

CANBY PLANNING COMMISSION
REGULAR MEETING
AUGUST 28, 1989

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

ABSENT: Commissioner Schrader.

OTHERS PRESENT: Public Works Director Rusty Klem, City Attorney John Kelley, City Recorder Marilyn Perkett, Bob Wood, Doug Poppen, Stan Eischen, Fred Thielen, Earl Bumgamen, Wayne Lindall, Fred Stefani, Al Maysfield, Rufus Kraxberger, Father. R. Cieslinski and Gloria Kraft.

Commissioner Meeuwsen amended the minutes of August 14, 1989, page one, "Question of Staff", third line: "if the cul-de-sac was of adequate," the word **radius** was added after adequate. The minutes were approved as amended for August 14, 1989.

ITEM #1: Continuation of expansion of a Condition Use Permit for the Elmhurst Nursing Home. This item was continued in the meeting.

ITEM #2: Request of Conditional Use Permit for Willamette Valley Country Club for the enlargement of lounge/restaurant area on property described as Tax Lot 190, Map No. 3-1E-28.

STAFF REPORT: This request was first heard in June 12, 1989, appealed to the City Council on August 2, 1989, and remanded back to the Commission based on Council finding that the Commission did not adequately consider all of the information pertinent to the case. Mr. Klem noted that the applicant only intends to build Phase I, an expansion of the lounge/restaurant area and reviewed the prior three conditions. Canby Utility Board and the Fire Marshal felt since only the lounge expansion was to be considered at this time and 8 inch main was not necessary but would be considered at a later date for further expansion. Staff recommended approval with the following conditions: 1) Country Club formally change their address to 2396 N.E. Maple Street; 2) N.E. Maple be curbed, sidewalks installed and street be improved from the existing pavement to the curb prior to the occupancy; 3) a preconstruction conference for service providers; and 4) any development beyond the lounge expansion require another Conditional Use Permit.

QUESTIONS OF STAFF: Chairman Kahut noted that he was a member of the Club, however, felt he could participate and vote on the issue. Mr. Kahut questioned the necessity of the sidewalks, noting their were few in the areas; and questioned if Exhibit "F"

a letter dated August 22, 1988, to the Club requesting an address change had been answered. Mr. Klem answered no, however, a couple of requests from citizens due to truck traffic in the residential area had been received, but the Club preferred not to change the address.

APPLICANT: Doug Poppen, Vice President of W.V.C.C., reviewed a document entered as Exhibit regarding the three previous conditions. Condition one: everything associated with the Club, letterhead, business cards, etc., has the current address, the long familiarity and the uniqueness of the address to country clubs nation wide. Condition two: case law Nollan v. California Coastal Comm'n was cited in response to objections of curbs, sidewalks and street improvements. Also, Municipal Code sections 16.50.010 and 16.50.040, were cited as inappropriate since the club is not expanding usage with a limited 500 membership. Mr. Poppen also cited the Comprehensive Plan, noting this was an unfair burden on the Club to develop the street. Finally, they wish to keep their park like entrance. Condition three: regarding other agencies, was not an issue at this time since the Fire Marshal had sent a letter stating at this time with only the lounge expansion, a large water main was not needed.

QUESTIONS OF APPLICANT: Attorney Kelley questioned if membership could change and if there are social memberships. The 500 limit is set by Club by-laws and currently they have 37 social members with a capacity for 57. Attorney Kelley reviewed the Nollan v. California case law, noting it has not been challenged in Oregon and therefore not law in this state, although there is some case law from a West Linn case that makes it necessary. Mr. Kelley cautioned that the Planning Commission must justify what they impose as conditions. Mr. Poppen noted that the intent was to separate the lounge/bar from the dining area, only on special occasion, a few times a year, are they to capacity in the dining area.

PROPONENTS: Stan Eischen, President of W.V.C.C., requested that a shared cost be considered for the street improvements and requested Municipal Code cites to be explained. Mr. Klem noted that an LID could be possible, however, it has been many years since the City used a three year serial levy to participate in street improvements. Attorney Kelley noted that Commission has to make the decision if Club use will be increased and bring in more members or if the expansion is only a convenience for members..

