

ORDINANCE NO. 5578

AN ORDINANCE AMENDING ORDINANCE NO. 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN MAP; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY FOR PROPERTY LOCATED AT 155 COUNTRY CLUB LANE NW.

WHEREAS, the City is in Periodic Review, a process through which the City is updating its Comprehensive Plan, Plan Map, Development Code and Zoning Map in accordance with a work program approved by the Oregon Department of Land Conservation and Development in 1997; and

WHEREAS, the Albany Urban Growth Boundary crosses the developed property located at 155 Country Club Lane without regard for any features; and

WHEREAS, the City of Albany initiated an amendment to the Urban Growth Boundary with the permission of the property owner, the Spring Hill Country Club, to include the developed portion around the clubhouse in the Urban Growth Boundary;

WHEREAS, the Urban Growth Boundary may be amended with the approval of the governing bodies for the respective city and county; and

WHEREAS, the Albany Planning Commission recommended approval of the proposed map amendment, based on evidence presented in the staff report and testimony presented at the June 21, 2004, public hearing for City of Albany File No. CP-02-04; and

WHEREAS, the Benton County Planning Commission recommended approval of the proposed map amendment, based on evidence presented in the staff report and testimony presented at the July 6, 2004, public hearing for Benton County File No. LU-04-021; and

WHEREAS, the Benton County Board of Commissioners adopted the proposed map amendment on August 10, 2004, based on evidence presented in the staff report and testimony presented at the July 20, 2004, public hearing for Benton County File No. LU-04-021; and

WHEREAS, the Albany City Council held a public hearing on this same application on July 28, 2004, and passed the ordinance on first reading, deferring second reading until August 11, 2004, following the Benton County Board of Commissioners adoption of their ordinance.

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

Section 1: The Albany Urban Growth Boundary is hereby amended to include 2.18 acres as described in Exhibit A.

Section 2: The Albany Comprehensive Plan Map is hereby amended to designate 2.18 acres described in Exhibit A as Low Density Residential as shown on Exhibit B.

Section 3: The Residential Reserve Conversion Map (Figure 1, Comprehensive Plan) is hereby amended as shown on Exhibit C to designate future zoning for 2.18 acres described in Exhibit A as RS-10 (Single Family Residential, 10,000-square-foot minimum lot size).

Section 4: The Findings of Fact and Conclusions included in the staff report attached as Exhibit D are hereby adopted in support of this decision.

Section 5: A copy of the legal description and map showing the amendment to the Comprehensive Plan Map shall be filed in the Office of the City Recorder of the City of Albany and the changes shall be made on the official City of Albany Comprehensive Plan Map.

Section 6: A copy of the legal description of the affected property and the map showing the amendment to the Comprehensive Plan Map shall be filed with the Benton County Assessor's Office within 90 days after the effective date of this ordinance.

IT IS HEREBY adjudged and declared that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, and an emergency is hereby declared to exist, and this Ordinance shall take effect and be in full force and effect when passed by the City Council and approved by the Mayor.

Passed by Council: August 11, 2004

Approved by Mayor: August 11, 2004

Effective Date: August 11, 2004



Mayor

ATTEST:



City Clerk

K & D ENGINEERING, Inc.*Engineers • Planners • Surveyors***Revision to the City of Albany Urban Growth Boundary**

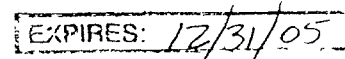
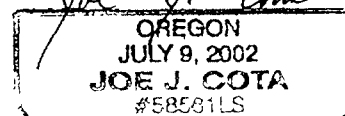
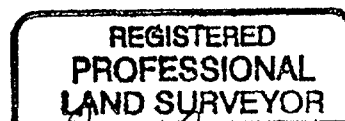
(Land to be added to the Urban Growth Boundary)

A portion of that Spring Hill Golf and Country Club Inc. tract described by deed recorded in M-228369-97 in the Benton County Deed Records on May 5, 1997 that is more particularly described as follows:

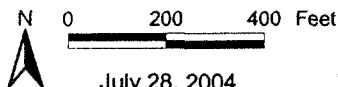
Beginning at northeast corner of Lot 8 of "FAIRWAY TERRACE", a subdivision recorded in Benton County; thence South 80°11'02" West 154.65 feet to a 3/4 inch iron rod at the northwest corner of said Lot 8; thence South 80°11'02" West 351.87 feet; thence North 04°26'37" East 99.01 feet; thence South 85°33'23" East 192.17 feet; thence North 06°28'52" East 53.66 feet; thence North 21°33'36" West 58.79 feet; thence North 58°42'32" East 21.82 feet; thence North 17°16'09" East 96.83 feet; thence North 57°25'38" East 85.12 feet; thence South 82°46'01" East 69.00 feet; thence South 32°34'22" East 45.95 feet; thence South 85°33'23" East 49.70 feet; thence North 63°11'22" East 18.90 feet; thence South 84°59'56" East 12.83 feet; thence South 53°35'27" East 18.28 feet; thence South 85°33'23" East 71.98 feet; thence South 04°26'37" West 112.00 feet; thence North 85°33'22" West 49.68 feet; thence South 02°53'18" West 87.11 feet to the Point of Beginning. Containing 2.18 acres more or less.

