



APPROVED: Planning Commission November 2, 2010

APPROVED: City Council November 17, 2010

**CITY OF ALBANY**  
**CITY COUNCIL AND PLANNING COMMISSION WORK SESSION**  
**City Hall Council Chambers, 333 Broadalbin Street**  
**Monday, February 1, 2010**  
**6:00 p.m.**

**MINUTES**

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

Commission members present: Paul Davis, David Faller, Bob Kish, Dala Rouse, Michael Styler, and Larry Tomlin

Commission members absent: Cordell Post and Scott Whitney

Staff present: Planning Manager Don Donovan, Planner III Heather Hansen, Community Development Director Greg Byrne, City Manager Wes Hare, Management Assistant/Public Information Officer Marilyn Smith and Administrative Assistant I Sheena Dickerman.

Others present: 14 others

**CALL TO ORDER:** Mayor Konopa called the meeting to order at 6:00 p.m.

**GOAL 5 REPORT:**

Planner III Heather Hansen explained the three major steps in the Goal 5 process. The first step was to inventory the resources and determine which resources are of the highest quality, called *significant*. The inventory portion has been completed. The two approaches that are used to determine if resources are significant are Standard or Safe Harbor. The Standard approach has general procedures and guidelines provided by the state, there is flexibility on how to implement site specifically. The Safe Harbor approach has very specific criteria provided by the state. Most cities use the Safe Harbor approach, it is easy to apply, clear and straight forward. The City must use the Safe Harbor approach for determining wetlands. The City could use either approach or a combination of the two approaches for riparian corridors and wildlife.

The inventories were conducted over a period of several years, starting in 1992 and completed in 2001, with an update last year. Using the Safe Harbor approach for wetlands, there are 159 out of 372 wetlands considered significant, a total of 853 acres out of 1,700 acres.

For riparian corridors the consultant's recommendation is to use a combination of the Safe Harbor and the Standard approach. The recommendation is for the Standard approach based on tree height to be used on Calapooia and Oak Creek. The Safe Harbor approach would be used on all other water bodies.

For wildlife, the consultant used both approaches and the result was the same, only Thornton Lake is considered significant, because of the turtles. It is the only area in Albany with species that are both a documented and listed by the state or federal government. Listed wildlife is wildlife that are sensitive, threatened or endangered. The consultant exceeded state requirements and none of the 27 wildlife Habitat

Assessment Areas received a score over 80 which would be considered high quality.

Councilor Collins asked if the wetlands inventory would be a new designation off the old local wetlands inventory. Hansen replied that there were some changes because land had been developed and had come out of the inventory and some areas are now significant because the state standards have changed.

Collins clarified that the 800 acres of wetland was not all new acres, but a reinstatement of what the old inventory had shown. Hansen affirmed.

Hansen stated that the next step in the process was to select the protection approach. The state offers two options for protection, also called the Standard and Safe Harbor approaches. The Standard approach ESEE (Economic, Social, Environmental, Energy) for protection has guidelines but there is flexibility. The ESEE analysis looks at the resource and if development is allowed and asks what would the impact be on the ESEE. This allows for a decision to either allow development, restrict development, or not to allow any development. Collins asked about the cost. Hansen replied that Corvallis used this method and it cost over 1 million dollars and took a few years to complete. Collins asked if the analysis would be site specific. Hansen answered that it is site specific but the analysis is done across the entire city.

Hansen explained that the Safe Harbor protection approach allows for some development and has restrictions. It includes procedures for hardship variances, claims of map error, and reduction or removal of restrictions for existing lots that would be rendered unbuildable because of Goal 5. The City can use either protection approach for wetlands or riparian corridors but for wildlife only the Standard approach can be used.

The consultant's recommendation is to use the Safe Harbor ordinance for wetlands with an additional buffer of 25 feet, unless there is a state approved boundary which would allow a 10-foot buffer. Staff will return with a recommendation about what would be allowed in the buffer. If the City chooses the Safe Harbor approach for significant wetlands it places restrictions on grading, excavation, placement of fill and vegetation removal.

