



APPROVED March 21, 2011

**CITY OF ALBANY  
PLANNING COMMISSION  
City Hall Council Chambers, 333 Broadalbin Street  
Monday, March 7, 2011  
5:15 p.m.**

**MINUTES**

Planning Commissioners present: Paul Davis, David Faller, Glenda Fleming, Bob Kish, Dala Rouse, Michael Styler, Larry Tomlin, and Dave Wood

Planning Commissioners absent: Cordell Post (excused)

Staff present: Community Development Director Greg Byrne, Planner II Anne Catlin, City Attorney Jim Delapoer, Planning Manager Heather Hansen, and Administrative Assistant I Sheena Dickerman

Others present: 78 others in audience

**CALL TO ORDER**

Chair Faller called the meeting to order at 5:18 p.m.

**PLEDGE OF ALLEGIANCE TO THE FLAG**

**ROLL CALL**

**CONSOLIDATED LEGISLATIVE PUBLIC HEARINGS CP-02-10 AND DC-06-10**

Chair Faller called to order a consolidated legislative public hearing regarding legislative amendments to the Albany Comprehensive Plan Chapters 1, 2, 7, 7, 9 and Plates 3, 4, and 6; and amendments to the Development Code Articles 1, 2, 3, 4, 5, 9, 11 and 22 to implement Statewide Planning Goal 5.

Community Development Director Greg Byrne explained the meeting procedures. If a person wished to testify it was important that they give the Planning Commission (PC) as much detail as possible about the issue and to use the review criteria that the PC would use to make their decision. All of the comments were to be directed to the review criteria and the approval standards that would be shown at the end of the Power Point Presentation (Exhibit E). If a person strayed away from the topic the chair would intervene. Failure for a person to raise enough detail to allow the PC to understand may result in an inability to raise an objection and/or an appeal.

Byrne noted that there will be a second hearing regarding Goal 5 on March 21, 2011. The staff report for the meeting will be made available no later than March 14, 2011. If a person has questions about individual properties he recommended that they talk to staff outside of the public hearing process.

Faller asked for a show of hands of who planned to testify (approximately 25). He limited the individual testimony to 5 minutes per person.

Faller opened the public hearing at 5:22 p.m.

**STAFF REPORT:**

Planning Manager Heather Hansen and Byrne gave a PowerPoint presentation (Exhibit E) which summarized the proposed recommendation. Byrne explained that the public hearing is about Goal 5, a statewide planning goal that the City must comply with. Staff is proposing changes to the Comprehensive Plan (Plan) and the Development Code (Code). There are 5 chapters in the Plan and 8 articles in the DC that will be amended.

Hansen went through the purpose and requirements of Goal 5. Some property owners may feel that any protection is too much. Staff is proposing the minimum possible to protect the resources.

Hansen pointed out that the Natural Resource Advisory Committee's previous recommendation never made it forward because in 2004 there was uncertainty about whether or not the City would need to comply with Goal 5. Later, it became clear that the City would need to comply and the Goal 5 process was restarted in 2008.

Hansen said that the wetland and riparian inventories were updated in 2009 because some wetlands had been developed, some regulations had changed, and some creeks had been listed as having water quality issues. This update changed which wetlands were considered as significant. Staff has removed some significant wetlands that had been added. The City has the ability to not consider a wetland significant if it is within a quarter mile of a water quality limited stream *if* the wetland is not contributing positively to the water quality for which it is listed. She gave an example of a wetland being used as a pasture and not improving the addition of E-coli to the creek.

An ESEE (Economic, Social, Environmental & Energy) analysis was done in South Albany to consider the impacts to significant wetlands from public infrastructure. A recommendation was made on how to address the impact on the wetlands. South Albany is the largest undeveloped area in the city and needs to have infrastructure extended to it in order to develop.

Hansen noted that the consultant had recommended using the tree height in Calapooia and Oak Creek, which varied from 60 to 120 feet. Staff is recommending a 50 foot width, the minimum required.

