

APPROVED: April 21, 2008

**CITY OF ALBANY
PLANNING COMMISSION
City Hall Council Chambers, 333 Broadalbin Street
Monday, February 11, 2008
5:15 p.m.**

MINUTES

Planning Commissioners present: Paul Davis, David Faller, Lolly Gibbs, Cordell Post, Dala Rouse, Mark Spence (arrived at 5:20 p.m.), Michael Styler (excused at 6:00 p.m.), and Scott Whitney

Planning Commissioners absent: Wayne Rackham

Staff present: Planning Manager Don Donovan, Infrastructure Analyst Mike Leopard, Planner II Anne Catlin, Transportation System Analyst Ron Irish, and Administrative Assistant Teresa Nix

Others present: Approximately nine 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

ELECTION OF OFFICERS

MOTION: Commissioner Dala Rouse moved to elect Commissioner David Faller as Chair and Commissioner Mark Spence as Vice Chair of the Planning Commission. Commissioner Paul Davis seconded the motion, and it **passed** unanimously.

HEARINGS BOARD APPOINTMENT

Chair Faller said he would entertain nominations for two vacancies on the Hearings Board. These are two-year terms that would end December 31, 2010. Hearings Board typically meets as needed on Thursday afternoons at 4:00 p.m.

Commissioner Michael Styler nominated Rouse.
Rouse nominated Styler, who declined the nomination.
Rouse nominated Spence. Faller stated Spence currently serves as a Board member.
Rouse nominated Davis, who declined the nomination.
Rouse nominated Post, who declined the nomination.
Rouse nominated Commissioner Scott Whitney.

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Rouse and Whitney were unanimously appointed to the Hearings Board. (See Activity Update for more information on this agenda item.)

APPROVAL OF THE MINUTES

MOTION: Post moved to approve the December 3, 2007, Planning Commission Work Session minutes as presented. Rouse seconded the motion, and it **passed** unanimously.

QUASI-JUDICIAL PUBLIC HEARING

Faller called to order a public hearing on Planning file VC-03-07, a right-of-way vacation of a portion of Ferry Street located between Queen Avenue on the south and the Southern Pacific Railroad right-of-way on the north. The application was initiated by the City Council at the request of Gary Brown, owner of three adjacent properties.

Declarations:

Davis said he drove down that portion of Ferry Street this morning. He said there is an open ditch all along the street and he thinks it would be nice if it were no longer open.

Staff Report:

Infrastructure Analyst Mike Leopard summarized the staff report. He showed an aerial photo of the site on the overhead and pointed out the subject area. He said the proposal to vacate the right-of-way was prompted by a proposal to develop a mini-storage facility on the three parcels to the east. He showed the proposed development area on the overhead. The applicant submitted a site plan layout that places the structures against the property line on the west boundary. The Development Code requires a 15-foot front yard setback. The requested vacation would eliminate that requirement. Last September, the applicant asked the City Council to initiate the vacation so he would not be required to get signatures from adjacent property owners, which include the railroad company headquartered in Nebraska. The property owners were notified by mail of the application and had the opportunity to comment in writing or at the hearings. He reviewed the applicable criteria, as detailed in the staff report.

Regarding the first criterion, he said the City's Transportation System Plan does not show this section of Ferry Street as part of the City's arterial or collector street system, nor does it anticipate connecting it to another street. The street is not improved; it has a gravel surface. The street currently serves four adjacent parcels and the railroad yard to the north. There are public sewer and water mains in the right-of-way and an open ditch along the east boundary. Other franchise utilities also exist in the area proposed for vacation. In order to maintain access to these utilities, the City would keep a public utility easement over the entire area.

Regarding the second criterion, he said the street does not connect to other streets. Vacation of the right-of-way would create a couple of landlocked parcels, which he showed on the overhead. In order to provide access for those parcels to Queen Avenue, an access easement would be retained over the vacated area for the benefit of the adjacent parcels, the railroad, and emergency response vehicles.

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Regarding the third criterion, he said there would be no extension of this portion of Ferry Street in the future so traffic circulation would not be impacted, and the access easement would be retained to provide access rights to emergency vehicles.

Regarding the fourth criterion, he said vacation would eliminate the front yard setback requirement, so there would be no front yard landscaping to consider. Section 12.100 of the Development Code requires approaches, driveways, and alleys to be paved. Two-way traffic requires a paved width of at least 24 feet. Paving the vacated area from Queen Avenue to the railroad right-of-way would meet these requirements and would provide a clean, durable surface for emergency vehicles and other traffic. The applicant is requesting that the requirement to pave the access for the entire length be modified to allow for paving a shorter section, as noted in his letter which was attached to the staff report.

