

ORDINANCE NO. 5789

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY DEVELOPMENT CODE AND ZONING MAP BY AMENDING THE DEVELOPMENT CODE TEXT RELATED TO THE SPECIAL STATUS FOR SPECIFIC RESIDENTIAL PROPERTIES, ADOPTING FINDINGS, AND DECLARING AN EMERGENCY (FILE DC-05-12).

WHEREAS, from time to time it is appropriate to amend the Albany Development Code (Code) based on changing conditions, to respond to needs within the community, and to be in compliance with state and federal laws; and

WHEREAS, these amendments are proposed as a part of the on-going process to evaluate and update the Code so that it retains long-term sustainability; and

WHEREAS, the proposed amendments directly respond to citizen requests to be added to the Albany Special Status List and the amendments outline a shorter process for a property to be added to the list; and

WHEREAS, on September 24, 2012, the Planning Commission held a public hearing on the proposed amendment and unanimously recommended these changes to the City Council, based on the findings in the staff report; and

WHEREAS, on October 10, 2012, the Albany City Council held a public hearing on the proposed amendments, and any testimony presented at the public hearing and then deliberated.

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

Section 1: The Albany Development Code text related to the Special Status List is hereby amended as shown in the attached Exhibit A: Amendments to Special Status List Language in Development Code Articles 3, 4 and 5.

Section 2: The Albany Special Status List is hereby amended as shown in the attached Exhibit B.

Section 3: The Findings and Conclusions found in the staff report, attached as Exhibit C, are hereby adopted in support of this decision.

Section 4: Inasmuch as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the citizens of the City of Albany, an emergency is hereby declared to exist, and this ordinance will be in full force and effect immediately upon passage by the Council and approval by the Mayor.

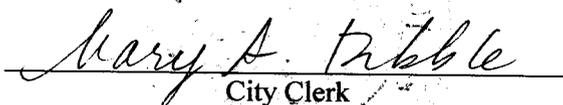
Passed by the Council: 10/10/2012

Approved by the Mayor: 10/10/2012

Effective Date: 10/10/2012


Mayor

ATTEST:


City Clerk

ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

Staff Comments: Amendments to the Special Status list sections include:

- Administrative updates to reference the ordinances that rezoned the subject areas and the general information about the process and areas is being combined here;
- Provisions for the list to be updated administratively following review by staff (either the Type I and Type I-L process); and
- Move the list out of the Development Code; and
- Revisions to the examples of evidence to substantiate the legal establishment of the uses; and
- Add properties to the Special Status list that meets the standards.

3.085 Existing Residential Uses in the HM and RS-5 Zones Granted Special Status

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), ~~properties~~ properties on the Special Status List listed below shall be deemed to be conforming to the ~~base~~ Hackleman Monteith (HM) and RS-5 Residential Single-Family (RS-5) zoning districts, as applicable. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt to the same size (square feet) and density as existed on the property at the time the HM or RS-5 zoning was first applied ~~was first created~~, but will be subject to the regulations of any applicable overlay zone. **The Special Status List is maintained by the Community Development Department Director.**

If any of the listed buildings are converted to single-family use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article. The special status granted here will be lost if it is determined that the use that existed at the time the zone was created was not then lawfully in existence.

[Ord. 5241, 5/16/96; Ord. 5673, 6/27/07]

~~For properties zoned HM in 1996:~~ The intent is that each and every legally established duplex and multi-family development, ~~in areas previously zoned RM-3, RM-5, RS-6.5, CB and OP only, that existed in the HM district at the time the HM zone was applied~~ established May 22, 1996, or properties that were zoned RS-5 or HM from RM-3 or RM-5 by Ordinance 5673 on June 27, 2007 be put on the Special Status List ~~listed here.~~ Should an existing use not be ~~on the list listed here,~~ the property owner may request that have the property and use be listed upon showing that the use was legally established before May 22, 1996 prior to being rezoned HM or RS-5.

(Relocated below.) ~~Satisfactory evidence must be provided by the property owner or applicant to document that the use existed was legally established. . Such evidence may consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively establish that the use existed prior to adoption of City zoning in 1946; or if the City can clearly and objectively verify the use was allowed in the zoning district at the time it was established and met the minimum lot size, maximum lot coverage and parking standards, as applicable. All other requests will be reviewed through the Type I-L land use process and notice will be given to property owners within 100 feet. In order to approve the request, the applicant must document when the use was established and whether the use received the relevant approvals at that time. Satisfactory evidence must be provided by the property owner or applicant to document that the use was legally established. Such evidence may~~

consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. When a request is approved, the property will be added to the list.

The list is sorted by SW and SE, then alphabetically by street name and then numerically by address.

