

ORDINANCE NO. 5826

AN ORDINANCE AMENDING ORDINANCE 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP AND ADOPTING FINDINGS AND CONCLUSIONS FOR PROPERTY LOCATED AT 1605 OAK STREET SE; AND DECLARING AN EMERGENCY.

WHEREAS, the Albany Planning Commission held a public hearing on October 7, 2013, on the proposed map amendment and recommended approval based on evidence presented in the staff report and testimony presented at the public hearing for City of Albany Planning File ZC-01-13; and

WHEREAS, the Albany City Council held a public hearing on the same application on November 6, 2013, and reviewed the findings of fact and testimony presented at the public hearing and then deliberated.

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 Zoning Map designation of the properties described in Ordinance Exhibit B is hereby amended from Residential Medium Density, RM, to Residential Medium Density-Attached, RMA.

Section 3: A copy of the map showing the amendment to the Zoning Map shall be filed in the Office of the City Clerk of the City of Albany and the changes shall be made on the official City of Albany Zoning Map.


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

Section 5: In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

Passed by the Council: Nov 6, 2013

Approved by the Mayor: Nov 6, 2013

Effective Date: Nov 6, 2013



Mayor

ATTEST:



Mary A. Tribble  
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](http://www.cityofalbany.net)

## STAFF REPORT Zoning Map Amendment (ZC-01-13)

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<b><u>HEARING BODY</u></b>	CITY COUNCIL
<b><u>HEARING DATE</u></b>	Wednesday, November 6, 2013
<b><u>HEARING TIME</u></b>	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

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### **EXECUTIVE SUMMARY**

This application is a request to rezone the northerly 40,500 square feet of an existing 3.1-acre parcel from Residential Medium Density (RM) to Residential Medium Density Attached (RMA).

The applicant is seeking this change in order to develop a 24-unit residential apartment building under densities permitted in the RMA zone that are not permitted in the RM zone. Of the total units, 12 will be one bedroom and 12 will be two bedroom. The two standards deal with allowable residential density in a given zone. One standard looks at minimum land requirement by unit type, while the second standard considers the maximum number of units allowed per gross acre of land. The RM zone caps density at 25 units per acre; the RMA zone allows 35 units per acre. Minimum land requirements also differ significantly between each zone.

Based on minimum land requirement by unit type, 1.21 acres of land would be required to accommodate a 24 unit development. The subject property is 0.93 acre; so according to the second standard, the number of units would be limited to 23 under the RM zoning. Under RMA zoning, the proposal could meet both standards of density. By design, the RMA zone allows higher density than the RM zone.

The Comprehensive Plan designation for the property is Medium Density Residential (MDR). According to the Plan Designation Zoning Matrix in Albany Development Code (ADC) 2.760, both RM and RMA are compatible with the MDR designation.

The Zoning Map Amendment application was deemed complete on September 13, 2013 (Attachment I). The applicant is Hans Thygeson, and the location of the subject property is 1605 Oak Street SE, just west of Periwinkle Creek (Attachment II). The criteria for amending the zoning map are found in Albany Development Code (ADC) 2.740, and are addressed in detail in the staff report below.

### **PLANNING COMMISSION AND STAFF RECOMMENDATION**

APPROVAL of the proposed zoning map amendment based on the findings and conclusions of the staff report and testimony presented at the public hearing.

### **GENERAL INFORMATION**

DATE OF REPORT:                   October 25, 2013

FILE:                                    ZC-01-13

TYPE OF APPLICATION: Quasi-Judicial Zoning Map Amendment (Type IV) to change two parcels from Residential Medium Density (RM) to Residential Medium Density Attached (RMA)

REVIEW BODY: Planning Commission and City Council

STAFF REPORT PREPARED BY: David Martineau, Project Planner

PROPERTY OWNER/  
APPLICANT: Oak Street Apartments, LLC; Hans Thygeson; 825 Harritt Drive NW; Salem, OR 97304; (503) 485-1836

ENGINEER: Mark Grenz; Multi/Tech Engineering; 1155 13<sup>th</sup> Street SE; Salem, OR 97302; (503) 363-9227

ADDRESS/LOCATION: Vicinity of 1605 Oak Street SE

MAP/TAX LOT: Linn County Assessor's Map No. 11S-03W-08CB; Tax Lots 1000 & 1100

ZONING: RM (Residential Medium Density) on Tax Lots 1000 & 1100; /RC (Riparian Corridor Overlay) on Tax Lot 1000

CP DESIGNATION: Residential Medium Density

EXISTING LAND USE: Undeveloped; approval for the construction of a 24-unit apartment complex authorized under SP-02-13/RL-02-13 is contingent upon zone change approval.

NEIGHBORHOOD: Jackson Hill

SURROUNDING ZONING: North: RM (Residential Medium Density)  
South: RMA (Residential Medium Density Attached)  
East: OS (Open Space)  
West: RS-6.5 (Residential Single Family)

SURROUNDING USES: The abutting parcel to the north is an undeveloped lot about 34,400 square feet in size; however a church with associated parking is located to the north beyond the undeveloped lot. Open Space zoning, featuring Periwinkle Creek and a paved bike path is located to the east. Queen Avenue lies to the south along with some retail commercial uses. To the west across Oak Street are mainly single-story duplexes with carports and single-family residences.

PRIOR HISTORY: Site Plan Review (SP-02-13) for new construction of an 81-unit apartment complex together with 128 parking spaces, and Tentative Replat (RL-02-13) to combine three existing lots into one parcel were approved by the Community Development Director on May 14, 2013.

### **NOTICE INFORMATION**

A Notice of Public Hearing was mailed to surrounding property owners on September 27, 2013 (Attachment III). The Notice of Public Hearing was posted on the subject property at one location on September 30, 2013. The Zoning Map Amendment staff report was posted on the City's website September 30, 2013. 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 this application, the Community Development Director will provide written notice of the decision 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**

### **Zoning Map Amendment File ZC-01-13**

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. Note: Findings and conclusions submitted by the applicant can be found in Attachment VI.

***Criterion (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 (ADC 2.740 (1)).***

### **FINDINGS OF FACT**

- 1.1 The applicant proposes to change the zoning of 40,500 square feet (0.93 acre) from Residential Medium Density (RM) to Residential Medium Density Attached (RMA).
- 1.2 The current Comprehensive Plan map designation of the subject site is Medium Density Residential (MDR). According to the Plan Designation Zoning Matrix table found in ADC 2.760, both the current RM and proposed RMA zoning is consistent with the MDR Plan designation of the site (see Attachments IV and V).

### **CONCLUSIONS**

- 1.1 The existing zone, Residential Medium Density, and the proposed zone, Residential Medium Density Attached are both compatible with the Comprehensive Plan designation of Medium Density Residential.
- 1.2 This criterion is satisfied.

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

### **FINDINGS OF FACT**

- 2.1 The site is located on the east side of Oak Street about 600 feet north of Queen Avenue. The zone change would change the designation of 0.93 acres of property from RM (Residential Medium Density) to RMA (Residential Medium Density Attached).
- 2.2 The street system adjoining the site is constructed to city standards.
- 2.3 Albany's Transportation System Plan (TSP) 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. The proposed zone change would, however, allow for a more intense use on the site than was assumed during development of the TSP.
- 2.4 Zone changes are required to comply with the Transportation Planning Rule (TPR). The rule holds that a "significant affect" 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.

