



**CITY OF ALBANY
HEARINGS BOARD
City Council Chambers, 333 Broadalbin Street
Monday, April 27, 2006
4:00 p.m.**

MINUTES

Hearings Board Members present: Dan Bedore, John McEvoy, and Paul Davis
Hearings Board Members absent: Anne Peltier (Paul Davis served vice Peltier)
Staff present: Planner Janet Morris, Community Development Director Helen Burns Sharp, and Administrative Assistant Shirley Lindsey
Others present: 2

CALL TO ORDER

Vice Chair John McEvoy called the Hearings Board to order at 4:02 p.m.

QUASI-JUDICIAL PUBLIC HEARING, Case File Number SD-06-06, Edgewater North at Clover Ridge.

At 4:04 p.m., Vice Chair McEvoy called to order a public hearing on Planning File SD-06-06, a Subdivision Tentative Plat that would divide 9.22 acres of property into 44 residential single-family lots. The property is located at 215, 305, and 345 Clover Ridge Road NE in Albany. The applicant is BBF Development (Clover Ridge) LLC.

No Declarations, *ex parte* communications, or site visits reported. One letter received was dated April 26, 2006 as testimony.

Vice Chair McEvoy called for the Staff Report.

Staff Report (4:02-4:16 p.m.):

Planner Janet Morris presented the Staff Report. Morris referred to the color, overhead map and indicated the location of the subdivision and the surrounding areas, which are being incrementally constructed by the applicants.

Morris stated that Edgewater at Clover Ridge has chosen to use the provision of some lots being smaller. The subdivision acreage comes from combining all of Tax Lot 400, and small portions of Tax Lots 600 and 700. This land was annexed to the City of Albany in January of 2005, and was subject to an Annexation Agreement, which has been attached to the Staff Report distributed to the Hearings Board as Exhibit C because under Criterion 5 under Special Features, we are requiring some special wording about the pipeline. She noted the same provisions were required of Wind in the Willows and Edgewater to the south.

The subdivision is located on the east side of Clover Ridge Road NE and north of Knox Butte Road NE. An aerial view of the subdivision and the surrounding area is labeled Exhibit A, and the Tentative Plat is Exhibit C. The applicant has not request4ed a phasing plan for the proposed subdivision.

The proposed subdivision will ultimately connect to the applicant's previously approved subdivision, Edgewater at Clover Ridge, which is being constructed in phases. The first phase of that subdivision has been platted, but it does not abut the land included in this proposed subdivision.

The applicant is using the provision in the Development Code (Section 3.200) that allows one-half of the lots to be up to 30 percent smaller than the standard lot size of the zoning district (6,500 square feet), subject to the average size of all the lots meeting the minimum standard of the zone. The subdivision lots range in size from 4,935 square feet to 8,623 square feet. The average lot size within the subdivision is 6,517 square feet. Less than one-half of the proposed 44 lots (13) are smaller than 6,500 square feet, and the smallest lot is 24 percent smaller than the standard. The minimum lot dimensions in the RS-6.5 zoning district are 50 feet for lot width and 80 feet for lot depth. These measurements are taken at the mid-point of a lot. All of the proposed lots meet or exceed these standards.

Morris noted that the subdivision meets the review criterion as follows:

Criterion 1: There is no remainder parcel, so this criterion does not apply.

Criterion 2: Adjoining lands having access. None need access from this subdivision.

Criterion 3: Streets. Morris pointed out that there are two conditions (see Conditions on page 3) that will be included:

1) The applicant shall dedicate 10 feet of right-of-way along the development's frontage on the east side of Clover Ridge Road NE. The intersection of Claremont Street NE and Alameda Avenue NE must be designed to accommodate the passage of Fire Department vehicles. This needs some work so that the fire vehicles can get around. There has been a previous issue when cars are parked on both sides of the street. The City Engineer must review and approve the proposed curb alignment and design.

2) The second condition may change the lot sizes/configuration. Morris noted that if it is agreeable to the Hearings Board, these changes would be made at the Final Plat stage – which means that we would check when the Final Plat is submitted to make sure that the requirements are being met.

