

ORDINANCE NO. 5298

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP; APPROVING AN AMENDMENT TO CHANGE THE ZONING MAP DESIGNATION OF TWO LOTS TOTALING APPROXIMATELY FOUR ACRES FROM NEIGHBORHOOD COMMERCIAL (NC) TO RESIDENTIAL MULTIPLE FAMILY (RM-3); ADOPTING FINDINGS; AND DECLARING AN EMERGENCY, FOR PROPERTY LOCATED ON THE WEST SIDE OF PACIFIC BOULEVARD BETWEEN BELMONT AVENUE SW AND LANIER STREET (LINN COUNTY ASSESSOR'S MAP NO. 11-4W-25AD, TAX LOTS 100 AND 101).

WHEREAS, the City of Albany Planning Commission recommended approval of the proposed Zoning Map amendment, based on evidence presented in the staff report and at the public hearing for City of Albany File No. ZC-06-97, and

WHEREAS, the Albany City Council held a public hearing on this case on August 13, 1997.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Findings of Fact contained in the staff report and attached as Exhibit A are hereby adopted in support of this decision.

Section 2: The Zoning Map designation of the 4-acre subject property is hereby amended from NC (Neighborhood Commercial) to RM-3 (Residential Multiple Family).

Section 3: A legal description of the subject property and a map showing the amendment to the Zoning Map are attached as Exhibit B.

Section 4: A copy of the legal description of the subject property and the map showing the amendment to the zoning 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 Zoning Map.


Section 5: A copy of the legal description of the subject property and the map showing the amendment to the Zoning Map shall be filed with the Linn 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 signed by the Council President.

Passed by the City Council: August 13, 1997

Approved by the Council President August 13, 1997

Effective Date: August 13, 1997

  
\_\_\_\_\_  
Council President

ATTEST:

  
\_\_\_\_\_  
City Recorder

## FINDINGS DOCUMENT

**FINDINGS OF FACT****Zoning Map Amendment File ZC-06-97**

- (1) *The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Plan map amendment has also been applied for in accordance with Section 2.080.*

**FINDINGS OF FACT**

- 1.1 The proposed base zone for the subject property is RM-3 (Residential Multiple Family). From 1987, when the land was annexed to the City from Linn County, to 1989, the subject site was zoned RM-3, which is a direct match to the Comprehensive Plan designation of High Density Residential.
- 1.2 In 1989, the site was rezoned to Neighborhood Commercial. The Comprehensive "Plan Designation Zoning Matrix," found on Page 131 of the Comprehensive Plan document, shows whether or not a particular zoning district is "compatible" or "restricted" with a particular Plan designation. The matrix shows that C-1 (now called NC, Neighborhood Commercial) zoning designation is "restricted" within the Comprehensive Plan designation of High Density Residential. "Restricted" means "subject to special regulation such as Zone Changes." A Comprehensive Plan map amendment is not required. Therefore, the Comprehensive Plan Map designation is still High Density Residential.
- (2) *Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation.*

**FINDINGS OF FACT**

- 2.1 The subject property is an "island" in that it is surrounded by rights-of-way on all four sides. It is bounded by Pacific Boulevard (Hwy. 99E) on the east, Belmont Avenue on the north, and Lanier Street on the south and west.
- 2.2 Pacific Boulevard is designated on the Master Street Plan (Comprehensive Plan Plate 12) as a Urban Principal Arterial. The other rights-of-way are not designated on the Master Plan and therefore are "local" streets. Future development on the property will take access to and from Belmont Avenue and Lanier Street.
- 2.3 All of the rights-of-way bordering the subject site are improved to city standards with the exception of sidewalks along the Belmont Avenue frontages. There is a signal at the intersection of Pacific Boulevard and Lanier Street. This signal is accessible to the subject site, i.e. vehicles do not have to use Belmont Avenue as its sole access to Pacific Boulevard. No capacity problems have been identified and the streets can accommodate the vehicular demands of the proposed zoning.
- 2.4 The RM-3 zoning district is intended primarily for medium to high density urban residential development. The Comprehensive Plan states that High Density Residential areas are concentrated near major commercial centers and corridors with immediate access to arterial streets and/or major collectors. Development should occur at 20-40 units per acre. The applicants have submitted a site plan map showing the possible layout of an 88-unit apartment complex, which is a density of approximately 22 units per acre. For the purposes of this rezone review, we assume the proposed development to be typical of development that may occur on the property if the zoning designation is changed from NC to RM-3.
- 2.5 Development on the property will most likely generate demand for a sidewalk along the property's Belmont Street frontage. ADC 12.290 requires that "all development for which land use applications are required...

