

Canby Planning Commission  
Regular Meeting  
July 27, 1987

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

MEMBERS ABSENT: Commissioners Seale and Schrader

OTHERS PRESENT: City Administrator Stephan Lashbrook, Secretary Virginia Shirley, and Rudy Colliander

The minutes of the July 13, 1987, meeting were corrected to show that on page 3, after Alice Merrill spoke, Commissioner Seale suggested that the Commission be considering both Section I and II of the proposed amendments as the two were intermingled in the testimony being given. After some discussion, it was the consensus of the Commission that both Section I and II would be considered at this hearing. The minutes were approved as corrected.

Findings of Fact for Section I and Section II of proposed amendments to the Land Development and Planning Ordinance.

The proposed findings of fact were corrected by changing the word "adopted" to "adopts" and under conclusions by deleting the word "unanimous" that had preceded voted. Commissioner McKibbin moved to approve the findings of fact based on the public hearing July 13, 1987. The motion was seconded by Commissioner Harmon and passed unanimously. The findings of fact were approved for the Chairman's signature.

CONTINUED: Proposed amendments on the Variance Standards and Criteria.

The City Administrator read the staff report with the recommended changes.

Chairman Kahut opened the public hearing portion of the meeting by calling for proponents of the proposed changes. There being no proponents, the Chairman called for opponents. When none came forth to testify, Chairman Kahut closed the public hearing portion of the meeting.

Commissioner Nicholson asked that a definition of the word "vicinity" be added to the definition portion of the ordinance. City Administrator Lashbrook stated that he would consult with the City Attorney and have a definition for the word included in the ordinance amendments.

\*Commissioner McKibbin moved to approve Section III as written by staff to present to L.C.D.C. along with a definition of the word "vicinity." The motion was seconded by Commissioner Lindsay and passed unanimously.

Section IV amendments to the Nonconforming Structure or Change of Use - Application Required. The staff report was given by City Administrator Lashbrook.

Chairman Kahut opened the public hearing and called for proponents. Mr. Colliander stated he was interested in dwelling units in the C-1 zone. Mr. Lashbrook explained that the ordinance amendment would allow for additions as in the R-2 zone. Mr. Colliander stated that he wanted to fix up a single family residence that was located within the C-1 zone and he wanted to make sure that the needed repairs could be made. There being no further proponents or opponents, Chairman Kahut closed the public hearing.

After a lengthy discussion, Commissioner Nicholson moved to recommend approval of the following wording for that portion of the Nonconforming Use section of Ordinance #740.

A) Continuation of a nonconforming Use or Structure: Subject to the provisions of this Section, a nonconforming structure or use may be continued, but shall not be altered, changed or extended except as provided herein.

B) Alteration or Expansion of Dwelling Units in C-1 Zone: The alteration or expansion of dwelling units in the C-1 Zone shall be permitted, subject to the specific requirements of that zone.

C) Nonconforming Structure: A structure conforming as to use but nonconforming as to height, setback, or coverage may be altered or extended providing that the alteration or extension is in conformance with this Ordinance. Any expansion of the structure must follow the procedures as set forth in Subsection (D), below.

D) Discontinuance of a Nonconforming Use:

1. If a nonconforming use involving a structure is discontinued from use for a period of one year, further use of the property shall be as a conforming use.

2. If a nonconforming use not involving a structure is discontinued for a period of six months, further use of the property shall be for a conforming use.

E) Expansion of Nonconforming Structure or Change of Use. Application Required.

1. A request for an expansion of a nonconforming structure or change of nonconforming use may be initiated by a property owner or the owner's authorized agent by filing an application with the City Planning upon forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. If the application is for the expansion of a nonconforming structure, or change in use of a nonconforming use, the City Planner shall send to the owners of all property within 100 feet of the subject property a notice of application, informing them that they may request a public hearing before the Planning Commission on the application by filing a written request within ten

(10) days. If no such request for a hearing is received within the time limits, and if the staff determines that the application is of a minor nature, and will not constitute an expansion of intensification of a nonconforming use, the City Planner may authorize the necessary license or permits for change of use or structural expansion. In making the above determination, the staff shall utilize the criteria set forth in section "F," below.

2. If a request for a hearing is filed within the ten (10) day period, or if the staff determines that the application is not of a minor nature, the City Planner shall schedule the application for a public hearing before the Planning Commission. The Planning Commission may request other drawings or additional information essential to an understanding of the historic use of the site, or the proposed use and its relationship to the surrounding properties.

F) Authorization to Grant or Deny Expansion of Nonconforming Structure or Change of Nonconforming Use. An expansion of a nonconforming structure or a change from one nonconforming use to another shall be approved, conditionally approved, or denied in accordance with the standards and procedures of this section. In judging whether or not such applications shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse condition that would result from authorizing the particular development at the location proposed and, to approve such expansion or change shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

1. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance, other than those specific zoning standards which the use or structure is nonconforming.

2. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.

3. All required public facilities and services exist to adequately meet the needs of the proposed development.

4. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

5. In considering whether to approve a change in use the commission shall compare the following characteristics of the historical use of the property with that proposed by the

applicant in order to assure that the change will not constitute an expansion or intensification of the nonconforming use:

- a) Traffic, including both volume and type (car, truck, foot, etc.)
- b) Noise
- c) Days and hours of operation
- d) Physical appearance
- e) other environmental considerations (dust, vibration, glare, etc.)
- f) Type and size of equipment to be use.

G) Destruction of a Nonconforming Use or Structure: If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80 percent of the cost of replacement of the structure using new materials, as determined by the Building Official, the property owner may apply to the Planning Commission to restore the nonconforming use or structure. In judging whether or not the restoration of a nonconforming use shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against adverse conditions that would result from authorizing the particular restoration at the location proposed. In order to approve such restorations the Planning Commission shall find that the criteria as set forth in subsection "F," above, are met, can be met by observance of conditions, or are not applicable.

H) Completion of Building: Nothing contained in this ordinance shall require any change in the plans, alteration, construction or designated use of a building upon which construction work has lawfully commenced prior to the adoption of this ordinance, except that if the designated use will be nonconforming it shall, for the purpose of subsection "D," above, be a discontinued use if not in operation within one year of the date of issuance of the building permit.

Section 5. 10.3.24 (a) (DOWNTOWN COMMERCIAL ZONE - USES PERMITTED OUTRIGHT) to be amended as follows:

1. Dwelling units incidental and attached to any allowed in the C-1 zone.

A. Dwelling units shall conform to the development standards of the R-2 zone.

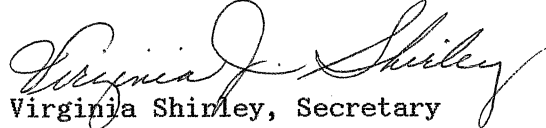
B. Existing dwelling units which are not incidental and attached to a use allowed in the C-1 zone may be altered or expanded, provided that any such additions comply with the development standards for dwelling units in the R-2 zone.

The motion was seconded by Commissioner Lindsay, and passed unanimously, with the Chairman voting.

There being no further business, the meeting adjourned at 9:30.

This meeting has been recorded on tape.

Respectfully submitted,

A handwritten signature in cursive script that reads "Virginia J. Shirley". The signature is written in dark ink and is positioned above the typed name.

Virginia Shirley, Secretary  
Canby Planning Commission