

MINUTES

CANBY PLANNING COMMISSION

Regular Meeting

June 23, 1997

7:30 P.M.

I. ROLL CALL

Present: Chairman Ewert, Vice-Chair Stewart, Commissioners O'Shea, Prince, Dillon Tallman and Keller. The Commission officially welcomed Commissioner Tallman as a member of the Planning Commission.

Staff: James Wheeler, Planning Director, Clint Chiavarini, Intern, and Joyce Faltus, Secretary

Others Present: Leonard Thompson, Bill Lloyd, Dan Stollar, Mike Moir, Larry Ables

II. MINUTES

Commissioner O'Shea moved to approve the June 3, 1997 minutes, as submitted. Commissioner Keller seconded the motion and it carried unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. FINDINGS

CUP 97-03/DR 97-02 - U.S. West

Commissioner Ewert moved to approve the Final Order for CUP 97-03/DR 97-02 as submitted. Commissioner O'Shea seconded the motion and it carried 4-2, with Commissioner Tallman abstaining.

SUB 97-03 - H.O.P.E.

Commissioner Prince moved to approve the Final Order for SUB 97-03, as submitted. Commissioner Keller seconded the motion and it carried 6-0, with Commissioner Tallman abstaining.

V. PUBLIC HEARINGS

Acting Chair Stewart reviewed the hearing process, procedures and format for public hearings. He referred to the applicable criteria for each of the hearing, noting that it was contained on page 2 of each staff report.

DR 97-03, an application by **Les Schwab Tire Center** for Site and Design Review approval to construct a single story 50' x 80' addition to the existing tire store. The site is located on the south side of Highway 99-E, west of S. Grant Street [Tax Lots 2400 and 3700 of Tax Map 3-1E-33CD].

Acting Chair Stewart asked if any Commissioner had ex-parte contact or a conflict of interest with regard to the hearing. Other than visiting the site, but coming to no conclusions, none was indicated.

Mr. Wheeler presented the staff report. He explained that, currently, access onto the site can be taken from either S. Grant or Highway 99-E. There are two large Oregon Big Leaf Maple trees that will have to be removed due to the location of the new drive access to and from S. Grant Street. Although the southernmost tree is in excellent health, Oregon Big Leaf Maples are not recommended street trees and both will have to be replaced with appropriate street trees. The applicant is proposing one street tree, but staff recommends the Commission condition two street trees, either a Shumard or English Oak. The applicant is only required to provide enough additional parking to meet the demand of the addition but, as the original site was deficient in parking spaces, the applicant is proposing 11 additional spaces, bringing the total to 27 parking spaces. Five additional trees are proposed in the landscaped area around the parking spaces. As the new parking spaces abut the landscaped area, staff is recommending the installation of wheel stops 2 feet from the front edge of the parking space closest to the landscaping. The color and materials of the addition will match the existing building. Signage, although advertising the services that are provided, will be located on the south wall of the proposed addition, is well under the maximum amount of signage permitted for the overall buildings. The applicant has proposed a 42 foot wide driveway, which is two feet wider than is permitted, and staff is recommending a 40 foot driveway. The application meets the 65% minimum percentage required to be in compliance with the compatibility matrix.

Applicant

Bill Lloyd, Architect - Les Schwab explained that river rock is used for landscaping in the 3 foot strip, between the building and sidewalk, which is too small for the usual landscaping. Although a 40 foot curb cut will work, the problem lays with the street tree to the north of the driveway apron. Due to the proximity of the trees to the building eaves which could cause a maintenance problem, the selection of the street tree will have to be done very carefully. He suggested a tree on the scale of a Pin Oak for this location. Mr. Lloyd agreed with staff that the existing Maple of tree, its location and condition, is inappropriate in that the only uncut roots of the tree will be on the north side. Due to the root system having raised the existing sidewalk, there would be no appropriate way to install a sidewalk that would be level with the

existing sidewalk, while maintaining the base of the tree. Furthermore, Mr. Lloyd stated that the applicant's intention is only to install new sidewalks where the current sidewalk is damaged or cracked and not to replace the portions of the sidewalk that are intact. When the tree is removed, the stump will be ground down, he stated. There is an existing floodlight on the southeast corner of the building, Mr. Lloyd explained, that is directed down toward the pavement and the applicant concurs with a condition directing all flood lights away from the adjoining single family home, which is owned by the same party. The applicant has no intention of using any street parking, which is currently designated for public parking. There is enough on-site parking to accommodate the uses which are planned for the proposed structure, he added. In addition, Mr. Lloyd concurred with staff's proposed wheel stops separating the parking spaces from the landscaped areas.

