

MINUTES

APPROVED

CANBY PLANNING COMMISSION

*Regular Meeting
July 11, 1994
7:30 p.m.*

I. ROLL CALL

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Elliot, Ewert, Maher and Gustafson

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

Others Present: Halvor Gregersen, Lillian Gregersen, Linda Smith, Dale Smith, L. Duane Smith, Eva M. Smith, Andy DiTommaso, Don Hardy, Ernie Graham, Tony Pizzuti, Wayne Scott, Jimmie Luey, Gordon Ross, Judy Pizzuti, Anselmo Pizzuti, Allen Manuel, John Watson, Carol Biskar, Nick Crumpton, Tom Tye.

II. MINUTES

The minutes of May 23, 1994 were approved, as corrected.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

Councilman Prince invited the Planning Commission to a joint meeting with the City Council on July 13, 1994 at 7:30 p.m. to discuss the Transportation Plan. He also explained he would like to set aside a half hour to discuss the METRO 2040 Plan. Mr. Prince also congratulated the Commission on its decision regarding the IFA property, which LUBA upheld.

IV. COMMUNICATIONS

None

V. FINDINGS

The Commission was reviewing the Final Order for DR 94-06 [Canby Congregation of Jehovah's Witnesses]. Commissioner Elliot moved to approve the Findings, Conclusions and Order for ANN 94-01, as submitted. Commissioner Maher seconded the motion and it carried unanimously. Due to the error, Commissioner Maher moved to reconsider and Commissioner Ewert seconded the motion, which was carried unanimously.

Commissioner Elliot moved to approve the Findings, Conclusions and Order for ANN 94-01 (Faist). Commissioner Ewert seconded the motion and it carried unanimously.

Commissioner Maher moved to approve the Findings, Conclusions and Order for DR 94-06 [Canby Congregation of Jehovah's Witnesses]. Commissioner Elliot seconded the motion and it carried unanimously.

VI. NEW BUSINESS

None

VII. OLD BUSINESS

MLP 94-04, an application by Melvin L. Dorson for approval to partition a 24,375 square foot parcel into two lots, 11,700 square feet and 12,675 square feet, respectively. The applicant proposes to install a manufactured home on the easterly 11,700 square foot lot. The property is located at 784 N.W. 3rd Avenue (Tax Lot 1400 of Tax Map 3-1E-32D).

Mr. Hoffman reminded the Commission that he was requested to investigate the actual dimensions for the western portion of the lot, between the house and the western property line, due to a question about the most westerly side yard setback. After visiting the site, it appears that if the fence is on the property line, there would be only a 9'4" setback. It appears that the fence is not built on the property line, so the setback might even be less. Mr. Dorson has contracted for a survey to try to find the stakes, and if they cannot be found, a survey will be required. Mr. Hoffman recommended that the Commission continue the application until the survey is available because it is very likely that neither of the fences are on the property line, in which case, the present configuration would not work.

Applicant

Melvin Dorson explained that the survey would be completed within a day or two.

Commissioner Maher moved to reconsider approval of MLP 94-04.
Commissioner Ewert seconded the motion and it carried unanimously.

Commissioner Mihata moved to continue MLP 94-04 pending the outcome of the survey and possible reconfiguration of the partition. Commissioner Gustafson seconded the motion and it carried unanimously.

VIII. PUBLIC HEARINGS

SUB 94-01, an application for RECONSIDERATION by Anselmo and Judy Pizzuti for approval to develop a 4.22 acre parcel into an 8-lot subdivision, retaining the existing single family home on Lot #8. The property is located on the west side of N. Maple Street, between N.E. 20th Avenue and N.E. 21st Place [Tax Lot 600 of Tax Map 3-1E-28DB].

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

Jim Wheeler explained that the Commission had reviewed this application on April 11, 1994 and April 25, 1994. The application was denied based on a finding regarding school capacity and adequacy to serve. Since that time, the school district, City Council and Commission held a workshop, where it was determined that there the school district does have the capacity to serve the subdivision.

