

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-01-97; 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, D, E, F, G and H and summarized as follows:

- a) **DC-01-97(A):** Revise the boundary of the “Freeway Interchange” areas shown as ADC 13.440, Figure 1, to add a strip of land 70 feet wide along the east boundary of Interstate 5; revise the definition in ADC 13.440(5) to include “regional recreational facilities” and “convention centers” to the definition of “businesses catering to the motoring public;” and revise the definition of “Freeway Interchange Area” in ADC 13.120 to include areas zoned LI (Light Industrial) and the additional 70-foot strip of land referenced above, as shown in Exhibit A attached.
- b) **DC-01-97(B):** Amend Article 8 of the Development Code to allow certain accessory buildings in residential zoning districts with ministerial staff review only instead of Type I-L Site Plan Review, as shown in Exhibit B attached.
- c) **DC-01-97(D):** Amend Article 6 of the Development Code to exempt accessory buildings in floodplain areas that represent a “minimal” investment from the standards of ADC 6.133 and 6.140, which include the requirement that structures be elevated above the base flood elevation or floodproofed, as shown in Exhibit D attached.
- d) **DC-01-97(E):** Amend Article 3 of the Development Code to clarify that “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” are not allowed in residential zoning districts, except in certain circumstances, as shown in Exhibit E attached.
- e) **DC-01-97(F):** Amend Article 3 of the Development Code to correct Table 1, Note 7, to read “Garage front setback for non-vehicle entrance = 15 feet, **except in RS-10 and RR districts where the setback is 20 feet,**” as shown in Exhibit F attached.
- f) **DC-01-97(G):** Amend Article 22 of the Development Code to add definitions of “salvage yard” and “junk yard” to the glossary, and amend Article 4 to clarify they are not allowed in commercial zones, as shown in Exhibit G attached.

- g) **DC-01-97(H):** Amend Articles 8, 9, and 12 of the Development Code to include the subdivision and land use regulations required by Oregon Administrative Rules 660-12-045 (3) and (4), the "Transportation Planning Rule" (TPR), as shown in Exhibit H attached.


Section 2: The Findings of Fact contained in the staff report and attached as Exhibit "I" 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 Council: March 26, 1997

Approved by Mayor: March 26, 1997

Effective Date: March 26, 1997



Mayor

ATTEST:



City Recorder

DC-01-97(A), DEVELOPMENT CODE AMENDMENT

Proposed deletions are shown in strike-out type, additions in bold type.

- (2) One wall sign per business per parking lot or street frontage. Allowed sign area is calculated at one square foot per lineal foot of building frontage on which the sign will face, with a minimum size of 30 square feet and a maximum area of 60 square feet.
- 13.436 **Major Store Signs.** Each major store with an entrance from a parking area or street is allowed two (2) wall signs on each frontage, provided that the building wall is at least 75 feet from a residential district. The aggregate sign area is limited to 3 percent of the gross wall area of the face on which the sign is to be located, or 200 square feet, whichever is less.
- 13.437 **Mall Entrance and Identity Signs.**
- (1) At each mall entrance, each interior business is allowed a minimum of two (2) square feet in signage. The maximum entrance sign area allowed is twelve (12) feet. Remote signs for major tenants are allowed, are not to exceed twelve (12) square feet in area, and are in addition to the interior business sign.
- (2) Mall identity wall signs may be placed over all main entries to the mall and are limited to 130 square feet in size.
- 13.438 **Sign Spacing.** A minimum of 200 feet of spacing is required between freestanding signs.
- 13.440 **FREEWAY AREA SIGNS - GENERAL PROVISIONS.**
- (1) Where an individual business catering to the motoring public traveling on the Interstate 5 Freeway is within the Freeway Interchange Area, as defined and as shown in Figure 1, such business may have one freestanding sign limited to a maximum height of 50 feet.
- (2) Maximum sign area is limited to 250 square feet for one face, 500 square feet for two or more faces.
- (3) If such sign is erected, it shall be in lieu of and not in addition to the signs permitted by Section 13.422 for such business along the street frontage on which it is located.
- (4) Such freeway-oriented signs shall comply with requirements of Section 13.424(2).
- (5) For purposes of this Section, "business catering to motoring public " shall be limited to **regional recreational facilities, convention centers, service stations, restaurants, motels, hotels, and recreational vehicle parks.**

Bulletin Display: Two poster panels side by side on the same structure.

Business: Any commercial or industrial enterprise.

Changeable Copy Sign: A sign which contains numbers, letters or symbols which are designed to be moved, interchanged, or replaced (i.e., reader board). Sign area denoting price is also considered changeable copy.

Construct: Build, erect, attach, hang, place, suspend, paint in new or different word, affix, or otherwise bring into being.

Construction Project Sign: A sign erected in conjunction with construction projects and used to inform the public of the architects, engineers and construction organizations participating in the project and indicating "future home of" information.

Direct Illumination: A source of illumination on the surface of a sign or from within a sign.

Double Face Sign: A sign with advertising on two surfaces back to back, with the angle between the two sides less than 25 degrees.

Fence Sign: A sign attached to or painted on a fence.

Finish Ground Level: The average elevation of the ground (excluding mounds or berms, etc. located only in the immediate area of the sign) adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message centers allowed by conditional use.

Freestanding Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Freeway Interchange Area: An area zoned CC, CH, LI, or TS area within a 1500 foot radius measured from the center intersection point of Interstate 5 and Knox Butte Road and Santiam Highway, or within a 70-foot strip along the east boundary of the I-5 right-of-way, as shown in Figure 1.

Frontage: See Building Frontage or Street Frontage.

Garage Sale Sign: A sign advertising garage sales or similar non-regular sales operated out of a residence.

Gas Station Price Sign: A changeable copy sign for the single purpose of advertising gasoline prices.

Historical Markers: Signs erected or maintained by public authority or by a recognized historical society or organization identifying sites, buildings, districts, or structures of recognized historical value.

