



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/05/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Albany Plan Amendment
DLCD File Number 005-12

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, November 19, 2012

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

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

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

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

<paa> YA



PROF **2**

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

OCT 30 2012

LAND CONSERVATION AND DEVELOPMENT

DATE
STAMP

For Office Use Only

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

Jurisdiction: **Albany**

Local file number: **ZC-05-12 (Connaghan)**

Date of Adoption: **10/24/2012**

Date Mailed: **10/26/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 8/10/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The zoning map designation for two parcels totaling 1.66 acres was changed from Office Professional (OP) to Community Commercial (CC).

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

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **OP**

to: **CC**

Location: **1020 & 1110 Hill St. SE; 11S-03W-07AC, 102 & 104**

Acres Involved: **1**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 005-12 (19453) [17228]

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

None

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

Phone: (541) 917-7561 Extension:

Address: **PO Box 490**

Fax Number: 541-917-7598

City: **Albany**

Zip: 97321-

E-mail Address:

david.martineau@cityofalbany.net

ADOPTION SUBMITTAL REQUIREMENTS

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

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

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

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



COMMUNITY DEVELOPMENT DEPARTMENT

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

Ph: 541-917-7550 Fax: 541-917-7598
www.cityofalbany.net

NOTICE OF DECISION

GENERAL INFORMATION

DATE OF NOTICE: October 26, 2012
DATE OF DECISION: October 24, 2012
FILE: ZC-05-12
TYPE OF APPLICATION: Quasi-judicial Zoning Map amendment to change 1.66 acres from OP (Office Professional) to CC (Community Commercial)
REVIEW BODIES: Planning Commission and City Council
PROPERTY OWNERS: (1) Tim and Paula Connaghan; Connaghan Enterprises LLC; 1110 Hill Street SE; Albany, OR 97322; (541) 967-7892; and
(2) Terry & Tamara Shores; 1020 Hill Street SE; Albany, OR 97322
APPLICANT REP.: Rich Catlin; Reece & Associates; 321 1st Avenue East, Ste. 3A; Albany, OR 97321; (541) 926-2428
LOCATION: 1020 and 1110 Hill Street SE
MAP/TAX LOTS: Linn County Assessor's Map No. 11S-03W-07AC; Tax Lots 102 and 104

On October 24, 2012, the Albany City Council adopted Ordinance No. 5790 to amend the Albany Comprehensive Plan Map and the Albany Zoning Map as described above.

A copy of Ordinance No. 5790 is available on request. The supporting documentation relied upon by the City in making this decision is available for review at the Community Development Department, City Hall, 333 Broadalbin Street SW, on the second floor. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. For more information, please contact Project Planner David Martineau at 541-917-7550.

The City's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). Per ORS 197.830 a notice of intent to appeal the plan and/or zoning map amendments shall be filed with LUBA no later than 21 days after notice of the decision is mailed or otherwise submitted to parties entitled to notice.



Mayor

AN ORDINANCE AMENDING ORDINANCE 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY FOR PROPERTIES LOCATED AT 1020 AND 1110 HILL STREET SE

WHEREAS, the Albany Planning Commission held a public hearing on October 15, 2012, on the proposed map amendments and recommended approval based on evidence presented in the staff report and testimony presented at the public hearing for City of Albany Planning File ZC-05-12; and

WHEREAS, the Albany City Council held a public hearing on the same application on October 24, 2012, and reviewed the findings of fact and testimony presented at the public hearing and then deliberated; and

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

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

Section 2: The Zoning Map designation of the properties described in Ordinance Exhibit B is hereby amended from Office Professional, OP, to Community Commercial, CC.

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.

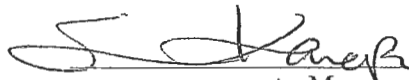
Section 4: A copy of the legal description of the affected property is attached as Ordinance Exhibit C. It shall be filed with the Linn County Assessor's Office within 90 days after the effective date of this ordinance.

IT IS HEREBY adjudged and declared that this Ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, and an emergency is hereby declared to exist, and this Ordinance shall take effect and be in full force and effect when passed by the City Council and approved by the Mayor.

Passed by the Council: October 24, 2012

Approved by the Mayor: October 24, 2012

Effective Date: October 24, 2012



Mayor

ATTEST:




City Clerk



Community Development Department

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

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

STAFF REPORT Zoning Map Amendments (ZC-05-12)

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, October 24, 2012
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

EXECUTIVE SUMMARY

Crabtree Automotive owners Tim and Paula Connaghan are applying to rezone two lots totaling 1.66 acres from Office Professional (OP) to Community Commercial (CC). The applicants are seeking this change for both properties in order to change the status of their vehicle repair business to an allowed use subject to Site Plan Review. Vehicle repair is considered a nonconforming use in the OP district. The Comprehensive Plan designation for both parcels is General Commercial. According to the Plan Designation Zoning Matrix in Albany Development Code (ADC) 2.760, both OP and CC are compatible with the General Commercial designation. Before these lots were zoned OP, they were zoned Heavy Commercial (CH), a zoning designation no longer in existence today. In 1976, they were zoned M-1, a limited industrial zoning designation. Vehicle repair was a permitted use in both prior zones.

This application was deemed complete on August 27, 2012 (Attachment I). The applicant is Rich Catlin, representing property owners Tim and Paula Connaghan, and the location of the proposed development is 1020 and 1110 Hill Street SE, just south of At Home Furniture (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 17, 2012
FILE:	ZC-05-12
TYPE OF APPLICATION:	Quasi-judicial Zoning Map amendment to change 1.66 acres from OP (Office Professional) to CC (Community Commercial)
REVIEW BODY:	Planning Commission and City Council
STAFF REPORT PREPARED BY:	David Martineau, Project Planner
PROPERTY OWNERS:	Tim and Paula Connaghan; Connaghan Enterprise LLC; 1110 Hill Street SE; Albany, OR 97322; (541) 967-7892; and Terry & Tamara Shores; 1020 Hill Street SE; Albany, OR 97322

APPLICANT REP.: Rich Catlin; Reece & Associates; 321 1st Avenue East, Ste. 3A; Albany, OR 97321; (541) 926-2428
LOCATION: 1020 and 1110 Hill Street SE
MAP/TAX LOTS: Linn County Assessor's Map No. 11S-03W-07AC; Tax Lots 102 and 104
CURRENT ZONING: OP (Office Professional) District
CP DESIGNATION: General Commercial
EXISTING LAND USE: Vehicle repair on the southerly parcel; vacant, undeveloped land on the northerly parcel
SURROUNDING ZONING: North: CC (Community Commercial)
 South: OP (Office Professional) and RM (Residential Medium Density)
 East: OP
 West: LI (Light Industrial) and RM
SURROUNDING USES: A commercial office is located to the south, and the Southern Pacific railroad yard is to the west. At Home Furniture and a coffee kiosk are located to the north; and an insurance company, dentist office, commercial office and a leasing office are situated to the east across Hill Street.
PRIOR HISTORY: A Modification to a Non-Conforming Use to an existing building (MN-01-08) was approved 5/13/2008 to allow an automotive repair business. The previous use was retail/manufacturing (The Plaque Factory).
 A Property Line Adjustment to move the property line between Tax Lot 102 and 104 was also approved 5/13/2008 (LA-05-08).
 Previous land use approvals include a Conditional Use (CU-03-94) and Site Plan (SP-116-93) was granted on Tax Lots 102 and 104 for outside storage of lumber products and shipping of lumber and plywood by rail, together with construction of a 2,800 square foot cover for railroad car loading dock; Site Plan Review (SP-67-88) and Variance (VR-23-88) for construction of a 45,000 square-foot building and reduction in building setback to an adjacent street; a 1985 Conditional Use approval for change of use from a cabinet manufacturing business to manufacturing of wall decorations; and CU-05-83 for a band-saw manufacturing shop. Finally, a Partition (PA-04-88) and two lot line adjustments between the subject property and railroad-owned property to the west were approved.

NOTICE INFORMATION

A Notice of Public Hearing was mailed to surrounding property owners on October 4, 2012 (Attachment III). The Notice of Public Hearing was posted on the subject property at one location on October 8, 2012. The Zoning Map Amendment staff report was posted on the City's website October 8, 2012. At the time this staff report was completed, no comments had been received.

APPEALS

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

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

STAFF ANALYSIS

Zoning Map Amendment File ZC-05-12

The Albany Development Code (ADC) includes the following review criteria which must be met for this application to be approved. Code criteria are written in *bold italics* and are followed by findings and conclusions. Note: Findings and conclusions submitted by the applicant can be found in Attachment VI.

- (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 1.66 acres from Office Professional (OP) to Community Commercial District (CC).
- 1.2 The current Comprehensive Plan map designation of the subject site is Commercial-General (GC). According to the Plan Designation Zoning Matrix table found in ADC 2.760, both the current OP and proposed CC zoning is consistent with the GC Plan designation of the site (see Attachments IV and V).

CONCLUSIONS

- 1.1 The existing zone, Office Professional, and the proposed zone, Community Commercial are both compatible with the Comprehensive Plan designation of Commercial-General.
- 1.2 This criterion is satisfied.
- (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 west side of Hill Street about 275 feet south of 9th Avenue. The zone change would change the designation of 1.66 acres of property from OP (Office Professional) to CC (Community Commercial).
- 2.2 The site consists of two parcels. Crabtree Automotive is located on the 1.15 acre south parcel. The 0.51 acre north parcel is currently vacant.
- 2.3 Albany's Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030, and does not identify any capacity or level of service problems occurring adjacent to the development.
- 2.4 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 submitted trip generation information that compared the number of vehicle trips that could be generated by development of the site under the current OP zone designation with the trips that could result

from development under the requested CC designation. The analysis identifies potential building uses and sizes that are allowed under each zone designation, estimates total PM peak hour trips based on ITE trip generation rates, assigns pass-by factors based on ITE data, and arrives at the net new PM peak hour trips that would result on the transportation system.