Byrne called attention to the Open Space (OS) District. The OS district is a zoning district that has been in the Code for many years. Staff is proposing to delete some uses that are currently permitted because they are at odds with the purpose statement and to reduce the size of the OS district on many properties. To the degree that a property does not have wetlands, riparian areas or other critical facilities staff is suggesting that the OS district be reduced to reflect this.

The proposed overlay districts would be applied over *any* base zoning districts. The City already has overlay districts in the code. Staff plans to use that structure and proposes to add three additional overlay districts Significant Wetlands, Riparian Corridors and Habitat Assessment. The City would be governed by the same regulations that are subject to review.

A general provision that would apply for all overlay districts would be that no practical options exist for disturbing what the City has designated as significant and worth protecting. Staff would look at the entire property and ask if it was possible to develop on the part that is not impacted by the overlay. If it is not possible to avoid impacting the resource then mitigation would be required. He emphasized that state and federal permits would always be required.

Byrne gave examples of situations that would not require review. If a levy was going to break due to a high rain event, repairing the levy and protecting property would not require permission through the overlay district. If unlawful fill had been added it could be removed without a permit. If there is an existing driveway or road through an area it would be permissible to maintain it.

Byrne went through the overlay districts in more detail. If a wetland was deemed significant the state requires the City to leave it alone. There are some exceptions. He referred to the ESEE analysis for public facilities in South Albany, to extend streets and utilities it is essential to cross some significant wetlands. An analysis was done to identify specific places where this needs to occur.

The impacts to existing development will be limited. Most normal residential activities will be exempt from review. Staff has kept it to the minimum to make sure that only specific things that need to be protected will be.

Hansen went through the process for development review to protect the resources. She said that the review criteria that are in the various sections of the proposed Article 6 would be reviewed in addition to the other land use review criteria when other land use applications are required. Based on input received from the public, other departments and state agencies, staff will be providing a fuller description of the review process in a new Article 6 to make it more clear and on how mitigation will work. At the March 21, 2011, public hearing staff will return with revisions to the proposed amendments. The public hearings scheduled for City Council are April 13, 2011 and April 27, 2011.

PUBLIC TESTIMONY:

Jack Burrell, 997 Edgewood Drive, Albany – had concerns and was not in favor of the proposed changes until he received more information.

One concern was that significant resource areas are about habitat, wetland areas, and riparian areas. The changes bring in hillsides and floodplains. He does not think the intent, through the Goal 5 process, is to put further restrictions on those resources. The City already has adequate regulations within the Code for hillside and floodplain. The concern is for the further restrictions put upon the floodplain and hillside resources.

Another concern was with the wetland protection via the Safe Harbor provision. Burrell asked if it includes a 50-foot setback as proposed for significant riparian corridors. If there is delineation for wetlands he does not see if there will be or not be an additional setback. If Safe Harbor equates to adding a 50-foot setback on top of what is considered a significant wetland, he would be opposed to that. He asked for more information.

Burrell said that those who live on Periwinkle Creek will have some significant impacts on what they are going to be able to do.

Burrell stressed that a lot of times people have no idea of what is going on and have not been told how these things are going affect their property. As an applicant's representative he has been required to hold neighborhood meetings to talk about projects and how it impacts abutting properties. He recommended having an opportunity where people are contacted and informed about these impacts. He did not believe the public hearing was the best forum. He felt the process was on a fast track and hoped that there would be time for the public to see and review changes, with plenty of public testimony. He hoped there would be time for the public to interact with staff regarding the changes. The new process for land divisions is inadequate for him to see the impacts.

Byrne informed the public that if they were unable to finish their testimony they could submit written comments and they would be entered into the record. Faller asked that if anyone had a specific issue to reference the section and/or page number in the packet that it referred to.

Bill Ryals, 935 Jones Avenue NW, commented that his property is located on Thornton Lakes, with 300 feet of lake frontage. He wanted to share his concerns, even though the proposal would have limited impact his property. He wants to restore his shoreline in the way that staff is proposing.

Ryals commented that the West Thornton Lake property owner association had a recent meeting. The property owners are good stewards of their property, the pond and the turtles. The feeling he received from the property owners is that the planning department was not working with them and saw them as the problem.