Proposed Freeway Interchange Area

DC-01-97

Figure 1

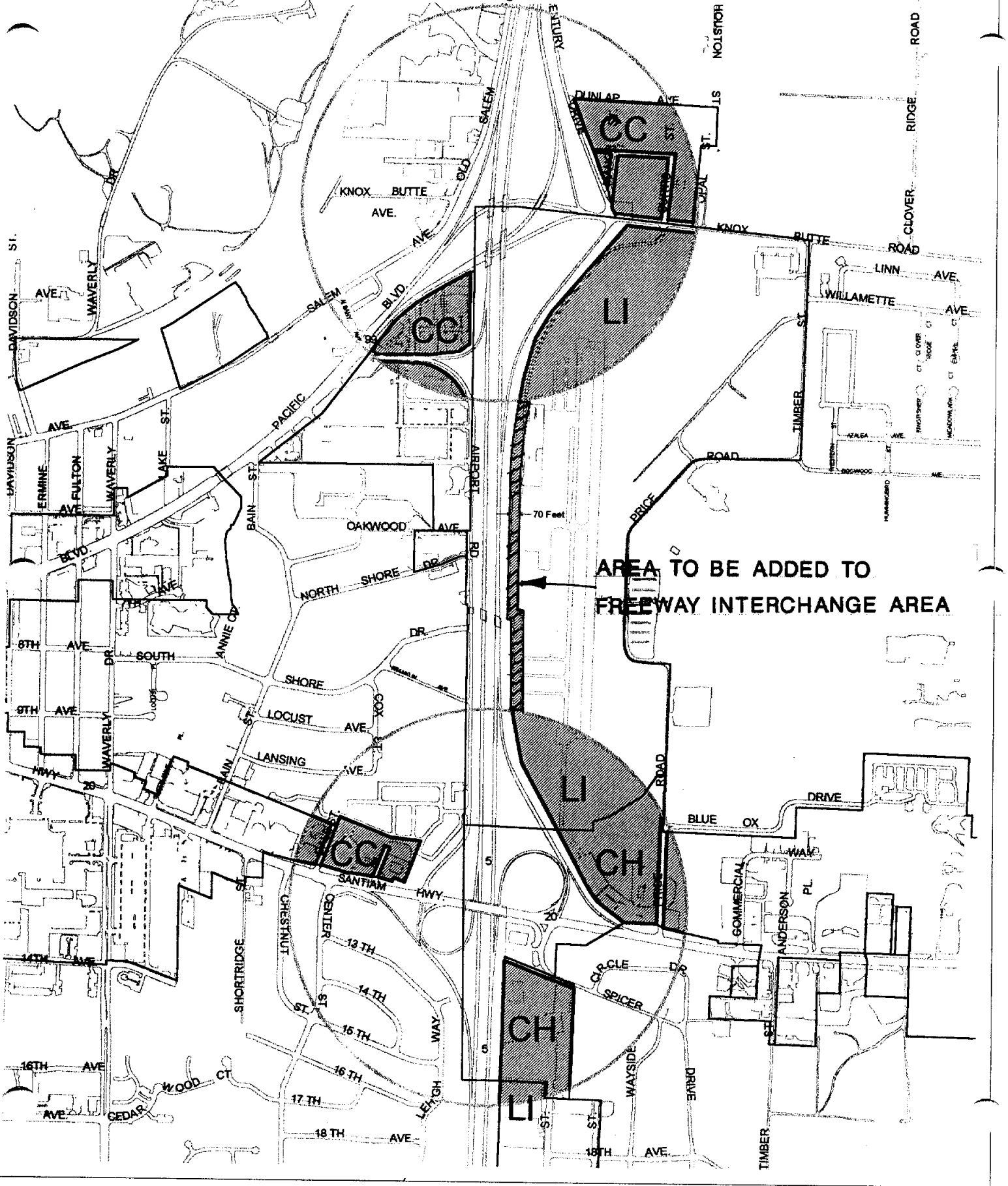


EXHIBIT B

DC-01-97(B), DEVELOPMENT CODE AMENDMENT

Proposed deletions are shown in strike-out type, additions in bold type.

RESIDENTIAL ZONING DISTRICTS

USE DESCRIPTIONS	Spec Cond	RS R-R	RS 10	RS 6.5	RM 5	RM 5	RM 3	RH
1.400 Overnight Recreational Vehicle Parks (See Article 12)	5	*	*	*	*	C	C	*
1.500 Homes & Institutions Providing Special Services, Treatment, or Supervision:								
1.510 Group care home		A	A	A	A	A	A	A
1.520 Hospital		*	*	*	*	C	C	*
1.530 Child care home	6	A	A	A	A	A	A	S
1.540 Child care institution		C	C	C	C	C	S	S
1.600 Miscellaneous Rooms for Rent:								
1.610 Rooming houses, boarding houses		*	*	*	*	S	S	*
1.620 Bed & breakfast	7	C	C	C	C	C	S	*
1.700 Temporary Residence in Conjunction with New Construction, Emergency Repair, or Night Watchman Use	8	S	S	S	S	S	S	S
2.000 ACCESSORY BUILDINGS AND USES	9							
2.110 Accessory buildings, garages, carports meeting the standards in Special Condition 9 attached to the dwelling & totaling less than 1,000 sq. ft.	9	A	A	A	A	A	A	A
2.120 Detached accessory buildings, garages, carports totaling less than 750 sq. ft. & having walls not greater than 11' in height.		A	A	A	A	A	A	A
2.130 Accessory buildings, garages, carports not meeting the standards in Special Condition 9 All other residential district accessory buildings, garages and carports.	9	S	S	S	S	S	S	S
2.200 Non-Residential Accessory Buildings and Uses	9	S	*	*	*	*	*	*
3.000 AGRICULTURE & NATURAL RESOURCES								
3.100 Crop Production Generally		A	A	A	A	A	A	*

example, the land area for a duplex to be divided in an RS-6.5 zoning district must be 8,000 square feet, but that area need not be split equally between the individual lots (one may be larger than 4,000 square feet and one smaller.)

- (4) Accessory apartments are permitted as additions to or within single family residences when:
 - (a) One residence on the site is owner occupied.
 - (b) The apartment remains incidental to the primary residence in size and appearance.
 - (c) At least two off-street parking spaces are available on the property for use.
 - (d) All required building permits have been obtained.
- (5) In the RM-5 District, the following criteria shall be considered in addition to the conditional use criteria for permitting RV overnight parks:
 - (a) The entire site must be located within 750 feet of the Interstate 5 right of way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) "Child Care Home" includes day time care of less than thirteen children including the children of the provider. These homes may require a license by the State of Oregon Children's Services Division.
- (7) In the RS-6.5, RS-5 and RM-5 residential districts, Bed and Breakfast facilities shall:
 - (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front yard setback area or within 10 feet of any interior residential lot line.
 - (d) Provide at least one off-street parking space for each rental room.
- (8) Temporary residences are limited to one year in duration.
- (9) Beyond the standards provided herein for establishment of accessory buildings and uses, the definitions of "Accessory Building" and "Accessory Use" in Section 1.070 and Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 2 for Accessory Structure Standards.

Accessory buildings in residential districts that meet the following standards are not subject to Site Plan Review. They will be processed as Type I staff decisions. Information must be submitted that shows the standards are met. The information shall be submitted at the time the applicant applies for building permits. The determination of whether the standards are met will be made by the Community Development Director or his/her designee.)

- a. **The proposed building does not exceed the height of the tallest building on adjacent property. Height here means the height of the building at its highest point.**
- b. **The square footage of the area enclosed by the foundation of the proposed building does not exceed the square footage of the area enclosed by the foundation of the largest building on adjacent property.**

- c. The amount of land that will be covered by buildings if the proposed building is constructed does not exceed the applicable lot coverage restrictions of the Development Code.
- d. The proposed building meets or exceeds the applicable setback requirements for the primary residential structure listed in the Development Code.
- e. The materials that will be used on the proposed building (e.g. siding and roofing), and the color of those materials, are the same as those used on the primary residential structure on the subject property.
- f. If the proposed building is located in any of the special purpose districts listed in Articles 6 and 7 of the Development Code, the building must also be reviewed for conformance with the requirements of the applicable district.

Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6.

- (10) Tree Removal Criteria: The following criteria apply only to parcels or property in contiguous single ownership in excess of 20,000 square feet upon which five or more trees, each in excess of ten inches in diameter, are proposed for removal within one calendar year. The Director shall approve tree cutting in the above instances when it can be demonstrated that:
 - (a) Wooded areas associated with natural drainageways and water areas will be maintained to preserve riparian habitat and minimize erosion.
 - (b) Wooded areas along ridge lines and hilltops will be retained for their scenic and wildlife value.
 - (c) Wooded areas along property lines will be retained to serve as buffers from adjacent properties except with the concurrence of adjacent owners where removal is desired for sunlight or to protect against windfall.
 - (d) Large-scale clear cuts of developable areas will be avoided to retain the wooded character of future building sites and so preserve housing and design options for future city residents.
 - (e) If concurrent with a development project application, the proposed removal of trees is the minimum necessary to accomplish the objectives of the development while retaining the most trees possible within the intent of the above criteria and Comprehensive Plan policies.
- (11) Kennels in residential districts shall be restricted to sites containing a minimum of two acres. This restriction does not apply to indoor veterinary hospital kennels.
- (12) Antennas are subject to the following standards:
 - (a) No antenna or antenna supports shall be located within any front yard setback area or within any required landscape buffer yard.
 - (b) Antennas shall not extend higher than fifteen feet above the peak of the roof.
 - (c) Dish antennas exceeding 12 feet in diameter shall not be permitted.
 - (d) Dish antennas exceeding 36 inches in diameter shall not be roof mounted.
 - (e) Dish antennas shall not exceed 15 feet in height from surrounding grade to the highest point of the structure or dish.
 - (f) Dish antennas located within ten feet of a residential lot line or located so as to be visible from a public street shall be screened up to a height of six feet with a solid screen fence, wall, hedge, or other landscaping.

