

MINUTES

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE TO THE FLAG

Konopa led the pledge of allegiance to the flag.

ROLL CALL

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

PROCLAMATION

Arbor Week

Konopa read a proclamation declaring the week of April 3 through April 9, 2011, as Arbor Week and encouraged citizens to take time during the week to appreciate and enhance the community's urban forest and to participate in the week's activities.

National Library Week

Konopa read a proclamation declaring the week of April 10 through April 16, 2011, as National Library Week and encouraged all residents to visit the Library to take advantage of library resources.

SCHEDULED BUSINESS

Communication

Accepting resignation from Terry Poe from the Albany Arts Commission.

MOTION: Councilor Coburn moved to accept the resignation of Terry Poe from the Albany Arts Commission and to send a letter of thanks for his service. Councilor Reid seconded the motion and it passed 6-0.

Quasi-Judicial Public Hearing

PA-01-11, Tentative Partition Plat to divide a 41.5 parcel along the centerline of Periwinkle Creek.

Konopa opened the Quasi-Judicial Public Hearing at 7:20 p.m.

Konopa asked if any members of the City Council wished to abstain. No one did.

Konopa asked if any member of the Council wished to declare a conflict of interest, report any significant ex parte contact, or a site visit. Konopa said she had driven past the property.

Councilor Collins mentioned that he had worked with a proposed developer of this property after he retired from the City and prior to being elected to the Council.

Konopa explained for all those wishing to testify, to be aware that they must raise an issue with enough detail to afford the Council and parties an opportunity to respond to the issue if they 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 they believe apply to the decision. If additional documents or evidence are provided by any party, the City Council may allow a continuance or leave the record open to allow the party's 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

Community Planner Janet Morris asked to have a letter from Cathy Davidow, 2685 Happy Street NW, Albany, entered into the record as "Exhibit E" (in agenda file).

Morris entered the staff report, including the exhibits, into the record. She said the report has been available on the website and the north and south sides of the property were posted with signs about the hearing.

Morris mentioned that based on comments received after the Notice of Public Hearing; there was some confusion about the scope of the application. It does not include a “rezone” or “development proposals” of the parcels in any way. Development of the two parcels will be reviewed when applications are made in the future.

Morris said this application is a request to divide the property into two parcels and concurrent termination of an existing Development Agreement tied to the annexation of the land into the City, and conditions placed on the proposed development of it with a 100 space expansion of the manufactured home park located on the south and to create 57 single-family lots. Terminating the former Development Agreement and Land Use approvals clears the property of any uncertainty as to its annexation status and removes former development conditions of approval related to projects that were not finished. The reason for the Development Agreement as a condition of annexation was essentially to make sure that the developer of the property, whoever it was then or in the future, would construct the entire needed infrastructure; most particularly, the extension of Mountain view Drive north, over the creek and connecting to Grand Prairie Road, and along the site of Grand Prairie Road frontage. Otherwise there was a concern that only a portion of the site would be developed and the remaining responsibilities would be hung on a smaller portion. Because dividing the land could potentially have the same result, staff’s recommendation for approval to terminate the former actions is based on staff crafting new conditions that preserve the requirement that the developer include the infrastructure, including the bridge over the creek, with the next development application.

Morris said they reviewed five criterion; development of a remainder (not applicable), adjoining land, transportation, public utilities, and special features. The “adjoining land” criterion makes sure that abutting properties that may develop are provided access. The abutting property owner of tax lot 1300 to the west, Mrs. Davidow, submitted a letter, Exhibit E, stating that the southern portion of her property needs access from Parcel 2. The applicant modified their findings to include providing access to the Davidow property in conjunction with a development proposal for Parcel 2. So, Condition 2.1 ensures that access will be provided to the portion on the south side of Periwinkle Creek.

Morris said the “transportation” criterion ensures that needed transportation infrastructure is obtained during the development process. Staff has proposed conditions that will provide the continued assurance that despite which parcel develops first or if ownership changes, the bridge over Periwinkle Creek will be constructed so that Mountain View Drive is extended to connect to Grand Prairie Road. In addition, there is a condition related to missing frontage improvements along Grand Prairie Road.

Morris said the “public utilities” criterion refers to when streets are built, public sanitary sewer, storm sewer and water lines are extended to accommodate the proposed development and to abutting properties as needed. With the partition no streets or utilities are proposed.