Basis of Bearings of the above described property is the north line of said Lot 8 South 80°11'02" West.

June 2, 2004
 REVISION TO CITY OF ALBANY
 URBAN GROWTH BOUNDARY
 (04-84) JJC mm
 File: mm\shared doc\Map\01-84 description.doc



Comprehensive Plan Map



July 28, 2004

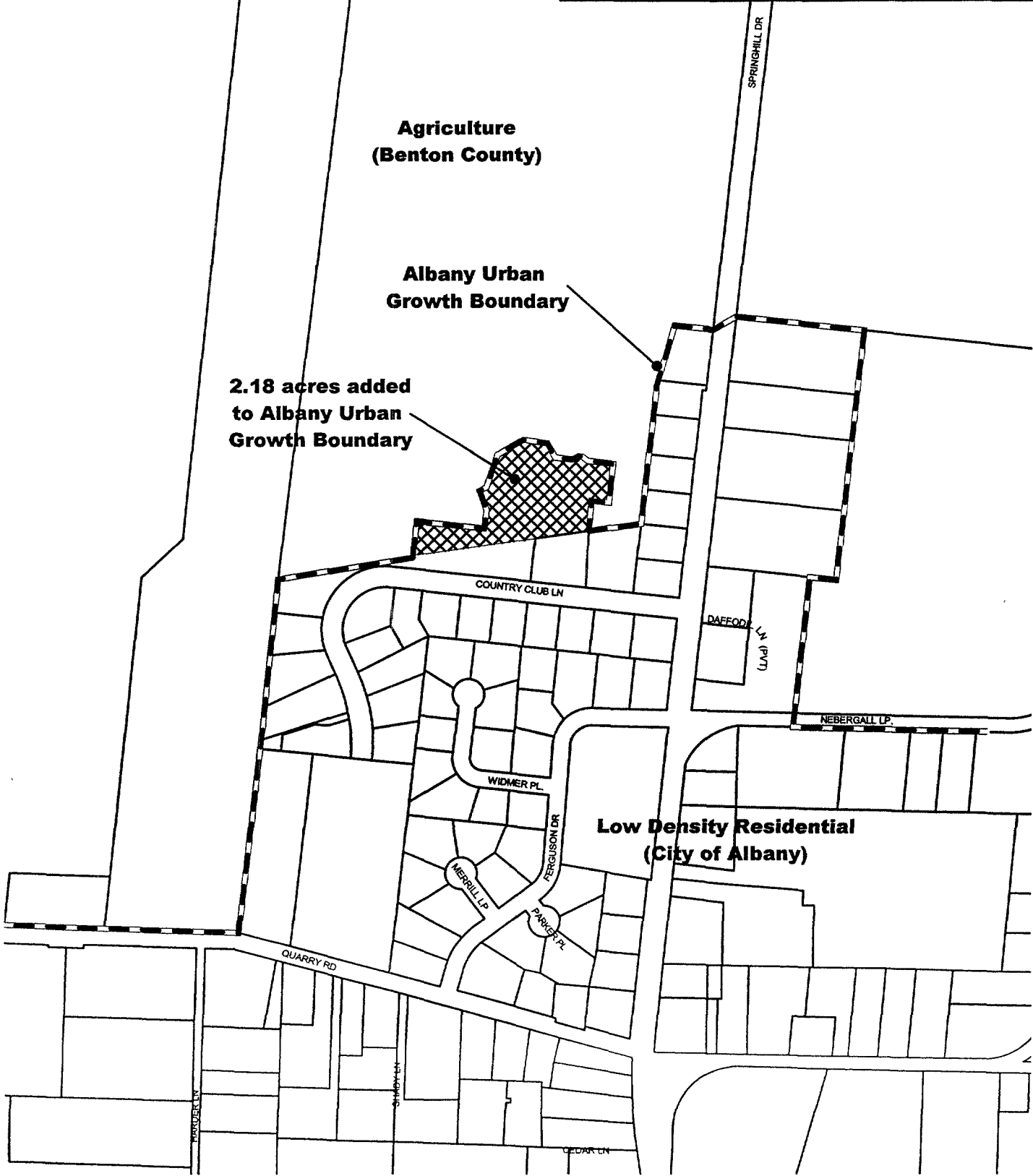


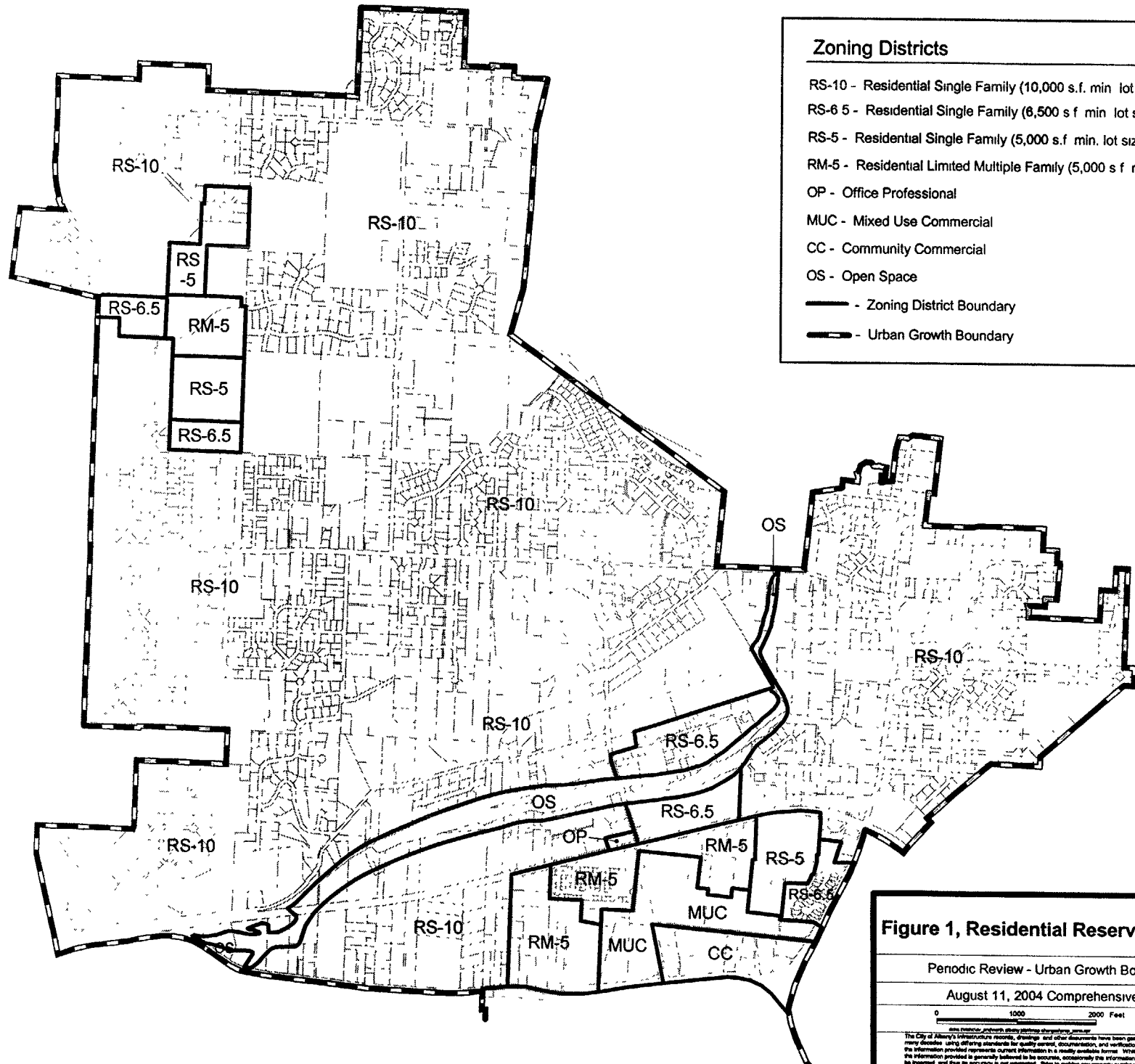
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**Agriculture
(Benton County)**

**Albany Urban
Growth Boundary**

**2.18 acres added
to Albany Urban
Growth Boundary**





Zoning Districts

- RS-10 - Residential Single Family (10,000 s.f. min lot size)
- RS-6.5 - Residential Single Family (6,500 s.f. min lot size)
- RS-5 - Residential Single Family (5,000 s.f. min lot size)
- RM-5 - Residential Limited Multiple Family (5,000 s.f. min lot size)
- OP - Office Professional
- MUC - Mixed Use Commercial
- CC - Community Commercial
- OS - Open Space

- - Zoning District Boundary
- - - - Urban Growth Boundary

Exhibit C

Figure 1, Residential Reserve Conversion Map

Periodic Review - Urban Growth Boundary Amendments

August 11, 2004 Comprehensive Plan amendment

0 1000 2000 Feet

The City of Albany's infrastructure records, drawings and other documents have been gathered over many decades using different standards for quality control, documentation, and verification. As the information provided is generally believed to be accurate, occasionally the information proves to be incorrect, and there is no warranty as to its accuracy. Prior to making any property purchase 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.



COMPREHENSIVE PLAN AMENDMENTS

STAFF ANALYSIS: STATE CRITERIA

Statewide Planning Goals 2, 3, and 14, related statutes, and administrative rules are applicable to this proposal. The goals are printed in **bold**. Relevant goal language, rules, statutes, policies, and code language are printed in *italics*. Applicable criteria are printed in ***bold italics***. Abbreviations used: ORS = Oregon Revised Statutes, OAR = Oregon Administrative Rules, ADC = Albany Development Code, BCC = Benton County Code.

Statewide Planning Goal 2 (Land Use Planning)

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.