Regarding the fifth criterion, he said staff believes the conditions listed in the staff report would best serve the public interest if the vacation were to be approved. State land use rules require the City to make a final decision within 120 days of receiving a complete application, unless the applicant agrees to extend that limit. The maximum allowed extension is 245 days. Staff believes it is in the City's best interest to require the applicant to extend the 120-day limit to allow for time to complete the paving of the access. If the Planning Commission chooses to recommend approval of the vacation, staff recommends that Condition 5.1 be modified to require the applicant to submit a letter prior extending the 120-day limit the maximum.

Rouse asked if staff has heard from the railroad. Leopard said no. Rouse asked about the state law that requires property owner approval. Leopard stated that, if the vacation is initiated by the City, adjacent property owner approval is not required up front. A notification letter is sent out and property owners may respond in writing or at the public hearings.

Testimony in Favor:

Gary Brown, 120 Main Street, said he asked the City to initiate this vacation. He said he agrees with the staff report with the exception of the requirement that he pave all the way to the railroad yard. He said the last business on this street is about 200 feet from the railroad yard; if he paved to that area, all of the businesses would be served. He requested clarification of the expectations in terms of paving, which adds considerable expense to the project.

Opposing Testimony: None.

Neutral Testimony:

Tim Jordan, 7222 NW Rhoda Way (Corvallis), said he owns the first property at the corner of Queen and Ferry, adjacent to Mr. Brown's property. He said he would like to see the entire width of the street paved, mainly due to dust abatement, and he is willing to pay to pave his side of the area adjacent to his property. He noted a suggestion from Commissioner Davis that the ditch be covered. If covered, he said, the ditch would increase the area that would need to be paved. Also, the intersection at Queen and Ferry Street floods when

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there are hard rains and the open ditch makes for readily available access for water dispersment. He would prefer to leave the ditch open.

Styler asked if approval of this request might add to problems making safe left turns onto Queen Street. Jordan said he has not seen any problems entering Queen from the north side of Ferry, but there have been accidents on the other side. He said he does not think this vacation would create additional problems.

Commissioner Lolly Gibbs asked if there is any problem with debris in the ditch. Jordan said the City cleans out the blackberries that grow in there about once per year. Leopard clarified that the ditch would remain a public drainage facility and the City would retain maintenance responsibility.

Rouse asked if the railroad would still be able to use the street if it were vacated. Leopard said the access easement would allow the railroad and property owners to use the street.

Davis asked if access to the mini-storage facility would be from Industrial Way. Leopard said yes. Davis asked if the vacation would decrease traffic on Ferry Street. Leopard said there is the potential of that happening.

Staff Response:

Planning Manager Don Donovan drew attention to information in the staff report that catch basins at Queen and Ferry pick up water and put it into the ditch that runs along Ferry Street.

Post asked what the basis is for requiring Mr. Brown to pave the 24-foot width along the entire length of the vacation area. Transportation System Analyst Ron Irish reviewed the fourth review criteria from the staff report, which requires that the portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, including driveway access. He said most of the parcels adjoining this site are already developed, so there will be no other opportunity to ask for pavement of that driveway. In the absence of a vacation, the buildings would be required to meet setbacks and there would be an obligation to pay for half-street improvements to City standards along the same portion of Ferry Street.

Spence asked what the requirements would be if the applicant requested and was granted a variance to build to the lot line. Irish said he would still be required to do half-street improvements to City standards.

Davis asked if an open ditch is allowed next to a driveway. Irish said yes.

Rouse said the City does not usually vacate a street if there is still access from one end to the other end. Irish said there are vacated streets that dead-end into a property. In this case, the street would dead-end into the railroad. He said this is an unusual situation. Rouse asked if the railroad could be asked to put up signs that say no access. Irish said that is not currently a condition of this request. He said he would be fine with the railroad putting up a gate and regulating vehicles going in and out, but he does not know of a way to force that.

Chair Faller closed the public hearing at 5:52 p.m.

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Commission Discussion:

Rouse said she has a problem with the fact that the railroad would have access to this private street, but would not have to participate in paving the road.

Spence said the railroad did not request to change the condition of the street. He asked if the railroad uses the street. Leopard said yes. Spence asked if it would be possible to require a 33-foot-wide street with curbs. Leopard said the City would be hard pressed to ask for full street improvements if it were to vacate the street.

Davis said it is unfair that the railroad will get an improved street and not have to participate, but Mr. Brown will be gaining from the vacation and the City is not losing anything. He asked if the City has a standard for private driveways or private streets. Leopard said no.

Rouse said people cannot usually use private property without permission. Leopard noted that there will be an access easement over the entire area. He clarified that the City is stipulating that, in order to meet the criteria in the Development Code, the vacated area must be paved 24 feet wide. The City is not saying who needs to pay for it. If the adjacent property owners will not pay, then Mr. Brown can decide whether or not to go forward.