DC-01-97(D), DEVELOPMENT CODE AMENDMENT

Proposed deletions are shown in strike-out type, additions in bold type.

- 6.131 Manufactured Home Parks and Manufactured Home Subdivision Standards. Manufactured home parks and manufactured home subdivisions proposed in the floodplain district shall be reviewed by the Planning Division. Notwithstanding other provisions of this code, all manufactured home park and subdivision applications which contain land within the floodplain district shall be processed under a Type III process. In addition to the general review criteria applicable to manufactured home parks and subdivisions in Article 10, application for such within the floodplain district shall include an evacuation plan indicating alternate vehicular access and escape routes.
- 6.132 Fill Standards. Application for fill permits in the floodplain district shall be reviewed by the Building Official using Uniform Building Code Appendix 70. In addition to those standards set forth in UBC Appendix 70, all fill in the floodplain district shall be subject to the following standards:
- (1) No fill shall be permitted in the floodway, except that which is allowed in Section 6.100 Floodway Restrictions.
 - (2) Fill in the flood fringe shall not be subject to additional regulation beyond those applicable outside of the floodplain district unless such fill is specifically precluded by Title 18 (Building and Construction) and other sections of this code.
- 6.133 Building Standards. Applications for building permits in the floodplain district shall be reviewed by the Building Official pursuant to locally adopted state building codes. In addition to building code criteria, all development in the floodplain district, **except that exempted in Section 6.150 below,** shall be subject to the following building standards:
- (1) The lowest floor, including basement, of any proposed structure (including manufactured homes and non-residential structures) shall be placed at least one (1) foot above the 100-year flood as determined by the latest Federal Insurance Study.
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (3) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (4) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (5) All manufactured homes shall be on an adequately anchored, permanent foundation and be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, the use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional details).

6.150 **Accessory buildings in floodplain districts that represent a minimal investment are exempt from the standards of ADC 6.133 and 6.140. The following standards, and all other regulations that apply to development in floodplain areas apply to those buildings. The definition of "minimal investment" for the purposes of this section is a building which costs less than \$10,000 in labor and materials to construct. The value of a proposed building will be that value stated on the application for building permits.**

1. **Accessory structures shall not be used for human habitation.**
2. **Accessory structures shall be designed to have low flood damage potential.**
3. **Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.**
4. **Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures.**
5. **Service facilities such as electrical and heating equipment shall be elevated and floodproofed.**

6.160 **Warning and Disclaimer of Liability.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased as a result of failure of manmade structures and/or natural causes. This ordinance does not imply that the land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Albany or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

6.170 **Storage of Material and Equipment.** No storage of material or equipment is allowed within floodway areas, unless the storage can be approved upon determination that the following criteria have been satisfied:

- (1) Site Plan approval has been received.
- (2) There is no storage or processing of material that is, in time of flooding, buoyant, flammable, toxic, explosive or otherwise could be injurious to human, animal, or plant life.
- (3) The material or equipment is not subject to major damage by floods and is firmly anchored to prevent flotation or is readily removable from the area within the time available after flood warning.

HILLSIDE DEVELOPMENT

[6.170] **Purpose.** The Hillside Development district is intended to protect the terrain in areas where steep slopes exist.

[6.180] **Applicability.** The Hillside Development standards apply to all areas that have an average slope of 12% or greater.

[6.190] **General.** All development proposed within the Hillside Development overlay district is required to provide for the preservation and, if possible, enhancement of the site's natural features during all

example, the land area for a duplex to be divided in an RS-6.5 zoning district must be 8,000 square feet, but that area need not be split equally between the individual lots (one may be larger than 4,000 square feet and one smaller.)

- (4) Accessory apartments are permitted as additions to or within single family residences when:
 - (a) One residence on the site is owner occupied.
 - (b) The apartment remains incidental to the primary residence in size and appearance.
 - (c) At least two off-street parking spaces are available on the property for use.
 - (d) All required building permits have been obtained.
- (5) In the RM-5 District, the following criteria shall be considered in addition to the conditional use criteria for permitting RV overnight parks:
 - (a) The entire site must be located within 750 feet of the Interstate 5 right of way.
 - (b) The RV park access is limited to the Interstate 5 frontage road or streets servicing primarily industrial or commercial development.
- (6) "Child Care Home" includes day time care of less than thirteen children including the children of the provider. These homes may require a license by the State of Oregon Children's Services Division.
- (7) In the RS-6.5, RS-5 and RM-5 residential districts, Bed and Breakfast facilities shall:
 - (a) Be owner occupied.
 - (b) Be limited to a maximum of four guest bedrooms.
 - (c) Except for driveway spaces, not contain guest parking facilities in the front yard setback area or within 10 feet of any interior residential lot line.
 - (d) Provide at least one off-street parking space for each rental room.
- (8) Temporary residences are limited to one year in duration.
- (9) Beyond the standards provided herein for establishment of accessory buildings and uses, the definitions of "Accessory Building" and "Accessory Use" in Section 1.070 and Article 22 shall apply. The Director shall have authority to initially interpret application of these terms to any proposed activity. See also Table 2 for Accessory Structure Standards.

Accessory buildings in floodplain districts are subject to the floodplain regulations of Article 6.

- (10) Tree Removal Criteria: The following criteria apply only to parcels or property in contiguous single ownership in excess of 20,000 square feet upon which five or more trees, each in excess of ten inches in diameter, are proposed for removal within one calendar year. The Director shall approve tree cutting in the above instances when it can be demonstrated that:
 - (a) Wooded areas associated with natural drainageways and water areas will be maintained to preserve riparian habitat and minimize erosion.
 - (b) Wooded areas along ridge lines and hilltops will be retained for their scenic and wildlife value.

EXHIBIT E

DC-01-97(E), DEVELOPMENT CODE AMENDMENT

Proposed deletions are shown in strike-out type, additions in bold type.

