

**APPROVED**

**MINUTES**

**CANBY PLANNING COMMISSION**

*Regular Meeting  
September 27, 1993  
7:30 p.m.*

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**I. ROLL CALL**

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

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

Others Present: Jeanette Stefani, Ron Tatone, Richard Oathes, Jim Trenary, Bev Woolhiser.

**II. MINUTES**

None

**III. CITIZEN INPUT ON NON-AGENDA ITEMS**

None

**IV. COMMUNICATIONS**

None

**V. NEW BUSINESS**

**ANN 93-02**, an application by Paul Schultz (applicant) and Les and June Bradley (owners) for approval to annex a portion of Tax Lot 400, demolish the existing house, and replace it with a single family dwelling to be served by City water and sewer. The parcel is located on the west side of N. Maple, north of N.E. 22nd Avenue (The eastern 150' of Tax Lot 400 of Tax Map 3-1E-28A).

Mr. Wheeler explained that the property is approximately 1-1/2 acres, and only the eastern 150 feet of the parcel is being proposed for annexation into the City because north of N.E. 22nd Avenue, the UGB is located 150 feet west of N. Maple. The partition would be affected by the Portland Metropolitan Boundary Commission. The applicant has filed a 20 foot easement along the southern portion of the property, with the County, for access to the back portion of the parcel, which is where the current driveway is. The applicant proposes to either demolish or move the house on the portion to be annexed, and construct a new home. Sewer will have to be extended from the north at N. Maple Street and N. Maple Court, at the owner's expense, prior to occupancy of the new structure.

The applicant proposes to construct one single family residence, but the house will not be completely centered on the lot, allowing for future development. Dedication of additional width on N. Maple would not be affected until further development, in addition to the one structure, and is included in the understandings attached to the annexation, as well as improvements to N. Maple.

1. The Commission discussed the fact that the understandings included street improvements and failed to include sidewalk improvements. Mr. Wheeler indicated that an additional understanding that included sidewalk improvements, would be appropriate, as part of a single-family residential construction.
2. The Commission discussed its concern about a sign indicating the flag lot for sale when no partition has occurred. The Commission was concerned that the flag lot does not exist until the annexation takes place and, until a lot line adjustment took place, after annexation part of the easement would be in the City, to a County tax lot. Concern centered around the fact that the Commission felt uncomfortable that the annexation would result in creating a partition without guaranteed access. Mr. Hoffman explained that the County did not express concern about this. Access to the created rear parcel was discussed with the applicant, which is how the easement came into being. Staff explained that a partition will occur automatically when the annexation takes place because only a part of the current lot will be annexed into the City, and the remainder will remain in the County. Therefore, two tax lots will be created as part of the Boundary Commission's action.
3. The Commission discussed the timing of improvements and dedications with respect to the current owner and subsequent owners of the property. Staff explained that a second lot couldn't be sold until a final plat is submitted to the County for a partition, and dedication would be

part of that final plat and road improvements would be part of the partition. Canby would either have a bond or the improvements would be completed prior to the signing of the final plat. Thus, road improvements are triggered by a further partitioning of the parcel which is annexed into the City.

4. The Commission questioned whether the recommendations can be added to the actual annexation. Staff explained that the Boundary Commission doesn't place conditions on annexations, but that once the applicant goes through the building permit process or further petition process, specific conditions will then have to be met.
5. The Commission discussed inconsistencies between the application and the staff report regarding the size of the property and the number of residences on the western portion of the property. Additionally, the application to the Boundary Commission stated that water and sewer are available in N. Maple, adjacent and in front of the property when sewer is not available directly in front of the property in N. Maple. Staff explained that the Boundary Commission gets our staff report and we get theirs prior to the public hearing so the City can give input, especially with regard to inconsistencies.
6. The Commission discussed the possibility of a delayed annexation. Mr. Hoffman explained that staff is exploring that possibility further but, at the present time, is not sure what is involved in doing so. He explained that he understands that the City and County must be in agreement because the County carries the major part of that process.
7. The Commission discussed including in the understandings what is usually included in a partition application because, otherwise, the applicant who is partitioning a piece of property that is half in the City and half in the County would be gaining advantages someone whose property is within the City would not receive. The understandings would include utility easements, sidewalks, road widening, and dedication. Staff suggested the Commission deal only with the parcel that is coming into the City, as long as the remaining County parcel is not landlocked.

