

ORDINANCE NO. 5117

TITLE: AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND THE CITY OF ALBANY ZONING MAP, BY REZONING PROPERTY IDENTIFIED AS LINN COUNTY ASSESSOR'S MAP 11S-3W-08D, TAX LOT 600 AND ADOPTING FINDINGS ATTACHED AS EXHIBIT "A" FOR CASE NO. ZC-03-94.

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

WHEREAS, the Albany Planning Commission recommended APPROVAL based on evidence presented in the staff report and at the public hearing, and

WHEREAS, the Albany City Council has caused notice 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 Staff Report and Findings Document attached as Exhibit "A" are hereby adopted in support of this decision.

Section 2: The official Albany Zoning Map is hereby amended from RM-5 to OP for the area described in the legal description attached as 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 changes in zoning designation shall be filed with the Linn County Assessor's Office within 90 days after the date of this change with the legal description and map for the zoning map amendment.

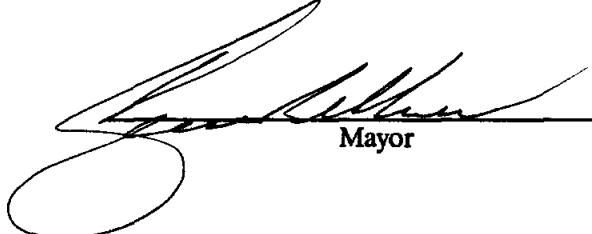
Passed by the Council: May 11, 1994

Approved by the Mayor: May 11, 1994

Effective Date: June 10, 1994

ATTEST:

Nann C. Withrow
Deputy City Recorder


Mayor



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**CITY OF ALBANY
ZONING MAP AMENDMENT
STAFF REPORT AND FINDINGS DOCUMENT**

CASE NO.: ZC-03-94

HEARING BODY: Albany City Council
HEARING DATE AND TIME: May 11, 1994, 7:15 p.m.

LOCATION OF HEARING: Council Chambers, City Hall II, 250 Broadalbin Street SW.

BACKGROUND

A Zoning Map Amendment is a Type IV land use decision, which requires a public hearing before both the Planning Commission and the City Council. The Planning Commission held a public hearing on April 25, 1994. At the hearing the applicant (Dan Post), and one interested party testified in favor of the proposed zoning map amendment. No one testified in opposition. The Planning Commission unanimously approved the proposed zoning map amendment, and has referred the application, with a favorable recommendation, to the City Council for a final decision.

GENERAL INFORMATION

Applicants: Daniel A. Post; Valley Insurance Company; P.O. Box 1119; Albany, OR 97321
Thomas L. Madden; P.O. Box 847; Corvallis, OR 97339

Filed By: Cordell S. Post; Brownstein, Rask, Sweeney, Keer, Grim & Desylvia; 1200 SW Main Building; Portland, OR 97205

Type of Request: Zoning Map Amendment to change zoning from RM-5 (Residential Limited Multiple Family) to OP (Office Professional)

Property Location: South of 14th Avenue SE; west of Waverly Drive SE; north of 16th Avenue SE; and east of Davidson Street SE

Total Land Area: 5.06 acres

Assessor's Map & Tax Lot No.: 11S-3W-08D, Tax Lot 600

Neighborhood: Santiam

Existing Comp. Plan Designation: Medium Density Residential

Current Zoning Designation: RM-5 (Residential Limited Multiple Family)

Surrounding Zones: OP (Office Professional) and RM-3 (Residential Multiple Family) to the north; RM-5 (Residential Limited Multiple Family) to the east and south; RM-5 and CC (Community Commercial) to the west.

Existing Land Use: Vacant land

Surrounding Uses: Offices and apartments to the north; vacant land across Waverly Drive to the east; single-family and multi-family residential to the south; vacant land and a senior residential care center across Davidson Street to the west.

Proposed Development: No specific development proposed at this time

Prior History: No prior land use decisions

NOTICE INFORMATION

Notices were mailed to affected property owners, and posted in the first floor kiosk of City Hall II, 250 Broadalbin SW on April 12, 1994. The site was posted in accordance with Albany Development Code Section 4.034 on April 12, 1994. At the time this staff report was prepared, May 2, 1994, the Planning Division had received no written comments from affected parties.

STAFF RECOMMENDATION

APPROVAL of the application for a Zoning Map Amendment to change the zoning of a 5.06 acre parcel from RM-5 (Residential Limited Multiple Family) to OP (Office Professional).

