

CANBY PLANNING COMMISSION

Regular Meeting

June 8, 1992

7:30 p.m.

I. ROLL CALL

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Fenske, Maher, Wiegand, Gustafson and Zieg.

Staff Present: Robert Hoffman, Planning Director; Jim Wheeler, Assistant Planner; and Joyce Faltus, Secretary.

Others Present: Tom Kotzian, Ray Hudson, Gloria Hudson, Marguerite Cereghino, Floyella Moore, Stan Miller, Verna Quist, Barbara Jones, Stan Jones, Theresa Myers, Tom Myers, Dan Ewert, Pat Ewert, Earl Cox, Franklyn Wood, Marianne Wood, Ginny Jones, Julie Chapen, Clara Abrams, Gene Chapen, John C. Anicker, Jack Hammond, Alan James, Dorothy Knight Mickel, George Mickel, Andy Ditommaso, Wanda Rohrer-Heyerly, Pat Harmon, J. Flor, Ramona Kennedy, Jim McKibbin, Mary Kay Watson, Mindy Smith, Bev Warren, Jim Warren, Don Molinsky, Keith Perryea.

II. MINUTES

The minutes of **April 27, 1992** were **approved** unanimously, as amended.
The minutes of **May 4, 1991** were **approved** unanimously, as submitted.
The minutes of May 11, 1992 were **approved** unanimously, as submitted.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission discussed major issues affecting the City of Canby, that it would like to address:

1. Transportation Issues
2. Historic Preservation Ordinance
3. Tree Ordinance
4. Comprehensive Plan Update
5. Commercial/Industrial Development in Canby
6. Design Review Ordinance update
7. Advance Funding
8. Sidewalk Issues

The Commission agreed that since the Historic Preservation Task Force is working toward updating the Historic Preservation Ordinance, and since the Budget Committee approved doing an update of the Traffic Plan, the other six issues would be addressed under Commission consideration. The City has also applied for a Block Grant to do a socio-economic study and look at the impacts of Measure #5 on the segment of the population which is least able to represent themselves. This study would research whether there are any steps which could be taken to mitigate the impacts on senior citizens, low income groups, and other minorities. The ultimate objective of this study would be to see how to reduce the impact of the cuts. The Commission agreed with Mr. Hoffman that the Zoning Ordinance needs further refinement. Mr. Hoffman discussed the new State requirements regarding Urban Reserve rule, transportation rules, and lower cost housing. Additionally, Mr. Hoffman stated that the City just received word that Periodic Review is due in October. He explained that he is meeting with the State regarding Periodic Review on June 9.

Issues the Commissioners felt it could assist staff with included:

1. Commission Mihata agreed to review the Tree Ordinance and look into other tree ordinances from other cities. The Commission agreed to seek citizen input with regard to ordinance.
2. Commissioner Maher agreed to review the Comprehensive Plan Update with regard to consistency and seek citizen input.
3. Commissioner Fenske agreed to look into advance funding issues, to see what can be done legally, how far ahead advance funding applies to, off- and on-site applications, etc.

4. Commissioners Zieg and Gustafson agreed to review the Canby Design Review Ordinance, and Tualatin Design Review Ordinance, other Design Review Ordinances, and Councilman Smith's file on Design Review.
5. Chairman Schrader agreed to do additional work on the Park Plan.

Commissioner Fenske stated that he believed Urban Reserves should be considered a priority issue.

It was agreed that staff would submit the most important issues to the Commission for the July 13, 1992 meeting, in order to prioritize them.

V. COMMUNICATIONS

None

VI. FINDINGS

The Commission unanimously approved the Findings, Conclusions and Order for MLP 92-02 and CUP 92-05/DR 92-04 (Canby Elementary School District).

VII. PUBLIC HEARINGS

ZC 92-01, an application by Mimi Chitty (applicant) for approval of a Zone Change for a 3.1 acre parcel, from Light Industrial with a Planned Unit Development overlay (M-1/PUD) to Medium Density Residential (R-2). The applicant ultimately will propose to develop the parcel into multi-family residential uses on this and contiguous parcels. The property is located on the west side of N. Baker Street and south of N.W. 6th Avenue (Tax Lot 1002 of Tax Map 3-1E-32D). **Continued from April 27, 1992.**

CPA 92-01, an application by Mimi Chitty (applicant) for approval of a Comprehensive Plan Amendment from Light Industrial to High Density Residential, to permit construction of multi-family residential development on this and contiguous parcels. The property is located on the west side of N. Baker Street and south of N.W. 6th Avenue (Tax Lot 1002 of Tax Map 3-1E-32D). **Continued from April 27, 1992.**

Chairman Schrader asked if any Commission had ex-parte communication or conflict of interest. None was expressed, except that many of the Commissioners visited the site, but stated they drew no conclusions. The Chairman then reviewed the public hearing procedures and timelines.