Applicant

Tony Pizzuti, 2121 N. Maple asked that the Commission consider the memo from the school district dated May 23, 1994, and make it part of the record. He also requested that the record include the minutes from the School's Board of Directors Special Meeting. He requested approval of the application. (The Planning Commission agreed, through consensus, to accept the May 23, 1994 School District memo as evidence.)

Proponents

None

Opponents

Carol Biskar, 600 N.E. 20th Avenue stated that her property adjoins the subject site. As a teacher, Mrs. Biskar stated that she is familiar with educational issues. From her research, Ms. Biskar has found that there is zero percent of space available at the elementary level. According to national standards, a 1:25 ratio is admirable, but somewhat high. The strong Canby school system is a serious consideration for many people when deciding whether or not to move to Canby. The school personnel office relates that the hiring procedure for teachers no longer encourages experienced, tenured teachers, as the district wants beginning, first-year teachers, to lower its costs. It appears the majority of new homes being built are on the south side of Canby, in the Lee and Ackerman area, where existing homes for sale will fill the quota of available seats. The district's statement that they can supply **reasonably** sufficient service is not good enough, Ms. Biskar stated, because the question of what happens after this two year period is still unanswered. When the Biskar family moved into Canby, when the Pizzuti family had the property rezoned from agricultural to residential, neighbors were told the only homes that would be built were for "family" use only. The neighbors did not object because they respected the Pizzuti family and trusted them.

Duane Smith, 660 N.E. 22nd stated that he is also a neighbor to the subject site. Mr. Smith stated that he does not concur with the projected figures from the school district for the two year plan, especially because the vacant new homes will be filled with children by that time. The Smith family moved to Canby recently from Beaverton, which city, a number of years ago considered selling school properties and closing some schools. Within a three year period, ballots have been passed to build new schools. One of the reasons for moving to Canby, Mr. Smith stated, was the elegance, the peace, and the serenity of the community. If this new subdivision is approved, Mr. Smith questioned whether Maple Street could handle all the additional traffic and whether it would remain safe for children. Mr. Smith added that he would hate seeing Canby turn into another Beaverton. Furthermore, Mr. Smith stated that the Beaverton School District is very overcrowded at the present time.

Rebuttal

Tom Tye, Compass Engineering, 6564 SE Lake Road, Milwaukie 97222 stated that his three children graduated from the Canby School District, as did the Pizzuti's, which is a very good system. Staff indicated that there is .6 children per lot which, for the 8 proposed lots, would add 5 additional children to the system. Mr. Tye further stated that it is not practical to close the doors and restrict admittance to Canby. He encouraged the Commission to approve the application.

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

1. The City and the school district have been keeping in better contact with one another about buildout and how it impacts the schools.
2. Funding is a statewide issue rather than a local issue.
3. "Adequate" level of service is interpreted to mean "reasonably sufficient." In terms of school services, it is interpreted to mean qualitative services such as teaching positions and textbooks and supplies, as well as physical capacity such as classrooms and building space.
4. At the June 6, 1994 joint growth planning session with the City Council, the Planning Commission, and representatives from the Canby School District, it was found that the school district has adequate facilities and can provide reasonably sufficient educational service at this time.
5. Mr. Hoffman reported that the district has established a committee to do a 5 year forecast and facility study. Judy Barmack, who has worked with many school districts, was hired to advise about population forecasting and population factors. Mr. Hoffman has been asked to attend those committee meetings and provide technical support.

Based on testimony presented at the April 11, 1994, April 25, 1994, and July 11, 1994 public hearings, and incorporating the April 1, 1994 staff report and Commission deliberations as support for its decision, **Commissioner Mihata moved for approval of SUB 94-01, with the following.**

For the Final Plat:

1. Twelve (12) foot utility easements shall be provided along all exterior lot lines, except for the northern lot lines of those lots adjoining the Brandy Estates (N.E. 21st Place), which need to be only six (6) feet in width. The interior lot lines shall have six (6) foot utility easements as proposed.
2. The final plat shall reference this land use application - City of Canby, File No. SUB 94-01, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.

