

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND THE CITY OF ALBANY ZONING MAP, BY REZONING PROPERTY LOCATED AT THE NORTHEAST CORNER OF GIBSON HILL ROAD NW AND SCENIC DRIVE NW, ADOPTING ATTACHED FINDINGS AND DECLARING AN EMERGENCY (Case No. ZC-02-94).

WHEREAS, the Albany Planning Commission held a public hearing on April 25, 1994, as required by local and state law, and

WHEREAS, the Albany City Council advertised and caused notices to be given as required by law and held a public hearing on June 22, 1994, on the applicants' appeal of the Planning commission's decision to deny the application based on insufficiency of transportation, information, and

WHEREAS, the Albany City Council decided on May 11, 1994, to review the case based on the Planning Commission public hearing record to limit new written evidence and public testimony to transportation issues, and

WHEREAS, the Albany City Council, following its public hearing on June 22, 1994, approved the proposed amendment to the Official Zoning Map concerning the zoning for the property being considered (ZC-02-94).

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

Section 1: The Findings attached as Staff Report and Findings Document, and Exhibit "A" are hereby adopted in support of this decision.

Section 2: The official Albany Zoning Map is hereby amended from RS-10 (Residential Single Family) to NC (Neighborhood Commercial) for an area described as follows: Northeast corner of Gibson Hill Road NW and Scenic Drive NW (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.

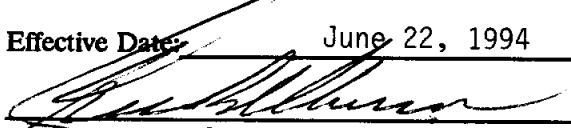
Section 4: A copy of the adoption of or changes in comprehensive plans, zoning ordinances and zoning designations shall be filed with the Benton county Assessor's Office within 90 days after the date of this change as well as the legal description and map for the zone change.

Section 5: Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of this City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Passed by the Council: June 22, 1994

Approved by the Mayor: June 22, 1994

Effective Date: June 22, 1994


Gene Belhumeur, Mayor

ATTEST:


D. Gary Holliday, City Recorder - Deputy

FILE NO.: ZC-02-94 (Ordinance No. 5129)

The following findings of fact, conclusions, and conditions were adopted by the Albany City Council on June 22, 1994 in support of the decision to approve a zoning map amendment to change the zoning on a 1.276 acre parcel from RS-10 (Residential Single Family) to NC (Neighborhood Commercial). The property is identified as 10-4W-35AC, a portion of Tax Lot 500 (the southerly 175 feet of Partition Plat PA-19-93, Parcel 3). A legal description is attached as Exhibit B.

APPROVAL STANDARDS

The approval standards relevant to review of this application are found in the Albany Development Code (ADC). ADC Section 2.550 lists the review criteria which must be met for a Zoning Map Amendment to be approved. Review Criteria are written in *bold italic* followed by findings of fact, conclusions, and conditions.

ZONING MAP AMENDMENT REVIEW CRITERIA

- 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 NC (Neighborhood Commercial).
- 1b. The Comprehensive Plan Map designation for the entire subject area is LR (Low Density Residential).
- 1c. The Comprehensive Plan, under Goal 14, Urbanization (p. 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."

Conclusions

- 1a. This criteria is met because the Comprehensive Plan designation of the subject area is LR, and a Neighborhood Commercial zoning designation is allowed without a Plan change. Rezoning requirements will be met through application for a Zoning Map Amendment, and development is subject to the special standards of Site Plan and/or Conditional Use review where applicable, all in conformance with the Albany Development Code (ADC).

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

Findings of Fact

- 2a. ADC 4.020 (2) describes the NC zoning district as "...intended primarily for small areas of retail establishments serving frequently recurring nearby residents' needs in convenient locations. The

NC District is typically appropriate to small clusters or service centers located within residential neighborhoods. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius." The uses permitted under the proposed NC zone designation (ADC 4.050) are those generally consistent with this description.

- 2b. The subject property has frontage on Gibson Hill Road on the south, Scenic Drive on the west, and the extension of Oak Grove Drive (east of Scenic Drive) on the north.

Gibson Hill Road and Scenic Drive are both classified as Urban Major Collectors on the City's Master Street Plan (Albany Comprehensive Plan, p. 144). The Comprehensive Plan states that "A major collector would serve adjacent commercial, industrial, and residential uses. However, special access provisions are often required on these streets to maintain smooth traffic flows and ensure safety. Traffic volumes on major collectors typically approach 2,000 to 6,000 trips (ADT) a day." (p. 63).

