



CITY OF ALBANY
Goal 5 Community Meeting
Council Chambers, 333 Broadalbin Street
Monday, July 25, 2011
6:00 p.m.

NOTES

City Council present: Sharon Konopa, Mayor; Dick Olsen; Floyd Collins; Bill Coburn; Bessie Johnson

State staff present: Amanda Punton, Oregon Dept. of Land Conservation & Development (DLCD); Rob Hallyburton, DLCD; Ed Moore, DLCD; Anna Buckley, Oregon Dept. of State Lands (DSL)

City staff present: Greg Byrne, Community Development Director; Heather Hansen, Planning Manager; Anne Catlin, Planner II; and Tari Hayes, Administrative Assistant

Others present: 17 others present

Wes Hare opened the meeting by welcoming and thanking everyone for their participation in the Goal 5 process. Introductions were made. The intent of the meeting was to answer previous and any final questions the community may have regarding Goal 5.

The questions and answers, grouped into 6 areas, were presented. The questions, with answers, are attached (Attachment A).

Minimal Regulations

The reason other cities may appear to be doing less or have different regulations, is that they may not be in compliance with the current Goal 5 regulations, likely because they started periodic review prior to 1996 when the Goal 5 regulations were adopted. They would be required to meet the regulations at their next periodic review. The metro area of Portland has additional requirements. Sooner or later all cities are going to have to come up with comparable levels of protection. The periodic review trigger is generally 10,000 people.

Goal 5 regulations provide some flexibility to local governments for uses that conflict with the resource, if they can provide findings that show negative consequences for the environment, economy, or social or economic objectives. An Economic, Social, Environmental and Energy (ESEE) analysis must be done.

Councilor Collins asked about the ability to exempt existing residential development. Rob Hallyburton acknowledged the rules allow different resource areas to be treated differently but that DLCD was concerned that the blanket exemption for residential lots may not protect the resource.

Wildlife Habitat

The Goal 5 rules require the City to identify the significant wildlife resources and protect them locally. There were two turtle species identified as significant in the inventories because they are listed as

“sensitive-critical” species by the state and they were documented by a professional. Other resources can be added through plan amendments, but they must be documented.

Within the habitat assessment overlay, existing development and landscaping can be maintained and improved upon up to an additional 2,000 square feet. Any additional development within the habitat assessment overlay would require a habitat assessment. If habitat is found, mitigation for impacts would be reviewed by Oregon Department of Fish & Wildlife (ODFW).

Wetlands

The City is required through Goal 5 to identify the significant wetlands and protect them locally. The state and federal regulations may not go far enough in the protection. Regulations for water quality, endangered species, and floodplain regulations tied to endangered species will continue to change. The City may be required to update their regulations during periodic reviews.

There are community members who feel the city is going too far in regulating land and there are members who feel the City is not going far enough to protect environmental resources.

It was suggested that if mitigation cannot occur on site that the director be allowed to approve an alternative mitigation plan.

Regarding whether a wetland determination or delineation would be required with permits, Anna Buckley with DSL noted that a wetland determination could be sufficient if the wetland boundary is obvious. DSL can assist the property owner with those free of charge, as staff time allows, usually two – three weeks. The local wetland inventory was not designed to be precise, it’s a planning document. Wetland delineation requires a consultant to come out and redraw the boundary, at a cost to the property owner. DSL will also review a consultant’s determination.

Riparian Corridors

Collins asked if natural resource and other required permits can be incorporated into one permit. It was noted that not every development requires every permit. There is a preapplication process that provides the applicant with a list of all the permits necessary for their project. The streamlining of the permit process is an ongoing goal.

Mitigation/Vegetation

The City has an approved plant list and uses the state noxious vegetation list to determine approved planting. The Calapooia Watershed Council, along with state, local and private organizations are studying the effects of native and non-native vegetation on the local waterways. A rapid assessment is being conducted on the Willamette on invasive species in sensitive habitats between Corvallis and Albany.

Other

The Calapooia Watershed Council has a list of available incentives for natural resource protection.

Albany’s Goal 5 requirements do not conflict with Statewide Planning Goal 9 (economic development land), Goal 10 (residential land) and Goal 15 (Willamette River Greenway protection) and meets the buildable land requirements. Density bonuses could be included in the Goal 5 protection program.

Are there mitigation opportunities for a landowner who wants to disturb more than 2,000 square feet? Yes, mitigation may be an option after a site assessment.

Public Comment & Staff Response

The City and State can't recommend consultants. Landowners should ask around for recommendations. Society of Wetland Scientists is another resource.

