

CANBY PLANNING COMMISSION
SPECIAL MEETING
JUNE 18, 1990
7:30 p.m.

APPROVED

I. ROLL CALL

Present: Chairman Schrader, Commissioners Lindsay, Bear, Mihata, Zieg, Nicholson and Wiegand.

Others Present: Rusty Klem, Director of Public Works; John Kelley, City Attorney; Dan Larson, Ed Sullivan, Al Sizer, Don Nielson, Butch Olsen, Earl Oliver, Dave Nelson, Michael DeShane, G.E. Dobbs and Marv Dack.

II. MINUTES

The May 14, 1990, May 31, 1990 and June 11, 1990 minutes were approved unanimously and changes noted in the May 14 and June 11, 1990 minutes.

III. COMMUNICATIONS

With reference to an appeal submitted May 31, 1990, which the City will not consider, **Sandra Torgeson, 26940 S. Boland Road, Canby**, requested something in writing to that effect so as to carry the appeal forward to the City Council. Mr. Klem explained the City had returned her check by certified mail to her Molalla address.

Ms. Torgeson stated, for the record, that on May 14, 1990 her questions regarding the application materials were not responded to, but that Mr. Sullivan's questions were answered.

IV. UNFINISHED BUSINESS

None.

V. BUSINESS FROM THE AUDIENCE

None.

VI. PUBLIC HEARING

Chairman Schrader explained the public hearing rules and guidelines and procedures relative to the applicable criteria. He called for ex-parte contact or conflict of interest.

Commissioners Mihata, Bear, Nicholson and Zieg stated they had each visited the site.

SUB 90-01, reconsideration of a request by Cedar Creek Development (applicant) for approval to subdivide a 14.27 acre parcel that is zoned R-1.5, Medium Density Residential, with a Planned Unit Development Overlay. Approval of a PUD with individual lot sales requires consideration as a subdivision. (Tax Lots 700, 900, 1000 and 1001 on Tax Map 4-1E-4C. Also, Tax Lot 1000 on Tax Map 4-1E-4B.)

Commissioner Wiegand and Chairman Schrader explained they had reviewed the tapes from the May 31, 1990 meeting.

Chairman Schrader stated that because the proposal has changed considerably since May and June 1989, it would be fair to review the entire project. The staff report was presented May 31, 1990, the opponents testified and Mr. Sullivan was presenting rebuttal. As new information had been submitted by the opponents, the hearing was continued for further rebuttal.

Additional Input from Opponents

Ms. Torgeson reviewed what she believes the application still lacks. Without a survey, it appears some of the designated open space is on the Torgeson property. The existing condition map must be verified by the City Engineer, she added. Ms. Torgeson questioned the absence of the proposed utility easements on the map. Given the layout of the lots along the slopes, she questioned whether the easements can be furnished. It is of great importance to have an erosion control plan for the steep slope. Ms. Torgeson challenged the availability of sewer for the proposed development without the resolution of the collection system, which has not been addressed by the rebuttal materials. She submitted Exhibit 3-6-18, a letter from Rusty Klem, referencing the sewer collection system in the area of S. Ivy between S. Second and S. Sixth Streets. There is no way to verify lot coverage limitation without knowing the horizontal and vertical dimensions of buildings and structures. There is no information about the dimensions of open space, nor is there information regarding access to the open space, which would help in determining the safety factor. The dimensions of off-street parking is necessary to determine if the plan meets the specifications required, which she believes does not. She noted the absence of proposed grading, landscaping and drainage. She reminded the Commission they were to determine if apartments were allowed outright in a PUD. Additionally, Ms. Torgeson stated she objects to approval of the application as submitted, because it exceeds the density requirements. As she understood it, the density was to remain the same as the underlying zone. She submitted Exhibit 1-6-18 and drew a diagram showing that when taking the entire area, deducting the square footage for roads and dividing by the average lot size, there would be 103 units under the allowed density. Since 25 were already built for ALF, it would leave 78 units, or 53% of what is proposed. If the application is approved, a fence on the southern border should be required.