CITY COUNCIL ACTION

MOTION TO APPROVE

I move that the City Council **APPROVE** the application for a Zoning Map Amendment (Case No. ZC-03-94) to change the zoning of a 5.06 acre parcel from RM-5 (Residential Limited Multiple Family) to OP (Office Professional), for property identified as Linn County Assessor's Map 11S-3W-8D, Tax Lot 600, based on the Findings and Conclusions of the Staff Report and the testimony presented at the Public Hearing.

OR

MOTION TO APPROVE WITH CONDITIONS

I move that the City Council **APPROVE WITH CONDITIONS** as follows: insert conditions, the application for a Zoning Map Amendment (Case No. ZC-03-94) to change the zoning of a 5.06 acre parcel from RM-5 (Residential Limited Multiple Family) to OP (Office Professional), for property identified as Linn County Assessor's Map 11S-3W-8D, Tax Lot 600, based on the Findings and Conclusions of the Staff Report and the testimony presented at the Public Hearing.

OR

MOTION TO DENY

I recommend that the Planning Commission **DENY** the application for a Zoning Map Amendment (Case No. ZC-03-94) to change the zoning of a 5.06 acre parcel from RM-5 (Residential Limited Multiple Family) to OP (Office Professional), for property identified as Linn County Assessor's Map 11S-3W-8D, Tax Lot 600, based on testimony presented at the Public Hearing and direct staff to prepare findings to support the denial.

APPEALS:

Within five days of final action on this case, the Community Development Director will provide written notice of the decision to the applicant and any other parties entitled to notice.

A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal not later than 21 days after the decision becomes final.

APPROVAL STANDARDS

The approval standards relevant to the review of this application are found in the Albany Development Code and the Albany Comprehensive Plan. Section 2.550 of the Development Code lists the five review criteria which must be met for a Zoning Map Amendment to be approved. Incorporated within the analysis of each of the five review criteria are relevant Comprehensive Plan policies.

[CODE CRITERIA WILL BE WRITTEN IN BOLD ITALIC FOLLOWED BY PROPOSED FINDINGS]

- 2.550 (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

- 1a. The proposed base zone is OP (Office Professional).
- 1b. The Comprehensive Plan designation for the subject property is Medium Density Residential.
- 1c. The Comprehensive Plan (Goal 14, Urbanization, Residential: General Requirements, pg. 126) states that "Residential Professional and Neighborhood Commercial zoning are permitted within all residential Plan designations without a Plan change, but will be subject to rezoning requirements and conformance to special standards..."

The OP zoning district was previously called RP (Residential Professional). The name of the zone was changed from Residential Professional to Office Professional with a Development Code revision in 1991. Only the name changed, there were no revisions to definitions, characteristics, regulations, etc. Therefore, the Residential Professional reference in the Comprehensive Plan applies to what is now called the Office Professional zoning district.

- 1d. The applicants have complied with the application requirements for rezoning.
- 1e. When development on the subject property is proposed, it will be subject to the special standards of Site Plan Review, Conditional Use review, and/or other Development Code requirements where applicable.

Conclusions

- 1a. This criterion is met, because the Comprehensive Plan designation of the subject property is Medium Density Residential, and OP (Office Professional) zoning is permitted without a Comprehensive Plan change, and any development on the property will be subject to applicable review and other requirements. No Comprehensive Plan change is needed.

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

Findings of Fact

- 2a. The subject property has frontage on Davidson Street to the west, and Waverly Drive to the east. Any development that takes place on the subject property will have access to both Davidson Street and Waverly Drive, although access points may be limited at the time of development review.

- 2b. Davidson Street is classified as a local street. It is 36 feet wide, with on-street parking, sidewalks along developed property, and no striping on the pavement.

(The section of Davidson Street on which the subject property fronts is approximately 750 feet long, and connects only to 16th Avenue to the south and 14th Avenue to the north of the subject property. 14th Avenue is classified as a major collector. It is 48 - 52 feet wide, with one through vehicle lane in each direction, a continuous center turn lane, one bike lane in each direction, sidewalks along developed property, and no on-street parking. 16th Avenue is classified as a local street. It is 36 feet wide, with sidewalks along developed property, and no striping on the pavement.)

- 2c. Waverly Drive is classified as a minor arterial. It is 64 feet wide, with two through vehicle lanes in each direction, one bike lane in each direction, a median strip, sidewalks along developed property, and no on-street parking.
- 2d. The Albany Development Code (ADC) requires that streets be constructed to certain standards which are intended to insure that the City's transportation system is adequate to accommodate anticipated development.

ADC 12.060 - 12.280 includes standards for public streets. ADC 12.290 - 12.320 includes standards for public sidewalks. ADC 12.230 - 12.350 includes standards for bikeways. Davidson Street and Waverly Drive currently meet these standards, as do 14th Avenue and 16th Avenue.