The uses that were assumed could be developed under the current OP zone designation were a 5,000 square foot "quality restaurant", and a 9,300 square foot "medical/dental office". Those uses are allowed by the ADC under the OP zone designation. The analysis estimated those uses would result in a total of 50.6 net PM peak hour trips. The resulting ratio of building floor area to lot size is about 0.20.

The uses that were assumed could be developed under the requested CC zone designation were a 1,500 square foot "fast food restaurant with drive-thru", and a 14,700 square foot "specialty retail" building. Those uses are allowed by the ADC under the CC zone designation. The analysis estimated those uses would result in a total of 45.3 net PM peak hour trips. The resulting ratio of building floor area to lot size is about 0.22, or slightly higher than was assumed for the OP development scenario.

Despite having been analyzed with a higher floor area ratio, the CC development scenario resulted in fewer new net PM peak hour trips occurring on the street system than were projected to occur with development under the existing OP zone designation.

- 2.6 ODOT submitted a letter dated August 6, 2012 (Attachment VII) commenting on the project and questioning whether the analysis provided by the applicant was sufficient to address the TPR. The letter expressed concern that the potential uses the applicant's analysis assumed for the current and requested zone designations were not the reasonable worst cases uses that could occur on the site. The letter listed several other possible uses that are allowed under the CC zone designation, and suggested that a traffic study or some other method be used to address the provisions of the TPR for the zone change.
- 2.7 The applicant provided a response to the concerns raised by ODOT in a letter dated September 17, 2012 (Attachment VIII). In their response the applicant made two basic arguments. The first was that the project was consistent with the TPR based on section (9) of the Rule. The second was that the land uses evaluated in the applicant's original analysis were in fact the reasonable worst case uses that could be expected to occur on the site.
- 2.8 Section (9) of the TPR lists three criteria that must be met in order for this section rule to apply:
- (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;
 - (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and
 - (c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.
- 2.9 In staff's judgment this application meets all three of the criteria listed in section (9). The proposed CC zoning designation is consistent with the existing General Commercial comprehensive plan designation of on the site. Albany has an acknowledged TSP, and because the population and employment distributions used during development of the TSP were based on comprehensive plan designations, the proposed zoning is consistent with the TSP. The subject site was not previously exempted from the TRP under section (1)(d) or otherwise exempted.

CONCLUSIONS

- 2.1 The proposed zone change would change the designation of 1.66 acres from OP to CC.

- 2.2 Albany's Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030, and does not identify any capacity or level of service problems occurring adjacent to the development.
 - 2.3 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 The proposed zone change is consistent with the TPR based on the provisions contained in section (9) of that rule.
 - 2.5 This review criterion is met without conditions.
- (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 a 15-inch public sanitary sewer main along the Hill Street frontage of the subject properties.
- 3.2 The City's Wastewater Facility Plan shows no system deficiencies in this area.

Water.

- 3.3 City utility maps show a 12-inch public water main along the Hill Street frontage of the subject properties.
- 3.4 The City's Water Facility Plan shows no system deficiencies in this area.

Storm Drainage.

- 3.5 City utility maps show a 24-inch storm drainage main along the Hill Street frontage of the subject properties.
- 3.6 The City's Storm Drainage Master Plan shows no system deficiencies in this area.

Police and Fire Protection.

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

CONCLUSIONS

- 3.1 The existing public utilities in Hill Street adjacent to the subject properties are capable of serving development that would be allowed in the proposed zone.
 - 3.2 This review criterion is met.
- (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 OP (Office Professional) District. The proposed zoning is CC (Community Commercial) District. This review criterion requires that the intent and purpose of the proposed CC zoning district “best satisfies” the goals and policies of the Comprehensive Plan.
- 4.2 Prior to being zoned OP, the subject block was zoned M-1 Light Industrial (1976) and CH Heavy Commercial (1981 to 2003). Goal 9 updates undertaken by the City in 2003 resulted in the elimination of the CH zone (File ZC-01-02, codified in Ordinance No. 5555). According to a file map, some CH-zoned property became Light Industrial (LI) or Regional Commercial (RC). The subject property became zoned OP. Vehicle service and repair was allowed outright in the M-1 district, allowed through Site Plan Review in the CH district, and not allowed in the OP district.

Zoning District Intent and Purposes

- 4.3 According to Section 4.020(1) of the Albany Development Code (ADC), the Office Professional (OP) District is “intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related 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 and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.”
- 4.4 Vehicle repair is not permitted in the OP district. Offices; small-scale, convenience-oriented retail sales and service; restaurants without drive-thru; certain institutional uses including community services, religious institutions, hospitals and daycares are allowed conditionally. Attached single family residences, duplexes, and multifamily units are allowed conditionally. In some cases, manufacturing and production is allowed conditionally if within 300 feet from a residential zoning district. Single-family residences are allowed outright.
- 4.5 According to Section 4.020(3) of the ADC, the Community Commercial (CC) District “recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.”
- 4.6 The uses that may be allowed CC zoning district with Site Plan Review include: contractors and industrial services, manufacturing with retail, adult entertainment, indoor and outdoor entertainment and recreation, offices, parking, restaurants, retail sales and service, self-serve storage, bars, vehicle repair, vehicle services, community services, daycare facility, religious institutions, residential care facility, and residential units above or attached to a business.
- 4.7 The applicant’s representative states that this part of Hill Street is an area of transition between the busy commercial couplet of Pacific/9th Avenue to the north and mainly single family residences to the south. Along the east side of Hill Street, there are about ten small businesses and non-profit organizations beginning at 9th Avenue with Papa Murphy’s south to the Boys & Girls Club of Albany. Some of the small businesses include insurance, real estate and dental offices. The west side of Hill is characterized with a mix of commercial and office uses such as At Home Furniture, the subject property and a roofing company office to the south.

Comprehensive Plan Goals and Policies Relevant to the Request

- 4.8 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed CC 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.
- 4.9 ***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.

Policy 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.*

Opportunities for citizen involvement occurred during the formulation and adoption of the Albany Comprehensive Plan and Development Code. The Oregon Land Conservation and Development Commission acknowledged the Comprehensive Plan and Development Code as being in compliance with Goal 1.

In Type IV quasi-judicial proceedings conducted for map amendments as proposed by the applicant, the Development Code sets forth the acknowledged provisions for citizen involvement at public hearings before the Planning Commission and City Council. Notice was mailed to surrounding property owners within 300 feet of the subject site, and to affected government agencies. Notice of these public hearings was posted on the subject property. Based on these provisions, citizens will have ample opportunity to review and comment on the proposed map amendments.

4.10 *Goal 6: Air, Water, and Land Resources Quality*

Reduce water pollution in the Albany area and ensure that future land use activities enhance or at least maintain water quality.

Policy 1: Require all new or expanding developments to comply with applicable water quality standards, using assistance where available from the Department of Environmental Quality, county Environmental Health Departments, etc.

Reduce air pollution in the Albany area and ensure that existing and future land use activities maintain air quality standards.

Policy 1a: Cooperate with state and federal agencies to ensure that local land use activities and/or regulations comply with the Federal Clean Air Act, Environmental Protection Agency, and the Department of Environmental Quality.

Reduce the adverse effects of noise in the Albany area.

Policy 2: As much as possible, separate noise-sensitive uses and noise-generating uses.

Policy 3: Locate, design, and buffer noise-generating land uses such as major transportation facilities and industrial areas to protect both existing and potential noise-sensitive uses.

According to the applicant's representative, applicable air and water standards will be addressed at the time of development. This proposal is for a zoning map amendment only.

Concerning noise standards, the applicant's representative states:

There are several significant noise generators in the area. Immediately west of the subject property is a rail reloading facility on a siding out of the Albany Yard approximately 0.2 mile to the west. The reloading business

consists of unloading and reloading rail cars and trailers with a large fork lift. The reloading area is zoned Light Industrial. To the north and northwest 0.1 mile is the Pacific-9th couplet, a high-volume state highway (US20, OR 99E) that generates constant background noise. To the west and north no more than 0.3 mile is the main line of the Union Pacific Railroad. Train horns and the sounds of rolling stock are clearly audible throughout this area. Within the Albany Yard, engine movements and maintenance activities have been the subject of noise complaints over the years.

The subject property is situated in a way that it has nominal protective value for noise-sensitive areas. The nearest noise-sensitive area is the residential neighborhood to the south of the subject property. The noise from the UPRR and highway couplet corridors span such large areas that the subject property, which is oriented perpendicular to these noise generators, cannot mitigate the effects of noise. Whether the subject property is zoned CC or OP is insignificant as far as separating noise-sensitive and noise-generating uses. It should be noted that a neighbor to the subject property was opposed to the Non-Conforming Use application to establish Crabtree Automotive on the basis of noise from repair equipment. Some time after the business opened, the neighbor observed that no noticeable noise emanated from the building. In several years of operation at this location, there have been no complaints of noise associated with the business.

4.11 Goal 9: Economic Development

Albany's Economy

Goal 2: Provide a supportive environment for the development and expansion of desired businesses.

Policy 2: Support the retention and expansion of existing businesses and industries, especially those that are locally owned.

Land Use

Goal 1: Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Albany, including commercial, professional, and industrial development.

According to the applicant's representative, "The basis for determining whether there is an adequate supply of various types of land is the Updated Albany Economic Opportunities Analysis (ECONorthwest, 2007), adopted as a background document to the Comprehensive Plan. Table 12 of the EOA indicates there were 418 acres considered to be suitable employment land within the Albany UGB. Table 15 projects demand for commercial sites of 1-2 acres. The subject property could fulfill this need because it consists of two parcels, 1.15 and 0.51 acres, for a total of 1.66 acres."

Goal 2: Achieve stable land-use growth that results in a desirable and efficient land-use pattern.

Policy 2, Land Use, General: Encourage land use patterns and development plans that 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 that increase energy efficiency.

The applicant's representative notes that all of the uses allowed in the OP district are also allowed in the CC. The CC district however has additional uses that are allowed. The proposed zoning map amendment will not reduce or change the need for travel, dependency on the private auto, nor will it facilitate energy-efficient public transit systems.

