

ORDINANCE NO. 5018

TITLE: AN ORDINANCE AMENDING ORDINANCE NO. 4447, WHICH ADOPTED THE CITY OF ALBANY COMPREHENSIVE PLAN AND COMPREHENSIVE PLAN MAP, AND AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND THE CITY OF ALBANY ZONING MAP, TO PROVIDE FOR THE RECLASSIFICATION AND REZONING OF APPROXIMATELY 800 OF THE APPROXIMATE 2,350 ACRES IN NORTH ALBANY ANNEXED INTO THE CITY IN 1991; ADOPTING FINDINGS, AND DECLARING AN EMERGENCY.

WHEREAS, a number of public meetings involving North Albany citizens and city and county planning staff were held in 1990, and

WHEREAS, these neighborhood meetings resulted in Comprehensive Plan Policies and Implementation Measures adopted by the Albany City Council by Ordinance No. 4915 in June, 1990 to provide guidance for North Albany development activities prior to annexation, and

WHEREAS, a June, 1991 election resulted in the annexation of the remaining land in the Benton County Urban Growth Boundary to the City of Albany, and

WHEREAS, two meetings were held in the North Albany neighborhood in the summer of 1992 to assist the city in development amendments to the Comprehensive Plan and Development Code necessitated by annexation and a sanitary sewer project, and

WHEREAS the Planning Commission held a public hearing on September 21, 1992 as required by law and recommended that the Albany City Council approve proposed amendments to the Comprehensive Plan and Development Code, and

WHEREAS the Albany City Council duly advertised and caused notices to be given as required by law and held a public hearing on October 28, 1992 concerning the proposed amendments, and

WHEREAS, a number of citizens provided oral testimony at the Council public hearing and/or written comments prior to the closing of the record on November 18, 1992, and

WHEREAS, planning staff presented a revised staff recommendation responding to public comment at a City Council work session on December 2, 1992.

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

Section 1. The Findings attached as Exhibit "A" are hereby adopted in support of these amendments to the Comprehensive Plan, the Comprehensive Plan Map, the Development Code, and the Zoning Map.

Section 2. The official Albany Comprehensive Plan Map for portions of North Albany is hereby amended from Urban Residential Reserve to the plan designations shown on attached Exhibit "B."

Section 3. The official Albany Zoning Map for portions of North Albany is hereby amended from Residential Reserve (RR) to the zoning designations shown on attached Exhibit "C."

Section 4. The Albany Comprehensive Plan is hereby amended by adoption of the Comprehensive Plan Policies and Implementation Measures shown on attached Exhibit "D."

Section 5. The Albany Development Code is hereby amended by adding a setback requirement for properties abutting designated farmlands as shown on attached Exhibit "E."

Section 6. These amendments will be known as Comprehensive Plan Amendment No. CP-02-92; Zone Change Amendment No. ZC-02-92, and Development Code Amendment No. DC-03-92.

Section 7. A copy of these amendments shall be filed in the office of the City Recorder of the City of Albany and numbers noted on the official Comprehensive Plan and Zoning Maps.

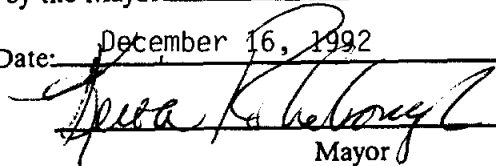
Section 8. The City Recorder shall, within 10 days of the effective date of this Ordinance, file a copy of the Ordinance with the County Assessor of Benton County and the Department of Land Conservation and Development.

Section 9. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this City of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Passed by the Council: December 16, 1992

Approved by the Mayor: December 16, 1992

Effective Date: December 16, 1992



Mayor

ATTEST: Norm C. Withman
Deputy City Recorder

EXHIBIT "A"

FINDINGS OF APPROVAL FILE NOS. CP-02-92, DC-03-92 AND ZC-02-92

COMPREHENSIVE PLAN AMENDMENTS

1. The proposed amendments were derived from a process which involved active citizen participation.
2. Areas given new Comprehensive Plan Designations and Zonings are those area being provided with services.
3. The proposed amendments encourage a compact urban form.
4. The proposed amendments provide a mixture of housing types.

