

CITY OF ALBANY
CITY COUNCIL
Council Chambers
Wednesday, October 8, 2008
7:15 p.m.

MINUTES

CALL TO ORDER

Mayor Bedore called the meeting to order at 7:15 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Bedore led the pledge of allegiance to the flag.

ROLL CALL

Councilors present: Sharon Konopa, Ralph Reid, Jr., Floyd Collins, Dick Olsen, Bessie Johnson, and Jeff Christman

SPECIAL PRESENTATION

OSU 4-H and Extension Service.

Dan McGrath, Linn County OSU Extension Service, is a professor in the OSU Department of Horticulture and provided information regarding Measure 22-81 (in agenda file). He gave a PowerPoint presentation explaining services the Extension Service provides for farmers and growers, forestry, master gardeners, and small farms. He explained the Land Grant University System, gave a brief history of the Extension Service, and said they have a three-fold mission: Research, Teaching, and Service. He explained that on a \$200,000 home the new Extension Service tax would be \$14.00 and that he could make available details regarding their budget upon request.

Oregon Main Street Program

Rick Rogers, Albany Downtown Association Director, and Kate Porsche, Urban Renewal Manager, said they applied in early September for the Oregon Main Street Program and went to Salem for an oral presentation. Albany has received the "Performing Main Street" level, which is the highest national level designation. The City received a plaque and signs to put on the entrances to the City. Porsche added that the program has been around for 30 years and will help the City.

SCHEDULED BUSINESS

Communication

Accepting Pat Kight's resignation from the Arts Commission.

MOTION: Councilor Christman moved to accept the resignation of Pat Kight from the Arts Commission and send a letter of thank you for her service. Councilor Johnson seconded the motion and it passed 6-0.

Quasi-Judicial Public Hearing

SP-12-08 and AD-01-08, Site Plan Review for construction of a shopping center with six buildings on 25.67 acres of land.

Bedore said, next on the agenda is a consolidated Quasi-Judicial Public Hearing regarding a Site Plan Review application for construction of a shopping center with six buildings on 25.67 acres of land; and an Adjustment Application that would allow 24-foot-wide travel aisles in the parking lots on the northern parcel of the shopping center where 26-foot-wide travel aisles are usually required. The applicant is Oregon Acquisition One LLC.

Bedore called the hearing to order at 7:34 p.m.

Bedore asked if any members of the Council wished to abstain.

City Attorney Jim Delapoer explained to the audience that the Council made a decision to call this issue up to this governing body to decide the outcome. During the course of doing that, two Councilors abstained. In land use decisions the Council acts like a judge and they are required to make a decision. There are rules stating that when the Council is acting like a judge they must make decisions like a judge, based solely on the land use laws and rules. The Albany City Charter, Section 20, requires the concurrence of four members to decide any question. If two of the six Councilors recused themselves, and the Site Plan application fails to receive a unanimous vote, either for approval or denial, it will result in a procedural problem because the Mayor will not be allowed to participate either to break a 2-2 tie, or to provide a fourth vote for or against the motion. If a Councilor has a bias or conflict of interest, land use laws allow them to declare it and they

don't participate in the discussion. The Council continues with the hearing and sees if there are four votes to make a decision. If there are not four votes to make a decision, the Councilor who abstained is required to re-qualify himself or herself and vote, in order to get a four-vote decision.

Councilor Konopa said that she had been advised by the City Attorney to publicly state her reasons for abstaining from the SmartCentre land use application hearing. She submitted a letter for the record explaining her reasons (in the agenda file). She believes that the SmartCentre application is for a Wal-Mart Super Store, since SmartCentres/First Pro has built many Wal-Marts in Canada. The SmartCentre applicant could state that she had a conflict of interest and/or bias due to her husband's employment as Staff Director for the United Food and Commercial Workers Union (UFCW), Local 555, which is the main source of their household income. Nationally, UFCW's fight the siting of new and existing Wal-Marts. She has assisted neighborhoods in other cities in Oregon with their fight against Wal-Mart. She also disclosed that recently she received a campaign contribution from the UFCW. Fearing she may be taken to court by Wal-Mart for her vote, she has chosen to abstain from voting unless her vote is required for a decision.

Konopa stepped down from the dais.

Councilor Olsen said at the last meeting he indicated that he may be biased and therefore should abstain from discussion and voting. But, after conversations with the City Attorney he no longer believes that he should abstain so will participate in the discussion and vote.

Bedore asked if any member of the City Council wished to declare a conflict of interest, report any significant ex parte contact, or a site visit.

Christman received a letter and everyone on the Council has a copy. Johnson received the same letter.

Bedore said, for all those wishing to testify, please be aware that you must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if you later want to raise that issue on appeal to the Land Use Board of Appeals. Testimony and evidence must be directed towards the approval standards staff will describe or other criteria in the plan or development code which you believe apply to the decision. If additional documents or evidence are provide by any party, the City Council may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension to the 120-day limit. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with enough detail to allow the local government or its designee to respond to the issue precludes an action for damages in circuit court.

