



MINUTES

Wednesday, June 24, 2020

Regular Session

REMOTE

Approved: August 26, 2020

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Sharon Konopa called the meeting to order at 7:15 p.m. The mayor led the pledge of allegiance.

ROLL CALL

Councilors present: Mayor Sharon Konopa and Councilors Rich Kellum, Bill Coburn, Bessie Johnson, Alex Johnson II, Dick Olsen, and Mike Sykes

Councilors absent: None.

PUBLIC HEARING

Landmarks Commission appeal, Planning File HI-04-20.

Construction of two buildings at Fourth Avenue and Calapooia Street.

OPEN: Konopa opened the hearing at 7:19 p.m.

Ex parte contact: Councilor Dick Olsen heard from Dave Pinyerd that the Landmarks Commission (LC) minutes should have been in the agenda. Councilor Mike Sykes said he received an email from a citizen and forwarded it to staff. Councilor Bill Coburn said he received an email from a citizen and deleted it. He noticed that they also sent a letter. Councilor Alex Johnson II said he consulted on Bill Ryals' brother's health insurance. Councilor Bessie Johnson said she received an email and deleted it. Councilor Rich Kellum said the same.

Konopa said she has driven past the site. No councilors reported site visits. No councilors wished to abstain. No one wished to challenge any councilor's participation.

Ray Kopczynski made a statement in favor of approval of the development without conditions. He did not challenge any councilor's participation.

Konopa read the rules for testimony.

City Attorney Sean Kidd said the decision of the LC is included in the packet and is part of the record. The council may allow a continuance or leave the record open, but they are not required to do so.

Staff Report

Planner III Laura LaRoque described the application and the property. She summarized the review process. She said decision-making is not based on opinion, but on findings of fact related to specific review criteria. She described the review criteria applicable to this application. The criteria contain some subjective words.

LaRoque shared a map from the agenda. She said there is some "tension" between the zoning and the historic district. The property is in a mixed-use zone and within the Monteith Historic District, but directly across the street from a single-family zone and within the historic district.

LaRoque described the review criteria and findings of fact, using slides (see agenda file). She said most of the discussion in previous hearings was about setbacks, height, and size of the proposed buildings. Staff recommends as a condition of approval, increasing the setback along Calapooia Street.

As to size, the building is larger than comparable structures in the block. LaRoque described design features that break up the building's mass. Staff recommends further measures to reduce the building's mass at the street.

The building's height is forty feet ten inches. Staff recommends reducing the overall height by four feet.

Johnson II asked if the height of the proposed buildings is within code. LaRoque said the maximum height is 45 feet. Review is also based on similar size to other buildings nearby. The building to the east is one story, and the one to the north is a daylight basement and two stories. A story is about 8 to ten feet. There is no definition of "surrounding properties."

Kellum asked how many different styles are in the Monteith historic district. LaRoque said there's a wide range of styles and construction dates. Kellum listed several nearby buildings that are bigger or taller than the proposed building.

Applicant Testimony

Bill Kloos, 375 West Fourth Street, Suite 204, Eugene, spoke on behalf of the applicant. He sent a letter which was distributed. It was frustrating to prepare the appeal statement, because the LC said the application didn't comply with two of the three review criteria but didn't explain why. The architect provided a design according to City standards. The staff report really shows a different sense of design. It says staff would do the project differently, but that shouldn't be the basis for denial. The applicant is asking the council to agree with the design produced by the professional architect.

Kloos said he believes staff has misconstrued the language of review criterion A. The starting point should be to identify a "unifying development pattern," and then ask if the development maintains it. The only issue here is the setback on Calapooia Street. Staff is using a single building to require a larger setback. There is no pattern.

Page 42 of the staff report shows six small storage buildings along the east property line. Staff has asked for more detail on these. Kloos asked the council not to require a new application, which could stop the project.

Kloos also believes staff has misunderstood the language of review criterion B. He said this is about size and scale relative to surrounding buildings. Requiring bigger offsets will require redesign of both buildings. The applicant has looked at a several-block area, and the proposed building is similar. Kloos said staff looked at only adjacent residential buildings. This is the same problem as staff's recommendation to reduce the height of the proposed building to "respect" the height of one house to the east.

