



## COMMUNITY DEVELOPMENT

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

# Staff Report

## Zoning Map Amendment

File: ZC-01-20

July 20, 2020

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, July 27, 2020	Wednesday, August 12, 2020
HEARING TIMES:	5:15 P.M.	7:15 P.M.
HEARING LOCATION:	Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.  At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers):  PLANNING COMMISSION, Monday, July 27, 2020 <a href="https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc">https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc</a> If you wish to dial in using your phone: Call 1-571-317-3122 and when prompted enter access code 498-239-709  CITY COUNCIL, Wednesday, August 12, 2020 <a href="https://www.gotomeet.me/cityofalbany/ccm">https://www.gotomeet.me/cityofalbany/ccm</a> If you wish to dial in using your phone: Call 1-646-749-3129 and when prompted enter access code 491-970-829	

## Executive Summary

The application is a request to rezone an existing 5.42-acre vacant parcel from Neighborhood Commercial (NC) to Office Professional (OP). The subject property is within the boundary of the South Albany Area Plan (SAAP) and is located on the east side of Pacific Boulevard at the intersection of Allen Lane and Pacific Boulevard, immediately adjacent to Linn-Benton Community College (LBCC). The proposed OP zoning district is compatible with the Comprehensive Plan Map Designation of Light Commercial (LC). Key differences between the two zones include:

- Manufacturing and production, as well as small-scale manufacturing and industrial offices, are permitted in the OP zone, whereas those uses are not allowed in the NC zone.
- Drive-thru restaurants are permitted in the NC zone, whereas they are not allowed in the OP zone.

- Multi-family development of three or more units is permitted with conditional use review in the OP zone, whereas they are not allowed in the NC zone.
- Single-family detached units are permitted outright in the OP zone, whereas they require site plan review in the NC zone.

The applicant is Five Point Five, LLC., represented by K & D Engineering, Inc., of Albany, Oregon. This Zoning Map Amendment application was deemed complete on May 7, 2020. At this time, the request is limited to the zone change; the applicant has not submitted a development application for formal land use review. The criteria for amending a zoning map are found in Albany Development Code (ADC) 2.740 and are addressed in the staff report below.

In summary, the proposed amendment satisfies applicable review criteria, will remain consistent with the City’s Comprehensive Plan goals and policies, and will not affect implementation of the statewide planning goals. Therefore, the staff recommendation is APPROVAL of the proposed zoning map amendment.

## Application Information

Proposal:	Zoning Map Amendment from the NC (Neighborhood Commercial) zoning district to the OP (Office Professional) zoning district.
Review Body:	Planning Commission and City Council (Type IV, Quasi-Judicial Decision)
Report Prepared By:	Travis North, Project Planner
Property Owner/Applicant:	Five Point Five, LLC; Mike Spencer; 1347 Spencer Mountain Drive NW, Albany, OR 97321
Applicant’s Representative:	Dan Watson, K & D Engineering, Inc.; P.O. Box 725, Albany, OR 97321
Address/Location	Unaddressed Parcel
Map/Tax Lot:	Linn County Assessor’s Map No. 11S-03W-30 Tax Lot 400
Zoning:	NC - Neighborhood Commercial
Comprehensive Plan Map:	LC - Light Commercial
Acres	5.42 acres
Existing Land Use:	Vacant
Neighborhood:	South Albany
Surrounding Zoning:	North: LI – Light Industrial South: OP – Office Professional East: IP – Industrial Park West: RS – 6.5 Residential Single Family & IP
Surrounding Uses:	North: Single-family residence South: Single-family residence East: Vacant West: Linn-Benton Community College/Single-family residence
Prior History:	Prior land use history could not be located. Zoning maps indicated the parcel has been zoned Neighborhood Commercial (NC) since at least 1987.

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## Review Process and Appeals

The proposal to amend the zoning map is made through a Type IV quasi-judicial land use review process. The planning commission will hold a public hearing to consider proposed amendments and will make a recommendation to the city council. If the planning commission denies the request, it only goes to city council on appeal. The city council will hold a subsequent public hearing to consider the proposed amendments. 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.

## Public Notice

A public notice was mailed to surrounding property owners within 300 feet of the subject property on July 7, 2020, and a notice was posted on the property on July 13, 2020, in accordance with ADC 1.370(2). At the time this report was published, the Albany Planning Division had not received any written comments regarding the proposed project.

## Analysis of Development Code Criteria

The Development Code includes the following review criteria, which must be met for this application to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

### Zoning Map Amendments (ADC 2.740)

***Zoning Map amendments will be approved if the council finds that the applicant has shown that all of the following criteria are met.***

#### Criterion 1

***The proposed base zone is consistent with the Comprehensive Plan Map Designation for the entire subject area unless a plan map amendment has also been applied for.***

#### Findings of Fact

- 1.1 The subject property is designated Light Commercial (LC) on the Comprehensive Plan Map. According to the Plan Designation Zoning Matrix (ADC 2.760, Table 2-1), the existing zone, NC, and the proposed zone, OP, are both compatible zoning districts with the Comprehensive Plan Map Designation.

#### Conclusions

- 1.1 The proposed OP zone is consistent with the Comprehensive Plan Map Designation of LC.
- 1.2 This criterion is satisfied.

#### Criterion 2

***Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.***

### Findings of Fact

- 2.1 The site is located on the east side of Pacific Boulevard at the intersection of Allen Lane and Pacific Boulevard. The zone change would change the designation of a 5.42-acre parcel from NC to OP.
- 2.2 Zone changes are required to comply with the Transportation Planning Rule (TPR). The rule holds that a “significant effect” occurs and must be mitigated if a proposed zone change would result in an existing or planned transportation facility either failing to meet an adopted performance standard or degrading the performance of an already failing facility.
- 2.3 The subject application included a TPR Assessment. The analysis was performed by K&D Engineering. The analysis compared the number of a.m. peak hour, p.m. peak hour, and average daily vehicle trips that could be generated by development of the site under the current NC zone designation with the trips that could result from development under the requested OP designation.
- 2.4 The K&D analysis evaluated potential trip generation from the site based on a variety of potential land uses. The reasonable worst-case use under both zone designations was found to develop with commercial as opposed to residential uses. The mix of commercial uses allowed on the site is best represented by the ITE trip generation category for “Shopping Center.” Because the worst-case use for the two zone designations is the same, there is no difference in traffic impacts that could result from the zone change.
- 2.5 The requested OP zone designation does allow for multifamily development that the current NC zone does not. The K&D analysis found that development of the site with a multifamily use would generate fewer vehicle trips than would development with commercial uses.