Commission Action:

MOTION: Post moved that the Planning Commission recommend that the City Council approve with conditions the application that would result in the vacation of a portion of Ferry Street SW, north of Queen Avenue SW (File VC-03-07). This motion was based on the findings and conclusions of the staff report and testimony presented at the public hearing. Davis seconded the motion, and it **passed** by a vote of 7 to 1, with Rouse opposed.

This matter will be heard by the City Council on February 27, 2008, at 7:30 p.m.

Styler was excused at 6:00 p.m.

CONSOLIDATED QUASI-JUDICIAL PUBLIC HEARING

Faller called to order a public hearing on Planning files AN-01-07 and ZC-06-07, an Annexation and Zoning Map Amendment request for properties located at 250, 310, and 320 Clover Ridge Road NE; and 3705, 3749, 3800, and 3855 Dunlap Avenue NE. The applicants are Michael and Roberta Newman and James and Monica Brooks.

Declarations:

Rouse said she has been to the subject property for a garage sale, but not recently.

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Staff Report:

Leopard summarized the staff report. He showed an aerial photo on the overhead and reviewed the site location. He said the request is that the City place this annexation on the May 2008 ballot. He reviewed the four basic approval criteria for annexations, as detailed in the staff report and as posted on the wall for the audience.

Regarding the first criterion, he said the property is eligible for annexation when it is contiguous to the existing city limits and is located within the urban growth boundary. These parcels, when considered as a whole, meet this criterion.

Regarding the second criterion, he said this area is surrounded by property in the city limits and in some form of development. Recent city projects and private development have brought public infrastructure to the area. Public utilities and streets have been sized and constructed to serve the area as a whole. Each development constructs its own internal improvements when development occurs. These internal improvements are reviewed when individual development proposals are made. City police and fire protection are already serving the area.

Regarding the third criterion, he said existing utility and street master plans include areas outside the existing City limits because they envision those areas being annexed at some point. Utility sizing and street classifications are typically determined based on what is in the urban growth boundary. A local wetlands inventory has been prepared for this area. Recent periodic review work by the Planning Division has led to changes in the Comprehensive Plan for certain parts of this area, which will be discussed further under the rezoning request.

Regarding the fourth criterion, he said the area is within an existing island surrounded by city limits. As new connections are made to the existing public infrastructure, the city receives some reimbursement for the cost of installing those improvements.

He then reviewed the criteria related to the request to rezone the property, as detailed in the staff report.

Regarding the first criterion, he reviewed current Comprehensive Plan designations for the property. He said the request is for zoning the property RS-5 to the north of Dunlap Avenue and RM to the south of Dunlap. These zones would be consistent with the Comprehensive Plan designations.

Regarding the second criterion, he said recent improvements to Clover Ridge Road have made the transportation system adequate to serve the area. There will be other street improvements required within the subject property when it develops, to be determined when each development request comes in.

Regarding the third criterion, he said many improvements have been made in this area which have brought infrastructure to the area that is adequate to serve development on the subject property. Fire and police protection is already provided to the area surrounding the subject property.

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Regarding the fourth criterion, he said the local wetlands inventory indicates that there are very possibly wetlands on the property. Any future development on the property would be required to satisfy State requirements pertaining to wetlands. There are some trees on the property. Development proposals will require site plan approval before trees of a certain size can be removed.

Regarding the fifth criterion, he said the proposed zoning is considered compatible with Comprehensive Plan designations. The RM zone requested for the southern portion allows for both single-family and multi-family development. The proposed zoning would help to create a gradual transition between the existing zoning to the south and to the north of the proposed site.

Applicant Testimony:

Mark Grenz, 1155 13th Street SE (Salem), is with Multi-Tech Engineering and spoke in representation of the applicants. He said he has reviewed the staff report and finds it to be accurate. He said his firm has been involved in development of some of the adjoining properties and has been instrumental in bringing significant improvements to the area. This annexation will help facilitate the utilization of those improvements and is a logical extension of city limits.

Testimony in Favor:

Mike Newman, 3749 Dunlap Avenue NE, said he has no intention to develop this property right away. He has been told by the state they are going to bring Century Drive through the property. The city wants to bring Cameron through and to connect Dunlap through the property. He thinks it is the right time to annex and is doing so to get ready for the future.

Opposing Testimony: None.

Neutral Testimony: None.

Applicant Rebuttal: None.

Staff Response: None.

Chair Faller closed the public hearing at 6:18 p.m.

Commission Discussion:

Spence said he can see the many obvious reasons for annexing this property. He said there is no multiple use project coming in and he questioned whether there is anything that can be put into an annexation agreement that some level of development is conditional on having some multi-use commercial.

Spence noted that the annexation area to the north of the subject site might be a good place for a park. Leopard said the Parks Department receives notification and did not comment on this request. Donovan noted that there

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was previously a site identified for a park near this property, but it was moved to the other side of Clover Ridge Road when the Parks Master Plan was adopted.

