

Mayor's Business Ready Task Force Minutes
August 14, 2012
2:00 – 5:00 PM, Willamette Room
Albany City Hall, 333 Broadalbin St. SW, Albany

Attendees: Sharon Konopa, Mark Spence, Jessica Pankratz, John Pascone, Jeff Christman, Greg Roe, Rob Richards, Dala Rouse, David Reece, Rob Reimers, Oscar Hult

Staff: Ron Irish, Mike Leopard, Jeff Blaine, Gordon Steffensmeier, Mark Shepard, Mike Trabue, John Bradner, Heather Hansen, Kristin Johns, Anne Catlin, David Martineau, Tari Hayes

Guest: Richard Berger, Realtor's Association

1. Business from the public

None.

2. Development Review Process (All) (see agenda file)

The Task Force discussed *The Development Review Process* handout provided in the agenda packet. The City's development review process involves multiple departments and outside agencies, and has multiple stages from initial discussions about the concept through construction and occupancy. There is frequent back and forth, sharing and submission of information, between the applicant and City staff. As an example of the development review process, throughout the meeting the Task Force referenced the YMCA Site Plan Review and Vacation Right-of-Way Project overview document, found in the agenda packet.

Step 1: Initial Contact and Consultation

PLANNING staff is usually the first to talk with a potential applicant, either at the counter or on the phone. There is a diverse level of applicant. Some, such as developers, have access to professional engineers and provide well documented ideas. Others, such as small business owners, bring in an idea and planning staff helps them put it down on paper. The group discussed ways to start out with a more positive approach, ("We're excited about your idea, thank you for bringing it forward," etc).

More ideas and inquiries are coming in via email, which works well for City staff and the applicants. Pascone reminded the group that he is available to assist small and large business owners as well as being a resource for City staff.

A large number of ideas never go past initial contact and consultation.

Step 2: Pre-Application Meeting

This meeting is a forum to discuss the proposal and give the potential applicant more information about the process, requirements, and information that will be needed for an application to be considered complete. In preparation for the meeting the applicants submits the proposal two weeks prior to the meeting. The pre-application information is confidential between internal staff and agency groups.

Questions: Can the time between be shortened? Can there be more flexibility in the day? Why is the first answer always no? Is there a way to track how many projects make it past the preapplication process?

During the two weeks, the materials are routed to other departments and outside agencies so they can research the site, review the proposal, and prepare relevant comments. It really does take that long to gather the comments and prepare for the meeting. Pre-application meetings are set for certain days to fit into department and staff schedules, but could be flexed for special requests.

Irish reminded the group that when there is a definite no on the project, it's stated first because historically, leaving it for last was a disaster. Catlin noted that staff tries to help the applicant ask the right questions during the meeting to find potential solutions/ suggestions on how to achieve the applicant's goals. The applicant is provided with meeting notes, which are not intended to be the "final word", since the proposal often changes by the time it becomes an application. It was noted that small, inexperienced, business owners can use the meeting information and notes to prepare bids for their startups.

Action Items:

- City staff will update the existing Development Review Process customer handout using the outline provided today.
- Staff will determine if data is available on the number of preapplication that turn into projects.

Step 3: Land Use Application Process & Decision

If the developer or property owner decides to move forward from the pre-application stage, they submit the application(s) and plans. The project is often somewhat different (sometimes significantly) from the preliminary proposal discussed at the pre-application meeting. Sometimes applications are bundled when possible, to process concurrently. This saves time and in some cases money for the applicant. There are some state regulations that dictate what can be bundled.

Completeness Check: Once Planning has received the application materials, the first step is to determine if all of the necessary information has been provided in order to process the application. The application materials are routed to applicable departments, outside agencies and utility companies, and they are given 14 days to determine whether there is enough information to evaluate the proposal against applicable code standards and laws. The information is made public at this time.