Criterion 4: Public Utilities: Morris indicated that there are no issues here. All of the utilities will be extended through the subdivision. The only non-typical dedication to the City is the drainage/wetlands between Lots 7 and 8. There are wetlands being retained in a tract to be dedicated to the City between Lots 7 and 8. It is part of a drainage way system that flows from Burkhart Creek to the south to Truax Creek to the north. When the subdivision to the south was done, they did all the work for the wetlands on the property and got approval to mitigate all except the one small area that will be dedicated to the City. All the other wetlands on the property have been permitted to be removed.

Criterion 5: Special features of the Site: There is a Petroleum pipeline on the property to the east and the wetlands. It is located about 10 feet away from the eastern boundary within a 20 foot easement. With the other subdivisions, and if they were putting in a pipeline today, the recommendation would be that there are not any structures within 50 feet of the pipeline.

So, the way we handled that is by creating a 20 foot easement to the City that is basically a 'no man's land' – there cannot be any activity there, the area can't be used for gardens or anything. We are also requiring that it be fenced off, there is another 20 feet special setback where there cannot be anything - no garden sheds or anything else. This creates the 50 foot setback and limits the activity in the area.

There is a special setback for buildings (a 40 foot, no build setback from the east property line). Within the 40 foot setback, the eastern 20 feet is encumbered by the easement to the City. This limits activity in the proximity of the pipeline itself, and most of these features will be on any Conditions, Covenants, and Restrictions (CC&R's), as well as notice on each Deed regarding the pipeline.

Planning reviewed a copy of a Deed from one of the previous lots and found that the wording in the Title Report was rather vague, so if you were signing your papers as you do when you buy a house, you look at this and there is an "easement" and a recording number, but not what the easement is for. So if you hadn't looked at the other papers, you would not know what is there (the fence is obvious – if you go out to the property). Morris indicated that the City's concern is that the easement for the pipeline is not a visible item for a purchaser. If the property is purchased site unseen, then the opportunity for an informed decision is negligible. At this point, it appears that all of the lots have been already been sold.

Morris presented the Conditions as they will appear on all documents related to the subdivision(s) and the Petroleum pipeline. The special conditions related to this subdivision are as follows (text taken directly from the Staff Report and mentioned here because of the importance of maintaining the record of these conditions):

CONDITIONS to be applied to CC&R's, Deeds, and the Final Plat

- 5.1 *The Final Plat must show the boundary of a 40-foot wide "special no-build setback" located parallel to the eastern property line of Lots 23 through 27. The final subdivision plat must include a note stating that no primary or secondary residential structures will be allowed within this setback. Secondary structures include, but are not limited to, storage buildings of any size. This restriction also must be placed on the Deeds of Lots 23 through 27.*
- 5.2 *The Final Plat must provide a 20-foot wide open space easement parallel to the eastern property boundary of Lots 23 through 27. The ownership of the easement shall be granted to the City of Albany by a separate document prepared by the applicant. Human activity in this easement is limited to maintenance of the landscaping within it as necessary. Gardens of any type will not be allowed. The restriction of use of the easement and assignment of maintenance responsibility to the property owners of Lots 23 through 27 must be placed on the deeds of these lots.*
- 5.3 *Before the City signs the Final Plat, the Planning Division must approve a landscape plan for the 20-foot wide open space easement located on Lots 23 through 27. The minimum landscaping shall be drought tolerant groundcover that is suitable for the soils type and that requires little or no maintenance once established. The approved landscaping must be installed before the City signs the Final Plat. The applicants must maintain the landscaping until homes on the lots are occupied. Thereafter, the landscaping within the easement shall be maintained in perpetuity by the owners of the lots.*
- 5.4 *Before the City signs the Final Plat, to ensure physical separation yet maintain visibility of the open area, the applicants must construct a permanent 4- to 5-foot high durable open wire fence with metal supports along the western boundary line of the 20-foot wide open space easement located on Lots 23 through 27. The property owners of these lots may not remove, replace it or screen the fence with another fence or landscape hedge. The maintenance and ownership of this fence will be the owners of the individual lots on which it is located. These restrictions must be placed on the deeds of Lots 23 through 27 and in the CC&R's. The applicants shall submit to the City copies of the deeds containing this language.*
- 5.5 *The retained wetlands will be located a tract between Lots 7 and 8. This tract will be deeded to the City of Albany by separate document prepared by the applicant.*
- 5.6 *To ensure that future property owners receive adequate notice of the presence of the petroleum pipeline, the open-space easement, maintenance responsibility of the easement, and the special 40-foot "no-build*