- (1) ~~807A/807B and 805/805 1/2 3rd Avenue SW two 1-story duplexes,~~
- (2) ~~540 4th Avenue SW and 409/422 Vine Street SW: house and a 2-story duplex~~ [Ord. 5742, 7/14/10]
- (3) ~~410-418 5th Avenue SW: two 2-story buildings totaling 5 units~~
- (4) ~~1015 5th Avenue SW: two 2-story buildings east building, 12 units; west building, 6 units~~
- (5) ~~430 6th Avenue SW: two-story, 12 units~~
- (6) ~~640 7th Avenue SW/707 Vine Street SW: 1-story duplex (7) — 638-644 8th Avenue SW: duplex~~
- (8) ~~1109/1111 9th Avenue SW: duplex~~
- (9) ~~1015/1030/1036/1040 10th Avenue SW: fourplex~~
- (10) ~~417/421 11th Avenue SW: duplex~~
- (11) ~~631/641 11th Avenue SW: duplex~~
- (12) ~~651/661 11th Avenue SW: duplex~~
- (13) ~~827/829/833/837 11th Avenue SW: 1-story fourplex~~
- (14) ~~1030-1032 12th Avenue SW: duplex~~
- (15) ~~625/635 14th Avenue SW: duplex~~
- (16) ~~522 Calapooia Street SW: 4 units~~
- (17) ~~634 Calapooia Street SW: 4 units~~
- (18) ~~1104/1108 Calapooia Street SW: duplex~~
- (19) ~~1114/1118 Calapooia Street SW: duplex~~
- (20) ~~628 Ferry Street SW: 2-story 10-unit apartment complex~~
- (21) ~~908 Ferry Street SW: 1-story 12-unit apartment building~~
- (22) ~~976/978 Ferry Street SW and 405/407 11th Avenue SW: 4 units~~
- (23) ~~721 Vine Street & 635 8th Avenue SW: duplex~~
- (24) ~~1223/1225 Vine Street SW: duplex~~
- (25) ~~1241/1245 Vine Street SW: duplex~~
- (26) ~~707/719 Washington Street SW: 1-story duplex~~
- (27) ~~505 3rd Avenue SE: 2-story fourplex~~
- (28) ~~526 3rd Avenue SE: 2-story fourplex~~
- (29) ~~627 3rd Avenue SE: 2-story, 6 units~~
- (30) ~~726/728 3rd Avenue SE: 1-story duplex~~
- (31) ~~826/828 3rd Avenue SE: two 1-story duplexes~~
- (32) ~~140 4th Avenue SE: 2-story duplex~~
- (33) ~~222/224 4th Avenue SE: 3 units total~~
- (34) ~~420/422 4th Avenue SE: 1-story duplex~~
- (35) ~~527 4th Avenue SE: 2-story duplex~~
- (36) ~~538 4th Avenue SE: 2-story duplex~~
- (37) ~~728 4th Avenue SE: 2-story, 2 units~~
- (38) ~~208 5th Avenue SE: 2-story, 16 units~~
- (39) ~~238 5th Avenue SE: 2-story, 3 units~~
- (40) ~~317 5th Avenue SE, A and B: 2-story duplex~~
- (41) ~~404/406 5th Avenue SE and 505/525 Railroad SE: two-story triplex and accessory building~~
- (42) ~~614/616 5th Avenue SE: 1-story duplex~~
- (43) ~~637 5th Avenue SE: 2-story, duplex~~
- (44) ~~730 5th Avenue SE: 2-story triplex~~

- ~~(45) 205 6th Avenue SE: 2-story, 16 units~~
- ~~(46) 225 6th Avenue SE: 2-story, 4 units~~
- ~~(47) 305 6th Avenue SE: 2-story, 5 units~~ [Ord. 5742, 7/14/10]
- ~~(48) 509/519 and 521/524 6th Avenue SE: two 1-story buildings, 4 units~~
- ~~(49) 540 6th Avenue SE: 2 ½-story, 5 units~~
- ~~(50) 606/616 6th Avenue SE: 2-story duplex (note: a duplex requires both lots.)~~
- ~~(51) 635 6th Avenue SE/530 Thurston SE: attached single-family~~
- ~~(52) 638 6th Avenue SE: 2 units~~
- ~~(53) 513 7th Avenue SE: 1-story duplex~~
- ~~(54) 407 Baker Street SE/206 4th Avenue SE: 2-story, 4 units~~
- ~~(55) 423 Baker Street SE: 2-story house and accessory building, 3 units~~
- ~~(56) 434 Baker Street SE: 2-story duplex~~
- ~~(57) 625 Jefferson Street SE, A and B: 2-story, 2 units~~
- ~~(58) 431 Montgomery Street SE: 2-story, 7 units~~
 [Ord. 5241, 5/22/96; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

Certain Properties Zoned RS-5 or HM

The intent is that each and every legally established duplex and multi-family development in areas previously zoned R-2 and R-3 prior to 1991 and zoned RM-5 since 1991 until being rezoned to RS-5 or HM on July 1, 2007, be listed here. Should an existing use not be listed here, the property owner may have the property listed upon showing that the use was legally established at the time the property was rezoned from RM-5 or RM-3. Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Examples of supporting evidence may consist of building permits, utility hookups, tax records, or telephone directory listings, for example.

