



**ORDINANCE NO. 6074**

AN ORDINANCE AMENDING ORDINANCE NO. 4441, WHICH ADOPTED THE CITY OF ALBANY ZONING MAP, BY THE ALBANY ZONING MAP AND ADOPTING FINDINGS FOR THE PROPERTY LOCATED AT LINN COUNTY ASSESSOR'S MAP NO. 11S-03W-05CD; TAX LOT 9400

WHEREAS, on July 10, 2024, the Albany Community Development Department received an application for a zoning map amendment for the property located at 530 Columbus Street SE and 2150 5th Avenue SE and identified as Linn County Assessor's Map No. 11S-03W-05CD, Tax Lot 9400 (Planning File ZC-04-25); and

WHEREAS, a zoning district map and legal description for the subject property are provided in ordinance Exhibits A and B, respectively; and

WHEREAS, the application is for a zoning map amendment to change 0.13 acres from CC (Community Commercial) to NC (Neighborhood Commercial); and

WHEREAS, the proposed zoning map amendment is discussed in detail in the January 16, 2026, staff report; and

WHEREAS, on February 2, 2026, the Albany Planning Commission held a public hearing, considered public testimony, deliberated on the proposed zoning map amendment, partition, and recommended approval of the proposal based on evidence presented in the staff report and during the public hearing; and

WHEREAS, the analysis and findings of fact and conclusions as provided in the staff report dated January 16, 2026, are presented as an attachment to this ordinance as Exhibit C; and

WHEREAS, on February 25, 2026, the Albany City Council held a public hearing on the proposal, reviewed the findings of fact and 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 zoning map is hereby amended from CC (Community Commercial) to NC (Neighborhood Commercial).

Section 2: The findings of fact and conclusions included in the staff report dated January 16, 2026, in Exhibit C of this ordinance, are hereby adopted in support of the decision.


Section 3: A copy of this ordinance shall be filed in the Office of the city recorder of the City of Albany and these changes shall be made on the official City of Albany zoning map.

Passed by the Council: 02/25/2026

Approved by the Mayor: 02/26/2026

Effective Date: 03/28/2026


---



---

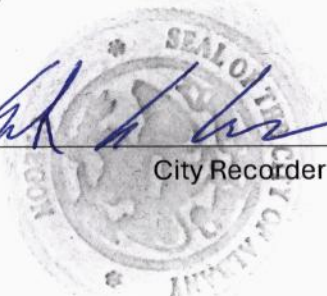
Mayor

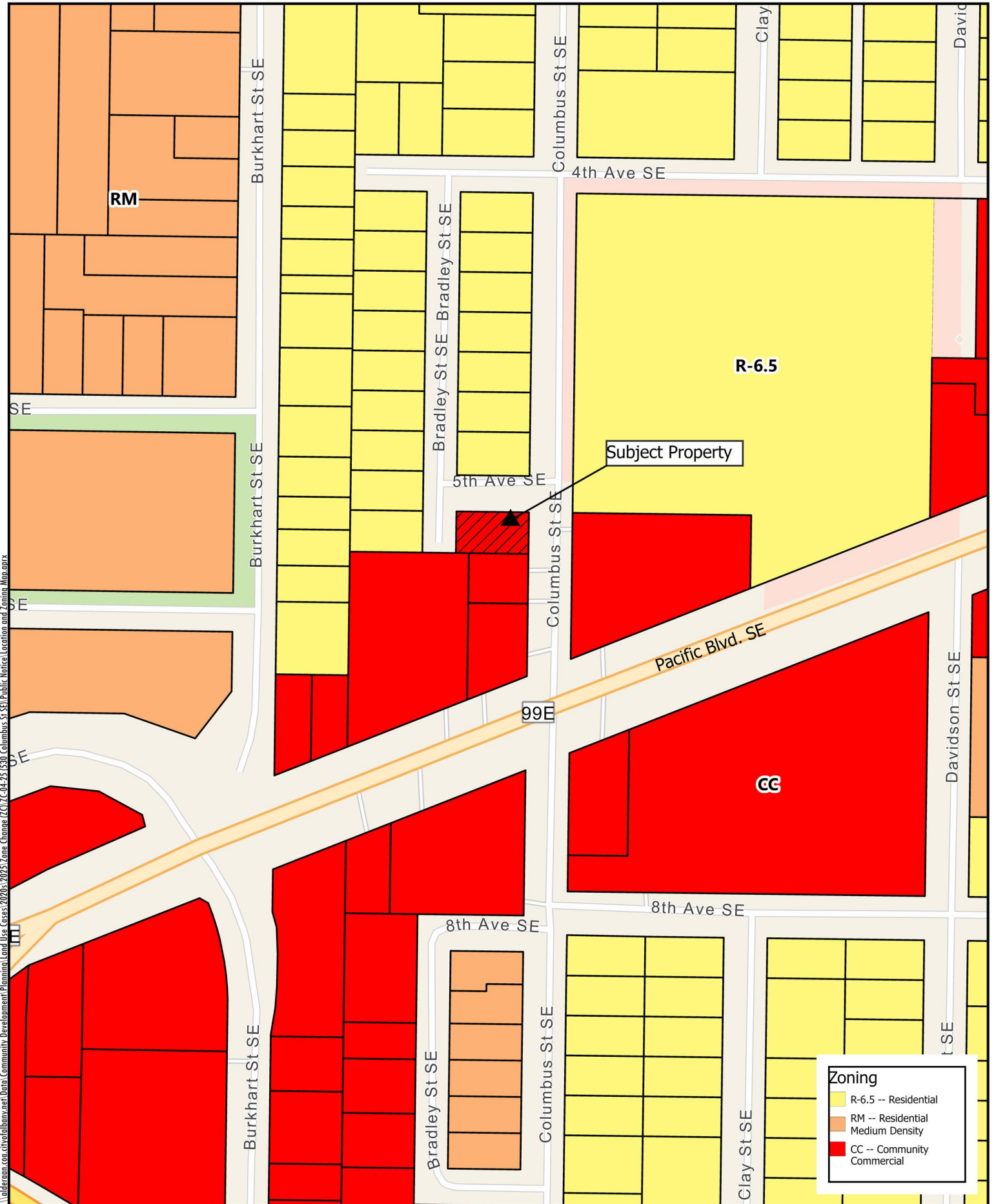
ATTEST:



---

City Recorder

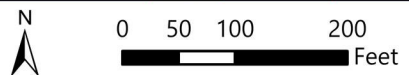




\\alderaan.com\cityofalbanynet\Data\Community\_Development\Plannin\Land\_Use\Cases\2020\2025\Zone\_Change\ZC\2024-25\6330\_Columbus\_St\_SE\Public\_Notice\_Location\_and\_Zoning\_Map.aprx

**Zoning**

- R-6.5 -- Residential
- RM -- Residential Medium Density
- CC -- Community Commercial



Date: 1/6/2026 Map Source:

# 530 Columbus Street SE

## Location and Zoning Map

**Grantor's Name and Address:**

Kenneth D. Gaver  
7604 Oak Leaf Drive  
Santa Rosa, CA 95409

Dona L. Gaver  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**Grantee's Name and Address:**

Dona Gaver, Trustee  
Nancy Bush O'Callaghan, Trustee  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**After recording, return to:**

Marek & Lanker, LLP  
810 SW Madison Avenue  
Corvallis, OR 97333

**Send all tax statements to:**

Dona Gaver, Trustee  
Nancy Bush O'Callaghan, Trustee  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**Consideration - \$0, Division of Property****BARGAIN and SALE DEED**

GRANTORS: Kenneth D. Gaver and Dona L. Gaver

do hereby convey all of our interest unto

GRANTEES: Dona Gaver and Nancy Bush O'Callaghan, Trustees or their successors in trust under the Dona Gaver Trust dated February 1, 2013

in the following described property located in Linn County, State of Oregon:

TRACT I: Lot 13, Block 5, SUPPLEMENTAL PLAT OF PORTION OF BURKHART ADDITION.  
TRACT II: Lot 12, Block 5, SUPPLEMENTAL PLAT OF A PORTION OF BURKHART ADDITION EXCEPT the West 46.2 feet deeded to City of Albany by deed recorded July 1, 1949 in Book 209, page 279, Deed Records.