Morris said the “special features” criterion ensures that a development proposal addresses existing physical features of the site, such as floodplain, wetlands, trees, and odd typography. She said there is a floodplain related to Periwinkle Creek, but the newest FEMA maps show it is contained in the channel. The Grand Prairie Water Control District has an existing maintenance easement on both sides of the Creek. The City’s East-I-5 Local Wetland Inventory work identified the wetlands on this site as locally significant. To date they have not been delineated by the property owner. The recording of the final plat to divide the land into two parcels does not impact the existing wetland on the site. Any future street and bridge construction that impact the wetlands will be required to conform to the requirements by the Council, Statewide Goal 5, and DSL/Corps of Engineers. She said there is a “special noise setback.” I-5 abuts the east boundary of the property and this means that frontage is a “front yard” for setback purposes. The Development Code identifies certain abutting streets as creating higher noise levels and therefore have larger setbacks for residentially occupied portions of structures built on lots that abut the street. In this case there is a 50 foot wide noise setback in addition to the standard 15 foot front yard setback. The noise mitigation within the eastern 50-foot easement will be addressed when the parcels come in with development proposals. It is likely that they will construct a berm with a fence on top and landscaping, as the other properties to the north have done.

Morris reviewed the letters received in response to the notice of the public hearing (attached to the staff report). In response she said the zoning is not changing and there are no development proposals for either of the parcels at this time. The partition will not create any traffic other than each parcel could be developed with a duplex. There are proposed conditions to ensure that Mountain View Drive gets extended to Grand Prairie Road. Whether parcel two will have connections made to existing streets that have been stubbed to it, will be assessed with the particular development proposal submitted in the future. The speed humps were added at the request of the neighborhood and regarding a traffic signal at Waverly Drive and Mountain View Drive, any future development proposal on the site would need to submit a traffic study with their application.

Reid mentioned that finding 2.8 on page 9 of the agenda implies that the parcel has access to Waverly Drive and it doesn't. Morris said that would be corrected. Reid also commented that he doesn't agree that it is the responsibility of tax lot 1300 to provide the bridge over Periwinkle Creek. It is something that would need to be worked out by both property owners.

Applicant

Walter R. Gowell, PO 480, McMinnville, Oregon, an attorney representing Ken Maahs, Vice President of First Federal Savings and Loan of McMinnville, 140 Third Street, McMinnville, said their bank had picked up the large vacant property formerly owned by a Sun West subsidiary. The original projects were abandoned and original agreement time limits had expired. No extensions of the agreements were made. Currently, the property is unsellable. In consultation with the City Attorney and City staff it was determined that the right course of action was to request termination of the outdated approvals, divide the property at the natural creek boundary, and to adopt a new set of conditions which satisfy the City's Development Code and partition criteria. They concur with the staff report and conditions presented.

Support

Konopa asked if anyone wished to speak in support. No one wished to speak.

Against

Tom Tomlinson, 2560 Mountain View Drive, said he lives on the street in question. He said there are 98 houses on Mountain View Drive. There are a 100 spots in the mobile home park. That is a lot of traffic already. Another 100 vehicles would be a nightmare. The original development was for half that number of houses. He would like to see a traffic light at that corner. The current speed bumps don't help. He would suggest providing more opportunities to move in and out of the area. That would help traffic flow.

Community Development Director Greg Byrne mentioned that the proposal tonight is not for a development, only for partition of the land into two large parcels that will in the future be subject to development.

Other

Mark Gangewer, 3793 Mountain View Drive, thanked the bank for the upkeep on the property. He asked if Mountain View Drive would be developed to Grand Prairie Road before development. Morris said yes.

Edmund Bjerky, 3800 Mountain View Drive, said he has seen five flooding events on the property since January. The property needs storm drainage.

Wayne Heyerly, 193355 Orange Avenue, Sonoma, California, owns the property catty-corner on the north east side, across I-5 from the Wilt property. He was concerned about the wetlands and how they were designated. He would suggest an on-ramp to I-5.

Rodger Gutierrez, 3155 30th Court, lives in the Lexington subdivision. He said aside by alleviating traffic on Mountain View Drive the suggested street change would help his area as well. He asked if there was a minority limit on the number of homes involved in order to have a traffic study.

Transportation Systems Analyst Ron Irish said the City standard is that a traffic study is required whenever a project would generate 50 or more peak hour trips. In this case, both parcels are big enough that if they were developed they would generate more than that requirement. There is also a guideline that states regardless of the number of trips if the City Engineer thinks there is a potential problem, they can require a study. They have had some interest in this parcel and in every case staff has indicated that they would need to do a traffic study.