There is a 5-year expiration on wetland delineations because the land can change. A permit issued to impact the wetland is for one year. Permits may be renewed or extended by DSL on a case by case basis.

Generally speaking, if an application has been accepted, the project will finish under the rules in place at the time of the approval. There are some exceptions, such as fire and life safety changes.

Council Direction

Open space zoning - when the natural resource overlays are superimposed on the open space, the line should be able to moved, in order to keep with the purpose of the zoning district.

Density bonus - bring to the Council other density bonus and incentive options. There's been concern in the past with cluster development, allow the transfer of the density if it enhances the natural resource protection. Council would like staff to look at the implementation and design of existing developments given density considerations.

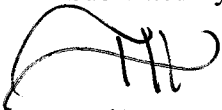
Council would like staff to look into on-site storm water allowance in certain cases in the riparian corridor (not currently addressed).

Open space zoning is supposed to follow natural features. If a new study or delineation finds that the open space area doesn't contain any of the resources it's designed to protect, the change could be made with a simple boundary adjustment based on natural resources. But if there proposal is to fill the open space, the change would need to be completed through a plan amendment or zoning change with Council review.

There is Council support for alternatives for mitigation when it can't occur on site.


The meeting adjourned at 8:00 p.m.

Submitted By,



Tari Hayes
Administrative Assistant

Reviewed By,



Heather Hansen
Planning Manager

Attachment A: Q&A

GOAL 5 QUESTIONS & ANSWERS

MINIMAL REGULATIONS

1. If the City is taking a minimal approach to complying with Goal 5, why do other cities appear to be doing less? **TRUE, BUT THOSE JURISDICTIONS WOULD NOT COMPLY WITH THE CURRENT GOAL 5 REQUIREMENTS. IN MOST CASES, THEIR PERIODIC REVIEW WORK PROGRAMS WERE APPROVED PRIOR TO THE CURRENT GOAL 5 REGULATIONS (1996).**
2. Why can't we use a voluntary approach to protect Goal 5 resources? **WE CAN LOOK AROUND AND SEE HOW WELL THAT'S WORKED. AND IT'S A GOAL 5 REQUIREMENT TO DO MORE THAN THAT.**
3. Can't we use the ESEE approach to allow full impacts to the Goal 5 resources to meet other statewide planning goals? **THE GOAL STATES THAT "LOCAL GOVERNMENTS SHALL ADOPT PROGRAMS THAT WILL PROTECT NATURAL RESOURCES . . . FOR PRESENT AND FUTURE GENERATIONS." THIS IS THE POINT OF THE WHOLE EXERCISE. THE RULE PROVIDES FLEXIBILITY FOR HOW THE GOAL IS ACHIEVED. LOCAL GOVERNMENTS MAY ALLOW, TO SOME DEGREE, USES THAT CONFLICT WITH THE RESOURCE IF THERE ARE WELL SUPPORTED FINDINGS THAT NOT DOING SO WOULD RESULT IN SIGNIFICANT, NEGATIVE CONSEQUENCES FOR ENVIRONMENTAL, SOCIAL, ECONOMIC, AND ENERGY OBJECTIVES. IF A JURISDICTION DECIDES TO FULLY ALLOW A USE THAT CONFLICTS WITH THE RESOURCE, "THE ESEE ANALYSIS MUST DEMONSTRATE THAT THE CONFLICTING USE IS OF SUFFICIENT IMPORTANCE RELATIVE TO THE RESOURCE SITE, AND MUST INDICATE WHY MEASURES TO PROTECT THE RESOURCE TO SOME EXTENT SHOULD NOT BE PROVIDED. . ." [OAR 660-23-0040(5)(C)]**

WILDLIFE HABITAT

4. Why are two species of turtles in the Thornton Lakes area getting so much attention? **THEY ARE THE ONLY TWO SPECIES THAT ARE BOTH 'DOCUMENTED' AND 'LISTED' AND PROTECTING THEM IS THE HIGHEST WILDLIFE HABITAT PRIORITY REALTED TO GOAL 5.**
5. The turtles aren't endangered species. They are listed by the State of Oregon as 'Sensitive-Critical.' ODFW's handout on this type of listing emphasizes a voluntary approach, not a regulatory one. Why are we doing more than that? **THE FOCUS OF GOAL 5 IS LOCAL PROTECTION OF SIGNIFICANT RESOURCES.**
6. Why isn't the City or state concerned with protecting other wildlife? **WE DON'T HAVE ENOUGH INFORMATION TO ENABLE US TO IDENTIFY OTHER AREAS FOR PROTECTION.**
7. If development within the Habitat Assessment overlay triggers an assessment, is it done for the entire property or just within the Habitat Assessment area? **JUST WITHIN THE HABITAT ASSESSMENT AREA.**
8. Won't mitigation requirements impact the nesting habitat for turtles, which is sparsely vegetated land with good solar exposure? **IT'S POSSIBLE THAT THEY WOULD, BUT DEVELOPMENT THAT IMPACTS LAND WITHIN THE HABITAT ASSESSMENT OVERLAY WOULD ALSO REQUIRE A HABITAT ASSESSMENT IN MOST CASES.**

