



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

08/13/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Albany Plan Amendment
DLCD File Number 002-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, August 30, 2012

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: David Martineau, City of Albany
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

AUG 10 2012

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Albany**

Local file number: **CP-01-12 & ZC-01-12**

Date of Adoption: **8/8/2012**

Date Mailed: **8/9/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 6/07/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The Comprehensive Plan Map designation for one city block was amended from Village Center to Low Density Residential. The Zoning Map followed suit with an amendment from Historic Downtown district to Hackleman Monteith, a low density residential district. These amendments allow existing duplex and multi-family residential uses to be considered for "special status" listing, which would allow legally created units to be considered "conforming" with the new zoning district.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Village Center**

to: **Low Density Residential**

Zone Map Changed from: **Historic Downtown (HD)**

to: **Hackleman Moneith (HM)**

Location: **324 Calapooia St. SW et al; TRS 11S-04W-12AA**

Acres Involved: **1.39**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** **10** **11** **12** **13** **14** **15** **16** **17** **18** **19**

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 002-12 (19372) [17125]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **David Martineau, Project Planner**

Phone: (541) 917-7561 Extension:

Address: P.O. Box 490

Fax Number: 541-917-7598

City: Albany

Zip: 97321-

E-mail Address: david.martineau@

cityofalbany.net

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information ([ORS 197.615](#)).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption ([ORS 197.830 to 197.845](#)).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. ([ORS 197.615](#)).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 5787

AN ORDINANCE AMENDING ORDINANCE NO. 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN MAP; AMENDING ORDINANCE 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP; AND ADOPTING FINDINGS FOR CHANGING THE DESIGNATION AND ZONING OF PROPERTIES LOCATED AT BLOCK 24, CITY OF ALBANY (ONE SQUARE BLOCK AREA WEST OF CALAPOOIA STREET, NORTH OF 4TH AVENUE, EAST OF VINE STREET/SANTIAM CANAL, AND SOUTH OF 3RD AVENUE)

WHEREAS, the Albany Planning Commission held a public hearing on July 16, 2012, on the proposed map amendments and recommended approval based on evidence presented in the staff report and testimony presented at the public hearing for City of Albany Planning Files CP-01-12 and ZC-01-12; and

WHEREAS, the Albany City Council held a public hearing on the same application on August 8, 2012, and reviewed the findings of fact and testimony presented at the public hearing and then deliberated; and

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

Section 1: The Findings of Fact and Conclusions included in the Staff Report attached as Ordinance Exhibit A are hereby adopted in support of this decision.

Section 2: The Albany Comprehensive Plan Map designation of the properties described in Ordinance Exhibit B hereby amended from Village Center, VC, to Low Density Residential, LDR.

Section 3: The Zoning Map designation of the properties described in Ordinance Exhibit C is hereby amended from Historic Downtown, HD, to Hackleman Monteith, HM.

Section 4: A copy of the legal description of the affected property is attached as Ordinance Exhibit D. It shall be filed with the Linn County Assessor's Office within 90 days after the effective date of this ordinance.

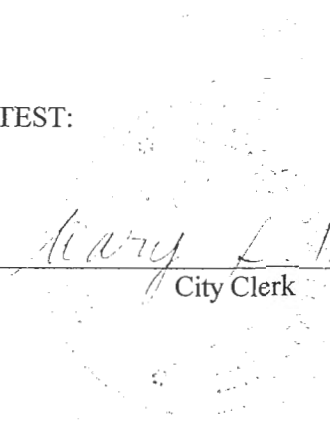
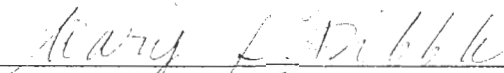
Passed by the Council: August 8, 2012

Approved by the Mayor: August 8, 2012

Effective Date: September 7, 2012


Mayor

ATTEST:



City Clerk



Community Development Department

333 Broadalbin Street SW, P.O. Box 490
Albany, OR 97321

Phone: 541-917-7550 Facsimile: 541-917-7598
www.cityofalbany.net

STAFF REPORT Comprehensive Plan Map and Zoning Map Amendments (CP-01-12 & ZC-01-12)

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, August 8, 2012
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

EXECUTIVE SUMMARY

The City of Albany is initiating a Comprehensive Plan Map and Zoning Map Amendment on one square block area west of Calapooia Street, north of 4th Avenue, east of Vine Street/Santiam Canal, and south of 3rd Avenue. The block is located within the Monteith Historic District and primarily contains historic residences.

Prior to acceptance of the Central Albany Land Use and Transportation Study (CALUTS)/Town Center Plan in 1996, this block was zoned R-3 (Multifamily Residential). The Town Center Plan proposed the block be zoned HM (Hackleman-Monteith District) to preserve historic buildings. However, in 1996, the zoning was changed to HD (Historic Downtown District) rather than HM. This inadvertently made all of the existing multifamily residences on the subject block nonconforming because the HD zone is a mixed-use commercial zone, not residential. This means if a duplex or multifamily home was destroyed, it could not be rebuilt since they are no longer an allowed use. The nonconforming status has been an obstacle to selling and refinancing these properties.

In order to help support the health of the historic resources in this block and to reflect the original planning for this area, the City proposes to change the zoning of this block from HD to HM, and to amend the Comprehensive Plan Map from Village Center (VC) to Low Density Residential (LDR) as seen in Figures 1 and 2 on the next page. The proposed designations are consistent with a large area of similarly designated properties abutting this block to the south. Rezoning the block from HD to HM will allow legally established duplexes and multifamily residences to be added to the "Special Status" list so that they may be deemed conforming uses.