ZONING MAP AMENDMENTS

1. The proposed zone changes are consistent with and intended to implement the proposed Comprehensive Plan amendments.
2. Existing facilities and those facilities to be required as a result project development will be adequate to support the proposed changes.
3. Areas receiving new zoning designations are those areas receiving new city services (i.e. Sewer).
4. Existing regulations are in place to address and protect natural features and special areas.

DEVELOPMENT CODE AMENDMENT

1. The proposed amendment is in compliance with Development Code policies on ensuring safe and compatible growth and development within the City.
2. The proposed amendment is in compliance with Comprehensive Plan policies regarding promoting compatibility and mitigating the potential for conflict resulting from new residential development bordering farmland outside the UGB.
3. The proposed amendment will result in a Code structure that is easy to follow and utilize.
4. The proposed amendment will achieve the goals and policies of the Comprehensive Plan regarding compatible development, encouraging design innovation, encouraging flexibility of design review and giving special attention to site specific concerns.

SUPPLEMENTAL FINDINGS

The "comments" contained within the discussion paper entitled "North Albany Planning and Zoning Study Issues" (Exhibit A-1) are adopted as supplemental findings of fact in further justification of this approval.

Some citizens believe that a storm drainage master plan should be initiated and completed prior to our adopting these planning and zoning proposals. Most of these persons live outside or at the edge of the Urban Growth Boundary.

Citizen Issue:**Lack of Storm Drainage Master Plan**

- We agree that a Facilities Plan is needed. The Capital Improvements Program identifies it as a (\$50,000) project for next fiscal year. Completion of the study and implementation of major improvements will take several years.
- During the interim, staff believes that we have adequate regulations in place in the Development Code to require that new development not increase historic levels of drainage downstream. On-site detention will be a primary means towards that end.
- Halting all development until we have the plan and major improvements is impractical: it is also illegal under Oregon moratorium requirements.
- During all the years that we have been planning for a solution to the sanitary sewer problem in North Albany, we are not aware of any city, county, or citizen efforts to raise the storm sewer issue as a precursor to development. Historically, cities almost always resolve storm drainage problems incrementally as development takes place. A well-designed master plan will help us guide decision making about where and when drainage improvements are necessary as development takes place, not before development takes place. We are not aware of any funding mechanisms that would give us the luxury of doing the latter.
- Not all of the comments have said "hold up." One citizen suggests that the storm sewer issue may be being used as an anti-development tool.

The majority of comments received have been directed at the Medium Density zoning proposed by staff in October in the vicinity of East Thornton Lake. There are really two issues here. First, the impacts of development of any kind on the Thornton Lakes. Second, the appropriate residential density around the lakes.

Citizen Issues:

Impacts of development on Thornton Lakes.

Appropriate residential density around Thornton Lakes.

Comments:

- Wetland and floodplain regulations are in place in the Development Code.
 - We are now proposing Open Space Zoning to surround the lakes.
 - The design overlay district guidelines which will be created will address development in the vicinity of Thornton Lakes.
-
- Planning staff originally proposed medium density residential zoning around the lake, believing we can better protect the environmental sensitivity of the lake with projects that go through the land use process. Individual single family houses do not, unless they are part of a subdivision.
 - The resounding comment from the citizenry was to keep the 25 acres between East Thornton Lake and the railroad tracks in a lower density residential zone.
 - Our response is to recommend that this proposed zoning be changed from RM-5 to RS-6.5 and that we add a new comprehensive plan policy to require that any development proposal in this area be a planned development so we can better address environmental issues.
 - Our own Comprehensive Plan policies and Statewide Planning Goal 10 require that we provide a mixture of densities. We are now proposing expansion of the medium density area west of North Albany Road to just west of Blossom Lane between the railroad tracks and Highway 20. See "staff recommendation" tab for more detail.

When this process began early this past summer, proposed residential single family lot sizes generated much discussion at public meetings. There were a number of people who expressed a desire that there be areas with sewer service zoned for lots with a minimum larger than the 10,000 square feet allowed in the RS-10 district. As we have continued to explain the staff position, the numbers of comments on this topic have dropped off dramatically.