Based on the Conclusion and recommendations in the staff report dated September 17, 1993, on Commission deliberations, **Commissioner Mihata moved to recommend approval to City Council, with the added understanding about sidewalk improvements on N. Maple. Commissioner Maher seconded the motion and it carried 5-2, with Commissioners Fenske and Schrader voting no.**

## **VI. PUBLIC HEARINGS**

**MLP 93-03**, an application by Zarosinski-Tatone Engineers, Inc. (applicant) and Jeanette Stefani (owner) for approval to partition Tax Lot 1700 into two separate parcels, allowing alternate access to Parcel II from Township Road for future development in accordance with present zoning (R-2). The property is located on the north side of Township Road, east of S. Pine (Tax Lot 1700 of Tax Map 3-1E-34C).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Other than visiting the site, but coming to no conclusions, there was none indicated. He then explained the hearing process and procedures.

Bob Hoffman presented the staff report. He explained that the applicant is requesting approval to partition a 2-1/3 acre parcel into 2 parcels, .45 acres and 1.90 acres, respectively. The applicant intends to retain the single family house on Parcel #1, and leave Parcel #2 for future development and, possibly, future partitioning. Part of the parcel has frontage on Pine Street and part has frontage on Township. The applicant is proposing to create two flag-type access points from Township Road onto Parcel #2, one to the west of Parcel #1 and one to the east of Parcel #1 in order to have better flexibility once Parcel #2 is further partitioned and developed. Staff has raised questions about this issue and expects that the applicant will address it during his testimony.

The entire parcel is zoned R-2, High Density Residential. Parcel 2 could be developed with up to 27 units. The parcels do have sewer and water facilities nearby. Mr. Hester, Public Works Supervisor, has noted, in his request for comments, that the current sewer probably is not deep enough to serve the parcel without some special configuration. The parcel could possibly be served with a sewer down Pine, as there is a manufactured home park being developed just north of this site on Pine and a requirement of Mr. Watson's approval was that he build a sewer line to the edge of his southern property line.

Once the access issue is resolved, staff is recommending approval of the application with conditions. Mr. Hoffman referred to the utility easements, which the applicant will discuss further. With regard to proposed condition #5, Mr. Hoffman explained that Pine Street is presently 20 feet wide, and that the Comprehensive Plan considers it a collector type of street, which should be about 50 feet wide with 36 feet of pavement, and engineering would have to review both the widths of Township and Pine. Proposed condition #6 is included because it is not clear whether Pine Street has been actually dedicated. Mr. Hoffman reviewed proposed condition #10 in light of the

possibility that Parcel #2 could be developed with improvements, but that if Parcel #1 is separate with no further improvements, the City would not get additional width for Township at that area. Because the effective date of the annexation of this parcel was September 21st, proposed condition #11 can be deleted.

Mr. Hoffman then referred to Mrs. Woolhiser's letter which indicated concerns about the access road on Parcel #2, immediately to the east of her property. Should that be approved, her property would then be surrounded on three sides by busy roadways. Mr. Hoffman also responded to some questions Ms. Woolhiser set forth in her letter.

### **Applicant**

**Ron Tatone** explained that the applicants are not intending to maintain two accesses on Township Road. The purpose of the request is because the applicants are not sure just how Parcel #2 is going to be developed, and want to allow as much flexibility as possible. One reason for the request is because Pine Street is not a dedicated right-of-way. Also, if a purchaser decided to develop it with a higher density which requires 15% landscaping under Design Review, the second accessway could be contributed toward the landscaping requirement. It would be agreeable to the applicant if the Planning Commission conditioned that one of the proposed accessways is a temporary non-access.

As this is a very unusual partition, Mr. Tatone addressed his concern about the numerous interior easements and the easement added to the dedication on Township.