Goal 4: Promote infill development and redevelopment throughout the City.

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

Policy 2: Encourage land use patterns and development plans that 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 that increase energy efficiency.

Policy 3: Designate enough land in a variety of parcel sizes and locations to meet future employment and commercial needs.

Policy 7: Consider infill and redevelopment of already serviced vacant and underdeveloped land before designating additional land for industrial and commercial uses.

Public Infrastructure

Goal 1: Ensure that new industrial and commercial development is located in areas that can be adequately served by public infrastructure.

Public services are available to the subject properties as described in the response to Criterion 3 above.

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

Policy 1 (Water): Provide an adequate supply of water to meet projected demands based on the Comprehensive Plan land use designations and adopted population projections.

Policy 8 (Storm Drainage): Storm drain facilities in developing areas should be designed with the capacity to accommodate the projected storm drainage flows to at least the end of the planning period based on the land use designations.

Policy 1 (Wastewater): The 1998 Wastewater Facility Plan Summary (Summary) shall be the primary document for planning the community's wastewater system improvements.

Policy 1 (Solid Waste): Ensure that the solid waste franchise continues to provide a full range of solid waste disposal services including a recycling program that:

- a. Increases awareness for the need to recycle.*
- b. Considers the needs of the residential, commercial, and industrial waste generators.*
- c. Promotes utilization of recycling efforts.*

Policy 2 (Police and Fire Protection Services): Ensure that all development can be provided with adequate police and fire protection.

The applicant's representative states, "The timely, orderly and efficient provision of adequate public facilities and services is predicated on assumptions of need according to general land use categories. In this case, the distinction between OP and CC uses from a public facilities perspective is imperceptible at the gross scale typical of public facilities plans. There may be subtle differences in public facilities needs within commercial subcategories and the specific use requirements are addressed in the development review process. However for purposes of the proposed map amendment, there is no difference in public facilities needs from OP to CC."

4.13 **Goal 12: Transportation**

Goal 1: Provide an efficient transportation system that provides for the local and regional movement of people and goods.

Transportation findings are fully addressed in findings under Criterion 2 above. Hill Street is improved to the City standard for a minor arterial from 7th Avenue to the north to Queen Avenue to the south. This includes the area around the subject properties.

4.14 Goal 14: Urbanization

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

Policy 10: The size and type of future regional and community commercial sites shall be commensurate with the area to be served and located so as to be easily accessible by the service area. Approvals of additional regional and community commercial sites may be predicated upon studies requested by the City which assess public need, impacts upon competing commercial areas, traffic impacts, and impacts upon other public services.

According to the applicant's representative, "The subject property is situated to serve the Albany area. It is easily accessible from the Pacific-9th couplet. The impact on other commercial areas of rezoning the subject property to CC is nominal for two reasons. First it already has a commercial zoning district. Second, at 1.66 acres, this is a relatively small community commercial site. As discussed elsewhere in this narrative, the difference in traffic impacts and impacts upon other public services that would be experienced if the subject property is rezoned from one commercial district to another is little to none."

Policy 12: 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.*

Hill Street is improved as a minor arterial. The applicant feels this creates safer opportunities for vehicles to enter and exit the subject property. At the present time, no uses for Tax Lot 102 are proposed. When development is proposed, there is potential to encourage internal access without the need for an auto between businesses.

The applicant's representative states, "A number of factors are reviewed when considering compatibility between land uses, such as building mass, location, and orientation; movement of autos and trucks; lighting in and around the building and parking areas; pedestrian corridors; landscaping; sound and noise; and emissions. These details are relevant in the context of a specific development plan." These details are examined by city staff at the time of site plan review.

As mentioned above in Finding 4.12 and Criterion 3, public facilities and services are adequate and available to serve the subject property.

CONCLUSIONS

- 4.1 The CC zone best satisfies the applicable goals and policies of the Albany Comprehensive Plan.
- 4.2 This criterion has been met.
- (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 The Transportation System Plan (TSP) does not identify any projects in close proximity to the subject property. The TSP assumes the site is commercial. The trip generation comparison supplied by the applicant's representative reveals a decline in traffic if the zone change is approved.
- 5.2 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.
- 5.3 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 proposal will not conflict with the transportation system as shown in TSP.
- 5.2 The proposal is in accordance with the transportation pattern as shown in the TSP.
- 5.3 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 ODOT's August 6, 2012 Letter
- VIII Applicant's September 17, 2012 Response to ODOT Letter
- IX Legal Description of Zone Map Amendment Area



August 27, 2012

FILE

Rich Catlin
Reece & Associates
321 1st Avenue East, Ste. 3A
Albany, OR 97321

Dear Rich:

**CITY OF ALBANY FILE ZC-05-12
ZONING MAP AMENDMENT
LINN COUNTY ASSESSOR'S MAP NO. 11S-03W-07AC; Tax Lots 0102 and 0104**

As of August 27, 2012 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.

Sincerely,

David Martineau
Lead Current Planner

cc: File: ZC-05-12
Ron Irish, Transportation Analyst

CITY HALL
333 Broadalbin SW
P.O. Box 490
Albany, OR 97321-0144
www.cityofalbany.net

(541) 917-7500

ADMINISTRATIVE SERVICES
City Manager's Office
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FAX (541) 917-7511

Finance/Recorder
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FAX (541) 917-7511

Municipal Court
(541) 917-7740
FAX (541) 917-7748

COMMUNITY DEVELOPMENT
Planning
(541) 917-7550
FAX (541) 917-7598

Building Division
(541) 917-7553
FAX (541) 917-7598

ECONOMIC DEVELOPMENT
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FAX (541) 917-7511

Call-A-Ride
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FAX (541) 917-7573
TDD (541) 917-7782

Transit
(541) 917-7667
FAX (541) 917-7573
TDD (541) 917-7678

FIRE ADMINISTRATION
(541) 917-7700
FAX (541) 917-7716

HUMAN RESOURCES
(541) 917-7500
FAX (541) 704-2324

INFORMATION TECHNOLOGY
221 Third Avenue SW
(541) 917-7500
FAX (541) 917-7511

PARKS & RECREATION ADMINISTRATION
(541) 917-7777
FAX (541) 917-7776


**Urban Forestry/
Building Maintenance**
(541) 917-7679
FAX (541) 917-7776

PUBLIC WORKS Engineering
(541) 917-7676
FAX (541) 917-7573

Water/Sewer Billing
(541) 917-7547
FAX (541) 917-7511




LOCATION MAP: 1020 and 1110 Hill Street SE




The City of Albany's maps, plans, records, drawings, and other documents have been created over many decades, using different standards for quality control, documentation, and verification. All of the data provided represents current information as a reality as of the date the data was provided to generally believed to be accurate, occasionally it may be incorrect. Please do not rely on this information. Prior to making any property purchase or other transactions based in full or in part upon the material provided, it is specifically advised you independently verify the

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April 24, 2012

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

NOTICE OF PUBLIC HEARING

<u>HEARING BODY</u>	PLANNING COMMISSION	CITY COUNCIL
<u>HEARING DATE</u>	Monday, October 15, 2012	Wednesday, October 24, 2012
<u>HEARING TIME</u>	5:15 p.m.	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	

GENERAL INFORMATION

DATE OF NOTICE:	October 4, 2012
FILES:	ZC-05-12
TYPE OF APPLICATION:	Quasi-judicial Zoning Map amendment to change 1.66 acres from OP (Office Professional) to CC (Community Commercial)
REVIEW BODIES:	Planning Commission and City Council
PROPERTY OWNERS:	(1) Tim and Paula Connaghan; Connaghan Enterprises LLC; 1110 Hill Street SE; Albany, OR 97322; (541) 967-7892; and (2) Terry & Tamara Shores; 1020 Hill Street SE; Albany, OR 97322
APPLICANT REP.:	Rich Catlin; Reece & Associates; 321 1 st Avenue East, Ste. 3A; Albany, OR 97321; (541) 926-2428
LOCATION:	1020 and 1110 Hill Street SE
MAP/TAX LOTS:	Linn County Assessor's Map No. 11S-03W-07AC; Tax Lots 102 and 104
CURRENT ZONING:	OP (Office Professional) District
CP DESIGNATION:	General Commercial
EXISTING LAND USE:	Vehicle repair on the southerly parcel; vacant, undeveloped land on the northerly parcel
SURROUNDING ZONING:	North: CC (Community Commercial) South: OP (Office Professional) and RM (Residential Medium Density) East: OP West: LI (Light Industrial) and RM
SURROUNDING USES:	A commercial office is located to the south, and the Southern Pacific railroad yard is to the west. At Home Furniture and a coffee kiosk are located to the north; and an insurance company, dentist office, commercial office and a leasing office are situated to the east across Hill Street.

The Planning Division has received a Zoning Map Amendment application referenced above and has scheduled a Public Hearing before the Planning Commission and City Council. We are mailing notice of this public hearing

Notice of Public Hearing/ZC-05-12, Page 1

Attachment III Notice of 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 October 8, 2012. A copy will be available at the City's web site at the following link: www.cityofalbany.net/comdev/applications, 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 applications 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 1: CITIZEN INVOLVEMENT (CHAPTER 9)

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

Policy 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.

GOAL 6: AIR, WATER, AND LAND RESOURCES QUALITY (CHAPTER 9)

Goal: Reduce water pollution in the Albany area and ensure that future land use activities enhance or at least maintain water quality.

Policy 1: Require all new or expanding developments to comply with applicable water quality standards, using assistance where available from the Department of Environmental Quality, county Environmental Health Departments, etc.

Reduce air pollution in the Albany area and ensure that existing and future land use activities maintain air quality standards.

Policy 1a: Cooperate with state and federal agencies to ensure that local land use activities and/or regulations comply with the Federal Clean Air Act, Environmental Protection Agency, and the Department of Environmental Quality.

Reduce the adverse effects of noise in the Albany area.