Citizen Issue:**Large Lot Zoning**

- In response to the citizen desire to preserve the rural character of the area, the City created a new zone (RS-10), with 10,000 square foot minimum lot sizes.
- This is an unusually large lot zone for an Oregon City. Salem and Eugene, for example, have one single family residential zone, with minimum lot sizes of 4,000 and 4,500 square feet.
- The City has also created a hillside overlay district in response to the annexation of North Albany. The areas with steeper slopes require a minimum lot size of 15,000 square feet.
- Market factors will come into play. In other cities, areas with the characteristics of North Albany tend to develop in a larger lot pattern. 10,000 square foot lots are the minimum lot size in RS-10; there is no maximum.
- The State has a policy of not approving zoning with larger minimum lot sizes in areas served by sewer. The reasons for the State's position include the following:
 - Larger residential lots don't promote efficient services. (A major reason the sewer system in North Albany is so expensive per household is because of the low density development pattern.)
 - Large residential lots don't promote affordable housing.
 - Low density development within the Urban Growth Boundary leads to increased pressures to expand the UGB into farm land.
 - Large lot development makes it difficult for transit systems to be successful.

Separation between urban land uses within the UGB and farm uses outside have generated some comments. In proposing a 125-foot setback between residential and farm uses, Albany is taking an unusual position for an Oregon city. Most cities do not require a setback of this nature at all. Our attempt is to minimize conflicts between these uses.

Citizen Issue:

125-foot separation between residential and farm uses

- We have heard both sides of the issue. Some farmers feel this is inadequate, some developers feel it's too constraining.
- This is a compromise between the Benton County "county standard" and an "urban standard" of no separation other than normal development code setbacks. There is no magic number.
- The State has indicated that we are the first city that they are aware of that has proposed policies like this.
- Corvallis has no such standards; neither does Linn County.
- Benton County regulations say no dwelling within 300' from an EFU zone "or conform to this standard to the greatest extent possible." If this isn't feasible the owner shall sign a declaratory statement to be recorded recognizing resource use on adjacent lands. This requirement shall not be required to a setback adjacent to a public road except when required by a conditional use permit.
- Our proposed Development Code setback standard clarifies that this provision does not apply when physically impossible due to lot size constraints or on properties bordering golf courses, wetlands or residential land uses on five acres or less.
- There are "takings" issues if we go "too far" in restricting development within the UGB.
- The "double standard" question has been raised. Would it be appropriate for the county to require a separation (125'±) on the farm side?
- Screening requirements can be imposed on projects going through the land use process. A thick hedge might be required at the property line or edge of road.

The amount, location, and intensity of commercial zoning has been discussed as part of this study. Staff is proposing the status quo for now, but attempting to do some "consciousness raising" about the need for this type zoning in the future.

Citizen Issue:

Commercial Zoning

- There are two commercial zoning districts which are appropriate for North Albany. Community Commercial (CC) is for developments with a wide range of retail and service establishments. Neighborhood Commercial (NC) is for small areas of retail establishments serving frequently recurring residents' needs in convenient locations.
- The area bounded by Hickory, Highway 20, North Albany, and Springhill was already in the City prior to annexation and zoned CC. Staff does not see a need for additional CC zoning.
- There is no NC zoning in North Albany at present. We had originally proposed NC zoning for five acres north of Hickory between North Albany Road and the existing (vacant) Office Professional near North Pointe.
- We are no longer proposing NC zoning in this location for reasons including citizen comments, existing topography, and the fact that the existing CC zone is currently meeting neighborhood needs.
- As the population grows, we need to provide opportunities for neighborhood shopping within walking distance of more people.
- The State's new Transportation Planning Rule requires us to pay closer attention to the impacts of land use decisions on the transportation system.
- While we agree that locations in Linn County Albany can meet most of North Albany's larger scale commercial needs (Fred Meyer, etc.) neighborhood commercial will be needed in the North Albany neighborhood.
- The Highway 20 bridges are a significant bottleneck, reinforcing the need for NC shopping on the north side of the river.