3. The final plat mylars must contain, in the form specified, all information necessary to satisfy all matters of concern to the County Surveyor, or his authorized Deputy, including, but not necessarily limited to, various matters related to land surveying, land title, plat security, and plat recordation.
4. The name of the public right-of-way shall be N.E. 21st Avenue.
5. A one foot plug shall be provided at the west end of N.E. 21st Avenue to prevent access to the west until annexed and/or platted.
6. The right-of-way width for N.E. 21st Avenue shall be fifty (50) feet for that portion of the right-of-way that abuts tax lot 601 (tax map 3-1E-28DB). The remainder of the right-of-way shall be tapered to a forty (40) foot right-of-way as proposed.

As a part of construction:

7. Any necessary utilities shall be constructed to the specifications of the utility provider.
8. Street name and traffic control signs shall be provided at the developer's expense. This shall include "Stop" street signs where required by the Director of Public Works.
9. Erosion-control during construction shall be provided by following the recommendations of the "Erosion Control Plans Technical Guidance Handbook," by Lori Faku and Rick Raety, dated November 1989, as revised (currently January, 1991).
10. Storm water drainage and design for the subdivision shall be approved by the Director of Public Works.
11. The design and construction of the sewer system for the subdivision shall be approved by the Director of Public Works.
12. Street improvements, including the construction of N.E. 21st Avenue and half-street improvements in N. Maple Street, shall be built to the City specifications and standards. The improvements shall include the street, curbs, sidewalks, and street trees. The northern frontage of N.E. 21st Avenue and N. Maple Street shall be excluded from sidewalk and street tree improvements until lot #8 is further developed.
13. The centerline of N.E. 21st Avenue shall be located twenty (20) feet south of the northern right-of-way limit.

14. The sidewalks shall be located against the curb, and shall be five-feet wide. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width.
15. The type of street tree to be planted shall be selected from the Recommended Street Tree list. The number of street trees to be planted shall be in accordance with the recommended spacing for the selected tree. The trees shall be planted twelve (12) feet from the street curb. For the portion of N.E.21st Avenue that abuts tax lot 601 (tax map 3-1E-28DB), the trees shall be planted nine (9) feet from the street curb.

Prior to the signing of the Final Plat:

16. The land divider shall follow the provisions of Section 16.64.070 Improvements, in particular, but not limited to, subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for subdivision improvements for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full cost of the improvements.

After construction:

17. "As-built" drawings shall be submitted to the City within sixty (60) days of completion.
18. Garages shall be set back a minimum of nineteen (19) feet from the back of the sidewalk. The distance shall be measured from the closest edge of the sidewalk at the driveway.

Commissioner Gustafson seconded the motion and it carried 5-1, with Commissioner Ewert voting nay.

MLP 94-03, an application by Allen Manuel and Tom O'Halloran for approval to partition a 19,500 square foot parcel into two parcels, approximately 7,000 square feet and 12,500 square feet, respectively. The property is located on the west side of S. Ivy Street, south of S.W. 3rd Avenue and north of S. Township Road [Tax Lot 5900 of Tax Map 3-1E-33CD]. **Carried over from June 27, 1994.**

Chairman Schrader asked if any Commission had ex-parte contact or conflict of interest since the last hearing. None was indicated. He reviewed the hearing process and procedures and the applicable criteria.