The lists are sorted alphabetically by street name and then numerically by address.

East of Oak Street and North of Second Avenue SE

- 1437 1st Avenue E: 3 units
- 100-110 Chicago Street SE: 2 units
- 235-237 Chicago Street SE: 2 units
- 1632-1634 Front Avenue NE: 2 units
- 103-115 Geary Street SE: 2 units
- 375-385 Geary Street NE & 1814 Willamette Avenue NE: 3 units
- 135-137 Oak Street SE: 2 units
- 1441-1441 ½ Water Avenue NE: 2 units
- 2130-2140 Water Avenue SE: 2 units
- 2275-2277 Willamette Avenue NE: 2 units

West of Elm Street SW

- 1098 8th Avenue SW/815 Tadena SW: 2 units
- 1109-1111 9th Avenue SW: 2 units
- 940, 940 1/2 10th Avenue SW: 2 units
- 1107-1107 ½ 10th Avenue SW: 2 units
- 1143-1149 10th Avenue SW: 2 units
- 1159-1161 10th Avenue SW: 2 units
- 1154 10th Avenue SW: 2 units
- 1143-1145 12th Avenue SW: 2 units

[Ord. 5673, 6/27/07]

ARTICLE 4
COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

SPECIAL STATUS FOR SINGLE FAMILY RESIDENCES

4.075 Existing Uses Granted Special Status (Allowed) in the Commercial, Office and Industrial Districts. Notwithstanding the restrictions of any other section of the Albany Development Code (ADC), all single-family residential dwellings built before January 1, 2002, on commercial or industrially zoned properties ~~are considered as shall be deemed~~ conforming to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC 2.340(4), it may be rebuilt to the same size (in square feet) as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-family residence is converted to a permitted ~~commercial, office or industrial use~~ in the base zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Article 4. [Ord. 5555, 2/7/03]

ARTICLE 5
MIXED USE VILLAGE CENTER ZONING DISTRICTS

SPECIAL STATUS

5.080 Existing Single Family Uses Granted Special Status.

~~(1) Single-Family Homes.~~ Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all single-family residential units built legally established before January 1, 2002, shall be deemed to be conforming with to the base zoning district. If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it may be rebuilt to the same density, size (in square feet) and setbacks as existed on the property at the time it was destroyed, but will be subject to the regulations of any applicable overlay zone. If any single-family dwelling is converted to non-residential use, the special status granted here is rescinded, and the use of the property shall thereafter conform to the requirements of Article 5. The special status granted herein shall be lost if it is determined that the use ~~which residence existed on May 22, 1996 (date the Central Albany districts were first created)~~ was not legally established prior to January 1, 2002 then lawfully in existence. [Ord. 5555, 2/7/03, Ord. 5635, 1/11/06]

~~5.085 (2) Special Status for Industrial and Commercial Uses in the WF Zone.~~ The regulations below apply to properties on the Special Status List and eligible properties in the Waterfront (WF) zoning district those properties indicated on Figure 5-2. The Special Status List is maintained by the Community Development Department Director.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all industrial and commercial uses legally in operation before January 11, 2006, shall be deemed to be conforming with to the base ~~WF~~ zoning district. The use may change to another industrial or commercial use provided the new use does not create greater off-site impacts than the current use. A change of use is subject to the applicable Site Plan Review requirements of this Code.

If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt for the same use provided that the off-site impacts are no greater than its impacts on January 11, 2006. When any listed buildings are converted to a permitted use in the Waterfront zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article.

The intent is that each and every established industrial and commercial use in existence when the use changes were adopted (January 11, 2006) be listed here. Should an existing use not be **on the Special Status List** listed here, the property owner may ~~have request that the property be listed~~ upon showing that the use was legally established at the time of the January 11, 2006 amendments to this Article. ~~Satisfactory evidence must be provided by the property owner or applicant to document that the use existed. Such evidence may consist of building permits, utility hookups, tax records, or telephone directory listings, for example. The property will be added to the list administratively if the owner or the City provide documents that clearly and objectively establish that the use existed prior to adoption of City zoning in 1946; or if the City can clearly and objectively verify the use was allowed in the zoning district at the time it was established and met the minimum lot size, maximum lot coverage and parking standards, as applicable. All other requests will be reviewed through the Type I-L land use process and notice will be given to property owners within 100 feet. In order to approve the request, the applicant must document when the use was established and whether the use received the relevant approvals at that time. Satisfactory evidence must be provided by the property owner or applicant to document that the use was legally established. Such evidence may consist of Sanborn Fire Insurance Maps, land use approvals or letters, building permits, utility hookups, tax records, or telephone directory listings, for example. When a request is approved, the property will be added to the list.~~