Proposed Comprehensive Plan Map Designations

- URR: Urban Residential Reserve
- Res-Low: Residential - Low Density
- Res-Med: Residential - Medium Density
- Comm-Lt: Commercial - Light
- Comm-Gen: Commercial - General
- Public: Public Facilities
- Open: Open Space
- Water: Water Body

NORTH ALBANY NEIGHBORHOOD

CITY LIMIT
MUNICIPALITY BOUNDARY
DISTRICT BOUNDARY
CITY OF ALBANY PLANNING DEPARTMENT

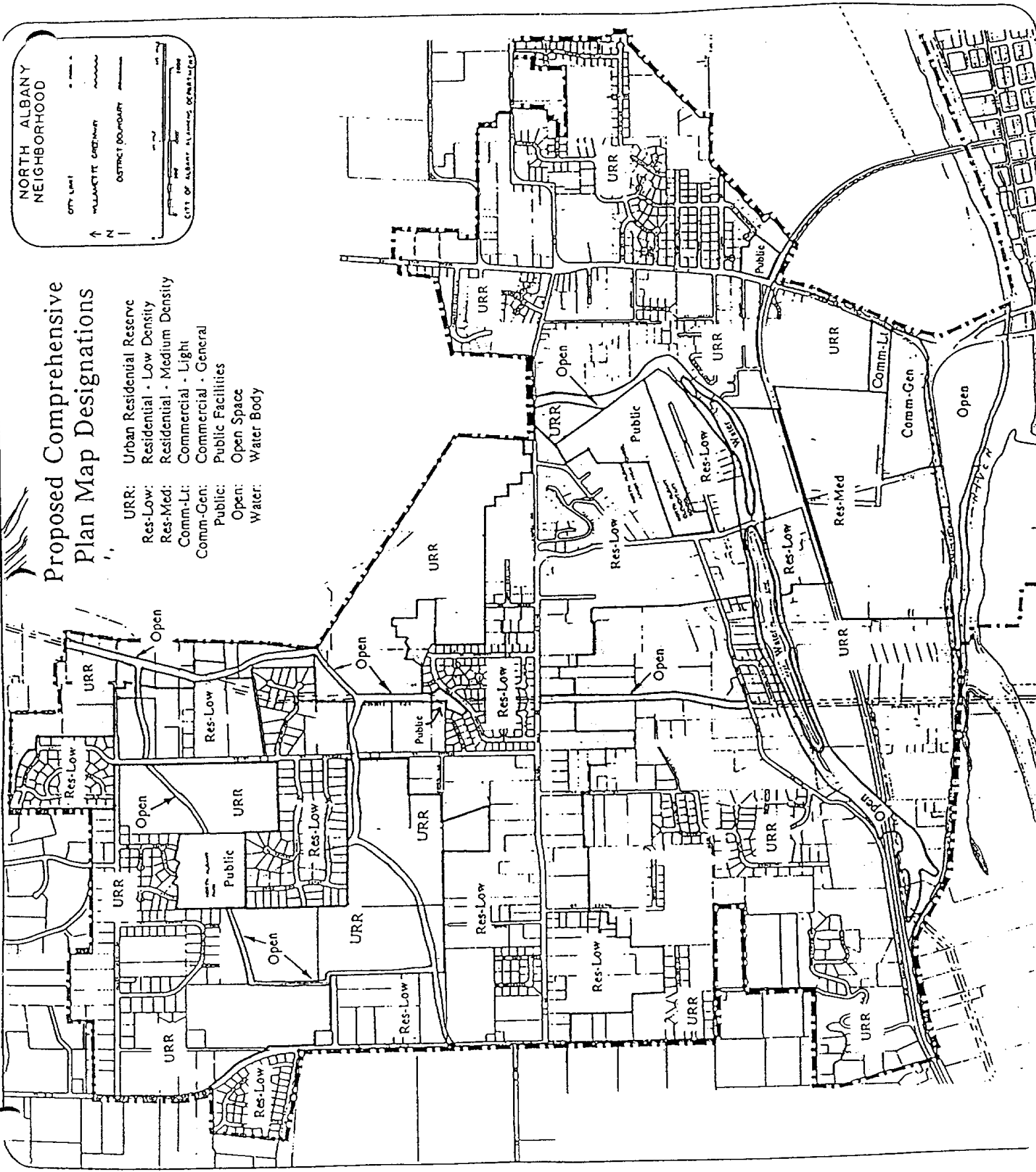


Exhibit "C"

Proposed Zoning Map

- RS-10: Residential Single Family
- RS-6.5: Residential Single Family
- RM-5: Residential Limited Multiple Family
- RR: Residential Reserve
- CC: Community Commercial
- NC: Neighborhood Commercial
- OP: Office Professional
- OS: Open Space

