



CITY OF ALBANY  
Planning Commission

**MINUTES**

Monday, May 2, 2022  
Council Chambers – 5:15 p.m.  
Approved: June 20, 2022

Call to Order

**5:15 p.m.**

Chair JoAnn Miller called the meeting to order at 5:15 p.m.

Pledge of Allegiance

Roll Call

Commissioners Present: JoAnn Miller, Diane Hunsaker, Dala Rouse, Ted Bunch Jr., Sonja Neperud.

Commissioners Absent: Jennifer Garner-Kizer and Bill Ryals.

Staff Present: Community Development Director Matthew Ruetters, Planning Supervisor David Martineau, Administrative Assistant I Jessica Valentino, Planner II Allison Crow

Approval of Minutes

**5:16 p.m.**

Commissioner Rouse moved to approve the March 14, 2022, and March 21, 2022, minutes as proposed. Commissioner Hunsaker seconded the motion, which passed 5-0.

Business from the Public

**5:16 p.m.**

None.

Public Hearing –Type IV – Quasi-Judicial and Legislative Decision:

**5:18 p.m.**

Files AN-01-22 and ZC-01-22: Annexation of 22-acre parcel with concurrent Zone Map Amendment from UGA/UGM-5 to RS-5 and RM for future development.

***Chair Miller opened the public hearing at 5:18 p.m.***

Declarations by the Commission

**5:18 p.m.**

No commissioners had a conflict of interest, ex parte contact, or abstained from participating.

Commissioner Rouse stated she has driven past the area for many years.

No one challenged the commission.

Planning Supervisor David Martineau read the meeting procedures from ORS 197.797.

Staff Report

**5:20 p.m.**

Planning Supervisor David Martineau presented the staff report.\*

Community Development Director Matthew Ruetters answered a question from Rouse regarding the purpose of using a 10-inch diameter line extension for wastewater collection instead of a 24-inch diameter line that is already in place and which direction it is going saying the direction would be extended east and the 24-inch diameter line is a trunk line. Ruetters explained the 24-inch diameter line services multiple properties to the north and south, and as it continues east, it does not need to be 24 inches due to having less area capacity.

Rouse questioned whether the property owner would receive a reimbursement if development occurs on the north side of the property and hook up to the service line they have extended. Ruetters confirmed and explained when a development occurs and installs offside improvements or across their frontage, they will enter into a capital recover agreement. Ruetters also explained the City charges a connection fee, which is then reimbursed the majority of the fee to the property owner who financed the service line.

Rouse questioned whether the 50-foot setback from the Riparian Corridor would apply to the portion of the property that Oak Creek is running through, which Martineau confirmed.

Applicant Testimony

**5:29 p.m.**

Representative of the applicant, Laura LaRoque of Udell Engineering (63 E Ash Street, Lebanon, OR 97355), spoke of the proposal, including the utilities, said the zoning being taken from the South Albany Area Plan and in-line with the Albany Comprehensive Plan, and was available for questions.

Public Testimony

**5:31 p.m.**

Brian Peterson (1252 Ellingson Road, Albany, OR 97322) asked staff how the new sewer line would affect his property's sewer line, if homes would be built up against his property, and if the property to the east of his will be developed. Ruettgers answered saying he would not be required to connect to the new line unless there was a failure, there has been no development application submitted to the City, and the property to the east does not have a land use application currently submitted.

Carl Vaughn (610 Ellingson Road, Albany, OR 97322) spoke of his decision to move to the area and his concerns with the number of homes being built in the area, the Tangent school not being able to handle the additional capacity, and the additional number of people in the area potentially increasing crime. Bond spoke of the commission keeping the current zoning, road closures on Lochner Road during the year leading to flooding in Oak Creek, and the affects the project will have on his property.

Rouse gave an overview of what the urban growth boundary entails for properties within it and the commission's limitation in not annexing properties within the boundary.

Vaughn also mentioned seeing a five-acre minimum standard for the area when buying the property.

Gordon Guenther (540 Ellingson Road SE, Albany, OR 97322) spoke against the application with concerns of a lack of proper drainage system for stormwater, additional capacity for the Albany school district, increase in traffic, how it will impact the neighborhood, and potential contamination of wells from water runoff.

LaRoque thanked those who had testified and clarified there is no development currently proposed. LaRoque continued with clarifying the current zoning, which has the five-acre minimum standard, being under the jurisdiction of Linn County, the zoning standards that can be applied once it has been annexed into the City of Albany, and the decision-making process and choosing the proposed zones based on the South Albany Area Plan\*, which she displayed on the screen.

Martineau reiterated the five-acre minimum being a Linn County zoning standard, the Albany school districts annual methodology with tracking growth development data, and stormwater detention being required with a land use application.

Rouse commented the school district does not seem to respond to requests for comment. Hunsaker stated it could be due to the school district not having an issue with the proposal and would respond if there was an issue.

After a request from Rouse, Martineau explained the Village Center designation and the riparian corridor on the property.

Commissioner Hunsaker asked a question about there being a road south of the property, which Martineau confirmed an extension of Ellingson Road SE as well as other local streets. Hunsaker also question if there would need to be a traffic impact analysis performed at the time of development, which Martineau confirmed.