A Comprehensive Plan map amendment to LDR must be consistent with the goals and policies of the Comprehensive Plan, the Statewide Planning Goals, and on balance be more supportive of the Plan as a whole than the current designation of VC. The Plan policies also require evaluation of short-and long-term impacts of the proposed change.

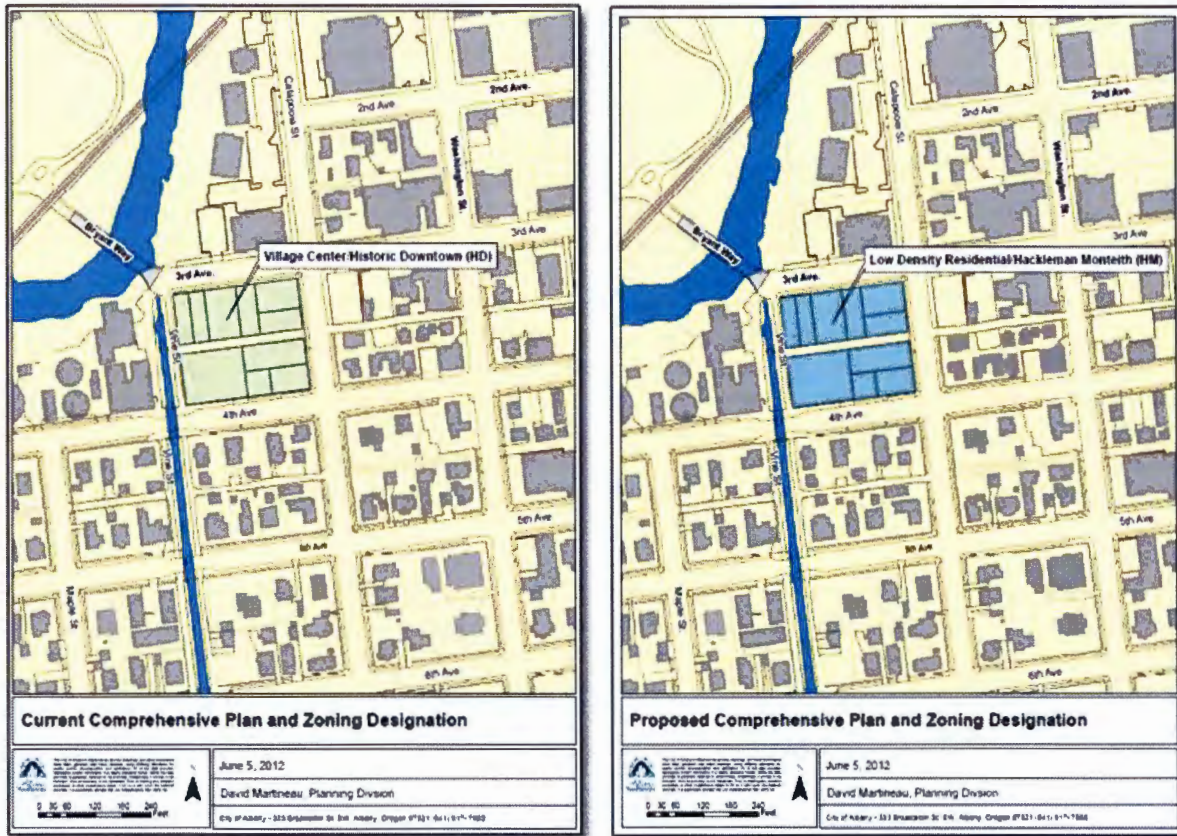
The staff analysis concluded the following:

- The proposed amendment substantially supports the Comprehensive Plan's goal and policies;
- The HM zone is intended to preserve Albany's nationally recognized historic neighborhoods;
- While allowing residences above or attached to a business, the HD zone is one of the most restrictive 'village center' designations for residences. New single family, two family and multifamily dwellings are not allowed.
- Neither the HM nor the HD are fully adequate for allowing the existing dwelling units to remain,

however on balance, the HM zone is more consistent with existing and intended uses on the block.

- Public need for changing the land on the subject block from VC to LDR has been demonstrated;
- In the short term, the proposed map amendments would have little impact since most of the site is developed with residential dwelling units that are nearly all ‘historic contributing’;
- In the long term, the site could have redeveloped to more intensive commercial uses with some potential for high density residential when attached to a business;

Because of the small amount of land included in this proposal, the amendments will likely have little to no impact in the Comprehensive Plan goals and policies and will not affect implementation of the Statewide Planning Goals. Therefore, the staff recommendation is APPROVAL of the Proposed Comprehensive Plan and Zoning Map amendments.



Figs. 1 and 2: Current and Proposed Comprehensive Plan and Zoning Designations

PLANNING COMMISSION AND STAFF RECOMMENDATION

APPROVE the proposed Comprehensive Plan and Zoning Map amendment.

GENERAL INFORMATION

DATE OF REPORT: August 1, 2012

FILES: CP-01-12 and ZC-01-12

TYPE OF APPLICATIONS: (1) Quasi-judicial Comprehensive Plan Map amendment to change 1.39 acres from VC (Village Center) to LDR (Low Density Residential).

(2) Quasi-judicial Zoning Map amendment to change 1.39 acres from HD (Historic Downtown District) to HM (Hackleman-Monteith District).