To Have and to Hold the same unto grantee and grantee's successors and assigns forever.

The true and actual consideration paid for this transfer is zero. This transaction is to carry out an agreement among the Grantors to transfer the subject property to Dona Gaver which is the whole of the consideration.

LINN COUNTY OREGON 2015-01638  
D-BS  
Date: Sun=38 S WILSON 02/09/2015 10:31:38 AM  
\$15.00 \$11.00 \$20.00 \$19.00 \$10.00 \$75.00



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk





A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

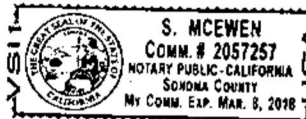
State of California )  
County of Sonoma )

On Jan. 15, 2015 before me, S. McEwen Notary Public  
(here insert name and title of the officer),

personally appeared Kenneth D. Gaver  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature] (Seal)



## COMMUNITY DEVELOPMENT

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

# Staff Report

## Zoning Map Amendment

ZC-04-25

January 16, 2026

### Hearing Information

Review Body: **Planning Commission**

Hearing Date and Time: **Monday, February 2, 2026, at 5:15 p.m.**

Hearing Locations: This hearing will be conducted in person and virtually:

In Person: Albany City Hall, Council Chambers, 333 Broadalbin Street SW

Virtual: At 5:15 p.m., join the meeting using the link below:

<https://council.albanyoregon.gov/groups/plc/zoom>

Phone: 1-253-215-8782 (long distance charges may apply)

Meeting ID: 837-8633-4863; Passcode: 464432

Review Body: **City Council**

Hearing Date and Time: **Wednesday, February 25, 2026, at 6:00 p.m.**

Hearing Locations: This hearing will be conducted in person and virtually:

In Person: Albany City Hall, Council Chambers, 333 Broadalbin Street SW

Virtual: To comment/testify, please email [cdaa@albanyoregon.gov](mailto:cdaa@albanyoregon.gov) with your name, address, phone number, and if you are speaking for, against, or neutral on the topic.

Watch on YouTube: <http://www.youtube.com/user/cityofalbany>

The applicant owns a duplex on a 5,730 square foot lot at Columbus Street SE and SE 5th Avenue. Each unit is 748 square feet with 2 bedrooms, 1 bathroom, a single-car garage, and laundry. The property is currently zoned Community Commercial, so the duplex doesn't fit the zoning rules. The applicant wants to change the zoning to Neighborhood Commercial to make the duplex an allowed use. To the south are two restaurants. To the east is an office complex and Waverly Elementary School. To the north is another duplex, and to the west are single-family homes.

Table 2.760-1 of the Albany Development Code (ADC) shows all Comprehensive Plan map designations and the respective zones that implement each designation. As Table 2.760-1 shows, there are multiple potential zones that implement the current Comprehensive Plan map designation of General Commercial applied to the property. These zones include Neighborhood Commercial (NC), Community Commercial (CC), Regional Commercial (RC), and Office



Professional (OP). The CC zone doesn't allow duplexes, which creates the potential for non-conformity should the duplex be destroyed. The NC zone allows duplexes through a Site Plan Review thus avoiding the potential non-conforming situation.

## Application Information

Proposal:	A Zoning Map Amendment from Community Commercial (CC) to Neighborhood Commercial (NC) on a developed 5,730-square-foot lot.
Review Body:	Planning Commission and City Council (Type IV-Q Review)
Staff Report Prepared By:	David Martineau, project planner
Applicant/Property Owner:	Nancy O'Callaghan, Trustee; 123 Edgewood Avenue; San Francisco, CA 94117; <a href="mailto:mjoc@pacbell.net">mjoc@pacbell.net</a> ; 415-819-3390
Applicant Representative:	David Dodson, Willamette Valley Planning; 5020 NW Highway 99; Corvallis, OR 97330; <a href="mailto:david@wvporegon.com">david@wvporegon.com</a> ; 541-231-6111
Address/Location:	530 Columbus Street SE and 2150 5 <sup>th</sup> Avenue SE
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-05CD; Tax Lot 9400
Zoning:	Community Commercial (CC)
Comprehensive Plan:	Commercial-General
Overlay Districts:	None
Total Land Area:	5,730 square feet (0.13 acre)
Easements:	None
Existing Land Use:	Residential Duplex
Neighborhood:	Willamette
Surrounding Zoning:	North: Residential Single Dwelling Unit (R-6.5) South: Community Commercial (CC) East: Community Commercial (CC) West: Residential Single Dwelling Unit (R-6.5)
Surrounding Uses:	North: Duplex development South: Commercial development East: Commercial development West: Single dwelling unit development

## Notice Information

Public notice was issued in accordance with development code requirements. A notice was issued to the Oregon Department of Land, Conservation, and Development (DLCD) on November 14, 2025, prior to the first public hearing. A notice of public hearing was mailed to property owners located within 300 feet of the subject property on January 12, 2026, at least 20 days prior to the first public hearing. The notice of public hearing was posted on the subject property by January 23, 2026. The staff report was posted on the City's website January 26, 2026. At the time this staff report was completed, no comments had been received.

## Appeals

The City's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). Per Oregon Revised Statute (ORS) 197.830, a notice of intent to appeal the plan and/or zoning map amendments shall be filed with LUBA no later than 21 days after notice of the decision is mailed or otherwise submitted to parties entitled to notice.

## Analysis of Development Code Criteria

### Quasi-Judicial Zoning Map Amendment File (ZC-04-25)

Section 2.740 of the ADC includes the following review criteria, which must be met for this application to be approved. Code criteria are followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

#### 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 application request includes a proposal to change the zoning of a lot measuring 5,730 square feet, from Community Commercial (CC) to Neighborhood Commercial (NC) district.
- 1.2 The current Comprehensive Plan Map designation of the subject site is Commercial-General (CG). Both the current CC zoning and the proposed NC zoning are consistent with the CG Comprehensive Plan Map designation of the site.
- 1.3 As shown on the Plan Designation Zoning Matrix (ADC 2.760, Table 1), the NC zone designation is consistent with the GC designation of the property.

##### Conclusions

- 1.1 The proposed NC zone designation is consistent with the Commercial-General (CG) Comprehensive Plan Map designation.
- 1.2 This criterion is satisfied.