Ryals concern was that a 100-foot line around the lake does not represent where the resources are (page 3, Exhibit F, Turtle Habitat ESEE). On page 14 of the ESEE, the 100-foot boundary from the high water mark could be any number. It includes drainage areas that don't drain into the lake, farmland, and areas that are so steep that the turtles cannot get up. He is ok with the setback, but it may affect other property owners. There are lots of turtles on the lake but not on his side of the lake. He believed that there should be a fair careful process of where the line needs to be drawn.

Phil McFadden, 524 NW 34<sup>th</sup>, Corvallis, stated he is the owner of Rainwater Orchards, on the south side of West Thornton Lake. He does not have a residence on the property.

McFadden pointed to page 10 of the Turtle Habitat ESEE (Exhibit F) an evaluation of the environmental impact that would occur to allow low density residential. He believed that the pluses and minuses on table had not been thoroughly thought out. He mentioned the City of Milwaukie's natural resource ESEE analysis found that allowing development and full uses was less likely to harm the habitat. He shared that Milwaukie's summary statement noted that restrictions tend to create an animosity and negative reaction from land owners. The conclusion from the City of Milwaukie was to measure the present uses and measure the effect of the policy upon the natural habitat. He suggested that something similar be applied to the habitat assessment overlay over Thornton Lakes. He added that many owners are already involved in the restoration of turtle habitat.

Sandy McDaniel, 2412 SW 53<sup>rd</sup> Avenue, Albany, had questions about the property located at 2455 SW 53<sup>rd</sup>. She purchased the property in 1986. She went through the history of the property and fill permits. In 2002 they wanted another fill permit and had a study done by K&D Engineering that showed that none of the property was in the floodplain. The land is not in the floodplain and she did not see why it should be in the wetlands overlay since it is used for grazing cattle and hay. If the property was left in the wetlands overlay, the boundary would have a large financial impact. The City has all the studies and information from DEQ that shows that it is not in the floodplain.

Brad Wilson, 6485 Pacific Boulevard SW, Albany, asked if the riparian zone 50-foot setback was from the high water mark. Byrne explained that staff would answer questions at the end.

Wilson said that his property is zoned Light Industrial (LI). It has a drainage area that has been designated as a riparian zone. His understanding is that the riparian zone intent is to have the tree shade the water and protect the aquatic species. This portion of his property is more of a drainage ditch that dries up every year. He stated that what this does is take away 50 to 100 feet from future production. This is a significant amount of land that he would be unable to utilize. He said that government agencies continue to increase the amount of land restrictions.

Wilson said that the uses that are allowed on his land are changing and there is no way to alter the process. He stressed that once the lands are designated in these significant natural zones it will continue throughout the life of the property. This proposal will diminish the value of his property, for a “drainage ditch”. LI land is made for business. He asked for consideration for his property and others for what kind of burden will be placed upon them once this is voted in.

Jack White, 1111 Jones Avenue NW, Albany, presented a letter regarding the turtles in Thornton Lakes (Exhibit H). He stated that turtles have been on the lake for a while. He is not opposed to improving turtle habitat but there are other wildlife around the lake such as bald eagles, osprey, etc and wants to keep all of them. He does not want it to be dominated by turtles only.

White shared that he maintains the lake. He pointed out that the boundaries are not based on evidence. He has seen no evidence whether the turtles are increasing or decreasing. Turtles are hard to see and their nesting sites become invisible. He said that if the property owners were going to be punished on the turtle issue he would like to see the boundaries be evidence based. He suggested that staff come and talk to them (property owners) because they could help with the issue. He shared that there were other issues that no one knows about, such as the Asian tiger mosquito.

White suggested ways the City could help in assisting with the maintenance and protection of the lake. The City could enact an ordinance to remove motor boats on the lake. He shared the ways a motor boat is harmful to the habitat. Another suggestion was to filter the storm water that is being dumped into the lake. He said that private property owners are required to do this but the City is not.

White recommended that the City and the other property owners come together and provide aeration in the lake.