Mr. Wheeler explained that since the zone change is based on the Comprehensive Plan Amendment, he would like to present the Comprehensive Plan Amendment staff report first. The Commission concurred.

Mr. Wheeler explained that the applicant is requesting approval of an amendment to the Comprehensive Plan from Light Industrial to High Density Residential, for a 3.1 acre parcel, in order to permit construction of a multi-family residential development. He reviewed the applicable criteria and background. The parcel is located on the east side of N. Baker, just south of S.W. 6th Avenue. It is 150 feet wide and 900 feet long, with access from N. Baker. The owners of this parcel owned the original parcel, which is now Canby Industrial Park. In 1970, Johnson Controls requested a rezoning from R-1 to M-1, which was approved, except for the northernmost 150 feet which would serve as a buffer between the residential and industrial areas. At that time, the applicant stated that if the zone change was approved, they planned to landscape the 150 foot buffer strip. But no mention of this buffer strip being landscaped was made in either of the motions made by the then Planning Commission or City Council, effectively leaving the subject parcel zoned R-1. In January 1973, the parcel was rezoned as R-2. In March, 1973, the Planning Commission approved a subdivision plan for this site, with the provision that 20 feet be deeded to the City from the westerly side adjacent to Baker Drive and with a 24 foot improved access strip provided. Because the condition of such approval was not carried out by the applicant, the zoning change was invalidated and the property remained zoned R-1. A new request was filed in March 1978 for a Comprehensive Plan Amendment from Light Industrial to Medium Density Residential, with a requested zone change from R-1 to R-2. The Planning Commission and City Council denied the request. In 1981, at a joint meeting of the City Council and Planning Commission, a zone change was granted for the parcel from R-1 to M-1/PUD, and recorded under Ordinance No. 701. It appeared that the change was made to bring the Zoning Map into conformance with the Comprehensive Plan Land Use Map. When the Comprehensive Plan was acknowledged in 1984, this parcel was considered an area of Special Concern, and specifically mentioned as a buffer between the industrial area and the residential area.

Mr. Wheeler explained that the purpose of this review is to assure compatibility of use and design layout with the surrounding properties. The Planned Unit designation allows for a more detailed review, especially of the compatibility of the proposed use, than is provided for under Site and Design Review. The Planned Unit overlay is an essential part of the review of any proposed development for this parcel. Further, he explained that, conceptually, the use of the parcel for transitional and buffering

purposes could include anything from single-family residences to light industrial use. Multi-family use could also provide a transitional use but, in compliance with Policy #6, a PUD overlay would still be required. Because the proposed comprehensive land use change to high density residential could provide a transitional use, Mr. Wheeler explained that the question becomes one of necessity. The City has, through the adoption of the Comprehensive Plan, stated that a certain amount of land designated for light industrial use is needed. With the use of pie charts, Mr. Wheeler explained how the various Comprehensive Plan land use goals are reached, and what changes would occur if the zone change was approved.

Mr. Wheeler then reviewed the application's consistency with the Comprehensive Plan. He discussed policies under the Land Use Element, Housing Element and Economic Element and explained that the subject parcel is adjacent to an area that has an established history of industrial use. Implementation Measure A, of Policy 1, requires protecting future industrial areas from encroachment of any noncompatible uses. As illustrated under the Land Use Element, to meet the objectives of Goal 1, it would be appropriate to leave the subject parcel with the land use designation of Light Industrial.

Mr. Wheeler then reviewed two recently approved Comprehensive Plan Amendments, where land designated Light Industrial, was redesignated for residential use. Willow Creek Estates in the northeastern part of the City, was changed from Light Industrial to Low Density Residential. This parcel did not have access to any public road and was surrounded by residential use. Mr. Bergen's parcel, also in the northeastern section of Canby, was surrounded on two sides by high density residential and on the third, by a mini-storage facility.

