

ORDINANCE NO. 4948

TITLE: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND THE CITY OF ALBANY ZONING MAP, BY REZONING APPROXIMATELY 26,310 SQUARE FEET OF PROPERTY LOCATED AT 518, 528, 538 SECOND AVENUE SW; 225 CALAPOOIA STREET SW; AND 537 THIRD AVENUE SW AND ADOPTING FINDINGS ATTACHED AS EXHIBIT "A" (CASE NO. ZC-01-91).

WHEREAS, the Albany Planning Commission has held the public hearings required by local and state law, and

WHEREAS, the Albany Planning Commission recommended approval of the zone change request from C-3 (Central Business District) to RP (Residential Professional) based on evidence produced at the public hearing, and

WHEREAS, the Albany City Council has duly advertised and caused notices to be given as required by law and has had a public hearing concerning the zoning of the property described below.

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

Section 1: The Findings attached as Exhibit A are hereby adopted in support this decision.

Section 2: The official Albany Zoning Map is hereby amended from C-3 to RP for an area described as follows: 518, 528 and 538 Second Avenue SW; 225 Calapooia Street SW; and 537 Third Avenue SW (See attached legal description Exhibit B.)

Section 3: A copy of this zone change amendment shall be filed in the Office of the City Recorder of the City of Albany and the number noted on the official zoning map of the City of Albany.

Section 4: A copy of the adoption of or changes in comprehensive plans, zoning ordinances and zoning designations shall be filed with the Linn County Assessor's Office within 90 days after the date of this change as well as the legal description and map for the zone change.

Passed by the Council: February 13, 1991

Approved by Council President: February 14, 1991

Effective Date: March 15, 1991


Council President

ATTEST:



Deputy City Recorder

EXHIBIT "A"
ZONE CHANGE CASE NO. ZC-01-91
FINDINGS

OBJECTIVE FINDINGS: The following objective findings have been developed which address the above mentioned review criteria:

- A. The property for which the zone change is requested is designated on the Comprehensive Plan as Central Business District and is zoned C-3 (Central Business District). The requested zone of R-P (Residential Professional) is consistent with the Central Business District Comprehensive Plan Designation.
- B. All five parcels being considered for rezoning are developed with residential structures. The Monteith House however, does not have permanent residents and is used as a museum and historical research facility.
- C. The current uses, with the exception of the Monteith House, are considered pre-existing non-conforming uses. City of Albany records indicate that these none of these non-conforming uses were created illegally.
- D. The proposed RP (Residential Professional) zoning will bring all of the existing residences into conformance with the use criteria for that zone, eliminating their non-conforming use status.
- E. No other land use applications were filed in conjunction with this zone change request and there are no additional demands for public facilities beyond that which are currently in place.
- F. No structural expansions or alterations are proposed as part of this rezoning. Should alterations to any of the historic structures be proposed in the future, they would be subject to the historic review process as identified in the Albany Municipal Code Section 18.04.160-200.
- G. The requested zone change area is within the Monteith Historical District. Three of the structures are rated as "Primary" structures and two are rated as "Compatible" structures on the National Register Inventory. The Monteith House is on the National Register of Historic Places as an individual nomination as well.
- H. The Albany Comprehensive Plan contains goals, policies and implementation methods to protect Albany's historic resources, support recognition, development, and promotion of Albany's historic buildings and maintenance of Development Code regulations that enhance the preservation of historic structures.

SUBJECTIVE FINDINGS: The following subjective findings have been developed which address the above mentioned review criteria:

- A. We believe the proposed rezoning will help the viability of the Monteith House and the immediate surrounding neighborhood by recognizing and allowing its residential character to exist as a conforming use with the Albany Development Code.
- B. We believe that by reducing the opportunities to convert the existing historic structures into the wider range of commercial uses allowed by the C-3 (Central Business District) zone there will be a reduction of some of the pressure to redevelop this area for commercial uses.
- C. Reduced pressure for redevelopment or use intensification will probably result in less need to alter the historic structures thereby enhancing their preservation.
- D. We believe that the R-P (Residential Professional) zone provides a balance between the existing uses and the character of the Downtown Commercial area by allowing the current uses to be conforming uses and still allowing a range of uses (professional office uses) that are compatible with the Central Business District.
- E. We believe that this rezoning will assist in preserving our historic structures by reducing potential speculation for high intensity commercial development.
- F. We believe that the R-P (Residential Professional) zone best meets the intent of the Comprehensive Plan Goals and Policies.