Staff Report

Planning Manager Don Donovan said Oregon Acquisition One LLC has submitted Site Plan Review and Adjustment applications to build a shopping center on the east side of Interstate 5, on the south side of Santiam Highway west of Goldfish Farm Road. Oregon Acquisition One is the land acquisition part of a company called SmartCentres, a shopping center developer based in Canada. Staff refers to this project as "the SmartCentres project." The cover of the application says SC Retail Center.

Review Process

Donovan explained that the site plan submitted with the applications shows that there would be six buildings in the shopping center. One of the buildings would be 187,000 square feet. The other buildings would range in size from 4,000 square feet to 18,185 square feet. The square footage of all the buildings would total 235,480 square feet. A new street would divide the north side of the shopping center from the south side. There would be no accesses to the shopping center on Santiam Highway. There would be three accesses on Goldfish Farm Road – the new street that will run across the property and two driveways. Building A, which is the largest building, would be on the south side of the new street and the other five buildings, designated Buildings B through F, would be on the north side of the new street. Tenants for the buildings have not been identified yet. The applicants submitted a set of drawings with the applications. There are 22 sheets in the set of drawings. The drawings include a site plan, landscape plans, a grading plan, utility plans, a lighting plan, and multiple other drawings that show other details of the proposed shopping center construction. The applicants also submitted supporting studies and other documents with the application. These documents include a Traffic Impact Analysis, Transportation Memorandum, Preliminary Drainage Report, Storm Water Memorandum, Noise Study, Geotechnical Report, Arborist Memorandum, and an Architectural Memorandum. The City Council has all of these documents in a binder before them. Donovan provided overheads of the property and explained the surrounding development.

The Site Plan Review and Adjustment applications submitted by SmartCentres were reviewed first by the Planning staff. The staff made a decision to approve the applications. In September 2007, the City Council decided that they would "call up" the staff decision when the staff decision was made. The Council thought it was appropriate for them to make the decision on the proposed development because they had made the decision to change the zoning of the property creating the large regional commercial site. So, this is the City Council public hearing on the SmartCentres applications. The City's

Development Code lists review criteria that we use to review each kind of application. The City's decision on an application must be based on the review criteria, and only on the review criteria. This helps frame the discussion about an application and provides predictability to people in that they know what the decision will be based on. The written staff report on the SmartCentres applications is 48 pages long. Donovan said he would not be going into all the details that are in the written staff report.

Review Criteria

Donovan said there are five review criteria that have to be met if the Site Plan Review application is to be approved.

First review criterion: "The transportation system can safely and adequately accommodate the proposed development." He explained that one of the conditions of approval of a zone change for this property, approved in 2006, was that development on the property generates no more than 800 new vehicle trips at the peak traffic hour, or a "trip cap." The peak hour for traffic is typically in the afternoon. The applicants submitted a Traffic Impact Analysis with the Site Plan Review application. The Traffic Impact Analysis assumes that the development will generate the maximum 800 trips allowed with the zone change. City staff uses Institute of Transportation Engineers ITE estimates of traffic generation to estimate the number of vehicle trips that will be generated by a particular development. Using the ITE rates for the square footage of the proposed shopping center and the traffic impact study, staff estimated that the actual number of vehicle trips that will be generated will be 730 peak hour vehicle trips. So, the TIA actually overestimated the impact of traffic from the shopping center on the street system by using the 800 trips at the peak hour allowed by the trip cap. The TIA looked at street intersections, and at traffic impact at the time the shopping center opens and impacts at 15 years out. The Analysis evaluated eight public street intersections and the two driveways on Goldfish Farm Road. The intersections it looked at were Santiam Highway and the intersections of Waverly Drive; Airport Road; Fescue Street; Timber Street; Goldfish Farm Road; Scrael Hill Road; the intersection of Goldfish Farm Road and the new street; and the intersection of Timber Street and the new street. The TIA found that improvements would be necessary at the intersections of Santiam Highway and Airport Road, Fescue Street, and Goldfish Farm Road for the intersections to operate at acceptable levels of service with construction of the shopping center. Conditions of approval of the shopping center would require these improvements and the applicants have agreed to make them. An eastbound turn lane is needed on Santiam Highway at Waverly Drive with construction of the shopping center, but this intersection needs more than the turn lane to accommodate current traffic and future traffic. A condition of approval would require the applicants to pay their share of the larger project and they have agreed to do this.

Second review criterion: "Parking areas and entrance/exit points are designed to facilitate traffic and pedestrian safety and avoid congestion." Donovan said the City's Development Code requires a certain number of off-street parking spaces for most kinds of uses. The Code requires one parking space for every 200 square feet of sales floor area for a shopping center. The proposed shopping center is required to have 1,100 parking spaces and that is the number the site plan shows would be provided. Bicycle parking would be provided and a network of pedestrian walkways would be provided in accordance with Code requirements. The staff report lists conditions of approval related to the parking lots.