2.5 The applicant's application included a TPR analysis. The analysis was performed by Associated Transportation Engineering & Planning, Inc., and is dated September 10, 2013. The analysis compared the impact resulting from number of vehicle trips that could be generated by development of the site under the current RM zone designation with the trips that could result from development under the requested RMA designation. The analysis evaluated the impacts of the zone change at year 2012 and 2032.

The analysis evaluated the operation of two intersections:

- Oak Street at Queen Avenue: The intersection is under City jurisdiction. The performance standard is a volume to capacity (v/c) ratio of 0.85 for the worst case movement. In this situation the worst case movement is the southbound left turn from Oak Street onto Queen Avenue. With the zone change, that movement was projected to have a v/c ratio of 0.351 at year 2032. Because the movement met the performance standard at year 2032, it also met the standard in preceding years as well.
- 9<sup>th</sup> Avenue at Oak Street: The intersection is on the state highway system, controlled by a traffic signal, and under the jurisdiction of ODOT. The performance standard is a v/c ratio of 0.95. With the zone change, that intersection was projected to have a v/c ratio of 0.811 at year 2032. Because the intersection met the performance standard at year 2032, it also met the standard in preceding years as well.

## CONCLUSIONS

- 2.1 The proposed zone change would change the designation of 0.93 acres from RM to RMA.
- 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. The proposed zone change would, however, allow for uses more intense than was assumed during development of the TSP.
- 2.3 The TPR requires that zone changes be evaluated to see if the vehicle trip generation that could occur under the new zone designation is more than could have occurred under current designation, and if so, if the additional trips would result in a "significant affect".
- 2.4 An analysis submitted by the applicant evaluated the performance at intersections to the north and south of the development at year 2032 with the requested zone designation. Both intersections were found to have adequate capacity to accommodate the zone change and still meet performance standards. Because the street system can accommodate development of the site under the requested zone designation the change does not result in a significant affect for purposes of the TPR.
- 2.5 This review criterion is met without conditions.

***Criterion (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 (ADC 2.740 (3)).***

### Sanitary Sewer.

- 3.1 City utility maps show an 8-inch public sanitary sewer main in Oak Street. The City's Wastewater Facility Plan indicates that no system deficiencies exist in this area.
- 3.2 While the RMA zone potentially allows for higher densities than the existing RM zone, based on the size of the parcels, it is not expected that the zone change will result in development that will exceed the capacity of the public sanitary sewer system in this area.

### Water.

- 3.3 City utility maps show a 12-inch public water main in Oak Street. The City's Water Facility Plan indicates that no system deficiencies exist in this area.
- 3.4 While the RMA zone potentially allows for higher densities than the existing RM zone, based on the size of the parcels, it is not expected that the zone change will result in development that will exceed the capacity of the public water system in this area.

### Storm Drainage.

- 3.5 City utility maps show a 12-inch public storm drainage main in Oak Street, and Periwinkle Creek along the east boundary of the properties. Storm water runoff from development on the site will be discharged to the creek.
- 3.6 Lot coverage allowance in the RMA zone is the same as that for the existing RM zone (70%); therefore the anticipated storm water runoff from potential development in the proposed RMA zone would not be higher than that of a development in the RM zone.
- 3.7 Future development on the site, under any zoning designation, will be required to provide on-site storm water detention in order to prevent rapid urban runoff into Periwinkle Creek.

### Police and Fire Protection.

- 3.8 The Albany Police Department and Fire Department serve the property. No adverse impact is expected to result from this zoning map amendment.

### CONCLUSIONS

- 3.1 The existing public utilities (sanitary sewer, water, storm drainage) are adequate to accommodate potential development on the subject properties under the proposed RMA zone.
- 3.2 This review criterion is met.

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

### FINDINGS OF FACT

- 4.1 The current zoning designation of the property where the Zoning Map amendment is proposed is RM (Residential Medium Density) District. The proposed zoning is RMA (Residential Medium Density Attached) District.
- 4.2 A review of the City's zoning map from March 1976 revealed that the property was located outside the city limits. On September 22, 1976, the City initiated annexation of 33 acres, which included the subject property (Ordinance 3967). Upon annexation, it was zoned R-2 (Limited Multi-family). Records indicate that the property has been zoned multi-family or some variant of it since that time. The June 16, 1989 zoning map continued to show that designation. The zoning map dated February 1998 showed the designation became RM-5, Residential Limited Multiple Family (10-20 units per acre), where it remained through 2003. The Comprehensive Plan designation has consistently been Medium Density Residential from the 1980s through today.

## Zoning District Intent and Purposes

- 4.3 According to Section 3.020(5) of the Albany Development Code (ADC), the Residential Medium Density (RM) district is intended primarily for medium-density residential urban development. The RM District should be located on collector or arterial streets.
- 4.4 Single family residences and duplexes are allowed outright in the RM zone. Child, adult, residential or group homes are generally allowed outright as well. Multi-family development, both attached and detached, is allowed in the RM through Site Plan Review approval along with manufactured home parks. Conditional uses in the RM include assisted living, bed and breakfasts, most institutional uses, and indoor/outdoor entertainment and recreation. Residential densities greater than 25 units per gross acre are not allowed in the RM District.
- 4.5 According to Section 3.020(6) of the ADC, the Residential Medium Density Attached (RMA) District “is intended primarily for medium- to high-density urban residential development. All units, whether single- or multiple-family, shall be attached. New RMA districts should be located on a collector or arterial street or in Village Centers. Development may not exceed 35 units per gross acre.”
- 4.6 The uses that may be allowed RMA zoning district outright include duplexes and primary residences with one accessory unit. Multi-family dwellings, rooming or boarding houses, bed and breakfasts, and manufactured home parks are allowed through an approved Site Plan Review. Conditional uses include RV parks, assisted living facilities, community services, and indoor/outdoor entertainment and recreation.
- 4.7 The proposed use of the property is multi-family residential. The reason for the zone change request is to allow a proposed 24-unit residential apartment building to develop under densities permitted in the RMA zone that are not permitted in the RM zone. The RM zone caps density at 25 units per acre; the RMA zone allows 35 units per acre. The subject property is 0.93 acre; therefore the number of units would be limited to 23 under the existing zoning. Conceivably, development could achieve a density of 33 units given the size of the subject property; however the developer is only proposing a 24-unit apartment building. In order to achieve this, the property would need to be rezoned to RMA.
- 4.8 The area around the site is bordered by Residential-Medium Density (RM) zoning to the north. The abutting parcel to the north is an undeveloped lot about 34,400 square feet in size; however a church with associated parking is located to the north of the undeveloped lot. Open Space zoning, featuring Periwinkle Creek and a paved bike path is located to the east. Further east across Periwinkle Creek, there are apartment units located in the Residential-Medium Density Attached (RMA) zoning district, which are accessed from 15<sup>th</sup> Avenue. The applicant owns the remainder of the subject property lying to the south of this zone change proposal. It is already zoned RMA and is presently being developed with multi-family residential structures that received land use approval on May 14, 2013 under Site Plan Review file SP-02-13 and RL-02-13. To the west across Oak Street are mainly single-story duplexes with carports and single-family residences on land zoned Residential-Single Family (RS-6.5).