Gibson Hill Road and Scenic Drive are both paved roadways, improved to County standards (no curb/gutter, sidewalk, or piped drainage system). There are existing bike lanes striped on the pavement along both Gibson Hill Road and Scenic Drive. There are left turn lanes striped on Gibson Hill Road going west at Scenic Drive, and on Scenic Drive going north at Oak Grove Drive.

The extension of Oak Grove Drive east of Scenic Drive is a public right-of-way recently dedicated as a condition of approval of a land partition (City of Albany File No. PA-19-93). The extension of Oak Grove Drive is classified as a Local Street, and is not improved.

- 2c. The Albany Planning Commission voted to deny this application at its meeting on March 28, 1994, and findings for denial were adopted by the Commission on April 25, 1994. The Planning Commission denied the application because there was insufficient information to conclude that review criterion (2) was met. Specifically, the Planning Commission concluded that:
- 1) It was uncertain whether an arterial street (hereinafter referred to as the "parkway arterial") identified in the 1974 Benton County *North Albany Comprehensive Plan* and the current Benton County *Comprehensive Plan* will be adopted by the City in its Transportation Master Plan and/or Comprehensive Plan, and when it might be built.
 - 2) It was uncertain how much vehicle traffic, and what pattern of vehicle traffic, would be generated on Gibson Hill Road and/or Scenic Drive by future development on the subject property, because a traffic impact study evaluating potential impact had not been done.
- 2d. The applicant subsequently submitted a Traffic Impact Analysis (hereinafter referred to as the "Fred Wright analysis"), prepared by Fred Wright, P.E., a Civil-Structural-Traffic Engineer. The Fred Wright analysis, dated May 27, 1994, includes data on both the proposed zone change, and the Scenic Meadows Subdivision which is planned east of the subject property.
- 2e. The Fred Wright analysis finds that, after the parkway arterial is completed, Gibson Hill Road will experience a drastic reduction in traffic flow. It also finds that the proposed zone change will have no significant impact on the volume of traffic that will be carried by the arterial parkway.
- 2f. The Fred Wright analysis finds that the project proposed by the applicant (a convenience store) represents the most intensive use likely to occur (of Neighborhood Commercial uses allowed in the Development Code), in terms of traffic impacts. Mr. Wright then evaluates the traffic impact of a convenience store on Gibson Hill Road and Scenic Drive. The analysis presents data based on

the most intensive possible use of the subject property, so if some other neighborhood commercial use is later proposed on the subject property, it will have a lesser impact, in terms of traffic.

- 2g. The Fred Wright analysis concludes that a 36-foot urban standard street with curb and gutter will be sufficient for full build-out of North Albany, and recommends that Gibson Hill Road and Scenic Drive be improved to two-lane, 36-foot width, curb and gutter urban standards, at the time of development on abutting properties.
- 2h. The City Engineer finds that reliance on the mitigating impacts of the proposed parkway arterial is irrelevant to the discussion of the immediate traffic impact of the proposed zone change on Gibson Hill Road and/or Scenic Drive. Construction of the arterial parkway is likely decades away.
- 2i. The City Engineer does not agree with the methodology of the Fred Wright analysis in estimating the traffic impact of a convenience store on the subject property, nor the conclusion that turn lanes will never be needed on Gibson Hill Road.

However, the City Engineer does conclude that, based on the data in the Fred Wright analysis, and a recent analysis done by the City, Gibson Hill Road and Scenic Drive can function at an acceptable level of service (given today's traffic volumes) without the immediate installation of center turn refuge lanes if a zoning map amendment changing the zoning of the subject property to NC is approved. (The City analysis consists of memos addressing North Albany traffic impacts from Engineering Supervisor Dean Nebergall to Associate Planner Don Donovan dated June 13, 1994, and from Engineering Technician Ron Irish to Dean Nebergall dated April 27, 1994.)

- 2j. ADC 12.200 requires sections of existing streets which directly abut new development, and do not meet city standards, to be improved. Development, for the purposes of ADC 12.200 is defined as a land division, new commercial or industrial development, construction of multi-family residential units or a manufactured home or recreational vehicle park. A zoning map amendment does not meet this definition of development, or the definition found in the ADC glossary.

At the time development is proposed on the subject property, street improvements on Gibson Hill Road, Scenic Drive, and the extension of Oak Grove Drive may be required if they are found to be timely, as described in ADC Section 12.060 and 12.200.