Third review criterion: "Public utilities can accommodate the proposed development." Donovan said there are existing sewer lines in Santiam Highway and in Goldfish Farm Road that can provide sewer service to all of the buildings in the shopping center. A new waterline will be extended in the new street that will run across the shopping center property to provide water service for the buildings in the shopping center. The existing sewer and water lines have the capacity to serve the buildings. Storm drainage from the shopping center would drain to Cox Creek. The private storm drainage system in the shopping center would include two storm drainage detention ponds that will also clean the water to some extent before it discharges into the public storm drainage system. In most storms, Cox Creek stays within its banks and can accommodate the storm drainage from the shopping center within the banks. In a 100-year storm, Cox Creek floods and spreads out. The applicants submitted a drainage study that shows the additional storm drainage from the shopping center will raise the elevation of the flood waters an insignificant amount, in the range of 100ths of an inch. Storm drain lines designed to collect runoff from the adjacent property to the south that may now run towards the shopping center are included in the design of the storm drainage system. Storm drain lines that are designed to collect runoff from the fill slopes along the west boundary of the shopping center are also included so that no runoff reaches the property adjacent to the west. The City's Engineering Division asked for and received a considerable amount of follow-up information about storm drainage and flooding before the City Engineer approved the plans that were submitted, with the conditions listed in the staff report.

Fourth review criterion: "Any special features of the site (such as topography, hazards, vegetation, wildlife habitat, archaeological sites, historic sites, etc.) have been adequately considered and utilized." Donovan explained that there are two special features of the shopping center property. Part of the property is within the 100-year floodplain of Cox Creek and there are some wetlands on the property. The Oregon Department of State Lands administers the applicable wetlands regulations. They determined that the wetlands on this property are not subject to the regulations. The applicants propose to fill some areas of the shopping center property to get the property and buildings above the 100-year flood elevation as required by the City's Development Code and to provide storm drainage. The applicants provided a

grading plan that includes enough information for City staff to evaluate the effect that fill and grading will have on the 100-year flood elevation and on adjacent properties. Filling and grading are specifically excluded from the definition of development in the Development Code and are not reviewed with a Site Plan Review application, except to the point that staff can determine whether the plans will work without creating drainage problems for adjacent properties. A separate grading permit is required before the property can be filled. Owners of adjacent properties will get notice that a grading permit application has been submitted and get an opportunity to review the plans and comment. City engineering staff is here and can answer questions related to public utilities or streets.

Fifth review criterion: “The design and operating characteristics of the proposed development are reasonably compatible with surrounding development and land uses, and any negative impacts have been sufficiently minimized.” Donovan explained that buffering and screening must be provided between commercial developments and residential developments. There is an existing residential subdivision on the property south of the proposed shopping center, and vacant property to the south and west which could be developed with houses in the future. A 10-foot wide buffer area and screening are required along the south and west property lines adjacent to the existing subdivision and the property that may be residential in the future. The plans submitted by the applicants show that a buffer area that ranges in width from 30 feet to 56 feet wide will be provided along the south property line. The landscape plans show that the required landscaping will be provided. A 15-foot wide buffer area and the required landscaping will be provided along the west property line adjacent to the property that may be developed with houses in the future. Staff identified the area along the south property line adjacent to the existing houses as an area that was important to pay attention to early in the development review process. The width of the buffer area that will be provided exceeds the required 10 feet. A 6-foot tall fence made of concrete that looks like wood will be provided. The landscaping along the south property line would include a thick screen of Leyland Cypress, Nordman Fir, and Western Red Cedar trees. Donovan provided an overhead of the Landscape Plan (in agenda file). He said that noise was also something that was identified early on. The applicants had a consultant do a noise study that evaluates the level of noise that may be generated by the shopping center. Noise generating activities may include parking lot sweepers, refrigeration units on the roof the building, and trucks. For the sake of evaluation, the noise study assumes that all of the noise generating equipment is operating at once. The State Department of Environmental Quality limits the level of noise that commercial developments can generate during the day and at night. The noise study concludes the noise generated at the shopping center can meet the DEQ standards if certain mitigation measures are provided. The mitigation measures would require that barriers would have to be built around the refrigeration units on the roof of the large building at the shopping center, or refrigeration units that don’t generate as much noise as the standard units would have to be installed. The conditions of approval listed in the staff report require one or the other of these mitigation measures. Staff also asked the applicants to provide information about noise along the vacant property to the south and west. These properties are currently outside the City limits, but will be annexed someday, and could be zoned for residential development. Staff received a memorandum from the consultant that did the first noise study for the applicants that describes the level of noise that would be generated at the now vacant properties to the south and west. The memorandum concludes that noise from the refrigeration units on trucks with frozen food will exceed the allowable DEQ standards. The applicants have a couple of ways they proposed to deal with this situation. The Planning staff did not have time to review and provide comments on the memo to the City Council, but did discuss a couple of options for dealing with the noise from the refrigeration units on the trucks with the applicants.