must include sidewalks adjacent to public streets.” A zoning map amendment is not included in the Development Code definition of “development,” and a change in the zoning of the property does not create the need for a sidewalk at this time. However, a sidewalk along the Belmont Street frontage of the property will be required at the time development is proposed on the property, so the sidewalk is considered an “anticipated facility” for the purposes of this review.

- 2.6 This site has a transit stop along its eastern frontage on Pacific Boulevard. There is existing sidewalk along Pacific as well. Future development on this site will likely generate sufficient demand to require addressing installation of a transit shelter.
- (3) ***Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area.***

### FINDINGS OF FACT

- 3.1 The RM-3 zoning district is intended primarily for medium to high density urban residential development. Development should occur at 20-40 units per acre. The applicant has submitted a site map showing a potential 88-unit apartment complex which is a density of approximately 22 units per acre. For the purposes of this rezone review, we assume the proposed development to be typical of development that may occur on the property if the zoning designation is changed from NC to RM-3.
- 3.2 Water: Water utility maps indicate that public water service adjacent to this site consists of a 12-inch main in Belmont Avenue and a 16-inch main in Pacific Boulevard. The City Engineer has determined that these lines are of adequate size to accommodate potential development on the subject property.
- 3.3 Sanitary sewer: Sanitary sewer utility maps show that public sanitary sewer service adjacent to this site consists of a 21-inch main along the south side of the site, a 27-inch north-south main through the site, a 12-inch main along the western portion of the site’s Belmont Avenue frontage, and an 8-inch main along part of the eastern portion of the site’s Belmont frontage. The 27-inch main lies within an existing 30-foot wide public sewer easement. Structures shall not be placed within public easements. The City Engineer has determined that the sanitary sewer lines are of adequate size to serve the subject property.
- 3.4 Storm sewers: Storm drain utility maps show that storm drainage adjacent to this site consists of a seasonal creek that flows south to north through the site, two 48-inch culverts under Belmont Avenue, a large arch-pipe culvert under Lanier Street, and catch basins in both Belmont Avenue and Lanier Street.

The City’s storm drainage master plan indicates that the existing 48 inch culverts under Belmont Avenue are too small to carry the ten-year storm. During the November 19, 1996, flood event, storm water overtopped both Lanier Street and Belmont Avenue. To reduce the risk of flood damage to structures built on the site, it will be necessary to construct the buildings so that the finished floor elevations are high enough to prevent water damage. To achieve this, it is possible that the buildings will need to be set back a considerable distance from the creek. The exact distance will be determined with a Site Plan Review application to develop the property.

Any development on the site will be required to detain run-off such that the run-off rate after development is no greater than the existing run-off rate. The storm drainage situation will not be affected by the change of zoning of the site.

- 3.5 Schools: If the zoning designation of the subject property is changed from NC (Neighborhood Commercial) to RM-3 (Residential Multiple Family) it would impact the following schools: Liberty Elementary School, Memorial Middle School and West Albany High School. Since the property was zoned for multiple family until 1989, it is likely the school district planned for this land being residential, rather than commercial.

The Planning Division has provided notice of the subject application, and an opportunity for the school district to comment on the subject application, but the school district has not submitted a response. ADC 1.215 provides that "if the agency or city department does not comment within 10 days..., the agency or city department is presumed to have no comments or objections."

- 3.6 Police and fire protection: The Planning Division has provided notice of the subject application, and an opportunity for the Albany Police Department to comment. ADC 1.215 provides that "if the agency or city department does not comment within 10 days..., the agency or city department is presumed to have no comments or objections." The Police Department has not returned comments, so they are presumed to have no comments or objections.

The Planning Division has provided notice of the subject application, and an opportunity for the Fire Department to comment. The Fire Department has responded. It will be necessary to construct a public fire hydrant on the subject property to provide adequate fire protection. The exact location to be determined by the Fire Department and Engineering Division. This requirement will be a condition of approval of future development on the property, so they are considered as "anticipated services" for the purposes of this review.

