

CANBY PLANNING COMMISSION MINUTES

Regular Meeting - August 27, 1990

7:30 p.m.

APPROVED

I. ROLL CALL

Present: Chairman Schrader, Commissioners Mihata, Zieg, Wiegand, Fenske, Bear and Westcott.

Others Present: Hank Skinner, City Planner; Joyce Faltus, Planning Secretary; Robert F. Losch, Carole Risley, Joan Hawley, Carl Berg, Dan Larson, Miriam Larson, John M. Larson, Betsy Ross, Pat Larson, E. Hubbell, Ron Berg, Evie Berg, Carolyn Adkins, JoAnn Hamilton, Rich Greer, Earl Oliver, George Wilhelm, Doug and Lori Sprague, Ken and Joan Perimchief, Kitty Losch, Carole Jean Berggren, Mr. and Mrs. Richard Hawley, Fred and Bettie Postlewait, Jim Huiras, Lloyd Walch, John Vaudt, Hans Jacobsen, Mildred G. Jacobsen.

II. MINUTES

The **August 13, 1990 minutes** were approved unanimously. The Commission requested a copy of the sewer plan Mr. Klem referred to during his presentation.

III. COMMUNICATIONS

Due to a full agenda, Chairman Schrader explained the election of a vice-chairperson would take place at the September 10, 1990 regular meeting.

Hank Skinner explained that MLP 90-08, a request by Freda Milbradt, scheduled for this meeting, was postponed to September 10, 1990

IV. UNFINISHED BUSINESS

None

V. **BUSINESS FROM THE AUDIENCE**

None

VI. **PUBLIC HEARINGS**

CUP 90-04, a request by **Canby Care Center** (Daniel J. Larson) for approval to construct a 60-bed long-term care facility and a 50-unit assisted living facility on a ten acre parcel located in the southeast corner of N. Redwood and Territorial Road (Tax Lots 700 and 900 of Tax Map 3-1E-37C).

Chairman Schrader asked for any ex-parte communication or conflict of interest. None was indicated, other than a visit to the site.

Hank Skinner explained that this application is the first phase of a senior residential care complex. The second phase, a congregate senior care facility, is merely conceptual and will not be considered at this hearing. At the present time, the applicant is operating the Canby Care Center at 390 N.W. 2nd, in a C-1, Downtown Commercial district, where long-term care centers are identified as not permitted uses. The proposal would have the affect of relocating the existing facility out to an area outside of the downtown area, on to land more appropriately zoned for this use. Subject to conditions that would mitigate any negative impacts on adjacent properties, staff finds this is a more appropriate location for the facility.

Most of the property is zoned R-1, but approximately 3 acres in the northern corner is zoned R-2, Medium Density Residential. Mr. Skinner reviewed the applicable criteria. The property was annexed to the City of Canby on August 24, 1989.

With regard to concerns expressed, Mr. Skinner explained that Joel Shaich, Wetlands Enforcement Officer for the Oregon Division of State Lands, investigated the property. He did so, investigating the existence of wetlands and the possibility of violations of the State and Federal regulations related to the placement of fill within a wetland. Mr. Shaich concluded that there were no areas that clearly met the definition of wetlands and that the areas proposed for development were outside even those areas that might be considered marginal. The applicant, in an effort to try to mitigate any potential violations that may have occurred as a result of the fill or any negative impact to the wetland, has proposed to excavate a pond area, thereby increasing the wetlands. In Mr. Shaich's opinion, the applicant's proposed pond would function as a mitigating wetland for any area that may have been marginal and disturbed. Additionally, the applicant has noted that any area identified within the 100-year flood plain would remain open and free from development. Staff

concludes that the applicant's proposal can be made to comply with the intent of the Comprehensive Plan and other City ordinances.

Under Policy Number 2 of the Economic Element, by the relocation of this facility, approximately 13,000 square feet of floor area would be opened up, that could easily be remodeled into uses that are permitted within the C-1 district. The proposal meets Policy Number 3 under the Economic Element, in that the applicant has indicated that the project, when completed, could lead to an increase in local employment opportunities.

Because both Redwood and Territorial will be impacted by a considerable amount of urbanization, staff recommends that additional land and right-of-way be dedicated along Redwood and Territorial and that improvements be made to both, in a timely manner. A twelve inch sewer main has already been established down Redwood and the Canby Utility Board is discussing the issue of extending a twelve inch water main down Redwood. Although Redwood is a County street at this time, the City has determined it will be widened and improved within time. The applicant will be required to rebuild the existing paved portion of Redwood from the subgrade up, and to dedicate and improve, to City standards, a full half street improvement along the western frontage of the subject property (along the east side). Redwood is identified as a collector and Territorial is identified as an arterial and each would have to be built to meet the requirements of their respective designations.