- ~~(1) 520 Water Avenue NE: Haring Drywall~~
- ~~(2) 101 Jackson Street NE: Metal storage buildings~~
- ~~(3) 703 Water Avenue NE: Metal storage buildings~~
- ~~(4) 755 Water Avenue NE: Titan Rebuilders~~
- ~~(5) 705 1st Avenue E; 135 Thurston Street NE: Consolidated Electrical Dist. Inc.~~
- ~~(6) 710 Water Avenue NE: Metal storage building~~
- ~~(7) 725 1st Avenue E: McDonald Wholesale~~
- ~~(8) 812 Water Avenue NE: Cosmetic Dental Materials~~
- ~~(9) 801 1st Avenue E: Larsell Mechanical; Oregon Gourmet Cheeses~~
- ~~(10) 135 Hill Street NE: Storage Building~~
- ~~(11) 1017 1st Avenue E: Cordray's Transmission~~
- ~~(12) 716 1st Avenue E: Katon Precision Machining~~
- ~~(13) 740 1st Avenue E: Solis Auto Repair~~
- ~~(14) 705 2nd Avenue SE: Shop building~~
- ~~(15) No Address: 3-sided storage building~~
- ~~(16) 760 2nd Avenue SE: Big B Feed & Farm~~
- ~~(17) 211 Jefferson Street NE: All-Star Construction~~
- ~~(18) 140 Hill Street NE: Calapooia Brewing~~

[Ord. 5673, 6/27/07]



EXHIBIT A
Amendments to Special Status List Language in Development Code Articles 3, 4 and 5

ALBANY SPECIAL STATUS LIST

NOTE: The final version of the Special Status List will incorporate the proposed changes to the special status list shown in "bold and strike". The blue staff comments will be removed and the "bold and strike" updates will be accepted.

ADC 3.085 SPECIAL STATUS PROPERTIES

Properties zoned HM in 1996: The list is sorted by SW and SE, then alphabetically by street name and then numerically by address.

- 602, 606, 610 and 614 807A/807B and 805/805.5 3rd Avenue SW:** two duplexes, **4 units** *Staff Comments: Two duplexes on 3rd Avenue were developed by 1949 and met the standards of the 1946 code. The existing address does not exist and may have been an error in describing 602-614 3rd Avenue SW.*
- 540 4th Avenue SW and 409/411 Vine Street SW: house and duplex [Ord. 5742, 7/14/10]
- 620 and 622 4th Avenue SW:** house with **3 units and 1 accessory unit** *Staff Comments: The owners submitted information indicating the property had 4 units by 1964 and city permits were obtained since that time for improvements. The City has determined that appropriate permits were obtained and the use will be considered legal and eligible for the special status list. (Planning File UL-01-12)*
- 410-418 5th Avenue SW: two buildings totaling 5 units
- 1015 5th Avenue SW: two buildings—east building, 12 units; west building, 6 units
- 430 6th Avenue SW: 12 units
- 640 7th Avenue SW/707 Vine Street SW: duplex
- 406, 408 and 410 8th Avenue SW:** duplex and house *Staff Comments: The duplex was lawfully established in 1965 as an allowed use in the R2 zone and met the minimum site standards. (UL-06-12)*
- 638-644 8th Avenue SW: duplex
- 1109/1111 9th Avenue SW: duplex
- 1015/1030/1036/1040 10th Avenue SW: fourplex
- 417/421 11th Avenue SW: duplex
- 631/641 11th Avenue SW: duplex
- 1651/661 11th Avenue SW: duplex
- 827/829/833/837 11th Avenue SW: fourplex
- 1030-1032 12th Avenue SW: duplex
- 625/635 14th Avenue SW: duplex
- 324 Calapooia Street SW:** **4 units** *Staff Comments: This property was a duplex in 1949. Prior to 1996, it was converted to four units. The City issued permits for improvements to the property in 1996 and at that time allowed the use to continue. The City has determined that appropriate permits were obtained and the use will be considered legal and eligible for the special status list. (Planning File UL-06-11)*
- 522 Calapooia Street SW: 4 units
- 1634 Calapooia Street SW: 4 units
- 1104/1108 Calapooia Street SW: duplex
- 1114/1118 Calapooia Street SW: duplex
- 628 Ferry Street SW: 10-unit apartment complex
- 908 Ferry Street SW: 12-unit apartment building
- 976/978 Ferry Street SW and 405/407 11th Avenue SW: 4 units
- 721 Vine Street & 635 8th Avenue SW: duplex
- 1223/1225 Vine Street SW: duplex
- 1241/1245 Vine Street SW: duplex
- 707/719 Washington Street SW: duplex
- 505 3rd Avenue SE: fourplex

