, a public street currently open to traffic.
- 3.3 ADC 12.110 states new streets may be required to be located where the City Engineer determines additional access is needed to relieve, or avoid, access deficiencies on adjacent or nearby properties.
- 3.4 The proposed consolidated property has access to Miller Lane NW and Whispering Oaks Place, public rights-of-way. No new streets are proposed by this application.

## Conclusions

- 3.1 All the adjoining land has, and will continue to have, access to Miller Lane NW and NW Whispering Oaks Place public rights-of-way.
- 3.2 This criterion is met without conditions.

## Criterion 4

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

### Findings of Fact

- 4.1 The applicant proposes to consolidate two properties into one unit of land. Tax lot 2600 is developed with a single dwelling unit and tax lot 2700 is undeveloped.
- 4.2 ADC 12.060 requires public streets adjoining new development be improved to City standards. The property has frontage on Miller Lane NW and NW Whispering Oaks Place. No additional lots are being created; therefore, the adjacent rights-of-way are not required to be improved.
- 4.3 Albany's Transportation System Plan (TSP) does not identify any congestion or safety issues along the street frontages of the site.

## Conclusions

- 4.1 The properties have frontage on Miller Lane NW and NW Whispering Oaks Place. No additional lots are being created; therefore, the adjacent rights-of-way are not required to be improved.
- 4.2 This criterion is met without conditions

## Criterion 5

**The location and design allow development to be conveniently served by various public utilities.**

### Findings of Fact

#### *Sanitary Sewer*

- 5.1 City utility maps show an eight-inch public sanitary sewer main in NW Whispering Oaks Place and an 8-inch sanitary sewer for Miller Lane NW located in North Albany Park, just south of the Miller Lane NW right-of-way. The subject property is currently connected to the public sanitary sewer system.
- 5.2 AMC 10.01.010 (1) states that the objective of the Albany Municipal Code requirements pertaining to public sanitary sewers is to facilitate the orderly development and extension of the wastewater collection and treatment system, and to allow the use of fees and charges to recover the costs of construction, operation, maintenance, and administration of the wastewater collection and treatment system.
- 5.3 ADC 12.490 states that sewer collection mains must be extended along the full length of a property's frontage(s) along the right(s)-of-way or to a point identified by the City Engineer as necessary to accommodate likely system expansion. ADC 12.510 requires main extensions through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide access to the public system for current or future service to upstream properties. Extension of the sewer across the frontage and/or through the interior of a property makes the system available to adjacent properties. Then, when the adjoining property connects, that property owner must extend the sewer in a similar manner, making the sewer available to the next properties. In this way, each property owner shares proportionately in the cost of extending sewer mains.
- 5.4 Where a property abuts more than one street or right-of-way, sewer mains shall be extended for the full length of the property frontages along the rights-of-way for all frontages, unless it is determined that the extensions on the frontages from which service is not being taken are not currently needed to provide service to other properties, and that those sewer mains may be completed at a future time. If the City Engineer authorizes a delay in construction of sewer mains, the property owner(s) must sign

a Petition for Improvements and Waiver of Remonstrance that commits the property to participate in a future local improvement district (AMC 10.01.100(5)(d)).

### *Water*

- 5.5 City utility maps show a two-inch public water main in Miller Lane NW. The subject property is currently connected to the public water system.
- 5.6 AMC 11.01.120 (2) states that all required public water main extensions must extend to the furthest property line(s) of the development or parcel. Main extensions may be required through the interior of a property to be developed where the City Engineer determines that the extension is needed to provide current or future looping of water mains, or to provide current or future service to adjacent properties. When the owner of a property is required to connect to the public water system, the water main must be extended across the property's entire frontage and/or through the interior of the property. Extension of the water across the property's frontage and through the interior of the property makes the system available to adjacent properties. Then, when the adjoining property connects, that property owner must extend the water mains in a similar manner, making the water available to the next properties. In this way, each property owner shares proportionately in the cost of extending water mains.
- 5.7 AMC 11.01.120 (2) states that the City shall have the sole right to determine size, location, and type of facility to be constructed. All engineering of public water facilities shall be based on both domestic and fire protection design criteria, and in accordance with the City's water facility plan. All public water system improvements to be built under a private contract require that the developer obtain a Permit for Private Construction of Public Improvements.
- 5.8 AMC 11.01.100(1)(d) states that where a parcel has more than 150 feet of frontage along a right-of-way and the parcel is being developed in phases; and the water line is not currently needed for the full length of the parcel to facilitate service to other properties, to provide fire protection, or to meet other utility system needs, the requirement of Section 11.01.100(1)(c) of this code may be reduced, where approved, by delaying the requirement for a water main adjacent to that portion of the parcel which remains as an undeveloped portion of a future phase. Such delay, if authorized, is contingent upon the signing of a waiver of remonstrance agreement which commits the parcel to participate in a future local improvement (assessment) district for the extension of water main(s).