Goal 2 establishes a standard process for complying with the statewide planning goals. When the statewide planning goals do not apply, Goal 2 allows for exceptions to this process:

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

- (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*
- (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and*
- (c) Complies with standards for an exception.*

Goal 2 allows three types of exceptions: developed, committed, and reasons. For a developed exception, the property must be physically developed to such an extent that applying the goal is not practicable. For a committed exception, the property must be irrevocably committed to uses not permitted by the goal, due to existing surrounding and physical characteristics. A reasons exception must be based on other reasons that justify a change in the designation of the property. A local government must choose the type of exception best suited for the circumstances and provide evidence in the record in support of the exception. Goal 2 explains the three types of exceptions as follows:

A local government may adopt an exception to a goal when:

- (a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;*
- (b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or*
- (c) The following standards are met:*
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;*
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;*
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. [Underline added]*

This staff report will make the case that the existing level of development associated with the clubhouse is such that it should be considered part of the urbanization pattern of Albany (Goal 14 – Urbanization), not a resource

use for Benton County (Goal 3 – Agriculture). Therefore, the proposed amendments are subject to the criterion for a ‘developed’ exception under Goal 2.

The exception requirements for land physically developed to other uses as codified in OAR 660-004-0025 apply to this proposal.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*
- (2) *Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*

The exception requirements for land irrevocably committed to other uses as codified in OAR 660-004-0028 also apply to this proposal.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:*
 - (a) *A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;*
 - (b) *For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;*
 - (c) *An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*
- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*
 - (a) *The characteristics of the exception area;*
 - (b) *The characteristics of the adjacent lands;*
 - (c) *The relationship between the exception area and the lands adjacent to it; and*
 - (d) *The other relevant factors set forth in OAR 660-004-0028(6).*
- (3) *Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:*
 - (a) *Farm use as defined in ORS 215.203;*
 - (b) *Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and*
 - (c) *Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).*
- (4) *A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.*
- (5) *Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.*
- (6) *Findings of fact for a committed exception shall address the following factors:*
 - (a) *Existing adjacent uses;*

- (b) Existing public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns of the exception area and adjacent lands:
 - (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;
 - (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.
- (d) Neighborhood and regional characteristics;
- (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;
- (f) Physical development according to OAR 660-004-0025; and
- (g) Other relevant factors.
- (7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.
- (8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:
 - (a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and
 - (b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

Statewide Planning Goal 3 (Agricultural Lands)

To preserve and maintain agricultural lands.

NOTE TO READER: The following excerpts provide the state and local legislative and statutory framework for protecting agricultural lands. This information is provided as context for the findings for exception to Goal 3.

Goal 3 says in part:

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

The Agricultural Land Use Policy adopted by the 1973 Legislature is intended to keep farm land productive and to protect it from encroachment by cities:

- (1) Open land used for agricultural use is an efficient means of conserving natural resources that constitute an important physical, social, aesthetic and economic asset to all of the people of this state, whether living in rural, urban or metropolitan areas of the state.*
- (2) The preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources and the preservation of such land in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.*
- (3) Expansion of urban development into rural areas is a matter of public concern because of the unnecessary increases in costs of community services, conflicts between farm and urban activities and the loss of open space and natural beauty around urban centers occurring as the result of such expansion.*
- (4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.*

The Benton County Comprehensive Plan contains the following Goal 3 policies:

Rural Land Use

- 1. Lands designated "Agriculture" and "Multi-Purpose Agriculture" on the Comprehensive Plan Map shall be preserved and maintained to encourage their utilization for agricultural production as specified by Statewide Planning Goal 3 (Agriculture).*
- 2. Agricultural lands as defined by Goal 3, which are not developed or committed to non-farm uses, shall be protected with Exclusive Farm Use (EFU) or Multi-Purpose Agriculture (MPA) zoning as described in ORS 215. The commercial standard stated in Goal 3 will be used to evaluate proposed divisions of land in the EFU Zone. Comprehensive Plan amendments from Agriculture to a non-resource designation shall require an Exception to Goal 3.*

Economy

- 12. The County shall support the continued viability of forestry and agriculture as the mainstays of the county's rural area economy by minimizing conflicts arising out of land use decisions, and providing for an adequate County road system necessary to efficiently transport products to markets.*

The Benton County Code explains the purpose and application of the EFU zone:

55.005 Exclusive Farm Use Zone.

- (1) The Exclusive Farm Use Zone (EFU) shall preserve and protect lands for continued and future commercial agricultural production and related uses, and conserve and protect open space, wildlife habitats, and other uses associated with agriculture. Except as otherwise provided by this code, the Exclusive Farm Use Zone shall preserve and maintain areas classified for farm use free from conflicting nonfarm uses and influences.*

55.015 Standards for Application of the Exclusive Farm Use Zone.

- (1) The Exclusive Farm Use Zone is applied to lands classified by the U.S. Soil Conservation Service as predominantly Class I-IV soils which are not otherwise subject to an exception of the statewide planning goals. The Exclusive Farm Use Zone is also applied to other lands necessary to preserve and maintain farm use consistent with existing and future needs for agricultural production. Soil capability classifications are*

indicated by the nature and type of soil, size and location of the property, the suitability of the terrain, and other similar factors. The Exclusive Farm Use Zone is also applied to intervening lands in different soil classes which are suitable for farm use or needed to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(2) *High-value farmland means land in a tract:*