Since this application is not yet in the design stage, Mr. Tatone explained that he didn't address the sewer issue in detail, but he assumes that the new industrial park will have sewer, which could be extended to this site.

There are no specific concerns regarding the other proposed conditions.

### ***Neither For Nor Against***

**Beverly Woolhiser, 1222 S.E. Township** referred to the concerns outlined in her letter. Ms. Woolhiser stressed that the traffic conditions are her main concern, especially the wall in Township Village which conceals other automobiles when she backs out of her driveway, the increased traffic on Pine, and the increased traffic the new Trost Elementary School brings. An additional road abutting the east side of her property would increase the hazardous situation that presently exist.

### ***Rebuttal***

**Ron Tatone** reiterated that only one access is planned, but two were requested to allow flexibility in developing Parcel #2. The preferable access would be the one furthest east. The applicant would prefer not adding additional land to Parcel #1 because the future development of Parcel #2 is an unknown at the present time, and the applicant would like to keep the options open.

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

1. The letter from Mrs. Woolheiser, who has concerns about being impacted by both the widening of Pine and Township, and being surrounded by roads/driveways.
2. The Commission questioned whether a condition should be added regarding the lift station and storm drainage referred to by Mr. Hester. Mr. Hoffman explained that it depends on which route the applicant takes to attain service and whether or not advance financing for the industrial project will build the Pine extension. Another alternative is to tie into the existing sewer in Township at Pine, which is not preferable, because that sewer will be used to capacity once Township Village is built out. Thus, a condition regarding the lift station is not needed.
3. The Commission discussed the possibility of the two parcels between the Watson manufactured home park and the site in question, and whether they would participate in extending the sewer from the southern portion of Watson's site.
4. The access issue was discussed. The Commission agreed that it was not the intent of the landscaping requirements that a small appendage should be dedicated to meet any large part of the requirements. Rather, landscaping should be distributed evenly. Mr. Hoffman reminded the Commission that the standard is now 30% for all residential landscaping. Additionally, the Commission pointed out that if access was proposed to the west of Parcel #1, it would be less than 200 feet from the intersection with Pine Street, and it is unlikely that it would be approved as a road.
5. Proposed condition #5 was discussed. It was agreed the last sentence could be deleted. The condition would be reworded to assure total right-of-way of 50' along S. Pine, and 60' along Township Road. It would read: "Total right-of-way of 50' along Pine and 60' along Township to the satisfaction of the acting Public Works Director."

6. The Commission discussed whether or not to condition one access only, on the far east side of the site. The Commission also questioned why the proposed westerly access was not added to Parcel #1. Mr. Tatone explained that adding that piece to Parcel #1 would create a considerable side yard which would be of no benefit to the residence, which is planned to remain on the site. The proposed westerly access, he added, would benefit higher density development on Parcel #2. Several options were then discussed regarding easterly access, westerly access, leaving the decision about which access up to the applicant, or adding the proposed western access to Parcel #1. The Commission concluded that Township vehicular access to Parcel #2 should be limited to the most easterly side of the site.
  
7. With regard to improvements, proposed conditions 7-10 were discussed, and it was suggested that a bonding mechanism be added so the applicant could post a bond for improvements. Before proposed condition #10, it would read, "Prior to the issuance of a building permit for Parcel #2." Staff suggested adding the phrase "including the frontage along Parcel #1" to the end of the first sentence of proposed condition #10. Staff pointed out that with the new preface to proposed condition #10, sidewalks would be required prior to issuance of building permits. The Commission agreed to add a bonding clause to read, "Bonding is an option to allow later construction of sidewalks" after sentence #2 of proposed condition #10.  
  
Before proposed conditions #7, #8 and #9, it would read, "Prior to the issuance of a building permit for Parcel #1 or #2 or at the time of subsequent partitions on either parcel." With regard to the easements around Parcel #1, Mr. Hoffman suggested deleting "6 feet in width along interior lot lines; and," from proposed condition #4, and reword the next sentence to read, "12 feet in width along exterior lot lines for the overall partition, except where adjacent to another easement of at least 6 feet and, in that case, the partition easement shall be 6 feet."
  