Design Standards

Donovan explained that design standards include requirements that buildings be constructed near streets and that walls along streets have windows. Doors must be clearly defined and must be placed in locations convenient for pedestrians. Parking lots must not be located between buildings and sidewalks. The purpose of the requirements is to create developments that are accessible and attractive for pedestrians. The applicants originally submitted a site plan that showed buildings near Santiam Highway. They explained that the buildings were oriented to Santiam Highway with doors and windows on the Santiam Highway side of the buildings. It was staff’s opinion that, although the buildings were near Santiam Highway and may have had doors on that side, the buildings were actually oriented toward parking lots on the interior of the property. With a modified design, the applicants provided doors both along the street and along the backs of the buildings on the parking lots. The modified design meets all of the commercial design standards, except that staff found that the intent of the design standards was compromised by placing identical public entrances and building features on the fronts and backs of the buildings. To accomplish what the design standards require, staff included a condition of approval that says public entrances may not be located on the back sides of the buildings. The doors will be on the new street that will be built through the shopping center property.

The applicants requested that they be allowed to have secondary doors on the backs of the buildings that are secondary doors. Staff agrees with this in concept, but has not had time to come up with language that would make clear what the secondary doors would look like.

Adjustment Application

Donovan said the applicants also submitted a second application - an Adjustment application. The Adjustment application is to allow some vehicle travel aisles in parking lots in the north area of the shopping center to be 24 feet wide where 26 feet is usually required. There are two review criteria that have to be met if the Adjustment application is to be approved.

The first review criterion requires that the proposed adjustment be for 10 percent or less of a numerical standard. Twenty-four feet is less than 10 percent of 26 feet, so that review criterion is met.

The second review criterion requires that "The need for the requested adjustment is created by the configuration of the structure on the site." The placement of the proposed buildings, a storm water detention facility, pedestrian walkways, and landscape strips on the site leave only 24 feet for the width of some of the vehicle travel aisles. The written staff report concludes that this review criterion is met.

Letters

Donovan mentioned that when staff mailed out the Notice of Public Hearing, they received four letters with comments about the applications for the shopping center. The letters are from John Hartman; Paul and Kimberly Shreve; Barry and Janet Ruebenson; and Norm and Lynn Kellogg. Mr. Hartman also wrote a letter to Councilor Christman. The letters raise questions about traffic, noise, storm drainage, the review process, and landscaping. Staff provided the letters to the applicants for responses. Donovan said, we also believe that the questions have been addressed in the staff report. One new issue that was raised in the letters concerns the effect of shifting ground and vibration on the houses to the south during construction of the shopping center. They left those questions to the applicant because staff is not familiar with the all of the details of the construction activities that will be involved.

Staff had also received three letters prior to the staff decision. Those letters and a letter from the Oregon Department of Transportation(ODOT) are also attached to the City Council staff report with responses to the questions raised in the letters. They got another letter from ODOT yesterday and that letter is in front of the City Council tonight (in agenda file). The Engineering staff agrees that the City can make the revisions suggested by ODOT in their letter and recommend the City Council direct staff to do so at the appropriate time.

Donovan said, at 4:00 p.m. today, the applicants submitted a letter to staff that asks for a few changes in the language included in conditions of approval, and other matters. Staff talked with the applicants about some of their requests and think we can include language that addresses their concerns in the final decision for these applications, following City Council direction and review of the requested revisions. The letter is on the dais before the City Council (see agenda file).

Donovan said, at 4:45 p.m. today, the City received a letter from Linn County that says if the City approves the shopping center, approval must be contingent on adequately addressing and mitigating traffic impact on Goldfish Farm Road to Knox Butte Road, and Three Lakes Road from Grand Prairie to Spicer Road. A copy of that letter is in front of each of the City Councilors too (see agenda file). The applicants will want to address this letter.

Applicant

Andrew Sinclair, 201-11130 Horseshoe Way, British Columbia, Canada, representing SmartCentres, introduced his staff. He thanked the City staff for their cooperation and the thorough report Donovan just gave. He said that part of the property was annexed into the City in 2002, and the Council rezoned all the property for commercial use. They have been working with the City's Planning and Engineering Departments for around two years and essentially have an approval from ODOT. City staff made a decision on September 9 to approve with conditions. He mentioned that the size is well below the 275,000-foot permitted through the trip-cap analysis. This project will bring construction jobs and retail jobs, and the Site Plan and Adjustment applications meet all the criteria.

Mark Whitlow, Attorney for the applicants, submitted into the record a letter with comments regarding the conditions. It includes letters from their engineer and landscaper, and renderings (in agenda file). Basically the letters say that they could comply with the storm water and landscaping conditions. He said changes they would like to see for the conditions of the regional center include that they think it is important to have a secondary customer entrance on the parking lot side. Regarding timing of on-site construction, they want the opportunity to do site prep work and foundation work before off-site permits are obtained as those take a lot of time. Condition 3.6 also is for timing of on-site and off-site and they would like it clarified that it relates to the conditions above. Condition 2.6 says that even though they are putting a new collector street through the middle of the shopping center, staff wants them to provide access to the property on the northwest corner of the shopping center by stubbing out a two way driveway so that when the property is developed, they can match their stub and they would have driveway connection between the two properties and not have to use the new street. They have agreed with the understanding that it cannot be punched through now, but would be when the other property develops. Condition 5.11 relates to noise and the ability to mitigate during night time hours on those vacant lands to the southwest currently unincorporated in the

City but subject to future annexation. That property could yet come into the City and be zoned commercial. If so, there is no need for this condition as the noise regulations apply to residential. Also, the City's Code goes beyond the DEQ regulations and they are conforming to City Code.

