



APPROVED: April 30, 2007

**CITY OF ALBANY
PLANNING COMMISSION**
City Hall Council Chambers, 333 Broadalbin Street
Monday, March 12, 2007
5:15 p.m.

MINUTES

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

Planning Commissioners absent: Wayne Rackham

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

Others present: Approximately three others 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

CONTINUATION OF LEGISLATIVE PUBLIC HEARING, Albany Planning file DC-01-07 (ADC amendments to Hillside/Cluster Development Standards)

Post re-opened the continued public hearing at 5:16 p.m.

Post asked if any members of the audience objected to Commissioner Dala Rouse's participation since she did not attend the last meeting. The audience had no objections.

Staff Update:

Planner III Heather Hansen said due to testimony at the last meeting, staff suggested some additional proposed modifications included as Attachment A in the staff report. Regarding Cluster Development standards, she said compatibility focused largely on lot size. Due to the new section regarding lot size standards for cluster developments, staff recommends the compatibility section of the purpose statement be struck. With regard to protection of permanent open spaces, modified language clarifies that trails would be allowed in the open space areas.

Community Development Director Helen Burns Sharp reviewed the proposed modifications to the Hillside Development standards. She said Section 6.180 was written to determine when Hillside standards would be applicable. Language focused on slopes of 12 percent or greater. Rouse asked about some situations where the standards might apply because of the slope due to retaining walls. Staff proposes Comprehensive Plan Plate 7: Slopes (Attachment B, in agenda file) be used to determine when Hillside standards would apply. Staff will utilize new GIS technology to revise Plate 7 with more precise topography than the current plate. If property is shown on Plate 7 as having slope(s) of 12 percent or greater, the standards would apply.

Rouse said there is a slope in her neighborhood that might be greater than 12 percent, as well as the slopes along the Willamette River. Hansen said the map generated by GIS technology would be very precise and may show areas of 12 percent slope, including manmade structures such as freeway overpasses.

Sharp said utilizing Plate 7 may extend Hillside standards to areas outside North Albany and Knox Butte.

Post asked if a property is shown on Plate 7: Slopes with 12-percent slopes or greater, Hillside standards would then apply to development on that property. Sharp said Post was correct. Post asked when the plate would be updated. Sharp said soon.

Rouse asked about impact from an existing retaining wall that might not be in good condition. Sharp said an area with a retaining wall may/may not create a slope of 12 percent. She said regardless of the applicability of the standards, an existing retaining wall would be considered a special feature of the site and would be reviewed for condition during planning review.

Public Testimony:

Jim Lawrence, 1340 NW Laurel Heights Drive, said he basically supports Cluster Development standards. When asked about the proposed amendments, Lawrence stated he is in favor of increased density and the creation of open space which promotes interaction between neighbors, areas for children to play, and provides necessary habitat for wildlife.

Cory Swallow, 203 NW Greenacres Lane, reviewed his concerns regarding the language of the proposed amendments to Cluster Development standards.

He asked why the compatibility language was removed from Section 11.400. He was concerned that compatibility with existing neighborhoods will be lost.

Hansen said compatibility is important, but is open to interpretation. Given that past discussions have revolved around lot sizes, staff proposed a new section regarding lot size compatibility.

Sharp said when this section was written, staff intended it to apply to lot sizes. However, with the new section specifically on lot sizes, this sentence would allow an interpretation of what is/is not compatible. She cited examples with regard to two-story development next to single-story. By deleting the sentence, the term compatibility is no longer an object of interpretation.

Swallow said he thought compatibility issues extended beyond lot size, including two-story homes adjacent to single-story homes. Sharp said it is up to the Commission to determine what is meant by "compatibility." If it is lot size, that has been addressed. If the Commission wishes to review other issues for compatibility, language should be drafted to address each issue in a straight-forward manner to avoid misinterpretation.

Swallow said Section 11.460 allows open space to be either public or privately held. He said there has been a concern regarding ownership on past cluster developments while under review. He said open space should be publicly held to ensure it would always be maintained.