8. The Commission agreed the access issues with the following four choices would be decided upon motion: 1) western access only; 2) western and eastern access; 3) western access added to Parcel #1; and 4) applicant to decide on either access.

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony and on Commission deliberations, ***Commissioner Maher moved to approve MLP 93-03 with the modified conditions, and an additional condition that both access legs will remain, but***

***the applicant must choose only one accessway. Commissioner Gustafson seconded the motion and it was defeated 5-2.***

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony and on Commission deliberations, ***Commissioner Fenske moved to approve MLP 93-03, with the modified conditions as discussed. Commissioner Mihata seconded the motion and it was defeated 4-3.***

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony and on Commission deliberations, ***Commissioner Mihata moved to approve MLP 93-03, with the modified conditions as discussed, and restricting access to the easternmost access off Township Road. Commissioner Wiegand seconded the motion and was defeated 4-3.***

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony and on Commission deliberations, ***Commissioner Mihata moved to approve MLP 93-03, with the modified conditions as discussed, and limiting access to the easternmost leg off Township Road, but retaining the western leg as part of Parcel #2. Commissioner Elliot seconded the motion and it carried unanimously, with the conditions reading as follows:***

**For the Final Partition Plat:**

- 1. A final partition plat modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition plat shall reference this land use application – City of Canby, Planning Department, File No. MLP 93-03.**
- 2. The final partition plat 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.**
- 3. All monumentation and recording fees shall be borne by the applicant.**
- 4. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:**



12 feet in width along exterior lot lines of the overall partition, except where adjacent to another easement of at least 6 feet in which case the partition easement shall be 6 feet.

5. Total right-of-way of 50' along Pine and 60' along Township shall be assured to the satisfaction of the acting Public Works Director.
6. A Quit-Claim Deed for current Pine Street right-of-way shall be provided. A waiver of remonstrance shall be provided for any LID on Pine or Township Road.

**Prior to the issuance of a building permit for Parcel 1 or 2 or at the time of subsequent partition of either parcel:**

7. A new deed and legal description for the new parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
8. All utilities, including water and fire hydrants, must meet the standards and criteria of the providing utility authority.
9. An agreement shall be provided to participate in any advance financing agreement that may be in place at time of development of either parcel.

**Prior to the issuance of a building permit for Parcel 2:**

10. One-half street improvements along Pine and Township shall be constructed for the full frontage along Pine and Township, including the frontage along Parcel #1. The sidewalk shall be constructed prior to the occupancy of any development on Parcel 2. Bonding is an option to allow later construction of sidewalks. (An agreement to participate in an advance financing agreement may be an alternative.)
11. Access to Parcel #2 shall be limited to the easternmost leg off Township Road, but the proposed western leg shall remain a part of Parcel #2.

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*DR 93-04/VAR 93-01*, a Design Review application by Dave Morris [Endex Engineering, Inc.] (applicant) and Merritt Truax (owner) for approval to

develop a gasoline service station, which includes 200' x 67' concrete paving, a 36' x 12' masonry office building, and 40' x 54' steel canopy over the pump island. Additionally, the applicant is requesting a 7 foot variance from the 20 foot setback requirement from the curb on Highway 99-E in order to construct the steel canopy 13 feet from the curb, as planned. The property is located on the north side of Highway 99-E, between N. Grant and N. Elm Streets (Tax Lots 9000 and 9100 of Tax Map 3-1E-33CD).

Chairman Schrader asked if any Commissioner has ex-parte contact or conflict of interest. Other than visiting the site, but coming to no conclusions, none was indicated. He then explained the hearing process and procedures.

Jim Wheeler presented the staff report. Regarding the Design Review application, he explained that the application is for a gas station, with two gas pumping islands (a total of 4 pumps) and a pay booth at the northern pumping island. A canopy which would cover both islands is proposed. There would be a small office with restrooms, and a 36' x 12' masonry storage building is proposed. Additionally, four parking spaces are proposed although only two are required. The applicant is proposing one ingress and one egress.