Sinclair said the noise concerns were regarding the mitigation of the vacant property and weren't about the subdivision. They currently meet all noise standards regarding the subdivision.

Whitlow added there is a condition regarding an access way that doesn't conform to the American Disability Act (ADA), because it has a step. Not all access ways need to be ADA compliant. They offer language that allows for one access way with a step because of the grades on the site.

Sinclair provided renderings of the retail center (in the agenda file) on an easel for the Council and audience. He said there could be minor changes regarding color schemes, specific plantings, etc. He said they are proposing significant planting along the fence between commercial and residential areas for noise and aesthetics.

Support

Ray Kopczynsky, 1303 Tamarack Court, representing himself, said any organization willing to meet the stringent requirements of Albany's land use, should be approved. He said the Council should be inviting economic development into the community.

Janet Steele, 1540 Patrick Court, representing their Government Affairs Committee of the Albany Chamber of Commerce, said the applicants presented the proposal to the Government Affairs Committee and answered questions centered on meeting the requirements of the City and state. After the presentation the Committee unanimously approved supporting their application. The Chamber represents 700 businesses and we live in economic times in which employees are continually at risk of losing their jobs. Regional commercial development is another option for the community. Approving this project will provide jobs, provide retail options in east Albany, help stop retail leakage, and provide \$800,000 in tax revenues, with a total investment of \$45,000,000. She encouraged the Council to support the project.

John Pascone, 2667 Crocker Lane, from AMEDC, said the City is lucky to have the history to be located where we are in the middle of the valley along the I-5 corridor, and to have this investment. The Council should encourage investment in the community. This project creates construction jobs, retail jobs, and meets the requirements of the Planning Department. He encouraged the Council to approve the application.

Nick Pisani, 3821 Oranda Street, said he is in favor but concerned about development to the street. He said there is only one way out of his community now and with increased traffic in the area they will need another access out of the neighborhood.

Neither in favor or against:

Wayne Rackam, 3005 Chicago Street, was curious when the zoning change was approved and what kind of discussion took place regarding the trip count.

Opposed

Erin Johnson, 3849 Rankin Street, said she lives behind the development and a lot of her questions have been answered tonight. She is still concerned about storm water treatment. Where are oil drips, parking lot debris, and other contaminants going to run; into the community or Cox Creek? She likes the buffer zone and suggested they incorporate a pocket park there to assure the community that they are willing to give back.

Diane Hunsaker, 1565 Waverly Drive, asked how there would be enforcement of the trip cap? She said SmartCentres has a history of building for Wal-Mart. She suggested the Council go on line to read about Wal-Mart's reputation. She would like the Council to make it part of the agreement that it not be a Wal-Mart. They have too much of an impact on social services.

Michal Tolely, 1008 31st Avenue, believes that the trip cap totals are too low. There will be much more traffic during Thanksgiving and Christmas.

Favor

Edward Wright, 3111 Millersburg Drive, provided photos (in the agenda file), taken within the last five days, of the site and pictures of businesses north and east of the site. He said the property is hideous, and has been a neighborhood problem for years. There is garbage, junk, and people living around the lake. He asked, could it possibly be worse than this, while lifting up a photograph. He agrees with Janet Steele and others in favor of this project. He believes they will bring jobs. His business is across the street from the property and he has been in business for 25 years. He has never had to work so hard, seven days a week, 14 hours a day because of the slowing economy. He believes it is good for the City.

Bedore asked, does anyone wish to respond in opposition to Mr. Wright's testimony and/or want the opportunity to review the photos? No one wished to respond or view the photos.

Applicant Rebuttal

Whitlow said he understands the issues to be storm water, trip cap, and noise. They would like a few minutes to gather their information together.

Recess

Bedore recessed the public hearing at 8:55 p.m.

Reconvene

The public hearing was reconvened at 9:05 p.m.

Applicant Rebuttal

Sinclair said the issues they heard were regarding storm water, the southern pond, transportation and the trip cap, and an issue as related to the approval criteria.

Kevin Russell, WRG Design, 415 SW Westgate, Portland, a Civil Engineer, said he laid out the preliminary storm water drain design in the report. Concerns raised were water quality and contamination, and drain off. He said the City has no standards for storm water quality, but it does encourage storm water quality. They have two detention facilities on site that can contain up to the 25-year event, the required standard of the City. They have overflows to account for 100-year storm possibilities. Regarding contamination in the parking lot, they would install catch basins converging underground to the water quality pond.

Johnson asked, will the drainage be towards the neighborhood of Coastal Crossings? Russell said they will be installing drains along the south and east edge of the parking lot and they will release into the existing ditch on the west.

Sinclair added that the suggested dog/pocket park area may have standing water on it, so it could not be developed.

