



APPROVED: April 30, 2007

**CITY OF ALBANY  
PLANNING COMMISSION  
City Hall Council Chambers, 333 Broadalbin Street  
Monday, March 5, 2007  
5:15 p.m.**

**MINUTES**

Planning Commissioners present: Paul Davis, David Faller, Tim McCarley, Anne Peltier, Cordell Post, Wayne Rackham, Mark Spence, and Michael Styler

Planning Commissioners absent: Dala Rouse

Staff present: Planner III Heather Hansen, Planning Manager Don Donovan, Community Development Director Helen Burns Sharp, and Administrative Assistant Marilyn Girdler

Others present: Approximately eight others were in the audience.

**CALL TO ORDER**

Chair Cordell Post called the meeting to order at 5:15 p.m.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**ROLL CALL**

**APPROVAL OF THE February 5, 2007, MINUTES**

Commissioner Paul Davis moved to approve the February 5, 2007, minutes as written. Commissioner Michael Styler seconded the motion. A vote was called, and the motion passed unanimously 8:0.

**LEGISLATIVE PUBLIC HEARING, Case File Number DC-01-07 (Amendments to the Cluster Development and Hillside Development sections of Article 6 of the Albany Development Code)**

Post opened the public hearing at 5:19 p.m.

Staff Report:

Planner III Heather Hansen summarized the staff report which addressed the issues of Hillside and Cluster Development standards. She gave a brief history regarding how the current standards were developed and why staff felt changes should be made.

Hansen said there was a Planning Commission work session held in May 2006. Discussion with the Commission and the public input received helped to develop the proposed changes on the meeting agenda. Staff has crafted amendments to the Hillside Development standards that would require a geotechnical report by a certified engineer that would identify the building foot prints and locations, as well as any requirements necessary to show the development is and will remain safe and feasible for sites with slopes of 12 percent or greater.

Hansen said there have been some cluster development applications that raised concerns with the public, members of the Planning Commission, and staff about whether the current regulations were resulting in what was initially envisioned when the standards were developed. Several work sessions were held to discuss possible amendments. Primary areas of concern identified were vagueness within the purpose statement and the need to develop language that ensures compatibility with existing development.

She said staff did receive a few phone calls from Planning Commissioners since the agenda was mailed. Staff recognized the inconsistency within the proposed text that allowed trails within the created open space while prohibiting encroachment within these same areas. Staff crafted modified language that has been presented for the Commission's consideration.

Post asked if this agenda item required declaration of ex parte contacts. Community Development Director Helen Burns Sharp said contact regarding legislative items was not considered ex parte as it would be with a quasi-judicial item. Post read a prepared statement into the record, "My family and I own real property within the Albany city limits. The possible amendments to the Hillside and Cluster Development codes may affect such real property. I corresponded and spoke with Mr. Don Crabtree of the Oregon Government Standards and Practices Commission at length regarding the possibility that my participation in tonight's meeting would constitute a conflict of interest. Mr. Crabtree indicated that at best, my participation may constitute a potential conflict of interest. He suggested I read the following into the record: 'The issues before the Commission, including the possible amendments to the Hillside and Cluster Development codes, may give rise to a potential conflict of interest for me in that any decision or action taken may have a financial impact on real property owned by me or members of my family. The law requires my disclosure to be entered into the public record and once entered I may participate in any discussion or action on this issue.'" Post stated that unless there was a tie vote, he would abstain from voting on these matters.

#### Public Testimony:

Vi Anderson, 914 North Albany Road NW, requested the Planning Commission's decision be postponed to allow interested citizens the opportunity to review the proposed amendments.

Post asked if Anderson had reviewed the proposed language. Anderson said she had not.

Sharp explained that the hearing was advertised, including a legal notice had been published about two weeks prior in the *Albany Democrat-Herald*. In addition, Sharp requested Cathy Ingalls do another story on the proposed amendments in the *Albany Democrat-Herald*. Ingalls had covered this extensively about nine months ago. In addition, this is the second public hearing on proposed Cluster Development amendments. Council's hearing on this case would give interested participants another opportunity to give input. That hearing is scheduled for Wednesday, March 14, 2007. She added this is a legislative process. Unlike the quasi-judicial process a request for continuation may be considered by the Commission, but it is not obligated to grant one.

Anderson said the last work session on these amendments was almost a year ago. She reiterated her request to delay the decision to allow for citizen review and input.

Commissioner Anne Peltier asked how Anderson learned of the hearing. Anderson said she learned of it from Saturday's newspaper. Peltier asked if Anderson was requesting a continuance to allow for more people to attend or to prepare feedback. Anderson said the continuance would allow for both.

Mike Welk, 240 Picardy Lane NW, also requested the decision be postponed for the same reasons that Anderson cited.