Once the application is deemed complete, state statutes require that a land use decision be rendered within 120 days (legislative decisions are not subject to this time period). Most applications take the City of Albany staff far less time to process than is allowed by state law.

Reece noted that he is impressed with the City's pre-application meeting practice and the process to get to a Letter of Completeness. Much better than some City's he works with. It would be good for the City to look into the software program used by Oregon Department of Transportation and other municipalities for permitting.

Public Notice: Four of the five levels of review require 10 to 14 days for public input on the proposal. Once the application is deemed complete, planning staff mails a Notice of Filing or a Notice of Public Hearing to property owners within a specified radius of the proposed development. Neighborhood meetings are required after preapplication and before application submission for some types of applications.

The group discussed ways to have staff be more involved in those meetings. Staff is there to note the views expressed on the project and to provide some subject matter expertise. Mostly they attend, when they are notified of a meeting, to observe.

Additional meetings may be held, and the applicant can send revised plans to the neighbors, at anytime, especially if the plans change significantly from neighborhood meeting to application submission. This heads off the feeling of “bait and switch” some neighbors express as projects proceed.

Staff Report and Notice of Decision: The planner collects all comments, findings and conditions of approval from other departments and outside agencies, and combines them into the Staff Report. The written findings outline the basis for approval, approval with conditions (in order to meet the standards), or denial. The Staff Report is a legal document that outlines the basis for the City’s decision. It is a crucial document if there is an appeal.

Members made comments and observations based on their experiences with projects. Staff decisions are based on the code standards and public input. Challenges arise when large amounts of evidence are presented at public hearings and Commissioners and Councilors are unable to review the evidence during the public hearings. There is little that can be done to curtail that practice.

Action item: Hansen noted that the “How to be a Good Public Hearing Participant” customer handout needs to be updated and put online.

Step 4: Satisfying Conditions of Approval

In most cases, all conditions of approval must be completed or financially assured before building permits are either issued or finalized, or subdivision or partition final plats are signed. Some conditions of approval are not required until the occupancy permit is requested, such as parking and landscaping. The developer can enter into Systems Development Charge (SDC) Credit Agreements or Capital Recovery Agreements, if applicable. These provide for reimbursement on some of their investment in public infrastructure.

When public infrastructure is required, it is typically **constructed privately** by obtaining a Permit for Private Construction of Public Improvements or Site Improvement (SI) Permit through Public Works. The developer may enter into a Mutual Improvement Agreement (MIA) in order to obtain building permits in advance of, or simultaneously with, construction of public improvements. Another option is to ask the City Council to form a Local Improvement District (LID) to construct the improvements through a public contract. This method shares the costs of the public utilities with those benefiting from them.

Questions: Could the bonding be combined? Is it possible to combine the preliminary, interim and final subdivision applications?

The group discussed the fees associated with the YMCA project. There was a significant cost difference between the Timber Linn Park site and the current site. The value of the project for the Timber Linn site was \$6 million and \$11 million for the current site. The building size increased from 56,660 to 77,700. Fees can be based on project cost estimates, square footage, type of applications, etc. A traffic study was required with the second application. The applicant asked the City Council to initiate the Vacation and they agreed to initiate it, waiving the \$2,000 application fee. The group discussed the different bonding amounts for public improvements and the security required to cover impacts and exposure to existing utilities.

Shepard thought that the wording on future MIA's may be able to be adjusted so developers can streamline the number of bonds they take out for projects.

Action items:

- Staff will review the planned development process for efficiency and effectiveness.
- Public Works will check with the City attorney on bonding alternatives.

Step 5: Building Permit & Construction Phase (excluding Land Divisions)

Building plans are submitted at the Community Development counter and are circulated to departmental staff for review (Building, Public Works, Planning, Fire, etc.). Building permits trigger other permits and fees associated with typical developments (SDCs, water meter installation permits, encroachment permits, etc.). Fees are used to support building staff, inspectors, permit technicians, plan reviews, etc. The group feels the City does an effective job protecting the safety of the community with building code guidelines and the high quality of inspectors and the inspections they do. Albany is aware of the competition for construction dollars with other cities. In response, building fees have stayed the same for a number of years. The Building division is primarily self-supported by revenue from fees. Planning is fee and general fund supported.