Mark Butorac, Kittleson & Associates, 610 Alder Street, Suite 700, Portland, Transportation Engineer for the project, said there was a question if streets would be punched through in the future. According to the Albany Transportation System Plan (TSP) Goldfish Farm Road will be extended to Spicer and the east/west collector provided in their plan will come out to Timber Street. So, long term there will be three public streets serving that development. During the interim, emergency access is from Santiam Hwy on northwest of building "E" to get into the residential area on the south. He explained how a trip cap analysis is done. The trip generation rates are conservative in nature in this study. The rate is an outside rate and both ODOT and City staff have reviewed them. The worst condition or highest hour of the year is used for traffic studies. The streets system has been sized for that and is adequate with additional capacity.

Christman asked, was there any consideration of Goldfish Farm Road, north of Santiam Highway, when doing the studies? Butorac said it was considered and the capacity at the intersection as constructed is at 10,000 trips. After full development they will be at 3,500 trips. That road is well within its capacity. They have met the road capacity and the intersection capacity for the road north of the intersection.

City Manager Wes Hare asked, if you were operating near capacity, what would that look like as far as delays in traffic? Butorac said at capacity, it would be a 30-40 second delay.

Christman asked, how will the City enforce the trip cap? Donovan read from the staff memo (page 4 of the agenda document) saying "The Institute of Transportation Engineers (ITE) estimates of vehicle trip generation are based on studies of actual developments, so the data is generally considered reliable. There was discussion during the hearing on the zone change about how to measure the number of trips that would be generated by development on the 26 acres when development was proposed. Specifically, one City Councilor asked about the possibility of requiring the developer to do counts of the actual volume of traffic that is generated by commercial development on the property when the development is complete, and requiring additional mitigation of traffic impact if the volume exceeded what was estimated using ITE rates."

Delapoer explained that a traffic count on a particular day might not be representative of the longer term volume of traffic that is actually generated by a particular development. The City Engineer agreed and a representative of ODOT further explained that factors such as economic cycles and competition influence the number of customers that visit a particular development. The City does not use actual traffic counts for any proposed development. We use the ITE trip generation estimates. Delapoer added that the trip cap is a design standard that comes from the ITE Manuals. It's used now to see if the proposed development meets the standards of the cap; it is not used for enforcement of traffic flow.

Hare said the main concerns are how long a citizen will have to wait at an intersection. Mitigation improvements may make traffic better, rather than worse.

Olsen said he recalls that the Council was told that if the development attracted too much business, it would back up traffic on Santiam Hwy to the lights at the I-5 interchange, possibly causing continuing backup on to the freeway. He asked, if this actually happens, will something be done by ODOT? Hare said typically that takes some time to happen and you do get warnings in time to discuss funding strategies. SDCs will be paid for this project which would go for additional capacity in the future.

Butorac said when the zoning change review took place, there was discussion about a 20-year horizon, including the intersection improvements on Goldfish Farm Road and others, which are significant improvements. Adding additional lanes can make a significant change in traffic flow.

Councilor Collins asked if the applicant could explain volume-to-capacity ratio and if that standard is an absolute standard or a guideline from ODOT. Butorac explained volume to capacity as like a pitcher of water. When you have a volume to capacity of 70% at an intersection it is like a pitcher being 70% full. You still have 30% that you can add to the pitcher of water before the pitcher is full. Same with an intersection, you have 30% more traffic volume that you can add to the intersection before it is "full". ODOT has two standards that they apply to intersection capacity. First, if the intersection is operating below ODOT's maximum volume to capacity ratio, then development must mitigate its impacts such that the intersection does not exceed the maximum volume to capacity ratio. Second, if an intersection is already operating in excess of the volume to capacity ratio prior to the development, the development must mitigate its impacts so that the volume to capacity ratio after the development meets the volume to capacity ratio prior to the development. Collins said that in the analysis that he read, in some cases our v/c ratios currently exceed the standard, but with the improvements you're proposing, in some cases it brings it back below the standard and in other places it brings it to the current v/c. Over time, as it got worse, it would get worse from growth within the community not associated with the improvements. Butorac said that is correct.

Councilor Reid was concerned that noise control from 10:00 p.m. to 6:00 a.m. would be only with signs for refrigerated delivery trucks to turn their motors off. They will not obey for fear of destroying their load. It needs more than that. Sinclair responded that they would require, as part of the agreement with the delivery trucks, that refrigerated trucks would not be on site between 10 p.m. and 6 a.m. The side of the property where the trucks would be loading currently is bordered by vacant property.

Collins said, in the staff report it says you are attempting to acquire right-of-ways west of the property and if unable to acquire, the City would consider condemnation. He asked, at the time that right-of-way would be acquired, would the company pay for the extension to Timber Street? Sinclair said yes. Collins said, but it's not paying for the intersection of Timber and Highway 20? Sinclair said, no they are required to build the road to our west property line. Collins said that would leave it to the City, SDCs, and ODOT to develop. He said there are concerns about the intersection from the neighborhood. Sinclair said they will place no extra burden on the transportation system than what was permitted previously. Butorac said they do not own any other property in order to build out to the other corridors. They meet the City's operational standard now and 15 years in the future.

Olsen asked, how long do you project it will meet the standards? Butorac said, long-term it will meet the intersection requirements. Donovan referred to page 16 in the packet as an example of how the transportation will change. There will be a fair amount of congestion that will be relieved when connection to Timber Street is made.