Kloos said Review Criterion C says that "building materials are reflective of and complementary to existing buildings within the district." The surrounding area includes all kinds of construction. Staff is requiring solid wood beams; the criterion doesn't support that requirement.

Kloos asked the council not to accept staff's recommended conditions. As they are written, if the case is appealed, LUBA will remand it. Kloos has rewritten the conditions so that they would be safe on appeal.

Mark Siegner, 516 Kouns Drive, Albany, said the process has seemed to him biased and subjective. He compared it to the City's demolition of the house at 610 Sherman Street. This is not an ill-conceived, thrown-together project. Architect Bill Ryals is sensitive to development in the historic district.

Siegner said his team has shown that the project meets all three review criteria. The project is designed to meet building codes. They've worked to go above and beyond minimum compliance and make it compatible. Siegner shared slides of buildings in the neighborhood (see agenda file). The LC denied the project due to its size and height, but it is well under the restrictions for the mixed-use zone. If the zone encourages this type of development, then approval should follow. One of the houses previously on the property was two and a half stories tall. This building is three stories.

Siegner said conditions five through eight should not be a part of the decision to approve. Design details are subjective. The LC was wrong to deny the proposal, and the Siegners hope the council will reverse their decision and not set conditions.

Bill Ryals, 935 Jones Avenue NW, gave some history of the downtown historic district and the LC. The district is much more than architecture. He read from the Landmarks Commission's web page. They were not meant to be vinyl-window police. The commission was created for the welfare of the people of the city.

Public testimony

The following comments were posted to the website and archived for the record (see agenda file):

Public comment received by 5:00 p.m., June 22, 2020; posted to the website:

Ray Kopczynski, 1303 Tamarack Ct. SW, Albany, OR 97321
Jerry Bohme, Bohme Running LLC Public Accountants, P.O. Box 1009, Albany, OR 97322
Terry LaRue
Linda Melikian, 623 Maple St SW, Albany, OR 97321
Peggy Moretti, Executive Director, Restore Oregon, 1130 SW Morrison St. Suite 318, Portland, OR 97205
Chelsee O'Brien, 334 Calapooia Street SW, Apt 1, Albany, OR 97321
Evin O'Brien, 334 Calapooia Street SW, Apt 1, Albany, OR 97321
Jeff Heesacker, 320 Washington Street, Albany, OR 97321
Kris McLaughlin, 3192 Pacific Place SW #B, Albany, OR 97321
Kerry McQuillin, Landmarks Commission Chair, 525 Sixth Avenue SW, Albany, OR 97321
Ashley Baldwin, 11030 Barclay Point, San Antonio, TX, 78254
Dave Pinyerd, 1116 11th Avenue SW, Albany, OR 97321

Written Testimony Received in Advance of the Landmarks Commission Hearing Held on May 6:

Kate Foster, 485 Young Street, Woodburn, OR 97071
Keith and Barbara Sandberg, 3666 Fir Tree Drive SE, Salem, OR 97317
Camron Settlemier, 230 7th Avenue SW, Albany, OR 97321
Jeff Heesacker, 320 Washington SW, Albany, OR 97321
Richard H. Engeman, Oregon Rediviva LLC, 955 Fifth Avenue SW, Albany, OR 97321
Jennifer Cepello
Bernadette Niederer, 1116 11th Avenue SW, Albany, OR 97321
Dave Pinyerd, 1116 11th Avenue SW, Albany, OR 97321
Joel Orton, Friends of Historic Albany, (see sign in sheet)
Camron Settlemier, 230 7th Avenue SW, Albany, OR 97321

Written Testimony Received in Advance of the Landmarks Commission Hearing Held on May 19:

Cheryl French and John Byrne, 705 6th Avenue SW
Jerry Bohme, Bohme Running LLC Public Accountants, P.O. Box 1009, Albany, OR 97322
Jim Richards
Christian Noteboom
Christopher Berry
Dirk Olsen
Ronald and Wendy Wobig
William Ryals
Dean C Stavros
Mary H Curran, 624 Baker Street SE
Any Vosika
Linda Melikian, 623 Maple St SW
Patrick Richards, PO Box 159, Albany
Candice Clark, 720 8th Avenue SW
Ray Kopczynski, 1303 Tamarack Ct SW
Jim Jansen, 804 Broadalbin Street SW
Mark and Tina Siegner
Restore Oregon
Scott Lepman and Candace Ribera, 100 Ferry Street NW
Rebecca Ziegler, Friends of Historic Albany
John and Deborah Conrad, 630 6th Avenue SW
William Ryals
Carrie Richter, 1151 SE 72nd Avenue, Portland, OR, 97215
Joint letter signed by the following: David Abarr; Roz Keeney; Oscar B. Hult; Camron Settlemier;
David Pinyerd; Robyn van Rossmann; Kate Foster; Larry Preston; Linda Herd; and Heidi Overman.
Monica Weber
Larry Preston, 1152 12th Avenue SW
Patrick Spence, 707 Broadalbin Street SW
Jayne Crupi, 1015 5th Avenue, Apt 17
Terry LaRue

Gary and Linda House
Mike Bischopink
Karen Bischopink
George and Marilyn Stursa
Robert T. Olguin, Oregon Parks & Recreation Department
Joan Baratta, 722 Calapooia Street SW
Mary Frances McClean, 515 4th Avenue SW
Bernadette Niederer, 1116 11th Avenue SW

Public comment received by 5:00 p.m., June 23, 2020; posted to the website:

John and Deborah Conrad, 630 6th Avenue SW
Kate Foster, 2815 Marion Street SE
Camron Settlemier, 230 7th Avenue
Richard H. Engeman, Oregon Rediviva LLC, 955 Fifth Avenue SW
Richard Engeman, Friends of Historic Albany, 1116 11th Ave. SW Albany, OR 97321
Molly Miller, 1312 8th Avenue
Joint letter signed by: Roz Keeney; Oscar B. Hult; Larry Preston; Linda Herd; Camron Settlemier;
David Pinyerd; Robyn van Rossmann; David Abarr; Kate Foster; and Heidi Overman.
Mary McClean, 515 4th Avenue SW
Bernadette Niederer, 1116 11th Avenue SW
Carrie Richter, 1151 SE 72nd Avenue, Portland, Or, 97215
Patrick Spence, 707 Broadalbin Street SW
Michael Thomson, 1291 Elm Street SW
Norma and Rita Tolonen, 31213 Loan Oak Lane SW
Laurie Walcutt
Michael Yuan
Martin Kirkwood

Written comments provided by the applicant received by noon, June 24, 2020, and posted to the website.

Mark and Tina Siegner
Bill Kloos
Bill Ryals

Konopa called on those who registered to speak on the signup sheet (see agenda file).

Kopczynski, 1303 Tamarack Court SE, said he already read his testimony.

Richard Engemann, 955 Fifth Avenue SW, said he is the board secretary for Friends of Historic Albany and is testifying on their behalf. The property is in the historic district overlay zone, which establishes stricter standards than the mixed-use zone. The project does not meet the standards of the historic district overlay zone. It should be compared only to properties within the historic zone. It replaces three small houses and is quite different from them in size and scale. The applicants need to go back and start at the beginning. The Friends of Historic Albany ask the council to deny the application.

Jeffrey Heesacker, 320 Washington Street, said he submitted a letter. Staff shared a picture from the letter to the screen for the audience. The letter was in the packet in front of the council. The picture showed the previous houses on the property. Heesacker said the proposal doesn't meet all of the criteria. The LC was correct to deny it. He repeated some points already discussed in this hearing and showed pictures of nearby buildings. He also showed pictures of other Siegner building projects.