Bob Hoffman explained that the applicant reviewed the maps and tax rolls to determine and update the adjacent owner list. The property in question was previously occupied by Little Learners and is currently owned by Mr. Manuel and Mr. O'Halloran, generally described as 421 S. Ivy. The Comprehensive Plan designation for the property is Residential/Commercial and the zoning designation is C-R, Commercial Residential, consistent with the Comprehensive Plan. The applicant proposes to partition the 19,500 square foot parcel into two parcels. The front parcel, including the home, would contain 7,000 square feet and the rear parcel would contain 12,500 square feet. Although this request was previously approved it was not filed with the County within the one year time frame and, therefore, lapsed. The access to the proposed rear lot is a 20 foot drive immediately to the south of the parcel, which is currently used for access by other lots. The owner of Tax Lot 7600, who has rights of access, has submitted a letter authorizing access for proposed Parcel #2. The Fire Marshal approved the access and requested that a fire hydrant be placed at the entrance to the property because it is likely that once the rear parcel is developed, the structure would be more than 150 feet from the nearest hydrant. The proposed rear parcel is large enough, and is zoned to allow multiple development. Four units would require a Conditional Use permit, but a duplex could be built without any further approvals. Anything larger than a duplex would trigger Design Review approval. Mr. Hoffman then reviewed the proposed conditions of approval, as amended. He advised that staff recommends approval of the application.

Applicant

Allen Manuel, 1612 N. Redwood stated that he had nothing new to add.

Proponents

None

Opponents

Ron Berg, 203 S.W. 3rd thanked the Commission for the opportunity to present his views. He addressed his concern regarding traffic safety, pointing out that S. Ivy is a very heavily travelled road, more than any other street in Canby. He also pointed out various units that exit out onto Ivy from existing flag lots within 130 feet, and referred to a church across from the property which adds to the traffic flow. Additionally, he pointed out that Township Road is very close to the subject site. The 20' access, he added, barely meets the minimum width. He questioned who would maintain the access drive. Mr. Berg then reviewed some of the conditions of approval for the 4-plex on S.W. 3rd Avenue, stating that they have not followed the conditions when it comes to landscaping. Between what already exists in the area and what could potentially be constructed, the density in the area

adds up to too many people in too small an area. The proposed lot, he added, would best be developed as a single story duplex.

Todd McAllister, 380 S. Holly questioned how a fire truck would turn around in the access, when a pick-up can't turn around in that area. He further stated that he concurred with Mr. Berg's testimony.

Rebuttal

Allen Manuel stated that the property is in a high density zone and that he could run into some transition problems because the C-R zone is basically a conversion zone, converting from single family housing to commercial. He further stated he owns the nearby 8-plex [two 4-plexes] and the access strip.

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

1. The Commission discussed maintenance of the access drive. It was agreed that proposed Condition #1 should be amended to add that the reciprocal access agreement should be a reciprocal **maintenance and** access agreement.
2. The Commission discussed width of the front lot. It was agreed that, excluding the access drive, the front lot should be at least 60 feet wide and that proposed Condition #11 should be reworded to clearly state that intention.
3. The Commission discussed the restricting parking on the access drive. It was agreed that permanent "No Parking" signs should be placed on the access drive.
4. The Commission discussed traffic conditions on S. Ivy, which is a County road. Mr. Hoffman explained that improvements are proposed in the Traffic Plan, which include widening, and a traffic signal at Ivy and Township.
5. The Commission discussed the density issue and the need for more R-2 lots.

Commissioner Maher stated that staff should investigate the 4-plex on S.W. 3rd where the owner said he would be local and would have on-site management. The conditions of approval have not been met with regard to the fencing and landscaping. Mr. Wheeler stated that the owner is not 100% in compliance; that the fence to the property line does not conform to City Code, for the first 20 feet, it should be only 3-1/2 feet in height. The alterations to the landscaping were brought before the Commission. The Commission asked to be apprised after the Code Enforcement Officer

reviewed the case. Commissioner Mihata requested that staff review the trees and barkdust to see if they are in compliance.

6. The Commission discussed the proposed conditions of approval and amended proposed Condition #1 to include reciprocal maintenance; and proposed Condition #11, to clarify that the lot would be 60' feet wide, **excluding** the access drive.
7. Based on the fact that Mr. Manuel owns the adjacent 8-plex unit, the Commission suggested that he design with more greenery, less concrete, and a more "community" feeling. Mr. Manuel stated that in the 6 years he's owned the complex, he's put more than \$50,000 into upgrades and is planning additional major renovations.