Procedural Questions

**6:01 p.m.**

None.

***Chair Miller closed the public hearing at 6:01 p.m.***

Discussion

Hunsaker spoke of having sympathy for those who have testified, but the application also signifying growth for the City. Rouse agreed.

Chair Miller questioned whether there would be a possibility of a renegotiation of the zoning areas in the South Albany Area Plan. Martineau answered saying there was outreach in 2013 when the South Albany Area Plan was being organized, and there was not a lot of communication from Linn County during that time.

After a question from Hunsaker regarding what citizens could do when looking into properties in the area, Martineau said real estate agents can suggest potential buyers to contact the City for any questions. Hunsaker also questioned whether the Planning Division receives questions like that to which Martineau answered saying they receive some calls but maybe not as much as they should.

Motion

**6:01 p.m.**

Commissioner Hunsaker moved that the planning commission recommend that the city council approve the land use application for annexation with concurrent rezone to RS-5 and RM under planning files AN-01-22 and ZC-01-22, as described in the April 25, 2022, staff report. This motion is based on the findings and conclusions in the staff report and the findings in support of the application made by the planning commission during deliberations on this matter. Commissioner Bunch seconded the motion, which passed 5-0.

Public Hearing –Type IV – Quasi-Judicial Decision:

**6:07 p.m.**

File ZC-02-22: Zone Map Amendment from RM to RMA for future development.

***Chair Miller opened the public hearing at 6:09 p.m.***

Declarations by the Commission

**6:09 p.m.**

No commissioners had a conflict of interest, ex parte contact, or abstained from participating.

Rouse went to the site and observed that it seemed to be a mixed-use zone area on the side of the road of the property in question, mostly residential on the other side, and the only way out of the property is through Lyon Street SW and Marion Street SE.

No one challenged the commission.

Planning Supervisor David Martineau read the meeting procedures from ORS 197.797.

Staff Report

**6:12 p.m.**

Planning Supervisor David Martineau presented the staff report.\*

Rouse questioned whether the change of zoning to RMA would mean taller buildings being constructed, which Martineau stated saying it could but there are limiting factors including maximum density, open space areas, and setbacks that could hinder that. After a question from Rouse, Martineau explained the requirements for land needed for each unit depending on size.

Rouse spoke of past rezoning applications where the stated use of the area had been changed after the application was approved by the commission.

Hunsaker questioned why newly built apartments only have three stories instead of four stories. Martineau answered saying he believed after three stories, there are other building code related issues that would need to be accommodated and there could be cost prohibited issues as well.

After a question from Hunsaker, Martineau explained the approximate height of each apartment story and the setback requirements for developing buildings to the maximum height requirement.

After a question from Rouse regarding the setback standards in the Albany Development Code, Martineau explained there are design standards that could supersede the setback standards.

Martineau clarified the difference between the RM and RMA zone with regards to the higher density and there being no minimum lot width.

Applicant Testimony

**6:24 p.m.**

Representative of the applicant, Lindsay McLane-Godwin with MSS Engineering Inc. (215 NW Fourth Street, Corvallis, OR 97330), presented a PowerPoint\* and gave an overview of the RMA zone compatibility in the area.

Rouse questioned why the applicant is changing the zone to which Peter Seaders with MSS Engineering Inc. answered saying the property has a number of constraints with the shape of the property and the natural features. Seaders stated the developer is looking for as much flexibility as possible to provide a development that is economical and fits with the nature of the area.

Public Testimony

**6:33 p.m.**

Jesus Zapien (2260 Marion Street SE, Albany, OR 97322) questioned how far the setback would be from his property, the transportation with a development, and water runoff.

Martineau stated the setback would be one foot for every foot built with a maximum of 30 feet; there is no development currently, but under the current zone, they could still build apartments; and stormwater and drainage retention would be required.

Sandra Sather (2410 Marion Street SE, Albany, OR 97322) and spoke against the testimony. Sather spoke of hiring a lawyer due to not knowing the boundaries between her property and the applicant's property. After a request for clarification from Chair Miller, Sather said she has her own lawyer and there is a dispute over the property. Sather stated her property was fenced in since she bought the property and didn't know there was difference in land ownership. Sather questioned how the zone change can be approved when there is a dispute over land.

Chair Miller requested clarification of the challenge Sather presented, to which Sather stated the property has been fenced in for years, and now it's being said the property wasn't properly fenced. Sather stated they are trying to take away her backyard and wanted to get this figured out before the zone is changed.

Martineau stated this would be a matter between the property owners and their lawyers.

Chrystal Nishimura (2422 Marion Street SE, Albany, OR 97322) reiterated the concerns that were mentioned by others who had testified and the reason for buying her property was due to the quiet area.

Sather stated she couldn't see how the commission could approve the application without a development plan and the area is farmland so the applicants couldn't build bigger buildings as it is currently. Martineau clarified the property is currently zoned RM, so apartments as high as 45 feet could be built now. Sather stated the applicants would have to work around the solar panels on her property. Martineau clarified that would be another issue to speak with a lawyer about.