Kenneth Huston, 4003 Moose Run Drive SW, Albany, said a seasonal wetland is behind his property and dries up in the summer. He stated that he had looked at all the maps and only the national wetland inventory map was correct as to the position of the wetland. The City’s local wetland map shows that the wetland encompasses his backyard and his neighbors. This is not where the wetland is. He said that if the map makers are drawing the maps arbitrarily then the boundaries need to be figured out before being drawn. He is unable to determine how this will affect his property.

Don Jones, 955 Scrael Hill Road, Albany, handed out sitemaps Exhibits I and J. He pointed out on the site maps that he owns the back piece of property. He expressed concern that the riparian buffer zone would affect access to his property. He said he has an existing road to the property. He asked for an exemption to be written in the Code to allow him to build over the riparian buffers, if it was the only access to his property.

Kathleen Wasco, 1151 NW Green Acres Loop, Albany, asked the PC to look at the big picture. The habitat assessment line runs through her living room. She asked them to consider what the proposal is doing to their homes. She apologized for needing to leave the meeting early for personal reasons. Because of this, Byrne responded to her questions. He said that the habitat assessment buffer only establishes an area where a wildlife biologist would assess whether or not there was turtle habitat on the property. After the assessment, if no habitat was found on the property, then any development proposed could go forward. The 100 feet is a small area. Staff understands that the turtles are

growing and thriving in an area that is developed; but there are undeveloped areas remaining. Hansen added that the habitat assessment is only required when a person plans to impact more than 1,000 square feet. A deck would not require a habitat assessment.

Ron Powell, 2030 NW Thornton Lake Drive, Albany, said his concern was the impact of being able to build a play structure. He asked that the PC be careful about telling property owners what they would be allowed to do and the process to modify their property.

Dan Watson, 710 E Thornton Lakes Drive, Albany, agreed with the comment that the City must comply with Goal 5, to an extent. He pointed out that the state law says to identify the impacts and then decide which competing impacts are appropriate. The PC does have the choice to prohibit the impact, allow the impact, or allow a partial impact based upon the competing state wide goals. There are 18 statewide goals that include recreational needs, housing, energy, urbanization.

Watson directed the PC to Section 6.030 (page 58 of the agenda packet), under uses permitted for site plan review, that no uses will be permitted in the OS zoning any more. The City plans to eliminate all of them. His concern is that water dependent uses are not allowed outright. They are allowed in the flood zone but not in the OS, which is completely around the lake. He believes that under the conditional use permit that the City should be adding all uses allowed in the floodway. The public must get a conditional use for all low impact recreational facilities and park related facilities. He did not see the ability for private use of the lake allowed.

Watson said that it says in the OS zone, that they cannot remove any native vegetation without a conditional use permit and then mitigation. The mitigation process is unclear of how it works. He acknowledged that Hansen had said that she would be clarifying that language. He asked if he would need a conditional use permit to remove poison oak.

Watson noted that under the land division standards, it was unclear if someday he could develop his property consistent with his neighbors. He had some questions regarding subdividing and only utilizing one lot.

Robert Merritt, 3225 SW Cascade Avenue, Corvallis, bought his land a decade ago with the purpose to build a house on high ground overlooking the lake. He said he had assurance from Donovan that he could build in the open area. He has tried to gain access to the land but has had road blocks. The access of the land goes across a driveway. His conclusion is that the lake is manmade and the property was staked before the lake. He does not understand the ramification of the changes to the OS.

Merritt said that he does not see a problem; turtle have always existed and will continue to exist. He feels that this is a 100-foot grab that deprives him the use of his land. His land is steep and he does not see a turtle being able to climb it. He does not know what options he has if the City takes another 100 feet, because the wetlands and floodplain cover most of the land already.

Jeff Tross, 1720 Liberty SE, Salem, stated that he is a land use planning consultant. He came to present a letter from Ralph and Diane Nauman (Exhibits K & L). The Naumans own property on West Thornton Lake. He identified their property, four tax lots, 11S 4W-1BC; 101, 102, 200, and 202. The property totals approximately six acres. The land is accessed by an easement from West Thornton Lake Road. The property does not have direct frontage. The property is split zoned with the northern portion in the OS zone and the southern portion in RR, except tax lots 101 and 102 which are entirely in the OS zone.