The proposal to amend the Comprehensive Plan to high density residential development rather than light industrial development, is not necessary to meet the goals of the Comprehensive Plan. The use of the land as high density residential could provide a transitional use between the single family uses to the north and industrial uses to the south, but although the proposed change could provide an increase in the land available for multi-family units, there is currently sufficient land designated for use as multi-family residential. Additionally, there are uses allowed under the current land use designation of light industrial that will provide adequate buffer between the incompatible uses surrounding the subject parcel.

Additionally, Mr. Wheeler reviewed the applicable criteria for the Zone Change request and stated that the criteria has not been met either. A PUD overlay would still be required, but has not been proposed by the applicants.

Therefore, staff recommends denial of both the Zone Change and Comprehensive Plan Amendment applications. The proposal is not consistent with the goals of the policies of the Comprehensive Plan, specifically Policy #1 and #6 of the Land Use Element,

and Policy #2 of the Economic Element. The applicants have not addressed the approval criteria, nor have they presented sufficient proof that the criteria has been met. The applicants' claim that the subject parcel is less marketable as Light Industrial land is not sufficient to satisfy the criteria for change.

Applicant

Jack Hammond, P.O. Box 648, West Linn 97066 reviewed the background of the parcel, which is 900 feet long and 150 feet wide. He explained that a 20 foot easement for CUB runs along the entire length of the property, reducing the width by 20 feet. The Zoning Ordinance indicates that for an M-1 zone abutting residential zones, there is a minimum 10 foot setback. As this is an Area of Special Concern with a PUD overlay, a greater setback may be required. Mr. Hammond referred to page 51 of the Comprehensive Plan, where it states that "The City, the Chamber of Commerce, and local realtors have found it difficult to attract industrial buyers to these small sites because of their size and the lack of developed industrial park type surroundings," which is exactly the problem facing this parcel. He further stated that, to date, negotiations with Johnson Controls, for purchase of this parcel, have not been successful as they would not be able to expand their facilities due to the easement running along the length of the parcel. Mr. Hammond then reviewed the allowed uses under the M-1 zone, which lend themselves more toward heavy industrial uses and are not appropriate buffers. He disagreed with staff's contention that the extension of N. Baker would increase the marketability of the parcel because the configuration of the parcel and all the restrictions on it would still remain. Mr. Hammond explained that although he realizes the adjacent neighbors would prefer that this parcel remain undeveloped, it presents a financial hardship for his clients who have owned it for 21 years. The owners of the property did not consent to the legislative rezoning of this property, in 1981, to M-1/PUD. Since that time, the property has been continually marketed and the owners have not received one offer to purchase it, mainly because it cannot be developed as industrial property.

He compared these applications to the Bergen application and the Willow Creek Estates application, which were both rezoned from Light Industrial to residential zoning recently. The Bergen property, he stated, was approved because it was found to be deficient because it bordered the railroad tracks, but had no size or shape constraints. He referred to the findings for the Willow Creek Comprehensive Plan Amendment which stated in part, ". . . that this was not a prime industrial site and the City of Canby is not short of industrial land at this time." Mr. Hammond explained that the parcel under consideration is not prime industrial land either and it does have size and shape constraints. There are very few properties in Canby, with available sewer and water, that can be developed R-2 at this time, he stated, without partitioning already developed parcels that are zoned R-2. The 1990 Census indicates the rental

vacancy rate is 1.3%, the lowest in the metropolitan area. A local real estate broker explained that there is less than a 1% vacancy rate in non owner-occupied homes in Canby.

Mr. Hammond explained that the design layout that was submitted is only conceptual. The subject parcel would be developed in conjunction with Tax Lot 1003, which is zoned R-2. He then reviewed conditions the Commission could place on an approval, to mitigate conflict between the two adjacent uses. This parcel, developed R-2, would add to the City's property tax roll and would address a substantial housing concern.

Mr. Hammond requested that the 1990 Census figures, excerpts from the Bergen and Willow Creek Orders, and the conceptual design for the parcel, be entered into the record.