526 3rd Avenue SE: fourplex
 627 3rd Avenue SE: 6 units
 726/728 3rd Avenue SE: duplex
 826/828 3rd Avenue SE: duplex
 3140 4th Avenue SE: duplex
 222/224 4th Avenue SE: 3 units total
 420/422 4th Avenue SE: duplex
 527 4th Avenue SE: duplex
 538 4th Avenue SE: duplex
 728 4th Avenue SE: 2 units
 208 5th Avenue SE: 16 units
 238 5th Avenue SE: 2-story, 3 units
 317 5th Avenue SE, A and B: duplex
 404/406 5th Avenue SE and 505/525 Railroad SE: triplex and accessory building
 614/616 5th Avenue SE: duplex
 637 5th Avenue SE: duplex
 730 5th Avenue SE: triplex
 205 6th Avenue SE: 16 units
 225 6th Avenue SE: 4 units
 305 6th Avenue SE: 5 units [Ord. 5742, 7/14/10]
 509/519 and 521/524 6th Avenue SE: two buildings, 4 units
 540 6th Avenue SE: 5 units
 606/616 6th Avenue SE: duplex (note: a duplex requires both lots.)
 635 6th Avenue SE/530 Thurston SE: attached single-family
 638 6th Avenue SE: duplex
 513 7th Avenue SE: duplex
 407 Baker Street SE/206 4th Avenue SE: 2-story, 4 units
 423 Baker Street SE: 2-story house and accessory building, 3 units
 434 Baker Street SE: 2-story duplex
 625 A&B Jefferson Street SE: 2 units
 431 Montgomery Street SE: 2-story, 7 units
 [Ord. 5241, 5/22/96; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10]

Properties zoned RS-5 or HM in 2007: The lists are sorted alphabetically by street name and then numerically by address.

East of Oak Street and North of Second Avenue SE

1437 1st Avenue E: 3 units
 100-110 Chicago Street SE: 2 units
 235-237 Chicago Street SE: 2 units
 1632-1634 Front Avenue NE: 2 units
 103-115 Geary Street SE: 2 units
 375-385 Geary Street NE & 1814 Willamette Avenue NE: 3 units
 135-137 Oak Street SE: 2 units
 1441-1441-½ Water Avenue NE: 2 units
 2130-2140 Water Avenue SE: 2 units
 2275-2277 Willamette Avenue NE: 2 units

West of Elm Street SW

1098 8th Avenue SW/815 Tadena SW: 2 units
 1109-1111 9th Avenue SW: 2 units

940, 940 1/2 10th Avenue SW: 2 units
1107-1107-1/2 10th Avenue SW: 2 units
1143-1149 10th Avenue SW: 2 units
1159-1161 10th Avenue SW: 2 units
1154 10th Avenue SW: 2 units
1143-1145 12th Avenue SW: 2 units

[Ord. 5673, 6/27/07]