#### Criterion 2

***Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation (ADC 2.740 (2)).***

##### Findings of Fact

- 2.1 The 5,730-square-foot site is located south of 5th Avenue SE, between Columbus Street SE and Bradley Street SE (Attachment A). The application would change the zoning of the parcel from Community Commercial (CC) to Neighborhood Commercial (NC).
- 2.2 The site is currently developed with a 1,496 square foot duplex constructed in 1950, according to Linn County Assessor's records. Each unit is 748 square feet and consists of 2 bedrooms, 1 bath, with a 1 car garage and laundry (see Attachment B.2). The duplex is a non-conforming use in the existing zone.
- 2.3 Albany's Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030 and does not identify any capacity or level of service problems occurring adjacent to the development.
- 2.4 Zone amendments are required to comply with the Transportation Planning Rule (TPR). The rule holds that a "significant affect" 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. The TPR refers to Action 1F.05 in the Oregon Highway Plan, which states that if there is a small increase in daily traffic (less than 400 trips) between the existing plan and the proposed amendment, it can be determined that the proposed zone amendment will cause “no further degradation” to the surrounding roadway network.

- 2.5 The applicant did not submit trip generation information with the application.
- 2.6 For trip generation purposes, staff believe that the most intense use that could reasonably be expected to occur on the site under the current CC zone designation and requested NC zone would be the same with uses like restaurants and retail services uses. The CC zone does not allow residential middle housing uses and the NC does allow middle housing, and the existing duplex would be compliant with the requested NC zone.
- 2.7 The CC zone allows for commercial uses such as vehicle service, RV parks, self-storage, industrial offices, parking lots and entertainment/recreation uses. These uses are considered more intense than uses that are allowed in the NC zone. These would not be more intensive uses on the transportation system according to the ITE Trip Generation Manual when compared to restaurants and retail services that are allowed in the CC and NC zones.
- 2.8 Uses allowed in NC and CC zones are ITE PM Peak trip rate as follows: a fast-food restaurant is 32.21 trips for 1,000 square feet, General Office 1.44 trips per 1,000 square feet, and Shopping Centers 3.40 trips per 1,000 square feet. Uses allowed in CC and not NC have the following ITE PM Peak trip rates: RV park 0.27 per camp site, athletic club 6.29 trips per 1,000 square feet, automobile parts and services 2.06 trips per 1,000 square feet, and quick lubrication shop 4.85 trips per service position.

### Conclusions

- 2.1 The proposed zone change would change the designation of a 5,730-square-foot parcel from CC to NC.
- 2.2 Albany’s Transportation System Plan includes improvements necessary to accommodate anticipated development through the year 2030 and does not identify any capacity or level of service problems occurring adjacent to the development.
- 2.3 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”.
- 2.4 The reasonable worst case uses allowed on the site under the requested zone designation would generate the same average day and PM peak hour trips on the street system than would the reasonable worst-case use allowed under the current zone designation. Because it would result in the same trip generation in vehicle trip generation, the requested zone designation would not have a significant effect on the transportation system.
- 2.5 This criterion is satisfied.

### Criterion 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 (ADC 2.740 (3)).***

## Findings of Fact

### *Sanitary Sewer*

- 3.1 City utility maps show a 12-inch public sanitary sewer main in the Columbus Street SE right-of-way and an 8-inch public sanitary sewer main along the southwest portion of the property line. The property is currently served by sewer service laterals that connect to the public main at the property's southwest corner.
- 3.2 While different types of commercial development can have different wastewater discharge characteristics, the City's Wastewater Facility Plan does not distinguish between different types of commercial developments when estimating the wastewater discharge from those uses for design purposes. The City's Wastewater Facility Plan does not indicate significant deficiencies downstream of the subject property and the system should be adequate for neighborhood commercial development.
- 3.3 It is anticipated that the existing public sanitary sewer system in this area can serve any development that would be allowed under the proposed zoning designation.

### *Water*

- 3.4 City utility maps show an 8-inch public water main in the 5th Avenue SE right-of-way. The existing duplex on the property is connected to the public water system with two separate meters served from the line in 5th Avenue SE.
- 3.5 The public water system design and adequacy are typically dictated by the fire flow needs within an area or zone. The City of Albany groups all commercial uses in the same fire flow requirement category (3,500 gpm minimum), so the proposed zone change would not affect the overall water needs of the site.

### *Storm Drainage*

- 3.6 City utility maps show a 10-inch and 12-inch public storm drainage main in the Columbus Street SE right-of-way. The line captures stormwater from the catch basins at the intersection of 5<sup>th</sup> Avenue SE and Columbus Street SE and directs it south along Columbus Street SE.
- 3.7 Storm water runoff from a development is generally dependent on the total area of impervious surfaces on the property. The Albany Development Code determines the maximum amount of "lot coverage" (buildings and parking areas) in any particular zone. The greatest percentage of lot coverage that would be allowed within the Community Commercial zone would be 90% (See ADC Table 4.090-1). The greatest percentage of lot coverage that would be allowed within the Neighborhood Commercial zone would be 80%. Although the applicant intends to retain the existing duplex, a change from Community Commercial to Neighborhood Commercial would allow for future redevelopment that would result in slightly less storm water runoff. Staff concur.

### *Schools*

- 3.8 The property is currently zoned for community commercial (CC) development. The requested zone change from CC to NC would have no impact on the number of children attending school in this area.

### *Police and Fire Protection*

- 3.9 The Albany Police Department and Fire Department provide services to all development in Albany. No deficiencies in providing police and fire protection for this property have been identified.

## Conclusions

- 3.1 Public sanitary sewer, water systems, and storm drainage facilities are available to the subject property.
- 3.2 Existing or anticipated services can accommodate potential development within this area without adverse impact on the affected service area.
- 3.3 This criterion is satisfied without conditions.

## Criterion 4

***The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan (ADC 2.740 (4)).***

### Findings of Fact

- 4.1 The current zoning designation of the property where the Zoning Map amendment is proposed is Community Commercial (CC). The proposed zoning is Neighborhood Commercial (NC), (See Attachments B10 & B11).
- 4.2 Prior to its current zoning designation, the subject property was zoned C-2 (Local Business) District. The zoning designation changed from C-2 to CC in 1998, but the name of the district continued to be "Community Commercial."

### Zoning District Purposes

- 4.3 According to Section 4.020(3) of the Albany Development Code, the CC (Community Commercial) District "recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas." It is noted that 5th Avenue SE and Columbus Street SE are designated as local streets, however Pacific Boulevard SE (Highway 99E) to the south is designated as a principal arterial roadway.
- 4.4 Allowable uses that are permitted in the CC district include some small-scale manufacturing activities, indoor and outdoor entertainment and recreation, offices, restaurants including drive-thru, retail sales and service, self-serve storage, taverns and bars, religious institutions, vehicle repair, vehicle service, and parking lots. Uses allowed conditionally include recycling centers, RV parks, schools, parks, assisted living, telecommunications towers, and community services.
- 4.5 According to Section 4.020(2) of the Albany Development Code, the NC (Neighborhood Commercial) 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 NC Districts should have as their primary market area the population within a one-half mile radius."
- 4.6 Allowable uses that are permitted in the NC district include traditional offices, restaurants, small-scale retail sales and services that are convenience or personal services-oriented, community services, and single-family and two-family dwelling units. Taverns, bars, drive-

thru restaurants, daycare centers, religious institutions and assisted living facilities are allowed conditionally.

- 4.7 The applicant asserts that the subject property is more consistent with the NC zoning designation. The subject property which fronts along local streets is more suitable for its current use as a duplex verses a more intensive commercial use. The property in its present state is better suited for the NC zone.

### Conclusions

- 4.1 The NC zone best satisfies the applicable goals and policies of the Albany Comprehensive Plan.
- 4.2 This criterion has been met.