### Conclusions

- 2.1 The proposed zone change would change the designation of a 5.42-acre parcel from NC to OP.
- 2.2 The TPR requires that zone changes be evaluated to see if the vehicle trip generation that could occur under the new zone designation is more than could have occurred under current designation, and if so, if the additional trips would result in a “significant effect.”
- 2.3 An analysis submitted by the applicant estimated that a reasonable worst-case development under the requested zone designation would, at most, generate 5 more p.m. peak hour and 59 more average daily trips than would development under the current zone designation. The additional trips generated by the requested zone change at number of trips falls below the Oregon Highway Plan (OHP) threshold of 400 average daily trips for evaluation of a significant effect under the TPR.
- 2.4 This criterion is satisfied.

### Criterion 3

***Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development in the subject area without adverse impact on the affected service area.***

### Findings of Fact

- 3.1 Sanitary Sewer: City utility maps show a 12-inch public sanitary sewer main in Pacific Boulevard and a 10-inch main stubbed to the east side of Pacific Boulevard at Allen Lane.

The City’s Wastewater Collection System Facility Plan does not show any system deficiencies in this area that would indicate that development allowed as a result of the proposed zone change would

adversely impact the public sanitary sewer system. The existing public sanitary sewer facilities should be adequate to serve any potential development allowed under the proposed zoning designation

- 3.2 Water: City utility maps show a 16-inch public water main along the west side of Pacific Boulevard and a 12-inch main crossing Pacific Boulevard at Allen Lane.

The City's Water Facility Plan does not show any system deficiencies in this area that would indicate that development allowed as a result of the proposed zone change would adversely impact the public water system. The existing public water facilities should be adequate to serve any potential development allowed under the proposed zoning designation.

- 3.3 Storm Drainage: City utility maps show a ditch along the east side of Pacific Boulevard along the frontage of the subject property. Pacific Boulevard (Highway 99E) is an ODOT right-of-way under the jurisdiction of the State.

Future development on the subject property, regardless of the zoning designation, is likely to require the construction of on-site stormwater detention facilities as well as stormwater quality facilities. The detention facilities are typically designed to restrict stormwater discharge from the site to pre-development rates, which should mitigate potential impacts to the public storm drainage system in Pacific Boulevard.

Because Pacific Boulevard/Highway 99E is a State highway and under the jurisdiction of ODOT, any future development on the subject property would be subject to ODOT requirements pertaining to stormwater discharge to the highway drainage system.

## Conclusions

- 3.1 Public utilities (sanitary sewer, water, storm drainage) are adequate to serve potential development on the subject property under the proposed Office Professional (OP) zoning designation.
- 3.2 Any specific utility requirements for future development would be determined at the time of land use application for the development.

## Criterion 4

***The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.***

## Findings of Fact

- 4.1 The current zoning designation of the subject property is Neighborhood Commercial (NC). The proposed zoning designation is OP.
- 4.2 According to Section 4.020(2) of the Development Code, the NC zoning district is intended "primarily for small areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within the NC Districts should have as their primary market area the population within a one-half mile radius."
- 4.3 According to Section 4.020(1) of the Development Code, the OP district is "intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses

allowed in this district are selected for their compatibility with residential use and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.”

4.4 For the following reasons, staff conclude that the subject property is poorly aligned with the intent and purpose of the NC zoning district:

- ADC 4.040(2) states that “the NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods.” Save the RS-6.5 zoning district to the west that is the site of the Linn-Benton Community College (LBCC), the subject property is entirely surround by commercial and industrial zoning districts. Although several of the adjoining parcels are developed with single-family residences, the subject property is not located in a “residential neighborhood.”
- ADC 4.040(2) states that “Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts.” Again, there is no “residential pattern of development” adjoining this property. The closest residential neighborhood is the neighborhood north of LBCC. However, this neighborhood is approximately one-half mile from the subject property and is separated from it by a state highway.
- ADC 4.040(2) states that “Generally, uses located within the NC Districts should have as their primary market area the population within a one-half mile radius.” Again, save for the residential area north of LBCC, the surrounding area is sparsely populated. To the east of the subject property is vacant agricultural land. Likewise, the entire east side of the property is comprised of railroad right-of-way, which restricts access from the east. To north and south, are single-family residences. However, these parcels are zoned commercial and industrial, and it is reasonable to conclude they will someday convert to those respective uses. To the west is LBCC; students or faculty are not housed on the campus.
- Per ADC 4.090 (2), Table 4-2, new NC zones may be no more than 30,000 s.f. of contiguous land. The subject parcel is 5.42 acres, which equates to 236,095 s.f., well above what would be allowed for a new NC zone.

4.5 For the following reasons, staff conclude that the subject property is more closely aligned with the intent and purpose of the OP zoning district:

- ADC 4.040(1) states that the OP district is “intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts.” The surrounding area is comprised of an eclectic mix of commercial, institutional, industrial, and residential uses and is surrounded by a diverse mix of zoning districts. The OP district permits a wider array of commercial and residential uses that mirror the surrounding zoning and land use patterns.
- ADC 4.040(1) states that “OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.” The subject property is located along Pacific Boulevard, an arterial street. Likewise, the property acts as buffer between industrial land to the east and LBCC to the west, which is zoned residential.

- 4.6 The following Comprehensive Plan goals and policies are relevant in considering whether the proposed OP zoning designation “best satisfies” the goals and policies of the Comprehensive Plan. Each of the relevant goals and policies are listed below in bold italic print.

**Statewide Planning Goal 1: Citizen Involvement (Chapter 9)**

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

*Policy 2: When making land use and other planning decisions:*

- a. Actively seek input from all points of view from citizens and agencies and assure that interested parties from all areas of the Urban Growth Boundary have the opportunity to participate.*
- b. Utilize all criteria relevant to the issue.*
- c. Ensure the long-range interests of the general public are considered.*
- d. Give particular attention to input provided by the public.*
- e. Where opposing viewpoints are expressed, attempt to reach consensus where possible.*

*Policy 3: Involve the general public in the use, evaluation, and periodic review and update of the Albany Comprehensive Plan.*

*Policy 4: Ensure information is made available to the public concerning development regulations, land use, and other planning matters including ways they can effectively participate in the planning process.*

- 4.7 In Type IV quasi-judicial proceedings conducted for zoning map amendments as proposed by the applicant, the Development Code sets forth provisions for citizen involvement at public hearings before the planning commission and city council. Notice was mailed to surrounding property owners within 300 feet of the subject site and to affected government agencies. Notice of these public hearings was posted on the subject property. Based on these provisions, citizens will have ample opportunity to review and comment on the proposed map amendments.