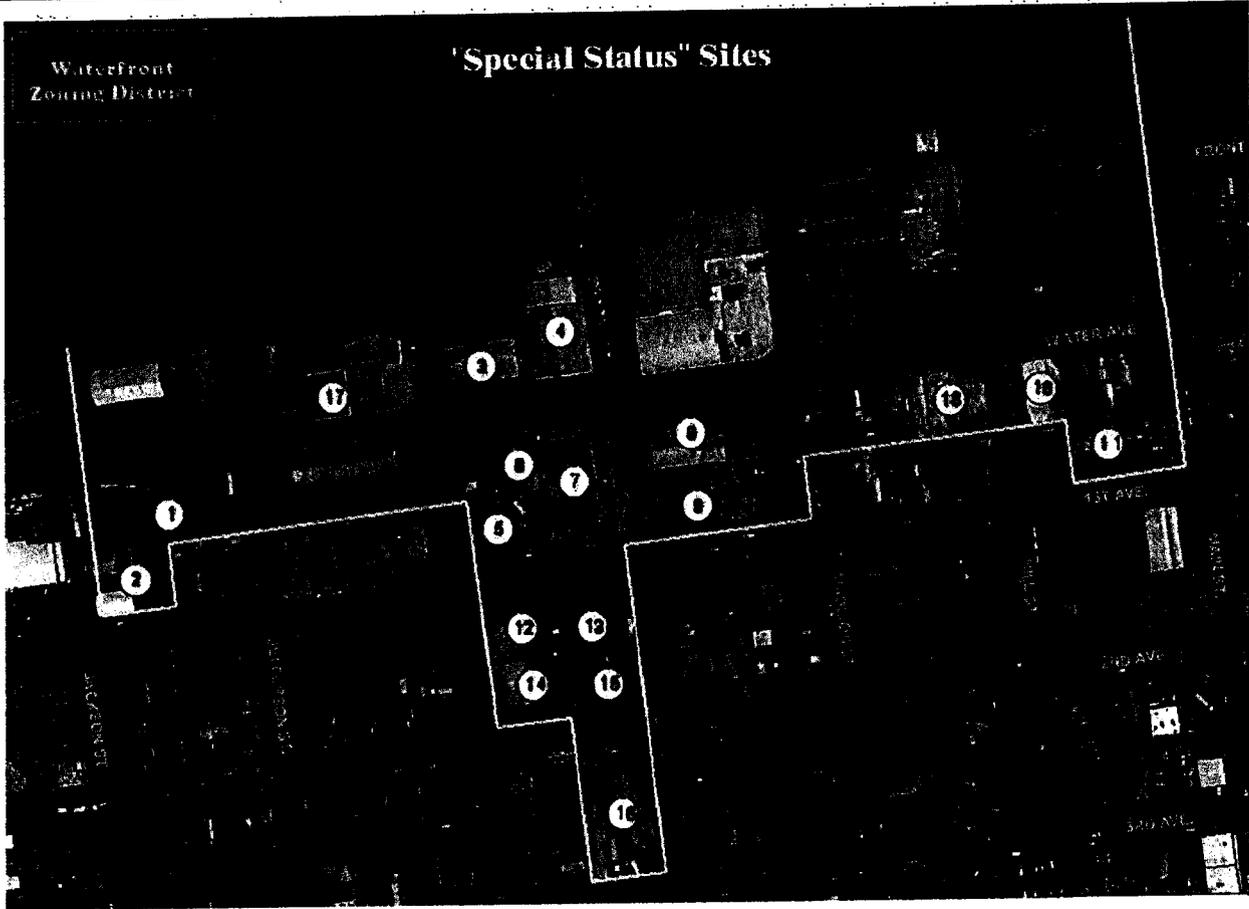
ADC 5.085 SPECIAL STATUS PROPERTIES

Industrial and Commercial Uses in the Waterfront Zone.

- (1) 520 Water Avenue NE: ~~Haring~~-Drywall Contractors
- (2) 101 Jackson Street NE: Metal storage buildings
- (3) 703 Water Avenue NE: Metal storage buildings
- (4) 755 Water Avenue NE: ~~Titan~~-Rebuilders, Vehicle Repair
- (5) 705 1st Avenue E; 135 Thurston Street NE: ~~Consolidated Electrical Dist. Inc.,~~ Wholesale Sales
- (6) 710 Water Avenue NE: Metal storage building
- (7) 725 1st Avenue E: ~~McDonald~~-Wholesale-Sales
- (8) 812 Water Avenue NE: ~~Cosmetic Dental Materials~~-Wholesale Sales
- (9) 801 1st Avenue E: ~~Larsell Mechanical; Oregon Gourmet Cheeses,~~ Mechanical Contractor and Food Manufacturing
- (10) 135 Hill Street NE: Storage Building
- (11) 1017 1st Avenue E: ~~Cordray's~~-Transmission Repairs
- (12) 716 1st Avenue E: ~~Katon~~-Precision Machining
- (13) 740 1st Avenue E: ~~Solis~~-Auto Vehicle Repair
- (14) 705 2nd Avenue SE: Shop building
- (15) No Address: 3-sided storage building,
- (16) 760 2nd Avenue SE: ~~Big B Feed & Farm~~ Agricultural Sales
- (17) 211 Jefferson Street NE: ~~All Star~~-Construction Contractor
- (18) 140 Hill Street NE: ~~Calapee~~ia Brewing, Brewery and Brewpub

[Ord. 5673, 6/27/07]

Figure 5-2





Community Development Department

333 Broadalbin Street SW, P.O. Box 490
Albany, OR 97321

Phone: 541-917-7550 Facsimile: 541-917-7598
www.cityofalbany.net

STAFF REPORT

Development Code Amendment - DC-05-12

| | |
|--------------------------------|--|
| <u>HEARING BODY</u> | CITY COUNCIL |
| <u>HEARING DATE</u> | Wednesday, October 10, 2012 |
| <u>HEARING TIME</u> | 7:15 p.m. |
| <u>HEARING LOCATION</u> | Council Chambers, Albany City Hall, 333 Broadalbin Street SW |

EXECUTIVE SUMMARY

The Albany Development Code (ADC) allows for the Community Development Director to initiate legislative amendments. The proposed amendments would allow properties that qualify for the Special Status lists to be added administratively or through the Type I-L land use process, rather than the current legislative or quasi-judicial Type IV process as a Development Code amendment.

