

Canby Planning Commission
Regular Meeting
September 26, 1988

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

MEMBER ABSENT: Chairman Kahut

OTHER PRESENT: Public Works Director Rusty Klem, City Attorney John Kelley, Secretary Virginia Shirley, Sarah Seale, Pamela Napier, Bob Westcott, Jim Myron, and others

The minutes of the previous meetings were approved as corrected.

Item #2: Appeal of Torgeson Nonconforming Use Status filed by Thomas R. Watton. City Attorney John Kelley gave the staff report and recommended that Planning Commission deny the appeal as it had not been filed in a timely manner. Mr. Watton was not present to answer any questions. Commissioner Seale moved to deny the Thomas Watton appeal of a nonconforming use status given Mr. Torgeson by a letter from previous City Administrator Bud Atwood's administrative decision in 1986 as the appeal was not filed in a timely manner, and Mr. Watton not entitled to legal notice as he lives over 200 feet from the applicant's property. The motion was second by Commissioner Lindsay and passed unanimously with the Vice Chairman voting.

Item #3: Findings of Fact and approval of conditions for Canby Disposal Company. The Planning Commission reviewed the conditions of approval one by one and made the following changes: Condition #14: added the word putrescible; Condition #22: added the height of the fence to be 8 feet; and, Condition #25: added to the end "without additional fees."

Commissioner Lindsay did not take part in the discussion and abstained from voting due to a conflict of interest.

The conditions of approval and the findings of fact were accepted as changed.

Item #4: Request for a conditional use permit to enable the applicant to teach small classes of students dance. The property is located on the south side of N.W. Territorial Road between Birch and Holly and described as TAX Lot 808, Section 32AA, T3S, R1E. Commissioner Seale declared a conflict of interest and took a seat in the audience (Commissioner Seale is a next door neighbor to Mrs. Napier). The staff report was given by Rusty Klem who gave a recommendation of approval with five conditions. Pamela Napier presented the Commission with a petition signed by her neighbors stating they had no objections to her opening this small dance studio.

Vice Chairman Schrader opened the public hearing portion of the meeting and called for proponents. Sarah Seale, 715 N.W. Territorial Road stated that Canby had a need for a dance studio; stated that Mrs. Napier

was a highly consideration and a good teacher; and, that such a program would enhance the neighborhood. Bob Westcott stated that the request is for a small business and felt it was good; he further stated that he had started the same way 18 years before. There being no further proponents, the Vice-Chairman called for opponents. There being no opponents, the Vice Chairman closed the public hearing portion of the hearing.

Commissioner McKibbin moved to approve the conditional use for a dance studio as it meets the standards and criteria for issuing a conditional use. This approval is to be subject to the following conditions: 1) All parking will be on -site and limited to five vehicles for visitors to the studio; 2) The dance studio is limited to one instructor with no employees permitted; 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 street, streetlighting, sewer, curb, or sidewalk improvements in or to N.W. Territorial Road. The form of the waiver is to be approved by the City Attorney. Costs for recording the waiver to be borne by the applicant; and 5) This permit is nontransferable. It is being issued to this applicant at this location only. The motion was second by Commissioner Lindsay. Vice Chairman Schrader asked the Commissioner if they were going to make findings of fact. This proposal is consistent with the policies of the comprehensive plan. Due to the size of the parcel of land the applicant's home is located on is of ample size to provide the parking that is required; and, the proposed dance studio will not alter the characteristics of the neighborhood. During discussion it was brought up that possibly two further conditions should be added. One of those was to limit the size of the classes to no more than five (5) students and the other was to set hours of operation, which it was determined would be 9:00 a.m. to 8:00 p.m. The maker of the motion and second concurred with the addition of the two conditions and the question was called for. The motion passed unanimously with the Vice-Chairman voting.

Item #5: McKibbin appeal of the administrative determination that a petroleum solvent reclamation and storage facility is a permitted use in the M-1 (light industrial) zone. Commissioner McKibbin took a seat in the audience due to a conflict of interest. Commissioner Seale returned to his seat with the Commission. The City Attorney read the staff report made by Stephan Lashbrook. The City Attorney recommended that although this was not a public hearing item, the Commission should take public testimony. The applicant read a memorandum which explained his operation and made comparisons. Mr. Westcott also gave each Commissioner a leaflet showing his cleaning operation.

Jim McKibbin don't feel this should be an outright permitted use as there is hazardous waste and he uses a "still bottom."

Jim Myron spoke in opposition because of the close proximity of the Molalla River. Mr. Myron expressed the feeling that we should have more than Mr. Westcott's statement that it is not hazardous material. Mr. Myron stated that he had been down and talked to DEQ and they did not know the classification. Mr. Fred Kahut stated that he was disappointed

in this decision as all hazardous waste (over 220 pounds) must be removed to a hazardous waste material dump within 24 hours and Mr. Westcott will be allowed to keep his waste for 48 hours.

Mr. Westcott asked the Commission to find whether his operation was similar to other uses permitted outright in the zone. Mr. Westcott submitted a picture of his operation for the file. Mr. Westcott contends he does not handle hazardous materials and that there are no environmental concerns. The question was asked if the Fire Marshal was aware of this proposed operation. Mr. Westcott explained that you would need a permit from DEQ if he hauled hazardous waste. Mr. Westcott further explained that he used the vacuum principal - the hot oil is not under pressure. Mr. Westcott explained the process the dry cleaners used. This is the only operation of its type in the state of Oregon.

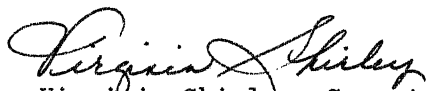
Commissioner Harmon stated that in his opinion this use should be a permitted outright use. Commissioner Nicholson also expressed that he also felt it was an outright permitted use. Commissioner Seale concurred with the opinion that it was an outright permitted use. Vice Chairman Schrader stated that the uses were not essentially the same, although it was clear the area was intended for small manufacturers. Dr. Schrader went on to say that he would like to see it before the Commission as a conditional use.

Commissioner Nicholson moved to deny the appeal and approve the Administrator's decision that a petroleum solvent reclamation and storage facility would be similar to other uses within the zone i.e., Fuel distribution, wholesale or retail, dry-cleaning plant and it states fabricating, processing, compounding assembling or packaging of products made from previously prepared materials. The motion was seconded by Commissioner Harmon and passed 3 ayes and 2 nays (Schrader and Lindsay).

The Commissioners requested that they be notified whenever an administrative decision was made.

This meeting has been recorded on tape.

Respectfully submitted,


Virginia Shirley, Secretary
Canby Planning Commission