NORTH ALBANY NEIGHBORHOOD

CITY LIMIT

VILLAGE GREENWAY

ZONING DISTRICT BOUNDARY

CITY OF ALBANY PLANNING DEPARTMENT

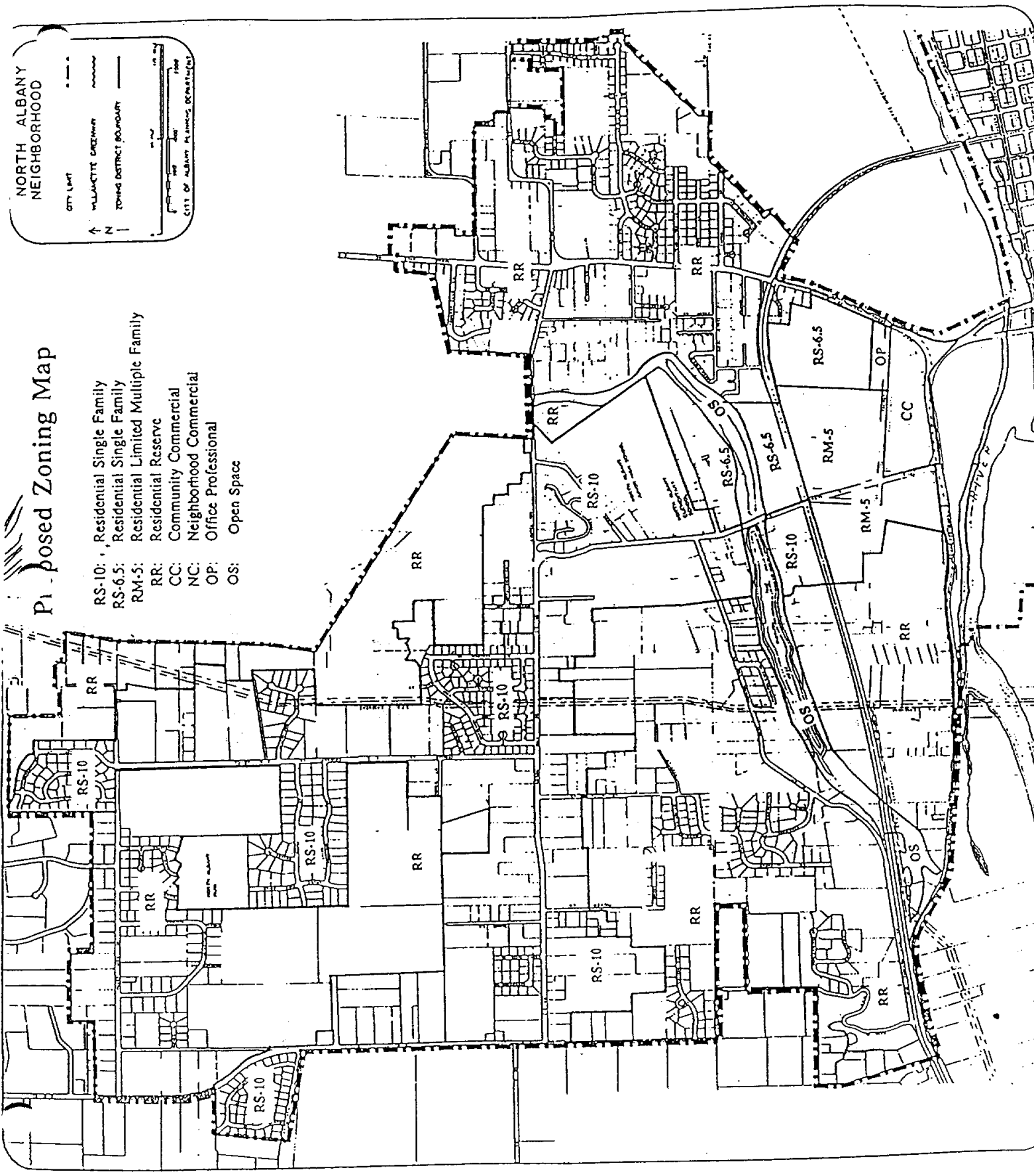


Exhibit "D"