### 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 (ADC 2.740 (5)).***

### Findings of Fact

- 5.1 Albany's Transportation System Plan (TSP) was developed with the assumption that this site would be occupied by permitted uses in the commercial zone. The proposed zone change is consistent with the allowable uses and does not alter that assumption.
- 5.2 The proposed zone change will not result in any changes to the road system and will not alter the transportation pattern in the TSP.
- 5.3 The TSP does not identify any capacity or level of service problems associated with the proposed Zone Map amendment.
- 5.4 There are no other applicable City-contracted or funded land use, transportation plan, or study that applies to the subject area.

### Conclusions

- 5.1 The proposal will not conflict with the transportation system as shown in the TSP.
- 5.2 The proposal is in accordance with the transportation pattern as shown in the TSP.
- 5.3 This criterion is met.

## Overall Conclusion

Staff conclude that the proposed zoning map amendment from CC to NC meets all the applicable review criteria. The NC zoning is more compatible with the adjacent neighborhood and adjacent local street infrastructure than the existing CC zoning. The existing duplex is considered an existing non-conforming use in the CC zone, while duplexes are an allowed use through site plan review in the NC zone. Staff recommend approval without conditions.

## Staff Recommendation

With respect to the proposed **Zoning Map Amendment**, the Planning Commission has two options:

- Option 1: Recommend that the City Council approve the Zoning Map Amendment request; or
- Option 2: Deny the Zoning Map Amendment request. The City Council will only consider the proposal on appeal by the applicants.

**Based on the analysis in this report, staff recommend that the Planning Commission recommend that the City Council approve the Zoning Map Amendment request.**

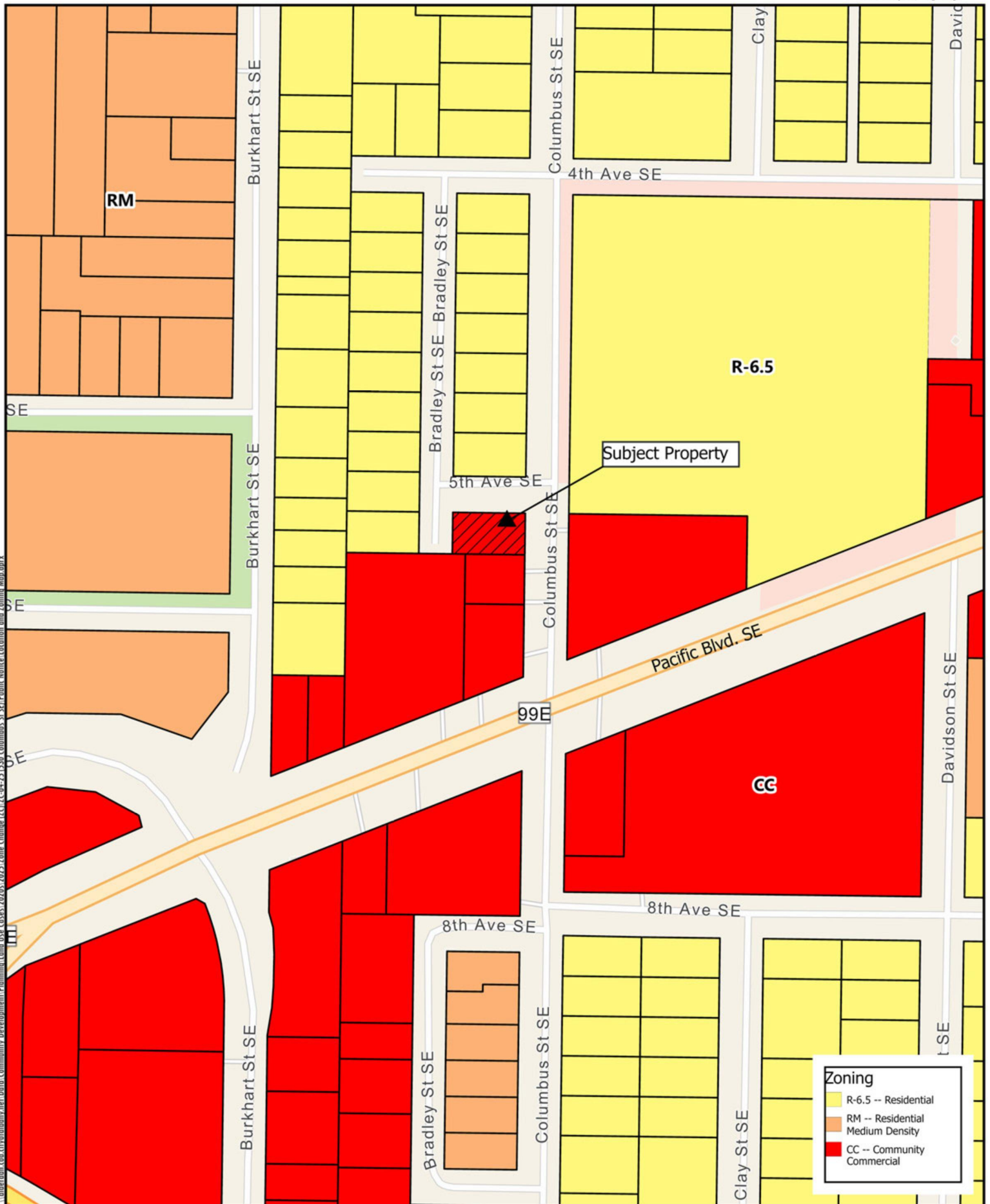
*I move that the planning commission recommend that the city council approve the proposed Zoning Map Amendment, under planning file ZC-04-25. This motion is based on the findings and conclusions in the January 16, 2026, staff report and the findings in support of the application made by the planning commission during deliberations on this matter.*

## Attachments

- A. Location Map
- B. Applicant's Narrative

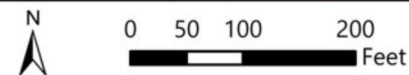
## Acronyms

ADC	Albany Development Code
ADT	Average Daily Traffic
AMC	Albany Municipal Code
CC	Community Commercial Zoning Designation
DLCD	Oregon Department of Land Conservation and Development
GC	General Commercial Comprehensive Plan Designation
ITE	Institute of Transportation Engineers
LOS	Level of Service
LUBA	Oregon Land Use Board of Appeals
NC	Neighborhood Commercial Zoning District
ODOT	Oregon Department of Transportation
RM	Residential Medium Density Zoning District
R-6.5	Residential Single Dwelling Unit
TPR	Transportation Planning Rule
TSP	Transportation Systems Plan
ZC	Zone Change File Designation



\\alderaan.com\cityofalbanystaff\GIS\Community\_Development\Planning\Land\_Use\Cases\2026\2025\Zone\_Change\_(C)\7C-04-25-(530\_Columbus\_St\_SE)\Public\_Notice\_Location\_and\_Zoning\_Map.aprx

Zoning	
<span style="display:inline-block; width:15px; height:15px; background-color:yellow; border:1px solid black;"></span>	R-6.5 -- Residential
<span style="display:inline-block; width:15px; height:15px; background-color:orange; border:1px solid black;"></span>	RM -- Residential Medium Density
<span style="display:inline-block; width:15px; height:15px; background-color:red; border:1px solid black;"></span>	CC -- Community Commercial



Date: 1/6/2026 Map Source:

# 530 Columbus Street SE

## Location and Zoning Map

# Gaver Rezone

An Application for a Zoning Map Amendment

On Behalf of:

Dona Gaver Trust  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

Prepared by:



October 30, 2025

Applicant/Property Owner: Nancy O’Callaghan, Trustee  
 123 Edgewood Avenue  
 San Francisco, CA 94117  
 [REDACTED]

Applicant’s Representative: David Dodson - Willamette Valley Planning  
 5020 NW Hwy 99  
 Corvallis, OR 97330  
 [REDACTED]

Site Location: 530 Columbus Street SE  
 2150 SE 5<sup>th</sup> Avenue  
 Albany, OR 97321

Linn County Assessor’s Map: 11-03-05CD, Tax Lot 9400

Site Size: 5,730 square feet

Comprehensive Plan Designation: Commercial - General

Zone Designation: Community Commercial

**INTRODUCTION**

The applicant owns a duplex on a 5,730 square foot lot at Columbus Street SE and SE 5<sup>th</sup> Avenue. Each unit is 748 square feet and contains 2 bedrooms, 1 bath, a single car garage and laundry. The property is currently zoned Community Commercial, making the duplex a non-conforming use. The applicant is interested in making it a conforming use by rezoning the property to Neighborhood Commercial. South of the site are two existing restaurants. To the east there is an office complex and Waverly Elementary School. North of the site is another duplex while single family homes are to the west.