(a) *Composed predominantly of soils that are classified prime, unique, Class I or Class II when irrigated or not irrigated.*

ORS 215.203(2)(a) defines farm use for purposes of compliance with Goal 3. The definition (see Attachment A) is extensive, but the first sentence, as adopted by Benton County in BCC 51.020(12)(b), defines the basis for identifying permitted uses in EFU zones:

(a) *As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.*

In 1994, amendments to the Benton County Development Code prohibited golf courses on high-value farm land:

55.108 Uses not permitted on High-Value farmland.

(1) *The following uses are not permitted to be established on high-value farmland:*

(g) *Golf courses.*

The Oregon Administrative Rules for Agricultural Lands (see Attachment B) explain in detail how golf courses and accessory uses remain consistent with Goal 3. The applicable provisions regarding clubhouses, as adopted by Benton County in BCC 55.210(2)(d), are as follows:

(d) *Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:*

(A) *An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; housing;*

(B) *Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., food and beverage service, pro shop, etc.) shall be located in the clubhouse rather than in separate buildings. [Underlines added]*

Exception to Statewide Planning Goal 3 (Agricultural Lands)

The criteria for both developed and committed exceptions apply to the amendments proposed in these applications.

Criteria for Developed Exceptions

The exception requirements for land physically developed to other uses as codified in OAR 660-004-0025 apply to this proposal.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*

FINDINGS OF FACT

- 1.1 The Spring Hill Country Club property encompasses 150.81 acres. The site is fully improved with an 18-hole course, driving range, pro shop, cart sheds, clubhouse, swimming pool, and parking lot. The clubhouse, swimming pool, parking lot and pro shop are clustered in the southeast corner of the property.
- 1.2 A 1.64-acre portion of the property was annexed to the City of Albany in 1991. The incorporated area includes part of the parking lot. Just outside the city limits/UGB, a 2.18-acre site contains the remainder of the parking lot, the clubhouse, and the swimming pool.
- 1.3 The object of the proposed amendments is the 2.18-acre clubhouse site. It is designated on the Benton County Comprehensive Plan Map as Agriculture and zoned Exclusive Farm Use (EFU). This is consistent with the soils mapped for the site. The Benton County Soil Survey has mapped the underlying soils for the clubhouse site as Malabon silty clay loam, a Capability Class II soil. The golf course contains Class II and III soils: Chehalis silty clay loam (II); Newberg loam (II); Malabon silty clay loam (II); and Wapato silty clay loam (III).
- 1.4 The clubhouse site is considered high-value farmland because it is located on Class II soil.
- 1.5 The clubhouse site is used solely by members of the country club for recreational and social purposes. The site is not involved in crop production or the keeping of farm animals.
- (2) *Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*

FINDINGS OF FACT

- 1.6 The City of Albany provides municipal water and sanitary sewer service to the clubhouse site.
- 1.7 The boundary of the 2.18-acre site follows a tight line around the parking lot, clubhouse, and swimming pool. The boundary is intended as a demarcation between the clubhouse facilities used by all members, including non-golfers, and the golf course used by golfing members only.

CONCLUSIONS

- 1.1 The 2.18 acres was initially designated Agriculture on the Benton County Comprehensive Plan Map because it contains soils with a Capability Class in the I-IV range specified by Goal 3. Amendments to the Benton County Code in 1994 made the clubhouse a nonconforming use in the EFU zone because it is on high-value farmland.

- 1.2 The clubhouse, swimming pool, and parking on the 2.18-acre site are enjoyed by the entire country club membership, including those who do not use the golf course. The site is fully developed for non-resource use; it is no longer available for farm use as defined by ORS 215.213(2)(a).
- 1.3 The proposed amendments recognize the fact that the site has been developed for non-resource use for some time.

Criteria for Committed Exceptions

The exception requirements for land irrevocably committed to other uses as codified in OAR 660-004-0028 apply to this proposal.

- (1) *A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.*

FINDINGS OF FACT

- 2.1 Statewide Planning Goal 3 is the applicable goal. Goal 3 allows those uses listed for exclusive farm use zones in ORS 215.283 (see Attachment C). In general, uses allowed by Goal 3 are those that are consistent with the definition for farm use noted in ORS 215.203: "The current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof."
- 2.2 The 2.18-acre clubhouse site is committed to use by the Spring Hill Country Club. Organized in 1962, the Country Club has invested substantially in improving the site over the years. Recent improvements in the clubhouse, swimming pool and parking lot signal a long-term investment in the future of the membership for the Country Club.
- 2.3 The improvements to the clubhouse site far exceed the potential value of crops or livestock that could be produced on 2.18 acres. The useful life of these facilities extends beyond the Comprehensive Plan's 20-year planning horizon. In terms of relative value, the site is irrevocably committed to non-resource use and is not likely to revert to farm use in the foreseeable future.
- 2.4 The 2.18-acre clubhouse site sits on Malabon silty clay loam, a Capability Class II soil, considered high-value farmland. The clubhouse, swimming pool, and parking lot are not permitted uses on high-value farmland.
- 2.5 A description of adjacent uses and their contribution to the commitment of the site for non-resource use begins with Finding 2.7 below.
- 2.6 A discussion of impracticability begins with Finding 2.12 below.
- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*
- (a) The characteristics of the exception area;*
 - (b) The characteristics of the adjacent lands;*
 - (c) The relationship between the exception area and the lands adjacent to it; and*
 - (d) The other relevant factors set forth in OAR 660-004-0028(6).*

