

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
February 10, 1997
7:30 P.M.

I. ROLL CALL

Present: Chairman Ewert, Vice-Chair Stewart, Commissioners Prince, Dillon, O'Shea, and Keller.

Staff: James Wheeler, Planning Director; Larry Vasquez, Assistant Planner; and Joyce Faltus, Secretary

Others Present: Mike Jones, James Buchal, Bill Guttormsen

II. MINUTES

Commissioner Keller moved to approve the January 27, 1997 minutes, as submitted. Commissioner Prince seconded the motion and it carried unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

James Buchal, 28998 S. Meridian Road, Hubbard explained that he was representing his father-in-law, Bill Guttormsen. He requested that the Commission reconsider its decision regarding MLP 97-01, Mr. Guttormsen's minor land partition, that was approved at the January 27, 1997 meeting. Mr. Buchal referred to the letter he submitted to the Commission, dated February 10, 1997. Mr. Wheeler explained that the Commission could entertain the request for reconsideration prior to voting on the final order, but if the Commission considers any new information contained in Mr. Buchal's letter, it should not base the decision on that information because it was not submitted as part of the public hearing. The 120-day time period was discussed with relation to reopening the hearing for reconsideration, which includes the City Council taking action on an appeal, which must be completed within that timeframe or the entire action is subject to a writ of mandamus order and the decision is taken away from the City. The Planning Commission, in order to allow for an appeal to take place, must make its decision within a certain period of time. Mr. Wheeler explained that there was not enough time within the 120-day timeframe for reconsideration, taking into consideration the potential for an appeal hearing by the City Council, unless the applicant requests an extension. If reconsideration did occur, the hearing would have to be renoticed to allow

for all parties to participate due to the submission of new information. Chairman Ewert explained to Mr. Buchal that his request for reconsideration should include a request for an extension of time if he wishes the hearing to be reopened. After a discussion with Mr. Guttormsen, Mr. Buchal requested that the Commission listen to him and then decide whether or not to reconsider the application. Chairman Ewert explained once again, that it takes the public process of renoticing if anything he said at this hearing was considered at all. Mr. Wheeler explained that there would be no harm in listening to Mr. Buchal because if he did submit new information, the Commission could still consider the final order, without taking any of the new testimony into consideration.

Mr. Buchal explained that Mr. Guttormsen would lose \$6,000 if 8,000+ feet of his property, which represents nearly 20% of the proposed 2-acre parcel, is taken for an emergency turnaround. A deal to sell one of the parcels has already fallen through, and the other potential purchaser is considering backing out. Mr. Buchal further stated that he believes the decision to place a cul-de-sac on Mr. Guttormsen's property was due to pressure from an adjacent property owner, who was required to put a cul-de-sac on his property at a time when the City expected that S.E. 2nd Avenue would become a through street, at which time it would be removed. As the plan for extending S.E. 2nd Avenue has changed, and the City is no longer contemplating the extension, Mr. Morse prefers that the existing cul-de-sac on his property be removed and replaced by a cul-de-sac on Mr. Guttormsen's property. Mr. Buchal further stated that Mr. Morse would only gain approximately 1,000 square feet of property if the cul-de-sac on his property was removed. Further, Mr. Buchal stated that he did not believe that the that was record made at the previous hearing could support moving the cul-de-sac to Mr. Guttormsen's property. In trying to persuade the purchaser to follow through with the sale, Mr. Guttormsen cut his price by \$16,000, which represents the value of the land that would be use for the cul-de-sac, but the purchaser refused, due to the costs involved in developing the cul-de-sac. Mr. Buchal pointed out that the staff report did not include a recommendation for moving the cul-de-sac.

IV. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission discussed amending the ordinance so as not to include land/yard debris in recycling centers within the UCB due to the proximity of residential areas and schools, although arrangements for short-term storage of land debris under a possible future community recycle program should be permitted. When the Transfer Station conditional use was approved, it included a condition that excluded the pick-up and storage of yard debris on the site, Chairman Ewert recalled. The Commission requested that staff investigate the wording other municipalities have included in their ordinance regarding this issue and report back to the Commission.

The Commission discussed including the Comprehensive Plan standards in the Planning and Zoning Ordinance. Mr. Wheeler explained that right now it is the City's choice

whether or not to process an application as a limited land use decision, as it is unclear in the statutes. Some legal opinion determines that all Site and Design Review applications, all subdivision applications, and all partition applications under the limited land use process. However, there is also enough legal opinion that states it is not required, but remains the City's choice. If it become necessary to process applications under a limited land use decision, Comprehensive Plan goals and policies cannot be used as criteria unless they are specifically written in the ordinance - not by reference, but individually. For instance, when considering a subdivision application, if a transportation policy is to be applied, it must be included as a standard in the subdivision criteria. These goals and policies should be in place prior to having to being required process the applications as limited land use decisions. Mr. Wheeler suggested that the Commission study the implementation measures so staff is aware of the Commission's desires as to which goals and policies should be included in the amendment.

Commissioner Stewart referred to his handout regarding OBIA, which is the new name for the Homebuilders Association. He informed the Commission that the handout includes legislation that the OBIA would like passed during this legislative session. Commissioner Stewart addressed his concern regarding one of the issues, where the local building inspector would be permitted to waive some inspections on a structure, providing the builder, who has previously been accepted by the building inspector as a 'Master Builder,' certifies that they have performed the inspection.

Mr. Wheeler also suggested that the Commission consider what is required of an applicant in order to deem an application as complete for Commission review, so as to include or delete any items that are currently on the check-off sheet for applicants.