Applicant Rebuttal

Gowell thanked the audience for their comments. He said flooding is not a reason to deny the partition. They do not know at this time what a future development would propose nor what density would be planned for the property.

The public hearing was closed at 8:10 p.m.

Collins wants a condition added that a traffic study will happen. He knows it would probably happen during the development stage but wants to alleviate the concerns of the citizens. He wants it to be a condition of the partition. The storm drain problems that exist on the north property have been there for years. He's not sure how to fix them as they were created when Mr. Wilts owned both properties. He is not sure if it is a private or public storm drain.

Konopa believes it is private.

Irish explained the potential drainage pipe conditions that would come with development.

City Attorney Jim Delapoer said the storm drainage problem is outside of the request tonight. Staff would be well advised to look into the issue and see what tools the City has as far as requiring improvements. But, the storm drainage problem is not caused by the activity on the property before the Council, and the property owner cannot make any decisions for another property owner.

There followed discussion regarding the original conditions for development and the storm drainage improvement issue.

Community Development Director Greg Byrne said the difference tonight is that both properties were under single control, Mr. Wilts, when that development agreement was adopted. They are divided now.

There followed discussion regarding other partitions with requirements attached and how they were handled, and if a traffic analysis should be part of the conditions.

Byrne mentioned that the Traffic Analyst can require a traffic study on his own authority.

Councilor Olsen asked if it was mandatory for there to be a bridge across the creek. Irish said whichever parcel develops first, that parcel will have a burden to build a bridge and extend Mountain View Drive to Grand Prairie.

Collins suggested adding conditions that at the time of review for either parcel, a traffic analysis would be required that would include traffic calming devices on Mountain View Drive and three traffic signals.

Delapoer explained his reasons for not adding the conditions. He said there isn't anything in the record that shows why the Council is imposing conditions that aren't in any other partitions. If the Council wants to do this, the Council should adopt language stating that for all partitions there should be a requirement to have a traffic analysis. What he is concerned about is that the Council is putting in special conditions that are not related to something in the record.

Collins said the Council is being asked to do two things, a partition and an abandonment of a prior development agreement that had some commitments on the parcel. Regarding the statement for the inclusion of the analysis he sees it as no harm/no foul, as it would be included later anyhow. But it would assure the neighborhood that it would happen. Collins said he is trying to be careful enough to state the obvious.

Delapoer asked the applicant if they are willing to accept a condition for a traffic study. Walter Gowell and Ken Maahs, representing First Federal Savings and Loan of McMinnville, agreed.

MOTION: Collins moved that the City Council approve the request to terminate the existing Development Agreement and Land Use Approvals that currently run with the land (Files: DA-01-98;M1-10-97 and SP-98-97). This motion is conditional upon the recording of the new covenants required in the Notice of Decision for the Tentative Partition Plat, application file PA-01-11, and that the City Council approve with conditions Tentative Partition Plat, application file PA-01-11, to divide a 41.5± acre property addressed as 3320 Grand Prairie Road SE, to be divided into two parcels as shown on the tentative plat subject to the following modification: Prior to development of either parcel 1 or parcel 2 a traffic analysis will be required. This motion was based on the findings and conclusions of the staff report and testimony presented at the public hearing. Coburn seconded the motion and it passed 5-1, with Councilor Johnson voting no.

Konopa explained that within five days of the decision the Community Development Director provides written notice of the decision to the applicant and any other parties entitled to notice. A decision of the City Council may be appealed to the Land Use Board of Appeals by filing a Notice of Intent to Appeal not later than 21 days after the decision becomes final.

Business from the public.

No one wished to speak.

Adoption of Consent Calendar

- 1) Approval of Minutes
 - a) February 7, 2011, City Council Work Session.
 - b) February 21, 2011, City Council Work Session.
 - c) February 23, 2011, City Council Regular Session.
- 2) Authorizing application for a local government grant from the Oregon Parks and Recreation Department for the acquisition of East Thornton Lake Natural Area. RES. NO. 5992
- 3) Authorizing two applications for grant funding to the Oregon Watershed Enhancement Board toward the acquisition and restoration of the East Thornton Lake Natural Area.

- 4) Approving a liquor license for Loafer's, Inc., 222 Washington Street SW.
- 5) Approving extension of copier contract on a month-to-month basis.
- 6) Accepting easements from Wayne L. and Mary Kay Forslund.
 - a) Variable width water line easement, 11SO4W03A 01400. RES. NO. 5993
 - b) Variable width water line easement, 11SO4W03A 01500. RES. NO. 5994

Johnson asked for item 2) to be removed for discussion.