- 2e. Traffic volumes that will be generated by uses permitted under the proposed OP zone designation vary widely. Adequacy of the transportation system to accommodate a specific development proposal on the subject property will be evaluated at the time of development review. Modifications to the system, including, but not limited to traffic control devices, may be required at that time.

Conclusions

- 2a. Streets, sidewalks, and bikeways adjacent to the subject property are improved to ADC standards, and therefore, these transportation facilities are currently adequate for uses that are permitted under the proposed zone designation. Adequacy of the transportation system to accommodate a specific development proposal on the subject property will be evaluated at the time of development review.

- 2.550 (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

- 3a. The OP zoning district is intended primarily for a mixing of residential land uses with professional offices and related limited commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses. [ADC 4.020(1)]

Potential development on the subject property can include single-family residential, multi-family residential, office construction, and/or limited commercial uses.

- 3b. There is an existing 8-inch water line on Davidson Street, and a 12-inch water line on Waverly Drive that parallel the frontage of the west and east boundaries of the subject property. The City's engineer

has determined that these water lines are adequate to accommodate potential development on the subject property without adverse impact on the affected service area.

- 3c. There is an existing 8-inch sanitary sewer line on Waverly Drive that parallels the frontage of the east boundary of the subject property. There is no existing sanitary sewer line parallel to the west boundary of the subject property on Davidson Street. The City's engineer has determined that the existing 8-inch sanitary sewer on Waverly Drive is adequate to accommodate development on the subject property without adverse impact on the affected service area. (The City's engineer has also determined that the 10-inch existing sanitary sewer on 14th Avenue is adequate to serve potential development, but connection to this line would require the owner of the subject property to extend the public sanitary sewer from 14th Avenue south along Davidson Street).
- 3d. There is an existing 24-inch storm drain line on Davidson Street that parallels the west boundary of the subject property. The City's engineer has determined that this storm drain line is adequate to accommodate potential development on the subject property without adverse impact on the affected service area.
- 3e. Office and/or commercial development on the subject property will generate no demand for school space. Residential development could generate demand for school space at Periwinkle Elementary School, Calapooia Middle School, and South Albany High School. Greater Albany Public School District 8-J officials have stated that these schools can accommodate additional demand for school space without adverse impact on their service areas.
- 3f. The Albany Police Department has reviewed the proposed zoning map amendment and concluded that police services are adequate to accommodate potential development on the subject property without adverse impact on the affected service area.
- 3g. The Albany Fire Department has reviewed the proposed zoning map amendment and concluded that fire services are adequate to accommodate potential development on the subject property without adverse impact on the affected service area.

Conclusions

- 3a. This criterion is met because 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.

2.550 (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

- 4a. *Comprehensive Plan Plate 5: Floodplains* shows no areas of concern on the subject property. The subject property is not in a floodplain as shown on FEMA/FIRM Community Panel No. 410137 0002E (dated 3/16/89).
- 4b. *Comprehensive Plan Plate 7: Slopes* shows no areas of concern on the subject property. City records (planimetric topographic maps from aerial photos) show that the elevation of the subject property varies from approximately 222.5 feet to 226.0 feet.

- 4c. *Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat* shows no areas of concern on the subject property. The vegetation on the property is primarily grass and weeds. No significant vegetation or wildlife habitat has been identified by the applicant, affected parties, or staff review.
- 4d. *Comprehensive Plan Plate 6: Wetland Sites* shows no areas of concern on the subject property. The U.S. Department of Interior, Fish and Wildlife Service, National Wetland Inventory map (dated July 1982) shows no wetlands on the subject property. No wetlands have been identified by the applicant, affected parties, or staff review.
- 4e. The subject property is not in a historic district.

Conclusions

- 4a. This criterion is met because there are no unique natural features or special areas to be jeopardized as a result of the proposed rezoning.

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

Findings of Fact

- 5a. The intent of the proposed OP zoning district is "primarily for a mixing of residential land uses with professional offices and related limited commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses. Such a district is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts." [ADC 4.020(1)]
- 5b. The purpose of the proposed OP zoning district is to encourage commercial development that is compatible with surrounding residential areas. (ADC 4.010)
- 5c. The Comprehensive Plan goals and policies identified in the following findings are relevant to this review criterion.
- 5d. Goal 9: Economy, Policy 22. (pg. 53) - "Encourage business and industry to locate within the Albany city limits to decrease the proportional share of city taxes paid by residential properties."