Based on the testimony at the hearings, on the staff report dated June 15, 1994, and on Commission deliberations, **Commissioner Elliot moved to approve MLP 94-03 with the following conditions:**

1. The applicant shall prepare a final partition map. The final partition map shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department. The partition shall include reciprocal maintenance and access agreements for the use of the existing 20 foot driveway for access to the parcels and shall not include the parking area for 421 S. Ivy Street.
2. A new deed and legal description for the new parcel shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.
3. A sidewalk and curb shall be provided along S. Ivy Street prior to, or at time of, development of the rear parcel.
4. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as required by the Director of Public Works.
5. A final partition modified to illustrate the conditions of approval, shall be submitted to the City Planner for review and approval. The final partition shall reference this land use application -- City of Canby, Planning Department, File No. MLP 94-03.

6. Plans to extend the sewer to the rear lot shall be approved for construction by the Director of Public Works, prior to the issuance of any building permits on the site.
7. All monumentation and recording fees shall be borne by the applicant.
8. All utilities must meet the standards and criteria of the providing utility authority.
9. The location of buildings and parking layout and access drives on the rear parcel shall be designed to provide for turnaround on the lot for both autos and fire trucks and shall be approved by the Fire Marshal. Permanent "No Parking" signs shall be placed on the access drive.
10. A new hydrant shall be provided at or near the entrance on Ivy Street.
11. The front lot shall be a minimum of 7,000 square feet and be at least 60 feet wide, excluding the access drive.
12. The land divider shall follow the provisions of Section 16.64.070, Improvements, in particular, but not limited to, Subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for improvements, for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full costs of the improvements.

Commissioner Mihata seconded the motion and it carried 5-1, with Commissioner Ewert voting nay.

MLP 94-05, an application by William and Linda Smith for approval to partition a 149' x 290' parcel into three parcels. The existing home is proposed to remain on a 120' x 154' parcel, and the two new parcels are proposed to be approximately 72' x 140' each, with access from a 20' deeded easement along the subject lots' westerly boundary line. The property is located at 1188 N. Locust Street [Tax Lot 7300 of Tax Map 3-1E-33AB].

Chairman Schrader asked if any Commissioner had 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 and reviewed the applicable criteria.

Mr. Hoffman presented the staff report. He explained that the applicants are proposing to partition a 40,000 square foot parcel into three parcels. The portion of the parcel with the existing home would become a 17,400 square foot lot, and the other two would become 8,700 and 9,700 square foot flag lots, respectively. Mr. Hoffman pointed out that proposed condition #10 indicates that the protected solar access line shall be utilized to meet the solar requirements. In this location, N.E. 12th Avenue runs east/west and only one of the flag lots could be made to meet the primary solar access requirements. The options available are the protected solar access line, and the performance option. After discussions at staff level, Plot Plan Alternative "A", which would orient the lots in a north/south direction, was considered. The alternative meets with both the applicants' approval and the Fire Marshal's approval. Mr. Hoffman then reviewed the balance of the proposed conditions, adding that staff recommends approval of the application.

Applicant

Dale Smith, 1188 N. Locust concurred that he preferred Alternative "A." He further stated that there is a fire hydrant near the property, across the street.

Proponents

Gordon Ross, 489 S.W. 1st stated that Alternative "A" is a better layout. He concurred that there is a fire hydrant right across from the driveway, which the Fire Marshal felt was adequate for his needs. Regarding the sidewalk issue, Mr. Ross stated that he agreed that sidewalks should be installed on 12th Avenue.

Opponents

None

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

1. Plot Plan Alternate "A" which better meets the solar requirements, was considered a preferable lot arrangement.
2. The Commission discussed the construction of the driveway and alternative lot arrangement [Alternate "A"], where the lots are oriented in a north-south direction, to better provide for solar access.
3. The Fire Marshal has asked for certain conditions regarding the nearest fire hydrant. The Commission agreed that the Fire Marshal should determine if the existing hydrant will serve both flag lots, prior to occupancy, at time of building permit.