John Anicker, 1510 Rosemont Road, West Linn stated that he is one of the owners of the property. He reviewed the background that led to the present applications. Mr. Anicker stated that the owners should have protested when the City rezoned the property to M-1. The purpose of purchasing the adjoining parcel on Cedar Street was to ensure access to the parcel in question, from Cedar and from Baker. The adjoining neighbors have made use of the parcel for many years, without charge, and some have used it for dumping grounds for garbage. The owners were under the impression the City would respond warmly to rezoning this property and were surprised to find staff recommended denial. The fact that Johnson Controls and the adjacent residential neighbors object to development of this property should not be a land use consideration for the Planning Commission, he added. There have been a number of serious inquiries for this property, for multi-family development. Mr. Anicker reviewed the costs incurred by the owners of this property, regarding taxes and upkeep.

Opponents

Tom Kotzian, representing Johnson Controls, Inc., 800 N.W. Third Avenue, Canby stated that approval of this application will violate several relevant policies in Canby's Comprehensive Plan. He stated that approval would create conflict with existing uses and violate Land Use Policies #1 and #6 because industrial facilities conflict with residential uses. Additionally, residential traffic would conflict with the industrial use of Baker Street as a truck route, and residential desires for peace and quiet would conflict with existing and future industrial activities. It is critical to the safety of the general public, Mr. Kotzian added, to separate the industrial and residential areas. Even if Baker was restricted to industrial use, the magnitude of having an additional 150 vehicles exit from Cedar would pose a public risk. Multi-

family residential development very close to industrial uses would make these conflicts even worse because of greater proximity of the structures and because of greater numbers of residents located right at the border between the uses. Mr. Kotzian stated that there is no evidence that the proposed change would improve the separation of conflicting uses. Johnson Controls concurs with the staff report that there is no need for conversion of the parcel from industrial to multi-family, and that conversion will not necessarily improve the City's balance of land for the various uses. Mr. Kotzian further stated that R-2 zoning allows mobile home subdivisions as outright uses. Canby's Comprehensive Plan recognizes the sensitivity of this parcel and establishes it as light industrial with a PUD overlay as the chosen transitional use. Approval of this application will discourage new or enlarged industrial uses in the immediate area. Economic Policies #1 and #6 require the City to promote increased industrial uses and, therefore, increase local employment opportunities. Mr. Kotzian pointed out that if the application is approved, Johnson Controls will have an additional burden to ensure compatibility, including an additional buffer, if they wanted to further develop their parcel. Approval would discourage, rather than promote, enlargement or increased use of nearby industrial uses. Mr. Kotzian presented a real estate listing for the subject property, which he said is listing for \$321,000, and lists 3.1 acres as being zoned M-1 and 1 acre as zoned R-2.

Steve Jones, 885 N.W. 6th Avenue reviewed the zoning history of the property using slides shown with an overhead projector. He stated he is the spokesperson for himself and others. Mr. Jones discussed the applicant's statement regarding loss of property value and added that the adjacent residential owners face decreasing property values with the proximity of an industrial area. To place apartments on the subject parcel would result in additional loss of property value, additional noise, loss of privacy, and additional traffic congestion and safety issues. Mr. Jones questioned whether any type of housing could be considered a buffer zone between residential uses and industrial uses and stated that previous Commissions did not believe it did. Furthermore, Mr. Jones explained that the original stated use of this property was as a landscaped buffer, which use has never been accomplished. The concept of a buffer zone, according to Webster's Dictionary is "A neutral area separating conflicting sources or, broadly speaking, an area designed to separate." The idea of separating residential use from industrial use would not be promoted by adding several times the population presently residing in the residential area, between the two. Mr. Jones submitted a copy of his presentation to the Commission.

Ginny Jones, 620 N.W. Baker stated that since property values will be affected adversely since apartments would devalue single family homes. If the tax revenue for the City was reduced when assessed values were reduced, Ms. Jones questioned whether the proposed apartments would generate enough money to make up for the tax base loss. The pleasant aesthetic value of the neighborhood would be lost also. The owners of the parcel in question do not even live in Canby, Ms. Jones added, and requested that the Commission deny the application.

Gloria Hudson, 630 N.W. Baker asked how the owners of the parcel advertise the zoning and if there is an open listing on the property. Ms. Hudson added that four owners paid approximately \$13,000 in the last seven years, which averages \$462 per owner. She stated that the taxes on that property was less than on her own, so she could not see the hardship involved.

Julie Chapen, 595 N. Cedar said she is concerned with traffic and safety issues. As there is a school nearby, she is concerned with the safety of the students. The vibration of the added bus and auto traffic could lead to additional loss of ground on the Molalla River bluff, she added, where we are already losing from 4-6 inches a year. She is concerned about the stability of the bluff. If the City plans a greenway on the bluff, she asked where access would come from and where cars would be parked. Ms. Chapen stated her concerns that multi-family housing would make it less safe for walkers to the greenway/bluff area. The conceptual design does not include any play areas for children, she added.