People who are notified of the public hearings are invited to submit comments or questions about the application prior to the hearing or at the hearing. Review of the applications are based on the review criteria listed in the Development Code. The purpose of the public hearing is to provide the opportunity for people to express their opinion about the proposed changes. The planning commission and city council facilitate this process through their respective public hearings.

**Statewide Planning Goal 2: Land Use Planning-Land Use Designations (Chapter 9)**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

- 4.8 According to the Albany Comprehensive Plan, “The relationship of the Plan designations to the zoning districts is summarized graphically in the ‘Plan Designation Zoning Matrix’. This matrix is for determining the compatibility of a particular zoning district with any given Plan designation. The matrix shows what zoning districts are compatible with each Plan designation”. The LC Comprehensive Plan Map Designation includes the OP zoning district.

**Statewide Planning Goal 5: Open Spaces, Scenic and Historic Areas, & Natural Resources (Chapter 1)**

*Goal: Protect wetlands to ensure their continued contribution as natural areas, open space, wildlife and vegetative habitat, and storm water retention and conveyance.*

*Policy 1: Protect and enhance wetlands adopted as significant in the Local Wetlands Inventory.*

*Policy 4: Coordinate the review of any development proposal that could impact a wetland with applicable local, state, and federal agencies including Linn and Benton Counties, the Oregon Division of State Lands, the Army Corps of Engineers, Soil Conservation Service, Soil and Water Conservation Districts, etc.*

- 4.9 The subject property contains non-significant local wetlands that are regulated by the Oregon Department of State Lands (DSL). The city notified DSL of the pending application on February 26, 2020. DSL provided acknowledgement of the notification on March 6, 2020 (Attachment D).

**Statewide Planning Goal 9: Economic Development-Economy (Chapter 3)**

*Goal 1: Diversify the economic base in the Albany area and strengthen the area’s role as a regional economic center.*

*Goal 5: Strive for a balance of growth in jobs and housing for Albany and the region.*

- 4.10 The OP zone allows for wider range of industrial uses than the NC zone. Specifically, manufacturing is a permitted use in the OP zone, whereas it is not permitted in the NC zone. Because manufacturing is typically regional in nature, the inclusion of manufacturing supports the goal of strengthening the area’s role as a regional economic center. Likewise, the OP zone also permits a wider range of residential uses than the NC zone. Specifically, multi-family housing of three or more units is permitted with a conditional use review in the OP zone, whereas they are prohibited in the NC zone. Additionally, single-family units and two-family units are permitted outright in the OP zone, whereas they require a site plan review in the NC zone. Therefore, the proposed zone change from NC to OP provides greater flexibility in balancing the need for jobs and housing in Albany.

**Statewide Planning Goal 9: Economic Development - Land Use (Chapter 3)**

*Goal 1: Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Albany, including commercial, professional, and industrial development.*

*Goal 2: Achieve stable land-use growth that results in a desirable and efficient land-use pattern.*

*Goal 4: Promote infill development and redevelopment throughout the City.*

- 4.11 As discussed above, the OP zone allows for limited industrial uses and therefore supports Goal 1. The subject property is a vacant parcel located along an arterial street. Given the wider range of permitted uses in the OP zone, the proposed zone change is anticipated to spur development of the property and therefore supports Goal 2 and Goal 4.

**Statewide Planning Goal 9: Economic Development – Public Infrastructure (Chapter 3)**

*Goal 1: Ensure that new industrial and commercial development is located in areas that can be adequately served by public infrastructure.*

- 4.12 The availability of public infrastructure is discussed in detail in Criterion 3. The site is fully served with public utilities with adequate capacity to serve the allowable uses in the proposed zone. Therefore, the proposed zone change meets Goal 1.

**Statewide Planning Goal 10: Housing (Chapter 4)**

**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’s citizens.**

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

**Policy 1: Ensure an adequate supply of residentially-zoned land in areas accessible to employment and public services.**

- 4.13 Although the OP zoning district does not technically qualify as “residentially-zoned land,” as noted above residential uses are permitted in the zone, including single-family and multi-family units. A development proposal was not provided with this application for a zoning change. The applicant states in the findings (Attachment B) that “we believe this property is ideally suited to provide services needed in the area. Residential housing that would serve the student population attending Linn-Benton Community College across the street for [sic] this property would also be allowed under a Conditional Use Review.” However, it is not clear whether the applicant intends to develop residential units on the property or, for that matter, how they intend to develop the property. Residential development would support Albany’s housing goals, particularly given the subject property’s close proximity to LBCC, which is a regional center for both employment and public services.

**Statewide Planning Goal 12: Transportation (Chapter 5)**

- 4.14 The facts surrounding the transportation system are more fully addressed in the TPR Analysis completed by K&D Engineering (Attachment E) and staff analysis found in Criterion 2 of this report. At worst, the requested zone change would generate 5 more p.m. peak hour and 59 more average daily trips than would development under the current zone designation. The additional trips generated by the requested zone change at number of trips falls below the Oregon Highway Plan (OHP) threshold of 400 average daily trips for evaluation of a significant effect under the TPR. Therefore, the proposed change is consistent with Goal 12 and will not hinder the City of Albany in providing an efficient transportation system that provides for the local and regional movement of people and goods. It will not hinder the City of Albany’s goal of providing a safe transportation system that ensures mobility for all community members and providing alternatives to automobile travel.

**Statewide Planning Goal 14: Urbanization (Chapter 8)**

**Goal 1: Achieve stable land use growth which results in a desirable and efficient land use pattern.**

**Policy 9: Encourage the use of already serviced vacant and underdeveloped land through adaptive reuse of older areas of the community and the development and/or partitioning of lots which can meet minimum lot size requirements.**

**Policy 15: Encourage land use patterns and development plans which take advantage of density and location to reduce the need for travel and dependency on the private automobile, facilitate energy-efficient public transit systems, and permit building configurations which increase the efficiency of energy use.**

**Policy 16: Provide development opportunities for large-scale industrial and commercial development and for people to live in proximity to activity centers, particularly their place of employment.**

4.15 The subject property is vacant and fully serviced with City of Albany water, sanitary sewer, storm drainage, and police and fire service. The property is located on an arterial street adjacent to a regional employment and public service hub (e.g. LBCC, Target Distribution) and in proximity to residential neighborhoods. Development of the property with residential, commercial, industrial or mixed-use would enable Albany residents to live and work in close proximity to nearby neighborhoods, public transit and activity centers.

**Statewide Planning Goal 14: South Albany Area Plan (Chapter 8)**

**Policy 1: South Albany will be further planned and developed as a complete and livable community. It will include livable neighborhoods, varied housing, mixed use centers, schools, employment sites (commercial and industrial), parks, and natural resource areas – all tied together by a connected pattern of streets, pathways and open space**

4.16 As previously noted, the OP zoning district permits a wider range of industrial and residential uses than the NC zoning district. Therefore, the OP zone provides greater flexibility in achieving the diverse mix of uses noted in Policy 1.