Based on the findings and conclusions contained in the staff report dated June 17, 1994, testimony at the public hearing, and Commission deliberations, **Commissioner Maher moved to approval MLP 94-05, incorporating Alternative "A" with the following conditions:**

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 94-05.
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 Commission.
3. 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.
4. All monumentation and recording fees shall be borne by the applicant.
5. Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:
 - 6 feet in width along all lot lines, except;
 - 12 feet in width along street frontages.
6. All utilities must meet the standards and criteria of the providing utility authority.
7. The land divider shall follow the provisions of Section 16.64.070, Improvements, in particular, but not limited to Subparagraph (O) Bonds, which requires a surety bond, personal bond, or cash bond for improvements, for any improvement not completed prior to the signing of the final plat. The bond shall provide for the City to complete the required improvements and recover the full costs of the improvements.
8. Wherever missing, sidewalks, street trees, and curbs shall be provided prior to occupancy of the homes on the flag lots.
9. The proposed access drive shall be paved 20 feet wide and platted with one-half attached to each flag lot, with a mutual access and maintenance agreement provided for each flag lot.

10. Alternative "A", the proposed staff revision indicating a north/south orientation for Lots 2 and 3, is approved.
11. Each flag lot shall be developed in such a way that emergency vehicle access is provided for, as required by the Fire Marshal. "No Parking" signs are to be placed and such restrictions shall be enforced along the access drive.
12. At the time of new house building, a fire hydrant shall be placed at the street entrance if any home is to be located further than 250 feet from the existing fire hydrant and the Fire Marshal so requires.

Commissioner Ewert seconded the motion and it carried unanimously.

DR 94-08, an application by Don Hardy, Planning Design Group [applicant] and William and Irva Graham [owners] for Site and Design Review approval of a Card Lock Facility added on to the existing Pacific Pride card lock facility, operated by Graham Oil. The site is located at 640 SW Second Avenue, west of S. Elm Street [Tax Lots 6500 and 6501 of Tax Map 3-1E-33CC]. Carried over from June 27, 1994.

Chairman Schrader asked if any Commissioner had 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 and reviewed the applicable criteria.

Mr. Wheeler presented the staff report. He explained that the applicant proposes to expand the card lock facility on to an adjoining lot on the north side of S.W. 2nd Avenue, which is currently used by Whitman Towing to store vehicles. The northern 50 feet of the expansion area will be consolidated into the Dairy Queen property, which is immediately to the north. The Dairy Queen property and the northern 50 feet of the expansion area have already been combined, but the applicant proposes to lease a portion of the 50 feet and it will be part of a landscape easement for the proposed development, which will be recorded. The area to the south of the landscaped strip will be paved for additional parking spaces for Dairy Queen employees. A walkway will be constructed in the existing landscaped area to provide access for Dairy Queen employees to the new parking strip. No parking is required for the actual development itself, as what is proposed does not include offices or restrooms, only a drive-in card lock facility with no employees on-site. There is one handicapped parking space in the existing Dairy Queen 24-space parking lot. The Uniform Building Code requires 2 handicapped spaces for lots that have between 24-49 spaces. The additional space can be either in the existing lot or the new one, and the owners of Dairy Queen have indicated it will be located in the existing lot. Access to the development is from S.W. 2nd. Sidewalks and curbs

are proposed as part of construction. Although Mr. Graham owns both lots, he does not desire to combine them. Therefore, an easement for mutual access will be necessary. The canopy and pump islands are designed to match the existing ones, and no new signs are proposed other than lettering on the canopy. Mr. Wheeler described the landscaping plan. The existing landscaping on the eastern boundary of the existing gas station is planned to be removed to facilitate access, but the same area (315 square feet) is added to the proposed landscaping in the northern portion of the new site. The most recent site plan submitted indicates an 11 foot landscape easement, as opposed to the 9 foot previously shown. The ordinance requires a small hedge or some other screening for the parking lot headlights, but the applicant has stated that, for safety reasons, he would prefer not to install a hedge. Mr. Wheeler reviewed the proposed conditions of approval, and recommended amendments. Staff recommends the Commission approve the application, he added.

