



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Development Code Text Amendments

Planning File: DC-02-22

November 7, 2022

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, November 14, 2022	Wednesday, December 14, 2022
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	
VIRTUAL OPTIONS:	Instructions to attend the hearings and provide comments will be provided on the applicable agenda.	
STAFF REPORT PREPARED BY:	Anne Catlin, Comprehensive Planning Manager	

Application Information

Proposal:	Albany Development Code (ADC) legislative amendments in Article 3 Residential Zoning Districts related to lot depth and side setbacks in the RM district; Article 8 Design Standards for Middle Housing related to maximum driveway widths, and in Article 10 Manufactured Home Development Standards to comply with House Bill 4064, which limits regulations on the siting of manufactured and prefabricated homes.
Applicant:	Albany Community Development Department, 333 Broadalbin Street SW, Albany, OR 97321
Location:	Legislative amendments; not site specific

Overview

Process Overview

Section 2.280 of the Albany Development Code (ADC) allows for the Community Development director to initiate legislative amendments to the ADC. Amendments to the ADC are made through a Type IV legislative land use review process. Following this process, the Planning Commission will hold a public hearing to consider proposed amendments and will make a recommendation to the City Council. The Planning Commission's recommendation cannot be appealed. The City Council will hold a subsequent public hearing to consider the proposed amendments. The applicable review criteria listed in ADC Sections 2.220 and 2.290 must be met for the proposed amendments to be approved. After closing the public hearing, the City Council will deliberate and make a final decision. Within five days of the City Council's final action on the proposed amendments, the Community Development director will provide written notice of the decisions to any parties entitled to notice. A City Council decision can be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a notice of intent to appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision makers.

Staff's analysis of consistency with the applicable approval criteria begins on page three.

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Summary of Proposed Changes

Albany Development Code amendments related to lot depth in residential zones, side setbacks in the RM zone, maximum driveway widths for triplexes and fourplexes, and amendments to manufactured home standards to comply with House Bill 4064 are described below.

Minimum Lot Depth. Currently, minimum lot depths vary by zone, ranging from 60 feet in RM to 100 feet in RS-10. The proposed amendments would remove lot depth requirements. Minimum lot area and minimum width would determine lot depth. [Article 3, Table 3.190-1m]

Side Setbacks for two-story single and middle housing dwellings in RM. The current side-yard setbacks for single-dwelling homes or middle housing are three feet for one-story dwellings and five feet for two-story dwellings. The proposal would reduce the side-setback to three feet for two-story single and middle housing dwellings in the RM zone only. Side setbacks often provide little usable space. This proposal may encourage narrow-lot detached dwelling [Article 3, Table 3.190-1 Note (5)]

Driveway Approach Widths for Triplexes and Fourplexes. The proposed amendments would increase the maximum driveway approach per frontage for triplexes and fourplexes from 40 feet to 48 feet to allow for 12-foot-wide driveways and garage doors for a fourplex; and increase the maximum width per frontage for one driveway from 20 feet to 24 feet [per 8.165(1)]. The total width of garages and on-site maneuvering must still be no more than 50 percent of the street frontage to retain front yard space. [Article 8, Section 8.165(2), and figures 8.165-2, 8.165-4 and 8.165-5]

Manufactured and Prefabricated Housing. The current standards limit the placement of small, manufactured homes on individual lots and have placement standards. The proposed amendments would add prefabricated structures to these standards and remove the different classes (sizes) of manufactured homes and review criteria that do not comply with House Bill 4064. HB 4064 requires prefabricated structures to be permitted where single-dwelling and manufactured homes are permitted. Prefabricated structures (or modular homes) differ from manufactured homes because they are held to the same local, state, and regional building codes required for site-built homes, whereas manufactured homes are held to a federal code set by the Department of Housing and Urban Development (HUD). A definition of a prefabricated dwelling unit is also proposed. [Article 10, Sections 10.080 through 10.170; and Article 22, 22.400]

Proposed Amendments

Proposed amendments as they would appear in the ADC are included as Attachment A to the staff report. In the attachment, proposed new text is shown in black **highlighted bold underline** print and proposed deleted text is in ~~black strike out font~~.