9. Can't the turtle ESEE (and the Council) conclude that the 20-acre East Thornton Lake Natural Area is adequate mitigation and protection for the sensitive turtles? ***IT WOULD BE DIFFICULT TO DRAW THIS CONCLUSION WITHOUT A TURTLE HABITAT ASSESSMENT OF THE THORNTON LAKES AREA.***
10. My backyard is in the Habitat Assessment area. Can I build a play structure? Can I maintain my garden? Can I expand my garden? ***YOU CAN MAINTAIN EXISTING LANDSCAPED AND DEVELOPED AREAS, AND YOU CAN IMPACT UP TO 2,000 SQUARE FEET OF ADDITIONAL AREA BEFORE A HABITAT ASSESSMENT IS REQUIRED.***

WETLANDS

11. Why is Albany proposing to regulate wetlands locally when Oregon Department of State Lands (DSL) and the US Army Corps of Engineers already regulate them? ***IT'S A GOAL 5 REQUIREMENT TO PROTECT LOCALLY SIGNIFICANT WETLANDS. STATE AND FEDERAL REGULATIONS DON'T PREVENT VEGETATION REMOVAL IN WETLANDS, MAY ALLOW FILLING THESE WETLANDS, AND THEY ARE TOO IMPORTANT TO LET THAT HAPPEN.***
12. Why isn't documentation of wetland permits from the state/feds enough to protect the resource? ***SEE ANSWER TO #11.***
13. Why do we have a 50-ft buffer around riparian wetlands if DSL doesn't regulate uplands and doesn't require a wetland buffer? ***THIS A GOAL 5 REQUIREMENT. THE ADJACENT WETLANDS ARE PART OF THE RIPARIAN CORRIDOR COMPLEX AND THE "BUFFER" HELPS TO PROTECT/MAINTAIN THE WETLAND FUNCTIONS, SUCH AS REMOVING POLLUTION AND PROVIDING WILDLIFE HABITAT.***
14. Why is a wetland delineation or determination needed? ***IF A PROPERTY OWNER WANTS TO CHANGE THE BOUNDARY OF THE WETLAND SHOWN ON THE LOCAL WETLAND INVENTORY, OR DEVELOPMENT IS PLANNED WITH 30 FEET OF A WETLAND IDENTIFIED THROUGH A LOCAL WETLAND INVENTORY, THEN A DSL-APPROVED DELINEATION OR DETERMINATION IS NEEDED. A DSL-APPROVED DETERMINATION MAY BE SUFFICIENT IF THERE IS AN OBVIOUS STEEP CHANGE IN GRADE AND THE WETLAND IS SHOWN GOING UPHILL, FOR EXAMPLE. BUT MOST TIMES A WETLAND DELINEATION WILL BE NECESSARY.***

RIPARIAN CORRIDORS

15. Are you sure that the riparian corridor buffer is measured 50 feet from the edge of the wetland or just measured to include the wetland? ***THE OARS [660-23-0090(5)(c)] REQUIRE IT TO BE MEASURED FROM THE UPLAND EDGE OF THE ADJACENT WETLAND AND THE WETLAND PLANNING GUIDEBOOK REINFORCES IT.***
16. If OARs require the 50 ft riparian corridor to be measured around significant wetlands, why don't Salem's regulations require an additional 50 ft around wetlands in the riparian corridor? ***SEE ANSWER TO #1.***
17. Since most of the riparian corridors are in the floodplain, why aren't the floodplain development regulations enough to protect the riparian areas? ***THEY ARE INTENDED TO ADDRESS DIFFERENT, ALBEIT RELATED, OBJECTIVES. FLOODPLAIN REGULATIONS DO NOT ADEQUATELY ADDRESS THE GOAL 5 REQUIREMENTS FOR RESOURCE PROTECTION.***

