



COMMUNITY DEVELOPMENT

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

Notice of Filing

Modification to Site Plan Review and Floodplain Development Review

Files: SP-10-20 and FP-01-20

June 17, 2020

The Planning Division has received the following APPLICATION. Please provide any written comments you may have on this project to **Melissa Anderson** (541-704-2319, melissa.anderson@cityofalbany.net) **before 5:00 p.m. on July 1, 2020**, so we may take your comments into account

Application Information

Proposal:	Modification to previously approved Site Plan Review with Floodplain Development Review for construction of a multi-family housing project with associated site improvements (parking, landscaping, common open space areas)
Files:	SP-10-20 and FP-01-20 (Related Files: RL-11-18, SP-01-19, WG-01-19 and FP-01-19)
Review Body:	Staff (Type I-L review)
Property Owner/Applicant:	Willamette River View Holdings, LLC; 3545 Deerfield Drive South, Salem, OR 97302
Applicant's Representative:	Zach Pelz, AICP, Planning Consultant; AKS Engineering & Forestry, LLC; 3700 River Road N, Suite 1, Keizer, OR 97303
Representative's Assistant:	Paige Luehrs, Project Assistant; AKS Engineering & Forestry, LLC; 3700 River Road N, Suite 1, Keizer, OR 97303
Address/Location	594 Geary Street NE; 1905, 1925, 1935 & 2275 Linn Avenue NE & 533 Alco Street NE
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-05BD Tax Lot 300
Zoning:	RM (Residential Medium Density)

The City of Albany has received the application referenced above. We are mailing notice of the application to property owners within 1,000 feet of the development. We invite your written comments on this application to be considered when staff decides on this application. Comments must relate to the approval standards listed below. Issues which may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient detail to allow the City to respond. ***The deadline for submission of written comments is 5:00 p.m. on July 1, 2020, 14 days from the date the City mails the Notice of Filing.***

cd.cityofalbany.net



All application materials are available at the Planning Division, and copies can be obtained for a minimal charge. Should you wish to discuss this case with a planner, please call **Melissa Anderson, Project Planner**, at 541-704-2319, (melissa.anderson@cityofalbany.net). Submit any written comments to the Planning Division; P.O. Box 490; Albany, OR 97321. Any person submitting written comments will receive a copy of the Notice of Decision.

Approval Standards for This Request

Modification of Approved Site Plan Review, Albany Development Code (ADC) 1.226:

1.226 Modification of Approved Site Plan Review and Conditional Use Applications. When a property owner wants to make changes to the approved plans and the approval has not expired, the following procedures shall be used to review the proposed modifications.

- (1) Definitions: When “property owner” is used here, it means the property owner, or the property owner’s authorized agent. When “site plan” is used here, it means the site plan approved through either a Site Plan Review application or review of a Conditional Use application.
- (2) The property owner must submit an application to modify the approved site plan that identifies the areas of the plan or approval proposed to be modified. The application fee will be determined by the Director and will be based on the scope of the modification(s) and review.
- (3) The review body shall be the same one that granted the final approval for which modification is sought. The same procedures shall be used as for the original approval. The Development Code regulations in effect at the time the application for modification is submitted will be used to review the proposed modification(s).
- (4) Only the area proposed to be modified will be reviewed.
- (5) A modification shall not be filed:
 - (a) as a substitute for an appeal, or
 - (b) to seek the reduction or elimination of a condition of approval for infrastructure requirements, or
 - (c) to provide a new timeline for appealing a previously-accepted infrastructure obligation, or
 - (d) to apply for a substantially new proposal, or
 - (e) if it would have significant additional impacts on surrounding properties.

If any of the above conditions exist, a new application must be submitted.

- (6) The modified plan must compensate for any negative effects caused by the requested changes from approved plans such that the intent of the original approval is still met.
- (7) The modification(s) shall be consistent with the approved site plan. If the review body determines that the modified site plan meets the standards in 1.226 (6) and is consistent with the original approval as outlined in 1.226 (8), a modification to the site plan may be allowed. If the modified site plan is consistent with the approved site plan and meets the review criteria specified in this section, the modified plan shall be approved. If the review body determines that the modified site plan is not consistent with the original approval, then approval of the site plan will be denied. If a new application is submitted, it will be subject to the Development Code standards in effect at the time the new application is submitted.
- (8) The review body’s determination on consistency shall be based on a comparison of the approved site plan and the modified site plan, taking into account:
 - (a) The land use category;

- (b) The size and scale of the proposed building(s);
- (c) Traffic and other off-site impacts;
- (d) Compatibility with surrounding development;
- (e) Capacity of available infrastructure; and
- (f) Unusual obstacles and opportunities associated with the property.

The modified site plan will be found to be consistent with the approved site plan if the review body determines that there are no greater adverse impacts, or, if additional adverse impacts are identified, they have been adequately mitigated.