Mr. Skinner stated that statistics clearly indicate that a nursing home will generate less than half of the traffic generated by a single family subdivision. Both Redwood and Territorial will be impacted by urbanization in the next two years and, he added, the area is able to handle the additional growth, pointing out that a 12 inch sewer main has already been established in the area and that a 12 inch water main is proposed to be added soon.

All service providers agree that main line water and sewer services must run to the site. The applicant must extend a 12 inch water main down N. Redwood to the southernmost property line and loop an 8 inch line through the property. Additionally, the 12 inch sewer main along Territorial must be extended. Staff suggests the applicant attend a preconstruction meeting with the City, CUB and the fire department prior to construction approval. CUB will be also be considering an upgrade from a 6 inch water main line at N. Maple to Territorial.

After all phases are complete, less than 21% of the entire property will have been developed. In terms of suitability of the site and scale of the development, staff believes the proposal is well within the maximum buildability of the site. The general shape of the property will lend itself

very well to both development and preservation of open space. The property is relatively flat property, with approximately ten feet of elevation difference across the entire acreage. There is access to two public streets with frontage along both and an additional easement results in road frontage along three sides of the property. With respect to concerns voiced by adjacent property owners regarding the visual impact this facility may have and the applicant has assured staff that, if necessary, additional landscaping in appropriate areas would be established to reduce or minimize any negative impacts.

Staff recommends approval of CUP 90-04, subject to conditions outlined in the August 17, 1990 staff report.

Mr. Skinner explained that after this application is approved, the applicant plans to return with an application for a Lot Line Adjustment between Tax Lots 700 and 900.

With respect to density issues relating to this particular application, Mr. Skinner explained that staff's position is that if these are facilities licensed by the State and approved by Certificate of Need, they qualify as health institutions and are therefore exempt from density-related issues. The senior congregate care facility is not a licensed facility. Rather, it is a senior apartment-type development, and would be subject to density-related issues. Mr. Skinner added that medical-type institutions are a conditional use in any residential zone. He added that there are approximately three acres zoned R-2, with a 16-unit density, and 7 acres zoned for single family.

Chairman Schrader requested a copy of any State-issued guidelines regarding assisted living facilities and a City-definition for what constituted elderly individuals and a copy of the blueprints for each Commissioner for the next scheduled hearing.

Mr. Skinner submitted letters from proponents, as follows:

1. From Helen Potampa (Exhibit D)
2. From Richard C. Davies, D.O., Davies Clinic, Canby, OR. (Exhibit E)
3. From Dr. Lynn A. Kadwell, Medical Director, Canby Care Center (Exhibit F)

He submitted letters from opponents, as follows:

1. From Scott and Susy Gustafson, 1860 N. Redwood (Exhibit G)
2. From Carole A. Risley, 1751 N. Redwood (Exhibit H)

Applicant

Dan Larson, 390 NW 2nd, explained that the Canby Care Center is currently located in a 10,000 square foot building on the corner of 2nd Avenue and Fir Street. The center, which operates a 48-bed nursing home facility, has operated as a non-conforming use under a grandfather clause in a commercial zone since it started in 1961. Under the proposal, the new 49,000 square foot care center will include a 60-bed restorative nursing center and a 50-unit two-story assisted living complex. Because the property in question is zoned partly low-density residential and partly medium-density residential, they must obtain a conditional use permit before they can proceed. Mr. Larson explained that the proposal meets all the criteria of the City's Comprehensive Plan. He further stated that the center would be providing homes for people and the planned residential facility includes many pathways and much open space. The new facility, "A Place in the Country" would blend in with the rural atmosphere, he added. The facility in the city has never had amenities like those planned for the new facility. Additionally, the facility would hire 80 employees and bring in nearly \$1 million to Canby, helping to maintain a stable economy for the community. Mr. Larson said he is aware that if the application is approved, he would be required to upgrade an existing paved section of N. Redwood and to dedicate and improve a full half street along the western portion of the proposed development.

Mr. Larson stated that he agrees with the staff report and addressed the applicable criteria. He explained that the building is located so as to be as far from the flood prone areas as possible.