OPPONENTS: None.

DISCUSSION: Mr. Eischen noted that the by-laws limiting the Club membership to 500 has been effective for years, however, in recent years it has increased from 375 to 450 and now to the limit of 500. Commissioner Harmon felt the expansion

created an environment that would create more usage. Chairman Kahut questioned the requirement for street improvements with a \$20,000 permit, Mr. Kelley noted that laws change, specifically citing a West Linn case law and justifying conditions imposed on developers. Club members maintained that kitchen facilities would not allow for expanded service and usage would not increase. Chairman Kahut polled the Commissioners on their feeling on the issue: McKibbin - require curbs and street improvements and waiver on future development; Meeuwsen - the same as McKibbin; Harmon - potential of increase in volume and require curbs and street improvements; Lindsay - curbs and street improvements; Nicholson - same as other Commissioners and address change. It was suggested that they have change address by next phone book.

ACTION: **Commissioner McKibbin moved to approve the Conditional Use request of the Willamette Valley Country Club for a lounge / restaurant expansion with the following four conditions: 1) the address be changed within one (1) year to 2396 N. Maple Street; 2) N.E. Maple be curbed and street improvements from existing pavement to curb prior to occupancy and a waiver of remontrance to future development; 3) preconstruction conference with service providers; and 4) any future development to require application of Conditional Use Permit. Staff to draft findings based on the four points of criteria: 1) --because it is only an expansion; 2) --because expansion is 44 additional seats in existing facility on lot large enough; 3) --increased seating capacity and increased membership the last few years from 375 to 500 and the improved environment will increase usage; and 4) --it is existing and will not substantially alter the area or listed permitted uses. Motion seconded by Commissioner Harmon and approved 6-0, with the Chair voting.

ITEM #3: Request by Father Robert Cieslinski for St. Patrick's Catholic Church for a Minor Land Partition to create a single lot of 7,050 feet for a single family dwelling at 498 N.W. 9th Avenue.

Chairman Kahut and Commissioner Meeuwsen both noted they were members of the Catholic Church but could vote objectively.

STAFF REPORT: Mr. Klem noted that the request for the partition to make a lot 7,050 feet was for a single family dwelling for Sisters of the Parish; the zoning is low density residential; the project meets the six cited findings; is compatible with the Comprehensive Plan and ordinance; and staff recommended approval with five (5) conditions.

QUESTIONS OF STAFF: Commissioner Nicholson questioned the number living in the dwelling and the sidewalks. Mr. Klem noted that according to ordinance, five unrelated people could reside in the single family dwelling and sidewalks will be a requirement.

APPLICANT: Al Maysfield, 28386 S. Elisha Road, representing the parish, said that the two nuns are currently renting and the proposed dwelling is needed.

PROPONENTS: None.

OPPONENTS: None.

ACTION: **Commissioner McKibbin moved to approve the Minor Land Partition creating a single lot of 7,050 feet for St. Patrick's Church at 498 N.W. Ninth Avenue as it did meet the three (3) standards of approval; meets the six (6) findings of fact; is compatible with Comprehensive Plan and Ordinance; and subject to the staff conditions of: 1) sidewalks installed to City standards along N.W. 9th from the existing sidewalk and continuing around corner to the end of N. Douglas Street; 2) easements of twelve (12) feet provided adjacent to both streets and six (6) feet in width from both sides of interior property line; 3) all monumentation and recording fees paid by applicant; 4) all utilities installed according to provider; and 5) waiver of remonstrance for street improvements on N. Douglas and N.W. 9th approved by City Attorney and recording paid by applicant. Motion seconded by Commissioner Meeuwsen and approved unanimously.

Chairman Kahut called for a short recess at 9:20 p.m., reconvening the meeting at 9:29 p.m.

ITEM #4: Request of a subdivision plat of 7.13 acres to create thirty-one (31) lots at the northeast corner of N.W. Territorial and N. Locust Streets, applicant of West/Bell, Inc., Wilsonville.

