

**MINUTES**  
**CANBY PLANNING COMMISSION**  
Regular Meeting  
November 13, 1995  
7:30 p.m.

**APPROVED**

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**I. ROLL CALL**

Present: Chairman Schrader, Vice-Chair Mihata, Commissioners Gustafson, Ewert, and Gerber.

Staff Present: James Wheeler, Assistant Planner, and Joyce Faltus, Secretary.

Others Present: Mike Robinson, Michael Donnell, Carl and Judy Soles, Mark Vandehey

**II. MINUTES**

The minutes of September 25, 1995 were approved, as submitted.

The minutes of October 23, 1995 were approved, as submitted.

The minutes of October 30, 1995 were approved, as submitted.

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

None

**IV. COMMUNICATIONS**

Staff explained that the Homebuilders Association was holding a breakfast on Wednesday, November 29 to discuss housing forecasts for 1996. An invitation was sent for each Planning Commissioner.

**V. COMMISSION DISCUSSION OF PLANNING ISSUES**

Mark Vandehey, Traffic Engineer, Kittleson & Associates made a presentation before the Commission regarding traffic impact analyses for new developments and the criteria used in developing a traffic report.

Mr. Vandehey explained that the basic purpose of a traffic impact study is to quantify development-related operational and safety effects to the transportation system to identify the net changes in traffic operations caused by the proposed development. Additionally, the study will recommend measures necessary to mitigate deficiencies triggered by the development, and to estimate the development's **proportional** contributions to off-site improvements. Unless a Comprehensive Plan Amendment or Zone Change is proposed, the report generally focuses on current needs and what will be happening in the next 1-5 years, once the development is operational. This is accomplished by estimating the new trips on the transportation system, which is used to calculate SDC charges or traffic impact fees to help pay for transportation system improvements caused by the development.

The first of the key traffic issues addressed by most studies is the quantification of existing conditions, focusing on traffic operational issues, the level of service at existing intersections, and the volumes within the area and how they compare with accepted thresholds for maximum volumes, and identifying traffic safety issues that might exist - accidents, signal warrants that may be triggered, and any special areas of concern the City/Commission might have. When considering the added traffic from the development, three components are considered: trip generation, trip direction distribution, and trip assignment. With that data, the analysis then estimates how much additional traffic will impact each intersection in the study area. Having then established what the existing conditions are within the study area, including the estimated trip generation, trip distribution, and trip assignment, future conditions are evaluated, which includes the existing conditions with the project added to determine the net incremental difference associated with the development project. Another element that is becoming more and more critical to evaluate are the impacts to the neighborhood - what the acceptable levels of increase are, if there are any problems with cut-through traffic, speeding, etc. The final focus is on mitigation measures, to see if there are any necessary improvements triggered by the development, such as geometric improvements [street capacity - i.e., widening, turn lanes, etc.], traffic control changes [i.e., from a stop sign to a traffic signal, from a 2-way stop to a 4-way stop, etc.], or neighborhood traffic management [the possibility of introducing traffic calming measures such as slowing speed down, discouraging the use of cut-through traffic, etc.].

Mr. Vandehey then reviewed three different approaches various jurisdictions use toward evaluating traffic impacts from new developments. The first, and most commonly used approach is where the developer or applicant hires a traffic engineering consultant and the city reviews the analysis. The second approach is where the city hires the traffic engineering consultant and the developer pays for the study. The third approach, where the city conducts the traffic impact evaluation, is usually used in larger jurisdictions where there is a traffic engineering staff in-house. The last approach, used by most smaller jurisdictions, is where the city hires a traffic engineering consultant and reviews his report.