MOTION: Coburn moved to adopt the Consent Calendar with item 2) removed for discussion. Christman seconded the motion and it passed 6-0.

Johnson said she had specifically asked for items regarding the Pepsi money not to be on the Consent Calendar and item 2) was a project that is partially funded by Pepsi funds.

Konopa said that was an error and has been duly noted. From now on anything to do with Pepsi funds will be a separate item on the agenda.

Parks & Recreation Director Ed Hodney explained that item 2) was a resolution authorizing staff to apply to the State's Parks and Recreation Department for a local government grant, for \$500,000, to be applied toward the outstanding \$1,000,000 the City still owes on the property. The City has a promissory note for \$1,000,000 that they are raising funds for; both private and grant funds. Hodney said if the Council chose not to authorize applying for the grant, the money would have to come from other City funds.

Johnson asked, what is the status of contributions from outside sources? Hodney said part of the funding plan was to raise \$100,000 from private contributions. They have \$17,000 already and continue to have fund raising events. Some planned events include a dinner on April 10, a community Bar-B-Q on June 26, and possibly an auction and brick sales. They are gathering together a Capital Campaign Committee. There is quite a list of fund raising initiatives in the works.

Johnson feels that there is a lot of City time being spent on this project and not a lot of outside time. Hodney responded that it is a misstatement to say City staff is doing all the work. He said he is the only City staff person working on this project. All the other effort that has gone into it has been on the part of Mark Azevedo, Kathy Cook and several citizen volunteers who are working very hard. Mark and Kathy are preparing grant applications. The only one he is preparing is the one that calls for the resolution.

Konopa mentioned that it isn't just folks that live in that area; it is folks that live throughout Albany that are interested in participating.

MOTION: Collins moved to adopt item 2) of the Consent Calendar. Coburn seconded the motion and it passed 6-0.

Award of Bid

BR-10-01, Columbus Street Bridge Repair.

MOTION: Coburn moved to award the Columbus Street Bridge Repair, BR-10-01, in the amount of \$151,450.01, to the low bidder Capital Concrete Construction of Aumsville, Oregon. Reid seconded the motion and it passed 6-0.

Report

Final 2010-2013 Statewide Transportation Improvement Program.

Public Works Director Diane Taniguchi-Dennis said the report was for Council's information about what is in the state's Transportation Improvement Program. There are four projects in the Albany area. The City's representatives on the Area Commission of Transportation (ACT) are Ralph Reid and Ron Irish.

No action was needed.

BUSINESS FROM THE COUNCIL

Reid asked the City to consider a bike path between Santiam Boulevard and I-5, on Knox Butte Road under the I-5 overpass.

MOTION: Coburn moved to adopt a resolution authorizing the expenditure of water connection fee funds for design and construction of a water line in Sherman Street between Seventh Avenue and Pacific Boulevard. Johnson seconded the motion and it passed 5-1, with Reid voting no, and was designated Resolution No. 5995.

Albany City Council Regular Session Minutes
Wednesday, March 23, 2011

Olsen asked about doing something for the properties discussed tonight regarding storm drainage. Taniguchi-Dennis said staff would brainstorm with Delapoer to see what can be done.

Taniguchi-Dennis invited the Council to attend the Environmental Protection Agency coming to Albany to give an award for the "Best Revolving Loan Project" in recognition of the City's Talking Waters project. It will be on June 1 at 10:00 a.m.

Management Assistant/Public Information Officer Marilyn Smith said the Code Squad has picked Simpson Park for the "Big Pick Up" day event, on Saturday, May 21.

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

The Regular Session was recessed into an Executive Session at 9:13 p.m.

RECONVENE

The Regular Session was reconvened at 9:33 p.m.

MOTION: Johnson moved to accept the bargaining agreement between the Albany Fire Union and the City of Albany. Olsen seconded the motion and it passed 6-0.

NEXT MEETING DATE

The Council will meet in a Work Session on Monday, April 11, 2011, at 4:00 p.m., in the Municipal Court Room of City Hall. The next Regular Session is scheduled for Wednesday, April 13, 2011, at 7:15 p.m., in the Council Chambers at City Hall.

ADJOURNMENT

There being no other business, the meeting was adjourned at 9:35 p.m.

Respectfully submitted by,

Reviewed by,

Betty Langwell, MMC
City Clerk

Stewart Taylor
Finance Director