



APPROVED January 25, 2010

**CITY OF ALBANY
PLANNING COMMISSION
City Hall Council Chambers, 333 Broadalbin Street
Monday, October 26, 2009
5:15 p.m.**

MINUTES

Planning Commissioners present: Paul Davis, David Faller, Lolly Gibbs, Cordell Post, Wayne Rackham, Dala Rouse, Larry Tomlin and Scott Whitney

Planning Commissioners absent: Michael Styler

Staff present: Community Development Director Greg Byrne, Planner II Anne Catlin, Planning Manager Don Donovan, Planner II Janet Morris and Administrative Assistant I Sheena Dodson

Others present: Two

CALL TO ORDER

Chair Faller called the meeting to order at 5:19 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG

ROLL CALL

APPROVAL OF THE November 7, 2008; May 11, 2009; June 15, 2009; July 27, 2009; and August 27, 2009, minutes. Commissioner Rouse asked for a correction to be made on the June 15, 2009, minutes. Commissioner Post moved to approve the November 7, 2008; May 11, 2009; July 27, 2009 and the August 27, 2009 minutes as written and the June 15, 2009, minutes as corrected. Rouse seconded it. The motion **passed** unanimously.

LEGISLATIVE PUBLIC HEARING, Albany Planning file CP-01-09 (Cooperative Agreement with Greater Albany Public School District 8J)

Chair Faller called to order a public hearing on Planning file CP-01-09, to enter into a cooperative agreement with the Greater Albany Public School (GAPS) District 8J and to amend the Albany Comprehensive Plan by adding as support documents the GAPS 2009-2018 Facility Plan and a Cooperative Agreement between the City and GAPS District 8J.

Declarations:

Faller declared that three years ago he had participated with the GAPS as a member of the district's facilities advisory committee and worked 18 months in the development of the plan. It was decided that it would not be a conflict of interest.

Staff Report:

Planner II Janet Morris summarized the written staff report. She stated that this was a compliance matter from the 2007 legislature, via Senate Bill 336 that reversed a 1995 law to allow, if needed, school capacity to be considered with residential development. The school district was required to put together a ten-year facilities plan and to enter into a cooperative agreement with the City. She noted that the City already has procedures in place to work with the school district. The school district receives notices of potential developments. The City has not designated any pre-sited school sites. She commented that pre-siting school sites may be something the City works with the school district on in the future.

Morris explained that the school district put together the facilities plan and City staff reviewed it for the requirements the law mandated. The law requires specific steps to be followed. If the result of the facility plan had shown that there were capacity issues within the required timeframe the school district would have had to put together review criteria of what would need to be done to address the capacity issues. Since the school district did not have capacity issues they chose not to do the next step of developing the review criteria. She noted that it could be brought up in the future.

Morris continued saying that the school board reviewed and signed the cooperative agreement on October 12, 2009. If the Planning Commission (PC) approves the recommendation that the City Council (CC) sign the agreement then the school facility plan and the agreement will be incorporated into the Comprehensive Plan, in the appendixes. This is consistent with any other inter-governmental agreements the City has. Staff recommends approval.

Post asked if the cooperative agreement was based on the statute. Morris affirmed.

Byrne mentioned that he had met with superintendent Maria Delapoer, who informed him that the school district does not need another school right now.

Morris stated that the school district had an earlier plan but revised it because of the recession and as of early September 2009 the school district showed no capacity issues.

Byrne commented that the school district would like to use the impact fee money collected from development to buy the next school site. The site would be for future growth but the school district would be able to purchase the site at wholesale prices.

Rouse asked if the impact fee could be used in existing schools or building expansion. Byrne replied that the funds could not be used for operations; it is a capital fee. Post said the fee could be applied to capital improvements.

Rouse asked if the school received 50 cents per square foot for a new commercial building, such as Lowe's. Post remarked there was a limit to the amount of the fee. Morris commented that building a new school would cost millions of dollars.

Rackham asked if any of the PC had a concern about the school district competing with the Parks and Recreation department (Parks & Rec) for the same type of property. Byrne replied that the section on identifying land (page 28), showed that it would be done cooperatively. Rouse stated that it had been done cooperatively with Periwinkle Park.

Public Testimony: NONE

Faller closed the public hearing at 5:29 p.m.

Commission Action:

Rouse moved that the Planning Commission recommend that the City Council enter into a proposed cooperative agreement between the City and the Greater Albany Public School District 8J (GAPS) and amend the Albany Comprehensive Plan by adding the supporting documents in the appendixes both the GAPS facility 2009-2018 facility plan and the cooperative agreement. Post seconded it. The motion **passed** unanimously.