Pat Ewert, 596 N.W. Baker stated that she is concerned with traffic issues, which were discussed in the staff report on page 12. Although northbound truck traffic is prohibited beyond the subject parcel on N. Baker, Ms. Ewert stated that it does continue, and is very dangerous. She stated her concerns regarding the safety of pedestrians who cut across industrial property to access the greenway. Further, she is concerned that no play areas are designated on the conceptual design, and there is usually a high concentration of children living in apartment complexes. Additionally, the complex would be facing a battery factory's loading dock, which is not aesthetically pleasing at all. Therefore, the Eccles School would be the designated play area for the neighborhood children. Since the public cannot use the school playground during school hours or the Latchkey Program, she stated she was concerned for the childrens' safety. Additionally, the children would have to cross Cedar Street to get to the playground. Ms. Ewert concurred with all previous testimony in opposition to this application.

Theresa Myers, 995 N.W. 6th stated that she has canvassed the area, and submitted a petition in opposition to this application. She stated her opposition to two-story apartments. Ms. Myers also stated her concern that her property value would decrease.

Wanda Heyerly, 725 N.W. 6th stated her concerns with the noise levels in the area. The buffer zone is necessary to protect the quality of life in the area. Ms. Heyerly also questioned her loss of solar energy from having a 2-story apartment complex abutting her property. She said it would affect her gardening efforts.

Stan Miller, 746 N.W. Baker stated that he measured the residential noise in the area from the subject property. He found that it is residential noise-sensitive property, as it does not meet DEQ limits. Mr. Miller submitted a copy of the DEQ rules and a copy of the measurements he made which showed higher levels than DEQ limits for fitness of use. The measurements were taken in the evening, the most sensitive time, when people would be sleeping in residential areas. They were taken from the subject property, approximately 30 feet in from the fence line, 60-70 feet from the road, on the west side.

Dan Ewart, 596 N.W. Baker stated that offers have been made for the subject property, one of which was his own offer for a 150x200 piece of the property. Other neighbors are also interested in purchasing parts of the property abutting their own lots. Mr. Ewart discussed the price of similar industrial property he is investigating for himself and stated that if the owners really want to sell it, they must price it within reason. He submitted photographs of the site, depicting the area where Mr. Miller took his noise readings. Mr. Ewart explained that Johnson Controls has spent a lot of money trying to muffle noise from its plant due to complaints from neighbors on the other side. He questioned the validity of approving more residential units on the existing buffer. If the City wants to encourage industrial development it seems foolish to approve residential building on an industrial/residential buffer strip, he added.

Clara Abrams, 626 N. Birch stated her concerns regarding traffic. Ms. Abrams stated that truck traffic is very heavy from 3rd to the industrial section of Baker Drive. Baker Drive does not allow legal truck traffic to Knights Bridge, past 3rd Avenue, because of heavy Eccles School pedestrian traffic. Ms. Abrams toured the nearby water plant and expressed her fears for the safety of children who could decide to explore the area. She suggested the area in question be deeded to the City and converted into tennis courts.

Mr. Wheeler then read a letter into the record **from Potter Industries**, which opposed the proposed zone change, stating they concur with staff's analysis and conclusions, and that the City needed more light industrially zoned property to meet the goals and policies of the Comprehensive Plan.

Rebuttal

Jack Hammond addressed the concerns expressed by the opponents. Regarding the conflicts expressed by a representative of Johnson Controls, he questioned why Johnson Controls never objected to the residential zoning surrounding the plant. The applicants, he explained, did not request the PUD overlay because it was not suggested

by City staff. The traffic impacts referred to by the opponents would increase if the property was purchased and developed industrially. Mr. Hammond added that the time to address traffic impacts would be at Design Review, at which time conditions could be imposed to alleviate such impact. He explained that Globe originally wanted the entire parcel they purchased to be zoned industrial, but City Council retained this parcel as a buffer and it was held by the original owners. For that reason, it was not landscaped by Globe Union. Regarding the impact on property values, should the property be developed industrially, they would also lose value. The owners would be happy to sell the property to the City, for use as part of the greenway or any other recreational use, but no offers have been received from the City. Mr. Hammond referred again to the Bergen property and questioned why this property appears more valuable for industrial use.