Mr. Larson explained that according to the Master Site Plan, a pond is shown which would encroach outside of the existing tax lots, if the lot line adjustment were approved. Therefore, the pond would most likely be smaller than shown. He stated that he recognizes the concerns of the adjacent neighbors and has tried to address as many issues as possible.

Mr. Larson also requested a one year extension on the conditional use because of the difficulty in financing and time constraints in putting the whole project together.

Proponents

Robert F. Losch, 22018 S. Central Point Road, architect for the proposal, displayed a site plan to facilitate understanding the proposal. The site plan delineates Phase I, the 60-unit long term care facility and the 50-unit assisted living facility. It further delineates the amount of blacktop which would be needed to access and service the facility. The green area left on the site is also shown. Mr. Losch explained that the 100 year flood plain is

at an 84 level of elevation. The pond will be used primarily for aesthetic effects. The wetlands in question are east of this site, he added.

The building profile has been developed so all services are on-site and off the street. The dedicated 15' easement would be increased to a 24' paved lane, which would become a 2 lane road on site. The building is built to the same standards as a hospital. It is a self-supporting facility. As presently designed, it would probably cost between \$3.5 to \$4 million in construction costs, adding a huge investment to this community.

Miriam Larson, 390 N.W. 2nd, stated that the Canby Care Center is looking for a more home-like atmosphere. The present facilities cannot be expanded to meet the present needs of the Center and the growing needs of the community.

Betsy Ross, 751 N.W. 5th, stated that the Canby Care Center has an excellent reputation and that Canby needs this facility. There are not enough health care facilities for seniors in this community, she added, and asked the Commission to approve the application.

John Larson, 2635 E. Territorial, Administrator of the Canby Care Center, stated they are qualified to operate as a skilled nursing facility and that the facility is built to hospital standards. Additionally, the center is a long-care facility which is like a home to the residents, some of whom are there 20 years. The philosophy of care is consistent with the site in question and because the new facility will enable them to offer state-of-the-art care in a home-like atmosphere.

Opponents

Carole Jean Berggren, 1868 N. Redwood, submitted Exhibit I, a copy of her testimony. She stated that she believes the project is in conflict with the Comprehensive Plan, in that it must be dramatically revised and reduced in density. The density, she stated, exceeds the intent to be compatible with the character expected in a rural residential area, especially with property to the north used agriculturally and recreationally. Ms. Berggren further stated she finds it very disconcerting that the Commission is only reviewing Phase I. Additional concerns Ms. Berggren addressed were: Sufficient water and sewer access; emergency response time from the County; flooding effect to adjacent properties; noise from the HVAC system; wetlands and drainage on the proposed site; street improvements; the unique beauty of the site as a major rural resource; the pollution factors; Territorial Road's historic inventory as the first highway for pioneer travelers through Baker Prairie; the century-old Douglas Fir trees; height of buildings; traffic generation and road infrastructure; public facilities and services; and the need for another nursing home without a market analysis

to support the viability, especially in the proposed location. Further, Ms. Berggren stated that if the application is approved, it should be pursued on a significantly smaller scale to preserve the natural area and minimize incompatibility to a rural residential neighborhood. She requested the Commission deny this application.

When the property owner, Earl Oliver, annexed the piece into the City, he said it would be used for residential development, Ms. Berggren said. She stated she opposes the R-2 zoning as it is inappropriate, especially with roads unable to support the traffic.

Ms. Berggren further requested a statement of the date, process and extent of the public process for the last update of the 1984 plan. Although not a problem in the past, she believes there should be active or organized neighborhood associations or citizen participation organizations to formally comment on changes that would affect the proposed use of land. In closing, she asked if Canby really wants to lose its small town rural atmosphere for high intensity development.

Chairman Schrader announced that the remainder of the public hearing would be continued to a special meeting on September 6, 1990.

Ms. Berggren requested that a sign-in sheet, for those in opposition to CUP 90-04 and unable to testify due to time constraints, be passed. Those who signed it were: Carl Berg, 1868 N. Redwood; Carole Risley, 1751 N. Redwood; Mr. and Mrs. R. Hauley, 2023 N. Redwood; Fred and Bettie Postlewait, 1629 N. Redwood; Jim Huiras, 1177 N. Redwood; Lloyd Walch, 1794 N. Redwood; John Vaudt, 1773 N. Redwood; and Hans and Mildred Jacobsen, 1850 N. Redwood.