- (4) ***Any unique natural features or special areas involved such as floodplains, slopes, significant natural vegetation, historic district will not be jeopardized as a result of the proposed rezoning.***

#### FINDINGS OF FACT

- 4.1 Floodplains: *Comprehensive Plan Plate 5: Floodplains* shows no areas within a 100-year floodplain on the subject property. FEMA/FIRM Community Panel No. 410137 0005 E, dated March 16, 1989, shows the property in Zone X, an area determined to be outside the 500-year floodplain.
- 4.2 Slopes: *Comprehensive Plan Plate 7: Slopes* shows no areas of steep slopes on the subject property. The property is relatively flat with gradients of 3% on the west side and 2% on the east side of the subject site.
- 4.3 Wetlands: *Comprehensive Plan Plate 6: Wetland Sites* There is an unnamed waterway which diagonally crosses the property approximately 2/3 back from Pacific (Hwy. 99E). The U.S. Department of Interior, Fish and Wildlife Service, National Wetlands Inventory, (Tangent, dated 1994), shows an area to be wetlands designated as PSSC, which means Palustrine, Scrub Shrub, Seasonally Flooded.

The applicant has had the site investigated for wetlands. A wetlands boundary was established at elevation 221. Any potential development will need to be outside of this area or apply with the Corps of Engineers, Division of State Lands, to modify the wetlands.

- 4.4 Vegetation: *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat* shows no areas of concern on the subject property. The existing vegetation consists of grass, Himalayan blackberries and indigenous and cultured trees.
- 4.5 Historic District: *Comprehensive Plan Plate 9: Historic Districts* shows that the subject property is not within a historic district, and the City's Preservation Planner states that there are no known historic or archaeological sites on the property.

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

#### FINDINGS OF FACT

- 5.1 The Comprehensive Plan defines a goal as "a general statement indicating a desired end, or the direction the City will follow to achieve that end," and a policy as "a statement identifying a course of action or City

position. Although more specific than goals, policies usually do not explain the exact method of implementing a goal." The Development Code is the implementing ordinance of the Comprehensive Plan.

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...[or amend the Plan]. However, in 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)."

The following Comprehensive Plan goals and policies are relevant to this application. They are written in *italic* print; followed by Findings of Fact.

5.2 **Statewide Planning Goal 9: Economic Development**

**City Goal 3:** *Insure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Albany including commercial, professional, and industrial development.*

**City Policy 1:** *Provide opportunities to develop the full range of commercial, recreational, and professional services to meet the needs of Albany's residents and others.*

The subject property is currently vacant and designated NC (Neighborhood Commercial). This zone is allowed to be located, subject to a zoning review, in the near proximity of residentially zoned lands. To satisfy the frequent recurring needs of residents, Neighborhood Commercial districts are usually designated as a small cluster or service center nestled near or within a residential area to provide it with a market area of one-half mile.

The subject site was annexed from Linn County in 1987 and zoned RM-3. In 1989, an application was granted to rezone the site to NC (Neighborhood Commercial). (A rezone to NC did not require an amendment to the Comprehensive Plan Map.) The reasoning behind the rezone decision at that time was that, compared to other neighborhood commercial property in the vicinity, this site had good access, was served by public facilities and was a large enough property under one ownership to put together a conveniently located full service neighborhood development. In addition, the demand for multi-family housing, expected when the property was subdivided, had not materialized despite its proximity to the community college.

The total acreage of NC zoned land in the immediate (cluster) vicinity of Belmont Avenue and Pacific Boulevard is 10.28 acres. Of this, the subject site and the two tax lots on the east side of Pacific are the only ones which are vacant and larger than 3 acres. Less than 1/4 mile to the south of this site, on the east side of Pacific near the intersection of Allen Avenue, is an NC-zoned single vacant tax lot with 5.42 acres. Despite there being availability of land with the NC zoning in this area for at least 10 years, the market has only provided a 7-11 at the northwest corner of Pacific and Belmont. Hence, there is more than one site which can fulfill the neighborhood shopping needs when the market deems it "ripe" for development.