Tross stated that under the proposals the Nauman property would come under the OS zoning and the wetland, the riparian corridor and the habitat overlays. There would be burden of regulatory process.

The Naumans are out of the state this evening but will be able to attend the March 21, 2011 public hearing.

Tross stated that the Naumans first concern is that they would be able to obtain the use of the easement for access to their property. Over the past five years they have worked with the City and various agencies to gain access to their property. The initial plan was to put in an elevated structure, a bridge. They have held off because of the expense. They recently moved back to Albany and changed the plan to do a gravel access way within the easement. This would not be more than one foot above the current flood level. At that time they ran into the obstacle that they would have to redo all

their permits and studies. They would like assurance that they would be able to obtain and achieve an access to their property. They would also like to retain the ability to build on their property.

Tross pointed out that the Naumans letter included information, not included in the ESEE analysis, about the public health issues of having turtles in a high density urban area. There are also questions of how the turtles will respond to predators.

Tross noted that Exhibit L is a signature page, a replacement of page 11 of Exhibit K.

Henry Pollak, 1121 Jones Avenue, Albany, said that they have been good stewards on and around the lake. His concern is that the regulations are too broad and rushed. He asked about voluntary cherry trees, blackberries, poison oak and if removal would be in violation. If he put a fence to protect his children from the lake would he be in violation. He said those that are good stewards do not require the regulations.

Colin Milligan, 1760 NW Thornton Lake Place, Albany, feels that the presentation sugar coated that there is specific information being implemented. He is not going to argue if it is good or bad. He said that the City is going to take away use of a person's property with some of the implementation. He asked for them to listen to the tax payers of Albany.

Ed Henricks, 1586 Thornton Lake Drive, Albany, said he appreciated the ESEE analysis report but believed it was only a snapshot. He said it clearly address the overview of lake zoning, two habitat sites, and text book requirements of turtle needs but missed any documentation of what was on the ground. There was no documentation of turtle counts, nor any sample taken on the ground or land owner interviews. In his opinion the next step would be a habitat assessment before a line was drawn on the ground. If a habitat assessment is required in Article 6, he did not believe the line could be drawn and then put the burden upon the land owner with a cost that is unknown. If he came in for an application the burden of proof would be upon him but with this situation the burden is not on the City.

Henricks was concerned that lawns would not be able to be planted near the lakes shoreline. He pointed out that the ESEE report (Exhibit F) page 8 says that lake front properties have a higher assessed value. He stated that they do now but with these regulations they would not have a higher assessed value in the future.

Henricks emphasized that bringing it forward without the appropriate science and adequate proof was not good.

Scott Lepman, 100 Ferry Street, Albany, said that he previously submitted a map and a letter from a land use attorney (Exhibit D) for their review. The land use attorney was on the Goal 5 task force that was instituted by the state.

Lepman read his second letter (Exhibit M). He noted that his property is across from the Mennonite Home. He added that it has all the utilities and is a 40 acre parcel.

Lepman questioned why the process was two months long when the Goal 5 manual (agenda packet) is 102 pages and has taken many years to compile. His concern, and others, is that this will institutionalize market failure on these properties. In order for a person to understand whether or not a property can be developed or used they would need to hire consultants.

Lepman mentioned that he would be unable to attend the meeting on March 21, 2011.

Candice Ribera, 545 Vista SE, Salem, read her letter (Exhibit N).

Marisabel Gouverneur, 1490 W Thornton Lake Drive, Albany, shared that her background is in public health. One thing that public health does is to make sure that people understand the language of any ordinance or any ruling. She felt that it did not happen with this situation. The public is unaware of what the regulations really mean.

Gouverneur stated that the people who have lived on Thornton Lake have been good stewards of the lake. She believed that the City's function is to help them be even better stewards. She wanted to see something that demonstrated that the City was interested in what the lake property owners have already done.