Whitlow said that they meet all the review criteria. Use is not a criterion. They meet requirements for the TSP and have mitigated impacts. Streets and roads are built by the development. The conditions need some adjustments to make them more reasonable. They would appreciate a vote of approval.

Delapoer said the applicant has indicated that they intend to waive the seven day written response.

Olsen commented on asking the City to condemn property. He thinks they should get it for themselves. Sinclair said they understand; they are making every effort to acquire the property. That portion of the road is not required to allow the shopping center to function. They don't have total control over that process. They will pay the cost, if necessary.

Bedore asked, since they have offered new evidence, is there any response from anyone in the audience? There was none.

The Quasi-Judicial Public Hearing was closed at 9:47 p.m.

Olsen said with so much new information to review, he would like extra time.

MOTION: Olsen moved to table deliberation and any tentative decision by the Council to date certain, Wednesday, October 22, 2008. Christman seconded the motion and it passed 5-0.

Public Hearing

SS-07-03, adopting Engineering and Financial Investigation Reports for Ellingson Road Sewer Extension Project.

Bedore opened the public hearing.

Shepard said, action here would form the Local Improvement District including the SVC Manufacturing Company for the sewer extension.

Testimony

No one wished to speak.

Bedore closed the public hearing at 9:52 p.m.

MOTION: Collins moved to adopt the Engineering and Financial Investigation Reports for SS-07-03, Ellingson Road Sewer Extension Project. Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5674.

Business from the Public

Bill Root, 2634 Valley View, representing the North Albany Neighborhood Association (NANA), read a letter they wrote to the Oregon Water Enhancement Board supporting the East Thornton Lake Natural Area and Park (in the agenda file).

Michael Quinn, 4455 Sunset Ridge NW, asked the Council to consider including a solar powered crosswalk on Geary Street at 12th Avenue as an additional project in the Capital Improvement Projects (CIP) plan. There is a residential neighborhood behind the Panda Express on that street that includes many children. The kids get off school buses and cross there. He suggested using SDCs, as it is a safety issue.

Johnson agreed with Quinn, saying that there are a lot of kids in the area and a crosswalk is needed.

Public Works Director Diane Taniguchi-Dennis said it is a valid project. If the Council is interested in considering it, staff can bring information to a Council meeting.

Konopa agreed and suggested that whole section of Geary Street be evaluated for an appropriate crossing spot.

Quinn said he estimates the costs would be around \$14,800.

CONSENSUS: There was Council consensus to have staff bring information regarding creating a pedestrian crosswalk across Geary Street in the 12th Avenue vicinity.

Adoption of Resolutions

Waiving competitive bidding and awarding a sole source contract to SunGard Public Sector.

MOTION: Christman moved to adopt the resolution having the Albany City Council, acting as the Local Contract Review Board, waive competitive bidding and award a Sole Source Contract to SunGard Public Sector for the Albany Police records management system software. Johnson seconded the motion and it passed 6-0, and was designated Resolution No. 5675.

Transferring appropriation for BR-06-01, Periwinkle Creek Bridge at Second Avenue, from the Capital Projects Fund to the Street Capital and Restoration Fund.

MOTION: Reid moved to adopt the resolution transferring appropriation for BR-06-01, from the Capital Projects Fund: Periwinkle Creek Bridge at Second Avenue, to the Street Capital and Restoration Fund. Collins seconded the motion and it passed 6-0, and was designated Resolution No. 5676.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) August 27, 2008, City Council Meeting
 - b) September 8, 2008, Work Session
- 2) Adopting an updated investment policy. RES. NO. 5677
- 3) Revising language regarding appointments to City boards, commissions, and committees. RES. NO. 5678
- 4) Revising the City of Albany Public Safety Commission Resolution. RES. NO. 5679
- 5) Authorizing a grant application for acquisition of property on East Thornton Lake.
- 6) Approving a liquor license for Cascade Grill & Bar, LLC, 110 Opal Court NE.

- 7) Applying for and accepting the Oregon Association Chiefs of Police grants for:
 - a) Safety Belt/Three Flags Traffic Safety Grant to enforce safety belt, speeding, and DUII laws. RES. NO. 5680
 - b) DUII Overtime Grant for the detection and removal of impaired drivers from our streets. RES. NO. 5681
- 8) Accepting easements from:
 - a) Jack Utterback, 20-foot wide public utility easement. RES. NO. 5682
 - b) Leroy Laack Trust, 15-foot wide easement over a public storm drainage line. RES. NO. 5683
 - c) Leroy Laack Trust, variable width sidewalk and utility easement. RES. NO. 5684
- 9) Executing a Quitclaim Deed to release a sewer easement to Property Investment Group of Albany. RES. NO. 5685

There was a new resolution for item 4) on the dais for the Council. The resolution revises the wording to the bylaws of the Public Safety Commission to reflect the intent and practice since 2004.

Christman asked that item 5) be pulled for discussion.

MOTION: Christman moved to adopt the Consent Calendar with item 5) pulled for discussion. Reid seconded the motion and it passed 6-0.