VAR 90-03, a request by **Hoffman Video Store** for approval to construct an awning and sign which overhangs the State Highway 99E right-of-way. The subject property is located at the southeast corner of South Juniper and Highway 99E, and is identified as Tax Lot 901 of Tax Map 3-1E-33DC.

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Hank Skinner presented the staff report. He explained that no overhang is permitted into the Highway 99E right-of-way and that the applicant is requesting approval to vary Section 16.28.030(C)(1) of the Canby Municipal Code to permit a three foot overhang. The building was constructed on the property in the 1940s. As Highway 99E has been widened over the years, the subject building has been left without a setback from the right-

of-way line. Unusual circumstances of the highway widening have caused this need for the variance request. The three foot overhang is as small an awning as any that exist nearby and the applicant is minimizing encroachment into the 99E right-of-way. The request, as presented, will not encroach upon any of the area used for auto circulation. Bob Baker, the District Maintenance Supervisor for Highway 99E, had no objection to the request and saw no material detriment to the integrity or safety of the highway.

The Uniform Building Code has different standards for exterior lighting and for signage. Staff has chosen to only measure a portion of the awning, as proposed, for sign area (the portion that includes lettering).

Staff finds the applicant has requested the minimum variance necessary to alleviate the hardship created by the unusual zero foot setback from Highway 99E and recommends approval of VAR 90-03, subject to three conditions:

1. All existing exterior signs shall be removed prior to construction of the awning.
2. The lighting underneath the new awning shall not exceed the maximum exterior lighting power budget, as established by the Uniform Building Code.
3. The applicant shall obtain all necessary permits, as required by the Building Official.

Applicant

Gerald T. Hoffman, 203 S.E. First, stated that his main intent is to improve the appearance of the building, which was first built in 1908, and is an overgrown pole building with a metal roof. He explained that the awning is translucent vinyl, with interchangeable letters which, when added or removed by special heat treatment. He stated he would comply with all lighting requirements. Mr. Hoffman explained that he believed such lighting, under the awning, would reduce his vulnerability to crime activity. The purpose of the awning on 99E is to give continuity to the Juniper side which is the parking area for the store. The awning on Juniper would give some protection to consumers from the rain and enhance customer flow.

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

Issues discussed:

1. The Commission discussed whether or not to condition keeping the awning in good condition so as not to disturb the aesthetic quality of the area. The applicant assured that the awning is under a lease situation and he is required by the leasing firm to maintain it.
2. The Commission agreed these were exceptional and extraordinary circumstances due to the encroachment of Highway 99E on the physical structure.
3. The Commission discussed whether this was an awning or a sign.
4. The Commission discussed existing awnings in downtown Canby.
5. The Commission discussed the standards for external lighting under UBC Chapter 5310.
6. The Commission discussed allowing the awning on the Highway 99E side of the building without permitting lettering on it, while allowing the existing sign to remain on the north side of the building.
7. The Commission agreed the awning does not give the applicant unfair advantage with regard to signage and that it is more a cosmetic improvement to the old building.
8. The Commission agreed signing should not exceed that allowed by ordinance.
9. The Commission agreed the applicant could meet the applicable criteria with the application of certain conditions.

Commissioner Bear moved for approval of VAR 90-03 based on the Findings and Conclusions contained in the August 17, 1990 staff report, the applicant's testimony and the Commission deliberations, subject to the following conditions:

1. **The 36 foot (3'x12') menu signage on Juniper shall be allowed to remain in its present location.**
2. **The portion of awning on Highway 99E shall contain no lettering [signing shall not exceed that allowed by ordinance].**
3. **Other than the awning lettering and allowed signs, no window lighting shall be allowed, other than during holidays.**

4. **The lighting underneath the new awning shall not exceed the maximum exterior lighting power budget, as established by the Uniform Building Code.**
5. **The applicant shall obtain all necessary permits, as required by the Building Official.**

Commissioner Zieg seconded the motion and it carried unanimously.

MLP 90-09, a request by **JoAnn C. Hamilton** for approval to divide a 25,000 square foot lot into two lots containing 12,500 square feet each. The property is located south of N.E. 16th Avenue and east of Maple Street (Tax Lot 2802 of Tax Map 3-1E-28DD).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Hank Skinner presented the staff report. He explained that the applicant wishes to divide a 25,000 square foot parcel into two lots containing 12,000 square feet each. This parcel was recently created through the approval of a major partition (MLP 90-06) for Helen Leach. Mr. Skinner explained how the application meets the applicable criteria. A requirement of the original land partition was that 30 feet of right-of-way be dedicated and approved prior to development along the Oak Street frontage. That condition will continue to apply. Staff finds that the overall design of the proposed partition will be compatible with the area and will provide adequate building area and area for the provision of public facilities and services. Staff also concludes that all necessary public services will become available through the development of the property, to adequately meet the needs of the proposed land division. Therefore, staff recommends approval of MLP 90-09 subject to eight conditions.