## Comprehensive Plan Goals and Policies Relevant to the Request

- 4.9 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed RMA zoning designation “best satisfies” the goals and policies of the Comprehensive Plan. Each of the relevant goals and policies are listed below in *bold italic* print.
- 4.10 **Goal 2: Land Use Planning-Land Use Designations (Chapter 9)**

*To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

According to the Albany Comprehensive Plan, "The relationship of the Plan designations to the zoning districts is summarized graphically in the 'Plan Designation Zoning Matrix.' This matrix is for determining the compatibility of a particular zoning district with any given Plan designation. The matrix shows what zoning districts are compatible with each Plan designation," (p. 9-12).

The Medium Density Residential designation includes the following compatible zoning districts: Residential Single Family (RS-5); Residential Medium Density (RM); Residential Medium Density Attached (RMA); Mixed Use Residential (MUR); Office Professional (OP); and Neighborhood Commercial (NC). Which zone should be used in a particular area depends on the location and characteristics of the site and the need for the uses allowed in that zone.

4.11 **Goal 10: Housing (Chapter 4)**

*To provide for the housing needs of citizens of the state.*

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

The RMA district is intended primarily for medium to high density residential urban development. Allowable uses include a range of residential dwellings from single family to multi-family apartments or condominiums, however units must be attached. RMA-zoned districts are located in several areas of Albany in order to provide a variety of higher density housing choices for residents in places that have available and adequate public services. Due to its proximity to commercial areas around town, it is a zone which provides residents easy access to employment sites, shopping, and community services.

The Housing Needs Analysis data in the Comprehensive Plan estimated there was about 1,700 acres of developable residential land in the city limits, with over 1,450 acres designated/zoned for single-family development and roughly 150 acres for medium density development. The analysis projected residential land need between 2005 and 2025 to be about 656 acres. The analysis concluded that there would be a surplus of low-density land; including 162 acres of land zoned RS-5 and 321 acres zoned RS-6.5. There will be a shortage of medium density land, with an estimated need of about 68 additional acres, of which 14 acres needed to accommodate future RM development, 44 acres specifically needed for RMA development, and the remainder for medium density housing in the HM, MUR and WF zones.

**CONCLUSIONS**

- 4.1 **Goal 2, Land Use Planning.** The Medium Density Residential Comprehensive Plan designation lists both the RM and RMA as compatible zoning districts.
- 4.2 **Goal 10, Housing.** The RM district is intended primarily for medium density residential urban development. Rezoning the subject property from RM to RMA will make the current use consistent with the intent of the Goal 10-Housing updates in 2007 (see Ordinance No. 5673), as well as the proposed use.
- 4.3 The subject property abuts RMA-zoned land to the south and RM-zoned land to the north. To the east, across Periwinkle Creek, the zoning designation is RMA. The proposed use of the site is multi-family residential development.



- 4.4 Both the RM and RMA zoning designations satisfy the applicable goals and policies of the Albany Comprehensive Plan, however higher density development is best accommodated in the RMA zone. The Plan projected 747 residential units on 44 acres would be needed in the RMA zoning district to the year 2025. Accommodation of higher density development through the RMA zone helps offset density pressures in the other residential zones that allow multi-family development. Therefore, on balance, the RMA zoning designation best satisfies the applicable goals and policies of the Albany Comprehensive Plan.
- 4.5 This criterion has been met.

***Criterion (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 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.
- 5.2 There are no other applicable City-contracted or funded land use or transportation plan or study that applies to the subject area.

#### CONCLUSIONS

- 5.1 The TSP does not identify any capacity or level of service problems associated with the proposed Zoning Map amendment.
- 5.2 This criterion is met.

#### ATTACHMENTS

- I Determination of Completeness Letter
- II Location Map
- III Notice of Public Hearing
- IV Current Comprehensive Plan & Zoning Designation
- V Proposed Comprehensive Plan & Zoning Designation
- VI Applicant's Findings and Conclusions
- VII Legal Description of Zone Map Amendment Area

September 13, 2013

Hans Thygeson  
Oak Street Apartments, LLC  
825 Harritt Drive NW  
Salem, OR 97304

**CITY OF ALBANY FILE ZC-01-13  
ZONING MAP AMENDMENT  
LINN COUNTY ASSESSOR'S MAP NO. 11S-03W-08CB; Tax Lots 1000 & 1100**

Dear Hans:

As of September 13, 2013, the above application has been deemed complete. By state law, the City has 120 days from the date the application is deemed complete to issue a final decision, including all appeals.

Now that the application is deemed complete, the City will process it with the information submitted. If at any time you submit revised materials, the 120-day processing time may reset to a new date. If additional application or plan revisions are submitted after the date of this letter, additional fees and public notice may be necessary.

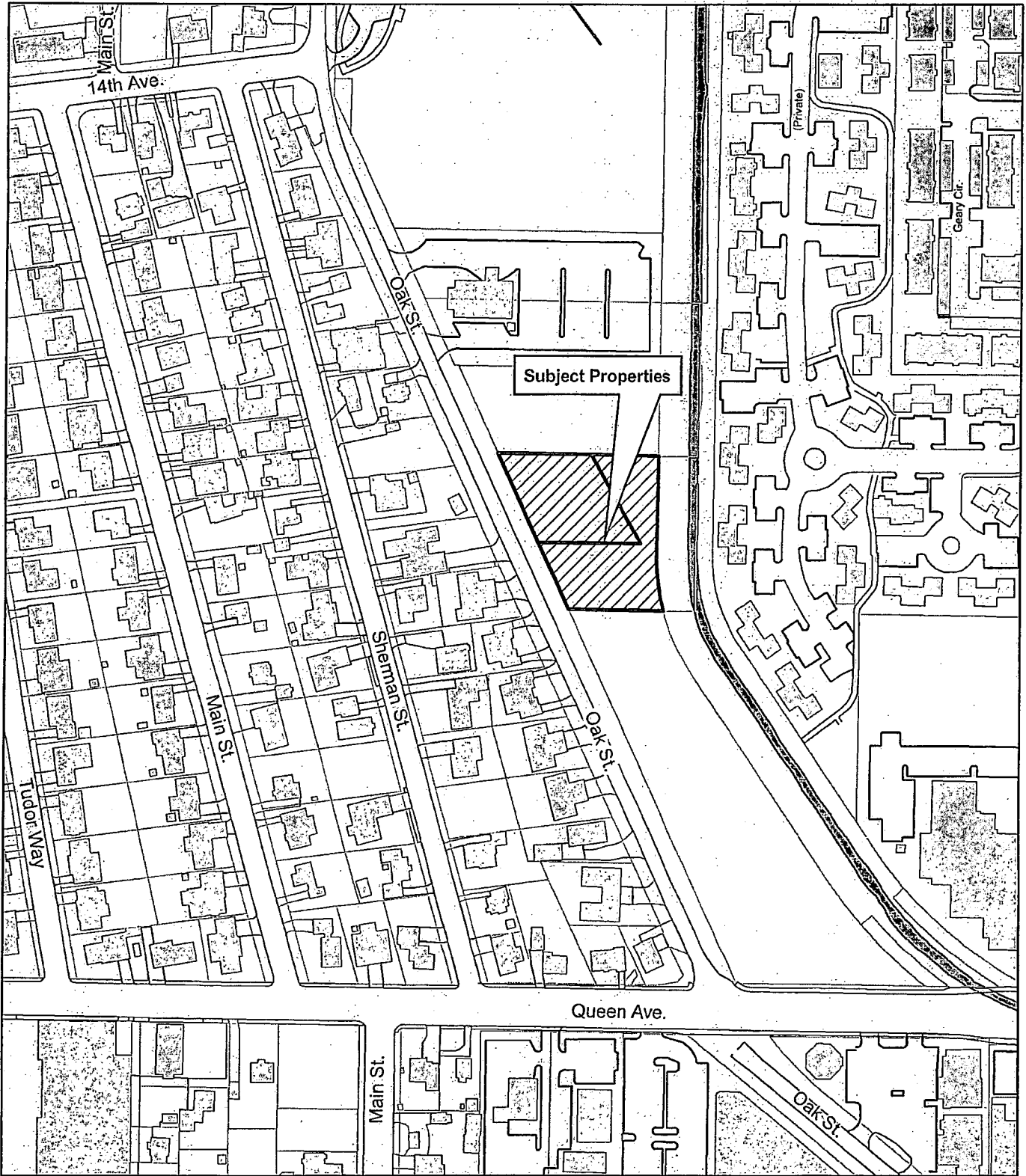
Please understand that nothing in this letter constitutes an approval of your applications or a finding of compliance with any city policy or standard. With this letter, the staff is declaring only that the application materials are sufficient for the city to begin review of the application for compliance.