For significant riparian corridors the recommendation is a combination of both Safe Harbor and the Standard approach. For the downtown waterfront, the Willamette River and the mouth of the Calapooia, the recommendation is to use the ESEE analysis. For the rest of the water bodies in Albany it is recommended to use the Safe Harbor approach.

Collins asked if for the Willamette River Greenway process would be put aside once the Goal 5 corridors and buffers were put in place. Hansen replied that both set of requirements would need to be achieved.

Collins asked if an approved site plan would need to come back once Goal 5 was adopted. Hansen replied no, not if it was approved under the old standards. The City could not apply Goal 5 and have a property be unbuildable.

The recommendation for wildlife habitat is to address it by enhancing the wetlands and riparian corridor protections, and not as a separate ordinance. There would be a 100 foot overlay. If development is proposed in the overlay area a wildlife habitat assessment would be required. Currently, Thornton Lakes is the only place an assessment would be required. Collins asked if there was an existing structure if a person would be able to rebuild or expand. Consultant affirmed, but an analysis on how the development would affect the turtles or other wildlife would need to be done and it would be dependent on whether the land was vacant or had an existing structure.

Hansen said that the next step is to develop measures for protecting the significant resources and to adopt an ordinance to implement them. This would be what is and is not allowed on property in order to protect the Goal 5 resources. An interdepartmental team has been created, composed of staff from PW, Economic Development,

Parks & Recreation, legal, and planning, for a balanced approach on the outcome of the process.

Hansen asked for direction on what the interdepartmental team needed to focus on. Styler asked if the City should have a natural resources advisor committee again. He thought it was important to have citizens be part of the interdepartmental team. Mayor Konopa responded that staff has already been receiving input from the public. Hansen added that the natural resources committee report was used by the consultant and staff in composing the recommendation. The committee had more detail on the implementation and would be part of the discussion for the staff team. The committee is on the distribution list and respectively declined reconvening. Olsen made a point to affirm the hard work of the committee.

Styler asked if the City would only be protecting endangered species or a general native population. Hansen replied that these were the minimum requirements from the state. The community has the option to do more than the minimum requirements.

Collins asked if two buffers applied to the same parcel, if both would have to apply. Hansen affirmed. Kish asked if a property owner wanted to build a deck what the cost would be for a wildlife assessment. The consultant explained that it would cost several hundred to thousands of dollars depending on the extent of the assessment.

Councilor Johnson asked if the public hearing announcements explained that the Goal 5 could affect people's property. Hansen explained that in the beginning there were over 900 postcards sent to *anyone* that *may* be affected by the proposal. Currently staff has focused on utilizing the media resource to inform the public about the public hearings.

Johnson asked how "taking" of property would be handled. Hansen explained that "taking" of property is taking *all* economic use of the property away, if there was still economic use it would not be considered a taking. Most of the properties that staff is referring to are already restricted. They are in either open space zoning, floodplain, floodway or wetland.

Collins asked what restrictions would be put on properties that are already urbanized and developed. The consultant replied that there is some flexibility depending on the City's ordinance.

Collins asked how the City was coordinating with the counties regarding parcels within the UGB. Hansen stated that the counties are invited to the team meetings and staff will meet with them several times throughout the process. Staff will also be meeting with the North Albany Neighborhood Association (NANA).

Commissioner Tomlin asked if the proposal would have rules that would stop people from fencing their yards. The consultant explained that all these answers would depend on the ordinance the City passes, which will also have to be passed by the state.

#### PUBLIC COMMENT

Vi Anderson, 914 North Albany Road, Albany, read her letter (Exhibit B) stating her opinion that the wetland buffer zone reduction suggested by staff was ill advised. She recommended the CC keep the buffer zone of 50 to 25, recommended by the consultant.