Commentary boxes in both attachments provide additional background about the proposed amendments. Should the proposed amendments be approved, the text boxes with the explanations will be removed and the approved amendments made part of the ADC.

Notice Information

Public notice was issued in accordance with legislative amendment requirements in the ADC Section 1.260. Specifically,

- Notice was provided to the Oregon Department of Land Conservation and Development (DLCD) on October 7, 2022, at least 35 days before the first evidentiary hearing, in accordance with Oregon Administrative Rule (OAR) 660-018-0020 and the ADC.
- Notice of the proposed amendments was mailed on October 28, 2022, to both counties.
- Notice of the public hearings was published in the *Albany Democrat-Herald* on October 31, 2022, two weeks before the first public hearing on November 14, 2022.

The staff report and proposed code amendments will be posted on the City's Planning Project website, <https://www.cityofalbany.net/cd/projectreview>, on or before November 7, 2022, at least seven days before the first public hearing.

As of the date of this report, the Community Development Department has received no written comments.

Analysis of Development Code Criteria

Development Code Text Amendment Review Criteria

Section 2.290 of the ADC includes the following review criteria, which must be met for this legislative text amendment to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

Review Criterion 2.290(1)

The proposed amendments better achieve the goals and policies of the Comprehensive Plan than the existing language.

Findings of Fact

- 1.1 The Comprehensive Plan defines a goal as, “a general statement indicating a desired end, or the direction the City will follow to achieve that end.”
- 1.2 The Comprehensive Plan describes the City’s obligation regarding goals as follows: “The City cannot take action which opposes a goal statement unless: 1) It is taking action which clearly supports another goal; and 2) There are findings indicating the goal being supported takes precedence (in the particular case) over the goal being opposed.”
- 1.3 The Comprehensive Plan defines a policy as, “a statement identifying a course of action or City position.”
- 1.4 The Comprehensive Plan describes the City’s obligation regarding policies as follows: “The City must follow relevant policy statements in making a land use decision or show cause why the Comprehensive Plan should be amended consistent with statewide goals. Such an amendment must take place following prescribed procedures prior to taking a land use action that would otherwise violate a Plan policy. However, in the instance where specific Plan policies appear to be conflicting, the City must seek solutions that maximize each applicable policy objective within the overall content of the Comprehensive Plan and in a manner consistent with the statewide goals. In balancing and weighing those statements, the City can refer to general categories of policies and does not have to respond to each applicable policy. Also, in this weighing process, the City must consider whether the policy contains mandatory language (e.g., shall, require) or more discretionary language (e.g., may, encourage).”
- 1.5 The applicable Albany Comprehensive Plan and Statewide Planning goals and policies are provided below in **bold** print and are followed by findings of fact and conclusions.

Statewide Planning Goal 1, Citizen Involvement: To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

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

Findings of Fact

- 1.6 The proposed housing related amendments include complying with state law (House Bill 4064) and include a couple of public requests received over the past two years as part of two housing related projects: the Housing Options project (middle housing to comply with House Bill 2001) and the Housing Implementation Plan project that is underway to assess strategies to address housing needs.
- 1.7 Public Input for the Housing Options project consisted of the following:
 - a. The Albany Planning Commission and City Council served as the advisory body. Six joint work sessions with the advisory body were held between November of 2020 and September 2021 to discuss housing related Code amendments. All work sessions were open to the public, with notification to stakeholders and interested parties.
 - b. Four focus group sessions were held in February of 2021. The session participants included individuals who were renters, homeowners, seniors, young adults, parents with young children, realtors, veterans, housing

developers, builders, and single moms. While the focus group discussions were not focused on specific code or plan concepts, the team sought community input on the benefits and challenges associated with developing middle housing in Albany.