Policy 2: As much as possible, separate noise-sensitive uses and noise-generating uses.

Policy 3: Locate, design, and buffer noise-generating land uses such as major transportation facilities and industrial areas to protect both existing and potential noise-sensitive uses.

GOAL 9: ECONOMIC DEVELOPMENT (CHAPTER 3)

Albany's Economy

Goal 2: Provide a supportive environment for the development and expansion of desired businesses.

Policy 2: Support the retention and expansion of existing businesses and industries, especially those that are locally owned.

Land Use

Goal 1: Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Albany, including commercial, professional, and industrial development.

Goal 2: Achieve stable land-use growth that results in a desirable and efficient land-use pattern.

Goal 4: Promote infill development and redevelopment throughout the City.

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

Policy 2: Encourage land use patterns and development plans that 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 that increase energy efficiency.

Policy 3: Designate enough land in a variety of parcel sizes and locations to meet future employment and commercial needs.

Policy 7: Consider infill and redevelopment of already serviced vacant and underdeveloped land before designating additional land for industrial and commercial uses.

Public Infrastructure

Goal 1: Ensure that new industrial and commercial development is located in areas that can be adequately served by public infrastructure.

GOAL 11: PUBLIC FACILITIES AND SERVICES (CHAPTER 6)

Policy 1 (Water): Provide an adequate supply of water to meet projected demands based on the Comprehensive Plan land use designations and adopted population projections.

Policy 8 (Storm Drainage): Storm drain facilities in developing areas should be designed with the capacity to accommodate the projected storm drainage flows to at least the end of the planning period based on the land use designations.

Policy 1 (Wastewater): The *1998 Wastewater Facility Plan Summary (Summary)* shall be the primary document for planning the community's wastewater system improvements.

Policy 1 (Solid Waste): Ensure that the solid waste franchise continues to provide a full range of solid waste disposal services including a recycling program that:

- a. Increases awareness for the need to recycle.
- b. Considers the needs of the residential, commercial, and industrial waste generators.
- c. Promotes utilization of recycling efforts.

Policy 2 (Police and Fire Protection Services): Ensure that all development can be provided with adequate police and fire protection.

GOAL 2: TRANSPORTATION (CHAPTER 5)

Goal 1: Provide an efficient transportation system that provides for the local and regional movement of people and goods.

GOAL 14: URBANIZATION (CHAPTER 8)

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

Policy 10: The size and type of future regional and community commercial sites shall be commensurate with the area to be served and located so as to be easily accessible by the service area. Approvals of additional regional and community commercial sites may be predicated upon studies requested by the City which assess public need, impacts upon competing commercial areas, traffic impacts, and impacts upon other public services.

Policy 12: Discourage future strip commercial development and promote clustered commercial opportunities and the infilling of existing commercial areas which will foster:

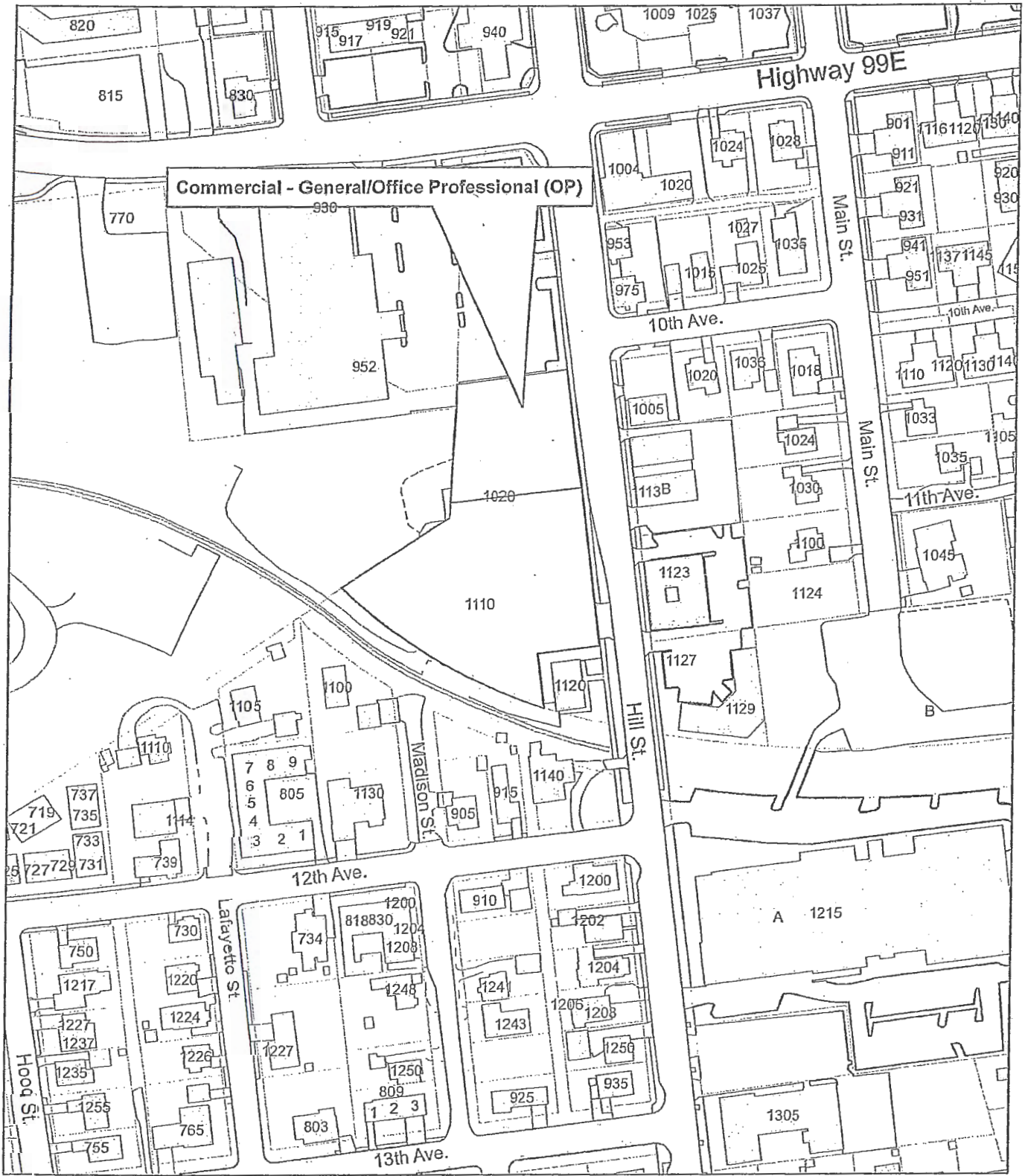
- a. Efficient and safe utilization of transportation facilities.
- b. A variety of attractive and comfortable shopping opportunities that encourage shopping in a number of stores without auto use.
- c. Compatibility between land uses, particularly adjacent residential neighborhoods.
- d. Efficient extension of public facilities and services.

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

Distribution

Applicant	1
Property Owners	36
File: ZC-05-12	1
City Council	7
Post	1



Current Comprehensive Plan and Zoning Designation



The City of Albany's infrastructure records, drawings, and other documents have been gathered over many decades, using differing standards for entry, record, documentation, and validation. All of the data provided represents current information in a readily accessible format. The data provided is generally believed to be accurate, occasionally it proves to be incorrect, and 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 verify the

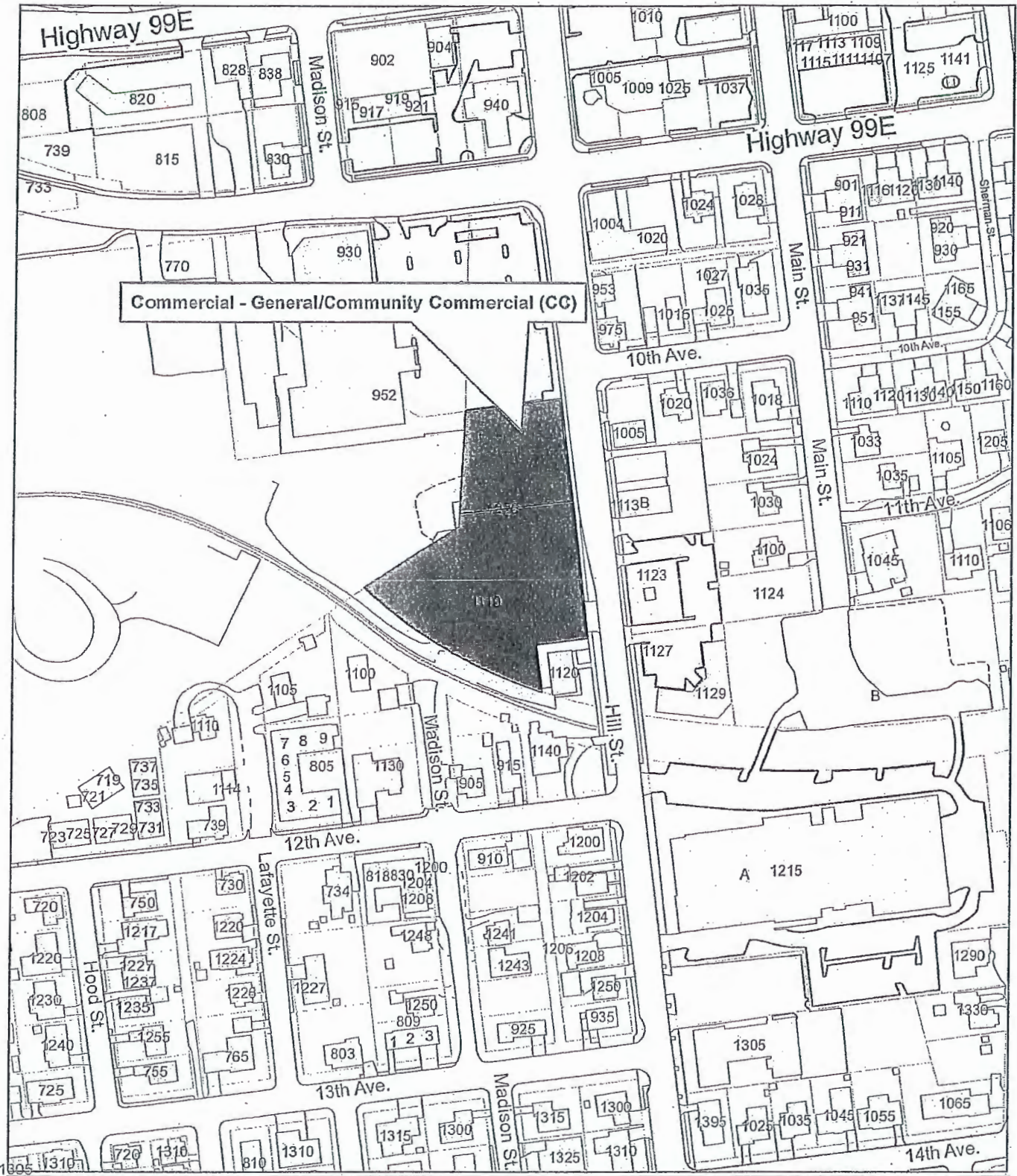


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June 5, 2012

David Martineau, Planning Division

Attachment IV Current Comprehensive Plan & Zoning Designation
City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917- 7550