The Special Status list was created as a way to allow uses that were legally established prior to being rezoned to a single-family district with the adoption of the Central Albany Land Use and Transportation Study and Town Center Plan in 1996. Duplex and multi-family development that was established could be "grandfathered" as an allowed use that can remain without being considered "non-conforming." The "status" is important for property sales, refinancing and insurance. Since first being established, the City expanded the Special Status once to include properties in an area that was rezoned to a lower density residential zone with Goal 10 Housing zoning amendments.

Staff currently reviews these requests and holds on to them until there are enough to warrant bringing forward with a package of legislative amendments to the Development Code. The legislative process can take a lot of time and be a burden to property owners trying to sell their properties.

The proposal would allow for requests that meet specific standards to be added to the list administratively. When the request involves discretion the City would review the request through the Type I-L limited land use process that includes mailed notice to property owners within 100 feet for input.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on the proposed amendments on September 24, 2012. No one testified regarding the proposed amendments.

The Planning Commission voted unanimously to recommend that the City Council APPROVE the proposed Development Code amendments

GENERAL INFORMATION

DATE OF REPORT: October 3, 2012
FILE: DC-05-12

TYPE OF APPLICATION: Legislative amendment to Development Code Articles 3, 4 & 5 related to Special Status List updates (Exhibit A):

- Amend ADC 3.085 and 5.080 to allow staff to add properties that qualify to the Special Status list to be added either: administratively or through a limited land use process; and minor edits to Special Status language in ADC 4.075.

REVIEW BODIES: Planning Commission and City Council

APPLICANT: City of Albany, Planning Division

APPLICANT REP: Anne Catlin, Planner III

ADDRESS/LOCATION: Properties in the Hackleman Monteith zoning district and select properties in the RS-5 zoning district

NOTICE INFORMATION

A notice of public hearing was published in the *Albany Democrat Herald* on September 14, 2012. The Development Code amendment was posted on the City's Web site. No comments have been received.

APPEALS

The City Council decision can be appealed to the Oregon Land Use Board of Appeals by filing a Notice of Intent to Appeal within 21 days of the Council decision.

STAFF ANALYSIS

Development Code Amendment File DC-05-12

The Albany Development Code (ADC) 2.290 contains the following review criteria that must be met for this Development Code amendment to be approved. Code criteria are written in *bold italics* and are followed by the Proposed Findings and Conclusions.

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

| |
|--|
| Relevant Comprehensive Plan goals and policies are written in <i>italic</i> type and considered as a separate review criterion following the description of the major revisions. |
|--|

FINDINGS OF FACT

1.1 The Special Status lists allow existing duplex and multi-family developments legally established under prior zoning standards to remain without being considered a non-conforming development.

Statewide Planning Goal 10-Housing, Policy 2: Provide a variety of choices regarding type, location, density and design to promote housing alternatives, including (d) Neighborhoods with a variety of lot and housing sizes and types.

1.2 The multi-unit developments on the Special Status list are dispersed within the neighborhoods near the downtown area and older areas of the City. They provide diversity in housing choices within the HM and RS-5 zones. The Special Status list protects this housing stock.

Statewide Planning Goal 10-Housing, Policy 10: Preserve and enhance Albany's historic housing as a unique and valuable resource.

- 1.3 Most of the housing units listed on the Special Status list are on Albany's Local Historic Inventory and in one of the City's National Register Historic Districts. They represent Albany's historical development patterns. Many historic single-family homes were converted to apartments in the 1940s and 1950s during and soon after World War II.

The Special Status lists allow these multi-unit properties to remain without being non-conforming. The non-conforming status could jeopardize the historic resources. The status is also an important factor in securing insurance and bank loans on these properties. This "status" gives security and assurance to property owners that if they want to replace a damaged structure, sell, or refinance.

The amendments include adding the following properties to the list:

- (a) 406, 408 and 410 8th Avenue SW: duplex and house. The duplex was lawfully established in 1965 as an allowed use in the R2 zone and met the minimum site standards. (Planning File UL-06-12)
- (b) 324 Calapooia Street SW: 4 units. This property was a duplex in 1949. Prior to 1996, it was converted to four units. The City issued permits for improvements to the property in 1996 and at that time allowed the use to continue. The City has decided that appropriate permits were obtained and the use will be considered legal and eligible for the special status list. (Planning File UL-06-11)
- (c) 620 and 622 4th Avenue SW: house with 3 units and 1 accessory unit. The owners submitted information indicating the property had 4 units by 1964 and city permits were obtained since that time for improvements. The City has determined that appropriate permits were obtained and the use will be considered legal and eligible for the special status list. (Planning File UL-01-12)
- (d) 602, 606, 610 and 614 3rd Avenue SW: two duplexes, 4 units total. Two duplexes on this property appear on the 1949 Sanborn Fire Insurance Maps. The development met the minimum development standards at that time.