**Policy 3: South Albany’s overall land use pattern of residential, employment, and open space areas shall be generally consistent with the Organizational Framework (see Figure 1).**

4.17 The subject property is classified as employment land in the South Albany Area Plan (SAAP). As a commercial zoning district, the proposed zoning of OP is consistent with this designation.

**Policy 4: Development patterns in South Albany should promote the efficient use of land and infrastructure and conservation of significant natural resources.**

4.18 The subject property is a vacant parcel that is fully served by public utilities. The proposed zone change to OP is intended to spur development of the property by allowing a slightly wider range of uses. Development of the property supports the efficient use of land and existing infrastructure.

**Policy 14: Commercial and Industrial lands in South Albany will help fulfill the City’s Economic Opportunities Analysis, take advantage of South Albany’s location in the region, and fulfill the economic role of the area defined by the plan. Zoning regulations for employment lands will incorporate flexibility in order to respond to changes in business and industry trends.**

**Policy 17: Comprehensive Plan and Zoning Map designations shall implement the Land Use Plan (see Figure 5), and be consistent with the following table:**

SAAP Land Use Concept	Comprehensive Plan Map Designation	Zone Map Designation*
Low Density Residential	Low Density Residential	RS-5, RS-6.5, RS-10
Medium Density Residential	Village Center at the Lochmer and Columbus centers	RM
	Medium Density Residential elsewhere	RM, RS-5
Neighborhood Center	Village Center at the Lochmer and Columbus centers	MUC
	Medium Density Residential at Mennonite Village	NC
Regional Commercial	General Residential	RC
Neighborhood Commercial	Light Commercial	NC
Industrial Park	Light Commercial	IP
Light Industrial	Light Industrial	LI
Heavy Industrial	Heavy Industrial	HI
Community Park	Low Density Residential	RS-5
Open Space	Open Space	OS

\*Note: Overlay districts apply as applicable.

4.19 The introduction to “Chapter 8: Urbanization (Goal 14) – South Albany Area Plan” states that “In addition to the following South Albany policies, city-wide goals and policies throughout the Comprehensive Plan also apply in South Albany. Where there is inconsistency, the South Albany policies take precedence over the application of other Comprehensive Plan policies.” As shown in the table above, OP is not included in the NC SAAP “Zone Map Designation.” Curiously, OP is not listed in any of the SAAP Zone Map Designations. This implies that use is not permitted in the entirety of the SAAP area and that this restriction would supersede the Comprehensive Plan Designation of LC, which lists OP as a compatible zoning district. However, Policy 14 states that “Zoning regulations for employment lands will incorporate flexibility in order to respond to changes in business and industry trends.” Moreover, Policy 3 states that “South Albany’s overall land use pattern of residential, employment, and open space areas shall be *generally* consistent with the Organizational Framework (see Figure 1)” [emphasis added]. These two policies provide a reasonable level of flexibility within the SAAP regarding implementation of land use and zoning regulations. As shown below, the subject property is classified as “employment” land. As an LC zoning district, the OP zoning district is “generally consistent” with that classification.

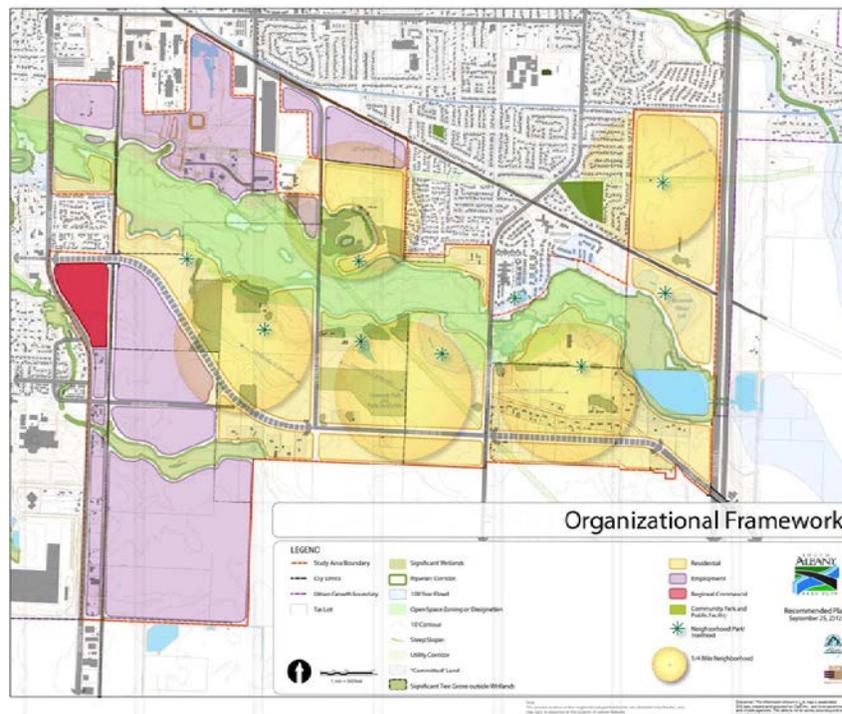


Figure 1. Organizational Framework

**Conclusions**

- 4.1 Based on the size of the property and its location along an arterial street in a sparsely populated area, the property is more aligned with the intent and purpose of the OP zone than it is the NC zone.
- 4.2 Goal 1, Citizen Involvement. Landowners within 300’ of the subject property were notified of the public hearing. Likewise, the City posted a notice of the public hearing on the City website and the property was also posted with notices of the public hearing.

- 4.3 Goal 2, Land Use Planning. The LC Comprehensive Plan Designation lists both the NC and OP as compatible zoning districts.
- 4.4 Goal 9, Economic Development. The OP zoning district supports a wider range of industrial uses that support the City's economic development goals.
- 4.5 Goal 10, Housing. The OP district permits a wider range of the residential uses than the NC district and therefore is consistent with Goal 10 - Housing.
- 4.6 Goal 12, Transportation. The proposed zone change will have a negligible impact on the existing transportation system.
- 4.7 Goal 14, Urbanization. The subject property is vacant and fully serviced with public utilities. The proposed zone change will facilitate its development and therefore aligns with Goal 14, Urbanization.
- 4.8 Goal 14, Urbanization. The SAAP Zone Map Designation does not list the OP zone. However, flexibility with implementing the SAAP is provided in Policy 3 and 14.
- 4.9 This criterion has been satisfied.