### *Storm Drainage*

- 5.9 City utility maps show no piped public storm drainage facilities in Miller Lane NW nor NW Whispering Oaks Place. Miller Lane NW and NW Whispering Oaks Place are not improved to city standards, as they lack curb and gutter along the subject property frontages.
- 5.10 The proposed property replat will not negatively affect public storm drainage services to the existing properties, or impact storm drainage service availability for future development on these parcels.

### *Conclusions*

- 5.1 The Public Works Director has determined that the public facilities and utilities are available to serve the proposed partition in accordance with Article 12 or will be made available at the time of development.
- 5.2 Public sanitary sewer is available to Miller Lane but is not timely to be constructed at this time.
- 5.3 The applicant must sign a petition and waiver form for future construction of public sewer facilities in Miller Lane NW.
- 5.4 Public water is available to Miller Lane NW but undersized and inadequate to serve any more demand. Since this replat will not create a new demand on the water system, is not timely to be constructed at this time.
- 5.5 The applicant must sign a petition and waiver form for future construction of public water facilities in Miller Lane NW.

5.6 This criterion is met with conditions.

### Condition

- Condition 1 Prior to final approval of the replat, the property owners must submit a signed and notarized Petition for Improvements/Waiver of Remonstrance for a public sewer across the Miller Lane NW frontage of Lots 18 and 19.
- Condition 2 Prior to final approval of the replat, the property owners must submit a signed and notarized Petition for Improvements/Waiver of Remonstrance for a public water across the Miller Lane NW frontage of Lots 18 and 19.

### Criterion 6

**Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.**

#### Findings of Fact

- 6.1 Article 4: Airport Approach District. Figure 4.410-1 of the ADC indicates the subject property is not located within the Airport Approach district.
- 6.2 Article 6: Hillside Development. *Comprehensive Plan Plate 7: Slopes*, shows 12% to 25% slopes and slopes over 25% on the subject property. Development on steep slopes will be evaluated at time of building permit application for future construction.
- 6.3 Article 6: Floodplains. *Comprehensive Plan Plate 5:* Based on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM# 41043C00195H, dated December 8, 2016) the subject property is located outside of the Special Flood Hazard Area (SFHA), otherwise known as the 100-year floodplain.
- 6.4 Article 6: Wetlands. *Comprehensive Plan Plate 6* does not show any wetlands on the property. The National Wetlands Inventory (NWI) does not show wetlands on the property. This property is not included in a local wetlands inventory.
- 6.5 Article 6 Habitat Assessment Overlay District: The subject property is not located within the Habitat Assessment Overlay District.
- 6.6 Article 6 Riparian Corridor Overlay District: The subject property is not located within the Riparian Corridor Overlay District.
- 6.7 Historic and Archaeological Resources. *Comprehensive Plan, Plate 9:* shows the property is not in a historic district. There are no known archaeological sites on the property.

#### Conclusions

- 6.1 The subject property is located within the Article 4 (Airport Approach) special purpose district and subject to the height restrictions of ADC 4.420 and the noise standards of ADC 4.440.
- 6.2 Slopes 12% to 25% and slopes over 25% are present on the subject property. Development on the slopes will be evaluated at time of building permit application for future construction.
- 6.3 There are no regulatory floodplains on the subject property, according to FEMA/FIRM Community Panel No. 41043C00195H, dated December 8, 2016.
- 6.4 No wetlands or riparian corridors are present on the property, and the subject property is not located in a Habitat Assessment Overlay District.
- 6.5 The proposed development is not located within a historic district as described on the Comprehensive Plan Plate 9.
- 6.6 This criterion is met without conditions.