EXHIBIT B
Legal Description for Zone Change, ZC-01-91

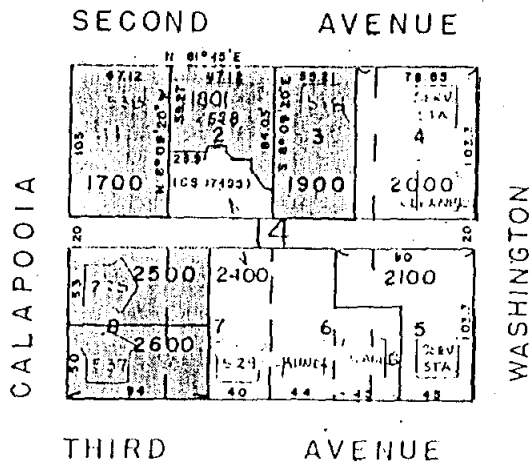
All of Lots 1, 2, 3, 7, and 8 in Block 14, City of Albany Subdivision Plat on file at the Linn County Records Office, in the City of Albany, Linn County, Oregon;

EXCEPT the easterly 40.30 feet of Lot 7, Block 14 of said subdivision;

ALSO EXCEPTING that portion of Lot 3, Block 14 of said subdivision described as follows; Beginning at the northeast corner of said lot and block, thence on the east line of said Lot 3, South 09° 00' 00" East 103.21 feet, more or less, to the southeast corner of said Lot 3; thence on the south line of said Lot 3, South 81° 00' 00" West 11.93 feet; thence North 08° 57' 20" West 103.21, to the north line of said Lot 3; thence on the north line of said Lot 3, North 81° 00' 00" East 11.85 feet to the point of beginning;

ALSO EXCEPTING that portion of Lot 2, Block 14 of said subdivision described as follows; Beginning at the southwest corner of said Lot 2, thence on the south line of said Lot 2, North 81° 45' 40" East 67.12 feet, to the southeast corner; thence on the east line of said Lot 2, North 08° 09' 20" West 19.25 feet; thence South 79° 05' 30" West 5.70 feet; thence North 42° 33' 50" West 14.50 feet; thence North 07° 48' 00" West 7.63 feet; thence South 82° 10' 00" West 12.40 feet; thence North 46° 18' 20" West 6.75 feet; thence North 08° 09' 20" West 3.45 feet; thence South 82° 17' 30" West 12.80 feet; thence South 08° 09' 20" East 3.65 feet; thence South 81° 58' 35" West 23.90 feet; thence South 08° 09' 20" East 44.00 feet to the point of beginning.

Containing 26,629 square feet, more or less.



**CITY OF ALBANY ZONE CHANGE
STAFF REPORT**

FILE NO.:	ZC-01-91	HEARING TIME:	7:15 P.M.
HEARING BODIES:	Planning Commission City Council	HEARING DATES:	February 4, 1991 February 13, 1991
HEARING LOCATION:	250 Broadalbin SW, City Hall II Council Chambers		

GENERAL INFORMATION

Applicant: City Initiated at request of Monteith Society

Type of Request: Zone Change from C-3 (Central Business District Commercial) to R-P (Residential Professional)

Property Location: Five contiguous lots located in the vicinity of Calapooia Street, Second Avenue SW and Third Avenue SW: 518, 528, 538 Second Avenue SW; 225 Calapooia Street SW; and 537 Third Avenue SW

Total Land Area: Approximately 26,310 sq. ft.

Assessor's Map & Tax Lot Nos.: 11-4W-1DD; Lots 1700, 1801, 1900, 2500 and 2600

Neighborhood: Central Albany

Existing Comp. Plan Designation: Central Business District

Surrounding Zoning: C-3 (Central Business District)

Existing Land Use: The Monteith House and residences

Surrounding Uses: To the north on Second Avenue SW is the Post Office; to the east, facing on Washington and then eastward beyond are a variety of commercial uses; to the south is a mixture of commercial and residential uses; and to the west is an abandoned industrial building and then a steep bank leading down to the Calapooia River.

NOTICE INFORMATION: Notices were mailed to affected property owners within 300 feet on January 25, a legal public hearing notice was placed in the Democrat-Herald, and the subject property was posted in accordance with Section 4.034 of the Albany Development Code. At the time this report was written, no written correspondence had been received by the Planning Division.

PRIOR HISTORY: The site includes five parcels that include the Monteith House, three single family residences and one duplex. All of the uses, except for the Monteith House, are currently considered pre-existing non-conforming uses within the existing C-3 (Central Business District) zone. The Monteith Society recently requested that the City consider rezoning this area to recognize the existing residential uses (and allow them to be conforming uses with the requested zone.) The Monteith Society also wanted any rezoning to protect the area and the historic structures from conversion to commercial uses and/or demolition. The City Council directed the Planning Division to conduct a study and present an alternative which met these goals. This proposed zone change from C-3 (Central Business Commercial) to RP (Residential Professional) attempts to maximize these goals. The proposed zone change will not have an impact on the existing downtown commercial node.

The Monteith House represents an important historical landmark of Albany's development. Built around 1848, it

was the first frame house in the City. It has been moved to its present location and restored to its original condition by local volunteers. The home is available for tours and is included in many City tours and points of interest guides.

Prior to initiating this zone change, staff discussed the proposal with the Monteith Society as well as the property owners of the other properties included within the zone change proposal. Only one property owner was not contacted directly (a message was left on their answering machine). All of the property owners we made contact with were agreeable to the proposed rezoning. One of these property owners requested that we expand our rezoning effort to include the properties on the west side of Calapooia between Second and Third Avenues. However, at this time, the proposed zone change will include only the Monteith House and immediately surrounding properties.