Goal 14, Urbanization, Development Review, Policy 5: Ensure the City's land use planning process and policy framework is workable and understandable for local officials, staff, and the public. Ensure the degree of application and review is commensurate with the size and complexity of various development requests.

- 1.4 The Special Status language allows for property owners to prove that the development was established legally by providing evidence that substantiates the existing units. The Code does not currently describe how the list would be amended so it is processed as a Development Code amendment through the Type IV legislative process. The Type IV process to update the list that includes Planning Commission and City Council hearings is not commensurate with the submittal requirements. The proposed amendments would specify standards that need to be met in order to verify the use was established legally and provide a land use review process for applications that require a discretionary review. If the application is approved, the property would be added to the list. This process is commensurate with the complexity of the request.

CONCLUSIONS

- 1.1 The proposed Development Code amendments are consistent with the Comprehensive Plan goals and policies.
- 1.2 This criterion is satisfied.

Criterion (2) The proposed amendments are consistent with Development Code policies on purpose and with the purpose statement for the base zone, special purpose district, or development regulation where the amendment is proposed.

The applicable Development Code policies and purposes are identified in *italic* type and considered as a separate criterion.

FINDINGS OF FACT

2.1 Development Code Purpose & Policies. ADC Article 1–General Administration–Section 1.020 states, “*the general purpose of this Code is to set forth and coordinate City regulations governing the development and use of land. The Code is more specifically intended to do the following (applicable purposes included as review criteria:*

(1) Serve as the principal vehicle for implementation of the City’s Comprehensive Plan in a manner that protects the health, safety, and welfare of the citizens of Albany.

2.2 As discussed in Review Criterion 1 above, the proposed amendments will enable a property to be added to the Special Status and determined to be “legal” much sooner than the existing process. This will enable owners to get insurance and sell or refinance.

The proposed amendments will not affect the welfare of other City residents, since the code already allows properties to be added to the Special Status list.

(2) Satisfy relevant requirements of federal law, state law, statewide goals, and administrative rules.

2.3 As noted under Criterion 1, many of the properties are historic resources at the local, state and national levels. The proposed amendments, however, would not affect the historic overlay standards that help protect the exterior character of these historic resources.

(3) Facilitate prompt review of development proposals and the application of clear and specific standards.

2.4 The proposed amendments to provide standards and a review process to update the Special Status list administratively. This will shorten the time it takes to get a property on the list. The proposal also includes amendments to clarify the standards that need to be met to verify the use was legally established.

2.5 Zone Purposes: The Special Status list applies to properties in the HM, Hackleman Monteith zone, and in a small area of RS-5 formerly zoned RM-5 and RM-3. When the HM zone was created in 1996, medium and high density zoning districts were removed from this historic area. The purpose statement in ADC Section 3.020 of the Code states explains, “*The HM district is primarily intended to preserve the existing single-family residential character of the Hackleman and Monteith National Register Historic Districts. Conversion of single-family residential structures to other uses, including multi-family residential, is not allowed.*”

The purpose of the RS-5 district states, “*The RS-5 district is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet.*”

In order to protect the primarily single-family character in these areas, the HM and RS-5 zones do not allow for new multi-family development. The Special Status list “grandfathers” uses established legally prior to the HM and RS-5 zoning.

- 2.6 Development Regulations. The intent of the Special Status list was created as a way to avoid properties legally established in former zoning to avoid becoming non-conforming when the area was rezoned with adoption of the Town Center/Central Albany Land Use and Transportation Study. The existing language, "*Should an existing use not be listed here, the property owner may have the property listed upon showing that the use was legally established,*" implies that the list will be updated soon after staff reviews the request. Since the list is located in the Development Code, amendments to the Code require a legislative review process, unless the Code specifies an alternative process. The proposed amendment would clarify the intended process.
- 2.7 Historic Overlay (Special Purpose) District. The historic district overlays are a means for the City to formally recognize and protect its historic and architectural resources thereby preserving a part of Albany's heritage. The HM zone was created to help further the protection of Albany's historic houses by not allowing them to be converted to other uses that may result in changes to the historic character of the houses and the district. Exterior alterations, new construction, demolition and relocation of properties on the Local Historic Inventory require city review per the City's Historic Overlay Ordinance. Being on the Special Status list does not waive requirements to satisfy the historic overlay ordinance standards in Article 7 of the Code.

CONCLUSIONS

- 2.1 The proposed amendments to streamline the time it takes to get a property on the Special Status list will not affect the intent of the historic overlay districts or the HM and RS-5 zoning districts.
- 2.2 The proposed Development Code amendments are consistent with the purposes of the Code.
- 2.3 This criterion is satisfied.

EXHIBIT

- A. Amendments to the Special Status Sections in Development Code Articles 3, 4 and 5. – *See CC Ordinance*
- B. Special Status List - *See CC Ordinance*