## Overall Conclusion

As proposed, the application for Tentative Replat to adjust the property line between two properties satisfies all applicable review criteria as outlined in this report.

## Conditions

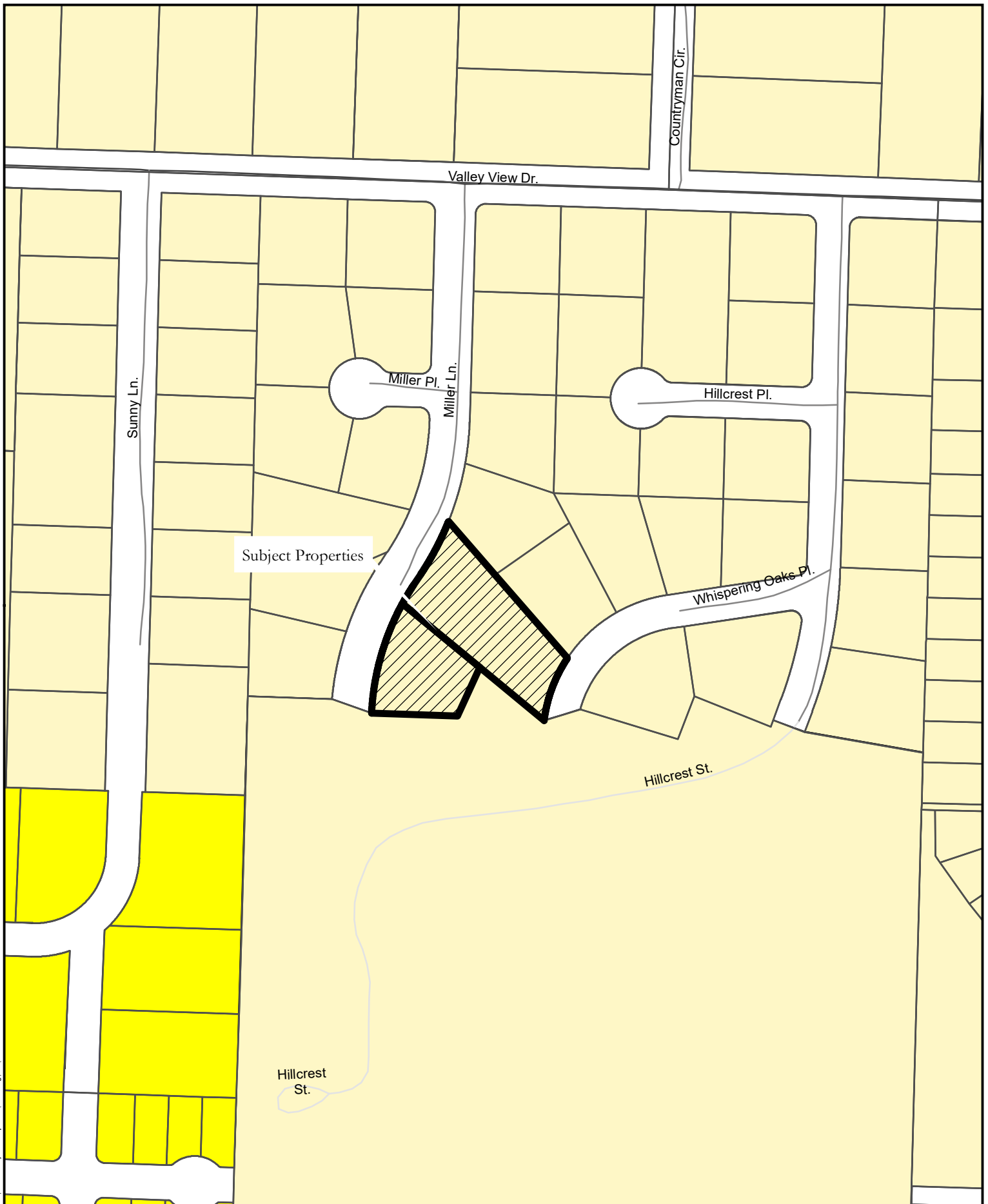
- Condition 1      Prior to final approval of the replat, the property owners must submit a signed and notarized Petition for Improvements/Waiver of Remonstrance for a public sewer across the Miller Lane NW frontage of Lots 18 and 19.
- Condition 2      Prior to final approval of the replat, the property owners must submit a signed and notarized Petition for Improvements/Waiver of Remonstrance for a public water across the Miller Lane NW frontage of Lots 18 and 19.