Conclusions

- 2a. Although the City Engineer does not agree with the methodology of the Fred Wright analysis in estimating the traffic impact of a convenience store on the subject property, nor the conclusion that turn lanes will never be needed on Gibson Hill Road, he does conclude that, based on the data in the Fred Wright analysis, and an analysis done by the City, Gibson Hill Road and Scenic Drive can function at an acceptable level of service (given today's traffic volumes) without the immediate installation of center turn refuge lanes if a zoning map amendment changing the zoning of the subject property to NC is approved.
- 2b. This criterion is met.

- 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 subject property is served by an 8-inch public water line on Gibson Hill Road, and an 8-inch public water line on Scenic Drive. The City Engineer has determined that these water lines can accommodate potential development within the subject area without adverse impact on the affected service area.
- 3b. The subject property is served by an 8-inch public sanitary sewer line on Gibson Hill Road, and a 10-inch public sanitary sewer line on Scenic Drive. The City Engineer has determined that these sewer lines can accommodate potential development within the subject area without adverse impact on the affected service area.
- 3c. The subject property is served by road side ditches that accommodate storm drainage. The City Engineer has determined that these ditches cannot accommodate potential development within the subject area without adverse impact on the affected service area, unless the flow rate of storm water from development sites is limited to the flow rate that has historically run off the site prior to development.
- 3d. Commercial uses in NC (Neighborhood Commercial) zoning districts generate no demand for schools. One single-family residence is allowed on lots in NC zoning districts. If zoned NC, the subject property could potentially be divided into approximately 9 single-family lots, generating an insignificant demand for new school space.
- 3e. The Albany Police Department has reviewed the proposed Zoning Map Amendment, and has indicated that they can provide police services to potential development within the subject area without adverse impact on the affected service area.
- 3f. The Albany Fire Department has reviewed the proposed Zoning Map Amendment, and has indicated that they can provide fire services to potential development within the subject area without adverse impact on the affected service area.

Conclusions

- 3a. Existing water, sanitary sewer, school, police and fire services can accommodate potential development on the subject property without adverse impact on the affected service area.
- 3b. The existing roadside ditches cannot accommodate potential development on the subject property without adverse impact on the affected service area, unless the flow rate of storm water from the subject property is limited to the flow rate that has historically run off the property prior to development.
- 3c. This criterion can be met if the following condition is met.

Conditions

- 3a. The flow rate of storm water from any proposed development on the subject property shall be limited to the flow rate that has historically run off the site prior to development, until such time as a public storm drainage system adequate to accommodate post-development runoff is in place.

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. The subject property is not in a floodplain, according to FEMA (FIRM) Community Panel No. 410008 0050C, dated August 5, 1986.
- 4b. The subject property is not in a Hillside Slope area, according to Plate 7 of the Albany Comprehensive Plan (p. 139).
- 4c. The existing vegetation on the subject property includes deciduous shrubs, approximately ten 12-inch diameter deciduous trees, and one 24-inch cedar tree. It is proposed that this vegetation be removed. The existing vegetation is not considered to be unique or otherwise significant, except that the cedar tree is marked as a "bearing tree."
- 4d. The subject property is not in a historic district.
- 4e. No wetlands are shown on the subject property on the U.S. Department of Interior Fish and Wildlife Service, National Wetland Inventory Map, dated July 1982, or on maps showing wetlands delineated during the North Albany sanitary sewer project in 1991-92.

Conclusions

- 4a. No unique natural features or special areas such as floodplains, slopes, significant natural vegetation (except for the "bearing tree"), historic districts, or wetlands will be jeopardized as a result of the proposed rezoning.
- 4b. This criterion can be met if the following condition is met.

Conditions

- 4a. The 24-inch cedar "bearing tree" shall be saved, or arrangements shall be made with the appropriate authority to replace the tree with an approved alternative marker.

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

The following Comprehensive Plan policies have been identified as relevant to this review criterion:

Economy

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

Urbanization

- Policy #11 (pg. 104): Provide opportunities for neighborhood commercial facilities to be located within an accessible distance of the area they are intended to serve. Neighborhood commercial uses shall:
 - a. Be located, designed, and operated so as to be compatible with surrounding residential uses.
 - b. Be oriented to provide for the common and frequently recurring shopping needs of the

- area they are intended to serve.
- c. Be limited in number, size, and location. Generally, new sites shall be less than five acres in total area and shall be located at least one-half mile in travel distance from any other commercial site which provides or is available to provide for similar commercial needs. Zoning map amendment applications for new neighborhood commercial sites must demonstrate that the chosen site is superior or equal to viable alternative sites within the same market area based on exposure to traffic flows and other market indicators, accessibility and convenience to the market area, and compatibility with surrounding uses.
- 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.