**REQUEST**

The applicant wishes to rezone the property from Community Commercial to Neighborhood Commercial.

**LIST OF EXHIBITS**

- Attachment A Surrounding Uses
- Attachment B Existing Comprehensive Plan Designations
- Attachment C Existing Zoning Designations
- Attachment D Proposed Zoning Designations
- Attachment E Certification of Trust
- Attachment F Legal Description

# Quazi-Judicial Zoning Map Amendment

## QUASI-JUDICIAL ZONING MAP AMENDMENT

Section 2.740 of the Albany Development Code (ADC) includes the following review criteria, which must be met for this application to be approved. Code criteria are followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

### 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 applicant proposes to change the zoning of the 5,730 square foot lot from Community Commercial (CC) to the Neighborhood Commercial (NC) district.
- 1.2 The current Comprehensive Plan map designation of the subject site is Commercial - General. The proposed NC zoning is consistent with the Commercial - General Comprehensive Plan designation for the site, (See Attachment B).

#### *Conclusions*

- 1.3 The proposed NC zone designation is consistent with the Commercial - General Plan map designation.
- 1.4 This criterion is satisfied.

### Criterion 2

*Existing or anticipated transportation facilities are adequate for uses that are permitted under the proposed zone designation (ADC 2.740 (2)).*

#### *Findings of Fact*

- 2.1 The site is located south of 5<sup>th</sup> Avenue SE, between Columbus Street SE and Bradley Street SE. The application would change the zoning of the parcel from Community Commercial (CC) to Neighborhood Commercial (NC). The site is currently developed with a 1,496 square foot duplex. Each unit is 748 square feet and consists of 2 bedrooms, 1 bath, with a 1 car garage and laundry, (See Attachment A).
- 2.2 Zone changes are required to comply with the Transportation Planning Rule (TPR). The rule holds that a "significant affect" 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. The TPR refers to Action 1F.05 in the Oregon Highway Plan, which states that if there is a small increase in daily traffic (less than 400 trips) between the existing plan and proposed amendment, it can be

determined that the proposed zone change will cause “no further degradation” to the surrounding roadway network.

- 2.3 The applicant intends to retain the existing duplex. A TPR Analysis would find that the uses allowed under the existing CC zone result in more vehicle trips than the proposed NC zone.
- 2.4 The net increase in daily trips that would result from the zone change is less than the 400-trip threshold identified in the OHP, the applicant concludes that the requested change could be approved without having any significant effect on the transportation system.

#### *Conclusions*

- 2.5 The proposed zone change would change the zone designation of the site from CC to NC, (See Attachment D).
- 2.6 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 the current designation, and if so, if the additional trips would result in a “significant affect.”
- 2.7 The TPR refers to Action 1F.05 in the Oregon Highway Plan, which states that small increases in daily traffic (less than 400 trips) between the existing plan and a proposed amendment can be determined to cause “no further degradation” to the surrounding roadway network.
- 2.8 A TPR Analysis was not submitted by the applicant as the analysis would conclude the change in potential site trip generation would be reduced and therefore not have a significant effect on the transportation system.
- 2.9 This criterion is satisfied.

#### **Criterion 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 (ADC 2.740 (3)).*

#### *Findings of Fact*

##### Sanitary Sewer

- 3.1 City utility maps show a 12-inch public sanitary sewer main in the Columbus Street SE right-of-way and an 8-inch public sanitary sewer main along the southwest portion of the property line. The property is currently served by sewer service laterals that connect to the public main at the property’s southwest corner.
- 3.2 While different types of commercial development can have much different wastewater discharge characteristics, the City’s Wastewater Facility Plan does not distinguish between different types of commercial developments when estimating the wastewater discharge from those uses for design purposes. The City’s Wastewater Facility Plan does not indicate significant deficiencies downstream of the subject property and the system should be adequate for neighborhood commercial development.

#### Water

- 3.3 City utility maps show an 8-inch public water main in the 5<sup>th</sup> Avenue SE right-of-way. The existing duplex on the property is connected to the public water system with two separate meters served from the line in 5<sup>th</sup> Avenue SE.
- 3.4 Public water system design and adequacy are typically dictated by the fire flow needs within an area or zone. The City of Albany groups all commercial uses in the same fire flow requirement category (3,500 gpm minimum), so the proposed zone change would not affect the overall water needs of the site.

#### Storm Drainage

- 3.5 City utility maps show a 10-inch and 12-inch public storm drainage main in the Columbus Street SE right-of-way. The line captures stormwater from the catch basins at the intersection of 5<sup>th</sup> Avenue SE and Columbus Street SE and direct it south along Columbus Street SE.
- 3.6 Storm water runoff from a development is generally dependent on the total area of impervious surfaces on the property. The Albany Development Code determines the maximum amount of “lot coverage” (buildings and parking areas) in any particular zone. The greatest percentage of lot coverage that would be allowed within the Community Commercial zone would be 90% (See ADC Table 4.090-1). The greatest percentage of lot coverage that would be allowed within the Neighborhood Commercial zone would be 80% . Although the applicant intends to retain the existing duplex, a change from Community Commercial to Neighborhood Commercial would allow for future redevelopment that would result in slightly less storm water runoff.

#### Schools

- 3.7 The property is currently zoned for community commercial development. The requested zone change to NC would have no impact on the number of children attending school in this area.

#### Police and Fire Protection

- 3.8 The Albany Police Department and Fire Department provide services to all development in Albany, whether it is residential or commercial.

#### Conclusions

- 3.9 The existing public utility systems (sanitary sewer, water, storm drainage) are expected to be adequate to serve development in both the existing and proposed zones.
- 3.10 The Albany Police and Fire Departments will provide service to development on the property regardless of the zoning.
- 3.11 Existing or anticipated services can accommodate potential development within this area without adverse impact on the affected service area.
- 3.12 This criterion is satisfied.

#### Criterion 4

*The intent and purpose of the proposed zoning district best satisfies the goals and policies of the Comprehensive Plan (ADC 2.740 (4)).*

#### *Findings of Fact*

- 4.1 The current zoning designation of the property where the Zoning Map amendment is proposed is Community Commercial (CC). The proposed zoning is Neighborhood Commercial (NC), (See Attachments C & D).
- 4.2 Prior to its current zoning designation, the subject property was zoned C-2 (Local Business) District. The zoning designation changed from C-2 to CC in 1998, but the name of the district continued to be "Community Commercial."