## Criterion 5

***The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study.***

### Findings of Fact and Conclusion

- 5.1 Albany's Transportation System Plan (TSP) includes improvements necessary to accommodate anticipated development through the year 2030. The TSP does not include any projects along the frontage of this site.
- 5.2 Aside from the TSP, the subject property is not situated in the study area of any City-contracted or funded land use or transportation plan or study.

### Conclusions

- 5.1 The proposed zone change will not modify the transportation pattern envisioned by the TSP.
- 5.2 The subject property is not situated in the study area of any City-contracted or funded land use or transportation plan or study.
- 5.3 This criterion is not applicable.

## Overall Conclusion

The application for Zoning Map Amendment from the NC (Neighborhood Commercial) zoning district to the OP (Office Professional) zoning district satisfies all applicable review criteria as outlined in this report. The staff analysis concluded that the availability of utilities and infrastructure, the subject property's close proximity to LBCC and its location along an arterial street, and the surrounding land use patterns make the 5.42-acre property an ideal candidate for the proposed zone change. On balance, the evidence supports changing the zoning designation of the subject property from NC to OP.

## Options for the Planning Commission

The planning commission has three options with respect to the proposed zone change request:

- Option 1: Recommend the city council approve the request as proposed;
- Option 2: Recommend the city council approve the request with conditions; or
- Option 3: Deny the request. The city council will only consider the proposal on appeal by the applicants.

## Motion

Based on findings and conclusions presented in this report, staff recommends the planning commission choose Option 1 and recommend approval of the zone change request. If the planning commission follows this recommendation, the following motion is suggested:

*I move that the planning commission recommend that the city council approve land use application ZC-01-20, as described in the July 20, 2020, staff report to the planning commission. This motion is based on the findings and conclusions in the staff report, and the findings in support of the application made by the planning commission during deliberations on this matter.*

## Attachments

- A. Location Map
- B. Applicant's Narrative & Findings
- C. Applicant's Findings for the Transportation Planning Rule
- D. DSL Wetlands Notification Response (#WN-2020-0153)

## Acronyms

ADC	Albany Development Code
IP	Industrial Park zoning district
ITE	Institute of Traffic Engineers
LBCC	Linn-Benton Community College
LC	Light Commercial
LI	Light Industrial zoning district
LLC	Limit Liability Company
LUBA	Land Use Board of Appeals
NC	Neighborhood Commercial zoning district
ODOT	Oregon Department of Transportation
OHP	Oregon Highway Plan
OP	Office Professional zoning district
RS-6.5	Residential Single-Family zoning district
SAAP	South Albany Area Plan
TPR	Transportation Planning Rule
TSP	Transportation System Plan



**Proposed Zone Change  
from Neighborhood Commercial (NC)  
to Office Professional (OP)**

RS-6.5

Allen Ln.

NC

Text

IP

OP

Highway 99E



Subject Property

Albany Taxlots

\\ca.cityofalbany.net\homes\melissam\Desktop\Basemap\_8x11.mxd



02250

Feet

# Linn Co. Assessor Map No. 11S-03W-3000 Tax Lot 400

Date: 2/26/2020 Map Source: City of Albany

City of Albany



**Review Criteria / Written Response**  
**Zoning Map Amendment**  
**for**  
**FIVE POINT FIVE**

**Tax Lot 400, Map 11S-03W-30**

**Narrative:**

We are requesting a rezone of this property from Neighborhood Commercial (NC) to Office Professional (OP). The property to the North is Zoned Light Industrial (LI) and the property to the south is Zoned Office Professional (OP). The Comprehensive Plan Designation is Light Commercial.

The property is currently zoned Neighborhood Commercial (NC). The NC district is intended primarily for areas of retail establishments serving nearby residents' frequent needs in convenient locations. The NC District is typically appropriate for small clusters or service centers located at intersections within residential neighborhoods. Businesses should fit into the residential pattern of development and not create land use, architectural or traffic conflicts. Generally, uses located within NC Districts should have as their primary market area the population within a one-half mile radius. Multi family dwelling units are not allowed in this zone.

The OP district is intended to provide a vertical or horizontal mix of professional offices, personal services, live-work, residential and limited related commercial uses in close proximity to residential and commercial districts. The limited uses allowed in this district are selected for their compatibility with residential uses and the desired character of the neighborhood. OP is typically appropriate along arterial or collector streets as a transitional or buffer zone between residential and more intense commercial or industrial districts.

We believe this property is ideally suited to provide services needed in the area. Residential housing that would serve the students population attending Linn Benton Community College across the street for this property would also be allowed under a Conditional Use Permit.

**Review Criteria (ADC 2.740):**

*Criteria 1: "The proposed base zone is consistent with the Comprehensive Plan map designation for the entire subject area unless a Comprehensive Plan map amendment has also been applied."*

**Response:** On Page 8-7 of Chapter 8 Urbanization, under "Urbanization, Development Review, Background Study" The Comprehensive Plan states: "There should also be consideration of how well proposed developments provide convenient, efficient, and functional living, working, and/or

shopping environments.” The proposed zoning provides low intensity services and/or housing in a convenient location to the Community College across the street and the residential neighborhoods to the northwest.

**Response:** Page 8-12 of Chapter 8 Urbanization “Goal 13: Energy Conservation” under implementation reads: 2. Promote land use development patterns and projects that are energy efficient and cost effective. Housing and neighborhood level services are energy efficient by encouraging pedestrian travel to the local housing and community college.

**Response:** The South Albany Area Plan (SAAP) was adopted as part of the Comprehensive Plan in February 2013. This site is within the SAAP study area. Figure 5, Land Use Plan, of the SAAP designates the property Neighborhood Center, the property to the north as Industrial – Light and the property to the south as Residential Medium Density. This zoning meets the current Comprehensive Plan designation and is compatible with the Land Use Plan designations of the neighboring properties as shown in the South Albany Area Plan (SAAP).

**Response:** Page 8-9 of Chapter 8 Urbanization “Goal 14: Urbanization” under Policies reads: 4. Encourage flexibility in design review and interpretation of policies and regulations by ensuring that functional design and community benefit remain as the principal review criteria. Consider variance, conditional use, and special request procedures where strict interpretation of regulations would impede fulfillment of these criteria. OP zone designation provides some flexibility to provide a variety of services that meet the needs of the neighborhood.

**Finding:** *The proposed base zone is consistent with the current Comprehensive Plan Map designation for the entire subject area.*

*Criteria 2: “Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.”*

**Response:** The site accesses Highway 99E. Highway 99E is a fully improved and listed as a Principal Arterial on Figure 7-4 of the Albany Transportation System Plan (TSP).