Mr. Vandehey explained that cities usually follow the outline in the Manual of Uniform Traffic Control, which is a nationally prepared document prepared by the Federal Highway Administration. Warrant levels, methods, procedures, and thresholds are all set by the Transportation Research Board and defined in the highway capacity manuals and are the same for all cities. The Manual of Uniform Traffic Control Devices which sets the signal warrants is also the same for all jurisdictions. Warrants for things like lane improvements at an intersection or capacity improvements, are things a jurisdiction can specify in adopting 'Level of Service' thresholds. Volume thresholds regarding maximum level of traffic on local streets can also be specified when establishing when adopting levels of service, as it deals with environmental capacity more than physical levels of capacity. Before setting guidelines and thresholds, the jurisdiction should consider the ramifications on the general transportation planning. Limiting local streets to carrying only 100 vehicles a day could increase the need for collector streets or arterial streets. Whatever standards are adopted, Mr. Vandehey stated that they must be very clear and objective in that they apply to all developments. Kittleson & Associates recommends that most jurisdictions develop a fairly minimum set of standards required for traffic impact studies - addressing traffic signal warrants where they apply, accident history, etc. , for the consultants preparing the report. If there are specific issues the jurisdiction wants addressed, it would be requested in addition to the standard list. Minimum guideline checklists for traffic impact studies are available from Kittleson & Associates. Also it is fairly common for traffic impact studies to include the impact from recently approved development applications and the background growth rate that might reflect the cumulative effects of the developments within the study area.

In response to a question from the Commission regarding the traffic warrant process, Mr. Vandehey explained that there are minimum volume warrants that are looked at for an 8 hour period of time, or a peak hour period of time, seeking the minimum volume necessary before a traffic signal can be installed. From the accident perspective, there is also a warrant process that looks at need from accident experience, which requires five accidents a year for a period of three years that are identified to be correctable by installing a traffic signal at that location. When approaching the minimum thresholds, new applications must be given a greater level of scrutiny to determine how much level of capacity remains and how much more growth it will take to reach the next level. Most jurisdictions set their standards based on a fiscal look, questioning how the standard will impact the community in terms of planning and funding of transportation projects and what it would take to upgrade from the standard the jurisdiction wants to achieve. For example, Mr. Vandehey explained that to bring a signaled intersection from level "D" down to level 'A' could include costs incurred in widening through lanes which might then require the purchase of rights-of-way or buildings -- could run as high as a million dollars or more. Although developers bear the cost of on-site and their "proportional share" of off-site costs, oftentimes there is no money to fund the remaining share. More and more, cities are developing twenty year transportation plans, looking at the cumulative effect of all of the developments that

could occur in that 20 year horizon, estimating all the transportation system improvements that would need to be done, and then calculating what each development's share is. This information is used to develop Systems Development Charges, so each development, no matter how large or small, would pay its proportional share for improvements. Although Canby already has a SDC, traffic operational and safety issues at the access point of each development should still be looked at.

Mr. Vandehey explained the various levels of service. For signalized intersections, Level of Service A would require less than 5 seconds of delay per vehicle traveling through the intersection whereas Level of Service D is 40 seconds of delay and maybe one or two cycle failures to get through the intersection. If the delay becomes more regular and happens on every cycle, the intersection has probably reached the Level of Service E category. When things are stop-and-go and moving through the intersection vehicle-by-vehicle, the intersection has probably reached the Level of Service F [forced flow]. The difference between Levels of Service A and C are difficult to discern because the delay is low and the volumes are light. At non-signalized intersections, levels are also based on delay and lesser standards are considered acceptable because less volume exists and because alternate routes are usually available. Most traffic studies, he explained, are based on the worst 15 minutes of the peak hour.

For the application process, some jurisdictions have required follow-up studies and a monitoring process to be put in place to see if the numbers differ significantly from those that were projected so that, if necessary, corrective action could be taken on the part of the applicant. Acceptable submitted traffic studies are usually about a year old and, after that, most jurisdictions require updates if the background traffic conditions are growing and changing quickly within the area.