#### *Zoning District Purposes*

- 4.3 According to Section 4.020(3) of the Albany Development Code, the CC (Community Commercial) District "recognizes the diversity of small to medium-scale businesses, services and sites mostly located on arterial streets and highways. Design guidelines, building location and front-yard landscaping will provide a coordinated and enhanced community image along these major transportation corridors as they develop or redevelop. Sound and visual buffers should be used to mitigate impacts on nearby residential areas." It is noted that 5<sup>th</sup> Avenue SE and Columbus Street SE are designated as local streets, however Pacific Boulevard SE (Hwy 99) to the south is designated as a principal arterial roadway.
- 4.4 Allowable uses that are permitted in the CC district include some small-scale manufacturing activities, indoor and outdoor entertainment and recreation, offices, restaurants including drive-thru, retail sales and service, self-serve storage, taverns and bars, religious institutions, vehicle repair, vehicle service, and parking lots. Uses allowed conditionally include recycling centers, RV parks, schools, parks, assisted living, telecommunications towers, and community services.
- 4.5 According to Section 4.020(2) of the Albany Development Code, the NC (Neighborhood Commercial) 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 NC Districts should have as their primary market area the population within a one-half mile radius."
- 4.6 Allowable uses that are permitted in the NC district include traditional offices, restaurants, small-scale retail sales and services that are convenience or personal services-oriented, community services, and single-family and two-family dwelling units. Taverns, bars, drive-thru restaurants, daycare centers, religious institutions and assisted living facilities are allowed conditionally.

- 4.7 The applicant asserts that the subject property is more consistent with the NC zoning designation. The subject property which fronts along local streets is more suitable for its current use as a duplex verses more intensive commercial uses. The property in its current state is better suited for the NC zone.

*Conclusions*

- 4.8 The NC zone best satisfies the applicable goals and policies of the Albany Comprehensive Plan.  
4.9 This criterion has been met.

**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 (ADC 2.740 (5)).*

*Findings of Fact*

- 5.1 Albany's Transportation System Plan (TSP) was developed with the assumption that this site would be occupied by permitted uses in the commercial zone. The proposed zone change is consistent with the allowable uses and does not alter that assumption.  
5.2 The proposed zone change will not result in any changes to the road system and will not alter the transportation pattern in the TSP.  
5.3 The TSP does not identify any capacity or level of service problems associated with the proposed Zoning Map amendment.  
5.4 There are no other applicable City-contracted or funded land use or transportation plan or study that applies to the subject area.

*Conclusions*

- 5.5 There are no applicable land use or transportation plans or studies for this area.  
5.6 The proposal is in accordance with the land uses and transportation pattern in the TSP.  
5.7 This criterion is met.

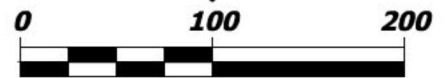
OVERALL CONCLUSIONS FOR THE ZONING MAP AMENDMENT

The applicant believes the proposed zoning map amendment from CC to NC meets all the applicable review criteria. The NC zoning is more compatible with the adjacent neighborhood and adjacent local street infrastructure than the existing CC zoning. The existing duplex is considered an existing non-conforming use in the CC zone, while duplexes are an allowed use in the NC zone.

# SURROUNDING USES



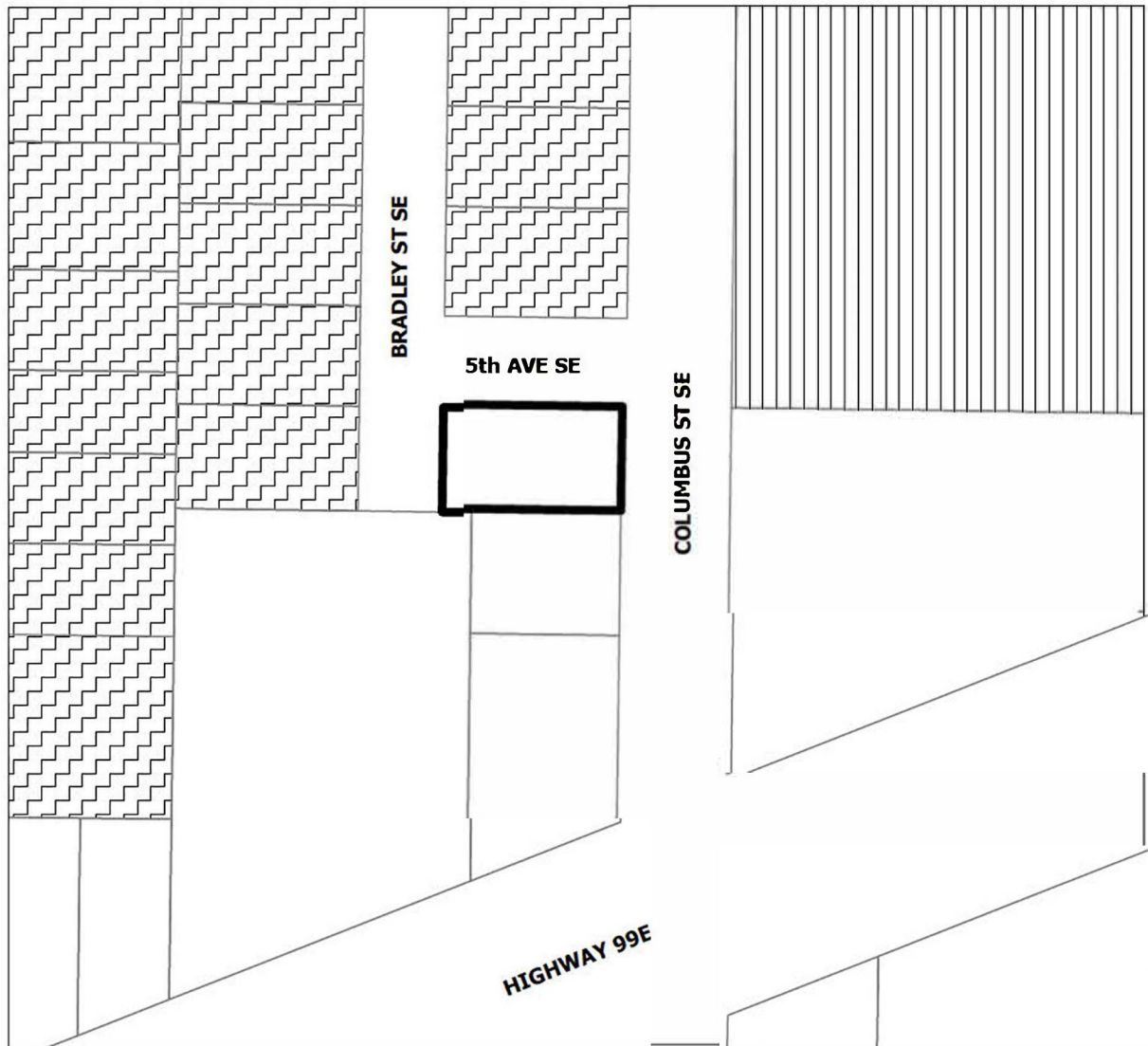
 Subject Site



Scale: 1" = 100'