REVIEW BODY: Planning Commission and City Council

STAFF REPORT PREPARED BY: David Martineau, Project Planner

PROPERTY OWNERS: (1) 602, 606, 610, & 614 3rd Avenue SW: Kevin J. and Pam Ostby; 3630 Riverview Terrace; Needles, CA 92363-4004;

(2) 620, 622, 624, 626, 630, & 640 3rd Avenue SW: Ostby Investments, Inc.; 3630 Riverview Terrace; Needles, CA 92363-4004;

(3) 324 Calapooia Street SW: Ostby Investments, Inc.; 3630 Riverview Terrace; Needles, CA 92363-4004;

(4) 334 Calapooia Street SW: Stephen and Bonnie Ball; 9818 Woodbridge Lane; Riverside, CA 92509;

(5) 615 4th Avenue SW: Angel R. Guaman; 4815 SW 175th Avenue; Aloha, OR 97007;

(6) 625 4th Avenue SW: Pacific Power & Light Co.; 825 NE Multnomah Street, Suite 1900; Portland, OR 97232.

APPLICANT: City of Albany, Department of Community Development; 333 Broadalbin Street SW; PO Box 490; Albany, OR 97321

LOCATION: Block 24, City of Albany, which is located west of Calapooia Street, north of 4th Avenue, east of Vine Street/Santiam Canal, and south of 3rd Avenue.

MAP/TAX LOTS: Linn County Assessor's Map Nos. 11S-04W-12AA; Tax Lots 800, 900, 1000, 1001, 1002, 1003, 1400, 1500, 1600, and 1800

CURRENT ZONING: HD (Historic Downtown District)

EXISTING LAND USE: Single family, two family and multifamily residences. A parcel located on the block's southwest corner contains an electrical power substation.

SURROUNDING ZONING: North: HD
 South: HM
 East: HD
 West: HM

SURROUNDING USES: North: Five story apartment building with ground floor commercial
 South: Single family residences and duplexes
 East: Residences and parking lot
 West: Canal and city water treatment plant

PRIOR HISTORY: Ordinance 5241 (CP-03-95 and DC-01-95) changed the Comprehensive Plan map designation from High Density Residential to Light Commercial and the Zoning from RM-3 (Residential) to HD (Historic Downtown District).

Ordinance 5543 (CP-01-02) created the Village Center Comprehensive Plan designation and the block changed from Light Commercial to Village Center.

Historic Review (HI-15-06) at 615 4th Avenue SW;

Variance (VR-02-99) and Site Plan Review (SP-40-99) for construction of a duplex and a reduction of required parking, and Historic Review (HI-01-00) for exterior alterations at 334 Calapooia Street SW;

Property Line Adjustment (LA-14-97) and Historic Review (HI-04-98) for exterior alterations at 316 Calapooia Street SW;

Property Line Adjustment (LA-14-97) and Tentative Subdivision (SD-01-11) at 602-614 3rd Avenue SW;

Property Line Adjustment (LA-14-97), Historic Review (HI-06-98) and Tentative Subdivision (SD-01-11) at 620-624 3rd Avenue SW;

Tentative Subdivision (SD-01-11) at 626 3rd Avenue SW;

Historic Review (HI-18-03) and Tentative Subdivision (SD-01-11) at 630 3rd Avenue SW; and

Tentative Subdivision (SD-01-11) at 640 3rd Avenue SW.

NOTICE INFORMATION

A “Measure 56” notice of the public hearings was mailed June 22, 2012 to affected owners of property on the block, in accordance with state law. A Notice of Public Hearing was mailed to surrounding property owners on July 6, 2012. Notice of Public Hearing was posted on the block at two locations on July 9, 2012. The Comprehensive Plan and Zoning Map Amendment staff report was posted on the City’s website July 10, 2012. At the time this staff report was completed, no comments had been received.

APPEALS

Within five days of the City Council’s final action on these applications, the Community Development Director will provide written notice of the decisions to the applicant and any other parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of

Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

STAFF ANALYSIS

Comprehensive Plan Map Amendment File CP-01-12

Section 2.220(3) of the Albany Development Code (ADC) includes the following review criteria that must be met for this quasi-judicial map amendment to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions.

(1) (ADC 2.220 (3.a)). The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be more supportive of the Comprehensive Plan as a whole than the old designation.

FINDINGS OF FACT

1.1 Current Plan Designation: The current Comprehensive Plan Map designation of the properties is Village Center (VC). The VC designation “provides for a mixture of uses to serve nearby neighborhoods. These uses must include retail and residential uses and may include offices, community and personal services, and live-work units. Development within a VC will be pedestrian friendly, fit the desired scale and character of nearby neighborhoods and prevent the appearance of strip commercial development. Within the VC Plan designation there will be at least two zones. One is a mixed-use commercial zone, the other is a medium- to high-density residential zone that provides a mix of housing choices,” (Comprehensive Plan, page 9-10).

1.2 Requested Designation: The request is to designate 1.39 acres of VC to Low Density Residential (LDR). The LDR Plan designation “identifies areas predominantly suited or used for detached single-family development on lot sizes ranging from 5,000 to 10,000 square feet.”

1.3 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.”

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,” (Comprehensive Plan, page ii).

1.4 The Comprehensive Plan (page 2) 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),” (Comprehensive Plan, page iii).

Relevant Plan Goals and Policies

- 1.5 The proposed Plan map amendment to change land from VC to LDR must satisfy long-range interests of the general public as outlined in the Comprehensive Plan's goals and policies.