Commercial - General/Community Commercial (CC)

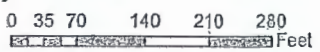
Proposed Comprehensive Plan and Zoning Designation



The City of Albany's infrastructure records, designs, and other documents have been gathered over many decades, with varying standards for quality control, documentation, and verification. All of the data presented represents current information to the best of our knowledge. The data provided is generally believed to be accurate, but the City does not warrant the accuracy or its accuracy to the extent of a warranty. If you find the information to be incorrect, or if you have any questions, please contact the City of Albany at 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917-7550. This is not a warranty.



June 5, 2012



David Martineau, Planning Division

Attachment V Proposed Comprehensive Plan & Zoning Designation
 City of Albany - 333 Broadalbin St. SW, Albany, Oregon 97321 (541) 917-7550

WRITTEN STATEMENT

REQUESTS:	Zoning Map Amendment from OP to CC
DECISION CRITERIA:	ADC 2.740
APPLICANT / OWNER:	Tim & Paula Connaghan dba Connaghan Enterprises LLC
PREPARED BY:	Rich Catlin, Reece & Associates Inc.
MAP / TAX LOTS:	11S03W07AC/ 102, 104
AREA:	72,452 SF (per Linn County Survey File No. 25051)

Crabtree Automotive Inc. is located at 1110 Hill St SE (11s03w07AC-00104). This 1.15 acre parcel is a non-conforming use (vehicle repair) in the Office Professional district. The property owners, Tim & Paula Connaghan, are also contract purchasers of a vacant 0.51 acre parcel to the north (11s03w07AC-00102), also zoned OP (Exhibit 1). Both properties are designated Community Commercial on the Comprehensive Plan Map. The Connaghans are interested in a zone change to Community Commercial for both properties to change the status of the vehicle repair business to an allowed use subject to site plan review. Both OP and CC are compatible with the GC designation for these properties.

The Zoning Map Amendment is proposed for Tax Lots 102 and 104 on Linn County Assessors Map 11S-03W-07AC (Exhibit 2) as described in the attached legal descriptions (Exhibit 3). This unit of land is referred to hereafter as the "subject property." It is held by Tim and Paula Connaghan, doing business as Connaghan Enterprises LLC, the "applicants" for this Zoning Map Amendment application.

This written statement is part of the application for a Zoning Map Amendment from Office Professional (OP) to Community Commercial (CC). This written statement constitutes the applicant's burden of proof explaining how the application satisfactorily meets the decision criteria set forth in Albany Development Code Sections 2.740.

Applicable criteria, as found in Section 2.740 of the Albany Development Code, appear in *italics* followed by the applicants' response in regular font.

- (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, ADC Article 2.*

Response: The subject property is designated Community Commercial on the Comprehensive Plan Map. According to the Plan Designation Zoning Matrix following ADC 2.760, the existing zone, Office Professional, and the proposed zone, Community Commercial, are both compatible zoning districts with the Comprehensive Plan Map designation. Therefore this criterion is met.

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

Connaghan Zoning Map Amendment

Response: The subject property has frontage on and physical access to Hill Street, a paved street maintained by the City of Albany. There is a single northbound lane. Two southbound lanes merge into one lane along the frontage of the subject property. There are bicycle lanes in both directions. It is designated as a minor arterial on Figure 7-4 of the Transportation System Plan.

The Transportation Planning Rule (TPR) is applicable to the proposed zone change. The TPR holds that a "significant effect" occurs if a proposed zone change would result in an existing or planned transportation facility either fails to meet an adopted performance standard or degrade the performance of an already failing facility. [OAR 660-012-0060].

The question whether the proposed zone change will cause a significant effect is premised on a comparison of trip generation between uses in the existing and proposed zones as follows in Table 1.

Table 1, Trip Generation Comparison

ITE	Use	Floor Area Ratio	Building Area (SF)	Land Area (SF)	Trip Gen. Rate	Pass. By Rate	Trips
Office Professional							
931	Quality Restaurant	13.8%	5,000	36,232	7.49	44%	21.0
720	Medical/Dental Office	25.7%	9,300	36,187	3.46	8%	29.6
	<i>Totals</i>		14,300	72,419			<i>50.6</i>
Community Commercial							
934	Fast Food Rest/Drive-Through	9.2%	1,500	16,304	33.84	50%	25.4
814	Specialty Retail	26.3%	14,700	55,894	2.71	50%	19.9
	<i>Totals</i>		16,200	72,198			<i>45.3</i>

Percent Change: -10.4%

In this comparison, the number of trips generated by a reasonable worst case combination of uses occupying the entire subject property decreases from OP to CC. Therefore there would be no significant effect on the transportation system resulting from the proposed zone change.

- (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.

Response: Public facilities are available to the subject property as follows.

Water. City utility maps show a 12-inch public water main on the west side of the Hill Street right-of-way. There is a fire hydrant on the west side of Hill Street near the center of the subject property. At the time of development, water service and fire service needs will be determined and a plan developed to deliver water to the subject property.

Sanitary Sewer. City utility maps show a 15-inch public sanitary sewer main in Hill Street. At the time of development, a plan will be developed to connect to the sanitary sewer.

Storm Drainage. City utility maps show a 24-inch public storm drainage main in Hill Street and a curb inlet on the Hill Street frontage of the subject property. At the time of development, a plan will be developed for draining the subject property. Specific requirements for detention and connection will be established at that time.

In conclusion, public water, sanitary sewer, and storm drainage facilities are adjacent to the subject property. These facilities are capable of serving any anticipated development in either the OP or CC zone.

Schools. The subject property is located within school boundaries for Sunrise Elementary, North Albany Middle School, and South Albany High School. School age children could reside on the subject property under the provisions of the existing OP zone and the proposed CC zone. In practical terms, this is not a desirable place to live because of industrial use to the west, retail to the north, and offices to the east across Hill Street. Commercially development has a higher value, reducing the likelihood the subject property would develop for residential use. Therefore the proposed zone change will have no effect on schools.

Police and Fire Protection. The Albany Police Department provides law enforcement services to this area. The Albany Fire Department provides fire suppression services. Given that the OP and CC zones allow similar uses, the nature of these services is the same whether the subject property is zoned OP or CC. Therefore the proposed zone change has no adverse impact on these services.

There may be subtle differences in public facilities needs between commercial uses. The specific use requirements are addressed in the development review process. However for purposes of the proposed zone change, there is no change in public facilities needs from OP to CC. Therefore this criterion is met.

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

Response: The purpose statements for the existing and proposed zoning districts as set forth in ADC 4.020 are as follows:

Existing Zoning District:

OP – OFFICE PROFESSIONAL DISTRICT

The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related 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 and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.

Proposed Zoning District:

CC – COMMUNITY COMMERCIAL DISTRICT

The CC district recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas.

This stretch of Hill Street is a transitional area between the heavily-traveled Pacific-9th couplet commercial strip on the north and predominantly single-family dwelling residential neighborhoods to the south (Exhibit 4). On the east side of Hill Street, from Papa Murphy's on the corner of 9th, there are ten small businesses and non-profit organizations. On the west side of Hill Street, At Home Furniture dominates the corner on 9th, followed by the subject properties and an office immediately south. This location is attractive to these businesses for the traffic volumes on Hill Street and proximity to the couplet.

The following goals and policies of the Albany Comprehensive Plan are applicable to the proposed zone change.

Goal 1, Citizen Involvement

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

Policy 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.*

Response: Opportunities for citizen involvement occurred during the formulation and adoption of the Albany Comprehensive Plan and Development Code. The Oregon Land Conservation and Development Commission acknowledged the Comprehensive Plan and Development Code as being in compliance with Goal 1.

In Type IV quasi-judicial proceedings conducted for map amendments as proposed by the applicant, the Development Code sets forth the acknowledged provisions for citizen involvement at public hearings before the Planning Commission and City Council. Notice will be mailed to surrounding property owners within 1,000 feet of the subject site, and to affected government agencies. Notice of the public hearings was posted on the subject property, and at other public locations in Albany. Based on these provisions, citizens will have ample opportunity to review and comment on the proposed map amendments.

Connaghan Zoning Map Amendment

For these reasons, the proposed map amendment complies with Goal 1.

Goal 3, Agriculture

Goal: Preserve existing agricultural land within the Urban Growth Boundary until it is needed for conversion to urban uses.

Response: Goal 3 goals and policies do not apply to an urban map amendment because farm use is a transitional land use prior to urban development.

Goal 5, Open Spaces, Scenic & Historic Areas, & Natural Resources

Goal: Ensure vegetation is and remains an integral part of Albany's environment.

Goal: Protect wetlands to ensure their continued contribution as natural areas, open space, wildlife and vegetative habitat, and storm water retention and conveyance.

