

ORDINANCE NO. 5251

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE, BY AMENDING THE DEVELOPMENT CODE TEXT, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY.

WHEREAS, the Planning Commission has held the public hearing required by local and state law; and

WHEREAS, the Planning Commission recommended approval of the proposed changes, based on evidence presented in the staff report and at the public hearing for Planning Division File No. DC-02-96; and

WHEREAS, the Albany City Council has caused notice to be given as required by law and has had a public hearing concerning the Development Code text amendment;

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

Section 1: The Albany Development Code text is hereby amended as shown on the attached Exhibits A, B, C, and D and summarized as follows:

- a) ADC Section 1.210(2): Allow 30 days instead of 7 days for checking completeness of development applications.
- b) ADC ADC 4.050, Use Heading 4.120: List "Assembling, Processing, Analyzing, Manufacturing, etc. with Majority of dollar volume of business not done with walk-in trade" as a Conditional Use in Community Commercial zoning districts.
- c) ADC 9.120 (12): Require the number of handicapped parking spaces provided with new development to conform with Oregon State Structural Specialty Code requirements.
- d) ADC 3.050, Use Heading 1.130, 1.210, and 1.340: Allow creation of individual lots for each unit of a duplex or multi-family development where these types of development are now allowed, so that each can be sold separately.

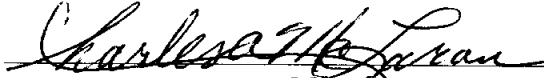
Section 2: The Findings of Fact contained in the staff report and attached as Exhibit "F" are hereby adopted in support of this decision.

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 signed by the Mayor.

Passed by the City Council: July 24, 1996

Approved by the Mayor: July 24, 1996

Effective Date: July 24, 1996



Mayor

ATTEST:



City Recorder

APPROVAL STANDARDS

DC-02-96, DEVELOPMENT CODE AMENDMENTS

Albany Development Code (ADC) Section 2.290 lists the following review criteria for Development Code Amendments. Amendments will be approved if the Planning Commission and City Council find that all of these criteria are met. Review criteria are written in *bold italic*, followed by proposed findings and conclusions.

2.290 (1) *The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language.*

Findings of Fact

1.1 The proposed amendments and findings of fact are as follows:

- a) **Proposed amendment:** Allow 30 days instead of 7 days for checking completeness of applications, as provided in ORS 227.178 (2).

Comprehensive Plan Goal 14, Urbanization, is to "Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards."

Development Code provisions must reflect a balance between expeditious and thorough review. Staff has found that a thorough review for completeness of applications cannot be achieved within the 7 day period now required by ADC 1.210 (2). ORS 227.178 (2) requires completeness be verified within 30 days, and we interpret this requirement to be the definition of expeditious for the purpose of interpreting Comprehensive Plan Goal 14.

- b) **Proposed amendment:** List "Assembling, Processing, Analyzing, Manufacturing, Packaging, Creating, Treating, & Renovating Goods, Merchandise, Food, Products, & Equipment, Majority of dollar volume of business not done with walk-in trade" as a Conditional Use in Community Commercial (CC) zoning districts.

Goal 9, Economy, Economic Development Policy 1 is to "Provide opportunities to develop the full range of commercial, recreational, and professional services to meet the needs of Albany's residents and others."

Commercial businesses that are involved in "Assembling, Processing, Analyzing, Manufacturing, Packaging, Creating, Treating, & Renovating Goods, Merchandise, Food, Products, & Equipment, Majority of dollar volume of business not done with walk-in trade" are currently not allowed in CC, Community Commercial zoning districts.

- c) **Proposed amendment:** Require the number of handicapped parking spaces provided with new development to conform with Oregon State Structural Specialty Code.

Goal 12, Transportation, Policy 16 is "When possible, incorporate the needs of the transportation disadvantaged (the elderly, disabled, the young, and the poor) when planning for and implementing transportation improvements."

The Oregon State Structural Specialty Code defines the needs of the disabled in terms of the number of parking spaces needed. ADC 9.120 (12) is not currently consistent with the requirements of the ADA in regard to parking spaces required for new development.

- d) **Proposed amendment:** Allow creation of individual lots for each unit of a duplex or multi-family development where these types of development are now allowed, so that each can be sold separately.

Goal 10, Housing, Policy 4 is to "Encourage innovation in housing types, densities, and design to promote a variety of housing alternatives and prices..."

Creation of an individual lot on which one-half of a duplex or one unit in a multi-family development is located provides the opportunity to sell a dwelling unit with less land than is now required for an individually-owned unit. The total land area required for all units included in the land division would have to total the area needed for all units, but would not necessarily have to be divided equally among units.