Planning Manager Don Donovan introduced GAPS facilities director Doug Pigman.

ACTIVITY UPDATE

Donovan noted several small applications would be coming to the PC. Examples include a miniature golf course and a small addition to the hospital.

Donovan said that at the next PC meeting there would be a hearing on the Transportation System Plan (TSP). The meeting on November 30, 2009, would be the next round of the Albany Development Code (ADC) revisions.

SUMMARY OF DEVELOPMENT REVIEW PROCESS

Donovan referred to the document, *An Overview of the Development Review Process*, in the agenda packet (page 32). He said the document was originally written in 1994 when the City Council received complaints from developers regarding how the City was doing development review. The document has been a useful tool for other purposes. It has been updated a few times over the years.

Donovan explained the document, starting with a description of the Planning Division's responsibilities and review of development applications. He noted that the document ends with how the building and engineering departments operate in the process. The middle of the document gives a detailed description of the process that the public goes through from the time that they want to submit a development application to the City.

Donovan said the document explains entire planning process from the time that an applicant first comes in until the final decision is made. Staff meets with the applicant before an application is turned in, in a pre-application meeting. The pre-application meeting is an informative meeting to discuss what the applicant might need or what the conditions of approval might be if an application is turned in. It is intended to give the applicant as much upfront information as possible. Building, Public Works and Planning staff all meet with the potential applicant at the same time.

Post stated that he had been through the process several times and it was a good, efficient process. From an applicant's perspective it was great to hear what the potential problems could be before a lot of money was spent.

Byrne has heard criticisms that the Planning staff approves everything. What the public doesn't know or hear about are the projects that "die" at the pre-application meeting stage.

Commissioner Davis commented that other jurisdictions demanded conditions even on the fourth application. Donovan shared that the City of Albany consistently receives positive feedback from major civil engineering firms and architects that work with other cities.

Donovan noted that there was no fee for the pre-application meetings. If the developer decides to move forward on a project, some projects require a neighborhood meeting. A neighborhood meeting is a chance for the developer and the public to talk outside a public hearing. Davis asked if neighborhood meetings were required in 1994, when the document was written. Donovan replied that it was an update as neighborhood meetings are a more recent requirement.

Donovan described the process for the different types of applications. He noted that the Type I application is a staff level review. There is no judgment involved, nothing is subjective about the application and there is no chance for an appeal. The Type I-L application is a staff decision, in state law for uses that are allowed, but there may be some discretion involved. A notice is mailed to neighbors, which allows 14 days for comments; staff will then take their comments into consideration when they write the staff report and the notice of decision. This decision can be appealed to LUBA and is rarely seen at the PC level.

Davis asked how a developer would know what type of application to apply for. Donovan replied that when a person comes to the Community Development (CD) counter, staff gives them a handout that talks about the pre-application meeting where their questions will be answered. Staff makes a point to explain the process and what is allowed.

Rouse noted that the document says that (for Type II applications) if “someone” wanted a public hearing they could ask for it. She asked if the “someone” was the property owner in that area. Donovan said that staff is considering changing the notice area. The proposed changes would be coming to the PC with the next round of Development Code (DC) changes. He remarked that the question to ask was “Who has standing to ask for the public hearing?” Staff usually mails out to the surrounding property owners within a certain distance, for example 100 feet. The advice staff received from Jim Delapoer, the City’s Attorney, is that if someone outside of the notification area hears about it and wants to testify to let them. It has not been a problem in the past.

Rouse asked if the public right-of-way was included in the 100 feet notification distance. Donovan affirmed.

Donovan said that Type III applications, such as subdivisions with more than 20 lots, will always come to the PC and then can be appealed to CC. Type IV applications usually involve a major policy change that come to both the PC and the CC. He pointed out the table in exhibit A, which gives a summary of the different types of applications and the procedure.

Donovan explained that the Staff Report demonstrates how the review criteria apply to the application. Staff lists the review criteria and whether the application meets the standards or not.

Planner II Anne Catlin pointed out that the (Community Development) Director has the discretion to schedule an application for a public hearing if it will cause a lot of public interest. Also, the CC has the discretion to call up a land use application, such as the Lowe’s project. She noted that a lot of large projects are Type I-L’s that are staff level reviews.

Catlin explained that the next packet of DC amendments includes mostly issues raised by the public.

Catlin noted that the entire Article 1 will be reviewed for administrative edits. Residents have asked staff to look at the neighborhood meeting requirements. The public has asked that it be more inclusive.