Gouverneur would like to see scientific evidence of the populations of animals that live on the lake, birds, turtles, etc and something that indicates what is necessary to be done. She feels that the City is saying that the property owners have not been good stewards of the lake by invading half of her house. The 100 foot boundary is in her kitchen, bedroom, and dining room. She suggested that the City work together by having neighborhood meetings that discuss what this proposal will mean to the public. She does not believe that there is any person who is against wildlife. She stressed that neighborhood meetings were vital to this process.

**STAFF RESPONSE:**

Hansen responded to testimony that was given. Addressing Burrell's testimony, she stated that staff is not adding hillside and floodplain information. She said that it is at the beginning of the section only to point out that they are part of all the overlays but staff is not adding regulations. With Safe Harbor, there are no setbacks from significant wetlands. The local wetland inventory is an inventory. It is not precise nor does it have site specific detail. A delineation or determination done by DSL will override the local wetland inventory boundaries.

Hansen said that if the 100-foot habitat assessment overlay went through a person's house it would not mean that they need to be careful about what they do inside their house. It would mean that any new development proposed, over 1,000 square feet, would need to be reviewed

Hansen addressed McFadden's questions. There are various approaches to doing an ESEE analysis. She stated that no one has thought that the property owners around Thornton Lake were bad stewards. The turtles are surviving now but if the area was fully developed the scientific thought is that turtles *would* be impacted. She said that the consultant from Pacific Habitat Resources is the one who suggested 100 feet. The consultant felt that it should be more than 100 feet but did not think it would pass politically.

Hansen stated that the riparian corridor regulations are less restrictive than those for the significant wetlands. If a person wanted to put in a driveway, and there was no other place to put it, it would be allowed through the Safe Harbor approach. The 50 feet is from both sides of the creek.

Hansen pointed out that the criteria for Goal 5 is to protect, at a minimum, those species that are on a state or federal list as being threatened, sensitive or endangered and that are documented by a government agency. The turtles in Thornton Lakes are the only ones that met these criteria.

Hansen acknowledged she was familiar with some potential discrepancies with the wetland maps and aerial photographs in the area Mr. Huston referenced. If it is clear that the wetland boundary is not correct because of topography then the staff from DSL will come and do a determination. There is no charge this. Staff could identify various areas where there appears to be an error and have DSL come and do a determination for several properties at once. It would be an administrative change.

Hansen said that access to the property on Scrael Hill does not need an exemption. The Code already allows for a driveway to be improved in this case.

Hansen addressed Dan Watson's testimony from OAR 660.23. The section he referenced talks about an ESEE analysis. She reminded everyone that there were two options for both identifying the resource and for protecting the resource. One is Safe Harbor, which is the approach that staff is proposing. The other approach is an ESEE analysis. The City did not do an ESEE analysis for the entire city only for south Albany for public infrastructure. She said that what Watson was saying was for the ESEE analysis and not for the proposed Safe Harbor approach.

Hansen said that more could be added to the OS zone to be clear about what is allowed and not allowed. Removal of invasive species is always allowed. Currently, a person cannot divide land zoned OS. Staff is proposing that the overlay districts allow for *some* subdividing as long as there is a developable portion that is not entirely in the OS. Staff is willing to receive any suggested wording to help make this clear.

Hansen said that after some review of the Merritt and Nauman situations it looked like the driveway could be widened without impacting the significant wetland. If it is the only way to access the property, then under the riparian corridor, this would be allowed. She would need their proposed plans before determining that their exact proposal would be

allowed. She is unable to give complete assurance as there are other issues of floodway and floodplain that would also need to be addressed.

Hansen acknowledged the property owners of Thornton Lake wanting more dialog with the City. Staff is proposing the minimum to protect the turtles and the City will need to rely on volunteer efforts. With the 1,000 square feet of impact within habitat assessment overlay, staff attempted to come up with an amount that was reasonable that would address decks, additions to homes, and lawns. Staff will only review development that comes through a permitting process.

Hansen agreed that the Lepman property had probably gone through a lot of review from the state agencies and the county but that it was not for a 47 lot subdivision. A subdivision cannot happen until the property is annexed. First the property needs to be annexed and then zoned. Most of his property is currently designated as OS. The only zoning compatible with the OS designation is OS. From the beginning the property could not be subdivided, except for the portion that is along the road which could still be developed.

