

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
February 24, 1997
7:30 P.M.

I. ROLL CALL

Present: Chairman Ewert, Vice-Chair Stewart, Commissioners Prince, Hartwell, and Keller.

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

Others Present: None

II. MINUTES

Commissioner Keller moved to approve the February 10, 1997 minutes, as submitted. **Commissioner Prince** seconded the motion and it carried unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. FINDINGS

- **MLP 97-01 - Guttormsen**

Roger Reif, 273 N. Grant explained that he was representing Dick Morse. Mr. Reif stated that there are three issues of law he would like to discuss.

1. There is an error in procedure that is a matter of law and would not stand up. He referred to the minutes of February 10 where, during Commission discussion of the final order for MLP 97-01, it states that staff made additional information available to the Commission after the hearing had been closed, that caused some

Commissioners to indicate that they would have voted differently, had that information been given during the hearing. Mr. Reif explained that Mr. Morse had no chance to comment on that additional information. Additionally, the minutes reflect that Mr. Guttormsen's attorney addressed the Commission and submitted new evidence when Mr. Morse was not present.

2. Reading from the plat, Mr. Reif quoted: "60' radius temporary road turnabout easement to automatically terminate when road has been extended east." He explained that this is a matter of record as it was signed by then-Planning Commission chair, Gordon Ross and then-Director of Public Works, Ken Furgeson. Because of the verbiage, Mr. Morse expected that the cul-de-sac would automatically disappear when the property to the east was developed, he added.
3. The record indicates that the Commission felt it was unfair to expect Mr. Guttormsen to dedicate additional property. For the record, Mr. Reif pointed out that Mr. Morse dedicated 27,100 square feet of property, to enable the applicant, Mr. Guttormsen, to access the subject property.

Mr. Reif asked that the Commission reconsider its decision and reinstate its prior opinion.

James Buchal, 28998 S. Meridian asked to respond to Mr. Reif's comments because he felt Mr. Reif's legal arguments lack merit.

The Commission agreed that it was not appropriate to hold open testimony.

Commission deliberation included the following issues:

1. Mr. Wheeler reviewed the background leading up to the two sets of final orders. He explained that the initial tentative decision called for a dedicated right-of-way for a cul-de-sac on the applicant's property. At the February 10, 1997 meeting, the Commission denied those findings and rendered a new tentative decision which did not call for a cul-de-sac on the applicant's property. The only set of valid findings at this time, Mr. Wheeler stated, is the one depicting the decision rendered on February 10, 1997.
2. Commissioner Keller pointed out that it was important to understand that the application was for a minor land partition of the Guttormsen property. The existing cul-de-sac should not be part of the discussion, he added, as it does not even abut the subject site and is not a part of the property. He also recalled that the current valid set of findings recommends that the City Council not vacate the existing cul-de-sac.

Commissioner Keller moved to approve the current set of findings, which recommend that City Council not vacate the existing cul-de-sac. The motion failed as there was no second.

Further discussion included:

1. The Commission discussed whether or not the present Planning Commission must be bound by or honor a decision made by a previous Planning Commission when the previous Commission was under the impression that S.E. 2nd Avenue would be continued as a through street. Mr. Wheeler explained that the tentative decision that the Commission made does not call for any right-of-way dedication, nor any continuation of the road nor any automatic vacation of the existing easement. Had S.E. 2nd been continued, the turnaround would automatically be vacated, he added, according to the plat that was filed. He further explained that the question really was "Is the present Commission required to continue S.E. 2nd Avenue?" and added that it was his interpretation that the Commission was not required to do so. At the time the plat was filed, there was an expectation that S.E. 2nd would be continued, he stated, which is not legally binding upon the present Commission.
2. The Commission discussed the possibility of extending the cul-de-sac from its present location to the subject site. Mr. Wheeler explained that the Commission could not require anything of the property owner on the south side of S.E. 2nd, whose property is not part of this application.
3. The Commission agreed that it was not necessary to maintain the current cul-de-sac because SE 2nd Avenue is wide enough, and that the property should be returned to the property owner. The Commission agreed to recommend that City Council vacate the 60' temporary turnaround because the property owner was working under the assumption that S.E. 2nd would eventually be a through street.
4. The Commission further agreed not to require a new cul-de-sac on the subject site, as access will be provided to each individual property owner along S.E. 2nd Avenue, and that it was unfair to penalize property owners because of poor planning in the past. The Commission agreed too, that it was in the best interests of the City for surrounding properties to be reviewed with a look into the future.
5. Commissioner Stewart pointed out, for the record, that additional staff information was offered after the public hearing was closed, under the Director's Report section of the agenda, which is done on a routine basis and, in his opinion, is not an error of procedure. He further pointed out that Mr. Guttormsen's attorney did not influence the Commission in making its decision.
6. The Commission discussed posting a "No Parking" sign for that portion of S.E. 2nd. Mr. Wheeler explained that doing so would require another set of findings, which might cause serious problems in adhering to the 120-day rule.