Mark Azevedo, 1210 Skyline Drive, Albany, shared that he was part of the Albany Tree Commission and works in the Oregon State University life science department. He read a letter faxed to him (Exhibit C) from a habitat biologist, Susan Beilke. Susan Beilke had worked with the City of Albany in the past on Open Space projects and helped to establish the turtles' populations on Thornton Lake. Beilke's letter urged the CC to consider all the streams and rivers to be considered *significant* under the Goal 5 process and that buffers

needed to be of adequate size to protect upland habitats. Beilke recommended that the buffer be larger, greater than 200 feet and ideally greater than 500 feet, in order to provide all wildlife life requirements. Azevedo showed photos of wildlife taken within city limits by Steve Reid (Exhibit D and E list). He went through a PowerPoint presentation (Exhibit F) highlighting the diversity of wildlife in Albany. He recommended having allowing community driven conservation projects that compliment Goal 5.

Azevedo stressed that the buffer area was important because of the mitigation process of the wildlife and Albany has an opportunity to leave a unique legacy on how to treat natural resource

Collins asked staff if in significant wetlands someone could develop with buffers or mitigate it off site. Hansen replied that only non significant wetlands could be mitigated off site.

#### COUNCIL/COMMISSION DIRECTION FOR STAFF:

Coburn asked staff to look at specific examples such as Periwinkle Creek. He commented that from the input from citizens some want more protection and others less. The underlining concern from the public comments revolves around personal property rights and the balance of those versus protecting wildlife habitat. He asked to see specific examples to help understand the consequences of decisions the CC make in order to avoid unintended consequences. He suggested to start with the citizens who provided comments regarding their properties or properties they want protected. Coburn agreed. He recommended using examples of lesser profiled properties too.

Tomlin asked if mitigation was done on a property if there would be an opportunity to develop near a natural resource by planting more trees. The consultant explained that process was called buffer averaging. He added that any development in the riparian buffer area requires plants and to enhance the habitat.

Johnson asked if the requirement of the Goal 5 process from the state was to only review or to review and change it. Hansen replied to review and change. The City needs to implement Goal 5 and make revisions to the Comprehensive Plan and the Development Code.

Johnson asked what were the minimum changes needed. Hansen responded that the City has to adopt the wetlands and riparian corridor inventories and Safe Harbor would be the minimum protection approach.

Konopa suggested that Hansen be prepared to talk about property rights, "taking", and Measure 49 at public hearings.

Styler directed staff to look at City owned properties and to lead by example by replanting and providing examples to property owners about what they can do.

Rouse suggested that staff look at the separate portions of a creek, Periwinkle Creek is an example were different portions of the creek look different.

Rouse added that Timberlinn and Waverly Lake were not listed. Hansen explained that the Lakes were included in the riparian corridor.

Collins recommended that the City maintain the differential between the delineated parcels and non delineated parcels. He would like examples of typical uses that the city could have by a couple different zoning types for the buffer areas and what would be allowed in those areas

Councilor Reid expressed the need for a balance between buffering and protection of people's rights.

Tomlin asked what enforcements will be available once the PC and the CC make a decision. Hansen explained that once the ordinance is adopted in the code and it would be a violation. Rouse requested another meeting with the PC and the CC regarding the changes being discussed before a public hearing. Collins and Johnson agreed.

Collins stated that if establishing corridors is a community value the public will support going above and beyond what the City is trying to accomplish. He asked for Portland's and Eugene's examples of what they were trying to accomplish and the cost. Commissioner Davis suggested that the City could take advantage of parks and resources that are already in place to accommodate the goals.

Olsen asked for photos of areas that have been developed appropriately. He asked if a survey had been done on Oak Creek. Hansen replied that there were reports done during the riparian and wetland process which documents wildlife at those times.

Collins asked if roadway construction was allowed in the wetlands. Hansen replied no, but is allowed in the riparian corridor.

Collins mentioned a concern about limiting the recently adopted Transportation System Plan (TSP) once Goal 5 was adopted. Hansen reassured that one of the reason for the interdepartmental team was to address any issues that would be affected.

Collins asked staff to look at the small significant wetland, south of Quarry, between the school district property and the single-family residence. He thinks the wetland was created by construction activity. Reid added that Burkhart was another area for staff to look at.

#### ADJOURNMENT

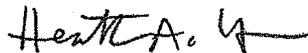
Hearing no further business, the Mayor adjourned the meeting at 8:04 p.m.

Respectfully submitted,



Sheena Dickerman  
Administrative Assistant I

Reviewed by,



Heather Hansen  
Planner III