**ATTACHMENT A**

# EXISTING COMPREHENSIVE PLAN DESIGNATIONS



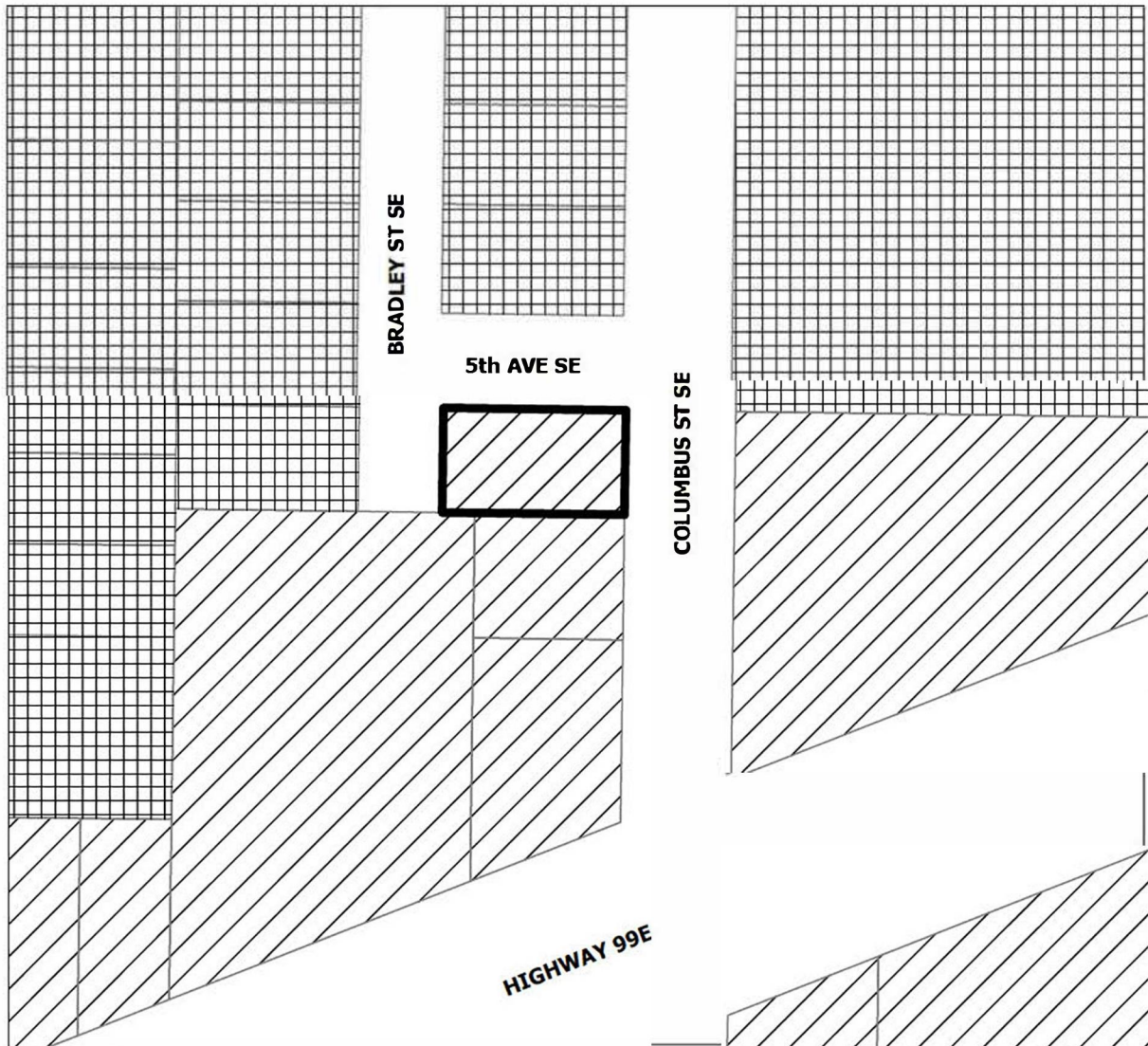
-  **Subject Site**
-  **RES. LOW DENSITY**
-  **COMMERCIAL - GENERAL**
-  **PUBLIC AND SEMI-PUBLIC**



Scale: 1" = 100'

**ATTACHMENT B**

# EXISTING ZONING DESIGNATIONS

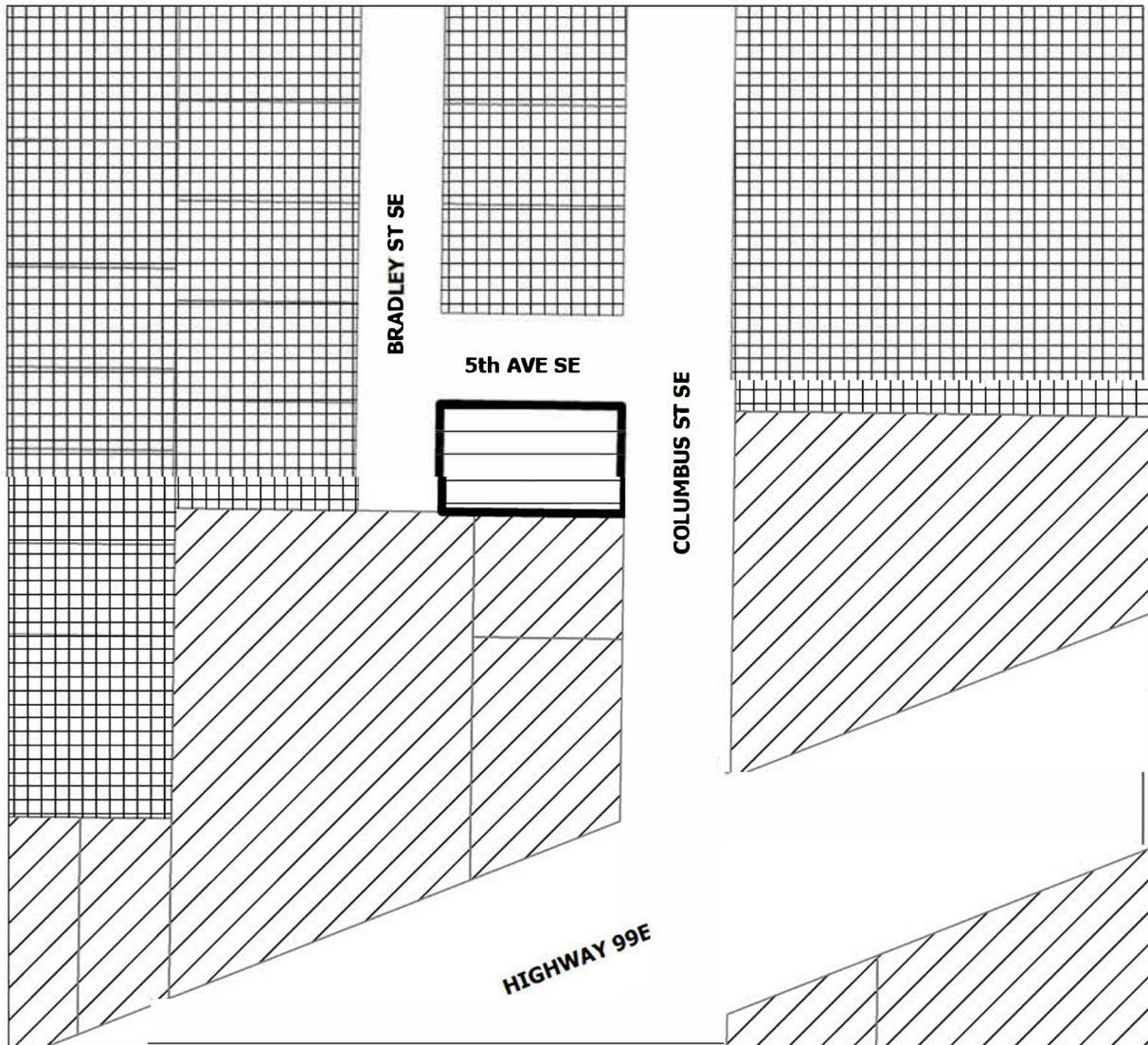


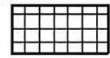

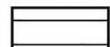
-  **Subject Site**
-  **R-6.5 (RES. DISTRICT)**
-  **CC (COMMUNITY COMMERCIAL)**