5.3 **Statewide Planning Goal 10: Housing**

**City Goal 1:** *Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.*

City Policy I: *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 former rezone to NC did not change the underlying Comprehensive Plan designation of High Density Residential. The purpose of the RM-3 zoning district is to allow medium to high density urban residential development. Development should occur at 20-40 units per acre, depending upon approved density bonuses. These areas are concentrated near major commercial centers and corridors and with immediate access to arterial streets and/or major collectors.

Including a recent rezone on Pacific Boulevard near 34th (Bontrager - ZC-03-97), staff has identified only five parcels currently within the city limits available for development of high density residential housing. The largest vacant parcel of land zoned RM-3 (15 acres) is located at the most easterly boundary of the city limits, south of Highway 20 across from Goldfish Farm Road. The sizes of the other four parcels are as follows: 0.19 acres, 1.08 acres, 2.28 acres and 2.45 acres. Each of these parcels is located between the Burlington Northern railroad tracks and Salem Avenue across from Waverly Lake.

The largest available parcel zoned RM-3 (the 15-acre parcel) is nearly one mile from the nearest concentration of employment opportunities on the west side of Interstate 5. The nearest public services to this parcel are several hundred feet away. The other (smaller) parcels are near employment centers and have public services available, but together they total only 6 acres, which using a conservative 20 units per acre, would add only 120 multi-family units. There appears to be a need for additional RM-3 zoned land more readily accessible to employment and public services.

The subject property is located on the west side of Pacific Boulevard, between Belmont Avenue and Lanier Street. Adjacent to the south is Linn-Benton Community College, which is an employer as well as a use which generates need for student housing. Other employers in the near vicinity are Target Distribution Center, Oremet, Smokecraft, Oregon Freeze Dry and Golden West Homes. Public facilities are in place to serve the site, including a transit stop on Pacific Boulevard.

The City does not track building permits by zoning or use category, so it is not possible to have factual statements regarding commercial demand. The City does, however, track dwelling units by type. The following provides a total by year of multiple family units added to the City, beginning in 1990:

1990 =	12 units
1991 =	43 units
1992 =	87 units
1993 =	77 units
1994 =	257 units
1995 =	157 units
1996 =	30 units
1997 =	167 units (through May)

Total:           830 units

This table shows that the market is filling the demand for multiple family housing and thereby diminishing the available land zoned for this use. As shown above, there is limited land zoned for the higher density. By not keeping up with the demand, prices will rise, which in turn increases the cost of obtaining housing, both rental and purchase prices.

City Policy II: *Encourage residential development on already serviced and vacant residential lots or in areas within which services are available or can be economically provided.*

With the exception of sidewalks along the site's Belmont Avenue frontage, all public facilities are in place at this location. In addition, this site has access to a signalized intersection at the corner of Lanier Street extension and Pacific Boulevard.

#### 5.4 Statewide Planning Goal 14: Urbanization

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

City Policy 11: *Provide opportunities for neighborhood commercial facilities to be located within an accessible distance of the area they are intended to serve. Neighborhood commercial uses shall:*

- a. *Be located, designed, and operated so as to be compatible with surrounding residential uses.*
- b. *Be oriented to provide for the common and frequently recurring shopping needs of the area they are intended to serve.*
- c. *Be limited in number, size and location. Generally, new sites shall be less than five acres in total area and shall be located at least on-half mile in travel distance from any other commercial site which provides or is available to provide for similar commercial needs. Zone change applications for new neighborhood commercial sites must demonstrate that the chosen site is superior or equal to viable alternative sites within the same market area based on exposure to traffic flows and other market indicators, accessibility and convenience to the market area, and compatibility with surrounding uses.*

The Development Code has implemented the above policy by requiring new Neighborhood Commercial sites to be subject to Site Plan Review, which looks at compatibility issues such as the orientation of buildings, access, buffering between non-similar uses, location and size relative to its potential market area (usually within 1/2 mile radius). The current site meets the location standards and should be able to meet the site development standards when an application is submitted.