RESIDENTIAL ZONING DISTRICTS

USE DESCRIPTIONS	Spec Cond	RS R-R	RS 10	RS 6.5	RM 5	RM 5	RM 3	RH
3.300 Plant Nurseries and Greenhouses		S	S	S	S	S	S	*
3.400 Temporary Staging Areas for Public Works Construction Projects in Excess of 6 Months Duration		C	C	C	C	C	C	*
3.500 Tree Cutting & Firewood Cutting:								
3.510 Removal of 5 or more trees in excess of 10" in diameter	10	A	S	S	S	S	S	S
3.600 Raising of Animals, Livestock (subject also to Albany Municipal Code Section 6.10)		A	A	A	A	A	A	*
3.700 Kennels	11	S	C	C	C	C	*	*
3.800 Animal Arenas, Commercial Stables, Equestrian Center		S	C	C	*	*	*	*
3.900 Development Within a Wetland as Designated on Plate 6 of the Comprehensive Plan		C	C	C	C	C	C	C
4.000 ANTENNAS & TOWERS								
4.100 Antennas, Regardless of Size, Owned & Operated by FCC Licenses Member of Amateur Radio Service		A	A	A	A	A	A	A
4.110 Private and public communication towers and antennas over 50 feet in height	16	*	*	*	*	*	*	*
4.200 Satellite Dish & All Other Antennas	12	A	A	A	A	A	A	A
5.000 EDUCATIONAL AND RELIGIOUS								
5.100 Private or Public Schools:								
5.110 Primary, elementary, & secondary school (includes associated grounds, facilities & administrative offices)	13	C	C	C	C	C	C	*
5.120 Colleges, universities, community colleges (including associated facilities like dorms, offices, athletic fields, stadiums, research facilities, etc.)		C	C	C	C	C	C	*

- (16) **Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height** are not allowed in residential zoning districts, except when the applicant can demonstrate, to the satisfaction of the Community Development Director, that, if such a tower is not allowed, there will be a gap in service that denies service to an area within the community. (This decision is a Type II land use decision.)

Such a tower will also be subject to the following conditions:

1. The base of the antenna and any structures associated with the antenna shall be set back from the property lines of the property on which they are sited a distance of not less than 30 feet.
2. The land on which the facility is sited shall be screened from adjacent land along its full perimeter, by providing screening, as defined in ADC Section 9.250.

HOME OCCUPATIONS

3.090 Purpose. The home occupation provisions recognize the needs of many persons who are engaged in small scale business ventures or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full scale enterprise.

3.100 Standards. A home occupation shall be allowed as a permitted accessory use to a residence provided that all of the following conditions are met:

- (1) The use is carried on only by members of the family residing on the premises and not more than one outside employee or volunteer who shall work a maximum of 20 hours per week.
- (2) There is no offensive noise, vibration, smoke, dust odors, heat or glare resulting from the operation noticeable at or beyond the property line.
- (3) One window or wall sign is allowed, not larger than 12 inches by 18 inches.
- (4) There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.
- (5) There is no visible outside storage of materials other than plant materials.
- (6) The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
- (7) There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.
- (8) The rental of separate living quarters within a single family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.

3.110 Prohibited Uses. The following uses are prohibited as home occupations:



DC-01-97(G), DEVELOPMENT CODE AMENDMENT

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Public Need: A conclusion based on presentation of factual evidence which demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

Ramada: A structure having a roof extending over a manufactured home or manufactured home space which is designed for protection of the manufactured home from sun and rain.

Residential Care Institution: Any private or public institution maintained and operated for the care, boarding, housing, training, or rehabilitation of six or more physically, mentally, or socially handicapped or delinquent, elderly, or drug or alcohol dependent persons in one or more buildings on contiguous properties but not including jails or other criminal detention facilities. Residential care institutions include but are not limited to nursing homes, rehabilitation centers, residential care and training facilities for the mentally and socially handicapped, delinquent youth care centers, and specialized health care homes.

Right-of-way: The area between boundary lines of a street.

Roadway: The portion or portions of a street right-of-way available for vehicular traffic.

Salvage Yard: Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard.

Satellite Dish Antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive signals. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVRO's, and satellite microwave antennas.

Service Station: A place or station selling motor fuel and oil for motor vehicles, servicing batteries, furnishing repair and service, excluding painting, body work, steam cleaning, tire recapping, and mechanical car washing which necessitates equipment to wash more than one car at a time and at which accessory sales or incidental services are conducted.

Service Driveways: Any driveway constructed, installed, maintained in or over any portion of the public streets for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

Setback Line: The innermost line of any required yard area on a lot (see Yard).

Special Purpose District: Overlay zone designations which set forth specific land use regulations in addition to the standards of the underlying major zoning district.

Hospital, Small Animal: A building, together with animal runs, in which veterinary services, clipping, bathing, boarding, and other services are rendered to dogs, cats, and other small animals and domestic pets.

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings used for transient residential purposes containing six or more rental units which are designed to be used, or which are used, rented, or hired out for sleeping purposes.

Indoor Recreation Area: A room or rooms within an enclosed building which is designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided for within an indoor recreation area may include, but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping pong, shuffleboard, etc.

Junkyard: Any premises upon which any of the following are kept outside an enclosed building:

- a. The principal components of more than four (4) inoperable and unregistered vehicles.
- b. The principal components of more than five (5) inoperable washers, dryers, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
- c. More than six (5) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code.

Kennels: A lot or premise on which three or more adult dogs are kept, whether by the owner(s) of the dogs or by person(s) providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six months.

Land Divisions: The creation of a lot or parcel of land through the process of subdividing or partitioning land or through the leasing of land for more than three years, or less than three years if the lease may be renewed under the terms of the lease for a total period more than three years; or through the sale of interest in a condominium as that term is defined in ORS Chapter 91; or through sale of any security interest under a land sales contract, trust deed, or mortgage.

Landscaping: The term "landscaping" includes ground cover, trees, grass, bushes, shrubs, flowers, and garden areas and any arrangement of fountains, patios, decks, street furniture, and ornamental concrete or stonework areas and artificial turf or carpeting.

Loading Space: An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading which abuts a street, alley, or other appropriate means of ingress and egress.

Lot: A portion of a subdivision intended as a unit for transfer of ownership or for development. Lots may be occupied by principal and accessory structures, together with the yards or open spaces required, and must have legal access to public right-of-way.

Lot, Corner: A lot abutting two intersecting streets, other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.

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Proposed deletions are shown in strike-out type, additions in bold type.

8.080 Design Considerations. In addition to the above criteria, the applicant and review body shall also consider the following design considerations:

- (1) **Internal pedestrian circulation within new office parks and commercial development shall be provided through clustering of buildings, construction of accessways and walkways.**
- (2) **New retail, office and institutional buildings at or near existing or planned transit stops shall provide for convenient pedestrian access to transit through the measures listed in (a) and (b) below:**
 - (a) **Walkways shall be provided connecting building entrances and streets adjoining the site;**
 - (b) **Pedestrian connections to adjoining properties shall be provided except where such a connection is impractical. Pedestrian connections shall connect the on site circulation system to existing or proposed streets, walkways, and driveways that abut the property. Where adjacent properties are undeveloped or have potential of redevelopment, streets, accessways and walkways on site shall be laid out or stubbed to allow for extension the adjoining property;**
 - (c) **In addition to paragraphs (a) and (b) above, on sites at major transit stops provide the following:**
 - (1) **Either locate buildings within 20 feet of the transit stop, a transit street or an intersecting street or provide a pedestrian plaza at the transit stop or a street intersection;**
 - (2) **A reasonable direct pedestrian connection between the transit stop and building entrances on the site;**
 - (3) **A transit passenger landing pad accessible to disabled person;**
 - (4) **An easement or dedication for a passenger shelter if requested by the transit provider; and**
 - (5) **Lighting at the transit stop.**
 - (d) **For the purposes of (b) above, "impractical" means where one or more of the following conditions exist:**
 - (1) **Physical or topographic conditions make a connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonable be provided;**
 - (2) **Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or**
 - (3) **Where streets or accessways would violate provisions of leases, easement, covenants, restrictions or other agreements existing as of May 1, 1995 which preclude a required street or accessway connection.**
- (3) **Parking areas have been designed to:**

ARTICLE 9

ON-SITE DEVELOPMENT AND ENVIRONMENTAL STANDARDS

9.010 **Overview.** The City of Albany has established standards for on-site improvements and environmental protection. 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. This article contains the following standards:

- **Off-Street Parking**
- **Landscaping**
- **Buffering and Screening**
- **Environmental**

OFF-STREET PARKING

9.020 **Space Requirements.** Minimum parking and loading space requirements based on type of use are found in Sections 3.320 (residential); Sections 4.250 and 4.260 (commercial), and Sections 5.240 and 5.250 (industrial).