Dirk Olsen, 1037 North Albany Road NW, agreed with Anderson and Welk's request. He said as co-chair of North Albany Citizens in Action he is very interested in development in North Albany. The group has been very active and would like to work with the City to solve the problems. He would appreciate more direct communication from the City on matters that may affect North Albany.

Olsen said he prepared some comments regarding the proposed changes. Post asked Olsen that he limit his testimony to the agenda items. Olsen said he understood, but the group would like the Commission and Planning Division staff to address the group's areas of concern. Olsen said he had not had an opportunity review the staff report, but he did have a comment on Cluster Development. He said there are no current guidelines for protection of riparian areas. Nothing prevents the removal of natural vegetative growth. He encouraged a definition for riparian areas to be developed.

Post asked staff if there was a definition for riparian areas. Sharp said the City has an inventory of riparian corridors, as well as a definition. She added that the Planning Division is also reviewing its natural resource protection program under Periodic Review, which would include areas identified in the riparian corridor inventory. Olsen said he was pleased to hear that.

Davis requested Olsen submit his comments so the Planning Commission could review the group's concerns. While they may not directly apply to the present case, they would apply to other cases that the Commission will hear in the future. Post suggested Olsen submit written testimony.

Olsen said when the North Albany Citizens in Action testified at the Benton Woods subdivision, prepared testimony was submitted both orally and written. Olsen's group expected the Commission to review all the written testimony prior to making a decision. Instead, a decision was rendered immediately after the close of the public hearing, without the Commission having read all of the written testimony. Olsen said a decision should be postponed until after careful review of any written testimony.

Commissioner Wayne Rackham said prepared testimony can be sent to the Planning Division to be included either in the staff report or be copied and presented to the Commission prior to the public hearing. Olsen agreed, but little notice was given prior to the hearing and preparation was ongoing until the night of the hearing. Rackham suggested staff communicate with Olsen's group to give notice of developments that might be of interest. Olsen agreed that would be appreciated.

Olsen said when North Albany was annexed into the City of Albany, a written promise was made that no house would be built on a lot less than one-quarter acre. When he questioned Senior Planner Don Donovan about this, Donovan said things had changed. When asked how this issue related to Cluster Development standards, Olsen said there are more houses on smaller lots with a cluster development.

Vi Anderson, 914 North Albany Road NW, said she would like to see areas zoned Open Space are excluded from the maximum density calculations. Post said he thought that was part of the proposed changes and would not be eligible for inclusion in open space requirement. Staff agreed.

CD "Bud" Spencer, 1347 Spencer Mountain Drive NW, supports the proposed changes to allow homes on hillsides. When he proposed to subdivide his property, four to five lots were disallowed due to the current Hillside standards. The proposed standards will allow those lots to develop with the required geotechnical report. He urged the Planning Commission to make a decision and allow the proposed amendments to move forward to Council without delay.

Merle Anderson, 914 North Albany Road NW, suggested the list of approved uses for the created open space should be expanded to include outdoor living areas. Sharp asked if Anderson was suggesting an active recreation like a "tot lot." Anderson said yes, similar to the Benton Woods development. Sharp said

cluster development was intended to protect natural features. Post added that the Benton Woods application was not a cluster development. Anderson said he understood that it was a Planned Development.

Staff Response:

Sharp said 20 years ago developers would set aside space for recreational areas as part of their subdivisions. These areas were not always centrally located. In the 1990s, the State allowed cities to charge System Development Charges (SDCs) for public infrastructure, including parks. The City Parks Department determines central locations for neighborhood parks. Some developers have decided to construct small private parks in their developments. This is not mandated. The City does collect money and develops parks to conveniently serve residents in growing areas of Albany.

Hansen said staff had discussed allowing recreational uses in the created open space in a cluster development. It was decided that since the main purpose of cluster development is to protect resources that may not be protected through normal development processes, it would be difficult to preserve resources while allowing something similar to a play structure.

Styler asked if there was any restriction on the size of a parcel that would be eligible for cluster development. Hansen said cluster development is processed as part of a subdivision process, which requires a parcel to be divided into four or more lots according to the site's zoning standards, or for a multi-family development.

Commission Discussion:

Post asked for the Commission's feedback on continuing the public hearing as requested. Sharp said this is a legislative case and the Commission is not required to continue the hearing.

Peltier asked if this case was scheduled for the Council on March 14, 2007. Sharp said yes, but the Council could continue the hearing until its next meeting.

Commissioner Mark Spence said he was concerned that this was a public meeting and input was needed from all directions. He would like to see the hearing continued.

Sharp said if the hearing was continued, then the public would be allowed to provide testimony at the continued hearing. Post asked if the Commission could discuss it and ask questions of staff prior to closing the public hearing.