- c. An online survey was developed to gather input on housing needs and design concepts and made available in English and Spanish from February 1 to February 28, 2021. A total of 328 people participated.
 - d. The public was invited to sign up for an “interested parties” emailing list and to provide general comments. The interested parties list includes more than 200 people. A total of 23 comments were received through the online sign-up form and nine letters or emails were sent directly to City staff.
 - e. A project website was maintained throughout the project and periodically updated when new project documents were completed.
 - f. City staff shared project updates at key stages of the project through press releases, social media posts (on Facebook, Twitter, and Instagram), and in the City Bridges newsletter, and two question and answer sessions were held in October of 2021.
 - g. Public notice and hearings were held in accordance with Oregon Administrative Rules (OAR) and ADC 1.260.
- 1.8 Public input for the Housing Implementation Plan has included the following to date:
- a. The Albany City Council appointed a Housing Affordability Task Force to serve as the advisory committee for the Housing Implementation Plan project. Members represent a wide range of housing interests. Meetings are open to the public and recorded.
 - b. Seven focus group meetings were conducted in March 2022 to solicit information and opinions about gaps in Albany’s housing supply and potential strategies to address those gaps. Focus group participants represented a range of stakeholder groups including residents, builders, lenders, affordable housing providers, those facing housing insecurity, and a range of agencies and organizations involved in the planning and provision of housing in the Albany area.
- 1.9 Public involvement for the amendments in planning file DC-02-22, included public notice as required in the OAR and in ADC Section 1.260. Specifically, notice was sent to the Department of Land Conservation and Development on October 7, 2022; notice of public hearings was mailed October 28 to Linn and Benton counties; and notice was published in the Albany Democrat Herald on October 31, 2022. Two public hearings are scheduled – November 14, 2022 (planning commission), and December 14, 2022 (city council).
- 1.10 Through the notification and public hearing process, all interested parties are afforded the opportunity to review proposed text amendments, comment on the proposal, attend the public hearings, and for decisionmakers to consider testimony as they recommend or decide on the final amendments.

Statewide Planning Goal 2, Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual bases for such decisions.

Goal: Undertake Periodic Review and Update of the Albany Comprehensive Plan to ensure the Plan:

1. Remains current and responsive to community needs.
2. Retains long-range reliability.
3. Incorporates the most recent and reliable information
4. Remains consistent with state laws and administrative rules.

Findings of Fact

- 1.11 The Albany Development Code serves as the principal vehicle for implementing the Comprehensive Plan.
- 1.12 Amendments are proposed to remove obstacles to the development of a variety of housing types, in response to community needs.

- 1.13 In 2022, the Oregon Governor signed House Bill 4064, which updated siting standards for manufactured homes and prefabricated structures on land zoned to allow residential detached dwellings.
- 1.14 The proposed text amendments will bring the code into compliance with state law and respond to community needs.

Statewide Planning Goal 10, Housing: To provide for the housing needs of citizens of the state.

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

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

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

Policy 3: Encourage innovation in housing types, densities, lot sizes, and design to promote housing alternatives.

Policy 6: Encourage residential development on already serviced vacant residential lots or in areas where services are available or can be economically provided.

Policy 16: Encourage the development of a range of affordable housing in a range of types and appropriate sizes to meet Albany's housing needs. Examples include accessory apartments, manufactured housing, and middle housing.

Findings of Fact

- 1.15 The proposed amendments support the City's housing goals to provide a variety of development and program opportunities that meet the housing needs of all Albany's citizens; and create a city of diverse neighborhoods where residents can find and afford the values they seek. According to City's permit data, less than five percent of housing units developed in Albany between 2010-2020 were duplexes, triplexes, or fourplexes. Albany has not seen any narrow lot detached single dwelling unit developments. Removing barriers to the development of middle housing, manufactured and prefabricated housing, and other forms of single dwelling units will provide more housing choices within existing and new neighborhoods and may result in housing that is more affordable.
- 1.16 The proposed housing related text amendments will support Housing policies 2, 3, 6, and 16 listed above by:
- a. Allowing more diversity in lot dimensions may result in more housing choices and efficient use of land
 - b. Allowing manufactured homes and prefabricated dwellings of any size may provide more affordable housing options that will help meet the needs of a wider range of residents; and
 - c. Increasing driveway approaches for triplex and fourplex developments may provide more flexibility that encourages their development while retaining front yards with the maximum street frontage requirements for driveways and garages.

Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces: To protect natural resources and conserve scenic and historic areas and open spaces.

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

Vegetation and Wildlife Habitat Goal: Balance compact development patterns with natural resource protection.

Findings of Fact

- 1.17 The purpose of the historic overlay district standards in Article 7 are to protect the City's historic landmarks.
- 1.18 The standards in Article 7 will continue to apply to development located in a historic district and on the local inventory. Specifically, historic review and approval will be required for conversion of any Landmark or Local Historic Inventory resource subject to the standards in Article 7 to middle housing that results in any exterior alterations and for construction of middle housing in Albany's historic districts. The use of substitute materials

and demolition or relocation of Local Historic Inventory resources are subject to the standards in Article 7, as applicable.

- 1.19 The standards in Article 6 apply to Article 6 Natural Resource Districts. The standards limit the development of middle housing other than duplexes in significant natural resource districts sites identified and protected pursuant to Goal 5 as allowed by OAR 660-046.

Statewide Planning Goal 9 Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

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

Findings of Fact

- 1.20 Improving opportunities for work force housing is one way the City can provide a supportive environment for the development and expansion of desired businesses.
- 1.21 The proposed amendments will remove barriers to middle housing, narrow-lot housing, and manufactured and prefabricated housing, thereby enabling additional housing options.

Conclusions: Development Code Amendments Criterion 1

- 1-1 Most of the proposed development code text amendments are due to public input from public outreach over the last two years on housing related projects.
- 1-2 The process to review and adopt the proposed code amendments, which includes issuing notices and making information available prior to the public hearings, also ensures the public can effectively participate in the decision-making process. In addition, public hearings are held before the Planning Commission and the City Council to consider public comments prior to making a final decision. These procedures meet the requirements of citizen involvement in the land use planning process.
- 1-3 The proposed amendments support the City's housing and economic development goals to provide a variety of development and housing opportunities that meet the housing needs of all Albany's citizens; and create a city of diverse neighborhoods where residents can find and afford the values they seek.
- 1-4 Housing development is subject to all applicable standards in the ADC including those in Article 6 regarding natural resources and Article 7 for historic resources.
- 1-5 The proposed text amendments are consistent with the applicable Comprehensive Plan goals and policies related to public involvement, housing opportunities, historic and natural resources, economic development, and land use planning in general.
- 1-6 Given the above analysis, this review criterion is met.

Review Criterion 2.290(2)

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

Findings of Fact

- 2.1 ADC 2.290(2) requires ADC amendments to be consistent with ADC policies and purpose statements for the affected base zones or development regulations where the amendments are proposed. Below are purpose statements from Article 1 – Administration and Procedures, Article 3 – Residential Zoning Districts, Article 8 – Design Standards, Article 9 – On-site Development and Environmental Standards, Article 10 – Manufactured Home Development Standards, and Article 22 – Use Categories and Definitions.

Article 1 Administration and Procedures

ADC Purpose 2: Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

2.2 Proposed amendments include modifications to standards to comply with state law regarding the siting of manufactured and prefabricated housing.

Article 3 Residential Zoning Districts: The residential zones are intended to preserve land for housing. This Code preserves the character of neighborhoods by providing seven zones with different density standards. The site development standards allow for flexibility of development while maintaining compatibility within the City's various neighborhoods. These regulations provide certainty to property owners, developers, and neighbors by stating the allowed uses and development standards for the base zones. Sites within overlay districts are also subject to the regulations in Articles 6 and 7.

(5) **RM—RESIDENTIAL MEDIUM DENSITY DISTRICT.** The RM District is primarily intended for medium-density residential urban development. New RM districts should be located on a collector or arterial street or in Village Centers. Multiple dwelling unit and townhouse development may not exceed 25 units per gross acre.

Findings of Fact

2.3 The purpose of the residential zoning districts is to provide standards to allow for a variety of housing types and densities within the residential zoning districts.

2.4 The purpose of the RM district is to provide for medium-density residential urban development up to 25 units per acre.