The following Comprehensive Plan goals and policies are relevant in considering whether the proposed LDR designation is more supportive of the Comprehensive Plan, on balance, than the current VC designation. The relevant goals and policies are listed under the relevant Statewide Planning Goals and are shown in *italic* print followed by findings of fact and conclusions.

GOAL 2: LAND USE PLANNING (Chapter 9)

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.

- 1.6 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.

- 1.7 This Comprehensive Plan Map and Zoning Map Amendment application is processed as a Type IV quasi-judicial land use decision. The City's Development Code requires notification to surrounding property owners that this Comprehensive Plan Map Amendment Application has been received and that there will be public hearings on the application. Signs advertising the public hearing must also be posted on the property [ADC 1.400 and 1.410]. A Notice of Public Hearing was mailed to affected and surrounding property owners and the block was posted with the required signs.

(c) Applicable Statewide Planning Goals

- 1.8 How the proposed changes comply with the Statewide Planning Goals is the subject of this section of the report.

(d) Input from affected governmental units and other agencies.

- 1.9 ORS 197.610 requires the City to notify the Oregon Department of Land Conservation and Development (DLCD) of any proposed changes to the Comprehensive Plan Map and/or Zoning Map. Notice was provided to DLCD. Pacific Power is a property owner within the subject area. They have been notified of the proposed amendments.

(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.

- 1.10 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 5: OPEN SPACES, SCENIC & HISTORIC AREAS, & NATURAL RESOURCES

Historic and Archaeological Resources (Chapter 2 – Special Areas)

Goal: Protect Albany’s historic resources and utilize and enhance those resources for Albany residents and visitors.

Policy 3: Within the city limits, maintain historic review ordinances for historic structures and districts which incorporate the following:

- a. Except where public safety is jeopardized, allow the demolition of historic structures only when the existing structure cannot be economically rehabilitated or moved, or there is a demonstrated public need for the new use; and the proposed development is compatible with the adjacent properties.*
- b. Ensure that exterior alterations of historic structures maintain the historic value of the structure and conform with the Secretary of the Interior’s Standards for Historic Preservation.*
- c. Ensure that the design of new construction within historic districts does not detract from the architectural qualities of the district.*
- d. Where the original or intended use of a structure is not feasible, encourage compatible adaptive uses of historic structures (i.e. establishment of bed and breakfast operations, specialty shops, restaurants, and professional offices) provided the historic integrity of the structure is maintained.*

1.11 The area subject to the Comprehensive Plan map amendment is located within the Monteith National Register Historic District. All of the properties in the subject area, except one – the Pacific Power property (Tax Lot 1800) – contain historic homes. Some of them have been converted to multiple units on the interior. On balance, the historic resources maintain their historic integrity and contribute to the character of the Monteith District.

1.12 The Albany Development Code Article 7 Historic Overlay Ordinance provides a means for the City to formally recognize and protect historic and architectural resources. The historic overlay standards require approval for exterior alterations to historic buildings and for relocation or demolition of historic buildings. Demolition is an “extreme and final measure.”

1.13 The current Historic Downtown District (HD) of the subject area primarily allows for a range of commercial uses. Residential uses are limited to the upper floors or attached to a business. (The purposes of the HD zone are described in more detail in findings 4.3 in the Zone Map Amendment section of this report.) Adapting the existing historic houses for the uses allowed in the HD zone would be challenging due to the small lots and inability to provide required on-site parking and building code standards. Demolishing the historic dwellings for new commercial or other development would not support the goals of protecting Albany’s historic resources.

GOAL 9: ECONOMY (Chapter 3 – Economic Development)

Land Use

Goal 1: Ensure 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.

Policy 1: General: Provide opportunities to develop the full range of commercial, industrial, and professional services to meet the needs of Albany’s residents and others.

1.14 The proposed Comprehensive Plan Map Amendment would change the map designation of 1.39 acres of land from Village Center (VC) to Low Density Residential (LDR). A concurrent Zoning Map Amendment proposes to change the same 1.39 acres of land from Historic Downtown District (HD) to Hackleman-Monteith District (HM). These changes would remove 1.39 acres designated for commercial development,

and will add that amount to the City's inventory of residential land. All lots on the affected block are already developed with a mix of single family, two family and multifamily residences. The remaining lot is owned by Pacific Power and contains a power generation substation.

- 1.15 The current VC designation of the subject block provides the opportunity for a full range mix of uses including retail and residential uses and may include offices, community and personal services, and live-work units. The current zoning of the block is HD which allows a range of commercial uses such as restaurants, offices, indoor entertainment and retail uses through Site Plan Review. Uses allowed through Conditional Use approval include community services, educational and religious institutions.
- 1.16 The HD district is one of nine "Mixed Use Village Center Zoning Districts," as described in Article 5 of the Albany Development Code (ADC). The Central Albany "village center" includes a large area and numerous other commercial mixed-use zoning districts to provide a full range of support commercial and professional services in Central Albany such as CB, (Central Business), LE (Lyon Ellsworth) and WF (Waterfront). The commercial core is primarily located between the Willamette River to the north and 3rd Avenue to the south, and Calapooia Street to the west and Baker to the east, and includes the properties along the Highway 20 couplet streets of Lyon and Ellsworth.

The size of the area proposed for a Comprehensive Plan Map and Zoning Map amendment is 1.39 acres. Excluding the power company lot, the lot sizes in the area range from 2,500 square feet to 6,750 square feet and are fully developed with residential units.

Goal 3: Create village centers that offer housing and employment choices.