Post asked if an easement is required. Planning Manager Don Donovan said as the standards currently apply, privately held open space is required to be recorded with covenants that run with the land. The City does not always desire to be the owner of wetlands and small parcels because of low monetary and staff resources. Discussion followed.

Planning Commission
Monday, March 12, 2007

Swallow said Section 11.480(1) removed language that prohibited encroachment into wetlands and riparian corridors. He would like to keep the language, especially since the intent of cluster development is to protect more open space.

Hansen said the amendment is actually making it stricter. Current language states “avoid encroachment.” The amendment to this section only allows encroachment under specific circumstances as approved by the City. In addition, if a developer wishes to improve wetlands, the current Code language prohibits such action. The amendment may allow a developer to encroach upon a natural area for restoration activities as approved by any and all agencies with jurisdiction.

Swallow said that would work for newly created open spaces, but he wondered how it would protect existing open space. Hansen said Section 11.470 refers to designation of open spaces, not the actual creation of wetlands and riparian corridors. Swallow said each type of natural feature is treated differently in the inventories. He questioned grouping all natural features, including those that are part of a federal management program, as “open space.” Hansen said any development would need to meet any and all state and federal requirements for wetlands and riparian corridors before development would be allowed.

Commissioner Anne Peltier asked if the amendment makes the process more restrictive. Donovan stated this section deals with open space designation, not what it is or how it is managed. It only gives a list of what could be set aside and designated as open space to meet the eligibility requirements for a cluster development.

Swallow said his question related to protection of open space, Section 11.480, and why wetland and riparian corridors were struck from the text in favor of “permanent open space.”

Commissioner Mark Spence said his understanding of the purpose of cluster development was to set aside existing natural areas, not creation of a park which gets mowed on a weekly basis. The words “riparian,” “wetland” and “forest” appear so often within this section of the Code, they seem to be the only form of open space that can be set aside. Swallow disagreed. He said there are federal and state inventories of wetland areas and riparian areas. Albany creates its own open space which seems to be more manicured. Swallow sees wetlands and riparian corridors as more natural. This section now would now allow encroachment into the natural areas to allow it to be used by another use. Open space means different things to different people. Discussion followed.

Rouse asked why permanent open space that is set aside in a cluster development is not required to be zoned Open Space. Hansen said a Comprehensive Map and Zoning Map amendment would be required for each area. Sharp added that by requiring such amendments, Measure 56 notice requirements and Measure 37 claims could be triggered. Donovan said Comprehensive Plan Map and Zoning Map amendments would make the process so complex that it would lose its appeal to the development community.

Post said the same result is realized by requiring a recorded easement. Donovan said that was correct, adding that an easement also specifies maintenance responsibilities.

Peltier asked staff if Swallow’s concerns were addressed in other parts of the Development Code. Sharp said the City has inventories of wetlands and riparian corridors. Most of the City’s significant wetlands and riparian areas have Comprehensive Plan designations and are zoned Open Space. The Development Code has strict restrictions of what can be done in the Open Space zone, in addition to the Department of State Lands and Army Corps of Engineers regulate wetlands.

Planning Commission
Monday, March 12, 2007

Swallow said he is concerned with Section 11.480(2) allowing grading to enhance natural resources. He said grading usually destroys natural resources. Discussion followed. Hansen said the language says it “may be authorized,” not will be. The City will need to see a restoration plan that justifies the grading.

Swallow asked that Section 11.480(3) be worded more precisely. Rather than “significant” wetlands and riparian areas, Swallow would like the areas be referred to as “inventoried” wetlands to ensure “significant” does not become subject to interpretation. Sharp said “significant” has been defined and gave examples of what criteria must be met for a wetland to be classified as significant. Swallow asked how the public could find out which areas are significant. Donovan said planning staff could assist the public at the Planning Division’s counter in City Hall.

Swallow suggested prohibiting cluster developments in hazardous locations, such as floodplain, steep slopes and airport approaches to minimize loss of life in the event of an emergency. Donovan said there are separate regulations for some of those hazardous situations: Hillside Development, Airport Approach, and Floodplain. Developing a cluster development would not exempt a developer from other regulations of the Development Code. Discussion followed.