John Anicker said the property was listed as one parcel, but the owners indicated they would sell the 3.1 acre parcel separately. The one acre parcel would not be sold separately because it provides access to Cedar for the larger parcel. Offers have been received for the one acre parcel. About a year ago, the owners signed an earnest money agreement to sell the entire parcel for \$265,000, contingent upon it being zoned for multi-family. Once the purchaser contacted the City, he decided it was too lengthy and expensive a process to try to have the zone changed. It has been offered to Johnson Controls for less money, and negotiations are still pending.

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

Issues discussed:

1. The Commission asked staff about the PUD designation on the property. Mr. Wheeler stated the Commission had the authority to do so, but it would require another hearing and, therefore, readvertising and renoticing adjacent owners.
2. The Commission discussed a letter the owners of the property wrote to the Canby Planning Commission in 1971 regarding the zoning. The letter stated the property was zoned an R-1 Buffer Zone, and asked for clarification of the zoning attached to the parcel and for a list of what uses are permitted. The Commission asked Mr. Anicker if the owners were aware it was to remain a buffer zone when it was purchased in 1970. Mr. Anicker said it had been rezoned since, and was now a moot point. Mr. Hammond explained the letter just inquired about what uses could be made of the property. Since then, it was legislatively rezoned M-1/PUD.

3. The Commission discussed the subject parcel as it compared to the Bergen and Willow Creek properties. Mr. Hoffman explained that the Bergen property was occupied by a home, across from it are apartments and homes, and to the north of it are apartments and homes. If it was developed industrially, it would route truck traffic on residential streets. There is one mini-storage business immediately to the south, with the back wall of the business facing the Bergen property. Traffic to and from the storage business uses 99-E, and does not go on up to Territorial Road. The Willow Creek Estates property has no access except through the subdivision and to develop this property industrially, would have meant creating a whole new street from Redwood or from Territorial. Additionally, there were no opponents to the Bergen or Willow Creek applications, except for someone who wanted the Bergen's to be assessed their fair share for advanced funding that went into a sewer line to serve the property.
4. The Commission discussed the fact that the Comprehensive Plan designates the subject parcel as an area of Special Concern, where neither the Bergen or the Willow Creek properties were so designated.
5. The Commission discussed the need for industrial/commercial land in Canby. The Commission agreed it was most appropriate to develop industrial/commercial land adjacent to land already designated industrial/commercial.
6. The Commission agreed neither the price paid for the property, nor the risk involved, is ethical for Commission consideration. Marketability is not a land use decision for the Planning Commission either.
7. The Commission asked staff for an interpretation of a buffer zone. Staff explained that it did not have to remain as open space. With a PUD overlay added to the zoning, it would have to be developed with adequate buffering so as to buffer the industrial use from the residential use.

Based on the findings and conclusions in the staff reports for CPA 92-01 and ZC 92-01, both dated April 3, 1992, on testimony, and on Commission deliberations, **Commissioner Fenske moved to recommend that City Council deny CPA 92-01 and ZC 92-01. Commissioner Mihata seconded the motion and it carried unanimously.**

DR 92-05, an application by McDonalds Corporation for approval to construct a new fast food restaurant, approximately 2,490 square feet, with drive through, landscaping and parking. The total site is approximately .61 acres, or approximately 24,570 square feet. An 8 foot high wooden corral for refuse will be included. The site is located on the southeast corner of S. Birch Street and 99-E (Tax Lots 6100 and 6102 of Tax Map 3-1E-33CC).

Chairman Schrader asked if any Commissioners had ex-parte contact or conflict of interest. Except for visiting the site and drawing no conclusions, there was none.