STAFF REPORT: Mr. Klem noted that the proposed subdivision of 31 lots was for all single family dwellings; the application met the three (3) criteria for approval; all public facilities are available; it is compatible with the Comprehensive Plan and ordinance; and recommended approval subject to fourteen (14) conditions. Mr. Klem did note that the street names may be changed from the submitted plat.

QUESTIONS OF STAFF: Commissioner Meeuwsen questioned the requirement for driveways on the lots close to Territorial, commenting she thought the requirement was 50 feet and the lots are only 48 feet.

APPLICANT: Bob Wood, Riverside Engineering Consultants, Salem, Oregon, said that there seemed to be no problem with most of the fourteen conditions, he did note that some of the trees to be saved were right up against existing pavement. Also, the developer chose to go only with single family dwellings and not duplexes.

QUESTIONS OF APPLICANT: Commissioner Nicholson questioned if the applicant had considered "solar access" and the two exits in the short distance onto Territorial. Commissioner McKibbin felt that without an ordinance in place, the commission could not enforce solar access. Commissioner Harmon requested that a "hand out" packet be supplied to developers when they make application. Mr. Klem suggested a pre-application conference which would delay the project about 2 to 3 weeks, however, Mr. Wood said the delay would preclude construction this year.

PROPONENTS: None.

OPPONENTS: None.

DISCUSSION: Mr. Klem said the commission could consider one street entering onto Territorial and one onto Locust. The commission also suggested looking into some type of ordinance to preserve open space or set aside money for parks for area subdivisions. The commission suggested amending the following conditions: number 10 - add "subject to the City Forester's recommendation"; and number 9 - add "and any other signs."

ACTION: **Councilman Harmon moved to approve the application of West/Bell, Inc, for a thirty-one (31) lot subdivision on 7.13 acres at the northeast corner of N.W. Territorial and N. Locust; the standards and criteria for approval have been met; the six (6) findings of fact have been met; it is compatible with the Comprehensive Plan and ordinance; and adopt the following fourteen (14) conditions of approval: 1) Ten (10) feet of property along Territorial Road to be dedicated to the City for right-of-way purposes; 2) Ten (10) feet of property along N. Locust Street to be dedicated to the City for right-of-way purposes; 3) Sidewalks to be constructed along all street frontage according to City specifications; 4) Curbs are to be constructed along all street frontages according to City specifications; 5) The existing pavement on both N. Locust and Territorial to be saw cut and the area between the existing pavement and new curb is to be paved to City standards; 6) All utilities to be constructed to the specifications of the provider including: (a) water lines to be constructed to the standards established by the Canby Utility Board, hydrants to meet the requirements of C.U.B. and the Fire Marshal, (b) Electric service and street lights to meet the requirements of Canby Utility Board, and (c) Street, curb, sidewalk, storm drainage, and sanitary sewer construction to meet the requirements of the Public Works Director; 7) The input from Canby Fire District No. 62 will be regarded as conditions of approval; 8) Access to all lots located on Territorial Road are limited as to preclude driveways along Territorial. Driveway access is only available from the adjacent streets; 9) Street name, stop signs and **any other signs** are to be provided at the developer's expense; 10) The trees are

street trees and must be saved **subject to the City Forester's recommendation**; 11) Utility easements must be provided and shall be twelve (12) feet along all streets and the exterior lines of the subdivision. Easements along all interior lot lines are to be six (6) feet wide off of each lot for a total of twelve (12) feet; 13) The City will be notified prior to start-up; and 14) When completed, "as built" drawings must be submitted to the City within sixty (60) days. Motion seconded by Commissioner Lindsay and approved 5-1, with Commissioner Nicholson voting against the motion.

Chairman Kahut inquired as to item number one, the Elmhurst Conditional Use Permit. Mr. Klem informed the commission that Mr. Stevens of Elmhurst had a death in his family. Chairman Kahut continued this item until the September 11 th meeting.

Chairman Kahut requested that Attorney Kelley prepare a legal opinion for the commission regarding the recent West Linn case law regarding imposing street improvements, curbs and sidewalks.

Chairman Kahut adjourned the meeting at 10:45 p.m.

This meeting has been tape recorded.

Marilyn K. Perkett, City Recorder

Fred Kahut, Chairman