Christman explained that he is in favor of item 5), "Authorizing a grant application for acquisition of property on East Thornton Lake", being done without City funds. He believes the property should be acquired with grants and community funds. He wants the Council to consider language that will state that the grants would not be matched or augmented from tax dollars.

Parks & Recreation Director Ed Hodney said the City's share can come from any or all other sources. Parks SDCs were mentioned because, potentially, there is a park planned in the area. This isn't a commitment. If the Council wants to direct staff to include no use of tax dollars, they will do that.

Hare commented that it would be a mistake to put "no use of tax dollars" in the application. He understands that the Councilor doesn't want to use General Fund monies, but the interpretation of what is tax dollars could include monies the City is willing to use.

Christman said the park will be small and the benefit to the community will be minimal.

Hodney said the park will encompass five acres of the 24 acres. It is a traditional neighborhood park which also doubles as open-space-educational. Staff may receive more details regarding funding options before the grant application is approved. They will keep the Council up to date as that process goes along. The application deadline to the Oregon Watershed Enhancement Board (OWEB) is October 20. Currently, there is no financial obligation except staff time.

Collins believes there is significant community benefit from this park and open space area; educational as well as recreational.

Johnson asked, will the City own the five acres? Hodney said the City will own the entire 24 acres.

Hodney added that the City will be working with others regarding restoration management of the open space and a development plan. OWEB would have the conservation easement over the property. Hodney brought the Council up to date, including letters of support from partners that will bring in other resources to get the project going.

Olsen said he would prefer to submit the best application possible with no caveats.

Warren Harrington, 2326 Holly Place NW, asked, is the park for everybody? The Council replied, yes. Harrington asked, can the public use the lake? Hare explained that the portion owned by City of Albany is public property and open to the public. Parts of the open space may be sensitive and require some use restrictions. Harrington said he had been told by homeowners on the lake that he couldn't fish there. Collins said there is private property along the west side of the lake in which the lot lines extend into the center of the lake. That is true of portions of the east side of the lake as well. The City will acquire only the portion that borders these 24 acres. There will still be private property along a portion of the lake.

Collins said there may be a problems opening public access to the lake. Hodney said they will develop a management plan that would include the neighbors.

Hodney suggested he get together with Mr. Harrington to answer his questions one on one.

MOTION: Collins moved to adopt item 5) of the Consent Calendar. Konopa seconded the motion and it passed 4-2, with Christman and Johnson voting no.

Award of Contract

Kinder Park Development.

Hodney explained that there were 15 bids submitted for this project, ranging from a low base bid of \$584,327.70 to a high base bid of \$873,800. The total construction budget is \$781,000. He provided a bid summary for the Council (in the agenda file). Staff would like a tentative award to R&R General Contractors, Inc. in the amount of \$680,681.52, the low bidder. The project was budget in FY 2008-2009 and will be funded from the Grant Fund.

MOTION: Johnson moved to tentatively award the construction contract in the amount of \$680,681.52 to the low bidder, R&R General contractors, Inc. of Wilsonville, Oregon. Collins seconded the motion and it passed 6-0.

Radio Frequency Identification Tracking and Materials Handling System (RFID)

Bedore explained that this item was discussion at the Monday, October 6, Council Work Session.

MOTION: Collins moved to adopt the resolution appropriating a Special Purpose Grant and authorizing the Library Director to sign a contract between the City of Albany and SirsiDynix for a Radio Frequency Identification Tracking and Materials Handling System (RFID) beginning October 9, 2008. Reid seconded the motion and it passed 6-0, and was designated Resolution No. 5686.

BUSINESS FROM THE COUNCIL

Johnson provided a spreadsheet of value changes of assessed valuation for properties in Linn County (in agenda file).

Reid would like an update on the sale of the Archibald property. Taniguchi-Dennis said the sale has closed and the money is in a revenue account as proceeds from property. There will be a Council discussion scheduled for the use of the funds.

RECESS TO EXECUTIVE SESSION TO DISCUSS LABOR NEGOTIATIONS AND PROPERTY NEGOTIATIONS IN ACCORDANCE WITH ORS 192.660(2)(d)(e)

The Regular Session was recessed into Executive Session at 10:36 p.m.

RECONVENE

The Regular Session was reconvened at 11:00 p.m.

MOTION: Konopa moved to ratify the City of Albany and Albany Police Association 2008-2011 Collective Bargaining Agreement. Johnson seconded the motion and it passed 6-0.

MOTION: Konopa moved to give authority to the City Manager to conduct negotiations for the sale of the Library building at 1390 Waverly Drive, sign all documents regarding the same, conduct negotiations, and secure a temporary lease of the building until the new Library building is move-in ready. Reid seconded the motion and it passed 6-0.

NEXT MEETING DATE

The next Work Session of the City Council is scheduled for Monday, October 20, 2008, at 4:00 p.m., in the Municipal Court Room, at City Hall, and the next Regular Session is scheduled for Wednesday, October 22, 2008, at 7:15 p.m., in the Council Chambers, at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:02 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, CMC
City Clerk

Stewart Taylor
Finance Director