

Canby Planning Commission  
Regular Meeting  
July 13, 1987

MEMBERS PRESENT: Chairman Kahut, Commissioners Schrader, Seale, Nicholson, McKibbin, Lindsay, and Harmon

OTHERS PRESENT: City Administrator Stephan Lashbrook, City Attorney John Kelley, Secretary Virginia Shirley, Ron Tatone, Andy DiTommaso, Alice Merrill, Sean McVicker, Jean Warren, Ron and Diane Molensky, Art Stangell, Joe Haftorson, Sandra Haftorson, Morris Cederquist, Alma Cederquist, Jim Pienovi, Martin Clark, Clyde Powell, Edmond Davies, Ralph Barker, Sean and Martha Means, and others.

The minutes of the meeting of June 8, 1987, were corrected to show Chairman Kahut present and presiding over the meeting, and by amending the second sentence in the third paragraph to read: "Based on the finding that the characteristics of the site are not suitable for the proposed (amendment to the conditional use permit).

The minutes of the June 22, 1987, meeting were approved as presented.

Citizen Input on Nonagenda Items: Mr. James Pienovi asked if could he make a request of the Commission regarding the Torgeson application. Mr. Lashbrook informed Mr. Pienovi that anything concerning the Torgeson application was now in the hands of the City Council and any request should be made of them. Mr. Pienovi asked if written correspondence to the Planning Commission would be reviewed by the Commission. Mr. Lashbrook assured Mr. Pienovi that any written material addressed to the Commission and delivered to City Hall would go to the Commission. Mr. Pienovi thanked the Commission and Mr. Lashbrook and stated that he would be at the Council meeting on July 15, 1987.

Public Hearing on proposed amendments to the text of the Land Development and Planning Ordinance. City Administrator Stephan Lashbrook explained the staff interpretation of the ordinance as written and read two letters into the record. (These have been made a part of the file.) It was pointed out that lots may be as small as 5600 square feet in an R-1 zone at the present time, if lot size averaging is used when subdividing or partitioning..

The Chairman opened the public hearing portion of the meeting and called for proponents of the proposed amendment to the flag lot section of the ordinance.

Martin Clark, developer, stated that there was a shortage of affordable lots within the City of Canby. Mr. Clark expressed the opinion that smaller sizes would be more affordable and will help the builders in Canby. He stated further that he had been in contact with Mr. Jim Sitzman of L.C.D.C. and that Canby was the only city that did not allow the square footage in the pole portion of lot to be used in the minimum square footage requirement.

Annette Adcock, 515 N. Locust, spoke of the older stone marker on her property and told the Commission how her home abutts a triplex on the west property. Stated that the triplex has an absentee landlord and that there are many problems with noise and dogs when places are crowded together.

Andy Ditommaso, Century 21 Realty, is opposed to changing the lot size requirements. Mr. Ditommaso stated that people like the large lot sizes.

Alice Merrill, realtor, expressed the desire to keep the larger lot sizes in Canby. She added that she knew of no real demand for duplex lots in R-1 zone.

Martin Clark, developer, stated that he was concerned about the whole community and the lack of affordable lots to serve the public need. Mr. Clark quoted from the Comprehensive Plan and expressed his opinion of urban sprawl.

Commission Chairman Kahut answered this by explaining the different zones within the residential districts of Canby. He further stated that urban sprawl should not occur because of having the R-2 zone to handle multi-family living.

Ralph Barker, attorney for Clyde and Mary Powell, read from the Comprehensive Plan the passage on placing duplex housing in the R-1 zone.

Dr. Edmund Davies read from the Comprehensive Plan on page 40 where he felt that it states that the changes in density will not be in established neighborhoods, but in newly created areas of the City.

Mr. Shaun Means again stated his opposition on the basis that the quality of life should be maintained - this is an established neighborhood - opening the floodgates if you change the rules everytime something doesn't suit someone.

Martha Means reminded the Commission of the new multi-family lots the Commission created on Territorial Road. Mrs. Means stated that when she spoke to Mrs. Powell of these lots, Mrs. Powell had commented that she didn't want to look out her window and see duplexes. Mrs. Means believes the Powell's have rights, but she as a property owner has rights also. Mrs. Means expressed the belief that the City is in compliance with the Comprehensive Plan at the present time and that no changes are necessary.

Morrie Cederquist asked where the Commission would stop increasing the density. Mr. Cederquist further stated that even if Canby does not have an abundance of lots, you can't change the ordinance for every situation, we are in compliance with the Comprehensive Plan.