Proponents

None

Opponents

None

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

1. The Commission discussed the northernmost tree and questioned why it had to be removed. Mr. Wheeler explained that the arborist report states that the tree is in decline and there are indications of disease. Furthermore, as the new driveway will be created, roots on the southern side of the tree will be further damaged, furthering the decline.
2. The Commission discussed the condition of the sidewalk on S. Grant due to damage from the tree root system. Mr. Wheeler explained that, as stated in the Land Development and Planning Ordinance, it is the property owner's responsibility to repair the sidewalk.
3. The Commission discussed the floodlights and agreed it should be oriented so as not to disturb the nearby home.
4. The Commission discussed whether river rock was included in the landscaping portion of the design review matrix. Staff explained that river rock was not considered and, therefore, it will have no affect on the rating.
5. The Commission discussed the width of the sidewalk along S. Grant which, under new City standards, are 5 feet to the curb. After considering whether or not to have sidewalks replaced to meet the current standards which meet ADA requirements, the Commission agreed that the applicant should widen the sidewalk to 5 feet, to meet ADA requirements. **Mr. McMichael, representing Les Schwab**, explained that the applicant proposes to replace any area of the sidewalk that is in disrepair, especially the area where the tree roots have lifted the sidewalk.

6. The Commission discussed the existing vision clearance problem that exists when exiting the site from S. Grant. Mr. Wheeler explained that the new street tree would be placed to ensure vision clearance.
7. The Commission discussed the colors and materials of the proposed building. It was agreed that although the color scheme is not aesthetically pleasing and the Commission would prefer a color scheme similar to the Les Schwab in Wilsonville (more toned down), because the existing building was in good condition the scheme of the proposed building could be painted to match, in the Les Schwab trademark colors. The Commission requested that if the buildings require repainting in the future, it would prefer a more subdued color scheme, and agreed further to add such intent as a note to the conditions of approval. Mr. McMichael explained that the red/white color scheme is the Les Schwab trademark and that the applicant would oppose changing the color scheme. Further, he explained that the City of Wilsonville planned to sue Les Schwab, all the way to the Supreme Court, if need be, due to the heavy opposition over the trademark color scheme.

Based on the findings and conclusions contained in the staff report dated June 13, 1997, on testimony at the hearing, and on Commission deliberations, Commissioner Prince moved to approve DR 97-03 with the following conditions:

For the Building Permit Application:

1. A detailed landscape construction 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 size of plants, the schedule of planting, and irrigation plans. The irrigation plans shall show that a spigot will be located within 150 feet of any landscape area.
2. 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. The plant spacing and starting plant sizes shall meet the ODOT plant spacing/starting size standards. Trees are to be a minimum of 2" caliper.
3. Two street trees shall be planted along S. Grant Street, the variety to be agreed upon by staff and the applicant.
4. The trees located away from the street shall be selected from the "Recommended Street Tree List."
5. Wheel stops shall be provided for all parking spaces located adjacent to landscaping. The wheel stops shall be placed two (2) feet in front of the end of the space.

6. The access drive to S. Grant Street shall be no wider than forty (40) feet.

During Construction:

7. Erosion-control during construction shall be provided by following Clackamas County's Erosion Control measures.

Note:

8. The Commission expressed its desire that when the buildings require repainting, they shall be painted in a more subdued color scheme, similar to the Les Schwab in Wilsonville, that would be more aesthetically pleasing.

Commissioner Tallman seconded the motion and it carried unanimously.

ANN 97-02, an application by the City of Canby for approval to annex the City-owned portion of the Molalla Forest Road into the City of Canby. The site is located from Highway 99-E to S.E. 13th Avenue, east of S. Pine/S. Redwood and west of S. Walnut Street (Tax Lots 100 and 190 of Tax Map 3-1E-34C and Tax Lot 301 of Tax Map 4-1E-3).