Applicant

Don Hardy, Planning Design Group, 122 S.E. 27th, Portland stated that the proposal will be mutually beneficial to both Ernie Graham and Dairy Queen, especially since the restaurant needs an employee parking area and these negotiations will preserve approximately 3,000 square feet of landscaping, while offering the needed parking. For Graham Oil, it provides additional landscaping. The new card lock area will allow for diesel customers to fill up in one specific area and not cause any conflicts with people filling up with regular gasoline. The applicant concurs with proposed conditions of approval 1-7 and 9-10. Condition #11 focuses on the probability of the sale of the properties and since they are both owned by Graham Oil, a joint access easement at the proposed center driveway between Tax Lots 6500 and 6400 would suffice. Mr. Hardy explained that the applicant would prefer not planting a hedge at the northern perimeter of the employee parking area for security reasons, especially for night shift employees. Additionally, Mr. Hardy explained that Dairy Queen plans to add the additional handicapped parking space in the northern restaurant lot.

Proponents

None

Opposition

Ray Baldwin, 210 S. Elm stated that he is opposed to this application because his home is just southeast of this site. Being surrounded by so much commercial development makes his home less desirable and less valuable. The increase in power and electric level has increased the dangerous health hazard to his family, he explained. He further explained that he believes being surrounded by commercial development is also an environmental hazard in light of the heavy truck and bus traffic, and that Elm Street carries too much heavy traffic. Since the intersection of

Elm and 2nd has become a 4-way stop, noise and air pollution has increased. The proposed expansion of the gasoline card lock facility would threaten the liveability of his residence and increase the danger to the environment and the lives of his family. In 1984, Mr. Baldwin explained, he tried to have Elm Street rezoned as entirely commercial, which would be consistent with the Comprehensive Plan. Mr. Baldwin requested a continuance for seven days, in order to confer with his attorney, because this development is not compatible with surrounding development as it is moving toward Elm Street, which has been remaining residential. Furthermore, he requested the continuance on the grounds that new material has been submitted since the original application was submitted. He pointed out that in 1984 he submitted letters signed by all but one homeowner requesting that Elm Street be rezoned to commercial zoning, which was totally ignored by the City. His property, he pointed out, is zoned Residential-Commercial in the Comprehensive Plan. He added that he cannot afford to initiate a zone change application in order to have it rezoned. If his property is rezoned to commercial, Mr. Baldwin said he would withdraw his objections to this application. If not, he stands firm that the development is not compatible with nearby residential uses, just as Whitman's Towing is incompatible, he added.

Rebuttal

Don Hardy stated that the use is permissible in the zone and is compatible with surrounding existing uses. Furthermore, he stated that he prefers a continuance is not granted. Mr. Hardy added that the infrastructure is in place for the business to exist on the site. Mr. Graham will comply with all City noise standards and regulations. Electricity is available to serve the site, he stated. The infrastructure to handle commercial traffic is adequately in place. He pointed out that the applicant is adding 3,000 square feet of landscaping to the site, and there would be no additional adverse impacts due to this project. Regarding fire hazards, Mr. Hardy stated that the project will meet all state, federal, and City health and safety standards that deal with a service station.

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

1. The Commission discussed the request for a continuance. It was agreed that, according to the Canby ordinances, it must be granted.

Commissioner Maher moved to continue DR 94-08 to July 25, 1994.
Commissioner Ewert seconded the motion and it carried 4-2, with
Commissioners Ewert and Elliot voting nay.

