

Canby Planning Commission
Regular Meeting
August 8, 1988

MEMBERS PRESENT: Commissioners McKibbin, Harmon, Lindsay, Nicholson, and Schrader. Vice-Chairman Schrader chaired the meeting.

OTHERS PRESENT: City Administrator Stephan Lashbrook, City Attorney John Kelley, Secretary Virginia Shirley, Fred Kahut, R. Roger Reif, Jack Hammond, Bob Westcott, Jack Murray, Herman Bergman, Ron Tatone, Linda Hulsbus, Arlene Candis, Larry Landis, Marcella Lawrence, Evelyn Veanier, Diane and Gary Sowles, Lori Fitzgerald, Dorothy Knight, Dr. and Mrs. Edmund E. Davies, Dan Ewert, Ken Ewert, Maynard Nofziger, Doanld E. Smith, John E. Beck, Bob Kacalek, Marv Dack, Sean McVicker, Hank Schouten, Bill Stevens, Patty Longstreet, Donna Henderson, Rene DuPont, Paul DuPont, and others.

The minutes of the special meeting held on August 1, 1988, were approved as presented.

Davies' appeal of Torgeson Nonconforming Use Status. City Attorney John Kelley explained the content of the Davies' appeal and that a letter and exhibit had been received from the Torgesons. Mr. Kelley went on to say that based on his memo this appeal should be denied on the basis of not being filed in a timely manner. The City Attorney further explained that Dr. DAVIES had been in attendance on June 22, 1987, and July 20, 1987, when the nonconforming use had been an agenda item. Dr. Davies explained that he had only a portion of the meeting having to do with duplexes and that all he was asking for was an environmental impact study. Dr. Davies stated that he had been a city physician and on the local school board for a good number of years and that he was concerned about the proposed rock crusher because it could cause dust which could cause local children to get silichoses, which could be deadly. Commissioner Harmon asked if there were any special conditions the Commission needed to know about. Mr. Lashbrook stated the Commission needed to know if Dr. Davies had actual knowledge of the 1986 interpretation of the City Administrator in 1987. Lashbrook also suggested that the Commission determine whether the public hearing notice for June 22, 1987, was adequate to meet the public notice requirements for Mr. Atwood's 1986 interpretation. Mr. Kelley explained the LUBA decision regarding Pienovi and the Council's decision regarding Mr. Dack.

Commissioner Harmon moved to deny the appeal on the basis that it was not timely filed. Seconded by Commissioner Lindsay. During the discussion, it was brought up that the appeal could have been filed earlier due to public notification through articles in the local newspaper. Dr. Davies interrupted saying that all he wants is an environmental impact statement. City Attorney Kelley stated that Dr. Davies appears to be appealing the pending rock crusher application, rather than the earlier determination of nonconforming use status. The question was called for and the motion passed unanimously with the Vice-Chairman voting.

Mr. Schrader asked if there was any nonagenda business to come before the Commission. Sean McVickers requested that the Comprehensive Plan be put on a moratorium until a complete review of the plan could be made. This is based on ideas of old and a new plan, where the whole city population can take part. City Administrator Lashbrook stated that this request was not possible as the City must take action on any application within 120 days.

Vice-Chairman Schrader suggested that the Planning commission should meet more often, maybe on a weekly basis. Notice could be placed in the utility bills the people get every month. Commissioner Harmon stated that the Commission definitely should have citizen participation. Commissioner Nicholson stated the staff should do one part at a time. Dr. Davies suggested that two members of the Planning Commission meet with the public. Commissioner Lindsay stated that we needed a "show and tell" on how to read the Plan and inventory. It was the consensus of the Commission to have a workshop on August 29, 1988, and directed the City Administrator to draft a press release to that affect. The Commission agreed to meet weekly, if necessary, to complete this review of the current Comprehensive Plan.