Scale: 1" = 100'

# PROPOSED ZONING DESIGNATIONS



-  **Subject Site**
-  **R-6.5 (RES. DISTRICT)**
-  **CC (COMMUNITY COMMERCIAL)**
-  **NEIGHBORHOOD COMMERCIAL**



Scale: 1" = 100'

**ATTACHMENT D**

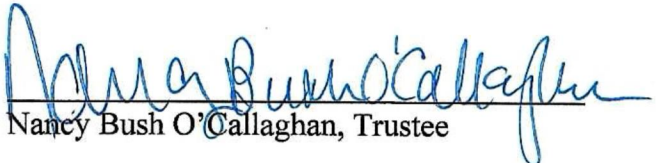
## CERTIFICATION OF TRUST

I, Nancy Bush O'Callaghan, Trustee of the Dona Gaver Trust dated February 1, 2013, hereby certify as follows:

1. The Dona Gaver Trust is presently in existence. It was executed on February 1, 2013. The Trustmaker, Dona Gaver, died March 8, 2023.
2. The Trustmaker of the trust was Dona Gaver, and the currently acting Trustee of the trust is Nancy Bush O'Callaghan.
3. Under the terms of the trust agreement, the Trustees are given powers granted a trustee under the Oregon Uniform Trust Code set forth in ORS 130.720 through 130.725.
4. The mailing addresses of the currently acting Trustee is:
 

Nancy Bush O'Callaghan  
123 Edgewood Avenue  
San Francisco, CA 94117
5. The trust is irrevocable.
6. The Trustee may act alone and has authority to exercise trust powers alone.
7. The trust taxpayer identification number is **93-6392070**.
8. Trust property is to be titled as follows: Nancy Bush O'Callaghan, Trustee of the Dona Gaver Trust dated February 1, 2013, including any amendments thereto.
9. The trust has not been revoked, modified, or amended in any manner that would cause the representations contained in this certification to be incorrect.

I hereby certify the above to be true as of this 24<sup>th</sup> day of January, 2024.

  
 Nancy Bush O'Callaghan, Trustee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of San Francisco )

On January 24, 2024, before me, PRITI PARIKH, Notary Public, personally appeared Nancy Bush O'Callaghan, as acting Trustee, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity(ies), and that by her signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Priti Parikh



CERTIFICATION OF TRUST

COPY

We, Dona Gaver and Nancy Bush O'Callaghan, Trustees of the Dona Gaver Trust dated February 1, 2013, hereby certify as follows:

1. The Dona Gaver Trust is presently in existence. It was executed on February 1, 2013.
2. The Trustmaker of the trust is Dona Gaver, and the currently acting Trustees of the trust are Dona Gaver and Nancy Bush O'Callaghan.
3. Under the terms of the trust agreement, the Trustees are given powers granted a trustee under the Oregon Uniform Trust Code set forth in ORS 130.720 through 130.725.
4. The mailing addresses of the currently acting Trustees are:  

Dona Gaver	Nancy Bush O'Callaghan
1340 NE 2 <sup>nd</sup> Street	123 Edgewood Avenue
Corvallis, OR 97330	San Francisco, CA 94117
5. The trust can be modified, amended, or revoked by the Trustmaker.
6. Either Trustee may act alone and has authority to exercise trust powers alone without the consent of the other Trustee.
7. The trust taxpayer identification number is the social security number of the Trustmaker: xxx-xx-7543.
8. Trust property is to be titled as follows: Dona Gaver and Nancy Bush O'Callaghan, Trustees of the Dona Gaver Trust dated February 1, 2013, including any amendments thereto.
9. The trust has not been revoked, modified, or amended in any manner that would cause the representations contained in this certification to be incorrect.

We hereby certify the above to be true as of this 1<sup>st</sup> day of February, 2013.

Dona Gaver  
Dona Gaver, Trustee

Nancy Bush O'Callaghan  
Nancy Bush O'Callaghan, Trustee

STATE OF OREGON            )  
  )        ss.  
County of Benton            )

This instrument was acknowledged before me on February 1, 2013, by Dona Gaver and Nancy Bush O'Callaghan, as acting Trustees.



Emily J. Miller  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 11/1/2013

**Grantor's Name and Address:**

Kenneth D. Gaver  
7604 Oak Leaf Drive  
Santa Rosa, CA 95409

Dona L. Gaver  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**Grantee's Name and Address:**

Dona Gaver, Trustee  
Nancy Bush O'Callaghan, Trustee  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**After recording, return to:**

Marek & Lanker, LLP  
810 SW Madison Avenue  
Corvallis, OR 97333

**Send all tax statements to:**

Dona Gaver, Trustee  
Nancy Bush O'Callaghan, Trustee  
1340 NE 2<sup>nd</sup> Street  
Corvallis, OR 97330

**Consideration - \$0, Division of Property**

**BARGAIN and SALE DEED**

GRANTORS: Kenneth D. Gaver and Dona L. Gaver

do hereby convey all of our interest unto

GRANTEES: Dona Gaver and Nancy Bush O'Callaghan, Trustees or their successors in trust under the Dona Gaver Trust dated February 1, 2013

in the following described property located in Linn County, State of Oregon:

TRACT I: Lot 13, Block 5, SUPPLEMENTAL PLAT OF PORTION OF BURKHART ADDITION.  
TRACT II: Lot 12, Block 5, SUPPLEMENTAL PLAT OF A PORTION OF BURKHART ADDITION EXCEPT the West 46.2 feet deeded to City of Albany by deed recorded July 1, 1949 in Book 209, page 279, Deed Records.

To Have and to Hold the same unto grantee and grantee's successors and assigns forever.

The true and actual consideration paid for this transfer is zero. This transaction is to carry out an agreement among the Grantors to transfer the subject property to Dona Gaver which is the whole of the consideration.

LINN COUNTY OREGON

2015-01638

D-BS

02/09/2015 10:31:38 AM

S15 00 S11 00 S20 00 S19 00 S10 00

\$75.00



00239852201500016380030036

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



IN WITNESS WHEREOF, the grantor has executed this instrument on the 21<sup>st</sup> day of January, 2015.

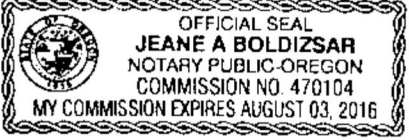
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Kenneth D. Gaver  
Kenneth D. Gaver

Dona L. Gaver  
Dona L. Gaver

STATE OF OREGON            )  
  ) ss.  
County of Benton            )

This instrument was acknowledged before me on this 28 day of January, 2015, by Dona L. Gaver.



Jeane Boldizsar  
Notary Public for Oregon  
My commission expires: 8/3/2016

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

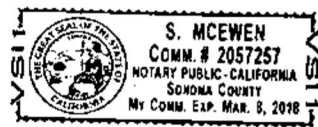
State of California )  
County of Sonoma )

On Jan. 15, 2015 before me, S. McEwen Notary Public  
(here insert name and title of the officer),

personally appeared Kenneth D. Gaver  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature] (Seal)