If you have any questions, please contact me by phone at 541-917-7561, or by e-mail at [david.martineau@cityofalbany.net](mailto:david.martineau@cityofalbany.net).


Sincerely,

David Martineau  
Lead Current Planner

cc: File: ZC-01-13  
Mark Grenz, Multi/Tech Engineering




**LOCATION MAP: Proposed Zone Change/Vicinity of 1605 Oak SE**



The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All of the data provided represents current information in a ready-to-use format. While the data provided is generally believed to be accurate, occasionally it proves to be incorrect, thus its accuracy is not warranted. Prior to making any property purchase or other investments based in full or in part upon the material provided, it is specifically advised that you independently field verify the

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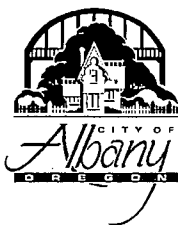


0 40 80 160 240 320  
Feet

July 5, 2013

Planning Division

City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917- 7550



# COMMUNITY DEVELOPMENT DEPARTMENT

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

Phone: 541-917-7550 Fax: 541-917-7598  
[www.cityofalbany.net](http://www.cityofalbany.net)

## NOTICE OF PUBLIC HEARING

<b><u>HEARING BODY</u></b>	PLANNING COMMISSION	CITY COUNCIL
<b><u>HEARING DATE</u></b>	Monday, October 7, 2013	Wednesday, November 6, 2013
<b><u>HEARING TIME</u></b>	5:15 p.m.	7:15 p.m.
<b><u>HEARING LOCATION</u></b>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	

### **GENERAL INFORMATION**

DATE OF NOTICE: September 27, 2013

FILE: ZC-01-13

TYPE OF APPLICATION: Quasi-Judicial Zoning Map Amendment (Type IV) to change two parcels from Residential Medium Density (RM) to Residential Medium Density Attached (RMA)

REVIEW BODIES: Planning Commission and City Council

PROPERTY OWNER/  
APPLICANT: Oak Street Apartments, LLC; Hans Thygeson; 825 Harritt Drive NW; Salem, OR 97304; (503) 485-1836

ENGINEER: Mark Grenz; Multi/Tech Engineering; 1155 13<sup>th</sup> Street SE; Salem, OR 97302; (503) 363-9227

ADDRESS/LOCATION: Vicinity of 1605 Oak Street SE

MAP/TAX LOT: Linn County Assessor's Map No. 11S-03W-08CB; Tax Lots 1000 & 1100

ZONING: RM (Residential Medium Density) on Tax Lots 1000 & 1100; /RC (Riparian Corridor Overlay) on Tax Lot 1000

CP DESIGNATION: Residential Medium Density

EXISTING LAND USE: Undeveloped; approval for the construction of a 24-unit apartment complex authorized under SP-02-13/RL-02-13 is contingent upon zone change approval.

SURROUNDING ZONING: North: RM (Residential Medium Density)  
South: RMA (Residential Medium Density Attached)  
East: OS (Open Space)  
West: RS-6.5 (Residential Single Family)

**SURROUNDING USES:**

The abutting parcel to the north is an undeveloped lot about 34,400 square feet in size; however a church with associated parking is located to the north of the undeveloped lot. Periwinkle Creek and a paved city bike path are located to the east. The applicant owns the remainder of the subject property lying to the south of this zone change proposal. It is already zoned RMA and is presently being developed with multi-family residential structures that received land use approval on May 14, 2013 under Site Plan Review file SP-02-13 and RL-02-13. To the west across Oak Street are mainly single-story duplexes with carports and single-family residences.

The Planning Division has received a Zoning Map Amendment (zone change) application referenced above and has scheduled a Public Hearing before the Planning Commission and City Council. We are mailing notice of this public hearing to property owners within 300 feet of the property where the map amendments are proposed. We invite your comments, either in writing prior to the day of the public hearing or in person at the hearing. Comments will be taken into account when the Planning Commission and City Council make decisions on these applications.

We have attached location maps that show the current and proposed property zoning designations. All documents and evidence submitted by or on behalf of the applicant, and applicable criteria, are available for inspection at no cost at the Albany Community Development Department, Planning Division. The Staff Report will be available by 5:00 p.m. on September 30, 2013. A copy will be available at the City's web site at the following link: <http://www.cityofalbany.net/departments/community-development/planning-projects>, or at the Planning Division located in City Hall. All of this information is available for inspection at no cost, and copies will be provided upon request at a reasonable cost. For more information, please contact Project Planner David Martineau at 541-917-7550. Submit any written comments to the Planning Division, P.O. Box 490, Albany OR 97321. Any person who submits written comments or testifies at a public hearing will receive a copy of the Notice of Decision.

If additional documents or evidence are provided by any party, the City may allow a continuance, or leave the record open, to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the 120-day time limitations of ORS 227.178.

**YOUR COMMENTS**

All testimony and evidence must be directed toward the approval standards for the application listed in this notice. Failure to raise an issue by letter, or in person, before the close of the record or the final evidentiary hearing, or failure to provide statements or evidence with sufficient detail to allow the Planning Commission and City Council an adequate opportunity to respond to each issue raised, precludes an appeal based on that issue.

**PUBLIC HEARING PROCEDURE**

The Public Hearing will begin with a declaration of any *ex parte* contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision-makers. This will be followed by the staff report from the Planning staff. Then the applicant will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision-makers are free to ask questions of any person who has testified, or of staff, at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing, and/or what limitations exist on further testimony or submittal of written materials. If

the hearing and record are closed, the decision-makers will begin deliberations and/or will announce the time, date, and place when the decision will be made.

### **APPROVAL STANDARDS FOR THIS REQUEST**

The Albany Development Code contains the following review criteria that must be met for this application to be approved:

#### **QUASI-JUDICIAL ZONING MAP AMENDMENT (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.
- (2) Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation.
- (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.
- (4) The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.
- (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.

The following Comprehensive Plan goals and policies are relevant to the Zoning Map amendment.

#### **Goal 2: Land Use Planning-Land Use Designations (Chapter 9)**

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

#### **Goal 10: Housing (Chapter 4)**

To provide for the housing needs of citizens of the state.