9.030 **Responsibility/Prerequisite.** Provision for and maintenance of off-street parking and loading space are responsibilities of the property owner. Plans showing property that is and will be available for exclusive use as off-street parking and loading must be presented before the city will issue building permits or approve land use applications.

9.040 **Elimination of Existing Space.** If a parking space has been provided in connection with an existing use or is added to an existing use, the parking space may not be eliminated if elimination would result in less space than is required by this Code, **except as allowed in (a) below.**

- (a) Existing development will be allowed to redevelop up to 25% of the area of existing parking areas for transit oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, transit oriented developments, and similar facilities, where appropriate.**

9.050 **Company Vehicles.** Required parking spaces must be made available for the parking of passenger automobiles of residents, customers, patrons, and employees only, and may not be used for storage of company vehicles or materials. Spaces for company vehicles must be provided in addition to the number of spaces required by this Code.

9.060 **Maintenance.** Parking lots must be maintained by the property owner or tenant in a condition free of litter and dust, and deteriorated conditions must be improved to comply with the standards of Section 9.120.

9.070 **Mixed Uses.** In the case of mixed uses, the total requirements for off-street parking spaces is the sum of the requirements for the various uses. Off-street parking facilities for one use may not be considered as providing parking facilities for any other use, except as provided below.

9.080 **Joint Use of Parking Facilities.** The Planning Commission or Hearings Board, upon application by all involved property owners, may authorize the joint use of parking facilities, provided that:

- (11) Compact Car Parking. Not more than 40% of the total parking spaces in a parking lot may be designated for compact cars. The minimum dimensions for a compact space are 8 feet by 16 feet. Such spaces must be signed and/or the space painted with the words "Compact Car Only."
- (12) Handicapped Parking. All parking areas must provide handicapped parking spaces in conformance with the Oregon State Structural Specialty Code.
- (13) Bicycle Parking. For each parking area containing more than 15 spaces, an area must be created and designated for bicycle parking. Each space must be a minimum of six feet in length, two feet in width, and have an overhead clearance of six feet. Required spaces must be located as near as possible to building entrances used by automobile occupants. Bicycle parking space requirements are as follows:
 - (a) For multiple family dwellings (3 or more units) -- 1 space per unit.
 - (b) For industrial development -- 1 space for every 10 automobile spaces required.
 - (c) For commercial or office development -- a minimum of 2 spaces, and 1 space for every 10 automobile spaces required.
 - (d) Exemptions -- the Director may allow exemptions to required bicycle spaces in connection with temporary uses or uses that are not likely to generate the need for bicycle parking.
- (14) Lighting. Any lights provided to illuminate any public or private parking area or vehicle sales area must be arranged to reflect the light away from any abutting or adjacent residential district.
- (15) Pedestrian access. **Walkways and accessways shall be provided in all new off-street parking lots and additions to connect sidewalks adjacent to new development to the entrance of new buildings.**
- (16) **Where employee parking is designated in new developments, parking for carpools and vanpools shall be provided and located nearest the employee entrances to buildings.**

9.130 Off-Street Parking Lot Design. All off-street parking lots must be designed in accordance with City standards for stalls and aisles as set forth in the following drawing and table.

ARTICLE 12 PUBLIC IMPROVEMENTS

12.000 Overview. This article contains the city's standards for those public improvements which relate to the development process.

The following is a list of the main headings in this article.

- | | |
|------------------------|------------------------------|
| ■ General Provisions | ■ Water |
| ■ Streets | ■ Sanitary Sewer |
| ■ Sidewalks | ■ Storm Drainage |
| ■ Bikeways | ■ Improvement Assurances |
| ■ Utilities -- General | ■ Addresses and Street Names |

GENERAL PROVISIONS

12.010 Purpose. The provisions in this article for new public improvements are intended to address the city's concerns relative to public health, safety, and welfare.

12.020 Relationship to Other Local Regulations. This article is intended to supplement other municipal ordinances. In the event of a conflict between a provision of this article and another city ordinance, that ordinance which most specifically deals with the issue in question shall control. Whenever possible, the two provisions shall be interpreted in a manner which renders the provisions of both ordinances consistent. Only when such interpretation is impossible will one provision be deemed to supersede the other.

12.030 Relationship to Specialty Codes or State Law. This article is intended to supplement other existing state and local codes. Examples of these codes include, but are not limited to, the Uniform Building Code, the Uniform Fire Code, and the Uniform Plumbing Code. In the event of a conflict between any provision of this article and a specialty code, the specialty code shall control.

12.040 Conditions of Approval. Development approval may be conditioned upon the provision and/or guarantee of public improvements called for in a public facilities master plan or any other public improvements necessitated by the development. Development approval may likewise be conditioned where private facilities are proposed to be shared between two or more lots. The Planning Commission or Director may require off-site improvements to be completed by the developer when necessary to substantially mitigate impacts resulting from the development relating to capacity deficiencies and public safety.

To provide an adequate transportation system, development approvals may include conditions that require facilities which accommodate safe and convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development.

(1) "Neighborhood activity centers" includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops or employment centers;

- (2) "Safe, convenient and adequate" means bicycle and pedestrian routes, facilities and improvements which:
- (a) Are reasonably free from hazards, particularly types or levels of automobile traffic which would interfere with or discourage pedestrian or cycle travel for short trips;
 - (b) Provide a reasonably direct route of travel between destinations such as between a transit stop and a store; and
 - (c) Meet travel needs of cyclists and pedestrians considering destination and length of trip; and considering that the optimum trip length of pedestrians is generally 1/4 to 1/2 mile.

12.045 Relationship to Other Development Code Articles. This article provides the public improvements standards to be used in conjunction with the procedural and design requirements contained in the articles on Land Divisions, Site Plan Review, and Manufactured Homes.

12.050 Relationship to Construction Standards. The standard specifications for construction, reconstruction or repair of streets, sidewalks, curbs, gutters and other public improvements within the city are as contained in the City's "Standard Construction Specifications." Unless otherwise provided in the particular specifications for work authorized, public improvements shall be constructed according to the standard specifications. The City Engineer may make changes to the standard specifications consistent with the application of engineering principles to the conditions in Albany.

STREETS

12.060 General Provisions. No development shall occur unless the development has frontage on or approved access to a public street currently open to traffic. A currently non-opened public right-of-way may be opened by improving it to city standards.

Streets (including alleys) within and adjacent to a development shall be improved in accordance with the standards in this Article. In addition, any new street or additional street width planned as a portion of an approved street plan shall be dedicated and improved in accordance with this Article.

Where the City Engineer determines that a required street improvement would not be timely, the City Engineer may accept a Petition for Improvement/Waiver of Remonstrance for a future assessment district.

12.070 Creation of Streets. Streets are usually created through the approval of a subdivision or partition plat. However, the City Council may also approve the creation of a street by acceptance of a deed. If the creation of a street unintentionally results in a land partition, the owner is not required to apply for partition approval as long as the resulting parcels comply with Code standards.

12.080 Classification of Streets. Arterial and collector streets are indicated on the Master Street Plan in the Comprehensive Plan.