FINDINGS OF FACT

- 2.7 The clubhouse site is situated at the edge of the urbanizing area in North Albany. Generally, land to the north is rural farmland and most land to the south has been developed for residential use inside the city limits. In the early 1900s rural homesteads dotted the landscape. Development of urban density subdivisions began in earnest in the 1950s. A line drawn around this patchwork of small-lot subdivisions became the urban growth area in North Albany.
- 2.8 The clubhouse site has direct frontage on and access to Country Club Lane, a paved two-lane local street situated inside the Albany city limits/UGB. Country Club Lane intersects Springhill Road about 350 feet east of the Country Club parking lot entrance. The clubhouse is served by municipal water and sewer service.
- 2.9 The clubhouse site adjoins Fairway Terrace, a 25-lot subdivision platted in 1959. This subdivision is located immediately south of the clubhouse along Country Club Lane and east of the clubhouse along Springhill Drive. Most of these homes either face the clubhouse, back up to the clubhouse, or have access past the clubhouse. Very few homes have fences. There are 23 homes, the average lot size is 15,154 square feet, and the average market value is \$198,160.
- 2.10 According to the 2002 housing inventory, there were 77 single-family homes within a ¼-mile radius of the clubhouse site, all inside the city limits, with an average market value today of \$211,415. Within ½ mile, there were 260 homes inside the city limits. Within one mile there were 845 homes with an average market value today of \$179,300.
- 2.11 Membership at the Spring Hill Country Club is currently 492 individuals and 746 family members for a total of 1,238 persons. Of those, 132 individual members and their families use only the clubhouse and swimming pool.
- (3) ***... It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:***
(a) Farm use as defined in ORS 215.203.

FINDINGS OF FACT

- 2.12 "Impracticable" means not capable of being done, carried out or put into practice. "Impractical" refers to that which is not sensible or prudent. Source: *The American Heritage Dictionary*, Second College Edition, 1985.
- 2.13 Farm use as defined in ORS 215.203 generally includes the production of crops and raising of farm animals. See the attached statute for the full definition. Farm use requires an amount of unimproved land that could be cultivated or where animals could be tended. Within the 2.18-acre clubhouse site, there is no such land.

CONCLUSIONS

- 2.1 It is impracticable to farm the 2.18-acre site because it is fully developed for the clubhouse, swimming pool, and parking lot. The site is irrevocably committed to recreational use by virtue of the substantial value of the improvements. The improvements have a useful life that extends far beyond the 20-year planning horizon of the Comprehensive Plan.
- 2.2 The clubhouse site is an extension of the adjoining urbanized area characterized by large-lot high-priced single-family homes with urban services. Most Country Club members are city dwellers.

- 2.3 The proposed amendments recognize the fact that the site has been irrevocably committed to urban recreational uses for some time.

Statewide Planning Goal 14 (Urbanization)

To provide for an orderly and efficient transition from rural to urban land use.

Goal 14 requires that urban growth boundaries be established to identify and separate urbanizable land from rural land [OAR 660-015-0000(14)]. Establishment and change of the boundaries shall be based upon considerations of the following factors:

(1) *Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;*

- 3.1 The Spring Hill Country Club contributes to the recreational and social needs of an urban population. Amending the urban growth boundary will recognize this contribution to the City of Albany.

(2) *Need for housing, employment opportunities, and livability;*

- 3.2 The Spring Hill Country Club contributes to the livability of members, their families, and their friends. The open space associated with the golf course is an asset to the neighborhood and to the community.

(3) *Orderly and economic provision for public facilities and services;*

- 3.3 Amending the urban growth boundary will resolve potential conflicts between emergency service providers. There is no other public facility or service issue.

(4) *Maximum efficiency of land uses within and on the fringe of the existing urban area;*

- 3.4 Including the clubhouse site within the UGB would be consistent with the pattern of urbanization established in the area and would better mark the separation between urban and rural uses.

(5) *Environmental, energy, economic and social consequences;*

- 3.5 The site is fully developed for uses associated with the clubhouse. No additional development is proposed. The environmental, energy, economic and social consequences of the use occurred when the site was developed. No other consequences of the proposed amendment to the urban growth boundary have been identified.

(6) *Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,*

- 3.6 The clubhouse site has not been farmed since the Country Club was established in 1963. The criteria for an exception to Statewide Planning Goal 3 (Agricultural Land) are addressed earlier in this report. The site is fully developed and irrevocably committed to urban recreational and social use due to existing site improvements, location next to an urban neighborhood, and proximity to its membership.