At one time, the Canby grain elevators, which were demolished in 1987, were located here. The owner of the property originally intended to dedicate the 200 foot end portions of the property to the City, but that offer has been rescinded as the owners do not want to move the driveways or allow joint access. It is the City's understanding that O.D.O.T. would not look favorably upon a more intense use of the property, even with the two access points, and in a recent phone conversation with O.D.O.T., was told the ingress and egress may be limited to right-turn-only.

The use of a service station is permitted outright. Staff recommends that the access points be approved as designed in the original proposal. Under Design Review it is stated that the amount of landscaping is determined by the amount of land being developed, so that the end parcels no longer being planned for development are not included in the calculations for landscaping.

Staff finds that since the depth of the property is limited to 75 feet, and because the islands cannot be relocated further north, that an 8 foot sidewalk with an additional 4 foot landscape strip would restrict the use of the gas islands. It would still be appropriate for landscaping to occur along the property frontage, and it is recommended that the Commission allow the sidewalk be reduced to 6 feet, yet allowing for a 4 foot landscaping strip, making access more feasible. The applicant has only proposed a groundcover for the landscaping. Staff recommends that three small street trees and/or a small box hedge be planted on 99-E so as not to inhibit the commercial nature

of the property. On the larger landscaped areas to the east and west of the actual gas station, staff recommends that at least two larger trees be planted on each side, with additional shrubbery and groundcover. One of the requests for comments received recommended sidewalks along the entire frontage of the parcel. Without the dedicated ends of the parcel, staff is recommending that sidewalks be required for the full frontage of the parcel along Elm, Grant and 99-E, with Elm and Grant having 4' sidewalks. As proposed, there would be 2270 square feet of landscaping, slightly less than the required 15%, so some additional landscaping would be required. Additionally, the access aisle for the handicapped parking spaces must be 8 feet wide for the first parking space; only 5 feet has been provided. The office building, gas sales kiosk, and protection wall for the air and water pumps will be of masonry construction and painted white, and will be located in the northern gas pumping station. A blue steel canopy over the pumping stations is proposed. The buildings will have no roofs, and will be painted blue with red trim.

Regarding the issue of signage, Mr. Wheeler explained that it is difficult to determine the permitted footage because the development is located in the center of a parcel that has frontage of three streets. With no other commercial development likely to occur on the site, staff felt it was appropriate to recommend permitted signage similar to that of a corner lot, which would amount to 240 square feet. He explained that the applicant proposes price signage of 125 square feet on two sides, and the lettering CHEVRON on three sides of the canopy, amounting to 51 square feet. Signage would be white letters on blue backgrounds, and will include directional signs for the entrance and exit. The soda vending machines have to be included in the signage too, he added, and could not be larger than 63 square feet. Contrary to the staff report, the price signs will not have to be relocated because the ingress has reverted back to the original position.

Mr. Wheeler presented the variance portion of this application. He explained that the applicant is requesting that the street yard setback distance for the service station canopy be reduced from twenty feet to thirteen feet to allow for full covering of vehicles and employees at gas pumping islands. As the canopy is a structure, it is required to meet all the setback requirements. The setback requirements for the property are due to its proximity to Highway 99-E. The Commercial-Manufacturing zone does not require setbacks except where it abuts residential property or Highway 99-E.

Although the applicant has designed the canopy, as much as possible, in a reduced manner, staff does not find that **all** the variance criteria has been met. Mr. Wheeler reviewed all 6 criteria and highlighted the **two** that have not been met. The first criteria staff found that was not met is: Exceptional or extraordinary circumstances would apply to the property which do not apply

generally to other properties in the City and within the same zone, resulting from tract size, shape, topography, or other circumstances over which the owners have no control. Staff finds that the lack of depth of this property is not exceptional or extraordinary for commercial or industrial properties along 99-E and that that 20% of the properties along Ivy and 99-E have similar development difficulties because they lack depth of 100 feet or more..

The second criteria that staff believes has not been met is: The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the City and within the same zone. Staff found that three service stations in the City have canopies closer to the front property line than the required 20'. Those canopies, though, are considered non-conforming structures, as they were constructed prior to the zoning requirement for a 20 foot setback. One that opened more recently, does not have a canopy. This proposal would be permitted to have 75% of a standard canopy, without the variance. In this case, staff finds that, without granting the variance, the owner has substantially the same rights as other owners of property similarly zoned and located.