Applicant

George Wilhelm, 546 S.E. Township Road, concurred with the staff report, but had a question regarding condition number 5, the construction of N. Oak. He wanted assurance that it indicated only the half street, and was assured it did.

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

Issues discussed:

1. The Commission discussed half street improvements in relation to the Comprehensive Plan and the ordinance about cul-de-sacs.
2. The Commission discussed the lack of maneuverability for emergency vehicles and the need form, at least, a temporary gravel turnaround.

Commissioner Westcott moved for approval of MLP 90-09 based on the Findings and Conclusions in the August 17, 1990 staff report, the testimony of the applicant and the Commission deliberations, subject to the following conditions:

1. **The applicant shall prepare a final partition map. The final partition map shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department.**
2. **A deed and legal description for each new lot shall be prepared and recorded with the Clackamas County Clerk. A copy of each new deed shall be provided to the Canby Planning Department.**
3. **A one-foot strip to the south and east shall be dedicated to the City of Canby separately, to prevent non-urban access to the City street by adjacent property owners.**
4. **Sidewalks along N. Oak shall be installed to City standards at the time buildings are constructed on the new parcels.**
5. **Construction of N. Oak, to City standards, shall precede development of the property.**
6. **Extension of facilities south, along N. Oak Street, shall be preceded by a preconstruction meeting.**
7. **Easements 12 feet in width shall be provided adjacent to the street dedication, 12 feet in width along the southern property line, and six feet in width along all other property lines.**
8. **All monumentation and recording fees shall be borne by the applicant.**

9. Applicant shall provide a temporary gravel turnaround on the eastern adjacent parcel, and accompanying easement, to be approved by City staff.

Commissioner Wiegand seconded the motion and it carried unanimously.

ANN 90-04, a request by Doug Sprague to annex approximately 0.64 acres of territory into the City of Canby. The subject property is located along the south side of N.E.22nd Avenue and is identified as a portion of Tax Lot 200 of Tax Map 3-1E-28DB.

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Hank Skinner presented the staff report. He explained that the property is presently zoned RRFF-5 (Clackamas County), and when it is annexed it will be zoned R-1. At the present time and with the present County zoning, the property cannot be divided for an additional dwelling. The property is presently 1.5 acres, with a house on the far west side. The proposal is to annex the easterly 0.64 acres, which is contiguous to the City limits. The County has no objections to Canby annexing part of this tax lot and, thereby, creating a new tax lot. CUB would not accept extension of services across from the cul-de-sac on 21st. They would have to be extended from N. Maple, along the southern boundary of N.E. 22nd. Staff finds that the subject property can be adequately serviced for annexation and future development. He stated that the proposed annexation and subsequent residential development on this property will increase land values in the area and provide additional needed single family housing for the community. Staff recommends that the Planning Commission recommend that City Council approve ANN 90-04, subject to the applicant obtaining annexation approval from the PMALGBC prior to extending City services or obtaining building permits; and that the applicant extend water lines to the property as per CUB requirements.

Applicant

Doug Sprague, 122 NE 4th Avenue, stated his intention is to create two separate tax lots. He added that he is willing to extend the utilities and would like to negotiate with CUB regarding the size of the mains.

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

Issues discussed:

The Commission discussed running City services to the lot and CUB requirements for hook-up.

Commissioner Zieg moved to recommend that City Council approve ANN 90-04 based on the August 17, 1990 staff report, testimony from the applicant and subject to two conditions:

- 1. That the applicant obtain annexation approval from the PMALGBC prior to extending City services or obtaining building permits.**
- 2. The applicant shall extend water lines to the property, as per CUB requirements.**

Commissioner Bear seconded the motion and it carried unanimously.

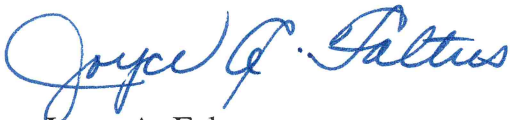
VII. FINDINGS

None

VII. ADJOURNMENT

With no further business before the Commission, the meeting was adjourned at 11:15 p.m.

Respectfully submitted,



Joyce A. Faltus
Secretary