12.090 Creation of Access Easements. In general, the creation of access easements between property owners is discouraged. However, there are some instances where an access easement is the only viable method of providing access to a developable lot. The review body will approve an access easement where the applicant has demonstrated that all of the following criteria have been met:

- (1) No more than two parcels or uses are to be served by the proposed access easement;

FINDINGS OF FACT
File DC-01-97

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(A)

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.

- (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 following Comprehensive Plan goals and policies are relevant to the proposed amendment:
- a. GOAL 5: Open Spaces, Scenic and Historic Areas, & Natural Resources - Aesthetics and Urban Design.
Goal: Improve Albany's image, livability, appearance, and design quality through aesthetic enhancement.
Policy 2: Develop and maintain a sign code to:
 - a. Provide equitable and economic methods of business identification.
 - b. Reduce signage conflicts.
 - c. Promote traffic and pedestrian safety.
 - d. Increase the aesthetic appearance of the city.
- 1.2 The proposed Development Code amendment would enlarge the boundary of the "Freeway Interchange" areas shown as ADC 13.440, Exhibit A, and revise the definition in Article 13 of "businesses catering to the motoring public" to include "regional recreational facilities" and "convention centers."
- 1.3 The Development Code definition of "businesses catering to the motoring public" now includes only "service stations, restaurants, motels, hotels, and recreational vehicle parks." Regional recreational facilities and convention centers are as dependent on attracting customers from Interstate 5 as any of the businesses now listed in the definition.
- 1.4 Within the Freeway Interchange area, signs up to 50 feet high and 250 square feet per face are allowed. Enlarging the boundary of the Freeway Interchange areas will allow one additional property to place such a sign that is visible from Interstate 5. This property is currently owned by the City of Albany, and occupied by Timber-Linn Park and the municipal airport.
- 1.5 Linn County proposes to locate a sign on the City-owned property that will advertise events at Timber-Linn Park and the new Fairground/Expo Center. The County has provided a photo-simulation that shows approximately how a sign would look if placed in the area that would be added to the Freeway Interchange areas. Although the question of whether such a sign detracts or enhances Albany's image or appearance is subjective, the sign does not appear aesthetically

unappealing. Such a sign may enhance Albany's image by advertising the range of entertaining and important events that occur at Timber-Linn Park and will occur at the new Fairgrounds/Expo Center.

- 1.6 The Freeway Interchange areas are provided so that each business that depends on attracting business from Interstate 5 has the same opportunity to place a sign that will adequately inform drivers of its location. Each business has the opportunity to consider the economic benefit of such a sign.
- 1.7 The placement of free-standing signs in the Freeway Interchange areas is restricted to one (1) for each property that has at least 75 feet of frontage along I-5.
- 1.8 The Oregon Department of Transportation (ODOT) administers state statutes regarding the placement of signs visible from I-5. The statutes are intended to promote traffic safety. There are no pedestrian facilities within the area that would be added to the Freeway Interchange areas, so there would no impact on pedestrian safety if a sign was placed there. In addition, the Development Code contains regulations that are intended to protect pedestrian safety. These regulations are applied at the time a sign is proposed.
- 1.9 The question of whether a sign within the proposed addition to the Freeway Interchange area will increase the aesthetic appearance of the City is subjective. Some may see a 50-foot high sign unattractive, but others would see it as attractive if it contained images and/or information that were pleasing. Government is significantly restrained in regulating the content of advertising.
- 1.10 The Comprehensive Plan directs that when making decisions which consider Plan policies, applicable policies must be weighed against each other in importance to reach a decision that maximizes each applicable policy objective (Comprehensive Plan, Page 3).

CONCLUSIONS

- 1.1 Enlarging the Freeway Interchange areas as proposed, and adding "regional recreational facilities" and "convention centers" to the definition of "businesses catering to the motoring public" will provide an equitable opportunity for appropriate businesses that locate within the enlarged area to target advertising to people passing by on Interstate 5, without compromising pedestrian safety or the aesthetic appearance of the City. Traffic safety will be protected if applicants for sign placements can meet the requirements of the statutes administered by the Oregon Department of Transportation (ODOT). Review of any particular sign placement is subject to review by ODOT. This criterion is met.
- (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 purpose of the sign code in Article 13 (ADC 13.110) is "To help implement the Comprehensive Plan, provide equitable methods of business identification, reduce signage conflicts, promote traffic and pedestrian safety, increase the aesthetic value and economic viability of the City, all by classifying and regulating the location, size, design, type and number of signs and related matters."
- 2.2 This purpose is the same as the Comprehensive Plan language reviewed in Criterion #1 above.

CONCLUSIONS

- 2.1 Because the purpose of the Development Code article that will be amended is the same as the language of the Comprehensive Plan policies discussed in Criterion #1 above, and it was found the proposed amendment is consistent with those policies, this criterion is also met.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(B)

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.

- (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 following Comprehensive Plan goals and policies are relevant to the proposed amendment:
- a. GOAL 5: Open Spaces, Scenic and Historic Areas & Natural Resources -- Aesthetics and Urban Design
Goal: Improve Albany's image, livability, appearance, and design quality through aesthetic enhancement.
Policy 1: Expansion and new development projects shall be designed and landscaped to complement and enhance the appearance of the development site and surrounding area.
 - b. GOAL 14: Urbanization -- Development Review
Goal: Ensure that all new developments are reviewed expeditiously and thoroughly and result in compliance with Comprehensive Plan goals and policies and ordinance standards.
Policy 5: Ensure that the City's land use planning process and its policy framework is workable and understandable for local officials, staff, and the public. Ensure that the degree of application and review is commensurate with the size and complexity of various development requests.
- 1.2 The proposed Development Code amendment would eliminate the requirement for Type I-L Site Plan Review for residential accessory buildings that meet certain size and setback requirements and are built using the same materials and colors as the primary residence on the same property. Review of these buildings would be done ministerially by staff without an application fee or notice to neighbors. Accessory structures that did not meet the standards would still go through Site Plan Review.
- 1.3 The Development Code currently contains clear and objective standards that accessory buildings over a certain size must meet, such as setback and height requirements. Site Plan Review criteria are also used to review accessory buildings. One of the criteria addresses compatibility with surrounding development. Staff has found that as long as an accessory building meets the requirements of the Development Code, is about the same size as other structures in the neighborhood, and is the same material and color as the primary structure on the subject property, neighbors accept the building as compatible with surrounding development.

- 1.4 Type I-L Site Plan Review requires notice to owners of property surrounding proposed development, an opportunity for them to comment, and that a staff report be written. This process is time-consuming and rarely results in modifications to proposed accessory buildings.

CONCLUSIONS

- 1.1 If proposed residential accessory buildings that meet certain standards are allowed with staff review instead of Type I-L Site Plan Review, these structures will be compatible with surrounding development and the image, livability, appearance, and design quality of development in Albany will be preserved. Ministerial staff review will be simpler and more understandable, and the application and review process will be more commensurate with the size and complexity of a residential accessory structure.
- (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 purpose of Site Plan Review in Article 8 (ADC 8.020) is “to promote functional, safe, and attractive developments which maximize compatibility with surrounding developments and uses and with the natural environment. Site plan review mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Site plan review is not intended to evaluate the proposed use or the structural design of the proposal. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.”
- 2.2 The Development Code contains clear and objective standards that are intended to promote functional, safe, and attractive developments which maximize compatibility with surrounding developments and uses and with the natural environment. If the proposed amendment to the Development Code is made, standards that are as strict, or more restrictive, will be used to evaluate residential accessory structures. These standards are listed in Exhibit B, attached at the end of this staff report. Accessory structures in areas of environmental concern will continue to be reviewed using the Site Plan Review criteria and process.