NORTH ALBANY COMPREHENSIVE PLAN AMENDMENTS

POLICIES

1. Sanitary sewer facilities necessary to serve new development in North Albany shall be:
 - a. Constructed to City of Albany standards.
 - b. Adequately sized to accommodate development densities based on ultimate build-out of either the project or the area to be served.
 - c. Located and developed in accordance with an approved North Albany Sanitary Sewer Facility Plan.
2. Water rates to properties outside the city limits will be established so that generated revenues are sufficient to compensate the City for extra costs of providing the services and to ensure funds necessary to maintain and upgrade the facilities as needed.
3. Water service will continue to be provided, consistent with the capacity of the current system, to existing NACSD customers outside the UGB. The area of water service outside the UGB will not be expanded without an exception to Goal 11.
4. A New single family development on an individual parcel must extend and connect to the public water system when service is available within 150 feet and to the public sewer system when service is available within 300 feet of the property. All other development must connect to the public water and sewer systems.
5. When sewer and water service is provided to a developable parcel(s), the property may be developed at an overall density of approximately of 10,000 square feet per unit. Upon approval of a submitted development plan where water and sewer service is provided and public improvement requirements are met, Comprehensive Plan Map designated Urban Residential Reserve (URR) property shall be assigned an RS-10 zone designation without a zone change. Likewise, Comprehensive Plan Map designated Residential Medium density (Res-Med) property shall be assigned an RM-5 zone designation without a zone change. For higher or lower densities a zone change is required.
6. For areas of North Albany where sewer service is not available, property shall not be divided into parcels that create an average density more intense than one dwelling unit per five acres.
7. New storm drainage facilities in North Albany shall be:
 - a. Constructed to City of Albany standards.
 - b. Adequately sized to accommodate development densities based on ultimate build-out of either the project or the area to be served.
 - c. Developed in accordance with the Storm Drainage provisions of the Albany Development Code, Public Improvements Section.
8. Encourage new residential development bordering designated and zoned farmland outside the UGB to be adequately setback, screened and buffered to minimize potential conflicts between residential and farm activities.

9. Create a design overlay district to encourage appropriate design and development standards for the commercial and multifamily districts and for those areas adjacent to Thornton Lakes. Additionally, all future development proposals involving properties located between East Thornton Lake and the railroad tracks shall be reviewed and approved as a Planned Development in order to protect Thornton Lake and its surrounding wetlands and sensitive natural areas.
10. The City of Albany will not extend sewer service outside of the North Albany annexation area (UGB).
11. Development which is not at its ultimate urban density shall be approved only when it can be shown that such development will not preclude or inhibit further development in the surrounding area from occurring in a logical and efficient manner. All development on, or resulting in, parcels larger than the minimum lot size for the zoning district shall be designed so as not to interfere nor conflict with the subsequent orderly transition to efficient, higher density planned urban uses. This also applies to construction of all single family units on existing lots of record which are outside platted subdivisions. Urban conversion plans are required for all such development demonstrating that the proposed lot and/or development can accommodate future development at the density range allowed by the Albany Comprehensive Plan and/or Zoning Map will allow the logical and efficient extension of streets and city services.
12. Open Space designations on the Comprehensive Plan Map are intended to maintain open space in areas generally unsuitable for development and to identify linear linkages between undevelopable, open space areas. In some circumstances, Open Space map designations are generalized rather than site specific and it is the intent of the City to exercise flexibility in determining specific locations.

IMPLEMENTATION MEASURES:

1. Develop planning policies and appropriate map designation to promote desirable housing opportunities in North Albany.
2. Within North Albany, evaluate the need for neighborhood shopping facilities as part of the on-going evaluation of the Albany Comprehensive Plan.
3. Provide the opportunity to cluster development within areas subject to environmental constraints to achieve allowed densities and protect public safety and environmental values.
4. Develop standards that, where possible, provide for setbacks, buffering, and screening between new residential development that would border farmland outside the UGB to mitigate the potential for conflict.
5. Consider development of standards in regard to the keeping of animals in North Albany that maintain neighborhood compatibility, but also provide for greater flexibility than what is possible in the urbanized portion of the UGB.
6. Develop standards that would consider the protection of views in North Albany as part of the land development review process.