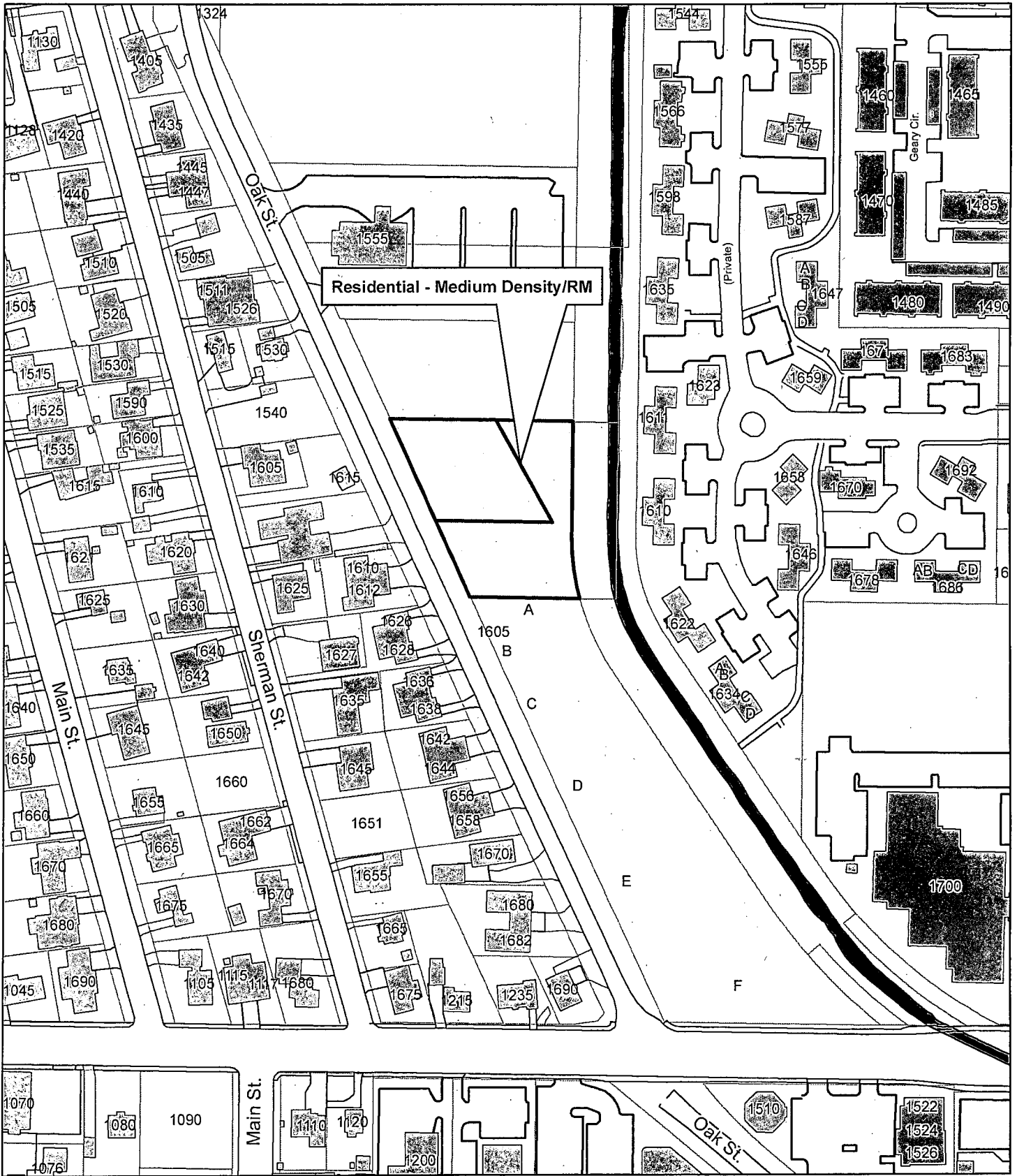
Goal 1: Provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens.

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

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

*The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the Human Resources Department in advance by calling 541-917-7501.*

Attachments: Location Maps showing Current and Proposed Zoning Designations



## Current Comprehensive Plan and Zoning Designation of Subject Property



The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for quality control, documentation, and verification. All of the data provided represents current information in a readily available format. While the data provided is generally believed to be accurate, occasionally it proves to be incorrect, thus its accuracy is not warranted. Prior to making any property purchases or other investments based in full or in part upon the material provided, it is specifically advised that you independently field verify the



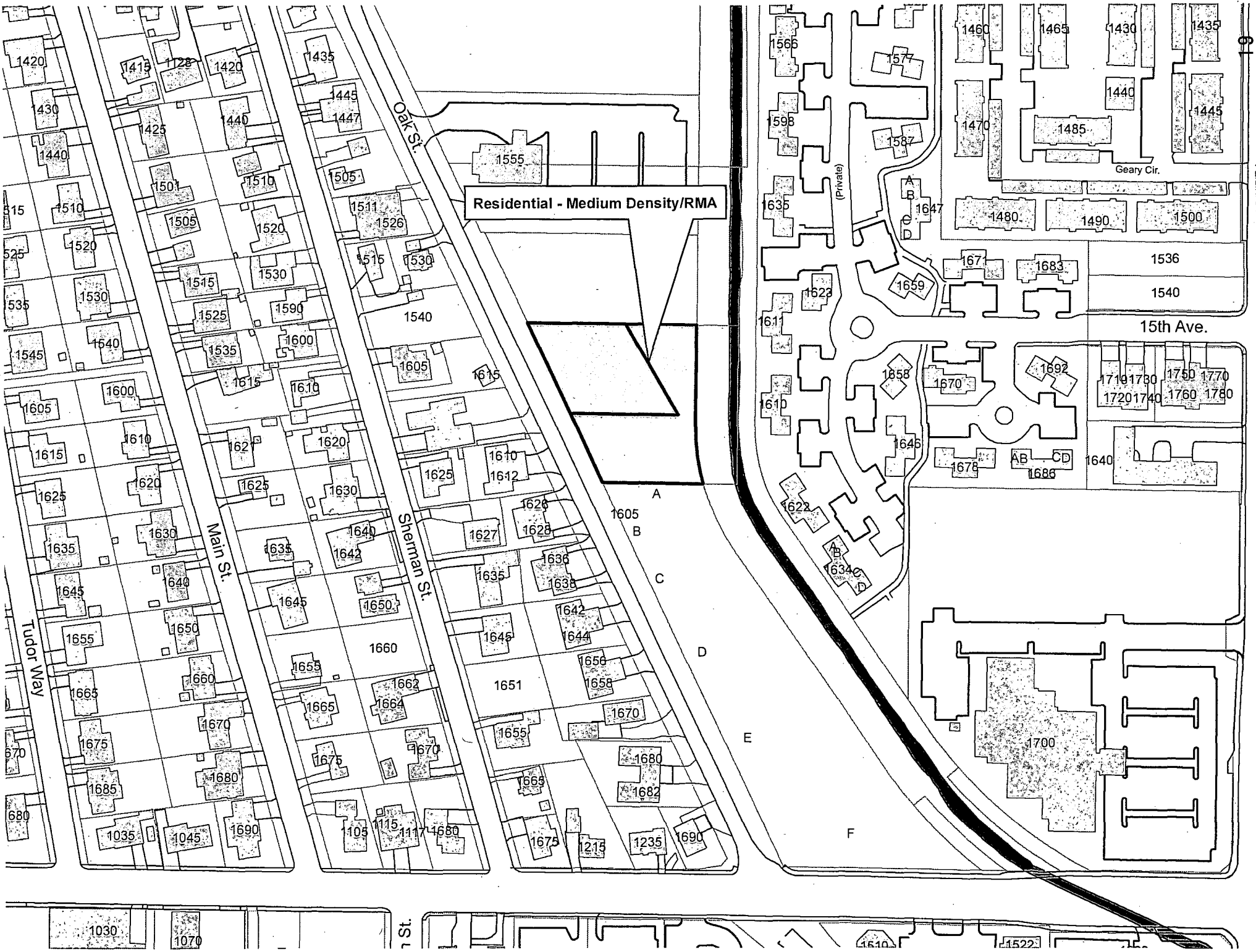
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July 22, 2013

Planning Division

City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917- 7550

ORDINANCE EXHIBIT A  
STAFF REPORT ATTACHMENT IV



Residential - Medium Density/RMA

ORDINANCE EXHIBIT A

Oak St.