CONCLUSIONS

- 2.1 If proposed residential accessory buildings that meet the proposed standards are allowed with staff review instead of Type I-L Site Plan Review, this review will still promote functional, safe, and attractive developments which maximize compatibility with surrounding developments and uses, and mitigate potential land use conflicts. This criterion is met.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(D)

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.

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

FINDINGS OF FACT

1.1 GOAL 7: Flood Hazards and Hillsides

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

Policy 1: Continue to participate in the National Flood Insurance Program and comply with applicable standards.

Policy 7: Ensure that any filling or construction within the floodplain meets the following criteria:

- a. Require that a fill permit is issued prior to any fill activity and all fill is engineered and compacted to applicable standards. Fill areas for dwellings shall have engineering certification that loading rates are adequate for dwellings.
- b. Within the Urban Growth Boundary it shall be demonstrated that fill is necessary to allow an approved development activity to occur and that the amount of fill proposed is the minimum necessary to meet FEMA standards.
- c. The lowest finished floor elevation shall be built at least one (1) foot above the base-year flood level. Special engineering reports or structural work may be required.
- d. Require property owners or developers to file a certification approved by the local community permit official, registered professional engineer, architect, or surveyor indicating elevation of the surrounding grade or lowest habitable floor (including basement) of all new residential structures. This information shall be maintained to indicate compliance with Federal Emergency Management Agency (FEMA) regulations.

Policy 8: For construction, remodeling, or major repairs to structures (including prefabricated and mobile homes) within the floodplain, review building permits to ensure that:

- a. Building location and grading are designed to protect the structure during a base year flood.
- b. Construction materials and utility equipment are resistant to flood damage.
- c. Construction methods and practices will minimize flood damage.
- d. Where appropriate, structures are designed or modified to prevent flotation, collapse, or lateral movement of the structure.

Policy 9: Development approval within the flood fringe shall be reviewed to protect property and public safety and significant natural values.

- 1.2 The proposed Development Code amendment would exempt certain accessory buildings in floodplain areas that represent a “minimal” investment from the standards of ADC 6.133 and 6.140, which include the requirement that structures be elevated above the base flood elevation or floodproofed. These standards would be replaced by other requirements. The standards that would apply are shown in Exhibit D, attached at the end of this staff report. All other Development Code regulations that apply to development in floodplain areas would still apply to these buildings.
- 1.3 The intent of the Comprehensive Plan goals and policies regarding development in floodplain areas is to protect life and property. If the proposed amendment is adopted, protection of life will not be affected, because the standards that would be applied to accessory buildings that represent a minimal investment include a requirement that the building not be inhabited. Property that represents more than a minimal investment will still be reviewed as it is now.
- 1.4 In a memorandum from the U.S. Department of Housing and Urban Development (HUD), Federal Insurance Administration to Federal Insurance Administration Directors dated July 13, 1977, HUD recognizes that the requirement to elevate accessory buildings to one foot above the base flood elevation or floodproof the building may provide an excessive degree of protection. The memorandum then suggests alternative standards for these buildings. The memo was provided to

City of Albany staff by regional Federal Emergency Management Agency representative, Carl Cook, who says the City may apply these standards and still comply with requirements of the federal flood insurance program in which the City participates.

CONCLUSIONS

- 1.1 If the proposed Development Code amendment is adopted, there will be no impact on the protection of life in floodplain areas, and property will still be protected from floods to an extent commensurate with the investment made in that property (specifically, accessory buildings). The City's participation in the National Flood Insurance Program will not be affected, and the City will continue to comply with applicable standard. This criterion is met.
- (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 purpose of the floodplain regulations in Article 6 (ADC 6.070) is "to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas."
- 2.2 The proposed Development Code amendment would exempt certain non-habitable accessory buildings from certain floodplain regulations, including the requirement that the building be elevated above the base flood elevation, or otherwise floodproofed. It has been found, as described above, that application of these requirements provides excessive protection for these buildings. The other Development Code regulations that apply to development in floodplain areas would continue to apply.

CONCLUSIONS

- 2.1 If the proposed Development Code amendment is adopted, there will be no impact on public health, and the safety and general welfare of the public will continue to be protected. Only certain accessory buildings will be exempted from certain floodplain development standards, but other standards will apply. The new standards will provide protection commensurate with the investment in the building.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(E)

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.

- (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 Development Code amendment will simply clarify that “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” are not allowed in residential zoning districts, and provide an exemption as required by the federal Telecommunications Act of 1996.
- 1.2 The Development Code contains regulations for placement of antennae and towers in all zoning districts. Antennae and towers less than 50 feet high are allowed in commercial and industrial districts without review if they meet certain standards. The list of uses in commercial and industrial districts also includes a category called “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height.” These facilities are conditional uses.

In residential districts, satellite dish and other antennae are allowed if they meet certain standards. However, there is also a note listed with this use that says antennae not in conformance with the standards may be considered by Conditional Use review. This is intended to refer only to antennae less than 50 feet in height.

The use “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” does not appear in the residential list of uses. Throughout the Code, if a use is not listed, it means it is not allowed. At the time the Code was written it did not seem to make sense to list every possible use in every zoning district even if it was not allowed. For example, industrial uses are not listed in the residential section of the Code, because it is recognized that they are not allowed. Usually, there is no question whether a use that is not listed would be allowed.

However, we believe the Code should be more clear regarding “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” in residential districts. These uses should be listed in the residential section of the Code and designated as “not allowed.”

- 1.3 We must, however, provide for the siting of a facility in a residential neighborhood if denial would act to create a “gap” in service. The federal Telecommunications Act of 1996 provides a number of limitations on the authority of local governments to regulate telecommunications industries, and this is one of them. So, staff proposes to allow the siting of a tower when the applicant can provide supportive documentation or evidence that denial would create a gap in service to the community, or part of it. Approval would be conditioned on mitigating negative impacts to the extent possible. The standards that would be applied are listed in Exhibit E, as ADC 3.080(16).

CONCLUSIONS

- 1.1 This criterion is not applicable, because the proposed Development Code amendment would simply clarify that “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” are not allowed in residential zoning districts. This is the intent of the Code as it is written, so no change is proposed, and no evaluation for consistency with Comprehensive Plan goals and policies is necessary. The exemption provided for in the amendment is required by federal statute and is not subject to review by local jurisdictions.
- (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 Development Code amendment will simply clarify that “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” are not allowed in residential zoning districts, and provide an exemption as required by the federal Telecommunications Act of 1996.

CONCLUSIONS

- 2.1 This criterion is not applicable, because the proposed Development Code amendment would simply clarify that “Public and Commercial Communication Towers and Transmitters Over 50 Feet in Height” are not allowed in residential zoning districts. This is the intent of the Code as it is written, so no change is proposed, and no evaluation for consistency with Comprehensive Plan goals and policies is necessary. The exemption provided for in the amendment is required by federal statute and is not subject to review by local jurisdictions.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(F)

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.

- (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 Development Code amendment would correct Table 1, Note 7 to read “Garage setback for non-vehicle entrance = 15 feet, **except in RS-10 and RR districts where the setback is 20 feet.**”
- 1.2 This note should have been corrected when North Albany zoning districts were added to the table. The front setback for garages is 20 feet in all districts, so that a car can park in front without hanging over the sidewalk or public right-of-way. The setback when the side of the garage without the entrance faces a street is intended to be the same as the front setback for the residence on the lot, which is 15 feet in all residential districts except in North Albany. The front setback in North Albany (RS-10 and RR districts) is 20 feet. The side of the garage without the vehicle entrance should meet this same setback when it faces a street.