7. When possible, phase public improvement projects in North Albany to minimize the impact of multiple assessments.
8. Develop site planning review procedures for forest management practices that would assist in maintaining the special character of the North Albany area.
9. Within North Albany, maintain open space in areas that are unsuitable for development including steep slopes, floodway, wetlands, and drainageways.
10. Where possible in North Albany, develop linkages between steep slopes, drainageways, wetlands, and publicly owned lands to develop a linear network of open spaces and/or parks.
11. Develop and periodically update a North Albany Storm Drainage Master Plan.
12. Implement adopted City provisions which would provide for the protection of identified North Albany wetlands consistent with state and federal law.
13. Identify resources in North Albany which are appropriate for addition to the City's historic inventory.
14. Utilize historic review procedures to protect North Albany's historic resources
15. As part of the citywide Transportation Master Plan, address transportation planning issues in North Albany, emphasizing a balanced transportation system that includes the following:
 - a. The distribution of automobile traffic to avoid overuse of one or two main corridors.
 - b. The need for pedestrian and/or bicycle ways to provide alternative transportation.
 - c. The provision of mass transit opportunities.
 - d. The location of future local, collector, and arterial streets, and pedestrian and bicycle ways.
16. Consider the transfer of Benton County roads and streets to the City of Albany.
17. Encourage the Greater Albany Public School District (GAPS) to recognize the importance of North Albany neighborhood schools and to examine all alternatives before proposing closure.
18. Provide for the continued provision of library service for North Albany residents.
19. Continue to utilize the North Albany Citizen's Advisory Committee (CAC) to review major development actions in North Albany.
20. Establish a Task Force to assist in the development of design standards and review procedures to be applied in the new design overlay district.

21. Urban conversion plans are required to be submitted with development proposals which result in development of parcels which can be further divided. This also applies to construction of all single family units on all lots which are outside of platted subdivisions. The urban conversion plan shall demonstrate that the lot can accommodate future development at the density range allowed by the Albany Comprehensive Plan and/or Zoning Map and will allow the logical and efficient extension of streets and city services. The urban conversion plan shall show street and road rights-of-way, utility easements, drainageways, natural or man-made lot development constraints (steep slopes, wetlands, access easements, etc.), future lot divisions at urban densities, and other proposed improvements including dwellings and accessory structures. All dwellings shall be placed within the boundaries of the future lots shown on the conversion plan and shall meet the setback and lot development requirements of the Albany Development Code.

AMENDMENT OF THE ALBANY COMPREHENSIVE PLAN

The following Albany Comprehensive Plan policy was amended as part of Ordinance No. 4915 and applies to the entire Urban Growth Boundary. The following proposed amendment is warranted at this time:

GOAL 11: PUBLIC FACILITIES AND SERVICES

WASTEWATER TREATMENT

Policy (page 79):

4. Require execution of annexation or consent to annex agreements to receive sewer service in unincorporated areas.

Supplement to Proposed North Albany Zoning Map

The following table summarizes the acreage involved in Zoning designations proposed for the North Albany incorporation area. The proposed zoning designations were determined by various factors including but not limited to adopted Comprehensive Plan Goals and Policies, existing land development pattern, existing and anticipated infrastructure, facilities and city services, natural features and environmental constraints, housing needs assessment (October, 1991), transportation network and transit patterns, the desires and aspirations of North Albany residents, and applicable federal and state goals guidelines, laws regulations and statutes.

NOTE: Approximately 50 acres of commercial and residential land abutting Highway 20 and Springhill Road was previously annexed and zoned and is excluded from this acreage summary.

TOTAL ACREAGE OF ANNEXATION AREA: 2,437 acres

<u>Proposed Zone</u>	<u>Acreage</u>	(approximate)
RR	1,632	*
RS-10	675	
RS-6.5	35	
RM-5	90	
NC	5	

* The Residential Reserve (RR) zone designation is a continuation of the previous zoning in that area not currently provided with sewer service. The RR status, including a 5 acre minimum lot size will remain until sewer extension and connection.

EXHIBIT "E"

Amendment to the Albany Development Code, Article 3, Residential Zoning Districts
(Case No. DC-04-91)

3.275

Setback for Properties Abutting Designated Farmlands. New residential development, for properties bordering designated and zoned productive farmland outside the Urban Growth Boundary, shall be designed, where physically possible, to achieve a minimum 125 foot separation between residential and farm activities. This requirement does not apply to those properties bordering golf courses, wetlands, or residential land uses on 5 acres or less, or where the separation cannot be achieved due to lot size constraints or other physical factors beyond the control of the property owner. Screening and buffering are encouraged to be incorporated into the site design in addition to the 125 foot separation. Road and right-of-way widths may be included in the required separation distance where appropriate.