Ordinance Interpretation - Transfer Station as a permitted use in the M-1 zone. City Administrator Lashbrook read the list of permitted uses in the M-1 zone, and gave the staff report. Mr. Lashbrook stated that Commission should hear anything the public had to say concerning this interpretation issue, even though it is not a public hearing. At the suggestion of Mr. Reif, the Commission by consensus decided to hear the Interpretation and combine it with the next item on the agenda. Request for a Conditional Use Permit to construct an enclosed garbage transfer station on property located in the northwest quadrant of N.W. Third and N. Baker Drive, and described as Tax Lot 1500, Section 32DC, T3S, R1E. The applicant is Canby Disposal Co./Fred Kahut. Mr. Lashbrook discussed ex-parte contact and read the standards and criteria for issuing a conditional use permit. Bob Rapp's letter spoke to the City's water system and parts of the City's Comprehensive Plan were read and finally, Mr. Lashbrook read 21 conditions which staff felt should be applied to the conditional use if it is approved. Commissioner Lindsay stated that since they were under a franchise agreement, possibly there were restrictions on other development Vice-Chairman Schrader asked if there were any water lines running underground through the property in question. Commissioner McKibbin asked why there wasn't a report from the Department of Environmental Quality. Mr. Lashbrook informed the Commission that DEQ will not get involved in local politics, choosing instead to take action after the local review is complete. Dr. Schrader asked about pretreatment rules. Mr. Lashbrook stated that a holding tank was required. Commissioner McKibbin could not understand why DEQ won't give the Commission any answers.

By consensus, the Commission through their Vice-Chairman informed the audience that they would hear testimony until 11:00 p.m.

R. Roger Reif, 273 N. Grant and attorney for the applicant, stated that the conditions read tonight would be part of the permitted use, if it

were granted. The first part of the presentation was a video of the Forest Grove, Oregon, operation. Mr. Reif informed the Commission that the costs involved were \$300,000 for the building, \$17 - 27,000 for fencing, and the project would be limited to the southerly 230 feet of the lot. This facility would receive a possible 10 extra trips per day, and will be private - not for the public use and not a regional facility. Mr. Reif stated that no burning would be allowed, and there would be side doors for entering and exiting. There will be an average of 734 tons of garbage per month or one and one-half semi trucks per day. Mr. Reif distributed several pictures which were parked for exhibit and showed additional video film of the Clackamas Transfer Station. Mr. Reif spoke to the environmental issues stating that the old sanitary land fill is closer to Canby's water supply than the disposal station will be. Mr. Reif stated that he had visited the Forest Grove operation on a 100 degree day and there was no odor at the property line. He further stated that you could smell an odor when you entered the building and most of that is from methane gas. Mr. Reif agreed with the staff recommendation that there be a weekly littler patrol, and introduced pictures of Newberg into evidence. Commissioner Lindsay stated that Ordinance 793 stated that the applicant may collect and dispose of garbage and provides for recycling. He stated that he felt that if we don't allow recycling we can't have the operation. Mr. Lashbrook stated that Ordinance 16/32/010 had not been addressed as the staff did not think it would be an issue. Mr. Reif stated that Johnson Controls kept pallets which they use and potters is in the business of recycling glass and have a huge pile in their yard.

Mr. Reif informed the Commission of why they wanted an outright permitted use. The applicant worries about expansion, D.E.Q. standards are always changing which causes changes in the operation, and although the applicant has no plans to sell it is harder to sell a conditional use. Mr. Reif went on to say that he had checked with a number of transfer stations in Forest Grove, McMinnville, Yamhill, Astoria, Seaside, and The Dalles, which are all outright permitted uses.

At this point, Mr. Ron Tatone took over for the applicant and explained the manner which they proposed to have pretreatment of any material going to the sanitary sewer treatment plant. They were opposed to a locked holding tank which the City held the key for as it could hold up operations.

Ezra Koch stated that Fred Kahut had distinguished himself in the sanitation industry. He uses current technology and has the cooperation of everybody. A recent study of the ground around the transfer station and the Yamhill River showed no contaminants in either. Eugene's is located right downtown and is open to the public.

Mr. Reif then read letters from Gerry Brown, 621 N. Baker Drive; Bill and Myra Weston, 343 N.W. Third Avenue; Potters Industries, Richard R. Brown, and Andy Ditommaso.

Jack Hammond, attorney for Gary Soles and Bob Westcott, stated they were very concerned about their investment next to a disposal station. Mr. Hammond stated that he and Mr. Westcott had gone to Canby Disposal's

present site and they saw a mountain of scrap metal that has grown through the years. Mr. Hammond stated there were mounds everywhere, and that he figured his present site to be a transfer station. Mr. Hammond spoke of a pending complaint with DEQ. Mr. Hammond said that Mr. Kahut did not have a license for a transfer facility. Mr. Hammond presented an aerial photo of the present site, which was left with the Commission as an exhibit. Mr. Hammond went on to say that part of the material at the present site had come from Marion County, that Mr. Kahut has no site obscuring fencing, that Mr. Kahut is in violation of City laws as well as DEQ laws. Bob Westcott presented five slides for the Commission and audience to see.

