

APPROVED

MINUTES

CANBY PLANNING COMMISSION

*Regular Meeting
September 13, 1993
7:30 p.m.*

I. ROLL CALL

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Maher, Elliot and Fenske.

Staff Present: Robert Hoffman, Planning Director; and Joyce Faltus, Secretary.

Others Present: Bob Kacalek and Kevin Howard.

II. MINUTES

The minutes of August 23, 1993 were approved unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. NEW BUSINESS

None

V. COMMUNICATIONS

None

VI. PUBLIC HEARINGS

MLP 93-02, an application by Kevin Howard (applicant) and Wilhelm Guttormsen (owner) for approval to partition a 7.41 acre site into two parcels

containing 3 acres (Parcel 1) and 4.41 acres (Parcel 2), respectively. The applicant intends to develop Parcel 1 into a 300-unit self-storage facility, which will include an office, restrooms, and an apartment. The facility will be paved, lighted, well-landscaped, and include electronic security. The parcel is located on the south side of Highway 99-E, near the Logging Road Bridge (Tax Lot 300 of Tax Map 3-1E-34C). *Continued from August 23, 1993.*

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest since the last hearing. Commissioner Maher explained that although she was not present at the last hearing, she read the minutes, staff report, and supplemental staff report and had not come to any conclusions. No other ex-parte contact or conflict of interest was indicated.

Chairman Schrader explained that two issues remained open before a decision could be made; the issue of utility easements along the Logging Road and the issue of access from Highway 99-E with respect to ODOT's position.

Mr. Hoffman explained that, after conferring with CUB, it was concluded that the eastern side of Parcel #1 was adequately served and the easement is not necessary along that diagonal line. The supplemental staff report incorporates a revision of the easements according to CUB's new recommendations. Mr. Hoffman then referred to a FAX received from Tamira Clark, Land Use Coordinator, Region 1, ODOT, dated September 10, 1993, which ODOT asked to have included in the record. In a memo dated September 13, 1993, the City Attorney advised that the hearing be reopened in order to incorporate the FAX from ODOT into the record, which the applicant can rebut. ODOT is recommending that Parcel #1 have no access to 99-E, but that it have reasonable, alternative access from 2nd Avenue. Further, ODOT is concerned about the safety of traffic movements into and out of the property from the highway which are complicated by the proximity of railroad crossings to the proposed highway access. ODOT requests that, should the partition be approved, a condition of approval should state that non-highway access be required. The City Attorney recommended approval be conditioned upon access to 99-E being obtained by the applicant from ODOT.

Chairman Schrader reopened the hearing and accepted the FAX from ODOT and the memo from the City Attorney into the record.

Applicant

Kevin Howard, 12033 N.E. Marx Street, Portland 97220 explained that the easement issues have been resolved through discussions with Bob Hoffman and Bob Rapp, and through his attorney's discussion with John Kelley. Mr.

Howard reiterated that his obligations, if development on this site does take place, will be to bring an 8 inch water main to the site and that the City would pay for any oversizing beyond the 8 inches. Further, he stated that he believes the City would want utilities run down the west property line for 422 feet to make the connection for the loop system, which would be solely for CUB's benefit. Mr. Howard stated he is prepared to undergo those expenses and expected to discuss it further during preconstruction conferences. The advance funding is to be commended, in that it provides for the developer to recover some of the costs of extending service.

With regard to access from 99-E, Mr. Howard stated that he accepts the City's position based on the memorandum from the City Attorney. He believes the access issue should be faced at the time a change of use is applied for, and if it is conditioned at this point, it will force the issue with ODOT more quickly. ODOT would like frontage all along the entire length of the property without access approvals. Mr. Guttormsen gave ODOT a piece of this property many years ago in return for a clear cut deed with permanent right of access for any use from ODOT, which passes with the land. If access is not granted from 99-E, the site will not be developed with this mini-storage development. Not only is this one of the lowest traffic commercial uses, but to succeed, it must be visible and accessible from the highway. Requiring access from 2nd Avenue is relegating this property to industrial use. ODOT is concerned about the proximity of the railroad and that traffic will be backed up to the tracks if people traveling southbound wait to make a left turn in. The applicant is willing to accept a right-in and right-out only access from ODOT. When ODOT was approached regarding joint access with Millar Tire, ODOT preferred to decrease access to Millar's.