A zoning map amendment to change the zoning of the subject property from RM-5 to OP provides the opportunity for a business use to locate on the property.

- 5e. Goal 9: Economy, Goal 3. (pg. 51) - "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."

Goal 9: Economy, Policy 1. (pg. 51) - "Provide opportunities to develop the full range of commercial, recreational, and professional services to meet the needs of Albany's residents and others."

Goal 10: Housing, Policy 1. (pg. 59) - "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."

Goal 14: Urbanization, Policy 12 (pg. 104) - "Discourage future strip commercial development and promote clustered commercial opportunities and the infilling 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."

Goal 14: Urbanization, Policy 15 (pg. 105) - "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."

Goal 14: Urbanization, Policy 16 (pg. 105) - "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 within an approximately one square mile area, bounded roughly by Santiam Highway, Geary Street, Waverly Drive, and Queen Avenue, of mixed residential, commercial, and office uses. The area within 500 feet of the subject property on all sides contains approximately 0.15 acres of land zoned for single-family residential, 19 acres zoned for multi-family residential, 7 acres zoned for office professional, and 18 acres zoned for commercial use. Most of this land is developed in uses consistent with present zoning. (The area within 500 feet is an area chosen simply to evaluate the mix of uses in proximity to the subject property).

The area is currently served by the Albany Transit System, with transit routes on Geary Street, 14th Avenue, and Waverly Drive.

- 5f. **Goal 14: Urbanization, Policy 13 (pg. 13)** - "Encourage residential professional uses as buffers between intensive commercial uses and less intensive residential uses where compatibility can be demonstrated with the surrounding residential neighborhood."

There are intensive commercial uses across 14th Avenue, north of the subject property. There are less intensive residential uses adjacent to the subject property to the south.

Conclusions

This criterion is met because:

- 5a. A zoning map amendment to change the zoning of the subject property from RM-5 to OP provides the opportunity for a business use to locate on the property, thereby decreasing the proportional share of city taxes paid by residential properties.
- 5b. The subject property is within an area of mixed residential, commercial, and office uses.
- 5c. A change of zoning from RM-5 to OP does not necessarily preclude the use of the subject property for single-family or multi-family residential development.
- 5d. A change of zoning from RM-5 to OP will allow a clustering of commercial office uses south of 14th Avenue, infilling a vacant parcel in a mixed use area of commercial and residential uses.

- 5e. There is no development proposal for the subject property at this time. However, either residential or office professional development will add an appropriate element to the mixed use character of the surrounding area.
- 5f. A change of zoning from RM-5 to OP will provide an opportunity to develop a large scale (5.06 acre) office/commercial complex which will add to the existing concentration of office and commercial uses in the area surrounding the subject property. Existing residentially zoned land in the area surrounding the subject property provides opportunities for people to live in proximity to places of employment, and use the existing transportation system, including public transit.
- 5g. A change of zoning from RM-5 to OP will extend the buffer of OP zoned property between the intensive commercial use to the north of the subject property (Heritage Mall, bowling alley, Fred Meyer) and the less intensive residential uses to the south. Compatibility of future development on the subject property with surrounding residential development will be required through Site Plan or Conditional Use review, as appropriate, at the time of development.