18. Why can't the riparian corridor regulations be limited to just prohibiting structures, prohibiting planting noxious weeds and prohibit clearing vegetation without obtaining an erosion control permit? ***THIS WOULD FALL SHORT OF PROTECTING THE SIGNIFICANT NATURAL RESOURCES, YET WOULD BE MORE RESTRICTIVE REGARDING PLACEMENT OF STRUCTURES.***
19. Why is the City regulating riparian corridors in manmade channels? ***OVER THE DECADES MANY NATURAL CHANNELS HAVE BEEN ENGINEERED, BUT THEY STILL PROVIDE FUNCTION AND VALUE. AND GOAL 5 REQUIRES PROTECTION OF ALL FISH-BEARING STREAMS.***

MITIGATION/VEGETATION

20. Why is there so much emphasis on native vegetation? ***NATIVE VEGETATION, ONCE ESTABLISHED, REQUIRES LITTLE CARE. AND THE USE OF PESTICIDES SHOULD BE LITTLE OR NONE. ALSO, THE WILDLIFE EVOLVED ALONG WITH THE NATIVE PLANTS, SO IT HELPS SUPPORT THEIR SURVIVAL.***
21. Non-native vegetation provides benefits and habitat, so why can't non-native vegetation be planted in the overlays if it is not invasive or noxious? ***SEE ANSWER TO #20.***
22. Would previous plantings count towards mitigation/enhancement? ***IF PREVIOUS PLANTINGS WERE REQUIRED AS MITIGATION FOR WETLAND IMPACTS, THEN NO. IF THEY WEREN'T REQUIRED THEN WHY WAS IT DONE? ARE THERE EXAMPLES OF WETLAND AND RIPARIAN CORRIDOR ENHANCEMENTS THAT WERE DONE OUTSIDE OF STATE OR FEDERAL REQUIRMENTS?***
23. Why do mitigation plans have to be prepared by a professional? ***PROFESSIONALS WILL KNOW THE TYPE OF MITIGATION THAT IS APPROPRIATE AND EFFECTIVE FOR THE SITE.***
24. Why does the mitigation work have to be bonded? ***TO ENSURE THAT IT WILL BE EFFECTIVE. THIS IS A COMMON WAY OF DOING BUSINESS.***
25. Why can't the mitigation work be performed under the required City erosion control permit process with plants that are locally available? ***THE EROSION PREVENTION AND SEDIMENTATION CONTROL PROGRAM HAS DIFFERENT OBJECTIVES.***

OTHER

26. What incentives are available for natural resource protection? ***THERE ARE SOME PROGRAMS AVAILABLE THROUGH STATE AND FEDERAL PROGRAMS.***
27. Why don't the recommendations provide for density transfer of land impacted by the overlay districts like some other cities do? ***UNLIKE OTHER JURISDICTIONS, MOST OF THE OVERLAY DISTRICTS IN ALBANY ARE ALREADY ZONED AS OPEN SPACE, WHICH ALLOWS LITTLE DEVELOPMENT, SO THERE'S REALLY NO DENSITY TO TRANSFER. THE CITY COUNCIL COULD STILL DECIDE TO INCLUDE DENSITY BONUSES IN THE GOAL 5 PROTECTION PROGRAM.***
28. Why are filled wetlands or land removed from the floodplain through fill not eligible for an Open Space boundary line adjustment? ***THE OPEN SPACE ZONING WAS INTENDED TO PROTECT NATURAL FEATURES. AN***

ADJUSTMENT IS WARRANTED TO CORRECT FOR THE ACTUAL LOCATION OF THOSE NATURAL FEATURES, BUT IF LAND GETS REZONED DUE TO DESTRUCTION OF THE NATURAL FEATURE THROUGH FILL, THEN IT WOULD REQUIRE A COMP PLAN AND CODE AMENDMENT TO CHANGE THE ZONING.

29. How do the restrictions in the overlays affect buildable lands? **WHEN AN INVENTORY OF BUILDABLE COMMERCIAL AND INDUSTRIAL LANDS WAS COMPLETED IN 2007, WE ASSUMED THAT SIGNIFICANT WETLANDS AND RIPARIAN CORRIDORS WERE NOT SUITABLE FOR DEVELOPMENT, SO THEY WERE NOT COUNTED.**
30. Can on-site stormwater facilities be placed in the riparian corridor? **YES, BUT IT SHOULD BE ADDRESSED MORE EXPLICITLY IN THE DEVELOPMENT CODE.**
31. Why can't Grand Prairie Water Control District be exempted from Goal 5? **GPWCD ACTIVITIES ARE EXEMPTED IN ADC ARTICLE 6.**