Sykes noted that Heesacker was talking about information already in the packet. Coburn said Heesacker's information is not pertinent. Konopa asked Heesacker if he had anything different to add. He said if the council approves this case, he wants to know if he can replace his own windows with ones like these without review.

BREAK: The council recessed for a break at 9:14 p.m.

RECONVENE: The council reconvened at 9:16 p.m.

Coburn clarified that the council gave the applicant and his attorney and architect an unlimited amount of time to speak. He wants to hear both sides, and is not proposing a time limit, but comments really need to be pertinent.

Konopa continued to call names of those registered to speak.

Sergio Cano Soto, 1425 Calapooia Street, is in favor of the project. He showed a PowerPoint (see agenda file). He said Albany has a problem with equity in access to housing. Decisions made on the basis of esthetics can keep young people and minorities out of a neighborhood. Diversity is good for communities. Historic district residents are mostly wealthy and white. The proposed building will create a sense of place.

Kresta Wallace was no longer in the meeting.

David Abarr, 625 Fourth Avenue SE, said when the historic district overlays another zone, those requirements take precedence. The biggest problem of this project is the scale of the property. Other buildings it's being compared to have roofline changes so that the scale is more subdued.

Bernadette Niederer was no longer in the audience.

Konopa asked if anyone else wished to speak.

Mary McQueen, 515 Fourth Avenue SW, said the proposed building will be 8 feet from her house and nearly 30 feet taller. She described setbacks of nearby houses. The houses Siegner showed pictures of to support the height of his building were only 2 and a half stories, not 3 stories. She doesn't object to the mixed-use building, but it should be more compatible in scale and mass.

Camron Settlemier, 220 Seventh Avenue SW, asked to speak. He screenshared a drawing and pictures (see agenda file). He is against the proposal. He said it doesn't meet any of the requirements in ADC 7.270. The guidelines in the packet specify comparing proposed development to "adjacent" buildings. He objects to the height of the building and its setback. He asked the council to deny the application.

Stephanie Newton, no address given, said the Siegners do excellent work. Albany's historic neighborhoods draw income into Albany. She's worried that this development could set a precedent for other development that could detract from the integrity of the historic neighborhoods. She isn't for or against the project; she just wondered if the council had considered that.

Heesacker said there is no clear view right-of-way on Fourth and Calapooia shown in the drawings.

Applicant rebuttal

Kloos reminded the council that the proposal doesn't max out the height or the square footage allowed. Ryals submitted details on the accessory structures today. This is a contest between competing design views.

Siegner said the project is being compared to residential uses, but it isn't strictly a residential development. They are trying to fit into what is more of a mixed-use zone. It isn't trying to look like a house.

Ryals said he wanted to correct a few statements Settlemier made. Settlemier said the building is supposed to be compatible with adjacent historic homes, but the one he mentioned is non-contributing. Also, Settlemier flew his drone up to 44 feet, four feet above the roof of the proposed building.

Konopa asked how many bedrooms are in the proposed building. Ryals said eight two-bedroom apartments, four apartments in each building. She and Ryals discussed parking.

Staff response

Planning Manager David Martineau said historic review of accessory buildings costs \$46, not \$8,752, as Kloos stated.

Konopa asked if anyone had anything further to say.

CLOSE: Konopa closed the public hearing at 10:03 p.m.

Councilor Bessie Johnson said the goal is to bring businesses downtown. She thinks this project does that and meets code. Ryals and the Siegners do good work. She likes the project.

Councilor Dick Olsen is concerned that this project would set a precedent. We need to protect our historic districts.

MOTION: Olsen moved to deny the application because the applicant did not demonstrate meeting review criteria 2,3,and 4 for the following reasons: it is too big for the area where it sits and it is incompatible with the neighborhood.

The motion died for lack of a second.

Councilor Alex Johnson II said he has been in Albany for 26 years. If we don't build affordable housing and provide jobs, our young people will leave. Albany cannot thrive without young people. Young professional people would be able to live in the proposed development and raise their kids. It will raise the property values of everyone in the neighborhood.