- (9) Conditions of approval:
- (a) When reviewing a modified site plan that has different impacts than the approved site plan, the decision-maker may modify conditions or impose new ones. Only conditions related to the impact of the modified site plan may be imposed on the modified site plan approval. "Impact" means characteristics of the development such as traffic, wastewater discharge, noise, etc.
 - (b) The original conditions of approval imposed for the approved site plan may remain in effect or be increased as necessary to address additional impact. Conditions related to improving existing infrastructure or building new infrastructure (such as streets, sewers, etc.) may be reduced only if the modification substantially reduces the infrastructure burden created by the development.
- (10) The property owner may choose to either accept approval of the modified site plan or to retain the original approval. If the property owner accepts approval of the modified site plan and any conditions that may be imposed, the property owner must give written notice to the Planning Division within 10 days of the date on the notice of decision for approval of the modified site plan. If the property owner accepts approval of the modified site plan, the new approval supersedes and voids the original approval.

If the property owner does not provide the required written notice of acceptance, or if the review body does not approve the modified site plan, the project shall continue to be subject to the original conditions of approval and timelines.

- (11) When first granted, a site plan or conditional use approval is valid for three years [ADC 1.080]. When a modified site plan is approved and accepted, the approval is valid for one year beyond the date that the original site plan approval would have expired. (For example, if the original approval would have expired on July 1, 2001, the approval of the modified site plan is extended to July 1, 2002.)

Any subsequent modification of the site plan will be subject to the time limit established at the time the first modification was approved. The approval can be valid for only a total of four years, including the first three-year period and the one-year extension received with an approved modification to an approved site plan or conditional use.

Floodplain - Site Improvement, Land Division, and Manufactured Home Park Standards, ADC 6.110:

- (1) All proposed new development and land divisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
- (2) All new development and land division proposals shall have utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

- (3) On-site waste disposal systems shall be located and constructed to avoid functional impairment, or contamination from them, during flooding.
- (4) All development proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (5) Any lot created for development purposes must have adequate area created outside of the floodway to maintain a buildable site area meeting the minimum requirements of this Article.
- (6) Any new public or private street providing access to a residential development shall have a roadway crown elevation not lower than one foot below the 100-year flood elevation.
- (7) All development proposals shall show the location of the 100-year flood contour line followed by the date the flood elevation was established. When elevation data is not available, either through the Flood Insurance Study or from another authoritative source, and the development is four or more acres or results in four or more lots or structures, the elevation shall be determined and certified by a registered engineer. In addition, a statement located on or attached to the recorded map or plat shall read as follows: "Development of property within the Special Flood Hazard Area as most currently established by the Federal Emergency Management Agency or City of Albany may be restricted and subject to special regulations by the City." [Ord. 5338, 1/28/98]
- (8) In addition to the general review criteria applicable to manufactured home parks in Article 10, applications that propose actual development within a Special Flood Hazard Area shall include an evacuation plan indicating alternate vehicular access and escape routes.

Floodplain - Grading, Fill, Excavation, and Paving, ADC 6.111:

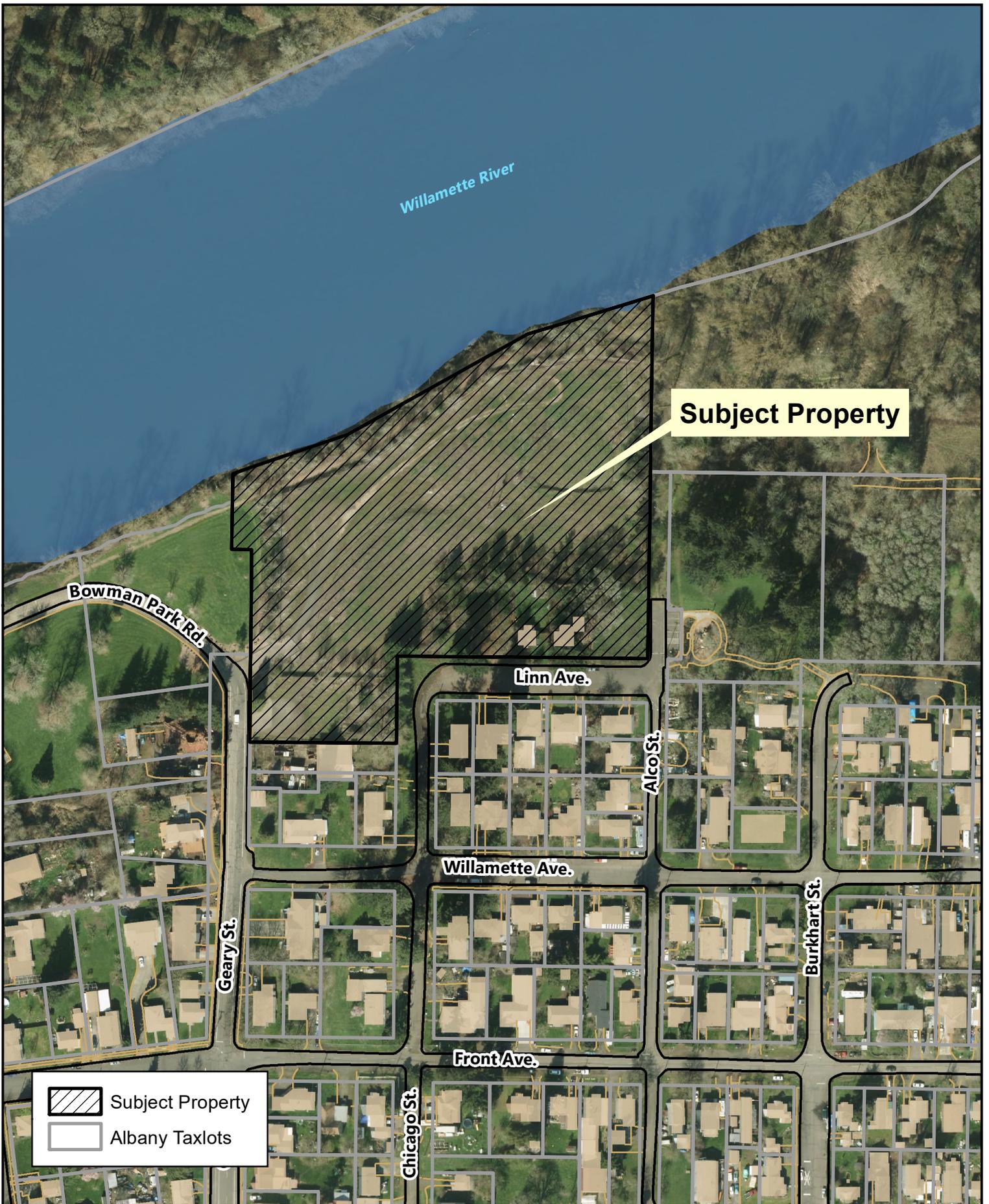
- (1) Provisions have been made to maintain adequate flood-carrying capacity of existing watercourses, including future maintenance of that capacity.
- (2) The proposal will be approved only where adequate provisions for stormwater runoff have been made that are consistent with the Public Works Engineering standards, or as otherwise approved by the City Engineer.
- (3) No grading, fill, excavation, or paving will be permitted over an existing public storm drain, sanitary sewer, or water line unless it can be demonstrated to the satisfaction of the City Engineer that the proposed grading, fill, excavation, or paving will not be detrimental to the anticipated service life, operation and maintenance of the existing utility.
- (4) In areas where no floodway has been designated on the applicable FIRM, grading will not be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed grading, fill, excavation, or paving when combined with all other existing and planned development, will not increase the water surface elevation of the base flood more than a maximum of one foot (cumulative) at any point within the community.
- (5) The applicant shall notify the City of Albany, any adjacent community, and the Natural Hazards Mitigation Office of the Oregon Department of Land Conservation and Development of any proposed grading, fill, excavation, or paving activity that will result in alteration or relocation of a watercourse (See Section 6.101).
- (6) All drainage facilities shall be designed to carry waters to the nearest practicable watercourse approved by the designee as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down spouts and diffusers or other devices.

- (7) Building pads shall have a drainage gradient of two percent toward approved drainage facilities, unless waived by the Building Official or designee.

Additional review standards for this Site Plan Review application are found in ADC Articles 1, 2, 3, 6, 8, 9 & 12.

Attachments: Location Map, Applicant's Summary, Site Plan

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Subject Property

 Subject Property
 Albany Taxlots



N 022550
 Feet

Date: 5/5/2020 Map Source: City of Albany

Location Map: 595 Geary Street NE

City of Albany, OR

I. Executive Summary

AKS Engineering & Forestry, LLC; on behalf of Willamette River View Holdings II, LLC (Applicant—formerly Willamette River View Holdings, LLC) is submitting this application for a modification of an approved Site Plan Review application (SP-01-19) for The Banks multifamily residential development. The project is generally located at 595 Geary Street NE in Albany. The site is comprised of a single tax lot resulting from a lot consolidation/replat application that was reviewed and approved concurrent with the original Site Plan Review (SP-01-19).

SP-01-19 received approval for Site Plan Review (SPR), a Willamette River Greenway permit, a Floodplain Development Permit, and Tree Felling permit. Per Section 1.226(4) of the Albany Development Code, this application involves only a modification to the SPR approval. Subsequently, the City’s review and decision authority is limited to changes to the SPR.