setback," the City will require the applicants to create and record CC&R's covering these restrictions. The City must review and approved the CC&R's before recording. These restrictions must also be included on the deeds to the lots. The applicants shall provide the City with a copy of the deeds of the lots containing these restrictions.

Morris responded to questions from the Board members. Bedore asked about egress from Edgewater North onto Clover Ridge Road; will the connections be made so that Windy Avenue and Somerset and Edgewater on the other side are all workable accesses to Clover Ridge Road? Morris stated "yes." They will go up Edgewater which will connect to Breezy Way, et al, and that all the lots connect.

Phase 1 of Edgewater has been constructed already and only the middle piece is missing; and they will be filing for the engineering on that very soon.

Davis asked about Lot 3's connection; it looks like it would be a flag lot. Engineers were present and Morris deferred to them.

Chair McEvoy read a letter from Ronald Allen on 4010 Gusty Avenue, regarding the subdivision, expressing concern about Lot 9, as it appeared to be wetlands. He also expressed concern about Lot 41 and that the people building houses behind his home and his neighbor's not build two-story houses behind single story family residences.

Applicant Testimony:

Mark Grenz, MultiTech Engineering, 1155 13th St. SE, Salem. Grenz thought that the subdivision is pretty straight forward. Lot 3 has an access easement that runs along the front of Lot 7. They did a lot of work with DSL and the Corp of Engineers. They were able to work out a lot of things. They wanted some of the wetlands left, so had to do an access easement.

In response to the question about Lot 3, it has an access easement that runs along the front of Lot 7, so there is an access to both Lot 3 and Lot 7. Grenz indicated that they worked with the Corp of Engineers and DSL when they started on the Edgewater South project, so worked out many details. They were insistent to keep the wetlands there, and the only way they could figure to do that was the easement access.

Grenz noted that construction plans are in to Public Works now and this phase may be constructed this season or early next season. Wildwood will go all the way down to the new collector street that was built in the property north that goes all the way through Clover Ridge Station and hooks up to Bernard – which will allow a pretty good network.

They reviewed the letter from the property owner from the north, but they are not willing to obligate future builders to building only one-story. These lots are much larger, and Grenz thinks that it would be detrimental to the value of the lots to limit it. The use is permitted. Likelihood is that it might be single-story, but since it is allowed, they would not want to give it up.

There was no rebuttal testimony, but Morris noted that Grenz was correct about the lot usage, and did not think it should be limited.

McEvoy declared the public hearing was closed at 4:23 p.m.

Discussion:

Vice Chair McEvoy invited a motion. Commissioner Dan Bedore moved, and Commissioner Paul Davis seconded, a MOTION to **APPROVE WITH CONDITIONS** the Tentative Subdivision Plat application to divide 9.22 acres of land into 44 single-family lots (File SD-06-06). This motion is based on the findings and conclusions of the Staff Report and testimony presented at the public hearing. The motion PASSED unanimously.

OTHER BUSINESS: None.

NEXT MEETING DATE: May 1, 2006, for Planning Commission Work Session, and May 15 (Tentative) Public Hearing.

ADJOURNMENT

Hearing no further business, Chair McEvoy adjourned the meeting at 4:27 p.m.

Submitted by

Reviewed by

Signature on File

Signature on File

Shirley Lindsey
Administrative Assistant I

Helen Burns Sharp
Community Development Director

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