Commercial Policy 4: Use land use controls and other tools to reserve Village Centers for intended uses.

- 1.17 The character of each Village Center zone varies based upon historic development patterns, adjacent zones and uses. According to Section 5.020 of the ADC, "medium-density residential development that provides a mix of housing choices is located adjacent to Village Center commercial zones."
- 1.18 The intended use of the HD district is described as follows by Section 5.030(1) of the ADC: "The HD district is intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses." Lower density, primary residential development that characterizes much of the subject block is not consistent with the intended character of the HD district.

Central Albany

Goal: Revitalize the Central Albany area so that it will accommodate a significant portion of Albany's future employment and housing needs while retaining its unique historic character, vibrancy and livability.

Policy 3: Create a readily identifiable core that is unique and vibrant with a mixture of entertainment, culture, housing, specialty shops, offices and other commercial uses by:

- a. Promoting the downtown as the center of a variety of commercial, service, entertainment and housing activities.***

- 1.19 Retaining Albany's historic building stock is central to creating Central Albany's identity and was a key element in the 1996 Central Albany Land Use and Transportation Study (CALUTS). It conceptualized the land use elements that would make up the Historic Downtown District and the Hackleman-Monteith District Historic District. These evolved into the HD and HM zoning districts of today. According to the Framework Plan, historic downtown was envisioned to have a dense mixture of uses oriented both horizontally and vertically. High density residential infill was encouraged. As a destination for entertainment in the community, there would be emphasis on theaters, restaurants, nightlife and specialty shops. It would also

serve as a center for emergent businesses, medical/professional offices, and government offices.

- 1.20 The CALUTS study affirmed principal features of the Hackleman-Monteith District which included preservation of historic buildings and landscapes while discouraging the conversion of residences to other uses. Increases to residential density however was encouraged through townhome and apartment infill, accessory rental units and home offices.
- 1.21 When the zoning proposed in the CALUTS Plan was adopted in 1996, the subject block was zoned HD despite the fact that preservation of residential uses was an explicit goal of the HM district and the Plan proposed HM. Nothing in the available record indicates intent on the inconsistency between the Plan and why the area was zoned HD and not HM.

GOAL 10: HOUSING (Chapter 4)

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

Goal 2: Create a city of diverse neighborhoods where residents can find and afford the values they seek.

Policy 1: Ensure that there is an adequate supply of residentially zoned land in areas accessible to employment and public services.

- 1.22 The Monteith and Hackleman National Register Historic Districts provide diverse neighborhoods. There is diversity in house and lot sizes, price, and architectural style. The residential historic districts play an important role in providing a supply of residentially zoned land adjacent to the downtown commercial districts.
- 1.23 Variables affecting housing needs include age of the household members, income and size together with population growth. The Albany Comprehensive Plan anticipates a population in 2025 of 57,030. About 4,300 housing units will be needed to meet the expected demand.
- 1.24 According to the Comprehensive Plan, there is a surplus of about 2,237 acres of land available within the City and urban growth area to accommodate residential development through 2025. Most of the residential growth is projected to be accommodated with new development in the WF and MUR zones, and redevelopment of upper floors in existing building and infill in the HD and CB zones. An estimated 63 dwelling units will be needed to accommodate projected growth in the HM zone to 2025.

Policy 2: Provide a variety of choices regarding type, location, density and cost of housing units corresponding to the needs and means of city residents.

- 1.25 The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith Historic Districts. Single Family structures are allowed, however duplexes and multifamily dwellings are not allowed unless they appear on the "Special Status" list. It is less flexible than other residential zones due to its nationally recognized historic nature. Due to its proximity to downtown commercial areas, it is a zone which provides residents easy access to transit, employment sites, shopping, and community services.

Policy 10: Preserve and enhance Albany's historic housing as a unique and valuable resource.

- 1.26 The Comprehensive Plan emphasizes the importance of preserving Albany's historic housing and neighborhoods. According to the Plan, "The Monteith, Hackleman, and Downtown Historic Districts have achieved national recognition by being placed on the National Register of Historic Places, the nation's official list of cultural resources worthy of preservation." Most important to this unique and valuable resource is the

architectural quality of the structures in Albany which represent virtually every style and type of house ever built in the Northwest.

CONCLUSIONS (CRITERION I, PLAN GOALS AND POLICIES)

The following summarizes the findings and conclusions of the evaluation of the Plan goals.

- 1.1 Goal 2, Land Use Planning. Notification was sent to all affected and surrounding property owners and agencies with jurisdiction. Two public hearings have been scheduled to consider the proposed comprehensive plan and zoning map amendments.
- 1.2 Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces. The subject block is located in the Monteith National Register Historic District and is primarily characterized by historic residences. The Hackleman-Monteith District (HM) zoning was created to preserve Albany's historic buildings and discourage conversion of residential buildings to other uses.
- 1.3 Goal 9, Economic Development. The 1996 CALUTS plan conceptualized land uses for the Historic Downtown District (HD) and HM districts. Despite the predominance of historic residences on the subject block, the area was zoned HD instead of HM when the CALUTS plan zoning was adopted in 1996. The Village Center comprehensive planning designation was applied to the areas zoned HD and other mixed use zones. This action rendered most residential uses on the block non-conforming. This block was not intended to be used for mixed-use commercial purposes.
- 1.4 Goal 10, Housing. If the proposed map amendments are approved, 1.39 acres of land currently developed with residential uses and a utility company will be created in the LDR area, and 1.39 acres of mixed-use commercial land will be removed from the inventory.
- 1.5 On balance, the evidence supports changing the designation of the subject block from VC to LDR, and the zoning from HD to HM.