Conclusions

1.1 The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language, because:

- a) Allowing 30 days instead of 7 days to evaluate the completeness of applications will allow more thorough review and will still provide expeditious review.
- b) Listing "Assembling, Processing, Analyzing, Manufacturing, Packaging, Creating, Treating, & Renovating Goods, Merchandise, Food, Products, & Equipment, Majority of dollar volume of business not done with walk-in trade" as a Conditional Use in CC, Community Commercial zoning districts will provide the opportunity to develop a wider range of businesses in CC zoning districts.
- c) Requiring the number of parking spaces identified in the Oregon State Structural Code will better incorporate the needs of the disabled in the development of parking lots.
- d) Creating individual lots on which one-half of a duplex or one unit in a multi-family development are located provides the opportunity to sell a dwelling unit with less land than is now required for an individually-owned unit, providing another type of housing at a lesser cost.

2.290 (2)

The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

Findings of Fact

2.1 The proposed amendments and findings of fact are as follows:

- a) **Proposed amendment:** Allow 30 days instead of 7 days for checking completeness of applications, as provided in ORS 227.178 (2). This amendment would be made to ADC 1.210 (2).

The purpose statement for ADC Article 1, includes ADC 1.020 (2), "Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules," and ADC 1.020 (3), "Facilitate prompt review of development proposals and the application of clear and specific standards."

State law [ORS 227.178 (2)] allows 30 days to review applications for completeness. We interpret this 30 day limit to be the definition of "prompt review" as used in ADC 1.020 (2). Therefore, if the time allowed for checking applications for completeness is changed from 7 days to 30 days, the proposed amendment will be consistent with the purpose statement for Article 1 of the Development Code where this regulation is found.

- b) **Proposed amendment:** List "Assembling, Processing, Analyzing, Manufacturing, Packaging, Creating, Treating, & Renovating Goods, Merchandise, Food, Products, & Equipment, Majority of dollar volume of business not done with walk-in trade" as a Conditional Use in Community Commercial (CC) zoning districts. This amendment would be made to ADC 4.050, Use Heading 4.120.

ADC 4.010, the "Overview" section of Article 4, states that "The regulations in this article promote uses and development which will enhance the economic viability of specific commercial areas and the city as a whole."

Commercial businesses that are involved in "Assembling, Processing, Analyzing, Manufacturing, Packaging, Creating, Treating, & Renovating Goods, Merchandise, Food, Products, & Equipment, Majority of dollar volume of business not done with walk-in trade" are currently not allowed in CC, Community Commercial zoning districts. If Assembling, Processing, etc. businesses are allowed, a type of business not now allowed in CC zoning districts will be allowed if they meet the criteria for a Conditional Use. This will provide new business opportunities.

- c) **Proposed amendment:** Require the number of handicapped parking spaces provided with new development to conform with Oregon State Structural Specialty Code requirements. This amendment would be made to ADC 9.120 (12).

ADC 9.010, the "Overview" section of Article 9, states that "These standards are intended to foster high quality development throughout the City and to minimize adverse effects on surrounding property owners or the general public."

Providing handicapped parking spaces in new developments makes it easier for disabled persons to use the development, and can be judged to increase the quality of the development for those users. An insufficient amount of parking for handicapped persons inhibits their ability to use a development and can be considered an adverse effect.

- d) **Proposed amendment:** Allow creation of individual lots for each unit of a duplex or multi-family development where these types of development are now allowed, so that each can be sold separately. This amendment would be made to ADC 3.050, Use Heading 1.130, 1.210, and 1.340.

ADC 3.010, the "Overview" section of Article 3, states that "This Code preserves the character of neighborhoods by providing seven zones with different density standards."

The proposed change would allow the creation of individual lots for duplex and multi-family units only where those units are allowed now. No increase in density in any zoning district would result.

Conclusions

2.1 The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed because:

- a) State law [ORS 227.178 (2)] allows 30 days to review applications for completeness, and we have interpreted this 30-day limit to be the definition of "prompt review" as used in ADC 1.020 (2).
- b) If Assembling, Processing, etc. businesses are allowed, a type of business not now allowed in CC zoning districts will be allowed if they meet the criteria for a Conditional Use. This will provide new business opportunities. New business opportunities will enhance the economic viability of CC zoning districts and the City as a whole.
- c) Providing handicapped parking spaces in new developments increases the quality of the development for the disabled. An insufficient amount of parking for handicapped persons creates an adverse effect on the disabled. Providing a sufficient amount of parking for handicapped persons enhances the quality of development and minimizes adverse effects on the handicapped.
- d) If creation of individual lots for duplex and multi-family units is allowed only where those units are allowed now, no increase in density in any zoning district will result.