**Response:** Access to the property will be from Highway 99E. This site is subject to access control by ODOT with one reservation of access. One access will adequately serve this site under the proposed zoning. ODOT review will be required prior to construction of the access.

**Response:** Highway 99E is currently improved to urban standards with two bike lanes, two travel lanes and a center turn lane.

**Response:** Figure 7-3 from the TSP shows that 2030 traffic demand to capacity ratios will be 0.74 on Highway 99E at the site. This is well within City objectives.

**Finding:** *Existing or anticipated transportation facilities are adequate for uses permitted under the proposed zone designation.*

*Criteria 3: "Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area."*

**Response:** Storm drainage from the site will drain to ODOT Highway 99E drainage ditch facilities. The highway drains to East Fork Oak Creek. The City of Albany Drainage Master Plan reviewed this area and provided recommendations for pipe sizing under roadways. The analysis provided did not find any deficient ditches in the East Fork Oak Creek System. There are no master plan recommended drainage facilities located on this site. Current City development codes require storm water detention and water quality treatment, impacts to the system will be less than anticipated by the study.

**Response:** The site is served by a twelve-inch diameter public water main water line located in Highway 99E and stubbed to the west boundary of the site.

**Response:** The site is served by a ten-inch diameter public sewer collection line stubbed out to the west boundary of the site.

**Response:** The site is within the city service areas for fire and police protection and will be served by the City of Albany.

**Response:** The site is served by the Greater Albany Public School District. The District is currently upgrading the school building system through a \$50 million bond measure funded by property taxes.

**Finding: Existing or anticipated services (water, sanitary sewers, storm sewers, schools, police and fire protection) can accommodate potential development within the subject area without adverse impact on the affected service area.**

*Criteria 4: "The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan."*

**Response:** Page 8-7 of Chapter 8 Urbanization, under "Urbanization, Development Review, Background Study" The Comprehensive Plan states: "There should also be consideration of how well proposed developments provide convenient, efficient, and functional living, working, and/or shopping environments." The proposed zoning provides low intensity services and/or housing in a convenient location to the Community College across the street and the residential neighborhoods to the northwest.

**Response:** Page 8-12 of Chapter 8 Urbanization "Goal 13: Energy Conservation" under implementation reads: 2. Promote land use development patterns and projects that are energy efficient and cost effective. Housing and neighborhood level services are energy efficient by encouraging pedestrian travel to the local housing and community college.

**Response:** The "Vision for South Albany" Goals listed on Page 8-23 of the Comprehensive Plan for the South Albany Area Plan (SAAP) states: "South Albany will be: 1. A complete, walkable

*and welcoming community*". The services including multi-family housing promotes this goal. The SAAP was adopted as part of the Comprehensive Plan in February 2013. This site is within the SAAP study area. This zoning meets the Comprehensive Plan designation and is consistent with the South Albany Area Plan (SAAP) goals.

**Finding: The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan.**

*Criteria 5: "The land use and transportation pattern recommended in any applicable City-contracted or funded land use or transportation plan or study has been followed, unless the applicant demonstrates good cause for the departure from the plan or study."*

**Response:** The proposed zoning is compatible and consistent with the Street Framework adopted in the SAAP. The Street Framework was based on the TSP.

**Response:** The proposed zoning is compatible and consistent with the Trail Framework adopted in the SAAP.

**Response:** This zoning is consistent with the TSP. Figure 7-3 from the TSP shows that 2030 traffic demand to capacity ratios will be 0.74 on Highway 99E at the site. This is well within City objectives.

**Finding: The use and transportation pattern recommended in the TSP is being followed and is consistent with the proposed zoning.**

**APPENDIX**

**Tax Lot 400, Map 11S-03W-30**

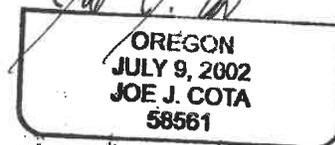
**K & D ENGINEERING, Inc.***Engineers • Planners • Surveyors*Legal Description

## Zone Change

Tax Lot 400 of Linn County Assessor Map 11S03W30

All of that property conveyed to Fivepointfive, LLC by Warranty Deed recorded in Document Number 2010-09583 in the Linn County, Oregon Deed Records on June 11, 2010, said property being located in the East 1/2 (half) of Section 30, Township 11 South, Range 3 West, Willamette Meridian, Linn County, Oregon and is more particularly described as follows:

Beginning at a 1/2 inch rod at the southwest corner of said Fivepointfive, LLC property, said rod being on the east right-of-way line of Pacific Highway and is 38.66 feet East and 287.18 feet South of the West 1/4 (quarter) Corner of said Section 30; thence North 00°31'30" East, along said east right-of-way line, 818.48 feet; thence EAST 284.65 feet to a point on the west right-of-way line of the Southern Pacific Railroad; thence South 00°07'00" West, along said west right-of-way line, 818.48 feet to a 1/2 inch rod; thence WEST 290.72 feet to the Point of Beginning.