Certificate of Occupancy (C of O): After all buildings and improvements are inspected and determined to be complete, and any other conditions of approval are met (e.g., landscaping, parking lot construction, buffering/fencing, etc.), a C of O can be issued.

Action Item: Staff will add temporary C of O information to the handout.

Questions: Can the Albany Fire Department (AFD) be brought into the process earlier?

AFD participates in the site plan review process during the pre-application and project review stages. They can also add stipulations to the conditions of approval. Sometimes easements are needed in order for the AFD to cross other properties during an emergency. Without one, the property owners could erect fences (or deny access outright) to emergency personnel needing to cross their land. AFD staffing has been an issue in the past, however, they are in the process of hiring 3 additional Fire Marshalls, who will be able to assist in plan and project review. City staff is currently working to identify Fire Department requirements earlier in the land use process. They are working with the City Attorney to develop methods of incorporating fire and life safety requirements into the land use decision so they would become 'Conditions of Approval' rather than just being listed in the 'Information for the Applicant' section of the Notice of Decision, which has been a common source of confusion.

Wrap Up with Known Concerns and Suggested Actions

1. **Fees** –The most common concern regarding fees is about System Development Charges (SDCs). SDCs (water, transportation and parks) are required in order to pay for each development's fair share of improvements necessary to serve growth. They are not fees that can be waived and, without them, an alternate funding source for the required improvements would need to be identified. Hansen provided the group with a 2010 League of Oregon Cities SDC survey {see agenda file}. Albany ranks 26th out of 42 cities with populations that are over 5,000 or adjacent to Albany. SDC exceptions and credits can be made. The YMCA had over \$100,000 in SDC credits on their current project.
2. **Identification of Requirements and Potential Problems** – Staff has received concerns about the timing of identification of different issues. These can be legitimate concerns but they can also result from incomplete

information being provided early in the process. For the legitimate concerns, staff routinely evaluates them and determines if there are process changes that can be made to keep them from happening again.

3. **Timeliness of Response to Questions** – These concerns are more common for tree permits and Fire Department questions. Tree regulations are complicated by the fact that they are found in separate sections of the Albany Municipal Code and the Albany Development Code, and are regulated by two different departments. Staff is evaluating the feasibility of combining tree regulations and providing a single point of contact for the applicant. Timeliness of response to questions handled by the Fire Department is primarily a staffing issue that is being addressed.
4. **Reasonableness of Applying American With Disabilities Act (ADA) Standards** – Concerns have been expressed over the reasonableness of applying the ADA standards. It is true that the ADA standards can complicate a project but they are not standards from which the City can opt out. Properties in the process of infill or redevelopment will be asked to bring their properties up to ADA code. Christman noted that this results in cases where one property owner has to upgrade their lot and/building, but their neighbor doesn't. The City's ADA staff has ongoing ADA-specific trainings and works with many departments to understand the various construction challenges their customers face. These challenges, such as infill or redevelopment tie-ins, can often justify flexibilities.
5. **Delivery of Information** – When dealing with regulations every day it can be easy to lose sight of the fact that not every applicant is familiar with the development process or the typical standards and codes that are applied in the process. There are times when staff may list requirements or potential obstacles in a matter-of-fact manner, to the surprise of the customer. How the information is delivered to the applicant can be just as important as the information itself, and staff will continue to keep this in mind.

3. Next meeting: September 11: suggested code changes, October 2: bold and strike, T/B/D public meeting

Meeting adjourned at 5:00 p.m.

Respectfully submitted,

Tari Hayes

Administrative Assistant