The first order of business, Mr. Vandehey explained, would be for the City to establish what its thresholds for various levels of service are; developing the minimum standard that should be included in traffic studies [especially levels of service at the study area intersections], to evaluate signal warrants, if applicable; left turn lanes on two-way roadways, if applicable; site distances [whether it is safe to enter intersections, and common safety parameters that are involved]; and the evaluation of accident history in the area. All professional traffic engineers review traffic management techniques, including standard warrants for the installation of STOP signs, 4-way STOPs, signalization, or whether pedestrian signalization is warranted, for their traffic studies.

The Commission questioned the difficulties a lay person has in understanding the average traffic study. Mr. Vandehey explained that it is a technical document which is intended for the review agency. Most often, the lay person will skip the technical data and concentrate on the recommendations, conclusions, and results in the executive summary.

Dr. Schrader shared information regarding two communities, Philomath and Corvallis, which both require voters living in the city limits to decide annexations.

Dr. Schrader reviewed his summary of issues covered during the meeting with school district officials. He suggested it be forwarded to the School Board so both the Commission and the School Board could work from the same document. Number 12 was corrected to reflect the correct number of seats to be 685. An items was added, asking the School Board how they intend to rectify the fact that the attendance area is currently full. Commissioner Mihata distributed information specifying class sizes, by teacher, for each elementary school in Canby. Besides each individual class size, it includes class sizes for ESL and Special Needs children.

## **VI. OLD BUSINESS**

*Village On The Lochs* - Staff explained that a request for tree removal was received. A rough sketch of the site was distributed. Staff explained that the tree is exactly where the house is proposed to be sited. After a site visit by the arborist, it was discovered that there are trees right in the center and behind where the house will be sited and on the side. The trees on the side are in poor condition, and stand in poor soil, staff reported. The young fir tree in question is approximately 6" in diameter and in good health, with an exposed root, which is probably the result of excavation work done nearby when the park was originally built, which leads to some questioning of its long-term health. The site configuration is similar to many others at the park, and if the tree in question is removed, there would be remaining trees on the site. No replacement trees have been suggested by the lot owner, so staff requested that the owner of the lot submit a landscape plan. The Commission agreed that if a landscape plan was submitted and approved, and a replacement tree planted, the fir tree in question could be removed.

*Willamette Commons* - Staff explained that Walt West was requesting a reduction in the number of lots, from 40 to 36, in order to make the lots somewhat larger and more marketable. Four 4-unit buildings [lots 3, 4, 5 and 9] would be reduced to 3-unit buildings and the lots would be reconfigured to 3-unit zero lot line buildings. The building footprints would remain the same but the parking requirements would meet the standards for 36 units instead of 40 units. After much discussion, the Commission agreed with John Kelley, City Attorney, that Ed Sullivan would have to be apprised of the change before it could become formal.

## **VII. NEW BUSINESS**

None

## **VIII. FINDINGS**

### **MLP 95-05 - Soles**

Commissioner Gerber moved to approve the Final Order for MLP 95-05 [Carl Soles]. Commissioner Ewert seconded the motion and it carried unanimously.

### **MLP 95-06/LLA 95-06 - Eby**

Commissioner Ewert moved to approve the Final Order for MLP 95-06/LLA 95-06 [Eby] with the correction on Page 4, Condition 8. Commissioner Jackson seconded the motion and it carried unanimously.

## **IX. PUBLIC HEARINGS**

**DR 94-11A**, an application by Kevin Howard for Design Review approval of a Mini-Storage/R.V Storage Center sign. The site is located on the south side of Highway 99-E, east of S. Pine Street [Tax Lot 300 [part] of Tax Map 3-1E-34C].

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated. He then reviewed the hearing process and procedures and referred to the applicable criteria that was posted on the wall.