Councilor Rich Kellum said a lot has been said about the scale of the building. We've allowed big buildings to be close to houses in the past. There are big buildings in this neighborhood. He's in favor of the project. He asked how much parking the City requires for any apartment downtown. LaRoque said this property is in the parking assessment district, which does not require parking.

MOTION: Councilor Bill Coburn moved to approve Option 1, Approve as proposed in the April 29, 2020 staff report. Johnson seconded and the motion passed 5-1, with Olsen voting no.

Konopa read the repeal rules.

REPORTS

Transient lodging tax funding report

10:20 p.m.

This item was moved up on the agenda.

Deputy City Manager/CIO Jorge Salinas shared a spreadsheet titled "TLT Fund Distribution as recommended by the TLT Committee on June 22, 2020 – with Staff's proposal and EcDec opp. Fund Loan" (see agenda file). This option takes dollars from the Economic Development Opportunity Fund to provide an interim loan to TLT recipients on this list.

Albany Visitors Association (AVA) Executive Director Rebecca Bond explained what the funds would pay for and noted it's a barebones budget. Discussion followed about the parameters of the exercise.

Albany Downtown Association (ADA) Executive Director Lise Grato discussed services performed by her staff and Republic Services in the downtown area. The discussion about garbage pickup will be continued at a future meeting.

Bond and Grato discussed their budget challenges. There is hope that the impact of COVID-19 will improve soon, and travel will pick up again in July, August, and September.

MOTION: Coburn moved to approve the interim budget for three months. Kellum seconded and the motion passed 6-0.

BUSINESS FROM THE PUBLIC

10:50 p.m.

None.

AWARD OF CONTRACTS

- a. Emergency loans for small business.

Planner II Anne Catlin said this contract would provide a second round of funding to Albany's small businesses from the city's Emergency Loan Fund.

Johnson II would like to see the list of recipients from the first round.

MOTION: Kellum moved to award the contract in the amount of \$208,311 to Community Lending Works of Springfield Oregon. Johnson seconded and the motion passed 6-0.

b. Housing rehabilitation loan program.

Catlin said DevNW of Corvallis applied through the competitive process. A public hearing was held and funding will come from Community Development Block Grant (CDBG) funds. The owner-occupied housing residents must have incomes of less than 80% of area median income.

MOTION: Johnson II moved to award a contract in the amount of \$240,000 to DevNW of Corvallis for a housing rehabilitation loan program. Kellum seconded and it passed 6-0.

c. CARES Act funding agreement.

Finance Director Jeanna Yeager said the state is allocating Coronavirus Aid Relief and Economic Security (CARES) Act funds. During the first costing period, March 1 through May 15, the city incurred over \$626,000 in costs related to COVID-19. This reimburses the city for those costs.

MOTION: Kellum moved to authorize the Finance Director to sign a grant agreement for CARES Act funds. Sykes seconded and the motion passed 6-0.

ADOPTION OF CONSENT CALENDAR

10:57 p.m.

- a. Reappointing Amy Roberts to the Library Board.
- b. Approval of minutes
 - 1) May 13, 2020, meeting.
- c. Recommendation to OLCC
 - 1) Annual liquor license renewals.
- d. Adoption of resolution
 - 1) Accepting the abstract of votes regarding the ballots cast in the state of Oregon general election held Tuesday, May 19, 2020, regarding City of Albany public safety levy.
RES NO. 6899
 - 2) Adopting the public transportation agency safety plan.

MOTION: Sykes moved to adopt the consent calendar as presented. Olsen seconded, and the motion passed 6-0.

REPORTS

Republic Services annual report.

This item was postponed to the July 8, 2020, regular session.

BUSINESS FROM THE COUNCIL

There was none.

NEXT MEETING DATES:

Monday, July 6, 2020; 4 p.m. work session
Wednesday, July 8, 2020; 7:15 p.m. regular meeting

ADJOURNMENT

There being no other business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Reviewed by,

Mary Dibble
City Clerk

Peter Troedsson
City Manager

Note: Staff handouts referred to in the minutes as (see agenda file) are available on the website in the "Staff Handouts" column.