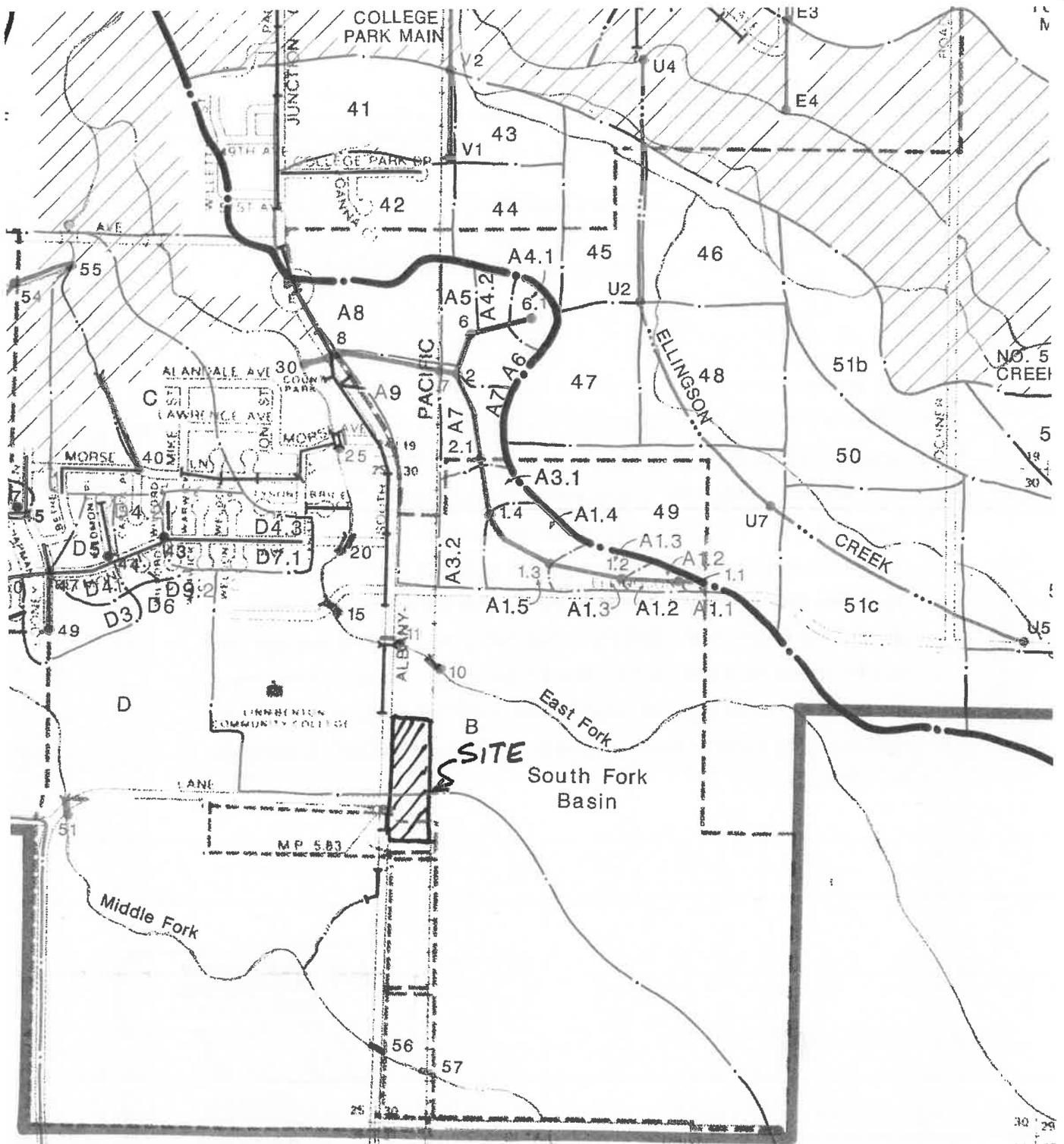
RENEWS: 12/31/19

August 27, 2019

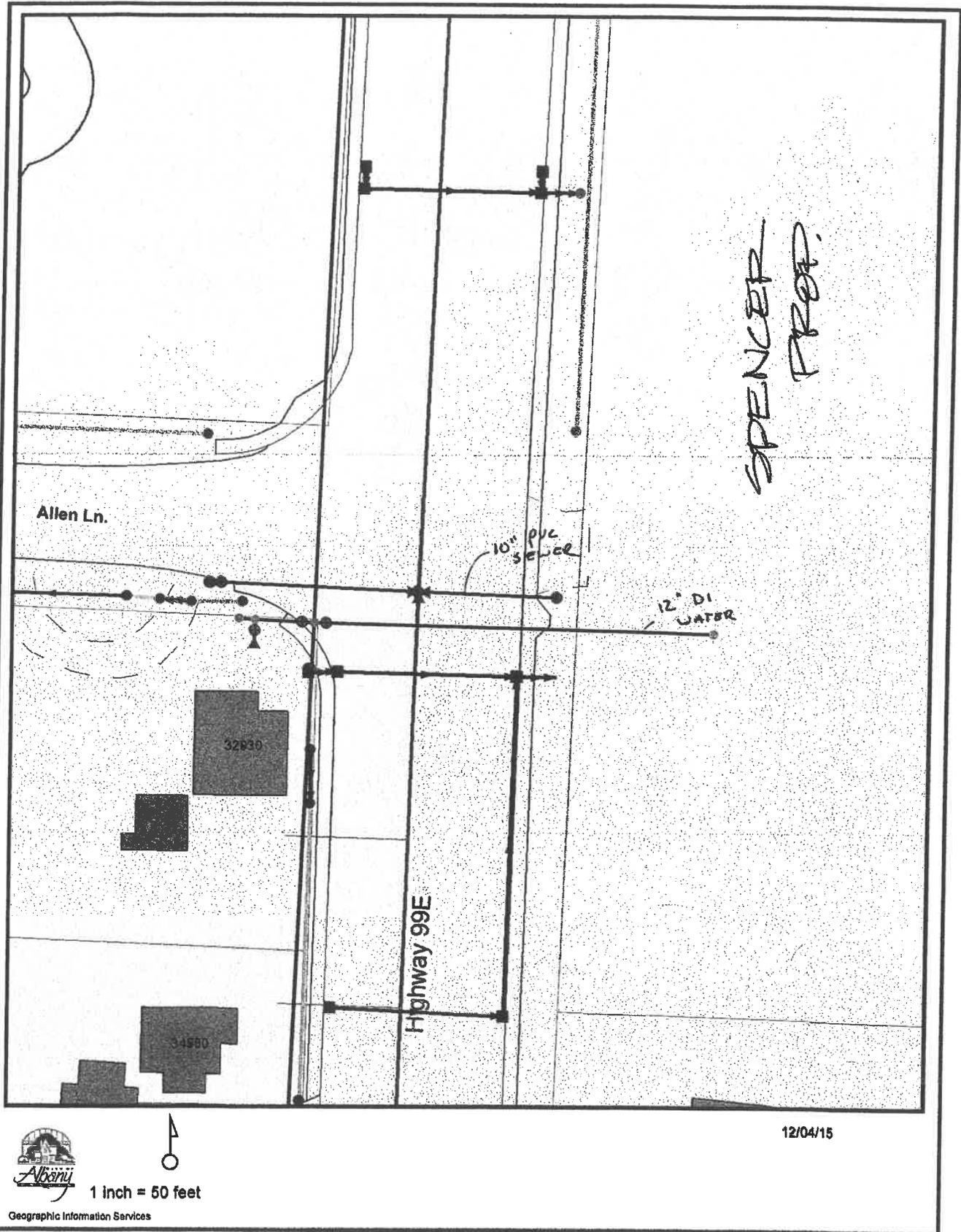
ZONE CHANGE DESCRIPTION

(18-63) JJC:ls

File Ref: z:/projects/2018/18-63/surveying/documents/Legal Description.doc



From: City of Albany Master Drainage Plan

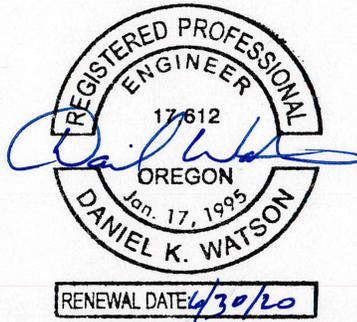






TRAFFIC TRIP GENERATION STUDY

Assessor's Map 11S-03W-30  
Albany, Oregon



Prepared by: Daniel Watson, P.E.  
K&D Engineering  
P. O. Box 725  
Albany, OR 97321

Client: Five Point Five, LLC

Date: April 30, 2020

## TRAFFIC TRIP GENERATION

### Five Point Five, LLC

Assessor's Map 11S-03W-30  
Albany, Oregon

#### Project Description

Five Point Five, LLC has submitted a rezone application to the City of Albany for this 5.42 acre site (236,100 sf). This site takes access to State Highway 99E across from Linn Benton Community College. The City has requested that the Applicant prepare an estimate of the potential change in traffic as a result of the proposed zone change in order to meet State Transportation Planning Rule policies. This review does not account for pass by trips.