Ms. Torgeson stated that there is not sufficient evidence for the Commission to approve this application on a conceptual basis as the City has no standards and criteria to do that. Her challenges to the noncompliance with the last conditional use and zone violations have not been resolved. If staff administratively reviews the site plan, under City Code criteria and standards, written notice of staff's evaluation must be sent to all interested parties to determine if an appeal is necessary to protect their interests.

Ms. Torgeson questioned whether the City or the school district would build the other half of the bypass road on 13th and what kind of traffic problems might result from the half street improvement. She reminded the Commission that she had previously requested an extension of Christine Street to her property, over an already existing easement. No action has been taken on that request. She also requested information regarding the soil stability on the bluff and whether storm drains will cause future soil instability. Further, she questioned the merit of a density bonus and the legality of the CC&Rs due to a clause which states the CC&Rs can be dissolved upon consent of the residents. Ms. Torgeson submitted, as part of Exhibit 2-6-18, a list of the Comprehensive Plan elements which have not been met and/or addressed.

John Torgeson discussed elimination of the storm drains on the new site plan and the addition of collection points for the water. He opposes the disbursement of water over the bank because of the erosion it would eventually cause. He questioned the parking area in what he determined to be ALF's property on the northeast section of the site plan. Mr. Torgeson said that Mr. Sullivan's brief states no engineer's report is required, but added that the 1989 zone change required an engineering report on the property. Until one is submitted, this application remains incomplete.

Rebuttal

Ed Sullivan, attorney for Cedar Creek, explained the subdivision plat two stage process and said the applicant has submitted a subdivision plat that meets nearly all the requirements. If the entire problem revolves around the issue of whether or not the application meets City standards, Mr. Sullivan stated that conditions can be imposed to assure it does.

A slight change in density is sought which is endorsed and encouraged by the Comprehensive Plan; and a change in frontage is sought. Regarding the alleged conflict between 16.18.010 and 16.74.020, Mr. Sullivan stated that the Commission determines zone changes on a case-by-case basis. Changes to dimensional standards and a request to increase density is permitted as a trade-off for open space and other amenities are permitted in a PUD application.

He submitted a proposed version of the CC&Rs, which meet the Fair Housing Act Amendments of 1988, which allow for restriction only to the elderly, and suggested the City attorney review it and the Planning Commission make it a condition of approval.

As this is not a final plat approval, Mr. Sullivan stated that many of the issues discussed by Mr. and Mrs. Torgeson would be shown on the final plat submitted for approval. At the present time, the radius curve increase was the reason the plan was reconfigured and brought back before the Commission.

Unless Canby is prepared to declare a moratorium on building, it must provide sewer service under its Comprehensive Plan. If the City imposes a condition of approval regarding an L.I.D. to upgrade the laterals, the applicant would bear only their own reasonable share of the costs.

Regarding compliance with previous conditions, as part of the conditions of approval of the 1989 zone change and permits for ALF, Cedar Creek and ALF are required to dedicate the land that involves the extension of 13th and are obliged to participate in the construction through the waiver of remonstrance and LID, if required. As other properties are also affected by this improvement and all of the need for this street is not generated by the uses which abut it, and there will probably be some City participation in the construction of 13th, this condition has not been met yet.

Mr. Sullivan suggested the Commission give him direction with regard to complying with design review requirements.

Lidwien Rahmon, Planner, David Evans & Assoc., 2828 SW Corbett, Portland 97201 concurred with the calculations Ms. Torgeson submitted in terms of the amount of buildable area. She pointed out that they relied on staff determination of 171 permissible units on this PUD site for their site design, which was based on 16.18.030(A), the minimum lot area for the R-1.5 zone. Under 16.76.010(B), the Commission is allowed to grant a bonus of up to 15% and under the elderly housing provisions of 16.82.040(A), a bonus of up to 50% of the underlying density may be granted. Based on the calculations of 103 units permitted outright, times 1.65 (the cumulative bonuses the Commission is allowed to grant), 171 units are permissible. They are proposing a reduction of 98 parking spaces, or 36% of the requirement, which is allowed under 16.82.040, for elderly housing projects of up to 60%. Regarding lot coverage and dimensions, Ms. Rahmon reminded the Commission that on the site plan and tentative subdivision plat, there is much information that is not relative to this phase of the process. Right now, just the lots, blocks, streets and utilities should be under review.