Staff presented the staff report, explaining that the applicant was requesting approval of a yellow sign with black lettering, with a little red and white included on it. The sign is 10 feet x 10 feet, with a small readerboard at the bottom. Staff distributed photos that were submitted with the original design review application for the mini-storage. At that time, staff recommended conditions of approval that referenced those photos, which indicated a blue and white sign as opposed to a yellow and black sign. After appealing the approved condition regarding color, the applicant has now brought back the application with a revised site plan. The applicant has submitted, with the revised site plan, a list of signs that are existing principally along Highway 99-E, specifying the color schemes, to prove the proposed sign is compatible with other commercial and/or industrial developments along the highway. Staff pointed out that the Canby Land Development Ordinance does not specifically definition of what is "compatible," and that the applicant's attorney referenced the State Land Use Goals dealing with compatibility that could be applied to this type of application. The revised application states that this sign will not have adverse impacts on adjacent uses, thereby conforming to the definition referred to the State Land Use Goals. Staff explained that the Design Review Ordinance does not specify use of colors, although the colors were specified through reference in the original site and design review application.

Mr. Kelley explained that he and Mike Robinson had met to discuss the procedure that should be followed and the record that should be built, which is how the matter

happened to come back before the Planning Commission. The City Attorney also suggested the Commission consider this as a separate and new application and judge it as to how it meets the criteria.

Chairman Schrader asked that the original August 12, 1994 staff report, especially the reference to proposed condition #11, condition #10 of the September 2, 1994 supplemental staff report, the September 25, 1994 memo, the tapes and minutes from the September 2, 1994 Planning Commission discussion, and from the Planning Commission discussion at the September 14, 1994 special meeting, and any informal discussions about this matter be made part of the record.

### Applicant

Mike Robinson, 900 SW 5th Avenue, #2300, Portland 97204 stated that the applicant was requesting modification of application Dr 94-11 to allow the existing sign. Mr. Robinson stated that unless the items that Chairman Schrader requested be made part of this record are physically present, they cannot be made part of the record. Staff explained that only the minutes are physically present, not the tapes. After reviewing the material, Mr. Robinson ascertained that the minutes of May 22, 1995, April 24, 1995, September 12, 1994, September 26, 1994, and September 24, 1994 minutes were available to be included in the record. He objected to the inclusion of anything that was not physically present at this meeting. Further, Mr. Robinson stated that the Commission should consider this application as a new application, not a part of the previous hearings, and the Commission should not rely on its previous opinion. Additionally, Mr. Robinson stated that the posted criteria was not complete, and that the entire applicable criteria was stated in his letter, which includes Section 16.49.42.

Mr. Robinson stated, for the record, that the encroachment issue has been remedied and that the sign is now set back more than 10 feet from the curb. Additionally, Mr. Robinson stated that there was a clear misunderstanding about the signage from the onset of the original application. He cited condition #11 from the Final Order for DR 94-11: "Total signage for the property shall be no more than 600 square feet. The total signage within the first six months after occupancy is limited to a sign that is similar in size and appearance as the one shown in the pictures submitted with the application [in the file]." He pointed out that there was absolutely no analysis in the staff report, regarding the color of the sign. Mr. Howard advised Mr. Robinson that he had very short notice in which to provide an example of his signage and, therefore, brought the picture of the Sandy signage which was not the best choice. Mr. Robinson pointed out that the condition states "similar in size and appearance" but does not mandate a particular color. Mr. Howard has also advised Mr. Robinson that, maybe because of the signage, the project has been particularly successful, with a higher lease rate than most of his other projects. Additionally, he pointed out that the Commission's decision should be based on the applicable criteria

The sole criteria for the Commission to consider at this hearing is Section 16.49.040(1-A-C) and (2), Mr. Robinson pointed out. Section 16.49.43 and 16.49.44 are also design review criteria, he added, but do not pertain to this request, as they deal mainly with housing and tree cutting. He stated that the City Land Use Ordinance has no criteria that is actually directed toward sign design. In applying the criteria, what a Commissioner might personally like or dislike has no bearing on the final decision, Mr. Robinson stated. The applicant has, in this application, met the burden of proof, showing that the criteria has been met, in that the existing sign does conform to the requirements of the C-M zone and to the other objectives and standards of Chapter 16.49. Section 16.49.040(1)(D) has also been met as the sign is compatible with other developments in the general vicinity, even though the Ordinance does not actually define "compatibility." Mr. Robinson then cited from the language in the Statewide Planning Goals regarding the definition of 'compatibility,' which is considered a fairly acceptable definition to work with. Generally, compatibility means that something is capable of coexisting with something else, he explained. He pointed out that the phrase "same general vicinity" is not defined in the Canby Ordinance either. Mr. Robinson, referring to photographs, added that there are at least 22 other pole signs or wall signs along Highway 99-E, explaining that 12 of them have yellow as one of the predominant colors or utilize the color yellow in some way, because yellow is considered a color that attracts attention and is highly visible. Nothing in the design review ordinance relates to color preference, Mr. Robinson pointed out.