Sather spoke of her not being able to build in the back part of her property due to the wetlands and questioned how the property owners could build on wetlands to which Martineau explained the Department of State Lands would need to review the property, and the property would need to discuss how to work around the wetlands or if they could mitigate the wetlands.

McLane-Godwin clarified the zone does currently allow multi-family development, the property owner would adhere to all design requirements by the City, and if wetlands are identified, they would adhere to the Department State Lands requirements. McLane-Godwin reiterated the reason for changing the zone and that she understands people's concerns with an increase in the number of people, but there is nothing currently stopping that from happening regardless.

Seader spoke of the development standards that would be required for stormwater drainage, development would more than likely have a positive impact on the drainage in that back area of the property, and if wetlands are identified by the state agency could have requirement to maintain hydrology for them. Seader also spoke of any impervious surfaces could be detained and treated before being directed to the City's stormwater facility. Seader clarified the concerns about the height of the buildings saying three stories is likely the highest structure built. Lastly, Seader mentioned the land dispute with Sather saying the lots being deposited are lots of record and there is no change in property.

Kenneth Lett (2290 Marion Street SE, Albany, OR 97322) requested clarification of the public process if there is development. Martineau explained the process of a site plan review application, which is a staff level decision, but it could be appealed to the commission and there is an opportunity to comment on the application before a decision is made.

Hunsaker added once a zone change is approved as long as the applicant is meeting the conditions of the development code, there isn't much the commission could do, so this is a key step. Hunsaker also reiterated development can still occur in the current zone.

Procedural Questions

**6:51 p.m.**

None.

***Chair Miller closed the public hearing at 6:55 p.m.***

Discussion

**6:55 p.m.**

Rouse spoke of concerns with there being no minimum lot width, no minimum lot depth, and supports an RM zone in a Light Industrial district since it seems to create a buffer area between single-family and multi-family. Rouse stated its hard to support an application when there is no development plan, that an RM zone is adequate for this property, and doesn't support changing it to RMA.

After a question from Hunsaker, Martineau suggested re-opening the public hearing.

***Chair Miller re-opened the public hearing at 6:58 p.m.***

Hunsaker questioned if Martineau was aware of any buildings in an RMA zone that exceeds 45-foot height limit to which Martineau answered saying there are two apartment complexes built in the RMA zone that were only three stories, which would be currently allowed in the RM zone.

Rouse questioned the zoning and height of the housing on Third Avenue and Calapooia Street to which Martineau stated it is a five-story building in the downtown mixed-use zone. Martineau stated there is a range of building height depending on if the building is in the historic downtown use zone.

Seaders reiterated the height being driven by construction requirements.

Jesus Zapien questioned how the zoning would impact his property value in the future. Hunsaker stated it could but didn't think the commissioners or staff are qualified to comment.

Sandra Sather spoke of not wanting more apartments in the area, animals not being taken into consideration, and citizens wanting to leave the area due to the construction.

Martineau gave an overview of the Oregon Land Use Law and how that law affects the Albany area.

McLane-Godwin reiterated the required criteria for rezoning and the compatibility the rezone has with the Albany Comprehensive Plan.

***Chair Miller closed the public hearing at 7:11 p.m.***

Discussion

**7:11 p.m.**

Hunsaker spoke of the height of the development unlikely being built over the 45-foot height requirement and wanting to give the applicant the flexibility the rezoning would allow.

Rouse stated it's not just the height, but also not having a minimum standard for setbacks, lot width, and lot depth. Rouse stated the RM zone is adequate for development, there being no guarantee about what will be built, and the increased traffic on Marion Street SE.

Motion

**7:14 p.m.**

Commissioner Hunsaker moved that the planning commission recommend that the city council approve the land use application for a zone change from RM to RMA under planning file ZC-02-22, as described in the April 25, 2022, staff report. This motion is based on the findings and conclusions in the staff report and the findings in support of the application made by the planning commission during deliberations on this matter. Commissioner Bunch seconded the motion, which passed 4-1.

Business from the Commission

**7:15 p.m.**

**Nomination:** Commissioner Rouse nominated JoAnn Miller for the position of chair. Hearing no further nominations, Miller was elected to the position of chair 5-0.

**Nomination:** Commissioner Rouse nominated Diane Hunsaker for the position of vice-chair. Hearing no further nominations, Hunsaker was elected to the position of vice-chair 5-0.

Martineau spoke of the two commission vacancies.

After a discussion regarding the Hearings Board, the commission decided to keep the same commissioners on the Board and keep the entire Planning Commission as an alternate.

Business from Staff

**7:21 p.m.**

Martineau spoke of the two news planners that were hired to the Planning Division.

Adjournment

**7:25 p.m.**

Hearing no further business, Chair Miller adjourned the meeting at 7:25 p.m.

Respectfully submitted,

Reviewed by,

*signature on file*

*signature on file*

Jessica Valentino  
Administrative Assistant I

David Martineau  
Planning Supervisor

*\*Documents discussed at the meeting that are not in the agenda packet are archived in the record. The documents are available by emailing [cdaa@cityofalbany.net](mailto:cdaa@cityofalbany.net).*