Post asked if the neighborhood meeting required notice area would be the same as the notice of filing. Catlin replied that was what staff would be proposing. Staff is also evaluating the notice area line for the different types of applications. Staff is considering some slight increases and/or giving the Director the

discretion to determine a larger notice area. Post expressed concern that a new CD Director could say that every project would need 1,000 feet notice area. Rouse stated that it needs to be written in the Code not to include every project.

Catlin said the next proposed amendment topic is taverns and bars (“bar”). She explained that the public had voiced concerns about the noise, late hours, and outside seating areas of a few businesses.

Staff is evaluating these concerns. She explained that the DC used be several use categories to describe restaurants, drive-up windows, deli’s and “bars.” The City bundled everything into one category “restaurants.” Staff is evaluating zoning districts where there is a concern and considering either a conditional use process or not allowing a restaurant or “bar.”

Rouse shared information about a restaurant that was built in a non-conforming zone. She said the restaurant representatives went around the neighborhood asking to have the zone be changed. The restaurant was built and 6 months later it was turned into a tavern. The restaurant closed at 8 p.m. and the tavern closed at 2 a.m. Byrne shared that staff is encountering a similar situation with Bailey’s restaurant. Staff is looking at how to differentiate between a restaurant that is predominately serving food and “bar” which is predominately serving alcohol. Staff is researching Oregon Liquor Control Commission (OLCC) licensing requirements.

Donovan stated that staff was mostly looking at if the restaurant/bar is within 300 feet of a residential neighborhood. If they are, then staff wants to give authority in the Code to regulate the hours of operation under the review process. The reason for looking into it is because there have been some problems. Post asked if it was more than one problem. Donovan clarified it was multiple problems.

Donovan stated that there were different ways that “bars” could be addressed. He gave examples, one being regulating outdoor seating areas, where most of the noise complaints come from. Byrne said the City could also look at the *purpose* (emphasis added) of each zoning district. He mentioned that staff would like to incorporate the OLCC requirements, hours of operation, characteristics and the zoning in the proposal. Discussion followed regarding restaurants and bars and how to define them.

Tomlin asked about the cohesiveness between the Central Albany Revitalization Area (CARA) projects and the planning process in keeping with the downtown’s goals. Post mentioned that as a CARA board member he has not seen any issues with the process as those that come to the CARA board have already been through the planning process and are now requesting money. The project must be doable before CARA will issue money.

Byrne explained that the Comprehensive Plan (CP) is the City’s guiding document that says where the community is going. The DC, the CARA board and the downtown historic program are tools that are theoretically moving in the same direction to implement the CP.

Catlin said another proposed amendment is the result of developers asking the CC in August to consider an extension for the land use approval time periods due to the current economic situation. Staff is evaluating the request for subdivisions, partitions, site plans and other land use reviews and will be making a proposal.

Catlin said that another request, from the public was to look at specific review criteria for street design and intersection alignment. Staff will not be bringing a proposal for DC changes regarding this request, at this time, due to the fact that the Transportation System Plan (TSP) is being adopted soon and Ron Irish, from PW, would like to package amendments that would include public improvements to streets and street designs together. Staff has informed the public that these amendments would be evaluated at a later

date but the public may come to the public hearing and ask the PC to consider making their proposed changes now.

Byrne said that staff was willing/wanting to take all questions, comments and concerns regarding the DC. The problem is that public does not like to hear that staff is not going to do something immediately. The PC may hear some of those at the next meeting.

Donovan explained that some of the complaints from North Albany residents are from the Thornton Lakes subdivision. The developer of Thornton Lakes, Byron Hendricks, also owns a project in West Albany that will be expiring soon. He asked the City to consider an extension to his subdivision approval.

Byrne mention that when staff presented a response to the request for extensions to Council, the recommendation was to not grant extensions to land use approvals. Council felt the current economy warranted evaluating a one-time extension to approvals granted in a certain time period.

Rouse pointed out that when a person receives a building permit they have a certain amount of time to get the work done.

Rouse shared that in the 1980s recession the City ended up owning hundreds of lots that didn't get built.

Davis asked if the City provided a notice of expiration to someone whose application was about to expire. Donovan replied no. There has never been a problem since the City adopted the three year approvals. The only thing different today is the economy. The Notice of Decision states when the application will expire.

Tomlin asked if the fire department planned on bringing proposals to the next meeting. Byrne replied that they were not finished coming up with their proposal.

NEXT MEETING DATE:

The next meeting of the Planning Commission is November 16, 2009.

ADJOURNMENT

Hearing no further business, Chair Faller adjourned the meeting at 6:27 p.m.

Submitted by

Signature on file

Sheena Dickerman
Administrative Assistant I

Reviewed by

Signature on file

Don Donovan
Planning Manager

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