This application involves the following changes to the approved Site Plan summarized in Table 1:

Table 1: Site Modifications

Site Characteristic	Approved Site Plan SP-01-19	Modified Site Plan	Net Change	Code Requirement
Total Units	105	120	+15	158
Density	17 Units/Acre	19 Units/Acre	+2 Units/Acre	25 Units/Acre
Maximum Building Height	39’	36’ 2”	-2’ 8”	45’
Parking	217 spaces	218 spaces	+1 space	209 spaces (minimum)
Common Open Space	44,772 SF	47,427 SF	+2,655 SF	30,548 SF
Lot Coverage of Building Pads	16.2%	16.5%	+0.3%	70% maximum (buildings and pavement)
Lot Coverage of Parking & Driveways	28.4%	27%	-1.4%	70% maximum (buildings and pavement)
Total Lot Coverage	44.6%	43.5%	-1.1%	70% maximum

The requested modification offers a number of improvements over the Approved Site Plan that will allow the Applicant to better address the City’s shortage of needed housing. The proposed increase in the number of homes will generate a necessary increase in rental income without unduly increasing the rental rates. This increase in revenue is necessary to help mitigate a substantial increase in project construction and operational costs. Greater standardization of building types in the modified site plan helps to significantly defray construction costs. A more standard building type and a smaller overall floor area for each new home also helps to reduce the overall building footprint and impervious area on the site. The result is more open space and common area for improved recreational and stormwater management outcomes. Another benefit of the proposed modification is greater opportunity for river view homes, which will ensure that more residents enjoy the visual benefit of the river. While the scope of the review of this application is limited to the specific elements of the site plan that are being modified, the application narrative responds to all applicable criteria as well as to all criteria reviewed under SP-01-19 so that the record is clear on the full scope of the City’s decision authority in this case.

Additionally, this application is for “needed housing” as that term is defined in Oregon Revised Statute (ORS) 197.303(1), because it provides for attached and detached single family housing and is on buildable land. See *Group B, LLC v City of Corvallis*, ___Or Land Use Board of Appeals (LUBA) ___ (LUBA No. 2015-019, August 25, 2016), holding that multifamily housing on buildable land is needed housing; See *Walter v City of Eugene*, ___; or LUBA___ (LUBA No. 2016-024, June 30, 2016). ORS 197.307(4) requires a local government to apply only clear and objective standards, conditions, and procedures to needed housing applications. Clear and objective standards and conditions may not contain subjective, value-laden analyses. *Rogue Valley Assoc. of Realtors v City of Ashland*, 35 Or LUBA 139, 158, aff’d 158 Or App 1, 970 P2d 685(1999). The City has not taken an exception to needed housing under ORS 197.303(3). ORS 197.831 places the burden on local governments to demonstrate that standards and conditions placed on needed housing applications can be imposed only in a clear and objective manner.

The Applicant may choose to accept discretionary standards. This application addresses all standards and conditions. The Applicant reserves the right to object to the application of standards or conditions other than those that are clear and objective and does not waive its right to assert that the needed housing statutes apply to this application.

II. Site Description/Setting

The subject property is approximately ±6.32 acres in size (Linn County Assessor’s Map 11S03W05BD, Tax Lot 300). The property has ±96 feet of frontage on Geary Street NE, ±131 feet of frontage on Chicago Street NE, ±370 feet of frontage on Linn Avenue NE, and less than 100 feet of frontage on Alco Street NE. All abutting streets are classified as local streets where they are adjacent to the subject property, though Geary Street NE becomes a minor collector one block south of the site at Willamette Avenue NE. The site is zoned Residential Medium Density (RM), carries a Medium Density Residential Comprehensive Plan designation, and is within the Willamette River Greenway Overlay District. A portion of the site is in the Floodplain Development Overlay as defined by the 100-year floodplain.

The property is identified as the “Permawood Site” in the Albany Development Code (ADC). The site abuts public parks and open space to the east and the west. Eads Park is to the east of the site across Alco Street NE and is improved with playground equipment. Property to the north of Eads Park and abutting the site to the east is unimproved open space. Bowman Park is to the west and is improved with a public boat launch. Property to the south of the site is in the RS-5 zoning district and is predominately characterized by single family homes. The site is mostly undeveloped though there are two single family homes that are located along the site’s Linn Avenue NE frontage. These homes are planned to be removed prior to the construction of the multifamily homes that are the subject of this application.

While the site is currently zoned for residential use, past uses of the site included industrial uses, such as a manufacturing facility for roof tiles, a warehouse, cabinet shop, and a cement plant. This application for a modification of an approved site plan review includes new multifamily homes that will help the City of Albany accommodate residential population growth, in the manner prescribed in the City’s Comprehensive Plan and Zoning Map, and will ensure enhanced complementarity between adjacent residential uses as compared with the former industrial uses on this site.