There is a nationally published APA study that recognizes mini-storage facilities as a commercial use. Such recognition forces the developer to dress the facility up and the applicant plans to develop Parcel #1 as a signature entrance to Canby. Further, Mr. Howard stated that he plans to develop this storage facility as a signature entrance to the City of Canby - a window entrance which will be very pleasing to the eye, with heavy landscaping. He even contemplates a "Welcome to Canby" sign at the site. The alternative, with access from 2nd Avenue, he added, would be the back end of the buildings at the entrance to Canby.

Bob Kacalek, Broker, Realty World, 489 S.W. 1st discussed Mr. Howard's track record with regard to various mini-storage facilities he has developed statewide. Mr. Kacalek stated that this is an excellent commercial business for this site, due to its limited access. He urged the Commission to approve the application as it would benefit the community economically. The access

issue, he added, is a problem Canby is going to be facing, not only on this particular parcel, but all along 99-E. He stated that it appears to him that ODOT wants to eliminate all highway access from 99-E, which is illegal and that they do not follow proper procedures. Unless this issue is solve shortly, Mr. Kacalek stated that three other properties in Canby will be under the same pressure, and properties in other areas also. He encouraged approval of the application subject to the access issue.

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

1. The Commission agreed that the two key issues, the utility easements and access, have been resolved as best as possible at this point.
2. Commissioner Maher stated that she reviewed the minutes, watched portions of the previous hearing, and read the supplemental staff report.

Based on the findings and conclusions contained in the staff report dated August 13, 1993, the testimony received at the hearings of August 23, 1993 and September 13, 1993, the FAX from ODOT, the memorandum from City Attorney John Kelley, and Commission deliberations at both public hearings, **Commissioner Fenske moved for approval of MLP 93-02 with conditions as proposed in the supplemental staff report dated September 3, 1993. Commissioner Maher seconded the motion and it carried unanimously.**

VII. FINDINGS

Commissioner Fenske moved to approve the Findings, Conclusions and Order for MLP 93-02 - Howard/Guttormsen. Commissioner Maher seconded the motion and it carried unanimously, with Commissioners Gustafson and Wiegand being absent.

VIII. COMMISSION DISCUSSION OF PLANNING ISSUES

The following issues were discussed:

1. The Commission requested that when Mr. Hoffman's report to City Council regarding an updated fee structure was ready, a copy should be distributed to the Planning Commission.

2. Regarding the street tree plan, it was reported that Mr. Jordan responded that there wasn't enough money for a consultant. Ms. Mihata reminded the Commission that one of the priorities was seeing about placing trees in Canby's commercial areas: along 99-E, through the main streets in town, and along streets without trees; possibly surveying all the trees in Canby and determining whether or not to have an organized future plan for street trees, and whether or not to involve the City in the growing of the trees. The Tree Committee suggested discussion about historical trees and significant trees. Commissioner Elliot suggested having some people he knows who run tree nurseries come in to offer guidance once the parameters of the discussion are defined. Chairman Schrader suggested Ms. Mihata meet with Mr. Wheeler prior to the first meeting in October to define those parameters and prepare an agenda for this discussion.

3. Regarding Advance Financing - Commissioner Fenske explained that he failed to include wording regarding time limitations for applications, or provisions for compelling developers to enter into advance financing agreements. Both issues are now included in the draft revision. He submitted a revised edition and explained that Section 4.12.022 - Applicability, is the new section, and 4.12.030 - Receipt of Application, has had a sentence added which includes a 6 month period following the commencement of work as the date by which an application for advance financing must be submitted. Mr. Fenske explained that, normally, the City would expect to see such an application submitted prior to such improvement even beginning.