(2) (ADC 2.220 (3.b)). *The requested designation is consistent with any relevant area plans adopted by the City Council.*

FINDING OF FACT

- 2.1 "Relevant area plans" as used here means land use plans. The 1996 CALUTS conceptualized the land use elements that would make up the Historic Downtown District and the Hackleman-Monteith District. The subject block was located within an area envisioned for residential uses as opposed to mixed commercial uses of the Historic Downtown District.

CONCLUSION

- 2.1 The requested designation for this block is more consistent with the 1996 CALUTS plan than its current comprehensive plan and zoning map designation.
- 2.2 This criterion is met.

(3) (ADC 2.220 (3.c)). *The requested designation is consistent with the Comprehensive Plan Map pattern*

FINDINGS OF FACT

- 3.1 The Comprehensive Plan does not, in broad terms, describe ideal land use or map patterns. Typically, it is good practice to locate uses with negative off-site impacts away from residential areas, avoid "spot zoning",

provide a transition from higher intensity land uses to less intense residential uses, encourage compatible infill, and discourage low-density sprawl.

Particular Comprehensive Plan goals and/or policies provide guidance about what kind of uses and land patterns are desirable. For example, Policy 15 of Goal 14 says, “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,” (Comprehensive Plan, page 8-3).

- 3.2 Currently, the land south of the subject block has a Comprehensive Plan designation of Low Density Residential (LDR), which is shown in light yellow on the Plan map that follows (see Figure 3). Properties to the north and east are designated Village Center (VC), and are shown as purple. Land designated for public use is shown in light blue on city-owned property to the west. The subject block serves as a buffer between these two designations. The proposed Plan map amendment would change the designation of 1.39 acres from VC to LDR.
- 3.3 The VC designation “provides for a mixture of uses to serve nearby neighborhoods. These uses must include retail and residential uses and may include offices, community and personal services, and live-work units. Development within a VC will be pedestrian friendly, fit the desired scale and character of nearby neighborhoods and prevent the appearance of strip commercial development. Within the VC Plan designation there will be at least two zones. One is a mixed-use commercial zone, the other is a medium- to high-density residential zone that provides a mix of housing choices,” (Comprehensive Plan, page 9-10).

The LDR designation “Identifies areas predominantly suited or used for detached single-family development on lot sizes ranging from 5,000 to 10,000 square feet. Attached housing with smaller lot sizes is permitted in RS-5 and in planned or cluster developments in other zones,” (Comprehensive Plan, page 9-9).

- 3.4 Due to a variety of factors including changing development patterns, business concepts, and community needs, and other factors that cannot be specifically anticipated, the zoning patterns within areas of a community cannot always remain static.
- 3.5 The proposed Comprehensive Plan Map amendment with concurrent zone change to Hackleman-Monteith District (HM) for the block would reflect the existing historic residential units. No additional development is expected on these properties.

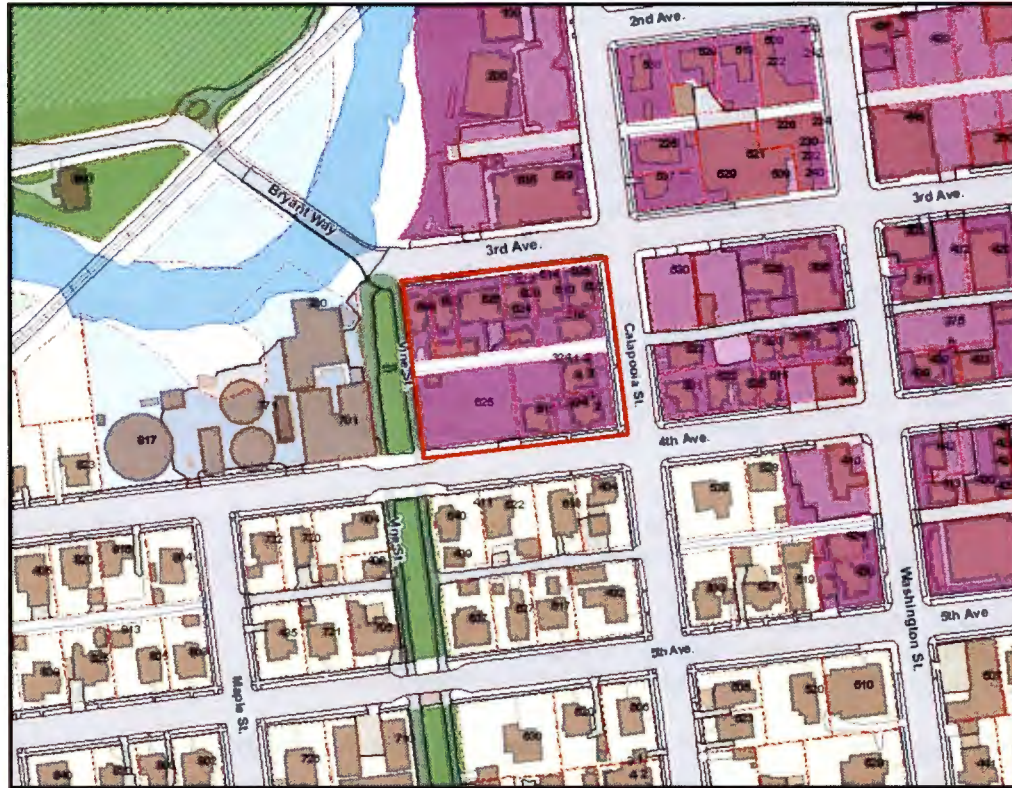


Figure 3: Subject block identified as "Village Center" in the Comprehensive Plan. Properties to the south are designated "Low Density Residential."