Mr. Robinson noted that the Millar Tire sign was recently changed to a white background with red and black lettering. Pointing out that signs are not part of otherwise reviewable projects, he stated that there was no design review of the Millar sign change. He questioned whether Mr. Howard could change his sign design in the future without review. Referring to Section 16.49.040(1)(C), Mr. Robinson stated that the applicant has met this criteria in that it is compatible with the proposed development itself, and the design of the sign is appropriate to the design character of other structures in the area. Since there are no objective standards with which to review the yellow color in the sign, one would have to find that a yellow sign is objectionable when placed near blue buildings, or find that it is compatible with the site itself and with other projects in the same vicinity, especially as most other sites in the vicinity utilize yellow in the sign design. Section 16.49.040(2) requires the sign meet the objectives and standards of Section 16.49, including the objectives in 16.49.010(A) and (B) which includes a long explanation by the City Council of the purposes and objectives of design review, which are not directed at signs, per se, but offer a good idea of what design review is trying to achieve. Based on those objectives and purposes, although the yellow sign is not excessively uniform, it is not dissimilar to the majority of sign designs in the vicinity, as the signs along Highway 99-E may utilize different colors, but use different lettering, different sizes, and different shapes. The purpose of a sign is to identify the land use and to help people find the site easily while moving past it rapidly.



Referring to the second set of photos, Mr. Robinson pointed out that, since 1988, Kevin Howard's projects have utilized yellow backgrounds in the signage. The photos submitted with the original application, which included the project in Sandy, Oregon, was signed prior to the current projects which use yellow backgrounds. Mr. Howard discovered that the sign at the Sandy storage units blends into the environment and is not as visible as the current color scheme, utilizing yellow backgrounds with black lettering.

Citing additional objectives and standards of the Design Review Ordinance that are applicable, Mr. Robinson pointed out that the sign does not detract from the City's appeal to visitors, that it is a well designed sign, meets the safety and dimensional requirements of the standards, is properly related to the site, and is appropriate to the type of development.

When a color is so closely identified with a message, the Oregon Constitution prohibits the decision-making body from regulating the color. The Oregon Constitution is more liberal than the Federal Constitution, and Article I, Section 8, of the Oregon Constitution says everyone has the right to free expression in this State. Oregon courts have ruled many times, that the content of a message cannot be regulated. This governing body cannot regulate a color that is so closely identified with the message. By prohibiting the yellow color, it eliminates the property owner's ability to convey a message to the public.

Mr. Robinson requested that the condition of approval regarding the color of the sign be modified to approve the current sign at the site. He pointed out that Section 16.49.030(3) reads, in part: "Review of the proposed site and design review plan and any changes thereto, shall be conducted in accordance with site and design review procedures," thereby permitting modification to previous approvals.

Kevin Howard, 12033 NE Market Street, Portland stated that after the footing on the sign was set, the edge of the sign was found to be 10 inches over the site. ODOT had no problem with it but it was impossible to get a letter from them to that effect, so the sign was cut and moved it back 10 inches.