### ***Applicant***

***Jim Trenary, 4180 Markham Street SE, Salem 97301*** stated that he represents Merritt Truax, and will be the operator once the station is constructed. He explained that prior to purchasing the property, preliminary plans were submitted to O.D.O.T. It was made quite clear that right-turn-only was not acceptable, and that there would be one-way traffic entering and exiting the station. Jim Westbrook, from O.D.O.T., was concerned that access to both ends of the property would cause too much traffic congestion, which was why right-turn-only was originally suggested. For that reason, and because safety is of prime importance, the owner is not dedicating the end pieces to the City for development. Mr. Trenary referred to the letter to O.D.O.T from Mr. Truax clarifying his intentions with regard to not developing the ends of the property and, therefore, not moving the proposed driveways further east and west. Preferably, it will be fully landscaped. Mr. Trenary stated that he concurs with the amount of landscaping required, but requests that the Commission not condition that trees be planted on the strip on 99-E because trees could block the view of oncoming auto and pedestrian traffic. Additionally, Mr. Trenary stated that the soda machine signs will not exceed the permitted signage and, if need be, only one would be in stalled.

With reference to the variance, Mr. Trenary stated that he believes this is a unique property for the planned use, and although it fronts on three streets, two are deadended because no access is permitted from either street. Additionally, Mr. Trenary stated that he is concerned about the fact that the

canopy is termed a "convenience item." In his estimation, the canopy is a safety feature, especially as it protects employees from going back and forth into wet and dry conditions during an entire shift. Furthermore, Mr. Trenary stated that the canopy won't affect visibility in any way, as it is fifteen feet high.

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

1. The Commission agreed that the specifics submitted by the applicant requires the Chevron sign to be place above the price sign, and if visible from both sides, amounts to 250 square feet alone. Additionally, the Commisison asked what the allowed signage would be if it was not considered a corner lot. Mr. Wheeler explained that 150 square feet would be allowed. The definition of a corner lot was then reviewed, as was the placement of signs with regard to setbacks. Staff explained that ODOT will not permit more than one entrance and exit on the entire block and the City will not permit access via Grant or Elm.
2. The Commission noted that the 4 foot planting strip is not included in the applicant's proposal. Mr. Wheeler explained that it was staff's recommendation, not proposed by the applicant. Additionally, it was noted that more landscaping is recommended, than would be required.
3. With regard to the specific groundcover required, Mr. Wheeler explained that only a general plan is required at this point in time, but before the building permit is issued, a detailed landscape plan would be required, which would include the type, size, and number of plants, the layout, the irrigation, maintenance, and scheduling plans.
4. The Commission discussed the percentage of the property under consideration when figuring the percentage of landscaping required. It was agreed that not only the portion of the property that would be developed should be considered, but the entire parcel. The applicant agreed the unused ends of the property should be considered in the calculations. The Commission agreed the ends of the parcel should be completely landscaped so the ends do not deteriorate, and that maintenance of the ends was of the utmost importance. The Commission took a straw poll regarding the importance of the planting strip on 99-E, and it was agreed 6-1 that a 2 foot planting strip along 99-E should be included with a low hedge and a 6 foot sidewalk, and that the end portions should be planted with trees, groundcover, and

shrubbery. The Commission requested that the applicant submit the landscape construction plan, or concept, to be attached to the Final Order.

5. The Commission asked if there was adequate sewer available to serve the site. Mr. Wheeler explained that there would only be one connection required and that there would be low demand on the system.
6. The Commission asked whether or not O.D.O.T. has given final approval for this project. Staff advised the Commission that the agreement is virtually ready to be signed.
7. Mr. Hoffman reviewed Section 16.08.090, sidewalks in commercial areas, emphasizing that the Planning Commission may impose **appropriate** sidewalk and curbing requirements as a condition of approving **any** discretionary application it reviews. Additionally, he explained that in all commercially zoned areas, the construction of sidewalks and curbs (with appropriate ramps for the handicapped on each corner lot) shall be required as a condition of the issuance of a building permit for new construction or substantial remodeling, where such work is estimated to exceed a valuation of twenty thousand dollars, as determined by the Building Code. . . For Highway-Commercial zones, the Ordinance states that except in cases where existing building locations or street width necessitates a more narrow design, sidewalks 8' in width shall be required in those locations where angle parking is permitted abutting the curb **and** for property frontage along Highway 99-E.