Mr. Sullivan suggested the Commission keep the written record open for seven days after holding deliberation, so as to have all the evidence at its disposal. He further reminded the Commission that the issue before them is the feasibility of this application for a PUD and subdivision, not for detailed plans and design. Additionally, he asked for direction as to meeting the requirements.

With no further testimony, the public portion of the hearing was closed for Commission deliberation.

Issues discussed:

1. At Mr. Sullivan's request, the record will be kept open for a minimum of seven days to receive additional written evidence. The Commission agreed the applicant would submit additional evidence by July 11th at 5:00 p.m., and the Torgesons would submit theirs by July 18th at 5:00 p.m.
2. The Commission discussed reviewing the site plan itself.
3. The Commission discussed the issue of multiple dwellings and the fact that they are not automatic, but could be applied as a density bonus. Mr. Klem explained that although density bonuses are allowed in PUDs, the Planning Commission has the discretion to deny this bonus. Because 16.74.020 reads may be modified for a density bonus, the Commission has the discretion to allow or deny it. A lengthy discussion was held regarding the percentage of PUD bonus that should be granted. The majority appeared to agree on a 15% PUD density bonus and 25% elderly density bonus.
4. Regarding an alleged zoning violation on a condition of the ALF minor partition, Mr. Kelley explained that Mr. Klem and Mr. Skinner were gathering facts to determine their opinion regarding the validity of the argument. Mr. Kelley added that the Commission did not have to halt proceedings because the City has enforcement options.
5. The Commission discussed the issue of apartment units versus multiple dwellings.
6. The sewer infrastructure system was discussed. The Commission agreed to try to schedule the workshop for August 13th to discuss ways to divert flows. It was agreed the Ivy & 2nd and Juniper and 13th lines would be discussed then.
7. The Commission gave direction to the applicant, regarding what it wants to see included on the final plat and what information it would like addressed on the engineering report and geotechnical report. Additionally, the Commission planned to review previous approval conditions. Furthermore, the Commission advised the applicant they would not like to see
 - a. pollution in the lower area (no pond retention);
 - b. whatever runoff measures are developed contribute to surface erosion or slope instability;
 - c. drywells close to the bank
8. The Commission discussed the planned open space, whether any engineering structures would cause erosion, and the safety aspect with respect to use by senior citizens.

9. The applicant, in response to a question from the Commission, responded that they would be amenable to developing the open space in Phase II. The Commission wanted the lower area developed under the LCDC low density recreation area definition, but no major excavating was to take place. Engineering input regarding the feasibility is essential.
10. The Commission discussed the Hazard Overlay Zone. Mr. Klem explained that it does apply to part of this property, as the bluff is the only area of the City that has a steep slope hazard. This being the case, the applicant would have to comply with the requirements of 16.40.040, Fish and Wildlife Protection in a Hazard Overlay Zone, and with the Comprehensive Plan, Planned Use Element, Finding 4, Policy 4. Mr. Kelley suggested the Commission make a determination as to what portions of the property are within the Hazard Overlay Zone, then analyze the potential impacts of the development upon fish, wildlife and open space resources of the community and, if any, whether they are significant.
11. The Commission discussed meeting 16.82.040(E), which requires special emergency access, drives, fire hydrants and other improvements which are intended to assure the safety of residents. Two trails to the recreation area to accommodate emergency services would also be necessary.
12. A question was directed to the applicant regarding Tax Lot 891. Ms. Rahmon responded that after the partition to ALF and area dedicated for 13th, the area described as Lot 891 is the 5,227 square feet remaining. A lengthy discussion was then held regarding what the Commission believed is a fair density bonus.
13. After discussing previous conditions of approval, the Commission agreed to review conditions previously proposed, to see which still apply and which should be superseded by tentative plat changes.

It was agreed this application would be continued to July 23, 1990.

VII. ADJOURNMENT

With no further business before the Commission, the meeting was adjourned at 11:40 p.m.

Respectfully submitted,



Joyce A. Faltus
Secretary