CONCLUSIONS

- 3.1 There is no specific formula for an appropriate Comprehensive Plan map pattern.
- 3.2 The predominant map pattern for this location is VC followed by LDR (see Figure 3).
- 3.3 The proposal to change the Plan designation with the concurrent zone change to HM will have little effect on the neighborhood since all of the 1.39 acres that are the subject of the proposed Comprehensive Plan/Zone change are presently developed with single family, two family and multifamily dwellings. Pacific Power owns an electrical substation at 625 4th Avenue SW (Tax Lot 1800), which is unaffected by these amendments.
- 3.4 The requested Plan designation is consistent with the Comprehensive Plan map pattern because the site is adjacent to residential development to the south.
- 3.5 This review criterion is met.

(4) (ADC 2.220 (3.d)). *The requested designation is consistent with the statewide planning goals.*

FINDING OF FACT

- 4.1 Oregon's 19 Statewide Planning Goals constitute the framework for a statewide program of land use planning. The Statewide Goals are achieved through local comprehensive planning. The Albany Comprehensive Plan was acknowledged by the Land Conservation and Development Commission in 1982 as being in compliance with the Statewide Planning Goals.

The Statewide Planning Goals were evaluated under the Comprehensive Goals and Policies in Review Criterion (1) above. The Findings of Fact and Conclusions are hereby included by reference.

CONCLUSIONS

- 4.1 The requested LDR designation for this site is consistent with the Statewide Planning Goals.
- 4.2 This criterion is met.

STAFF ANALYSIS

Zoning Map Amendment File ZC-01-12

The Albany Development Code (ADC) includes the following review criteria which must be met for this application to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions.

(1) (ADC 2.740 (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.

FINDINGS OF FACT

- 1.1 The city of Albany proposes to change the zoning of 1.39 acres from Historic Downtown (HD) to Hackleman-Monteith District (HM).
- 1.2 The current Comprehensive Plan map designation of the subject site is Village Center (VC). The proposed HM zoning is not consistent with the Low Density Residential (LDR) Plan designation of the site.
- 1.3 The City has applied to change the Comprehensive Plan Map designation from VC to LDR.
- 1.4 The proposed zone change to HM is consistent with the concurrent proposed LDR designation of the property.

CONCLUSIONS

- 1.1 The City has applied for a concurrent Comprehensive Plan Map amendment to LDR. The proposed HM zoning is consistent with the LDR designation.
- 1.2 This criterion is satisfied.

(2) (ADC 2.740 (2)). Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation.

FINDINGS OF FACT

- 2.1 The site consists of the block bounded by 3rd Avenue, 4th Avenue, Vine Street, and Calapooia Street. The zone change would change the designation of 1.39 acres of property from HD (Historic Downtown District) to HM (Hackleman-Monteith District).
- 2.2 Albany's Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030, and does not identify any capacity or level of service problems occurring adjacent to the development.
- 2.3 Zone changes are required to comply with the Transportation Planning Rule (TPR). The rule holds that a "significant effect" occurs and must be mitigated if a proposed zone change would result in an existing or

planned transportation facility either failing to meet an adopted performance standard or degrading the performance of an already failing facility.

- 2.4 ADC 5.060 lists the land uses permitted under the current HD zone designation. The most trip intensive uses allowed are for retail sales and service and restaurant uses.
- 2.5 ADC 3.050 lists the land uses permitted under the proposed HM zone designation. This designation generally limits property to single family residential uses. A limited number of additional uses, such as day care facilities, churches, and bed and breakfast establishments are allowed under either a site plan or conditional use process.
- 2.6 Based on Institute of Transportation Engineer's (ITE) trip generation rates, the commercial uses allowed under the HD cone designation have significantly higher trip generation rates than uses allowed under the HM zone designation.
- 2.7 Because uses allowed under the proposed zone designation have lower trip rates than uses allowed under the site's current designation, the zone change would result in a decrease rather than an intensification of possible uses on the site. As a result, the zone change would not have a significant effect on the transportation system.

CONCLUSIONS

- 2.1 The proposed zone change would change the designation of 1.39 acres from HD to HM.
- 2.2 Albany's Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030, and does not identify any capacity or level of service problems occurring adjacent to the development.
- 2.3 Zone changes must be evaluated for a "significant affect" in order to comply with the TPR.
- 2.4 Based on the schedule of allowed uses contained in ADC 4.050, the reasonable worst case use allowed under the proposed zone designation would generate fewer trips than could occur with development under the current zone designation. The zone change is therefore not expected to have a significant effect on the transportation system.
- 2.5 This review criterion is met.

(3) (ADC 2.740 (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.

Sanitary Sewer.

- 3.1 City utility maps show an 8-inch public sanitary sewer main in the alley between 3rd Avenue and 4th Avenue; a 16-inch sewer main in 4th Avenue; and a 12-inch sewer main in Calapooia Street. All properties (except the power substation at the southwest corner of the block) within this block are developed with residential uses and are currently served by the public sewer system.

Water.