With regard to the Variance application:

8. The Commission considered the dimensions of the subject parcel, specifically the depth of 75 feet, and concluded that such dimensions are exceptional and extraordinary for the proposed use, especially when considered in light of the setback requirements from 99-E. The Commission further concluded that the circumstances, which are a result of the property being located between the railroad and highway, is not something the owners have any control over.
9. The Commission discussed a previously approved variance application, Hoffman Video, which permitted a canopy within the street setback along Highway 99-E. Granting this variance would assure the applicant the same property rights.

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony, and on Commission deliberations, ***Commissioner Fenske moved to approve DR 93-04 with staff's conditions, as amended. Commissioner Elliot seconded the motion and it carried unanimously, with the following conditions:***

1. **Approval of the driveway access to State Highway 99-E shall be obtained from the Oregon Department of Transportation, prior to the issuance of the building permit.**
2. **If the variance for the canopy (VAR 93-01) is not approved, the canopy shall be reduced in size so as to be no closer than twenty (20) feet from the Highway 99-E right-of-way.**
3. **Curbs for the full street frontage and necessary road improvements for Elm and Grant up to the curb, if necessary.**
4. **The sidewalk width shall be six (6) feet for the developed portion of the property and 8 feet for the remaining frontage along 99-E, and four (4) feet along the frontage of both N. Grant and N. Elm Streets.**
5. **The landscaped area shall be as follows:**
  - a. **The two (2) foot planting strip adjacent to the sidewalk shall be planted with at least a small hedge, similar to that of a boxwood hedge.**
  - b. **The areas to the east and west of the gas station shall each be planted with at least eight (8) medium sized trees, and grass and flowers for groundcover.**
6. **All landscaped areas shall be irrigated utilizing a fully automatic underground irrigation system, or there shall be a readily available water supply within one hundred and fifty (150) feet of any landscaped area.**
7. **A landscape construction plan shall be submitted with the building permit application. The plan shall include irrigation system, planting schedule, where the plants are to be located within the landscaped areas, plant types and sizes, and the plant spacing.**
8. **During construction, erosion control shall follow the Erosion/Sedimentation Control Plans Technical Guidance Handbook for Clackamas County, August 1991 (as amended).**

9. **The combined size of all signs (including vending machines) shall not exceed a total of 240 square feet.**
10. **A "Data Disclosure Form" shall be filled out and submitted to the City prior to the issuance of a business license.**
11. **The access aisle for the handicapped parking space shall be at least 8 feet wide.**

Based on the findings and conclusions contained in the staff report dated September 17, 1993, on testimony received, and on Commission deliberations, finding that all variance criteria has been met, *Commissioner Fenske moved for approval of VAR 93-01. Commissioner Wiegand seconded the motion and it carried 5-2.*

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**CUP 93-01/DR 93-05** - an application by the Canby Elementary School District #86 for approval of a conditional use and design review application to install a modular storage building at the Knight Elementary School property (to be relocated from the Eccles School). The school is located on N. Grant Street, between N.W. 4th and N.W. 6th Avenues (Tax Lot 1400 of Tax Map 3-1E-33).

Due to the lateness of the hour, this hearing was continued to October 11, 1993.

**VII. FINDINGS**

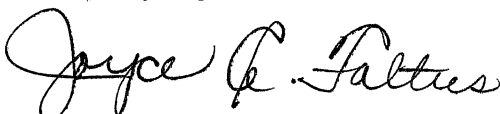
None

**VIII. DIRECTOR'S REPORT**

**IX. ADJOURNMENT**

*The meeting was adjourned at 11:15 p.m.*

*Respectfully submitted,*

  
Joyce A. Faltus