Mr. Hoffman presented the staff report. He reviewed the applicable criteria. Mr. Hoffman explained that the restaurant would be located on this flat site, along 99-E at S. Birch Street. This area is identified in the Comprehensive Plan as Commercial-Manufacturing. The area immediately to the north, east, south and west, adjacent to the site, is identified as commercial-manufacturing in the Comprehensive Plan. Light industrial uses would be allowed as conditional uses in the area. Highway Commercial and Heavy Commercial and Manufacturing uses would be permitted nearby. To the south, is Canby Union High School and Canby Square Shopping Center. A quick service restaurant would be compatible with the surrounding land uses which are existing and proposed, and will provide desirable service to the workers and students. Further, as a result of discussions and statements made by the staff and engineers of the City's Sewer Treatment Plant, and according to responses to our "Request for Comments," at this time, the sewer treatment plant is determined to have the capacity to handle the proposed quick service restaurant. Certain details that were raised by staff at the plant, and by the Public Works Department, need to be resolved. The supervisor at the treatment plant requested that a "grease trap" be provided and a "sampling" be regularly carried out, and that at least Sections I and II of the "DDF" discharge application be filled out, and any anticipated problems solved early in the process, prior to construction. Public Works staff has questioned the purpose of the sanitary sewer line in the trash corral. All public facilities are available for the proposal, with adequate capacity. Staff has requested input from the service providers, who have not expressed any problems with serving the proposed restaurant.

Access to the site is proposed to be by way of 99-E and S.W. 2nd Avenue. Off-street parking will be provided for on-site. A sidewalk will be needed for the property frontage along 99-E, Birch, and 2nd Avenue, which were indicated on the plans that were submitted. The applicant has reported that the State Highway Department has denied direct access to 99-E and that an appeal has also been denied. The applicant proposes a two-way entry and exit onto 99-E and a two-way entry and exit onto 2nd Avenue, with no access planned to Birch Street, but recent contact with the State indicates they may approve "exit only" onto 99-E. The access drive indicated on the plans is 24 feet, exceeding the ordinance requirement of a minimum of 20 feet. The one-way drives are 12 feet, as required. The stacking area for drive-up service has six

spaces, clear of the public right-of-way, which is well within the required 2 to 8 spaces. The proposed driveways are located as far as possible from the intersection of Birch and 99-E, while still providing five feet from the property line, as required. Currently, there is a wide access drive on 99-E and a drive on S.W. 2nd Avenue.

Approximately 6,200 square feet of land is proposed to be landscaped with ivy, or larger natural vegetation, exceeding the requirements. No barkdust is indicated on the plans. Although 25 parking spaces are required, 29 are provided. On-site maneuvering is also provided. The structure is about 16 feet high and no side yard setbacks are required. Almost 60 feet of front yard setback from 99-E is provided. The lot coverage is only about 10%, and 60% is allowed in the zone. Vision clearance requirements have been met.

Major construction materials include T-111 siding, insulated glass, shingled roof, with a play area proposed for the northern side of the building. The exterior shall be "McDonald yellow and red" trim, with white siding. The plans included a 25 foot high "Logo" sign with a total of 55 square feet on each surface, and smaller directional signs are also proposed.

Based on the findings and conclusions, staff recommends approval of DR 92-05, based upon approval by the State Highway Department for access drives from Highway 99-E, with right-turn-only traffic (both in and out) or as an "exit only" drive, with additional conditions as noted in the staff report, which Mr. Hoffman reviewed.

Applicant

Keith R. Perryea, 5000 S.W. Meadows, Lake Oswego stated that McDonald's will not be purchasing the property outright. It will be leased from Mr. Carpenter. With regard to the grease trap, Mr. Perryea stated that a 2400 gallon grease trap will be installed on the exterior rear of the building. The turf referred to on the landscape plan means 'grass,' as bark dust does not stand up well. The sanitary sewer line in the trash corral will be installed because some operators prefer to use trash compactors and this will insure that no water or leeching runs out into the open. If no compactor system is used, it will be capped off. Mr. Perryea referred to his drawings to discuss the colors of the building. In this case, the roof shingle is planned to be black. He indicated that the color scheme will be carried out to the playland in front, with a little blue added. Access from 99-E is very important for the planned circulation of the site. It was moved northeast in order to have on-site circulation in the form of a circle. People who wanted to make a left exit turn would typically exit on 2nd Avenue. McDonald's is presently challenging the State Department of Transportation's appeal process because the appeal process goes directly through the same person who denied the original application. With regard to the superintendent's request, Mr. Perryea stated that the operator would be happy to work with the school.