Sherman St.

Main St.

Tudor Way

Geary Cir.

15th Ave.

1555

1511 1526

1515 1530

1540

1605 1615

1625 1642

1627 1628

1635 1638

1642 1644

1651 1658

1655 1670

1605 A

B

C

D

E

F

1565

1598

1635

1623

1611

161D

1622

1634

1577

1587

1647

1659

1658

1646

1678

1460

1470

1480

167

1670

1678

1465

1485

1490

1683

1692

1686

1430

1440

1485

1536

1719 1780

1640

1435

1445

1500

1540

1750 1770

1760 1780

1700

1030

1070

11 St.

1510

1522



# OAK STREET APARTMENTS ZONE CHANGE

## **Background:**

The subject property is located along the northeast corner of Oak Drive and Queen Avenue (11S03W08CB/1000, 1100, and 1208). The northern 0.899 (Tax Lots 1000 and 1100) acres of the site is zoned Residential Medium Density (RM) and the southern 2.21 acres of the site is zoned Residential Medium Density-Attached (RMA).

On November 14, 2012, the City held a pre-application conference with the applicant and the applicant's engineering representative, Multi/Tech Engineering, Inc., for the purpose of discussing code requirements for developing the site as multi-family.

The Neighborhood Meeting for the proposal was held at the Boys and Girls Club of Albany on January 3, 2012 at 7:00 p.m.

On May 14, 2013, the applicant received Site Plan approval for the development of 81 apartments units on the site. However, in order to maximize the density of the site and comply with code, the applicant is requesting to rezone Tax Lots 1000 and 1100 to RMA. See RP-02-13/RL-02-13 Criterion 4.2.

## **ZONE CHANGE CRITERIA**

ADC 2.740 Review Criteria. Zoning Map amendments will be approved if the Council finds that the applicant has shown that all of the following criteria are met:

***(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.***

The applicant's proposal is to change the zoning of the property to RMA (Residential Medium Density Attached). The RMA zone is not consistent with the Comprehensive Plan Designation of "Residential Medium-Density", which the property is designated.

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

The subject property is 0.93 acres in size. The Zone Change is for Tax Lots 1000 and 1100 only. The subject property has frontage on Oak Street and Queen Avenue. The entire site will be developed with apartments as approved under RP-02-13.

The major transportation network is in place. The subject property has frontage on Oak Drive to the west and Queen Avenue to the south. The residential development proposed will have direct access onto Oak Drive to the west.

At the pre-application conference it was indicated that a TIA was not required.

The development will have adequate access to and from the already existing street system that is in place due to an existing developed neighborhood. No new streets are proposed through the subject property.

The subject property is located in a developing area where improved streets and sidewalks continue as required by the City. Improved access is required by code. Approval does not adversely affect the safe and healthful development of any adjoining land or access thereto. The City's adopted facility plans and construction requirements are the basis for the provision of facilities and any conditions of approval imposed on the development. Review of required construction plans and construction according to the approval provides compliance with this criterion.

***(3) Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.***

The City provided information at the preapplication conference that water and sewer lines are available for extension into the site. The approved Review Plans indicate the location of public water; sewer and storm drain lines in the street. Natural gas, telephone and electrical services are located within the public right-of-way.

Applicable state or federal permits are required to be obtained for issuance of building or construction permits from the City.

Private utilities will be provided with under grounding of electrical, gas, telephone and cable lines into the site.

The School District will be notified of this proposal through the land-use process. It appears that students within the residential uses would attend Oak Elementary, Calapooia Middle, and South Albany High Schools.

The needed services are available for the development of the site.

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

**Goal 1 – Citizen Involvement:**

Ensure that local citizens and other affected groups, neighborhoods, agencies, and jurisdictions are involved in every phase of the planning process.

Policies:

1. Establish a Citizen Involvement Committee to assist Albany's citizens with land use issues and periodically review citizen involvement procedures and practices.
2. When making land use and other planning decisions:
  - a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.
  - b. Utilize all criteria relevant to the issue.
  - c. Ensure the long-range interests of the general public are considered.
  - d. Give particular attention to input provided by the public.
  - e. Where opposing viewpoints are expressed, attempt to reach consensus where possible.
3. Involve the general public in the use, evaluation, and periodic review and update of the Albany Comprehensive Plan.
4. Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.

The City's adopted Comprehensive Plan General Development Goal and Policies 2, 3, 4, and its adopted zone code, implement the Statewide Citizen Involvement Goal. This application will be reviewed according to the public review process established by the City of Albany. The City's Plan is acknowledged to be in compliance with this Goal. Notice of the proposal will be provided to property owners and public agencies. The published notice will identify the applicable criteria. A public hearing to consider the request will be held by the Planning Commission and City Council. Through the notification and public hearing process all interested parties are afforded the opportunity to review the application, comment on the proposal, attend the public hearing, and participate in the decision. These procedures meet the requirements of this Goal for citizen involvement in the land use planning process.

**Goal 2 – Land Use Planning:**

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.

Policies:

2. Base approval of Comprehensive Plan amendments upon consideration of the following:
  - a. Conformance with goals and policies of the Plan.
  - b. Citizen review and comment.
  - c. Applicable Statewide Planning Goals.
  - d. Input from affected governmental units and other agencies.
  - 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 or City Council.

The City's adopted Comprehensive Plan implements the Statewide Land Use Planning Goal and Policy 2. The City of Albany's Comprehensive Plan is acknowledged to be in compliance with the Statewide Planning Goals. This proposal is made under the goals, policies and procedures of the Comprehensive Plan and its implementing ordinance. A description of the proposal in relation to the intent of the Plan, its applicable goals and policies, the zone change considerations is part of this review. Facts and evidence have been provided that support and justify the proposed zone change. For these reasons, the proposal conforms to the land use planning process established by this Goal and Policies.

**Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces:**

The subject property is located adjacent Periwinkle Creek. The Riparian Overlay appears to border the edge of the property along the pedestrian trail on the west side of Periwinkle Creek. According to staff, there appears to be 12-18 feet of Riparian Overlay from the west side of the path over and across the southwest property line of the subject property. However, as stated in the pre-app by staff, the development won't impact the 50-foot riparian overlay area.

Therefore, the proposed development will not have any impact on the Riparian Corridor or Periwinkle Creek.