Chair Faller closed at 7:12 p.m.

Faller announced the public hearing would continue March 21, 2011 at 5:15 p.m.

#### PLANNING COMMISSION DISCUSSION:

Commissioner Tomlin asked for clarification of the language found on page 6, policy three, where it says receives *maximum* protection and again on page 9, in subsection d (b) the encouragement is the *minimum* necessary. He said that the City is proposing the minimum standards but using *maximum* language. He asked for the wording to be less confusing. Hansen replied that the maximum is the existing language in the Plan. The Plan says that wetlands in the floodway should receive the maximum protection. Wetlands within the floodway are already considered significant and will be protected. The state minimum requirement is that significant wetlands are protected.

Commissioner Styler asked if putting a fence up to protect children from getting into the lake would be allowed, if the fence was open for habitat to move through. Hansen replied that the fence needed to be open at the bottom enough to allow turtles to pass through.

Commissioner Fleming asked about the removal of poison oak. Hansen answered that people should be removing invasive species. There will be a plant list.

Commissioner Kish asked if the riparian corridors that were identified would be become permanent on a map. He mentioned Wilson's property on Pacific that was identified as a riparian corridor but is a drainage ditch. He asked what remedies a property owner would have after the proposal passed. Hansen answered that she would address this situation upfront but what would happen in the future is a district plan amendment. A district plan amendment is an option for someone to challenge that it is considered significant. Staff is trying to avoid those situations and has already removed some riparian corridor segments from being significant based on certain criteria. Kish asked if it would come as a cost to the land owner to challenge it. Hansen said that it would depend on the situation. If there was a situation where a person could not develop their property further, there is the adjustment or variance process.

Commissioner Rouse asked for the language to be made clear on page 22, control the removal of riparian vegetation. She asked if staff was saying that blackberries could be removed but native vegetation could not. Hansen affirmed. Staff is adding "naturally occurring" to the language; if someone planted a Douglas Fir in their landscaping then they may be able to remove it.

Rouse asked if the hardship variance procedures would go under the variance application. Hansen pointed to page 72 where it talks about the adjustment and variance process. She said that the adjustment process is the easier process. Rouse asked if it is appealable. Hansen affirmed.

Rouse asked for clarifications about public utilities and driveways being allowed or not allowed, pages 27 and 28. Hansen explained that in wetlands driveways are not allowed but they are allowed in riparian corridors, if there's no other practical place to put it.

City Attorney Jim Delapoer reminded the public that the updated staff report, for the next meeting, would be located online at the City's website. Hansen added that it will be available no later than March 14, 2011. Tomlin asked if someone who is not online could call and reserve a copy. Hansen affirmed. Commissioner Fleming asked if the library received copies. This was affirmed.

Byrne added that staff will hold a neighborhood meeting with Thornton Lake property owners before the March 21, 2011 public hearing. He noted that there had been open houses and public meetings prior to this. Staff will be able to talk about individual properties and the regulations. Staff will try and answer as many questions as possible. Staff will post on the website and send a public notice of when the neighborhood meeting will take place.

Commissioner Davis said that it sounded as if there would be no more changes to the proposal. Byrne replied that was not the case. The reason for a public hearing is to take testimony, to respond to the testimony and to make changes. The decision is in the PC's recommendation to the CC. The CC is the final decision maker. The CC will hold public hearings and provide another opportunity for public input.

Byrne shared that Chair Faller will be in attendance at the neighborhood meeting.

#### ACTIVITY UPDATE

Byrne shared that staff is in the final stage of negotiations with ODOT with the grant on the SAAP.

#### NEXT MEETING:

The next meeting of the Planning Commission is March 21, 2011.

#### ADJOURNMENT

Hearing no further business, Chair Faller adjourned the meeting at 7:29 p.m.

Submitted by

*Signature on file*

Sheena Dickerman  
Administrative Assistant I

Reviewed by

*Signature on file*

Heather Hansen  
Planning Manager