

Canby Planning Commission Regular Meeting
August 22, 1988

NOTE: The following represents the minutes of the second agenda item only. The remainder of the minutes are still being completed.

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

OTHERS PRESENT: City Administrator Lashbrook; City Attorney Kelley; Secretary Shirley; Bruce Edenfield; Cheryl Celaya; Lorrie D. Smith.

ITEM # 2: Appeal of Staff Interpretation, denial of business license to operate a Daycare/Preschool/Kindergarten in a C-M (heavy commercial/manufacturing) zone. The subject property is located at 681 S.W. 2nd Avenue. The appellant is Lorrie D. Smith.

Mr. Lashbrook opened this portion of the meeting with a review of his staff report on the subject, dated August 18, 1988. Mr. Lashbrook noted that it was a matter of interpretation as to whether the proposed use was similar to other public uses which would be permitted outright in the zone. He added that he did not see how it could be construed as a conditional use, based on the two things listed as conditional in the zone. Therefore, he concluded, the use must either be permitted outright or disallowed under the present wording of the code.

Commissioner McKibbin noted that he owns adjacent property but did not feel that he had any conflicts in the case. The commission agreed and no one present raised any objection.

Lorrie Smith spoke briefly about her proposal. She said that she and her husband have owned the subject property for about 20 years and that they were former owners of the Diagraph Company that was located at the site until a few years ago. Mrs. Smith stated that they had tried to lease the building for more than three years but had received proposals only from businesses who they felt would not be compatible with the neighborhood.

Mrs. Smith read through a list of all of the existing businesses in the zone, noting that Modcom was the only industrial operation and that she felt there were no real "heavy commercial" uses. She pointed out that the most common type of use is fast-food restaurants along the highway.

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She added that they intend to serve 30 children, that the entire property is fenced, and they had considered traffic concerns in their parking lot arrangement. She introduced her daughter, Cheryl Celaya, as the person who would operate the business.

Bruce Edenfield spoke as the owner of the Learning Tree Daycare Center. He said that he was not opposed to competition but he questioned the need for another center when he has room at the Learning Tree to accommodate another 30 children. He noted the new Pacific Pride fuel sales lot and Modcom's growth plans as things that he felt would create conflicts for a daycare facility on S.W. 2nd Avenue. Mr. Edenfield expressed concerns about truck traffic in this area and said that he thought there were other more suitable sites available.

Commissioner Lindsay said that he did not feel that the word "public", as it is used in the Code, is intended to include schools.

Commissioner Seale noted that "business and professional offices" are permitted outright in the C-M zone and that he felt the proposed use would be more similar to an office than the types of "public" uses that might be allowed.

Commissioner Lindsay noted that a business college is a permitted use in C-1, C-2, and C-M zones and could be considered similar.

Commissioner Schrader said that he liked the idea of having another day care facility in town but said that he had questions about this location. He added that he didn't think parks and playgrounds belong in industrial areas.

Commissioner Lindsay said that he could understand why Mr. Lashbrook made the decision that he did but that the Commission has more discretion to make an interpretation. Mr. Lindsay asked the appellants if the facility was privately owned, if it would have a structured curriculum, and if it would have certified teachers. Ms. Celaya responded affirmatively to each question.

Commissioner Harmon expressed mixed feelings but that he wanted to support business development in the City.

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Commissioner Lindsay said that he felt the Commission had the discretion to treat this as a conditional use. He noted that schools are conditional uses in 9 zones and that pattern should be carried over to the C-M zone. Mr. Lindsay went on to say that barber shops and beauty parlors are permitted outright in any commercial zone and he felt that a daycare center could be established anywhere that a barber shop could be built. Commissioner Lindsay added that the Comprehensive Plan says, "You will be flexible in siting schools".

Commissioner Seale noted that any of the 34 items listed as permitted outright in the C-1 zone are also permitted outright in the C-M zone. He expressed his belief that a business college, club or lodge hall, a studio, a business or professional office, or a range of public uses listed as permitted in the C-1 zone could all be considered to be similar to the use proposed. He noted that a music, art, dancing, photography, or health studio could be very similar to a preschool operation and those things are specifically listed in the C-1 zone.

Commissioner Lindsay expressed his belief that the City should not distinguish between public and private schools.

Commissioner Nicholson said that he was concerned because the actual uses in the zone are more like those anticipated in the C-2 zone than what one would expect from reading the code for C-M areas.

Lashbrook noted that if the Commission decided to amend the ordinance to clarify that schools are to be conditional uses in the C-M zone, the process could take as long as six months, while the appellants would be left awaiting the outcome.

Commissioner Schrader moved to deny the appeal on the grounds that the proposed use is not similar to others listed in the zone, poses safety concerns, and should only be approved as a conditional use because schools are listed as conditional uses in the other zones where they are allowed. The motion was seconded by Commissioner Lindsay and passed 4-3 on a roll call vote, with Commissioners Seale, Harmon, and Kahut voting "nay".

Respectfully Submitted,

Stephan A. Lashbrook
City Administrator/Planner

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