Additionally, Commissioner Fenske pointed out where the City can elect to act as the developer in an Advance Financing agreement if it is in the City's best interests to develop a property, such as the Industrial Park. Then the City can collect the monies as they become available from the benefitted properties.

Further, Commissioner Fenske explained that the new version gives the Planning Commission the power to compel the developer to enter into an Advance Financing agreement.

4. Regarding the Park Plan, Chairman Schrader reported that Scott Nelson and County staff are working with the South Clackamas Recreation District to develop a generalized recreation and park plan for the entire area. A small group of individual is trying to gather information for the

big meeting with the task force which is to be held September 16th. It is expected that the results of surveys will be presented at that meeting. Chairman Schrader talked about the possibility of a tax base for the South Clackamas Recreation District Parks Plan, which would basically include the High School District's boundary.

IX. DIRECTOR'S REPORT

Mr. Hoffman informed the Commission that the dates for the joint workshop was October 29 and 30, at which time the Commission's concerns would be addressed. Additionally, the City fee structure will be discussed at that workshop and Mr. Hoffman advised the Commission he was preparing a fact sheet for it.

The Commission asked about the OEDD Grant Loan for the Logging Road Industrial Park. Mr. Hoffman explained that a project application was submitted for State money from the Oregon Economic Development Department for the Industrial area. If it is shown that there are industrial applicants ready to partake, the application is taken more seriously, which is why a letter from Fred Kahut was attached to the application. While Mr. Kahut indicated he purchased a parcel and is attempting to locate there. What his letter did not indicate, was that he still had to go through the land use process. A letter from another industry in Barlow, who has purchased a parcel and plans to relocate there and expand in size, was included. Interest has been shown from nearby Township Village residents who thought inclusion of the letters implied approval. They have been assured the inclusion of those letters does not assure Commission approval of any applications.

Mr. Hoffman then brought the landscaping issue of a duplex at 454-458 S.E. 5th Avenue, previously owned by Don Goddard before the Commission. He explained that he received a letter from the new owner who was totally unaware that this issue was covered under Design Review approval conditions. The new owner has replaced all the bark dust with sod and added a lot of plantings, which are indicated on a diagram he submitted (a Before-and-After diagram). The Commission and Mr. Hoffman agreed the landscaping was much improved and acceptable. Since the conditions of the Design Review application go with the property, Mr. Hoffman suggested revising the approved plan to be consistent with the present owner's proposal, when final approval is given by the Commission. Mr. Hoffman added that the landscaping at the duplex next to this one is in far worse condition and that he

has had a lot of difficulty getting compliance from the absentee owners even though the property has a local property manager.

The Commission questioned enforcement leverage with regard to Design Review approval conditions. Mr. Hoffman explained that if the landscaping is not put in prior to occupancy, a bond is now required. Included in the bond, is a 3-year time frame before the bond is exercised (to full maturity), but the Commission agreed a time frame should be included so that plants are planted in a timely manner.

The Commission questioned whether Cedar Ridge development has adhered to the conditions of approval, especially with regard to dead and dying trees, especially on the lots abutting the recycling plant. Additionally, it was noted that trees have been cut but not removed, which the Fire Marshal has cited as a fire hazard. Mr. Hoffman advised that he was going to visit the site and note which restrictions have not been complied with. The developer would then receive a "First Notice of Pending Violations," which would outline the City's steps for performance abatement. He suggested the possibility of not issuing new permits on lots which have not yet been sold. The Commission questioned using the bond to pay for corrective measures, but Mr. Hoffman explained that the bond was specifically limited to landscaping measures. Additionally, it was noted that the tot lot did not have the proper ground cover, specifically noted in the conditions of approval.

X. ADJOURNMENT

The meeting was adjourned at 10:20

Respectfully submitted,


Joyce A. Faltus