Goal: Ensure the protection of all natural resources, including aggregate mineral resources.

Goal: Ensure the provision of open space and protection of natural and scenic resources.

Goal: Improve Albany's image, livability, appearance, and design quality through aesthetic enhancement.

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

Response: According to the Comprehensive Plan Plate 3: Natural Vegetation and Wildlife Habitat, Plate 4: Streams, Rivers and Lakes, and Plate 6: Wetland Sites, there are no Goal 5 natural resources on this site to consider. There are no historic resources or aggregate resources and no designated open space on the subject property. Therefore Goal 5 goals and policies do not apply.

Goal 6: Air, Water and Land Resources Quality

Goal: Reduce water pollution in the Albany area and ensure that future land use activities enhance or at least maintain water quality.

Policy 1: Require all new or expanding developments to comply with applicable water quality standards, using assistance where available from the Department of Environmental Quality, county Environmental Health Departments, etc.

Response: This policy will be addressed at the time of development. It has no bearing on the proposed map amendment because all development irrespective of the zoning district is subject to adopted water quality standards. Therefore the water quality goal and policies under Goal 6 do not apply to a map amendment.

Goal: Reduce air pollution in the Albany area and ensure that existing and future land use activities maintain air quality standards.

Policy 1a: Cooperate with state and federal agencies to ensure that local land use activities and/or regulations comply with the Federal Clean Air Act, Environmental Protection Agency, and the Department of Environmental Quality.

Response: This policy will be addressed at the time of development. It has no bearing on the proposed map amendment because all development irrespective of the zoning district is subject to adopted air quality standards. Therefore the air quality goal and policies under Goal 6 do not apply to a map amendment.

Goal: Reduce the adverse effects of noise in the Albany area.

Policy 2: As much as possible, separate noise-sensitive uses and noise-generating uses.

Policy 3: Locate, design, and buffer noise-generating land uses such as major transportation facilities and industrial areas to protect both existing and potential noise-sensitive use.

Response: There are several significant noise generators in the area. Immediately west of the subject property is a rail reloading facility on a siding out of the Albany Yard approximately 0.2 mile to the west (Exhibit 4). The reloading business consists of unloading and reloading rail cars and trailers with a large fork lift. The reloading area is zoned Light Industrial.

To the north and northwest 0.1 mile is the Pacific-9th couplet, a high-volume state highway (US 20, OR 99E) that generates constant background noise. To the west and north no more than 0.3 mile is the main line of the Union Pacific Railroad. Train horns and the sounds of rolling stock are clearly audible throughout this area. Within the Albany Yard, engine movements and maintenance activities have been the subject of noise complaints over the years.

The subject property is situated in a way that it has nominal protective value for noise-sensitive areas. The nearest noise-sensitive area is the residential neighborhood to the south of the subject property. The noise from the UPRR and highway couplet corridors span such large areas that the subject property, which is oriented perpendicular to these noise generators, cannot mitigate the effects of noise. Whether the subject property is zoned CC or OP is insignificant as far as separating noise-sensitive and noise-generating uses.

It should be noted that a neighbor to the subject property was opposed to the Non-Conforming Use application to establish Crabtree Automotive on the basis of noise from repair equipment. Some time after the business opened, the neighbor observed that no noticeable noise emanated from the building. In several years of operation at this location, there have been no complaints of noise associated with the business.

Goal 7: Flood Hazards & Hillsides

Goal: Protect life and property from natural disasters and hazards.

Response: Hillside development goals and policies do not apply because the subject property is nearly level. Flood hazard goals and policies do not apply because the subject property is situated outside known flood hazard areas mapped on Plate 5 of the Comprehensive Plan.

Goal 8: Recreational Needs

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

Connaghan Zoning Map Amendment

Response: The City of Albany relies on the municipal park system to meet the needs of Albany citizens. Therefore this goal and policies are not applicable to the proposed map amendment.

Goal 9: Economy

Goal 1, Land Use: Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Albany, including commercial, professional, and industrial development.

Policy 3, Land Use, General: Designate enough land in a variety of parcel sizes and locations to meet future employment and commercial needs.

Response: The basis for determining whether there is an adequate supply of various types of land is the Updated Albany Economic Opportunities Analysis (ECONorthwest, 2007), adopted as a background document to the Comprehensive Plan. Table 12 of the EOA indicates there were 418 acres considered to be suitable employment land within the Albany UGB. Table 15 projects demand for commercial sites of 1-2 acres. The subject property could fulfill this need because it consists of two parcels, 1.15 and 0.51 acres.

Goal 2, Land Use: Achieve stable land-use growth that results in a desirable and efficient land use pattern.

Policy 2, Land Use, General: Encourage land use patterns and development plans that 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 that increase energy efficiency.

Response: All the uses allowed in the existing OP zoning district are allowed in the proposed CC zoning district. Therefore the proposed map amendment would not change the need for travel, dependency on the private automobile, nor facilitate energy-efficient public transit systems.

Goal 1, Public Infrastructure: Ensure that new industrial and commercial development is located in areas that can be adequately served by public infrastructure.

Policy 1, Public Infrastructure: Encourage the siting of new industrial and commercial development on land that is adequately served by existing infrastructure; where the infrastructure can be made adequate, require the "minimum necessary" improvement cost to be borne by the new business rather than by existing taxpayers or utility rate payers.

Response: Public facilities are available to the subject property as explained earlier in response to criterion (3). Those findings and conclusions are included here by reference.

Goal 10: Housing

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.

Response: Housing goals and policies do not apply because the proposed map amendment would change from one commercial zoning district to another. As noted earlier, the subject property is not suitable for noise-sensitive use such as residential development due to its juxtaposition between two significant noise generators.

Goal 11: Public Facilities and Services

Water Policy 1: Provide an adequate supply of water to meet projected demands based on the Comprehensive Plan land use designations and adopted population projections.

Storm Drainage Policy 8: Storm drain facilities in developing areas should be designed with the capacity to accommodate the projected storm drainage flows to at least the end of the planning period based on the land use designations.

Wastewater System Policy 1: The 1998 Wastewater Facility Plan Summary (Summary) shall be the primary document for planning the community's wastewater system improvements.

Solid Waste Policy 1: Ensure that the solid waste franchise continues to provide a full range of solid waste disposal services including a recycling program.

Police and Fire Protection Services Policy 2: Ensure that all development can be provided with adequate police and fire protection.

Response: The timely, orderly and efficient provision of adequate public facilities and services is predicated on assumptions of need according to general land use categories. In this case, the distinction between OP and CC uses from a public facilities perspective is imperceptible at the gross scale typical of public facilities plans. There may be subtle differences in public facilities needs within commercial subcategories and the specific use requirements are addressed in the development review process. However for purposes of the proposed map amendment, there is no difference in public facilities needs from OP to CC.

The public facilities findings presented earlier under Goal 9 are hereby included by reference. In summary, the existing water, sanitary sewer, and storm drainage systems are adequate to support the proposed CC zoning.

Goal 12: Transportation

Goal 1: Provide an efficient transportation system that provides for the local and regional movement of people and goods.

*Policy 2: Protect transportation facilities, corridors, and sites for their identified functions.
(c) Review land use designations, densities, and design standards for consistency with the functions, capacities, and levels of service of facilities identified in the TSP.*

Policy 4: Develop a transportation system, encourage land use patterns and design standards, and promote transportation projects, programs, and policies which reduce dependency on the automobile and encourage alternatives such as public transit, bicycling, walking, car and van pools.

Response: The transportation findings included under the Review Criterion (2) above are hereby included by reference. Hill Street is fully improved to the city standard for a minor arterial. In summary, the transportation system is adequate to support the proposed CC zoning district.

Goal 13: Energy Conservation

Goal: Achieve efficient utilization of all types of energy, and maximize the conservation of non-renewable resources.

Policy 2: Promote land use development patterns and projects that are energy efficient and cost effective.

Response: The CC zoning district allows a greater range of uses than OP. Application of the CC zoning district to the subject property expands the potential list of retail and service uses that could be available to area residents. This could have the potential of shortening trip lengths as an energy saving measure. Therefore the proposed CC zoning district better complies with the goals and policies of energy conservation than Office Professional.

Goal 14: Urbanization

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

Policy 10: The size and type of future regional and community commercial sites shall be commensurate with the area to be served and located so as to be easily accessible by the service area. Approvals of additional regional and community commercial sites may be predicated upon studies requested by the City which assess public need, impacts upon competing commercial areas, traffic impacts, and impacts upon other public services.

Response: The subject property is situated to serve the Albany area. It is easily accessible from the Pacific-9th couplet. The impact on other commercial areas of rezoning the subject property to CC is nominal for two reasons. First it already has a commercial zoning district. Second, at 1.66 acres, this is a relatively small community commercial site. As discussed elsewhere in this narrative, the difference in traffic impacts and impacts upon other public services that would be experienced if the subject property is rezoned from one commercial district to another is little to none.

Policy 12: 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.*

Response: Hill Street is fully improved as a minor arterial. This creates safe opportunities for vehicles to enter and exit the subject property in conformance with subsection a.

No use of Tax Lot 102 is proposed at this time. There is the potential that internal access with Tax Lot 104 could encourage movement between sites without auto use as specified by subsection b.

A number of factors are reviewed when considering compatibility between land uses, such as building mass, location, and orientation; movement of autos and trucks; lighting in and around the building and parking areas; pedestrian corridors; landscaping; sound and noise; and emissions. These details are relevant in the context of a specific development plan. Many of these details are subject to compatibility analysis during site plan review by City staff per subsection c.

Public facilities and services are available to the subject property as required by subsection d. The findings and conclusions provided earlier in this narrative under Goal 9 are incorporated here by reference.

- (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.*

Response: The adopted Transportation Systems Plan does not include any projects in proximity to the subject property. The TSP is based on commercial use of the site. The trip generation comparison in Table 1 demonstrates a decline in traffic if the zone change is approved. Therefore the proposed map amendment is consistent with the TSP.