Commission Action:

MOTION: Post moved that the Planning Commission forward a recommendation to the City Council that the City Council pass a resolution proposing the annexation of property located on Clover Ridge Road NE, and forwarding the question of annexation to the voters on the May 20, 2008, ballot. He further moved that the City Council adopt the findings and conclusions contained in the staff report dated February 4, 2008. By this motion, the Planning Commission finds that this territory meets the eligibility and timeliness criteria for annexation to the City of Albany (File AN-01-07). He further moved that the Planning Commission forward a recommendation to the City Council that this same property be zoned RS-5 and RM, as detailed in the findings and conclusions contained within the staff report (File ZC-06-07). Rouse seconded the motion, and it **passed** unanimously.

This item is scheduled to be heard by the City Council on February 27, 2008, at 7:15 p.m.

LEGISLATIVE PUBLIC HEARING

Chair Faller called to order a legislative public hearing on Planning File DC-01-08, amendments to Albany Development Code Articles 3, 5, and 12 related to fences. The applicant is the City of Albany Planning Division.

Staff Report:

Planner II Anne Catlin said staff is proposing these amendments in response to numerous complaints and concerns that have been received over the past several years.

The first change would eliminate the 3-foot setback that is currently required for fences up to 6 feet tall on corner properties when there is a landscape strip, on the side where the front door is not located. She said there are many situations that do not meet the requirement. This was discussed with City Council, which directed staff to draft the proposed revisions.

The second change proposed is in response to property owners who would like to have picket fences in the historic districts to enhance the character of their homes. The literal reading of the Code can be restrictive for allowing picket fences, especially at corner properties and in the clear vision triangles at driveways.

This hearing was noticed in the *Albany Democrat-Herald*, and notices were sent to several historic property owners, members of the Landmarks Advisory Commission, and the Friends of Historic Albany. Staff did not feel it was necessary to do a more extensive outreach effort since these changes are not more restrictive, but offer additional flexibility.

She reviewed the proposed changes to Articles 3 and 5 that would remove the 2-foot height restriction in clear vision areas and would define *impede visibility* as follows: *Visibility is not considered impeded by a fence*

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when materials are 35 percent or less of the surface area of that portion of the fence above 2 feet. Fence posts spaced at 8 feet or more apart are not counted as part of the fence surface area. She showed examples of fences on the overhead and reviewed staff's efforts to arrive at a proposal that would balance safety and aesthetics. She said the proposal would not change anything that is currently allowed, but would relax restrictions in clear vision areas.

The third change would allow front yard fences that exceed 4 feet tall for properties listed on the National Register of Historic Places if the fence is appropriate to the building style and scale, and is approved by the Landmarks Advisory Board. She showed examples of historic fence designs on the overhead.

Catlin reviewed Code requirements related to setbacks for corner fences and noted that there have been several complaints about instances where these requirements are not met. Staff had a discussion with Council on this issue and came up with the proposed change that would allow a fence to be on the property line if there is a planter strip in the right-of-way. She suggested one clarifying change to Section 3.410(2)(b), as follows: *If the adjoining street is improved with sidewalks **and no planter strip**, the fence is located a minimum of 3 feet from the sidewalk.*

Rouse asked if there is any language to address vegetation that impacts visibility. Irish said the clear vision area standards do address vegetation. Catlin added that 3.410(1) references the clear vision area standards in Section 12.180. She noted that Code compliance is addressed on a complaint-driven basis.

Testimony in Favor: None.

Opposing Testimony: None.

Neutral Testimony: None.

Staff Response: None.

Chair Faller closed the public hearing at 6:50 p.m.

Commission Discussion: None.

Commission Action:

MOTION: Spence moved to recommend that the City Council approve the proposed amendments to Articles 3, 5, 12 of the Albany Development Code related to fences. Post seconded the motion, and it **passed** unanimously.

This item has been scheduled to be heard by the City Council on March 12, 2008, at 7:15 p.m.

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ACTIVITY UPDATE

Donovan provided an activity update including upcoming meeting dates for the Hearings Board and Planning Commission.

Faller said he is not sure when his term on the Hearings Board expires. If it expires at the end of this year, he said, Whitney could wait until that time to take his position on the Hearings Board. Donovan agreed to have staff clarify and advise. (Note: David Faller's term expires December 2008. It was later determined that Rouse and Spence would serve terms set to expire December 2010.)

NEXT PLANNING COMMISSION MEETING DATE

The next meeting of the Planning Commission is scheduled for Monday, March 3, 2007.

ADJOURNMENT

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

Submitted by

Signature on file

Teresa Nix
Administrative Assistant

Reviewed by

Signature on file

Don Donovan
Planning Manager

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