(7) *Compatibility of the proposed urban uses with nearby agricultural activities.*

- 3.7 Farmland located approximately 700 feet to the west is used as pasture for livestock. The golf course and driving range occupy the intervening area. To the northeast approximately 600 feet across the residential

area is a cultivated field. A cultivated field is located on the far end of the golf course approximately 3,300 feet to the north. These intervening uses will buffer productive farm land from conflicting urban use of the clubhouse.

CONCLUSIONS

- 3.1 The proposed amendment to the urban growth boundary will more accurately delineate urban and rural uses. It will consolidate 2.18 acres containing the clubhouse, swimming pool, and parking lot with land already inside the boundary. The proposed amendment acknowledges the existing urban use of this site.
- 3.2 The existing use is an integral part of the nearby urban residential neighborhood. The Country Club enhances the livability of the neighborhood and the broader community. It is also compatible with farm uses in the area because intervening distance and uses buffer farming activities from the clubhouse facilities use.
- 3.3 Application of Statewide Planning Goal 3 is no longer appropriate because the site is developed and irrevocably committed to urban use. This conclusion is documented in the Exceptions portion of this staff report.

STAFF ANALYSIS: ALBANY CRITERIA

In this section, the following amendments will be reviewed: expand the urban growth boundary by 2.18 acres and change the designation of 2.18 acres from Agriculture to Low Density Residential.

The Albany Development Code includes the following review criteria which must be met for the Comprehensive Plan Map amendment to be approved. All criteria must be met for the amendment to be approved. The review criteria are written in *bold italics* and are followed by findings and conclusions.

- (1) *A legislative amendment is consistent with the goals and policies of the Comprehensive Plan, the statewide planning goals, and any relevant area plans adopted by the City Council.*

FINDINGS OF FACT

PROPOSED DESIGNATION OF THE PROPERTY

- 4.1 The current Comprehensive Plan Map designation for 2.18 acres is Agriculture. "Lands designated 'Agriculture' and 'Multi-Purpose Agriculture' on the Comprehensive Plan Map shall be preserved and maintained to encourage their utilization for agricultural production as specified by Statewide Planning Goal 3 (Agriculture)." [Benton County Comprehensive Plan, Rural Land Use Policy #1] The proposed designation is Low Density Residential. This designation "identifies areas predominantly suited or used for single family development on lot sizes ranging from 5,000 to 10,000 square feet." [Albany Comprehensive Plan, page 126]

CITY OBLIGATION IN REGARD TO GOALS AND POLICIES

- 4.2 The Comprehensive Plan (page 2) defines a goal as "a general statement indicating a desired end, or the direction the City will follow to achieve that end."

The Comprehensive Plan describes the City's obligation in regard to goals as follows: "The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal, 2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed."

- 4.3 The Comprehensive Plan (page 3) defines a policy as “a statement identifying a course of action or City position.”

The Comprehensive Plan describes the City’s obligation in regard to policies as follows: “The City must follow relevant policy statements in making a land use decision . . . [I]n the instance where specific Plan policies appear to be conflicting, then the City shall seek solutions which maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with the statewide goals. In balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City shall consider whether the policy contains mandatory language (e.g. shall, require) or more discretionary language (e.g. may, encourage).”

RELEVANT GOALS AND POLICIES

- 4.4 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed General Commercial designation is more supportive of the Plan, on balance, than the current Low Density Residential designation. Goals and policies are listed below in ***bold italics*** followed by findings of fact, then conclusions.

GOAL 2: LAND USE PLANNING

- 4.5 ***Goal 2: Land Use Planning - Updating and Amending the Comprehensive Plan.***

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

- 1. Remains current and responsive to community needs.***
- 2. Retains long-range reliability.***
- 3. Incorporates the most recent and reliable information.***
- 4. Remains consistent with state laws and administrative rules.***

Policy 2: Base approval of Comprehensive Plan amendments upon consideration of the following:

- a. Conformance with goals and policies of the Plan.***

How this application conforms to the goals and policies of the Comprehensive Plan is the subject of the discussion under this review criterion.

- b. Citizen review and comment***

A Comprehensive Plan Map amendment application is processed as a legislative Type IV land use decision. The City’s Development Code requires the publication of a legal ad and mailed notice to persons of interest. In addition to the required notice, the City also mailed notice to surrounding property owners that this application had been received and that public hearings would be held.

- c. Applicable Statewide Planning Goals***

How the proposed changes comply with the Statewide Planning Goals is discussed under Review Criterion (4) below.

- d. Input from affected governmental units and other agencies***

The City of Albany notified Benton County of the proposed amendment by letter dated May 5, 2004.

- e. Short- and long-term impacts of the proposed change.*
- f. Demonstration of public need for the change.*
- g. Demonstration that the proposed amendment will best meet the identified public need versus other available alternatives.*
- h. Any additional information as required by the Planning Commission and City Council.*

The short-term and long-term impacts of the proposed change, the public need for the change, and other available alternatives are discussed in the findings below.

GOAL 8: RECREATIONAL NEEDS

4.6 Goal 8: Recreational Needs

Goal: Provide a high quality and diversified system of safe and attractive parks, opens pace, recreation programs, and facilities.