On the morning of the first hearing, Mr. Hoffman called and asked Mr. Howard to bring pictures of the building colors and signage. He pulled out six pictures and submitted them before the hearing. The pictures depicted his color scheme - grey buildings with blue doors. Only two pictures had signs in the foreground. Although they had blue backgrounds, only one had a readerboard, one was a large sign and one was a small sign, and one had an orange border and one did not. Therefore the signs were not similar. In the current staff report, staff mentions that at the original hearing Commission discussion revolved around the readerboard and color of the letters, and that specific mention of the color of the sign was not made at that meeting. It was only

after the meeting, Mr. Howard stated, that similarity to the pictures included with the application was mentioned. He pointed out that the current application should be considered a new application and a modification of the original condition of approval, adding that this color scheme is his standard color scheme because a yellow background with black letting is most readable to the public, especially on a State highway. He quoted from the staff report: "As a matter of compliance with strictly objective and quantifiable standards of the ordinance, the proposed signage colors, the colors currently in use, are in compliance."

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

1. The Commission discussed the definition of "compatible," within the context of this application. It was agreed "compatible," in this instance, means "matching" or "fitting in with what the City desires."
2. The Commission discussed negative reactions to the color of the sign that have been received by the Planning Commission from citizens.
3. The Commission agreed that the colors of the sign and the buildings are not compatible because the sign is predominately yellow, and the buildings are predominately gray and blue. The Planning Commission agreed that these colors are contrasting colors, not compatible colors.
4. The Planning Commission agreed that the proposed change in the sign color is not in compliance with (1)(C) of Section 16.49.040 Criteria and standards, because the color of the exterior of the mini-storage structures and signs are **not** compatible with the development as a whole.
5. The Commission discussed the fact that the condition of approval regarding the sign was based solely on information supplied by the applicant at the original hearing.
6. The Commission discussed the fact that Design Review differs from Land Use Planning. The purpose behind the adoption of the Design Review Ordinance was to deal with "aesthetic" issues due to the enormous growth taking place in Canby.
7. The Commission discussed the fact that Section 16.49.040(B) refers to new developments. There would be no logical point in Design Review if it was based on older existing developments. The purpose of design review is to make things better, not to necessarily conform to older existing developments.

8. The Planning Commission agreed that the Site and Design Review Ordinance deals with "aesthetic" issues which regulates the appearance of developments. Certain excerpts from Section 16.49.010(B) were cited, which pertain to the purpose of the Site and Design Review Ordinance:
  - a. To encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.
  - b. To discourage monotonous, unsightly, dreary and inharmonious development.
  - c. To promote the City's natural beauty and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures, signs and other improvements.
  - d. To protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

Mr. Robinson suggested a compromise - - to remove the black border and match a new border with the exterior building color, leaving the yellow background with black lettering.

Based on testimony at the public hearing, and on Commission deliberations, Commissioner Gerber moved to deny DR 94-11A based on the fact that the application does not comply with the purposes of Site and Design Review Ordinance, as presented in finding #5, and does not comply with (1)(C) of Section 16.49.040, Criteria and Standards. Staff was directed to prepare a Final Order supporting denial of the application based on the applicant's inability to meet all the criteria based on comments made by Commissioners Mihata, Schrader and Gerber. Commissioner Mihata seconded the motion and it carried 3-2. Chairman Schrader verbalized his concern that approving the application would negate portions of the design review criteria upon which decisions are based and its overall intent and purpose, which is to improve the aesthetic value of the City of Canby. Commissioner Gustafson and Commissioner Ewert voted no because they believe that to be compatible, the development and sign colors do not have to be exactly the same. Additionally, Commissioner Ewert stated that recent developments have used similar sign colors since the original approval. He cautioned the Commission to be consistent in all such decisions.

**X. DIRECTOR'S REPORT**

ANN 95-01 [Denninger Farms/Joan Jones] - staff explained that this application was heard before City Council. City Council recommended denial to the Portland Metropolitan Boundary Commission on a 5-1 vote, commending the Planning Commission on its findings and deliberations.

**XI. ADJOURNMENT**

The meeting was adjourned at 10:45 p.m.

Respectfully submitted,



Joyce A. Faltus