The subject property is also not located within a Significant Wetland Overlay or Floodplain Overlay District. The applicant has researched City maps and spoken with staff regarding the riparian corridor,

wetlands, and the floodplain. Staff concurs that the subject property is not within any natural resource overlay, nor does it have any natural hazards located on the site that would prohibit development.

**Goal 8 – Recreational Needs:**

Provide a high quality and diversified system of safe and attractive parks, open space, recreation programs, and facilities to:

1. Facilitate community access to leisure, recreation, open space, and cultural opportunities.
2. Meet the varied recreation and leisure needs of Albany's citizens for self-expression, creativity, achievement, imagination, relaxation, and enjoyment.
3. Enhance the beauty, livability, and positive image of Albany.

The City's adopted Comprehensive Plan Open Space, Parks and Recreation Goal and Policies implements the Statewide Recreation Needs Goal by encouraging conservation and identification of existing and needed park resources and funding mechanisms. The City's needs for leisure areas and open space areas have been identified in its adopted plans. The proposal provides improved public pedestrian connections via hard-surfaced sidewalks that are planned to further the City's planned connections to identified park sites. Therefore, the proposal complies with this Goal and Policies.

**Goal 10 – Housing:**

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

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

Policies:

1. Ensure an adequate supply of residentially-zoned land in areas accessible to employment and public services.
2. Provide a variety of choices regarding type, location, density and cost of housing units corresponding to the needs and means of city residents.
3. Encourage innovation in housing types, densities, lot sizes and design to promote housing alternatives.  
Examples include:
  - a. Attached single-family housing and condominium ownership opportunities in the Waterfront zoning district
  - b. The adaptive reuse of the upper floors of structures within the Downtown Business District for residential purposes.
  - c. Mixed housing types and price ranges at a minimum of ten units per acre in Village Center Comprehensive Plan districts.
  - d. Neighborhoods with a variety of lot and housing sizes and types.
  - e. Accessory dwelling units.
  - f. Other actions directed at reducing housing costs which conform to the Comprehensive Plan, including innovative Development Code regulations.
6. Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.
8. Encourage the development of great neighborhoods by:
  - a. Supporting neighborhood identity.

- b. Locating parks, trails, schools, daycare and churches in close proximity to residences.
- c. Incorporating natural features and spaces into developments.
- d. Connecting and orienting new neighborhoods to Village Centers.

- 12. Encourage the development of housing with quality craftsmanship and amenities to attract new business as well as keep local business executives within the community.
- 18. Encourage providers of transitional housing units, shelters and single-room occupancy housing to locate near Village Centers, employment centers, and public transportation.
- 19. Comply with federal, state, and local fair housing laws and policies that affirm access to housing opportunities for all persons in Albany.

The City's adopted Comprehensive Plan Land Use, Housing and Urban Growth Goals and Policies implement the Statewide Housing Goal by documenting population projections, land use inventories and buildable lands. The proposal adds to the multi-family housing inventory of the City and meets the intent of the Goal and Policies 1, 2, 3, 6, 8, 12, 18, and 19.

The City's adopted Comprehensive Plan Residential, Transportation Goals and Policies and applicable adopted facilities plans implement the Statewide Housing Goal. In 2006, the Albany City Council adopted a Housing Needs Analysis that outlined the housing needs from 2005 to 2025.

According to the Housing Needs Analysis, Albany has a projected need for rental units of about 1,246 units in 2015 to 2025.

The Housing Needs Analysis states that:

*"In order to meet housing needs to 2025, there will be a demand for at least 50 acres of land zoned to allow medium-density housing to include multiple-family and attached single family units."*

*"Land needs to be designated for multiple-family and medium-density development and policies adopted to provide land for multi-family development in order to reach projected 2025 needs."*

*"The need for medium-density and multiple-family housing could be accommodated in the UGB on land currently designated URR or by rezoning land within the City limits."*

The applicant's proposal to rezone the site from RM to RMA will allow a higher density to be built on the site. The proposal not only will help to meet housing needs but will also help meet economic needs by providing employment opportunities.

The applicant proposes to develop the site with multiple-family dwellings on the entire site. Therefore, helping in meeting the housing needs of the City of Albany.

**Goal 11 - Public Facilities and Services:**

The City's adopted Comprehensive Plan Public Facilities and Services Goal and Policies implements the Statewide Public Facilities and Services Goal by requiring development to be served by public services. The proposal is for a development on land in an area where there are existing services and where future extensions of those services can be provided in the most feasible, efficient and economical manner.

**Goal 12 – Transportation:**

- 1. Provide an efficient transportation system that provides for the local and regional movement of people and goods.
- 2. Provide a safe transportation system.

3. Provide a diversified transportation system that ensures mobility for all members of the community and provides alternatives to automobile travel.
4. Provide a transportation system that balances financial resources with community livability and economic vitality.

Policies:

7. Develop bicycle and pedestrian facilities that encourage non-vehicular travel to/from home, school, work, and other activity centers.
8. Provide direct off-roadway pedestrian and bicycle routes and connections.

The City's adopted Comprehensive Plan Transportation Goal and Policies implements the Statewide Transportation Goal by encouraging a safe, convenient and economic transportation system.

There are no public or private streets proposed within the development. Two-way driveways/access ways will provide access to and from the site onto the existing street system.

The site is served Oak Street to the west and Queen Avenue to the south. The access ways throughout the development will be improved, lighted and have hard-surfaced landing pads provided by the sidewalk system.

The development will provide bicycle, vehicle, and pedestrian facilities on-site. The mixed use development will allow residents to reduce vehicle usage, by the convenient of bicycle and pedestrian paths to and from the uses and existing sidewalk system. The paved driveway/access ways encourages bicycle and pedestrian-oriented modes of transportation.

**Goal 14 – Urbanization:**

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

The City's adopted Comprehensive Plan Goal and Policies implements the Statewide Urbanization Goal and primarily addresses residential development within the City. The subject property is within the City of Albany and located within the UGB.

The subject property is within a developed area of the City and does not convert the urban areas beyond the City limits. Specific development triggers specific facilities that are required to be connected to existing systems for looped service. Police, fire and applicable government services can be provided via the increase in property taxes as a result of new development. The proposal permits efficient, compact development to contain sprawl and preserves the land by developing under the requirements of the Code.

Therefore, the proposed zone change is more supportive of the Housing Goals and Policies than the current zone.

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

There are no relevant area plans for this area. Therefore, this criterion is not applicable.

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

The Comprehensive Plan maps and Goals and Policies give guidance to the type of land-patterns that are desirable in an area. The Goals are implemented by the Statewide Planning Goals and help to encourage appropriate land-use patterns.

The applicant's request is to rezone the subject property to RMA. The requested designation is consistent with the Plan Map pattern. The intent of the Comprehensive Plan is to have consistent and compatible neighborhoods that are built to code and meet the Goals and Policies of the Comp. Plan. Therefore, the multi-family development will be consistent with the existing surrounding uses, while meeting the intent of the Goals and Policies of the Comprehensive Plan as stated above.

***“(d) The requested designation is consistent with the statewide planning goals.”***

The following statewide planning goals are relevant and have been addressed above:

- Goal 1- Citizen Involvement
- Goal 2- Land-Use Planning
- Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 8 – Recreational Needs
- Goal 10- Housing
- Goal 11 - Public Facilities and Services
- Goal 12 – Transportation
- Goal 14 – Urbanization

***(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.***

The development will have access onto Oak Street to the west of the site, via internal driveways. The applicant is not proposing any new public or private streets within the development.