VI. FINDINGS

- **MLP 97-01 - Guttormsen** - The Commission agreed to consider the final order without taking into account the previous testimony given by James Buchal, or the letter he submitted.
 1. Commissioner Stewart referred to the findings portion of the Order where it states that street design and circulation issues "merit further study," adding that it would be doing a disservice to the applicant and the City to go forward without having thought through what the ramifications of the cul-de-sac would be both on the applicant and on Mr. Morse, and on the City.
 2. Commissioner Keller explained that he voted against the application at the previous meeting. In referring back to the previous meeting, staff made additional information available to the Commission after the hearing had been closed, that caused some Commissioners to indicate they would have voted differently, had they had that information. Commissioner Keller explained that he felt it was

ludicrous to move the cul-de-sac to another piece of property, where it would take up several times more space than it currently does. He urged the Commission to deny the final order.

3. Commissioner Prince stated that the City did not have a specific goal in mind about developing that industrial section of the City. As the direction has changed, and S.E. 2nd Avenue is no longer slated as the main thoroughfare, we have a street that goes nowhere. Mr. Prince expressed concern that the area might not be developed for the best and highest use for any current or future industrial endeavors.
4. The Commission discussed its options:
 - a. Amend the final order to clarify the conditions, which would include reasoning for doing so. Neither the new information submitted by staff after the hearing closed on February 10th, nor the new information presented by Mr. Buchal could be considered when deliberating to amend. A new set of findings would come before the Commission on February 24, 1997.
 - b. Approve the final order.
 - c. Deny the final order, which would mean bringing back another set of findings based on the denial, on February 24, 1997, and deny the partition itself.
 - d. Reopen the public hearing. Mr. Wheeler explained that there would not be enough time under the 120-day rule to meet the deadline because adjacent owners would have to be renotified and the hearing would have to be advertised again.

Commissioner O'Shea moved to deny the final order for MLP 97-01.

Commissioner Stewart seconded the motion. It carried 5-2, with Commissioners Dillon and Ewert voting nay.

Based on the findings and conclusions contained in the January 17, 1997 staff report, **Commissioner Keller moved to approve MLP 97-01, as recommended by staff, with the following conditions:**

For the Final 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 97-01.

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. 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 the dedicated S.E. 3rd Avenue and S.E. 2nd Avenue frontage.
6. Parcel 3 shall provide an adequate emergency and fire vehicle turnaround area within the perimeters of the parcel and approved by the Fire Marshal.

Notes

7. The Planning Commission recommends to City Council that the existing 60' temporary turnaround easement presently on S.E. 2nd Avenue not be vacated.
8. The final plat must be recorded with Clackamas County within one (1) year of the approval of the preliminary plat approval in accordance to Section 16.60.060. The mylar for the final plat must be signed by the City prior to the recording of the plat.

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

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- **DR 97-01 - Shimadzu** - Commissioner Stewart moved to approve the Final Order for DR 97-01. Commissioner Keller seconded the motion and it carried unanimously.

VII. PUBLIC HEARINGS

None

VIII. OLD BUSINESS

VAR 96-01 - Jones

Mr. Wheeler explained that he spoke with the City Attorney, John Kelley, who advised him that the Planning Commission has no authority to grant a variance from Building Code matters, especially with regard to whatever year's Building Codes might be applicable to this application. Furthermore, he explained that the Planning Commission has no authority to permit building to be occupied without meeting the occupancy standards. Based on this information, Chairman Ewert explained that Mr. Jones would have to direct all his questions to either the Building Official or Mr. Kelley.

Mr. Jones, 654 NW 3rd Avenue stated that he believed that once the variance was granted, that the process was completed. He added that if the building had to be brought up to the present code, instead of the code that existed in 1910, the building would have to be demolished and rebuilt. As an example, he explained that in 1910, the studs had to be 2 feet apart, and now they have to be 18 inches apart.

The Commission reiterated that it had no control over the building codes or occupancy permits, except that it is a condition of approval, that the current building codes must be met.

IX. DIRECTOR'S REPORT

Mr. Wheeler reported that the Maple Street Subdivision has been withdrawn. He also reported that the Broetje non-compliance issues have been settled and is now out of court. Papers will be signed shortly and Mr. Broetje is attempting to meet all codes and conditions.

He further informed the Commission that there is an American Planners Association conference on March 26th, and as soon as additional information is received, it will be forwarded to the Commissioners.

There will be a City Council/Planning Commission workshop regarding the design standards for Phase 2 and Phase 3 of the Industrial Park. It will be held on March 3rd, at 7:00 p.m., at the Adult Center. In addition, he advised the Commission that Representative Schrader and Senator Baker would be attending a workshop with the Council, which the Commission is invited to attend, on April 16, 1997 at 6:00 p.m., in the Council Chambers. Representative Schrader and Senator Baker would also be attending the Council meeting that evening.

Mr. Wheeler advised the Commission that the traffic signal at S. Ivy/13th, is now projected to be installed by July 3, 1997.

Mr. Wheeler referred to a letter from Ed Sullivan, dated December 27, 1996 regarding the Faist property, requesting a higher prioritization of this property for annexation. He also referred to a letter from Northwood Investments, dated January 24, 1997, regarding the IFA property, which requests that amendments to the Comprehensive Plan include the IFA site within the UGB, with appropriate residential zoning. If there are going to be any changes to land prioritization or the UGB, those issues would be discussed later, as part of Periodic Review, he added.

X. ADJOURNMENT

The meeting was adjourned at 9:55 p.m.

Respectfully submitted,


Joyce A. Faltus