Davis said he had questions. Peltier said she would like to discuss and continue the hearing. Commissioner David Faller said the next meeting of the Hearings Board was scheduled for Monday, March 12, 2007. Since three members of the Commission would be present, could the hearing be continued after the conclusion of that hearing?

Post said this is the third or fourth time the issue of continuing a hearing has been requested. He would like the public to have a say, but he also wants cases to move forward.

Rackham said he would like a decision to be made. The Commission has been working on this for two years. The product that is before the Commission tonight is a finished product that takes a lot of input into account.

Post polled the Commission on how best to proceed. Davis, Commissioner Tim McCarley, Peltier, and Rackham moved to discuss and vote. Faller, Post, Spence and Styler were neutral. Post said with a 4:4 split, he would continue the public hearing in the interest of developing trust with the community members, but would also like to discuss tonight.

Sharp said the hearing would be continued until next Monday, March 12, 2007 at 5:15 p.m. Rackham said he could not attend.

Peltier asked if any more advertisement was needed. Sharp said the community members would likely spread the word and documents could be posted on the City's Web site before the next hearing.

Spence asked what the definition of "grading" is. If the ground contours are altered by grading, how could a natural resource be enhanced? Donovan said the language states grading *may be* authorized, not *can be*. The current Code prohibits grading in the created natural areas which is contrary to allowing wetlands to be enhanced as part of a mitigation program. Donovan said the burden would be on the applicant to establish that it would enhance the natural area. Spence asked if this was broadening the tools. Donovan said yes.

Davis asked how much land would be excluded by omitting lands zoned as Open Space. Sharp said most of what the Commission thinks should be zoned Open Space is, such as Oak Creek and Thornton Lake, but there are a few areas such as Swan Lakes that is not zoned Open Space. Staff intends to clarify that developers cannot include land zoned Open Space in the calculations of the set aside natural areas created by cluster development. Davis asked if developers could do so under the current Code. Donovan said it was ambiguous.

Davis asked about the additional 20-percent requirement. Donovan said it is not an additional 20 percent. Areas that were zoned Open Space were never intended to be included in the calculations and the proposed language is simply a clarification to avoid misinterpretation. Davis asked if this was a change. Rackham said no. Discussion followed.

Post said another goal of the purposed changes was to address perimeter lot compatibility with existing areas, Section 11.495. He thought if the Planning Commission recommended adoption of this section, the third sentence in the purpose statement could be struck due to redundancy. Staff agreed.

Davis asked if any of the proposed changes would have modified or excluded any of the cluster development applications that the Commission has reviewed and approved. Discussion followed.

Davis asked what "personal service oriented" uses are. Hansen cited examples as listed in the definition of "personal service oriented uses" in Development Code Article 22.

Styler asked if the buffer area is set aside for the community or residents. Hansen said the buffer would be considered similar to the created open space areas. Several ways to set aside and manage these areas are described in the Code. Discussion followed.

Spence asked about the requirement to hire a designer such as a landscape architect and if there were licensing requirements for the industry. Post said landscape architects must be licensed by the State. Discussion followed.

Post moved discussion to the Hillside Development standards.

Post said with regard to Section 6.180, the first sentence is confusing. He suggested the standard apply to slopes of 12 percent or greater and the 3-foot reference be struck. Hansen explained possible consequences of doing so. Sharp asked the Commission for direction. Discussion followed. It was agreed that staff would clarify the language before the continued public hearing on March 12, 2007.

Post asked the procedure for submission of written testimony while the hearing is continued. Sharp said anything received by the Planning Commission by Thursday, March 8, could be sent out to the Commission by Friday, March 9.

Chair Post continued the public hearing until Monday, March 12, 2007, at 5:15 p.m.

#### ACTIVITY UPDATE

Sharp reminded the Commission of the Hearings Board meeting on Monday, March 12, 2007, in the Council Chambers. There is a joint meeting of the Planning Commission, City Council, and Budget Committee to review the Capital Improvement Program scheduled on Thursday, March 8, 2007, at 7:00 p.m. In addition, the City's Public Works Department is holding several open houses to discuss the updates to the Transportation System Plan. Hansen said the dates are Thursday, March 15, at City Hall Council Chambers, and March 22, at the North Albany Middle School.

NEXT MEETING DATE: The next meeting of the Planning Commission is scheduled for Monday, March 12, at 5:15 p.m. in the Council Chambers.

#### ADJOURNMENT

Hearing no further business, Chair Post adjourned the meeting at approximately 7:05 p.m.

Submitted by

Reviewed by

*Signature on file*

*Signature on file*

Tracy Swett  
Administrative Assistant I

Helen Burns Sharp  
Community Development Director

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