Mr. Hammond declared that a transfer station was not an outright permitted use within the zone. Mr. Hammond explained that LUBA will accede to a Commission's interpretation of their ordinance as long as they are reasonable. It may be that transfer stations are an outright permitted use, but in Clackamas County it is a conditional use and most cities in the county don't provide for a transfer station. Mr. Hammond stated that if the Commission considers it as a conditional use the Commission should deny the application. Stating that the applicant presently owns a 2.7 acre site, he asked, "why does he want two?" Mr. Hammond added that if the applicant moved the metal out of his yard, he would free up enough land at the present site.

Mr. Hammond stated that his neighbors would be happy if he cleaned up the present site and used the land he presently occupied. The proposed site is in a prime industrial park, and the Commission could not take it on faith just because the Commission has put requirements on paper. Mr. Hammond explained the water problem in Gladstone due to Rossman's landfill and cautioned the Commission to be very careful of Canby's water intake which is located not far away. Mr. Hammond said the applicants claim they must meet DEQ's requirements and regulations, but DEQ doesn't do much to enforce their rules and regulations.

Rene DuPont, 815, Juniper Street, asked if the applicant had considered odor on the property, which would go to the adjoining properties.

Jim Warren spoke to noise, odor, and property values.

Jonas Morris, 601 N. Baker Drive, stated that trucks use Baker Drive and the kids use go-carts. Mr. Morris fears some child is going to be hit. Mr. Morris also spoke to the trucks causing vibrations, which, in turn, is causing his property to slip down hill.

Bob Westcott, Chairman of Utility Board, noted the location of the water intake and said that what is in jeopardy is the winter water supply. The summer supply is alright. Mr. Westcott expressed the feeling that this could not be an outright permitted use and he should clean-up the space he has and reapply for a conditional use on that land.

Marv Dack, 715 S.W. 13th Avenue, asked the following questions:

- Is garbage only on concrete pad? He explained that he get his water from a spring about 100 feet from the present location.
- Is a garbage transfer station necessary?

Why on property adjacent to his?

Why does he build mountains of trash and builds a metal fence six feet tall?

why does he save cardboard?

Didn't DEQ within the last two months visit the site and push the burden on the City?

Marcella Lawrence, 617 N. Baker Drive , stated that Mr. Kahut was already stocking piling on Baker Drive, and moves a dumpster out on the street which could be hit by a truck or car.

Sean McVicker, 1481 N. Locust, worried about the quality of his drinking water. He noted that the applicant states there would be no toxics but everything goes into the garbage. Mr. McVicker stated that he had seen rats soo big that they could be called German Shepards on 84 and I-5. The citizens of Canby do not want that kind of animal to be near their drinking water. He further stated that the fish and wildlife could be hurt for years. He expressed a special concern about rat urine and excrement entering the City's water supply.

The Vice-Chairman stated that it was 11:00 p.m. and asked if their was anybody at this hearing that could not come back for the continued hearing. Dan Ewert and Patty Longstreet both stated they would be unable to return. The Planning Commissioners heard their testimony.

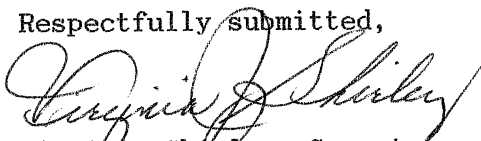
Dan Ewert, 596 N. Baker Drive, stated that his master bedroom will overlook the site and if the facility is good and truck traffic won't increase he wouldn't care; but, what Mr. Kahut has now is a shameful place and he doesn't feel there is any reason to insult the citizens of Canby by placing it in the open.

Patty Longstreet, Township Road, asked why Mr. Kahut doesn't fix the place which he already occupies. Mrs. Longstreet informed the Commission that she is also investing \$300,000 in the community by building a new restaurant and all of the garbage trucks will go right past her restaurant.

The Planning Commission continued this item until August 29, 1988, after 7:30 p.m.

This meeting has been recorded on tape.

Respectfully submitted,


Virginia Shirley, Secretary
Canby Planning Commission