DR 94-09, an application by Luey Architects (applicant) and Wayne Scott (owner) for Site and Design Review approval of a new building to replace the current two-story house which was converted to an office use. The new building will have approximately 3,652 square feet on two floors, not including the existing basement, which will remain to house the mechanical and electrical equipment, plus some storage. The property is located on the corner of S. Elm and Highway 99-E (Tax Lot 800 [part] of Tax Map 3-1E-33CC).

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

Mr. Wheeler presented the staff report. The applicant is requesting approval to build a new real estate office to replace the existing two story home which is currently being used as a real estate office for the last 20 years. The new building will be separate from the existing motel and restaurant on the site. The site consists of three separate tax parcels, all owned by the applicant. Because the real estate office could, potentially, be sold separately from the other existing uses, a mutual access agreement will be necessary. He explained that access to the site is from two access points on S. Elm Street and one on Highway 99-E, and that O.D.O.T. must approve of the 99-E access because the applicant is expanding the existing use. O.D.O.T., he added, was notified of the application and no comments have been received from them. The new building will match the motel and restaurant in siding and color. Thirteen parking spaces are required and are provided on the site plan. No new sign is proposed, as the existing sign will remain. Overhead utilities exist on S. Elm, and the flowering dogwood tree proposed for Elm Street is a PGE recommended tree. Mr. Wheeler reviewed the remaining landscaping proposed. Prior to issuance of a building permit, or construction, ODOT's agreement for access must be obtained. Prior to final inspection, the mutual access agreement must be in place. Staff recommends approval, with conditions, he added.

Applicant

Jimmie Luey, 11945 SW Pacific Highway, Tigard stated that he concurs with the staff report. The proposed building, he explained, will replace the existing 2-story home on the site and will be a great improvement.

Proponents

Gordon Ross, 489 S.W. 1st stated that he will be the tenant in the new building. The old building will probably be demolished. The new building will make better utilization of the square footage, he added. He requested approval of the application.

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

1. The Commission discussed the footprint of the new building. Mr. Luey explained that it was slightly larger than the existing building in three directions. The building line on the east side will remain the same.

Based on the findings and conclusions contained in the staff report dated July 1, 1994, on testimony at the hearing, and on Commission deliberations, **Commissioner Ewert moved to approve DR 94-09 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. Storm water design and construction of the paved area of the property shall be approved by the Canby Public Works Department.
3. A detailed landscape plan shall be submitted with the building permit. The detailed landscape plan shall show: the number of plants, plant spacing/location of planting, the type of plants, the schedule of planting, and irrigation plans.
4. The landscaping shall be planted at such a density so as to provide a minimum of 95% coverage of the landscape areas with vegetation, within a 3-year time period. Bark mulch and similar material shall consist of not more than 5% of the total landscape area after the 3-year period.
5. A mutual access easement shall be recorded with the County. The easement shall be between tax lots 7900, 8000 and 8100 of tax map 3-1E-33CC, for the northern access point on S.Elm Street and the access point on Highway 99-E. The easement shall be recorded prior to the final inspection for the development.

Commissioner Elliot seconded the motion and it carried unanimously.

VIII. DIRECTOR'S REPORT

Mr. Wheeler reviewed a request for modifications to the Pine Crossing project that Mr. Watson submitted. He explained that the width of S. Pine Street was one of the main concerns. The conditions of approval require a 20 foot half-street, with a 5 foot planting strip and a 5 foot sidewalk. Based on recommendations from various people who were not aware of the Commissions' approval conditions, Mr.

Watson believed a 18 foot half-street was approved. Due to the discrepancy, a delay in the timing of construction was created.

John Watson came before the Commission with various street, sidewalk, planter strip, and retaining wall modifications, including fill, to the Pine Crossing Manufactured Home Park, which he discussed with the Commission. Agreement was reached between staff, the Commission and Mr. Watson regarding the issues in question.

IX. ADJOURNMENT

The meeting was adjourned at 11:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joyce A. Faltus". The signature is written in black ink and is positioned above the printed name.

Joyce A. Faltus