With regard to Hillside Development standards, Swallow would like the applicability to be more broad than a reference to the Comprehensive Plate 7: Slopes. He thinks planning staff could be more discriminating than a map could be. Discussion followed.

Swallow asked what the geological report consisted of. He asked what would stop a developer from editing a report to get the desired response. Sharp said the City does not currently receive a report of this type. If this proposed amendment is adopted, the report becomes a requirement of development subject to Hillside Development standards. City staff will review the report, but the report must be compiled by an expert in the field and certified to be accurate and complete. Sharp believes this to be a key component of any development on hillsides. Swallow asked what would happen if an item was not in the report. Sharp said the report would be identified as incomplete and request the applicant submit a completed report.

Vi Anderson, 914 North Albany Road, asked if bioswales could be involved in the utility infrastructure as identified in Section 11.480(2). Donovan said bioswales convey storm waters away from the development which would be consistent with utility infrastructure. Sharp said 11.840(3) prohibits the use of the permanent open space for detention or retention ponds, or any other utility improvement necessary for development of the lots.

Dirk Olsen, 1037 North Albany Road NW, said he had similar concerns to those expressed by Swallow. He said the terms “existing open space” and “created open space” need to be better differentiated. Discussion followed. Donovan said there are existing riparian corridors and existing wetlands on the property that can be set aside as open space. Donovan said staff has attempted to differentiate the two terms by capitalizing zoned Open Space and not capitalizing permanent open space. Discussion followed. Sharp said if the Commission agreed, staff could craft better language for these terms before bringing to the Council for review.

Rouse wanted to clarify to the audience that density cannot be increased on a property through the use of Cluster Development standards. One of the reasons Cluster Development has been reviewed is to avoid that perception.

Merle Anderson, 914 North Albany Road NW, said he asked about using the permanent open space created by a cluster development as open living space by the residents and children. Hansen said staff looked into that suggestion and decided that encouraging paving or play structures in permanent open space areas would not be consistent with natural resource protection. Discussion followed.

Planning Commission
Monday, March 12, 2007

Staff Response: None.

Post closed the public hearing at 6:36 p.m.

Commission Discussion:

Peltier asked if Swallow's concerns had been addressed. Rouse said compatibility was not. Hansen said "compatibility" could mean many things. As the section of the Code is currently written, compatibility directly relates to lot size. Spence said if you regulated compatibility, it would have to be regulated across all kinds of development, not just cluster development. Commissioner Paul Davis said the amendments were drafted in response to compatibility with regard to lot size. Discussion followed. Donovan said staff looked at both lot size and building height. Staff felt lot size could be regulated, but regulating building height would only apply to the new development. Existing development would be allowed to do a second-story addition. The Commission would have to determine if that is fair result.

Rouse asked staff to better clarify the different types of open space. In addition, she would like to see Hillside Development standards and Cluster Development standards separated in the Code as she discussed with Sharp.

Commission Action:

Peltier moved to recommend that the City Council adopt the proposed amendments to the Albany Development Code presented in the staff report for file DC-01-07- with the following modifications: to clarify "zoned" versus "designated" open space. Commissioner David Faller seconded the motion. Sharp asked the maker of the motion that there were a couple of proposed changes including the reference to Plate 7. She asked if the motion include those proposed changes as well. Peltier said yes. Faller agreed. A vote was called and the motion passed 7:0, with Chair Post abstaining due to a possible conflict of interest as declared on Monday, March 5, 2007.

ACTIVITY UPDATE:

Sharp said there would be another set of Comprehensive Plan amendments regarding goals and policies related to housing for a public hearing on Monday, March 19, 2007.

NEXT MEETING DATE:

The next meeting of the Planning Commission is scheduled for Monday, March 19, 2007.

ADJOURNMENT

Hearing no further business, Chair Post adjourned the meeting at approximately 6:43 p.m.

Submitted by

Signature on file

Tracy Swett
Administrative Assistant I

Reviewed by

Signature on file

Helen Burns Sharp
Community Development Director

U:\Community Development\Planning\Minutes\PlanCom2007\PC Mins 07.0312.doc