## Attachments

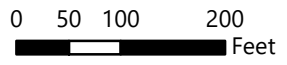
- A. Location Map
- B. Proposed Tentative Replat

## Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
NWI	National Wetland Inventory
RL	Replat File Designation
RS-10	Residential Single-Dwelling Unit District
SFHA	Special Flood Hazard Area



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Date: 5/24/2023 Map Source:

**2881 Miller Lane NW**

Location Map



**SUBJECT PROPERTIES**

**PROPERTY 1**  
TAX LOT 2600 (MAP 105-04W-26DA)  
2811 NW MILLER LANE  
ALBANY, OR 97321

**OWNER:**  
RICHARD MULASKEY + SUSANNA PFEFFER-MULASKEY  
2811 NW MILLER LANE  
ALBANY, OR 97321

**PROPERTY 2**  
TAX LOT 2700 (MAP 105-04W-26DA)  
NO ADDRESSES ASSIGNED

**OWNER:**  
RICHARD MULASKEY + SUSANNA PFEFFER-MULASKEY  
2811 NW MILLER LANE  
ALBANY, OR 97321

**ADJUSTMENT STATS:**

**PROPERTY 1**  
ORIGINAL AREA: 0.54 ACRES \*  
ADJUSTMENT: +0.40 ACRES  
NEW AREA: 0.94 ACRES

**PROPERTY 2**  
ORIGINAL AREA: 0.40 ACRES \*  
ADJUSTMENT: -0.40 ACRES  
NEW AREA: 0.00 ACRES

\* PER COUNTY ASSESSOR'S DATA

**NOTE:**

DATA SHOWN ON THIS MAP FROM THE LINN COUNTY GIS DATABASE, AERIAL PHOTOGRAPHS, INFORMATION AND RECORD SURVEY INFORMATION.