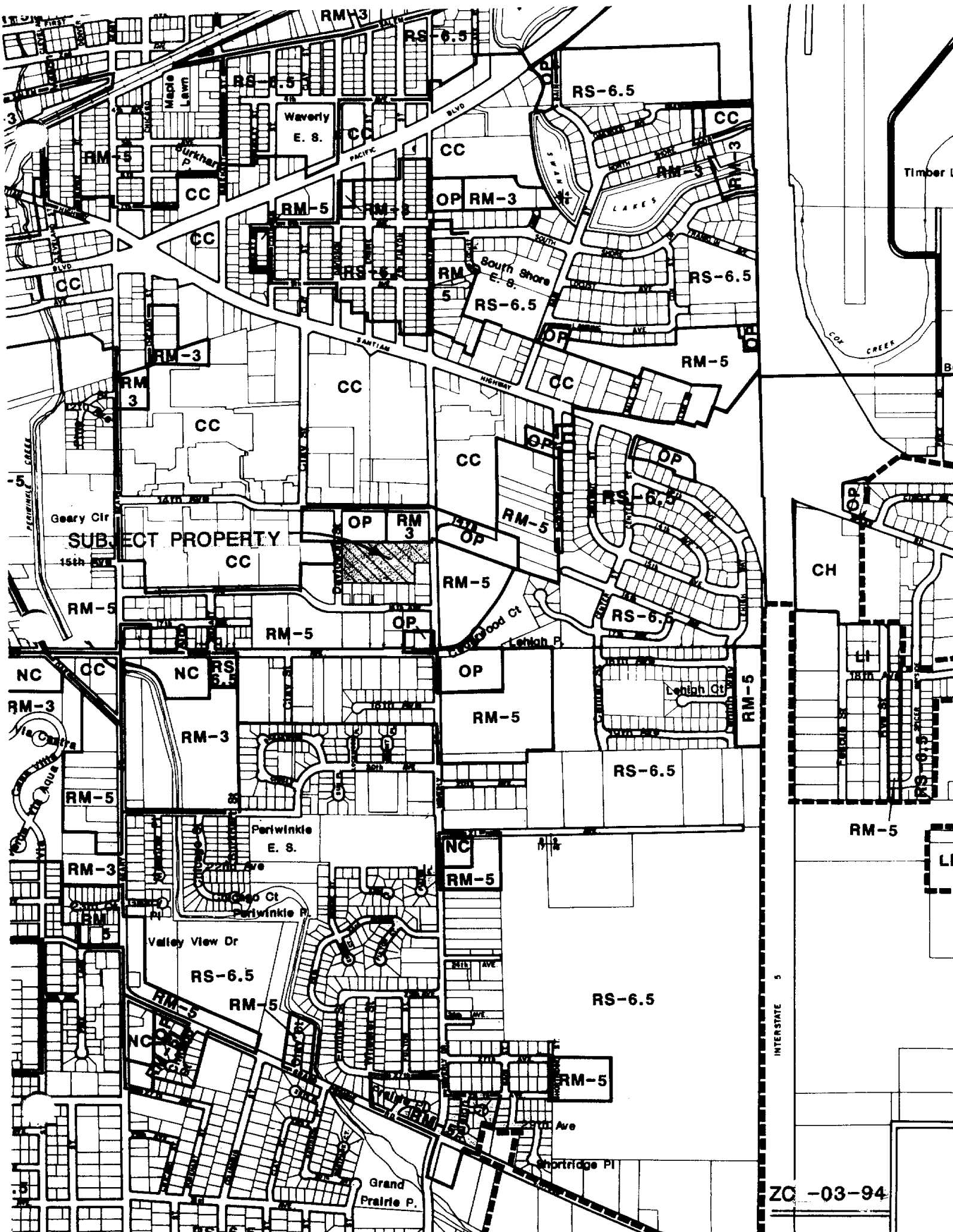
OTHER CITY REQUIREMENTS

The following requirements are provided to the Planning Commission, City Council and the applicant, for information only. They are not part of the Zoning Map Amendment review land use decision. In general, they are requirements that have been determined based on clear and objective standards, and as such, do not require Planning Commission or City Council review and approval, or an opportunity for public comment.

PLANNING AND ENGINEERING PROCESS

The following requirements relate to the Albany Municipal Code or planning and engineering administrative policies.

1. One driveway access will be allowed to Waverly Drive at the approximate center of the subject property frontage. The location of the access must be approved by the City's Public Works Department, and must be positioned so as to preclude left (northbound) turns on to Waverly Drive.
2. Two driveways will be allowed on Davidson Street at locations approved by the Public Works Department. One of the driveways should align with the existing driveway to the property across Davidson Street to the west.
3. On-street parking on Davidson Street appears to be fully used. Off-street parking in conformance with Albany Development Code requirements must be provided for future development on the subject property.
4. Internal water line looping may be required to serve future development on the subject property. Fire hydrants must be provided at locations approved by the Albany Fire Department.
5. Storm drainage to serve future development shall be a piped system which routes drainage to the existing storm drain system on Davidson Street.
6. There is a sanitary sewer assessment of \$1,334.81 pending against the subject property. Ordinance 3664 requires that this assessment be paid at the time the property is developed and connection to the sanitary sewer system is made. An in-lieu of sanitary sewer assessment may also be due at the time of development. (The amount of this charge is determined by the type of development proposed, so the amount can not be calculated at this time).



ZC -03-94

EXHIBIT B

Property description for
ZC-03-94
11S-3W-08D, Tax Lot 600

Part of the Leander C. Burkhart Donation Land Claim No. 50 in Section 8, Township 11 South, Range 3 West of the Willamette Meridian, Linn County, Oregon, described as follows: Beginning on the East line of and North 1° 39' West 2989.005 feet from the Southeast corner of said Donation Land Claim; thence North 1° 39' West 164.145 feet; thence West 11.84 chains; thence South 1° 39' East 5.065 chains; thence East 593.74 feet; thence North 170.145 feet; thence East 182.80 feet to the place of beginning.