Policy 3: Promote a variety of public and private recreation and leisure opportunities for Albany's citizens including:

- d. The development of private facilities and programs (such as golf courses and racquetball, health, and sports clubs).*

The Low Density Residential designation will ensure the long-term benefit to the community of a private recreation facility as described in this policy.

GOAL 10: HOUSING

4.7 Goal 10: Housing

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

Policy 1: Ensure that there is an adequate supply of residentially zoned land in areas accessible to employment and public services to provide a variety of choices regarding type, location, density, and cost of housing units commensurate to the needs of city residents.

The 2.18-acre expansion of the urban growth boundary would be designated Low Density Residential, consistent with the 1.64-acre site already inside the Albany urban growth boundary. The entire 3.82-acre site contains land that is part of the golf course and is not eligible for residential development. The 3.82 acres is not counted in the buildable land supply because it is developed for recreational use. Therefore, the proposed change in Plan designation will not affect the supply of residential land as required by this policy.

4.8 Goal 14: Urbanization

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).

The clubhouse site is divided between two jurisdictions because the Albany city limits/urban growth boundary crosses the parking lot. The proposed Low Density Residential designation would consolidate the urban recreational and social use of the Spring Hill Country Club within the Albany urban growth boundary and ultimately within the city limits.

- 4.9 Findings regarding consistency with Statewide Planning Goals 2 and 14 and exceptions to Goal 14 are described on pages 5 to 14 of this staff report.
- 4.10 “Area plans” means land use plans. The property where the map amendments are proposed was included in the study area for the 2003 North Albany Refinement Plan. The North Albany Refinement Plan was the basis for a number of text and map amendments for the North Albany area, but the City Council did not “adopt” the Plan.
- 4.11 The North Albany Refinement Plan amended the Comprehensive Plan Map for all properties designated Urban Residential Reserve. The Low Density Residential designation was applied to all properties near the Spring Hill Country Club.

CONCLUSIONS

- 4.1 The proposed Comprehensive Plan Map amendment will strengthen the long-term recreational and social use of the Spring Hill Country Club clubhouse facilities. It is appropriate to consolidate the 1.64-acre portion already in the city limits/urban growth boundary and the 2.18-acre portion outside the boundary. It is also appropriate to designate the entire 3.82 acres as Low Density Residential in view of the benefits to the neighborhood and community.
 - 4.2 The proposed Comprehensive Plan amendments are consistent with Statewide Planning Goals 2 and 14. An exception to Goal 3 is warranted based on the developed character of the site and the irrevocable commitment to the use.
 - 4.3 This review criterion is not applicable because no area plans have been adopted by the City Council for the area where the Comprehensive Plan Map amendment is proposed. However, the proposed amendments are not inconsistent with the North Albany Refinement Plan; they are a refinement of the Plan after considering the circumstances of the Spring Hill Country Club.
- (2) *A legislative amendment is needed to meet changing conditions or new laws.*

FINDINGS OF FACT

- 5.1 When the clubhouse was rebuilt, the Country Club agreed to apply for annexation in exchange for continued municipal water and sewer service.

CONCLUSIONS

- 5.1 The reconstruction of the clubhouse is a changing condition that warrants the proposed Comprehensive Plan amendment.



COMMUNITY DEVELOPMENT DEPARTMENT

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NOTICE OF DECISION

DATE OF NOTICE: August 11, 2004

FILE: CP-02-04

TYPE OF APPLICATIONS: Joint legislative amendments by Albany and Benton County:

1. Comprehensive Plan amendments:
 - Expand the Albany Urban Growth Boundary by 2.18 acres.
 - Revise the Comprehensive Plan Map designation for 2.18 acres from Agriculture (Benton County) to Low Density Residential (Albany).
2. Revise zoning from EFU to UR-5 (Benton County)

PROPERTY OWNER: Spring Hill Country Club Inc

APPLICANT: City of Albany

PROPERTY OWNER REP: Ed Schultz; Weatherford, Thompson, P.C.; PO Box 667; Albany, OR 97321

ADDRESS/LOCATION: 155 Country Club Lane NW

MAP/TAX LOT: Benton County Assessor's Map No. 10S-3W-31, Tax Lot 400; 10S-3W-31BD, Tax Lot 800

On August 11, 2004, the City of Albany City Council granted APPROVAL of an application to amend the Comprehensive Plan Map. Benton County adopted concurrent amendments on August 10, 2004. The City based its decision on the project's conformance with the review criteria listed in the Albany Development Code.

The supporting documentation relied upon by the City in making this decision is available for review at City Hall, 333 Broadalbin Street SW. For more information, please contact Rich Catlin, project planner, at (541) 917-7564.

The City's decision may be appealed to the Oregon Department of Land Conservation and Development if a person with standing files a notice to appeal not later than September 2, 2004 - 21 days hence.



Mayor

Routing. (For Department Use Only)

Property Owner	<u>1</u>
Owner Rep	<u>1</u>
Participating Parties **	<u> </u>
Benton County Development Dept	<u>1</u>
Benton County Assessor	<u>1</u>
File CP-02-04	<u>1</u>