Sean McVickers stated: "We like it here, just the way it is."

Ralph Barker, representing Clyde Powell, read passages from the City's Comprehensive Plan, cautioned the Commission on the regulatory taking of property (First Evangelical Lutheran Church v. Los Angeles County) and cited Mr. Powell's proposal. Commissioner Schrader interrupted to inform Mr. Barker that the Commission was not hearing Mr. Powell's application, but rather was considering flag lots in general.

Shaun Means stated that the proposed change affects the entire community and the quality of life for the community. This change will have an affect on the older established neighborhoods. The Urban Growth Boundary set aside an area for development of duplexes and the duplexes should be kept in that area. Mr. Means doesn't want to see duplexes in the older neighborhoods of Canby. If the change is made it will set a precedent. Mr. Means stated that he was aware of the density problems and that affordable housing is a problem, but feels there would be a loss of "quality of life" five, ten or fifteen years into the future. Long time residents, retirees, and older residents are due some consideration when making changes. Mr. Means complained that he didn't feel that the proposed changes were known widely within the community. Mr. Means went on to say the people haven't made their feelings known or the quality of life they have now and what will happen if the lots are made smaller.

Shaun McVicker, 1435 N. Locust, stated that he lives on a flag lot and likes it, but he is very concerned about the thought of smaller lots. Mr. McVicker read the letter from County Commissioner Darlene Hooley which appeared in the Canby Herald on June 17, 1987. Commissioner Hooley had stated that livability is why people live in Canby. Mr. McVicker stated that he had not seen a public need for the change to smaller lots, nor does he believe the people who live here presently want the change. If the change were made, the buildable portion of the lot could be as small as 3,600 square feet.

Martha Means, 1114 N. Juniper, read from the Comprehensive Plan regarding notification and involvement of the people of Canby. Mrs. Means further stated that every person in town should be notified of the proposed changes. Mrs. Means expressed the feeling that the proposed change was for a special interest group and not the public.

Edmund Davies, moved to Canby from Chicago thirty years ago. Dr. Davies spoke of the high density where he had lived and how much better it was here because of the low density. He stated that Canby would lose if density becomes great. The people here want large size lots, they don't want Canby to change lifestyle. He further stated that he would start an initiative, if its legal, and the Commission vote for smaller lots.

Morrie Cederquist read a letter protesting the change in flag lot size requirements. Mr. Cederquist expressed the feeling that the Commission should listen to the community of Canby regarding lot sizes, not listen to realtors and developers who live outside the City. He also made the suggestion that Canby annex more land if the City was having trouble providing large enough lots to build dwelling units on.

Ron Molensky, 1060 N. Juniper, admitted that he was spoiled by having a vacant lot next door for a long time, but does not want to see a duplex put on the lot now. Mr. Molensky expressed the opinion that the division of the lot into two lots did not receive much consideration.

Andy Ditommaso emphasized that he did not wish to see smaller lot sizes.

Ralph Barker, attorney for Clyde and Mary Powell, asked how many duplexes had been built recently in an R-1 zone. Mr. Barker also asked how many lots having 14,000 square feet were available to build duplexes in an R-1 zone. Mr. Barker said that O.R.S. 92, City of Dayton case, and the Evangelical church case in California all require the City to adopt changes to put the City in compliance.

City Administrator Lashbrook addressed the Commission and explained O.R.S. 92 affects property divisions and not other Comprehensive Plan compliance issues which are dealt within O.R.S. 197. Lashbrook also noted that the testimony quoting page 40 of the Comprehensive Plan was taken out of context and that that part of the plan refers to Ordinance 690, an earlier version of the Land Development and Planning Ordinance that was rejected by L.C.D.C. Commissioner Schrader said that he called the cities of Oregon City, West Linn, and Gladstone and they do not include the pole portion when measuring the size of flag lots. The people who have large lots want the right to partition them also. The people within the area are notified of partitioning.

Commissioner Wes Nicholson stated that lots could have as little as 3,600 square feet if the pole portion was long enough and if as much as 2,000 square feet of driveway was included in the lot area.

Commissioner Pat Harmon asked if more than one party used the pole portion of flag lots, could both properties claim the square footage.

Commissioner Phil Seale expressed concern that the people signing the original petition were not present at this public hearing. The opposition was present, but those who originally requested the change were not at the meeting.