**APPLICANT:**

SUSANNA MULASKEY  
2811 NW MILLER LANE  
ALBANY, OR 97321

**SURVEYOR:**

R+D ENGINEERING, INC.  
276 NW HICKORY ST.  
ALBANY, OR 97321

**NOTE:**

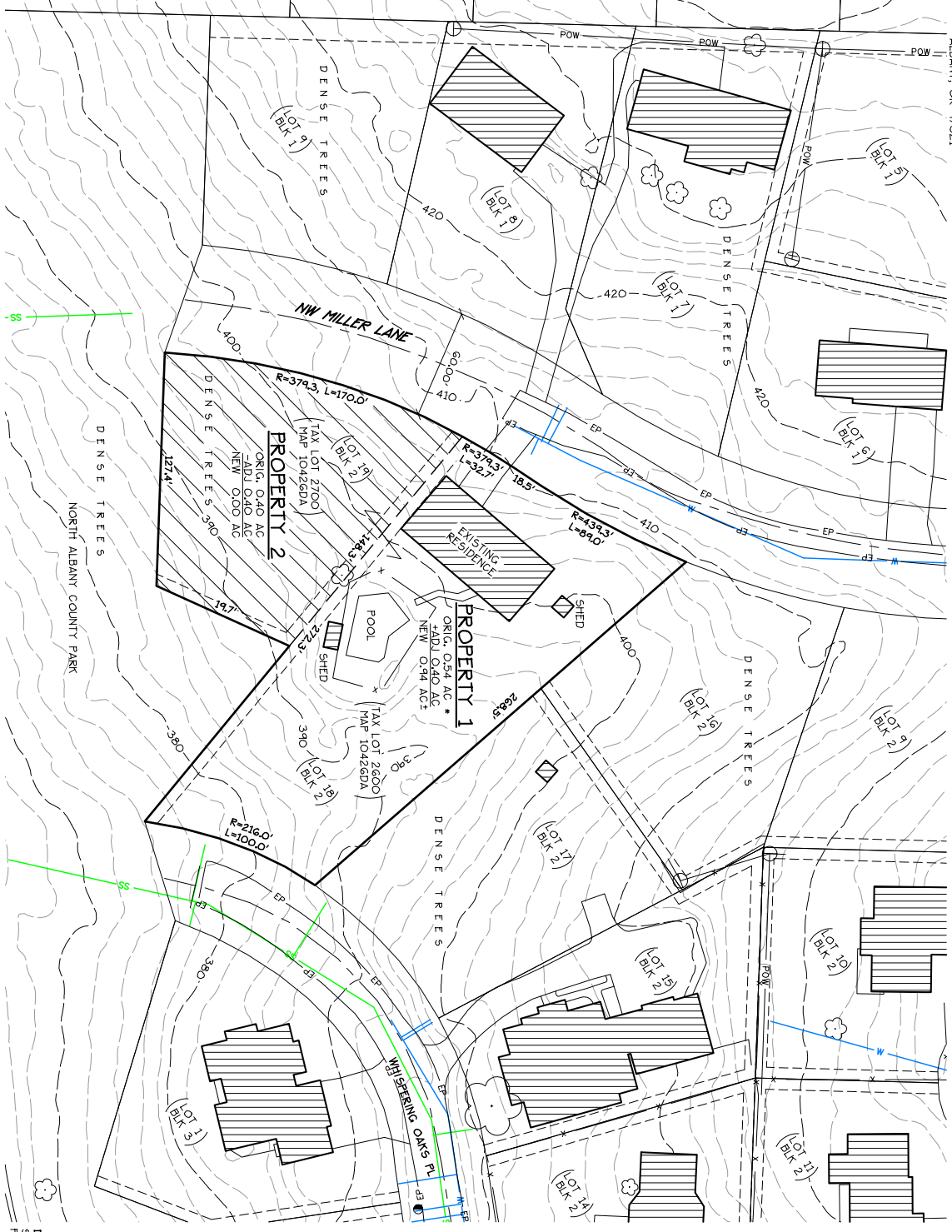
DATA SHOWN ON THIS MAP IS BASED ON BENTON COUNTY AND CITY OF CORVALLIS GIS DATABASES, ASSESSOR RECORDS, RECORDED DEED INFORMATION AND RECORD SURVEY INFORMATION.

**TENTATIVE PROPERTY LINE ADJUSTMENT**

LOT CONSOLIDATION  
A RE-PLAT OF LOTS 18 + 19 OF  
VALLEY VIEW HEIGHTS  
FOR

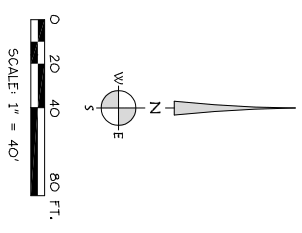
**RICHARD MULASKEY +  
SUSANNA PFEFFER-MULASKEY**

LOCATED IN  
SE 1/4 SEC. 26, T. 10 S., R. 4 W., W.M.  
IN THE  
CITY OF ALBANY, BENTON COUNTY, OREGON  
DECEMBER 13, 2022



**LEGEND:**

- ⊙ EXIST. UTILITY POLE
- ☁ DECIDUOUS TREE
- EP — EXIST. EDGE OF PAVEMENT
- EP — EXIST. OVERHEAD POWER
- SS — EXIST. SEWER LINES
- W — EXISTING WATER MAINS
- EXIST. UTILITY EASEMENT LINE
- PROPERTY LINE TO BE REMOVED
- ▨ AREA TO BE TRANSFERRED FROM PROPERTY "1" TO PROPERTY "2" TO 0.40 ACRES, PER ASSESSOR



**K & D ENGINEERING, INC.**  
276 NW HICKORY STREET, P.O. BOX 725  
ALBANY, OREGON 97321  
(503) 868-2880

Date: 12/13/2022 Time: 10:03  
Scale: 1"=40'  
File: dwg\2022\22-142\22-142\_1.rpdwg (George)