Findings of Fact

- 5a. The NC (Neighborhood Commercial) zoning district is "intended primarily for small areas of retail establishments serving frequently recurring nearby residents' needs in convenient locations. The NC District is typically appropriate to small clusters or service centers located within residential neighborhoods. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius." [ADC 4.020(2)]
- 5b. The purpose of the NC zoning district is to provide for "commercial activities at a neighborhood scale." (ADC 4.010)
- 5c. Economy: The North Albany area does not contain a "full range of commercial, recreational, and professional services" which meet the needs of neighborhood residents. The area is primarily zoned single-family residential. Conversion of land from Residential to Neighborhood Commercial zones is one mechanism to allow opportunities for a full range of land uses. Since it is difficult to specify where and how much Neighborhood Commercial a neighborhood will support before build-out has been achieved, conversion from Residential to Neighborhood Commercial is one method of allowing the market to decide location and amount, where long range planning might be incorrect or inappropriate.
- 5d. Urbanization: Specific development proposals for the subject property will be reviewed under Site Plan and/or Conditional Use reviews, where applicable, in conformance with the Development Code. These reviews evaluate compatibility with surrounding residential uses. [The applicant has submitted applications for Conditional Use (CU-01-94) and Site Plan Review (SP-10-94) for a specific development proposal (a convenience store with two gasoline pumps). A convenience store and gasoline pumps serve common and frequently recurring shopping needs of the area they are intended to serve.]

The subject property is located approximately 2.5 miles from the nearest commercial zoned property (at North Albany Road and Hickory Street). As a result, the applicant states, "...hundreds of residents in the rapidly developing residential areas of North Albany are forced to drive several miles for such basic needs as milk, bread and gas."

The applicant states that "The [Comprehensive] Plan recognizes that major collector streets, such as Scenic Drive and Gibson Hill Road, are designed to serve the adjacent uses, including commercial uses. p.63. The intersection of two major collectors in a rapidly developing residential

area would seem to be an ideal spot for the location of a neighborhood oriented retail establishment."

The proposed development is at the intersection of two major collector streets, which most likely will be transit routes in the future. Site Plan Review and/or Conditional Use reviews, as applicable, will evaluate building configuration.

Conclusions

This criterion is met because:

- 5a. The proposed Zoning Map Amendment will provide an opportunity to create a neighborhood commercial development that will meet the frequently occurring needs of North Albany residents and others.
- 5b. The proposed Zoning Map Amendment will provide an opportunity for a neighborhood commercial facility to be located within an accessible distance of the area it is intended to serve.
- 5c. The subject property is less than five acres in total area and is located at least one-half mile in travel distance from any other commercial site which provides or is available to provide for similar commercial needs. No viable alternative sites have been identified by the applicant, staff review, or comments by affected parties. The subject property is superior in respect to traffic exposure to traffic flows and accessibility because it is located at the intersection of two Major Collector streets.
- 5d. Changing the zoning of the subject property from RS-10 to NC will provide an opportunity for North Albany residents in proximity to the proposed development to minimize the length of vehicle trips for the frequently occurring needs typically offered by neighborhood commercial enterprises.
- 5e. The proposed development is at the intersection of two major collector streets, which most likely will be transit routes in the future, therefore, the proposed development will support energy efficient transit. Building configuration on the site
- 5f. Changing the zoning of the subject property will provide an opportunity for North Albany residents in proximity to the proposed development to minimize the length of vehicle trips for some frequently occurring needs such as gasoline, milk, bread, etc. that are offered at convenience stores. The location of the subject property at the intersection of two Major Collector streets maximizes accessibility, and provides the shortest trip for the most residents.

Legal Description for ZC-02-94, Larry and Elizabeth Baker

Beginning on the west line of that parcel conveyed to Robert Wendt and Debra Jones by deed recorded in M-121448-90, Benton County Microfilm Records, which point is 133.40 feet South $00^{\circ}03'38''$ East of the center of Section 35, Township 10 South, Range 4 West of the Willamette Base and Meridian, Benton County, Oregon; thence South $89^{\circ}43'29''$ East, 276.50 feet; thence North $00^{\circ}10'10''$ East, 110.00 feet; thence South $89^{\circ}43'29''$ East, 44.00 feet to the east line of said parcel; thence along the lines of said parcel South $00^{\circ}10'10''$ West, 307.73 feet; thence North $89^{\circ}22'19''$ West, 319.72 feet, and North $00^{\circ}03'38''$ West, 195.77 feet to the point of beginning. Except that portion in public right-of-way. Containing 1.276 acres, more or less.