Commissioner Jim McKibbin stated that he had taken the time to make lists of pros and cons to the items being heard and according to the standards and criteria they would have to meet in order to be changed. He did not feel that they meet the necessary criteria for change.

\*Commissioner Kurt Schrader moved to recommend to the Canby City Council that the proposed amendments to flag lots (using all or part of the pole portion of the flag lot square footage in making the lot meet minimum size) be denied as no public need has been demonstrated. The staff to bring written findings of fact to the next meeting for consideration and adoption. The motion was second by Commissioner Harmon and passed unanimously with the Chairman voting.

Commissioner Kurt Schrader expressed the opinion that 14,000 square feet was just a little big for a duplex in an R-1 zone, but wasn't sure just how much should be required. Commissioner Pat Harmon told the

Commission that West Linn did not allow duplexes to be built within a single family residential zone. He said that Milwaukie requires that duplexes have a minimum of 20,000 square feet if they are built in a single family residential zone.

Commissioner Wes Nicholson stated that duplex lot size was a concern, and that there was good argument for smaller size lots for duplexes. Commissioner Nicholson stated that maybe 14,000 square feet was reasonable in an established neighborhood and lower to 11,200 in a new subdivision. Commissioner Burt Lindsay stated that 14,000 square feet was too large, but the evidence had not been presented to support making a change.

\*Commissioner Nicholson moved to recommend to the City Council that at this time we continue to require 14,000 square feet for a duplex in a single family residential zone as there is not sufficient evidence that the proposed change will serve a public need. The staff to prepare findings of fact for the next meeting. The motion was seconded by Commissioner Harmon and passed five (5) to two (2), McKibbin and Schrader voting against.

It was the decision of the Commission not to discuss either Variance Standards and Criteria or Expansion or Change of Nonconforming Uses (C & D), but to move to the request for a conditional use permit.

Item #2: Request for a Conditional Use Permit to have a beauty salon in a home on property located on the southeast corner of N.E. 14th and N. Oak Street and described as Tax Lot 2420, Section 33AA, T3S, R1E. The applicants are Joe and Sandra Haftorson. City Administrator Lashbrook gave the staff report and made no recommendation on the application. Art Stangell, attorney representing the applicants, presented four pictures of the streets and parking that was available for salon patrons. Mr. Stangell spoke to the Commission of the different types of home occupations and explained the beauty shop business. He further explained to the Commission that traffic would be negligible as several people traveled in one car and she had an average of six appointments per day. Mr. Stangell said that Mrs. Haftorson is not the primary wage earner and her business is getting smaller. Mrs. Haftorson works Tuesday through Saturdays.

Chairman Kahut opened the public hearing portion of the meeting and called for proponents. Mr. and Mrs. Haftorson and Mr. Stangell all rose and stated their names and addresses. There being no further proponents, Chairman Kahut called for opponents. There being none, the public hearing portion of the meeting was closed.


Chairman Kahut expressed concern for the impact on downtown business people. Mr. Stangell informed the Commission that Mrs. Haftorson had an established clientele which was expected to continue to seek her services wherever her business might be located.

\*Commissioner Schrader moved to approve the conditional use permit for a beauty salon within the home located at 1380 N. Oak Street as it complies with the Comprehensive Plan, and the site is suitable. This

approval is subject to the following conditions: 1) The beauty salon operation is to be limited to a single operator. No person other than the applicants are to be employed. 2) Hours of operation of the beauty salon are to be limited to 9:00 a.m. to 6:00p.m., Tuesday through Saturday, with no more than 13 appointments scheduled per day. 3) A single nonilluminated nameplate of not more than one and one-half square feet is to be allowed for advertising. 4) Owners to provide a waiver of the right to remonstrate against future sidewalk improvements to either N. Oak or N. E. 14th Avenue. The form of the waiver is to be approved by the City Attorney. Costs for recording the waiver to be borne by the applicants. 5) This permit is nontransferable. It is being issued to these applicants at this location only. The motion was seconded by Commissioner Lindsay. Commissioner Nicholson moved to amend the motion to delete the "no more than 13 appointments schedule per day" The amendment was seconded by Commissioner Seale. Upon voting the amendment failed with one yea and six naves. Commissioner Nicholson voted for the amendment. The question was called for the motion to approve the use permit application and the motion carried with six yeas and one nay, Chairman Kahut.

This meeting has been recorded on tape, which is the official record of the meeting.

Respectfully submitted,

  
Virginia Shirley, Secretary  
Canby Planning Commission