Apart from the TSP, the subject property is not situated in the study area of any City-contracted or funded land use or transportation plan or study. Therefore this criterion is met.

///R&a 06/20/12

Adjacent Commercial and Industrial Uses



- | | |
|---|------------------------|
| 1 At Home Furniture | 10 Maier Roofing |
| 2 Papa Murphys Pizza | 11 Boys and Girls Club |
| 3 Trendz Full Service Salon | 12 Rail reloading |
| 4 Donna Banks Income Tax Service | 13 Albany Yard |
| 5 CASA of Linn County | |
| 6 Hoyt Chiropractors | |
| 7 Albany Denture Clinic | |
| 8 John L Scott Real Estate, Complete Dental Health | |
| 9 Rhodes-Warden Insurance Agency, United Way of Linn County | |

Reece & associates, inc. 



Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
Region 2 Planning
3700 SW Philomath Boulevard
Corvallis, OR 97331
541-757-4159

AUG - 9 2012

August 6, 2012

David Martineau
Community Development Department
City of Albany
P.O. Box 490
Albany, OR 97321

File code: PLA9-District 4
OR-99E State Highway 58
ODOT File # 5404

Subject: ZC-05-12, Tax Lots 102 and 104, T11S R3W Section 7AC

Dear Mr. Martineau:

Thank you for providing ODOT with the project review notice for ZC-05-12. The property is located about 0.10 miles from the OR-99E/Hill Street SE signalized intersection. OR-99E is classified as a Regional Highway in the Oregon Highway Plan. The posted speed on OR-99E is 35 MPH.

The notice includes a Written Statement that says the rezone is proposed to address the status of the existing vehicle repair business. The current OP zone does not allow vehicle repair, but the CC zone does, so rezoning the property to CC would put the land into a zoning district where vehicle repair can be allowed through site plan review. The statement does not propose any limitation on future development of the site. Instead, it attempts to show that possible development in the OP zone would create more vehicle trips than possible development in the CC zone. A medical office and a quality restaurant in the OP zone are compared with a specialty retail shopping center and fast-food restaurant in the CC zone. However, when the Institute of Traffic Engineers trip rates for these uses are used rather than just the average rate, more vehicle trips result in the CC zone. Another mix of OP uses probably could generate more vehicle trips, but so could another mix of uses in the CC zone. The parameters of the CC zone are such that development could result in many more vehicle trips than in the OP zone. Commercial buildings can be as large as 100,000 square feet in the CC zone, and uses in the CC zone are not as restrictive in scale or type as they are in the OP zone. As an example, development of the site with three fast food restaurants and a 10K square foot convenience market (such as a Trader Joe's) would occupy only about 20 per cent of the 1.66-acre site—less than typical for commercial development in Albany. This combination of uses could generate 420 primary trips and 75 passby trips in the weekday PM peak hour, an increase of more than 200 primary trips in the weekday PM peak hour. It also could create an increase of more

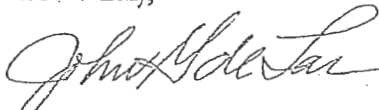
than 1800 trips per day. A significant affect on the transportation system could result, so the provisions of OAR 660-012-0060 (TPR) are applicable to the land use action.

As I am sure you know, substantial changes to the TPR became effective in January 2012. If the zoning change is shown to be consistent with the Albany Comprehensive Plan and the Albany Transportation Systems Plan, Albany then may find that the application would not have in a significant affect to the transportation system. Another resolution would involve adoption of "enforceable, ongoing requirement[s] that would demonstrably limit traffic generation." ODOT understands this to mean that a land use action changing the zoning could be accomplished without a transportation impact analysis (TIA) if vehicle trips are limited to the amount that could have occurred in the OP zone. An overlay zone restricting the type and scale of use could be adopted that limits vehicle trips to the maximum number that could result in the OP zone. A similar approach could establish a trip cap in property deed documents that could be removed only through a land use review subject to the TPR. The trip cap could equal the maximum vehicle trips allowable in the OP zone. There may be other solutions. ODOT is willing to coordinate with the applicant and the City of Albany on any such approach.

Of course, a TIA could be undertaken to determine whether a significant affect would result. If this is the direction selected, ODOT is willing to coordinate the scope of the TIA with the applicant and the City of Albany so that the analysis is performed in an acceptable manner.

Please enter this letter into the public hearing record for this land use action. As a party to the proceedings, ODOT should be notified of any changes in the public hearing schedule and be provided with a notice of the final land use decision. ODOT prefers such notices to be sent electronically to ODOTR2PLANMGR@ODOT.STATE.OR.US. If necessary to meet city notice requirements, a paper notice may be mailed to me at the address provided above. If questions arise regarding this matter, you may contact me at the phone number above or via my email address, John.G.deTar@ODOT.State.OR.US.

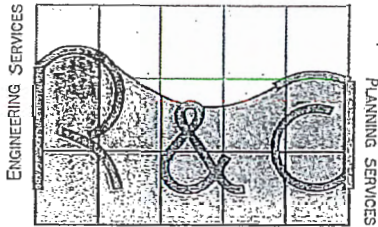
Yours truly,



John G. deTar
Senior Region Planner

Courtesy copies provided electronically to:

Rich Catlin, Reece and Associates
Ron Irish, City of Albany
Duane James Liner, ODOT



Reece & Associates, inc.

September 17, 2012

David Martineau
Community Development Department
PO Box 490
Albany, OR 97321

Subject: Response to Letter From ODOT

Reference: Connaghan Zone Change, ZC-01-12
R&A Project No. CA11201

Dear David:

I am in receipt of the letter dated August 6, 2012 from John deTar, Senior Region Planner. The purpose of this letter is to respond to the concerns raised by Mr. deTar regarding the Transportation Planning Rule (TPR) and the proposed zone change for Tim and Paula Connaghan.

The Transportation Planning Rule as set forth in OAR 660-012-0060(1) states that:

If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.

This letter approaches Mr. deTar's concerns from two directions. First, a case will be made that the proposed zone change is consistent with the Comprehensive Plan and Transportation System Plan (TSP) and therefore exempt from findings regarding significant affect on the transportation system as allowed under section (9). Second, there will be an explanation why the trip generation computations presented in the application materials are reasonable and sufficient to conclude that the proposed zone change would not significantly affect the existing or planned transportation facility.

Plan Consistency

The City of Albany may conclude that the proposed zone change is exempt from TPR findings according to section (9) of the TPR:

(9) Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.

(a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;

(b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and

(c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was

exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.

The proposed zone, Community Commercial, is a compatible zone with the General Commercial designation on the Comprehensive Plan Map according to the Plan Designation Zoning Matrix following ADC 2.760. Therefore it is consistent with the existing Albany Comprehensive Plan map designation and the amendment does not change the Albany Comprehensive Plan Map.

Regarding consistency with the TSP, the Albany TSP was adopted and acknowledged in 2011. A purpose of the TSP is to anticipate long-term improvements that should be planned and funded to accommodate future growth. Computer modeling analyzed changes in transportation patterns over time, beginning with a baseline of existing conditions and extending to the horizon year of the study.

The travel demand model for Albany was constructed using 2006 household and employment data and 2006 traffic counts as its base. Future year analysis uses year 2030 household and employment forecasts approved by the state and counties for each TAZ within the model area, based on the Comprehensive Plan. (p.34)

The subject property was designated General Commercial during the preparation and adoption of the TSP and the forecast model assumes no change to the GC designation. Because the TSP is based on Comprehensive Plan designations and not zoning districts, the proposed zoning is consistent with the Albany TSP.

Based on these findings and conclusions, the City could conclude that the proposed zone change is exempt from TPR findings in accordance with section (9) of the TPR.

Trip Generation

In the event the City determines that the proposed zone change does not meet the exemption provisions in section (9), the following explanation is offered for the trip generation computations. Comparison of trip generation is the first step in determining whether the proposed amendment significantly affects the transportation system.

The presumption underlying that comparison approach is that the local government's acknowledged transportation system plan (TSP) was originally developed with the goal of accommodating the transportation needs potentially generated by uses allowed under the old zone, within the relevant planning period. The TSP obviously would not take into account rezonings that allow new uses with potentially more significant traffic impacts. Hence, a hypothetical comparison of reasonable worst-case traffic scenarios between the uses allowed under the old and new zones can be a reliable and appropriate method of making a threshold determination whether a rezoning decision triggers the TPR. [*Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010), p 26-27]

Whether the scenarios presented in the application are reasonable appears to be the question raised by Mr. deTar. Nothing in the TPR requires or defines "reasonable worst-case". Rather, it is LUBA's interpretation of how to apply the TPR term "allowed land uses" (OAR 660-012-0060(2)). To clarify, LUBA has noted it's not the "maximum theoretically possible intensity of the most traffic-intensive allowed use". [*Rickreall Community Water Assoc. v. Polk County*, 53 Or LUBA 76 (2006), p. 32]



If the record supports a determination that a reasonable "worst-case" scenario based on the uses allowed under the new zone would result in fewer impacts on transportation facilities than the reasonable "worst-case" scenario based on uses allowed under the old zone, such a determination could support a conclusion that that the rezoning does not "significantly affect" a transportation facility under OAR 660-012-0060(1)(c). [*Barnes v. City of Hillsboro*, 61 Or LUBA 375 (2010), p 26]

Mr. deTar suggests that a different mix of OP uses and CC uses could generate more trips than those postulated in the application. He goes on to express this opinion in terms of loading the property bounded only by the limitations imposed by the two zones. It should also be remembered that the CC zoning district has many applications across the City of Albany. In one respect, it is a general purpose commercial zoning district within which many types of commercial uses are allowed. However not all allowed uses are equally viable on every CC zoned property. For example, absent in his conjecture is any discussion of locational factors that influence where businesses are situated. If location is a predictor of success, then a reasonability test should account for the same locational factors considered by a business owner when searching for a business location including visibility, the number and destination of pass-by trips, and proximity to other commercial uses.