2.5 The proposed code amendments to remove the minimum lot depth in all residential zones and reduce the side-yard setback for two-story single dwelling units and middle housing from five feet to three feet, will remove obstacles to housing and lot size variety. The proposed amendments would allow more flexibility in lot shapes, which may enable more housing types, and would allow narrow-lot detached dwellings.

2.6 The proposal to remove the minimum lot depth is consistent with the purpose of the residential zoning districts.

2.7 The proposal to reduce the side-yard setback for two-story single dwellings and middle housing is consistent with the purpose of the RM zone.

Article 8 Design Standards: The purpose of this Article is to establish additional standards for certain uses. These standards are intended to reduce adverse effects on surrounding property owners and the public, to create a business environment that is safe and comfortable, to further energy conservation efforts within the City, to enhance the environment for walking, cycling, and mass transit use, and to ensure that high-quality development is maintained throughout Albany.

Findings of Fact

2.8 Design standards are provided for all residential dwelling types, excluding accessory dwelling units.

2.9 The proposed amendments are specific to ADC 8.165 (2) Garages, Off-Street Parking Areas, and Driveways for Triplexes and Fourplexes. The proposed code changes would increase the maximum total width of driveway approaches from 40 feet to 48 feet per street frontage, or from 20 feet to 24 feet for properties with more than one frontage.

2.10 To retain front yards and support pedestrian safety, no changes are proposed to 8.165(1) that require the combined width of all garages and on-site parking and maneuvering areas to be no more than 50 percent of the street frontage.

2.11 The proposed changes will allow a little more flexibility for triplex and fourplexes, while providing a safe environment for walking, consistent with the purpose of the design standards in Article 8.

2.12 The proposed development code text amendments are consistent with the existing purpose statements for the applicable Design Standards.

Article 10 Manufactured Home Development Standards: Manufactured homes provide a wide choice of housing types suitable for a variety of households, lifestyles and income levels. The standards contained in this article are intended to provide a suitable living environment for residents of manufactured (and prefabricated) homes and establish development standards that will increase compatibility with adjacent land uses.

Findings of Fact

2.13 Amendments to the Manufactured Home Development Standards are necessary to comply with state law, which requires all housing (including manufactured and prefabricated housing) to be allowed through a clear and objective review path.

2.14 Proposed amendments to the review criteria for Placement on Individual Lots retain the criteria that are most important for compatibility with adjacent land uses—roof pitch and perimeter foundation enclosure criteria—and make them clear and objective. Criteria that are outdated or unnecessary for ensuring compatibility with adjacent land uses have been removed. Manufactured and prefabricated homes will continue to be subject to the design standards for single dwelling units in Article 8.

2.15 The proposed development code text amendments are consistent with the purpose statement for Manufactured Home Development Standards.

2.16 A definition of prefabricated dwelling units is proposed in Article 22.

Conclusions: Development Code Amendment Criterion 2

2-1 The proposed Development Code amendments are consistent with applicable purpose statements, special purpose districts, or development regulations where amendments are proposed in Articles 3, 8, 10, and 12 as described in Findings 2.1 through 2.15.

2-2 Based on the above analysis, this criterion is satisfied.

Overall Conclusion

Based on the analysis in this report, the proposed Development Code text amendments meet all the applicable review criteria as outlined in this report.

The Planning Commission has two options with respect to the proposed Development Code and Comprehensive Plan amendments:

Option 1: Recommend that the City Council approve the amendment requests; or

Option 2: Recommend the City Council approve the proposed amendments as modified by the Planning Commission.

Staff Recommendation

Based on the staff recommendation, the following motion is suggested:

I move that the Planning Commission recommend that the City Council approve the proposed Development Code text amendments under planning file DC-02-22.

This motion is based on the findings and conclusions in the November 4, 2022, staff report, and the findings in support of the application made by the Planning Commission during deliberations on this matter.

Attachments

A. Albany Development Code Amendments

Acronyms

ADC	Albany Development Code
AMC	Albany Municipal Code
DC	Development Code Text Amendment File Designation
DLCD	Oregon Department of Land Conservation and Development
LUBA	Oregon Land Use Board of Appeals
OAR	Oregon Administrative Rule
ORS	Oregon Revised Statutes