CONCLUSIONS

- 1.1 This criterion is not applicable, because the proposed amendment simply corrects an error in the code. The intent of the Code is clear.
- (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 amendment simply corrects an error in the Code, as described under Criterion #1 above.

CONCLUSIONS

- 2.1 This criterion is not applicable, because the proposed amendment simply corrects an error in the code. The intent of the Code is clear.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(G)

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.

- (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 Development Code amendment would add the following definitions of “salvage yard” and “junk yard” to the glossary.
- (a) Salvage yard: Any premises upon which any type of material is dismantled, stored, and disposed of for the purpose of recycling the base material or its components. It is the intention of this definition to include the type of operation commonly known as an auto wrecking yard.
- (b) Junk yard: Any premises upon which any of the following are kept outside an enclosed building:
- a. The principal components of more than four (4) inoperable and unregistered vehicles.
 - b. The principal components of more than five (5) inoperable washers, dryers, hot water heaters, stoves, ranges, televisions, video cassette recorders, radios, stereos, or other major appliances.
 - c. More than six (6) inoperable bicycles or lawnmowers.

This definition is not intended to include salvage yards, which are separately defined in this Code.

- 1.2 The Development Code lists “Salvage yards and junkyards” as a use in Article 5, Industrial Zoning Districts. Salvage yards and junk yards are conditional uses in the HI, Heavy Industrial district. Salvage yards and junk yards are not allowed in any other zoning district, including commercial. There may be some ambiguity, in that the use is not listed. As is the case with many other uses, if the use is not listed in a particular zoning district, it is not allowed. In most cases there is little doubt that this is the intent of the Code, but staff believes in the case of salvage yards and junk yards the Code should be made more clear regarding the use in commercial zoning districts.

- 1.3 It is also necessary to define salvage yards and junk yards. The Code lists these as uses, but there is no definition in the glossary. As we have found in other circumstances, people may not always agree what is junk and what is not. The City passed an ordinance prohibiting the keeping of junk in residential neighborhoods for just this reason. We intend to avoid future arguments about what a junk yard is by specifically defining it in the Code. It is also necessary to define salvage yard, since it is listed separately in the same use category.

CONCLUSIONS

- 2.1 This criterion is not applicable, because the proposed amendment simply clarifies the intent of the Code, and provides definitions for terms used in the Code. This amendment is a Code interpretation.
- (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 Development Code amendment simply clarifies the intent of the Code, and provides definitions for terms used in the Code, as described in Criterion #1 above.

CONCLUSIONS

- 2.1 This criterion is not applicable, because the proposed amendment simply clarifies the intent of the Code, and provides definitions for terms used in the Code. This amendment is a Code interpretation.

STAFF ANALYSIS

Development Code Amendments, File DC-01-97(H)

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.

- (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 following Comprehensive Plan goals and policies are relevant to the proposed amendment.

GOAL 12: Transportation

Goal: Provide a safe, diversified, and efficient transportation system that protects and enhances Albany's economy, environment, neighborhood quality, and cultural and scenic values.

Policy 1: Review development and transportation plans to determine the most efficient, safe, and least disruptive relationship between land uses and the transportation system.

Policy 2: Ensure that when planning for, designing, and providing transportation systems:

- a. The requirements of the various transportation types are coordinated with each other and operational and safety conflicts are minimized.

b. Proposed projects are coordinated with the plans of applicable county, state, and federal agencies.

c. Effective notification and coordination occurs between affected agencies regarding the transportation impacts of proposed development within or adjacent to the Urban Growth Boundary.

Policy 3: As part of the development review process, evaluate the adequacy of transportation to, from, and within the site.

Policy 9: Require adequate pedestrian and bicycle ways in conjunction with all new street projects and provide sidewalks along all City streets (proposed and existing) that are used for direct access to area schools.

Policy 17: Encourage transportation projects, programs, and policies which reduce dependency on the automobile and promote transportation alternatives such as public transit, bikeways, car and van pools.

- 1.2 The proposed Development Code amendment would add the subdivision and land use regulations required by Oregon Administrative Rules (OAR) 660-12-045 (3) and (4) to Articles 8, 9, and 12 of the Code. OAR 660-12-000 through 660-12-070 are commonly known as “The Transportation Rule.”
- 1.3 In summary, the relevant Comprehensive Plan goals and policies require that we build and maintain a transportation system that provides efficiency for autos, but also allows people to walk, bicycle, and use transit to access the places they need to go.
- 1.4 The purposes of the Transportation Planning Rule, in part, are “...to reduce reliance on the automobile,” and “...assure that the planned transportation system supports a pattern of urban travel and land use in urban areas which will avoid the air pollution, traffic and livability problems that face other areas of the country.”
- 1.5 The specific amendments to the Development Code require new development to provide safe, convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Provisions are also included that encourage the use of the transit system. The proposed amendments to the Code are shown in Exhibit H, attached at the end of this staff report. [Explanatory note: In practice, separate bicycle lanes are striped on all new arterial and collector streets at the time they are built, but not on local streets. In most cases, on local streets, it is appropriate for bicycles and other vehicles to share the roadway.]

CONCLUSIONS

- 1.1 The new Development Code requirements that would be included if the proposed amendment is adopted would better achieve the goals and policies of the Comprehensive Plan than the existing regulatory language because the requirements will provide more efficient connections between new development and existing facilities, allowing people to walk, bicycle, and use transit to access the places they need to go. This criterion is met.
- (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 Development Code amendment would make changes in Article 8 (Site Plan Review), Article 9 (On-site Development Standards), and Article 12 (Public Improvements). The purposes of these articles is as follows:
- (a) Article 8 (ADC 8.020): Site plan review is intended to promote functional, safe, and attractive developments which maximize compatibility with surrounding developments and uses and with the natural environment. Site plan review mitigates potential land use conflicts resulting from proposed development through specific conditions attached by the review body. Site plan review is not intended to evaluate the proposed use or the structural design of the proposal. Rather, the review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.
 - (b) Article (ADC 9.010): 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.
 - (c) Article 12(ADC 12.010): The provisions in this article for new public improvements are intended to address the City's concerns relative to public health, safety, and welfare.
- 2.2 The purposes of the new Development Code requirements that would be included if this amendment is adopted are to provide safe, convenient pedestrian and bicycle access within and from new subdivisions, multi-family developments, planned developments, shopping centers and commercial districts to adjacent residential areas and transit stops, and to neighborhood activity centers within one-half mile of the development. Provisions are also included that will encourage use of the Albany Transit System. The proposed amendments to the Code are shown in Exhibit H, attached at the end of this staff report. [Explanatory note: In practice, separate bicycle lanes are striped on all new arterial and collector streets at the time they are built, but not on local streets. In most cases, on local streets, it is appropriate for bicycles and other vehicles to share the roadway.]
- 2.3 Pedestrian and bicycle connections within and from new development to the existing system are necessary to develop a system which is safe and functional.
- 2.4 The definition of "high quality" development includes safe and convenient pedestrian and bicycle access, and access to the transit system, where it is available.
- 2.5 Pedestrian and bicycle connections and access to public transit promote the health, safety, and welfare of the public by providing ways, in addition to the private automobile, for people to travel where they need to go.

CONCLUSIONS

- 2.1 The Development Code requirements that would be added if this Development Code amendment is adopted are consistent with the purposes of Article 8, 9, and 12, because they will help provide high-quality development that functions in a safe, convenient, and efficient way.