The litmus test for reasonability is an inventory of existing businesses in the same locale because the right conditions are present for these businesses to succeed. The businesses currently located on this segment of Hill Street are At Home Furniture, Papa Murphys Pizza, Trendz Full Service Salon, Donna Banks Income Tax Service, CASA of Linn County, Hoyt Chiropractors, Albany Denture Clinic, John L Scott Real Estate, Complete Dental Health, Rhodes-Warden Insurance Agency, United Way of Linn County, and Maier Roofing. To generalize, two businesses sell products and nine businesses provide services in an office setting.

For the trip generation analysis, the uses selected for the existing OP zoning district assume the subject property would redevelop to the most intensive uses allowed in OP. The auto repair business would be replaced by a quality restaurant as the most intensive use from a trip generation perspective. The remainder of the subject property would be offices occupied by medical/dental businesses, the most intensive office use. It is unlikely that the subject property would attract three fast food restaurants in side by side competition as Mr. deTar suggests because just around the corner on 9th Avenue and Pacific Boulevard are vacant properties with much higher visibility that are better candidates for fast food restaurants. The only fast food restaurant on Hill Street, Little Caesar Pizza at the corner of Queen Avenue, relocated to Geary Street earlier this year for better visibility. The subject property may support one quality restaurant that is not so dependent on high-volume pass by traffic but could survive as a destination. There is one such restaurant on Hill Street just south of Queen Avenue, Rosie's Mexican Restaurant, 1727 SE Hill Street. Quality restaurants tend to co-locate for marketing synergy and there are none in the immediate vicinity of the subject property but for purposes of the trip generation analysis, one is assumed. The same rationale holds for a food convenience market, a worst-case use suggested by Mr. deTar. There is a Dari-Mart at the corner of Hill and Queen that relies on the combined traffic the two streets but it is unlikely that a convenience market would be located in mid-block away from the visibility of a nearby arterial (9th Avenue, Pacific Boulevard). Therefore it is not reasonable to expect a food convenience market to locate on the subject property.

For the uses selected for the proposed CC zoning district, one fast food restaurant was allocated to the subject property to represent the most intensive traffic generator allowed in the zone although traffic volumes will remain relatively low on Hill Street. Even looking to the horizon year of 2030, the TSP forecast is 762 PM peak hour trips (Figure 5.1). Compare this to 2,613 peak hour trips around the corner on 9th Avenue and 2,354 on Pacific Boulevard where vacant and underutilized commercial sites



would have greater visibility. A specialty retail use was selected as a high trip generator due to the number of pass by trips. After applying floor area ratios to determine how of the site each use would occupy, trip generation and pass by rates were applied in accordance with Institute of Traffic Engineers trip rates. The result is a slight decrease in the number of trips from OP to CC. Therefore the proposed zone change does not significantly affect the transportation system and the TPR does not apply.

In conclusion, the City may determine the proposed zone change is consistent with the adopted Comprehensive Plan and Transportation System Plan, or the City may concur with the trip generation comparison as a reasonable worst-case analysis of allowed uses in the existing and proposed zones.

Sincerely,
Reece & Associates, inc.



Rich Catlin



Legal Description of Zone Map Amendment Area

Parcel 1

The real property described in Statutory Warranty Deed from Terry D. Shores, Grantor, to Connaghan Enterprises LLC, Grantee, recorded in Linn County, Oregon Records as 2009-08908, being particularly described as follows:

Beginning at a 5/8" iron rod bearing North 08°15'40" West 413.27 feet from the Southeast corner of Lot 3, Block 7, Winona Park, also being on the West Right-of-way of Hill Street in the Northeast ¼ of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon; thence along said West Right-of-Way South 08°15'40" East 196.45 feet to a 5/8" iron rod; thence leaving said West Right-of-Way South 81°44'20" West 77.00 feet to a 5/8" iron rod; thence South 08°15'40" East 63.58 feet to a 5/8" iron rod on the North Right-of-Way of the Southern Pacific Railroad; thence along the arc of a 1328.79 foot radius curve to the right 158.50 feet (chord bearing North 68°56'20" West 158.41 feet); thence along the arc of a 498.96 foot radius curve to the right 124.56 feet (chord bearing North 57°06'06" West 124.24 feet); thence leaving said North Right-of-Way North 54°34'00" East 161.66 feet to a 5/8" iron rod; thence North 27.15 feet to a 5/8" iron rod; thence North 81°44'20" East 160.93 feet to the point of beginning.

Parcel 2

The real property described in Memorandum of Contract between Terry D. Shores and Tamara K. Shores, husband and wife, Seller, and Connaghan Enterprises LLC, an Oregon limited liability company, Purchaser, recorded in Linn County, Oregon Records as 2010-11913, being particularly described as follows:

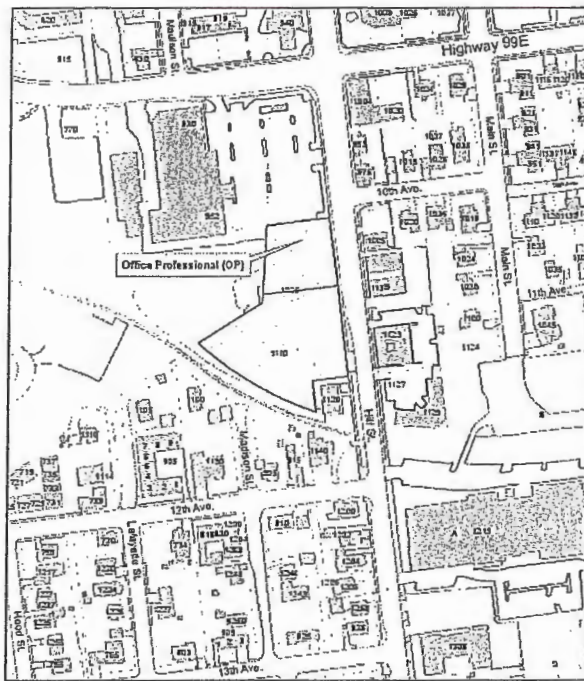
Beginning at a 5/8" iron rod bearing North 08°15'40" West 413.27 feet from the Southeast corner of Lot 3, Block 7, Winona Park, also being on the West Right-of-Way of Hill Street in the Northeast ¼ of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon; thence along said West Right-of-Way North 08°15'40" West 147.85 feet to a 5/8" iron rod referenced by an "X" in concrete sidewalk; thence leaving said West Right-of-Way South 81°34'01" West 139.76 feet to a 1/2" iron rod; thence South 00°29'05" East 28.13 feet to a 1/2" iron rod; thence South 120.81 feet to a 5/8" iron rod; thence North 81°44'20" East 160.93 feet to the point of beginning.

Reece & associates, inc.

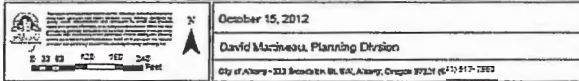


ZC-05-12, Zoning Map Amendment

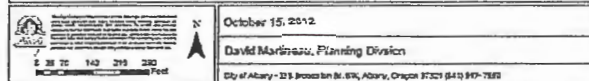
A Zoning Map Amendment that would change the designation of 1.66 acres of land from OP (Office Professional) District to CC (Community Commercial) District as shown on the following maps:



Current Zoning Designation



Proposed Zoning Designation



Legal Description of Zone Map Amendment Area

Parcel 1

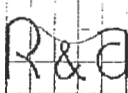
The real property described in Statutory Warranty Deed from Terry D. Shores, Grantor, to Connaghan Enterprises LLC, Grantee, recorded in Linn County, Oregon Records as 2009-08908, being particularly described as follows:

Beginning at a 5/8" iron rod bearing North 08°15'40" West 413.27 feet from the Southeast corner of Lot 3, Block 7, Winona Park, also being on the West Right-of-way of Hill Street in the Northeast ¼ of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon; thence along said West Right-of-Way South 08°15'40" East 196.45 feet to a 5/8" iron rod; thence leaving said West Right-of-Way South 81°44'20" West 77.00 feet to a 5/8" iron rod; thence South 08°15'40" East 63.58 feet to a 5/8" iron rod on the North Right-of-Way of the Southern Pacific Railroad; thence along the arc of a 1328.79 foot radius curve to the right 158.50 feet (chord bearing North 68°56'20" West 158.41 feet); thence along the arc of a 498.96 foot radius curve to the right 124.56 feet (chord bearing North 57°06'06" West 124.24 feet); thence leaving said North Right-of-Way North 54°34'00" East 161.66 feet to a 5/8" iron rod; thence North 27.15 feet to a 5/8" iron rod; thence North 81°44'20" East 160.93 feet to the point of beginning.

Parcel 2

The real property described in Memorandum of Contract between Terry D. Shores and Tamara K. Shores, husband and wife, Seller, and Connaghan Enterprises LLC, an Oregon limited liability company, Purchaser, recorded in Linn County, Oregon Records as 2010-11913, being particularly described as follows:

Beginning at a 5/8" iron rod bearing North 08°15'40" West 413.27 feet from the Southeast corner of Lot 3, Block 7, Winona Park, also being on the West Right-of-Way of Hill Street in the Northeast ¼ of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon; thence along said West Right-of-Way North 08°15'40" West 147.85 feet to a 5/8" iron rod referenced by an "X" in concrete sidewalk; thence leaving said West Right-of-Way South 81°34'01" West 139.76 feet to a ½" iron rod; thence South 00°29'05" East 28.13 feet to a ½" iron rod; thence South 120.81 feet to a 5/8" iron rod; thence North 81°44'20" East 160.93 feet to the point of beginning.





CITY OF ALBANY

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

333 Broadalbin Street SW

P.O. Box 490

Albany, OR 97321-0144

RETURN SERVICE REQUESTED

ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL ST NE, STE 150
SALEM, OR 97301-2540

DEPT OF

OCT 30 2012

**LAND CONSERVATION
AND DEVELOPMENT**

**ADDRESS
SERVICE
REQUESTED**

**PRESORTED
FIRST CLASS**



Hasler

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