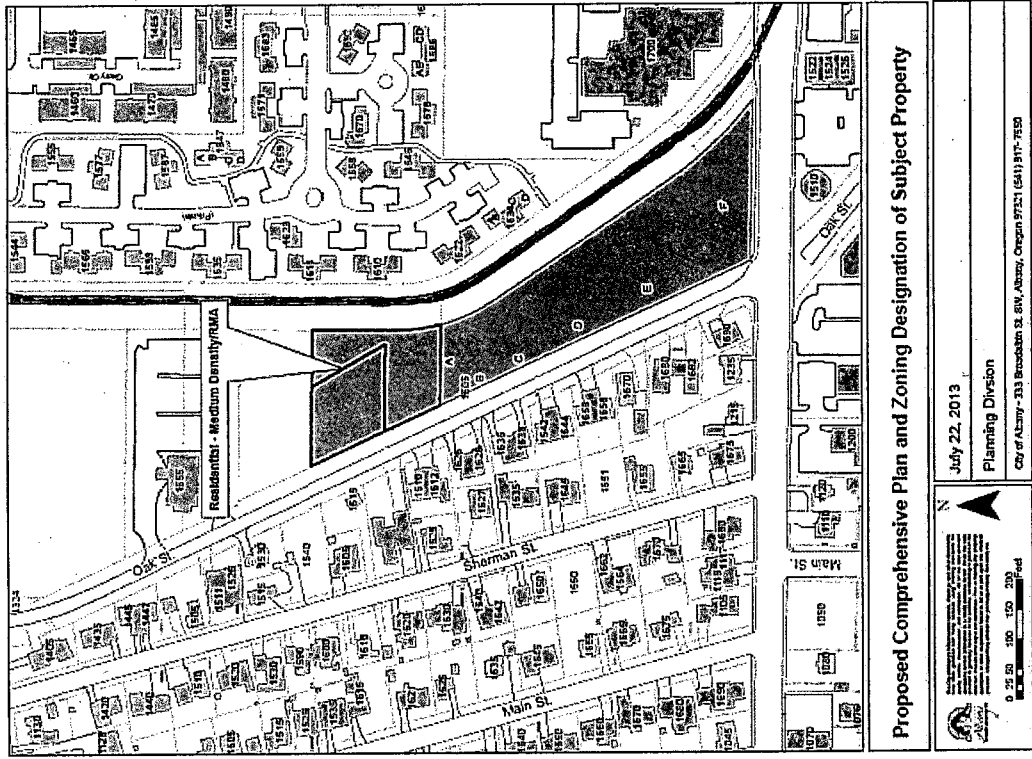
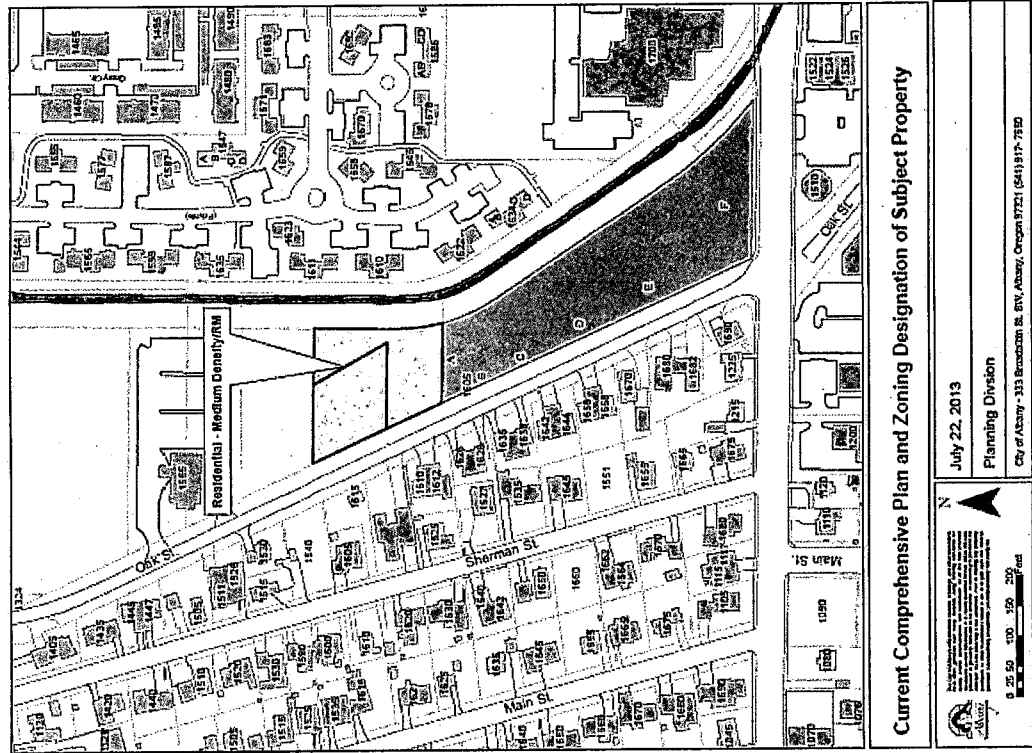
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**ZC-01-13, Zoning Map Amendment**

A Zoning Map Amendment that would rezone the northerly 40,500 square feet of an existing 3.1-acre parcel from Residential Medium Density (RM) to Residential Medium Density Attached (RMA), as shown on the following maps:





**Exhibit "A"**

Beginning at a point which is 40.00 feet North 0°27'56" West and 30.00 feet South 89°50' West from the Southeast corner of Abram Hackleman Donation Land Claim No. 62 in Section 8, Township 11 South, Range 3 West Willamette Meridian, Linn County, Oregon and running thence North 0°27'56" West along the West line of Geary Street 523.59 feet to a 5/8 inch iron rod; thence South 89°50' West 449.92 feet to a 5/8 inch iron rod; thence South 0°27'56" East 291.83 feet to the Northeasterly right-of-way line of Periwinkle Creek; thence South 35°25'01" East 48.56 feet along said Northeasterly right-of-way line to a 5/8 inch iron rod; thence on a 596.62 foot radius curve to the left (the long chord of which bears South 49°48'04" East 296.43 feet) 299.56 feet to the North right-of-way line of Queen Avenue; thence North 89°50' East 197.23 feet to the point of beginning.

Also: Lots 9 and 10 Block 2 in Eastern Addition to Oak Grove Acres, Linn County, Oregon, together with that portion of vacated 15<sup>th</sup> Street adjoining the above described property.

Also: That portion of Lot 8, Block 2 in Eastern Addition to Oak Grove Acres, lying west of the center-line of Periwinkle Creek, except the easterly 50 feet thereof.

Also: Beginning at the Southeast corner of the Abram Hackleman Donation Land Claim No. 62 in Township 11 South, Range 1 West of the Willamette Meridian in Linn County, Oregon; and running thence North 0°29' West along the East line of said claim 563.6 feet; thence South 89°50' West parallel to the South line of said claim 935.5 feet to the center line of a County Road; thence South 25°50' East along said line 625.3 feet to the South line of said claim; thence North 89°50' East 667.8 feet to the place of beginning.

Excepting therefrom the South 40 feet of even width.

Except the portion east of Periwinkle Creek.

Except that portion west of and adjacent to Periwinkle Creek deeded to the City of Albany under Volume 65 page 286 & 287, records of Linn County, Oregon.