DISTRICT ZONE AMENDMENT CRITERIA: Zoning district amendment proposals are considered under a Type IV procedure (as defined in the Albany Development Code) and must demonstrate conformance with specific criteria in order for the zone change to be considered. The following are the established review criteria:

1. The requested amendment 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 3.060 of the Albany Development Code.
2. The adequacy of existing or anticipated transportation facilities (streets, bus routes, etc.) and the potential impact on traffic generation and safety.
3. A demonstration that the existing or anticipated services (sanitary sewers, storm sewers, schools, fire protection, etc.) can accommodate potential development within the subject area without adverse impact on the affected service area.
4. Any unique natural features or special areas involved such as floodplains, slopes, significant natural vegetation, historic district, etc. will be protected as a result of the proposed rezoning.
5. In comparison with other districts permissible under the Comprehensive Plan designation, the proposal is determined to best meet the intent of the Comprehensive Plan Goals and Policies.

OBJECTIVE FINDINGS: The following objective findings have been developed which address the above mentioned review criteria:

- A. The property for which the zone change is requested is designated on the Comprehensive Plan as Central Business District and is zoned C-3 (Central Business District). The requested zone of R-P (Residential Professional) is consistent with the Central Business District Comprehensive Plan Designation.
- B. All five parcels being considered for rezoning are developed with residential structures. The Monteith House however, does not have permanent residents and is used as a museum and historical research facility.
- C. The current uses, with the exception of the Monteith House, are considered pre-existing non-conforming uses. City of Albany records indicate that these none of these non-conforming uses were created illegally.
- D. The proposed RP (Residential Professional) zoning will bring all of the existing residences into conformance with the use criteria for that zone, eliminating their non-conforming use status.
- E. No other land use applications were filed in conjunction with this zone change request and there are no additional demands for public facilities beyond that which are currently in place.
- F. No structural expansions or alterations are proposed as part of this rezoning. Should alterations to any of the historic structures be proposed in the future, they would be subject to the historic review process as identified in the Albany Municipal Code Section 18.04.160-200.

- G. The requested zone change area is within the Monteith Historical District. Three of the structures are rated as "Primary" structures and two are rated as "Compatible" structures on the National Register Inventory. The Monteith House is on the National Register of Historic Places as an individual nomination as well.
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SUBJECTIVE FINDINGS: The following subjective findings have been developed which address the above mentioned review criteria:

- A. We believe the proposed rezoning will help the viability of the Monteith House and the immediate surrounding neighborhood by recognizing and allowing its residential character to exist as a conforming use with the Albany Development Code.
- B. We believe that by reducing the opportunities to convert the existing historic structures into the wider range of commercial uses allowed by the C-3 (Central Business District) zone there will be a reduction of some of the pressure to redevelop this area for commercial uses.
- C. Reduced pressure for redevelopment or use intensification will probably result in less need to alter the historic structures thereby enhancing their preservation.
- D. We believe that the R-P (Residential Professional) zone provides a balance between the existing uses and the character of the Downtown Commercial area by allowing the current uses to be conforming uses and still allowing a range of uses (professional office uses) that are compatible with the Central Business District.
- E. We believe that this rezoning will assist in preserving our historic structures by reducing potential speculation for high intensity commercial development.
- F. We believe that the R-P (Residential Professional) zone best meets the intent of the Comprehensive Plan Goals and Policies.

STAFF RECOMMENDATION: To recommend APPROVAL of a Zone Change from C-3 (Central Business District) to RP (Residential Professional) on a 26,310 square foot area (5 parcels) on property located at 518, 528, 538 Second Avenue SW; 225 Calapooia Street SW; and 537 Third Avenue SW (Tax Lots 1700, 1801, 1900, 2500 and 2600, 11-4W-1DD) based upon the Objective and Subjective Findings of Fact.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission recommended APPROVAL of this Zone Change from C-3 (Central Business District) to RP (Residential Professional) on a 26,310 square foot area (5 parcels) on property located at 518, 528, 538 Second Avenue SW; 225 Calapooia Street SW; and 537 Third Avenue SW (Tax Lots 1700, 1801, 1900, 2500 and 2600, 11-4W-1DD) based upon the Objective and Subjective Findings of Fact and the testimony received at the Public Hearing.

CITY COUNCIL ACTION:

MOTION IN FAVOR

I Move that the City Council APPROVE the Zone Change request (Case No. ZC-01-91) from C-3 (Central Business District) to RP (Residential Professional) on a 26,310 square foot area of property located at 518, 528, 538 Second Avenue SW; 225 Calapooia Street SW; and 537 Third Avenue SW (Tax Lots 1700, 1801, 1900, 2500 and 2600, 11-4W-1DD) based upon the Objective and Subjective Findings of Fact listed in this Staff Report, and the testimony received at the Public Hearing.