The total acreage of NC zoned land in the immediate (cluster) vicinity of Belmont Avenue and Pacific Highway is 10.28 acres. Of this, the subject site and the two tax lots on the east side of Pacific are the only ones which are vacant and larger than 3 acres. Less than 1/4 mile to the south of this site, on the east side of Pacific near the intersection of Allen Avenue, is a NC zoned single vacant tax lot with 5.42 acres. Despite there being availability of land with the NC zoning in this area for at least 10 years, the market has only provided a 7-11 at the northwest corner of Pacific and Belmont. Hence there is more than one site which can fulfill the neighborhood shopping needs when the market deems it "ripe" for development.

City Policy 12: *Discourage future strip commercial development and promote clustered commercial opportunities and the in filling of existing commercial areas which will foster:*

- a. *Efficient and safe utilization of transportation facilities.*
- b. *A variety of attractive and comfortable shopping opportunities that encourage shopping in a number of stores without auto use.*
- c. *Compatibility between land uses, particularly adjacent residential neighborhoods.*
- d. *Efficient extension of public facilities and services.*

The subject site, now zoned NC, is a part of a cluster of lands at the intersection of Pacific Highway, Belmont Avenue and Lanier Street. It meets the test of availability of public facilities and services, including transit. Site Plan Review will address the compatibility issues through buffering and screening. This site has excellent access to an arterial for vehicular travel and transit. Any large shopping stores for frequent neighborhood needs (e.g. hardware, groceries, dry cleaners) are located at least two miles to the north. Two miles is not a typical distance people will walk to buy groceries or a hammer.

*City Policy 15: Encourage land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.*

The subject site is located on Pacific Boulevard, which is designated as a Principal Arterial on the City's master transportation plan. There is a transit stop at this site as well. Sites such as this one are good locations for both multi-family and neighborhood shopping centers to provide an alternative to the individual automobile for both pleasure and employment travel trips.

*City Policy 16: Provide development opportunities for large scale industrial and commercial development and for people to live in proximity to activity centers, particularly their place of employment.*

The subject property is located on Pacific Boulevard at the intersection with Belmont Avenue and Lanier Street. Pacific Boulevard is an Urban Principal Arterial street. Belmont and Lanier Street are "local" streets. In general, intersections of major transportation routes offer the most appropriate location for nodes of medium and high density residential and commercial development because of their superior access and high traffic volumes. To the north of the subject property, land is also zoned for neighborhood commercial uses. It is underdeveloped with only a Seven-Eleven store at the corner. The land across Pacific Boulevard is zoned for neighborhood commercial and light industrial uses.

The property is currently served by the City's bus system (there is a transit stop on the Pacific Boulevard frontage). High density residential development along transit routes creates an opportunity to increase the number of transit users, and reduce dependency on the private automobile.

As discussed in Finding of Fact 5.3 above, there are several major employers within about one mile of the subject property. Reducing the vehicle miles traveled for our employment and shopping needs by either providing transit or shopping within walking distances improves the City's air quality by reducing vehicle emissions.



**LEGAL DESCRIPTION**  
**Zoning Map Amendment File ZC-06-97**

Lots 1 and 2, Block 1, COLLEGE GREEN, Linn County, Oregon.

EXCEPTING THEREFROM the West 30 feet of even width of Lot 2, Block 1.

ALSO EXCEPT that portion described in Deed to State of Oregon, by and through its Department of Transportation, Highway Division, recorded September 18, 1986 in Volume 421, Page 958, Microfilm Records for Linn County, Oregon.

ALSO EXCEPT that portion described in Deed to the City of Albany recorded April 3, 1989 in Volume 496, Page 850, Microfilm Records for Linn County, Oregon.

TOGETHER WITH a 36 foot easement for ingress and egress, the centerline is described as follows: Beginning at a 5/8" x 30" rebar set on the North line of Ellingson Road that is 476.87 feet North  $89^{\circ}14'39''$  West and South  $0^{\circ}52'06''$  West 10 feet, more or less, from the Southeast corner of Lot 1, Block 1, College Green, Linn County, Oregon; thence South  $89^{\circ}35'15''$  East parallel with the center of said Ellingson Road 57 feet, more or less, to a point, directly North 60 feet of the center of a driveway entrance to Linn-Benton Community College as it now exists; thence North 10 feet, more or less, to the point of terminus.

Said easement is to be 18 feet on each side of centerline, for a total width not to exceed 36 feet.