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

1. The Commission discussed the high school superintendent's request that sidewalks be installed on Birch Street, from 2nd Avenue to 4th Avenue. The property between the proposed restaurant and the high school is used by School Bus Services. Mr. Hoffman explained that grading and curbing improvements would have to be made before sidewalks could be installed. Additionally, he stated that it is unusual to require the applicant to make off-site improvements.
2. The Commission asked what the roof shingle would be made of. The applicant explained it would be composition. Mr. Perryea stated that wood shingles might be considered but, from a maintenance standpoint, they require more maintenance and do not last as long. The Commission stated preference for the wood shingle roof, agreeing it is more compatible with the northwest area.
3. The Commission asked the applicant if brick could be used rather than white paint. The applicant responded that, from an economical standpoint, it would be difficult, but that the white color could be toned down. Mr. Perryea explained that the "pinkish" toned-down color would be much warmer.
4. The Commission asked the applicant to address the sidewalk issue. Mr. Perryea stated that the applicant would be happy to work with the school, although it would be difficult to install a sidewalk from the onset. What would be best, would be for the operator to work with the school and compromise as to the type of walkway. If a lot of right-of-way exists, it may be possible to put in a tar sidewalk at the beginning, or an asphalt sidewalk, within the right-of-way area, until such time as the area toward the corner is more developed. While the need certainly exists, a compromise position would be best to provide a safe walkway for the students to the restaurant. Mr. Hoffman explained that an agreement could be drawn, where the developer would agree to work with the superintendent of the high school toward determining the best foot pattern and how best to accomplish it. The applicant agreed to contributing some monetary investment toward that end.

Based on the findings and conclusions in the staff report dated May 29, 1992, on testimony received, and on Commission deliberation, **Commissioner Gustafson moved to approve DR 92-05 with conditions as follows:**

1. **Provided that the State Highway Department approves, an access driveway from Highway 99-E may be constructed and shall operate with right-turn-only traffic (both in and out) or as an "exit only" drive. Appropriate signs for this access shall be provided, as approved by the Planning Director.**

2. Prior to building permit approval, a full "DDF" discharge application shall be filled out and any discharge requirements be provided, as required by the Public Works Sewer Treatment Plant staff including, but not limited to, a grease trap and regular clean-out. Also a sewer sampling point shall be provided at the property line.
3. The pavement on Birch shall be extended to the curb with comparable surface treatment to the existing pavement designed and constructed to the requirements of the Director of Public Works.
4. The proposed roof shingles on the pseudo-mansard areas shall be wood and treated with a natural finish.
5. The proposed white surfaces of the walls of the building shall not be "stark" white, but a more muted, warmer tone of white.
6. The owner/developer shall cooperate with the high school superintendent in determining the best pedestrian route from the school, along Birch, to the restaurant, and jointly provide a safe, hard surfaced sidewalk between 2nd and 4th Avenues.

Commissioner Zieg seconded the motion and it carried unanimously.

MLP 92-03 (previously designated MLP 92-02 in error), an application by Pat Harmon for approval of a minor land partition to divide a 26,100 square foot lot into three parcels. The two new parcels would be 7,500 and 7,040 square feet, respectively. The third parcel, with the existing home, would be 7,920 square feet. The applicant intends to construct single family homes on each of the two new parcels. The property is located at 664 S. Ivy Street (Tax Lot 900 of Tax Map 4-1E-4AB). (Continued to June 29, 1992).

VIII. DIRECTOR'S REPORT

Mr. Hoffman explained that the final documents from the developer of N. Pine Addition II reduces the amount of lots by 2. The name of one of the streets, on the south end, between Pine and Redwood, has been changed to Plum Court. Upon receipt of documents from the City Surveyor, the final plat will be ready for signature.

The draft Population Estimates for the City of Canby, regarding Canby's future growth based on its current growth rate, which was distributed to the Commission, was generated for C.U.B.'s presentation before the Division of Water Resources regarding a 60-year plan for Canby.

Mr. Hoffman explained that, under the new State laws, each city has the option - and not the requirement - to do Urban Reserves. Urban Reserves are defined as an amount of land necessary to protect land for urbanization fifty years into the future, thirty years beyond the Urban Growth Boundary. The metropolitan areas are required to do Urban Reserves in order to plan utilities and to develop the lands in such a way that they will not be inappropriate to urbanize when necessary. Commissioner Fenske explained that it also serves as a "reserve" in case others are coveting that property for other purposes. He stated he felt it would be in our best interests to participate in Urban Reserves even though we are not required to do so. Mr. Hoffman suggested further discussion at future meetings.

IX. ADJOURNMENT

The meeting was adjourned at 11:35 p.m.

Respectfully submitted,

Joyce A. Faltus