- 3.2 City utility maps show a 12-inch public water main in Vine Street; a 6-inch water main in 3rd Avenue; a 12-inch water main in Calapooia Street along the northern half of the block; a 3-inch water line in Calapooia Street along the southern half of the block; a 12-inch water main in the alley; and a 2-inch water line along the north side of 4th Avenue; and a 20-inch water main along the south side of 4th Avenue. All properties (except

the power substation at the southwest corner of the block) within this block are developed with residential uses and are currently served by the public water system.

Storm Drainage.

- 3.3 City utility maps show a 12-inch public storm drain main in Calapooia Street. While 3rd Avenue and 4th Avenue have no piped public storm drainage facilities, these streets are improved to city standards with curb and gutter. The gutters along the streets collect storm water runoff from the streets and adjacent properties and carry the runoff to the storm drainage facilities in Calapooia Street.

CONCLUSIONS

- 3.1 The existing public sanitary sewer facilities in this area are capable of accommodating the existing development as well as future development allowed in the proposed zone.
- 3.2 The existing public water facilities in this area are capable of accommodating the existing development as well as future development allowed in the proposed zone.
- 3.3 The existing public storm drainage facilities in this area are capable of accommodating most residential development that could occur in the proposed zone. Any development that may occur which may produce higher levels of storm water runoff would likely be required to provide on-site storm water detention to protect the public system from overloading.
- 3.4 This review criterion is met.

(4) (ADC 2.740 (4)). *The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.*

FINDINGS OF FACT

- 4.1 The current zoning designation of the property where the Zoning Map amendment is proposed is HD (Historic Downtown District). The proposed zoning is HM (Hackleman-Monteith District).
- 4.2 Prior to being zoned HD, the subject block was zoned R-3 (1989) and RM-3 (1998). Both zoning designations allowed single family outright, duplexes and multifamily either outright or through Site Plan Review according to development codes in effect at the time.

Zoning District Purposes

- 4.3 According to Section 5.030(1) of the Albany Development Code, the HD (Historic Downtown District) zoning district is “intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.”
- 4.4 New single family, two family and multifamily units are not permitted in the HD district. Residential care or treatment facilities and dwelling units above or attached to a business are the only residential uses allowed in HD contingent upon Site Plan Review approval. Basic Utilities are allowed through Conditional Use approval in the HD district provided they have no potential visual or off-site impacts. However treatment plants, major power generation facilities, and major overhead power lines that require support structures are prohibited.
- 4.5 The site is not characteristic of HD zoned sites in Albany, due to its existing development of a range of residential uses. Other than an electrical substation on one affected parcel, there are no commercial uses consistent with HD zoning on this block.

- 4.6 According to the Central Albany Land Use & Transportation Study (CALUTS) Town Center Plan and the 2001 Central Albany Revitalization Area (CARA) Urban Renewal Plan, the intent of the Hackleman-Monteith District (HM) district was to “preserve existing single family residences for that use, but not make existing multifamily development non-conforming.” The Plans recognized the fact that there were duplexes and multifamily residences created for that purpose. They were intended to remain conforming uses and not subject to restrictions that would otherwise apply if they were non-conforming uses. Duplexes and multifamily residences that were shown to be legally established in areas previously zoned RM-3 (and certain other zones) at the time the HM zone was established on May 22, 1996, were listed on a “Special Status” list.
- 4.7 According to the Section 3.020(7), “The HM district is intended primarily to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multifamily residential, is not allowed.” A “special status” list was created for dwellings that were legally converted to two family and multifamily units when the area was zoned HM. The multi-unit residences in the subject block may be added to the Special Status list found in ADC 3.085, where they may be deemed conforming to the base zoning district.
- 4.8 Regarding the proposed HM zoning district best satisfying the goals and policies of the Comprehensive Plan, the Findings and Conclusions under Review Criterion (1) of the concurrent Comprehensive Plan Map amendment are included here by reference. In summary, those findings found that the proposed map amendments on this site were generally supportive of listed Plan policies.
- 4.9 The purpose of the Hackleman-Monteith District zoning district supports many of the Comprehensive Plan goals and policies. The Comprehensive Plan emphasizes the importance of preserving Albany’s historic housing and neighborhoods. According to the Plan, “The Monteith, Hackleman, and Downtown Historic Districts have achieved national recognition by being placed on the National Register of Historic Places, the nation’s official list of cultural resources worthy of preservation,” (Comprehensive Plan, page 2-11). Retention of the HD zone would not support the long-term need to preserve historic homes as valuable assets.

CONCLUSIONS

- 4.1 The HM zone best satisfies the applicable goals and policies of the Albany Comprehensive Plan.
- 4.2 This criterion has been met.

(5) (ADC 2.740 (5)). The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study (ADC 2.740 (5)).

FINDINGS OF FACT

- 5.1 A primary purpose of the CALUTS Plan was to protect Albany’s three National Register Historic Districts in the Central Albany area, including one historic commercial district and two residential districts.
- 5.2 The Plan proposed the block be zoned HM due to the historic residences.
- 5.3 Albany’s Transportation System Plan (TSP) includes improvements necessary to accommodate anticipated development through the year 2030. The TSP does not identify any capacity or level of service problems associated with the proposed Zoning Map amendment.

CONCLUSIONS

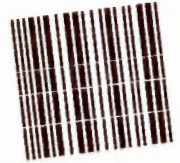
- 5.1 The current HD zoning is not consistent with the CALUTS Plan. The HM zone will better protect the historic residential buildings and uses than the HD zone.

- 5.2 The proposal will not conflict with the transportation system as shown in TSP.
- 5.3 The proposal is in accordance with the transportation pattern as shown in the TSP.
- 5.4 This criterion is met.

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