Commissioner Stewart moved to approve the final order for MLP 97-01, deleting Finding #3, 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 existing 60' temporary turnaround easement presently on S.E. 2nd Avenue is recommended to 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 Keller seconded the motion and it carried 3-2, with Commissioners Hartwell and Prince voting nay. For the record, Commissioner Prince explained that he was not opposed to the vacation of the current cul-de-sac, but felt a cul-de-sac was needed at the end of S.E. 2nd.

V. PUBLIC HEARINGS

SUB 97-02 an application by Allen Manuel and Glennette Danforth to develop a 6-lot subdivision on approximately 40,000 square feet. The site is located on the north side of S.E. Township Road, east of S. Ivy Street and west of S. Knott Street [Tax Lots 5500, 5600 and 5700 of Tax Map 3-1E-33DC].

VAR 97-02, an application by Allen Manuel and Glennette Danforth for approval to create two subdivision lots with frontage widths of 57.94 feet and 58.20 feet respectively, on S.E. Township Road, in variance to the minimum 60 foot width permitted by the Zoning Ordinance. The property is located on the north side of S.E. Township Road, west of S. Ivy Street and east of S. Knott Street [Tax Lots 5500, 5600 and 5700 of Tax Map 3-1E-33DC].

Commissioner Stewart moved to continue the public hearings for **SUB 97-02** and **VAR 97-02** to March 10, 1997. Commissioner Hartwell seconded the motion and it carried unanimously.

VI. COMMISSION DISCUSSION OF PLANNING ISSUES

1. The Commission discussed issues that come forth during the "Director's Report" portion of the agenda. The Commission agreed that that portion of the agenda presents an opportunity to discuss concerns and issues.
2. Mr. Wheeler explained that the City Council upheld staff's interpretation regarding setbacks [Pahlsh Duncan]. There was discussion about the possibility of amending the ordinance to include exactly what is allowed in setbacks, and where to measure from - the eaves or the foundation line of the building. Additional discussion regarding possible ordinance amendments, referring to staff's memo dated February 20, 1997, include:
 - a. Application submittal requirements: staff asked the Commission to review what it considers necessary for each land use application in order to consider an application complete and ready to be considered by the Commission.
 - b. With reference to setbacks [Section 16.16.030], the Commission discussed accessory structures and where to measure the setback from -- the eaves or foundation line. It was agreed to leave it as is already is in the Ordinance.
 - c. Incorporating the Comprehensive Plan standards into the Ordinance. Staff agreed to make the amendments and bring them back before the Commission.

- d. The Commission agreed not to permit hospitals or medical/dental clinics in residential zones at all
- e. The Commission discussed off-site improvements with regard to subdivisions. Mr. Wheeler explained the difficulties inherent in justifying whether the off-site improvements, such as road access to the subdivision, are in proportion to the impacts of the subdivision on the road. He also explained the difficulties inherent in appearing to deny subdivisions based on infrastructure issues.
- f. The Commission discussed amending the ordinance to reduce the appeal period for subdivisions/partitions from 30 days to 15 days in order to have more flexibility with regard to the 120-day rule.
- g. The Commission discussed requirements for applications in order for them to be considered complete. The Commission agreed that a vicinity map, with streets clearly and correctly indicated, would be of assistance when reviewing applications.
- h. If it becomes mandatory that franchisees must collect yard debris, such as tree trimmings and grass clippings, the Commission discussed restrictions that could be attached to it with regard to the amount of time such debris could be stored on-site due to problems associated with it. Such controls would mitigate the problems of odor, unsightliness, etc.
- i. The Commission discussed increasing density in residential zones. Mr. Wheeler explained that this is an issue that would be addressed during Periodic Review, when general input could be sought.
- j. Mr. Wheeler explained that cell tower restrictions were being investigated with regard to how other jurisdictions are restricting the height, requiring buffering, etc., adding that he would report back on this issue.
- k. The Commission discussed the "dumpster" issue at industrial sights, agreeing they are becoming an eyesore. Mr. Wheeler explained that the matrix offers bonus points if they are buffered. The Commission agreed that existing ones should be screened.
- l. The Commission discussed the Design Review Matrix with regard to the parking lot issue. It was agreed that if there is front parking provided, along with either rear and/or side parking, the point system would be averaged to include all the parking that is provided.

- m. As recent amendments have been made to the ordinance, the Commission requested that staff try to have the updated version prepared as soon as possible in order to limit confusion about some updated issues. Staff explained that the printing process has begun and it should be available shortly.

VIII. OLD BUSINESS

None

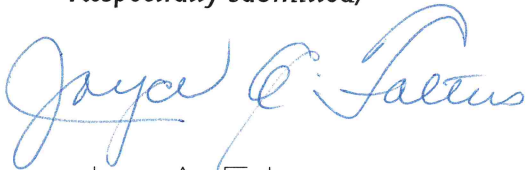
IX. DIRECTOR'S REPORT

Mr. Wheeler reported that Walt West Corp. Has requested permission to convert the apartments that are part of the office/apartment complex, into condominiums, to be owned units, rather than rented units. The Commission questioned how outside maintenance would be undertaken and Mr. Wheeler explained that the CC&Rs include regulations for handling the outside maintenance issues. The Commission approved the conversion 4-1.

X. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,



Joyce A. Faltus