The Property is currently zoned Neighborhood Commercial (NC). The proposed zone is Office Professional (OP). Table 4-1 of the Albany Development Code provides a schedule of permitted uses.

The Development Code limits retail sales in both zones for each individual business to 5,000 sf maximum floor area. For retail uses we utilized a floor area ratio of 0.25.

Only NC allows drive through Restaurants (with a Conditional Use permit). For the fast food with drive through we used a 2,500 sf building and a 32,000 sf lot size.

Both allow sit down restaurants and a floor area ratio of 0.20 was used because of the higher parking requirement when compared to dental/medical offices.

Only OP allows multi-family use (with a Conditional Use permit). City code requires 1,600 sf per unit.

Both Uses Allow Taverns, Bars and Night Clubs (with a Conditional Use permit).

Both Uses allow Offices with Medical-Dental being the highest trip generator.

Only OP Allows multi-family residential.

Several scenarios using the highest identified trip generators have been compiled and are presented in the following charts.

### Project Trips

Project related traffic consist of trips on any portion of the public street system that will begin or end at the project site as a result of the proposed development.

Proposed Uses for The Site:

FACILITY	ITE CODE	DAILY TRIPS	PM PEAK TRIPS
Medical Offices	720	34.80/ksf	3.46/ksf
Multi-Family (mid-rise)	221	5.44/unit	0.44/unit
Fast Casual Restaurant	930	315.17/ksf	14.13/ksf
Fast Food w/Drive Through	934	470.95/ksf	32.67/ksf
Shopping Center	820	37.75/ksf	3.81/ksf
Drinking Place	925	N/A	11.36/ksf

### Trip Generation

Trip generation is a measure or forecast of the number of trips that will be made to or from the project. It is generally equal to the traffic volume expected at the project entrance. All trips will access from State Highway 99E.

#### NC or OP ZONE TRIP GENERATION OPTION 1

Land Use	Unit of Measure	Units	PM Peak Hour Trip Rate	PM Peak Hour Trips	Total Trip Rate	Total Trips
Shopping Center ITE Code 820	/KSF Floor Area	59.0	3.81	<b>225</b>	37.75	2,228

Medical Offices, ITE Code 720 trips rates are slightly lower than Shopping Center rates.

**NC ZONE TRIP GENERATION  
OPTION 2**

Land Use	Unit of Measure	Units	Peak Hour Trip Rate	<b>PM Peak Hour Trips</b>	Total Trip Rate	Total Trips
Shopping Center ITE Code 820	/KSF Floor Area	51.0	3.81	<b>195</b>	37.75	1,926
Fast Food with Drive Through ITE Code 934	/KSF Floor Area	2.5	32.67	<b>82</b>	470.95	1,178
<b>SUM OPTION 2</b>				<b>277</b>		3,104

**OP ZONE TRIP GENERATION  
OPTION 2**

Land Use	Unit of Measure	Units	Peak Hour Trip Rate	<b>PM Peak Hour Trips</b>	Total Trip Rate	Total Trips
Shopping Center ITE Code 820	/KSF Floor Area	52.8	3.81	<b>202</b>	37.75	1,994
Fast Casual Restaurant ITE Code 934	/KSF Floor Area	5	14.13	<b>71</b>	315.17	1,576
<b>SUM OPTION 2</b>				<b>273</b>		3,570

**OP ZONE TRIP GENERATION  
OPTION 3**

Land Use	Unit of Measure	Units	Peak Hour Trip Rate	Pear Hour Trips	Total Trip Rate	Total Trips
Multi Family ITE Code 221	/unit	148	0.44	<b>65</b>	5.44	806

Based on this analysis both zone designations result in similar highest projected traffic generation rates. The proposed Office Professional (OP) zone results in slightly fewer peak hour and total daily trips. This difference in the maximum rates due to the Neighborhood Commercial (NC) zone allowing drive through fast food restaurants while OP zone disallows them. OP Zone allows multi-family residential where NC disallows this use, but this residential use results in lower traffic rates than other allowed uses.





## Wetland Land Use Notice Response

### Response Page

Department of State Lands (DSL) WN#\*

WN2020-0153

### Responsible Jurisdiction

Staff Contact	Jurisdiction Type	Municipality
Melissa Anderson	City	Albany
Local case file #	County	
ZC-01-20	Linn	

### Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
11S	03W	30		400

Street Address

Address Line 2

City

State / Province / Region

Postal / Zip Code

Country

Linn

Latitude

44.585082

Longitude

-123.109148

### Wetland/Waterway/Other Water Features

- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- Local Wetlands Inventory shows wetland, waterway or other water features on the property

### Your Activity

- An onsite inspection by a qualified wetland consultant is recommended prior to site development to determine if the site has wetlands or other waters that may be regulated. The determination or delineation report should be submitted to DSL for review and approval. Approved maps will have a DSL stamp with approval date and expiration date.

- A state permit will not be required for the proposed project because, based on the submitted site plan, the project avoids impacts to jurisdictional wetlands, waterways, or other waters.

## Applicable Oregon Removal-Fill Permit Requirement(s)

- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

## Closing Information

### Additional Comments

Based on review of mapping submitted, the proposed activity ("Zoning map amendment from NC-Neighborhood Zone District to OP-Office Professional Zoning District") does not directly impact jurisdictional wetlands, waterways or other waters of the state.

Please note that this response is solely for the zoning map amendment and does not include any future site development/ground disturbance on the subject tax lot. The Local Wetland Inventory map shows a farmed wetland throughout the central portion of the tax lot; extending from the northeast corner of the lot to the southwest corner of the lot. Prior to future ground disturbance activities on the tax lot, it is recommended that a wetland determination/delineation be conducted by a certified wetland consultant in order to identify potentially jurisdictional wetlands. The resultant report should be submitted to the Department of State Lands for review and approval/concurrence.

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

### Response Date

3/6/2020

### Response by:

Grey Wolf

### Response Phone:

503-986-5321