As additional attendees arrived since Commissioner Stewart reviewed the public hearing process, procedures, and format, he reviewed it once again. He referred the audience's attention to the applicable criteria on page 2 of the staff report. Commissioner Stewart asked if any Commissioners had ex-parte communication or conflict of interest. Commissioner O'Shea explained that he is a member of the Bicycle/Pedestrian Committee and has had extensive contact with the committee and with people who attended meetings to speak of this issue, but has no financial interests in the application. No one in the audience had any questions of Mr. O'Shea. Other than visiting the site, but coming to no conclusions, no other ex-parte contact or conflicts were noted.

Mr. Wheeler presented the staff report. He explained that the City is proposing to annex the southern part of the Logging Road from Highway 99-E on the south, to S.E. 13th Avenue. Further, he stated that the City actually owns the Logging Road from Territorial Road to the north and to 13th Avenue to the south. In reviewing the history of the Logging Road, Mr. Wheeler explained that the City acquired ownership of the Logging Road when it was a private road that was used for logging trucks to access a logging boom on the Willamette River. In 1992, the northern portion of the Logging Road, from Highway 99-E to Territorial, was annexed into the City. Properties to the south and west of the Logging Road, between Highway 99-E and Township Road, have already been annexed into the City, and at least half the properties on the other side, between Highway 99-E and Township, have also been annexed into the City. In the relatively near future, it is likely that the remainder of the properties that have not already been annexed into the City, will do so. The portion from Township Road to S.E. 13th Avenue does not have any annexation abutting it at this time and

it is unlikely that the City is anticipating any annexations in that area in the very near future. At the present time, the City believes it is best to annex the remaining portion of the road that lies within its Urban Growth Boundary to avoid having to annex various portions in bits and pieces. Services are not needed for annexation of this property and zoning will match properties that are adjacent to the property. The only area that has any potential for development is the triangular portion that angles out toward S.W. 3rd and S. Redwood on the southwest side of the Logging Road, between Highway 99-E and Township. It is anticipated that the area in which there are existing cottonwood trees on that triangular portion, would be used as a wayside for bicyclists and pedestrians who use the Logging Road. There is also a chance that a cell tower application may be submitted to site a cell tower on that portion of the site.

Proponents

None

Opponents

None

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

1. The Commission discussed the pros and cons of annexing this property until Phase 2 of the Industrial Park is planned especially in light of limited access availability from the Redwood/Highway 99-E area due to the lack of a traffic signal. Mr. Wheeler explained that at the last Council meeting, the Council arranged for a contract that would deal with the Master Plan for Phase 2 of the Industrial Park and it is anticipated that the full plan will be presented to the Council, at least, by the end of the year. The Logging Road will not facilitate annexation of Phase 2 any more than it does now. He pointed out that the Boyer property, which is on the northeastern corner of the Logging Road and Township Road, was annexed into the City in 1991 and is in the Phase 2 area.
2. The Commission agreed that access to the Logging Road is and will be reduced as properties are annexed and developed. By bringing the Logging Road into the City, access to the pathway will be improved for bicyclists and pedestrians.
3. The Commission discussed whether the possibility exists for hi-speed rail on the tracks below the Logging Road bridge. Mr. Wheeler explained that, as far as he knows, there is no anticipation of hi-speed rail coming through Canby.
4. The Commission discussed liability and maintenance of the Logging Road. Mr. Wheeler explained that it would remain as it is now, with the City maintaining it.
5. The Commission requested that the record show that there was no precedent set by annexing this site which is Priority "C" land for annexation.

Based on the findings and conclusions contained in the staff report dated June 13, 1997, on testimony at the public hearing, and on Commission deliberations, **Commissioner Keller moved to approve ANN 97-02. Commissioner O'Shea seconded the motion and it carried 6-1, with Commissioner Prince voting nay.** Commissioner Prince explained that the annexation would help facilitate development before the City is ready for it and he felt it would also set a precedent because the City would be annexing property that lies within the Priority "C" designation.

MLP 97-04, an application by Michael and Patricia Moir for approval to partition a .56 acre parcel into three parcels. The parcel is located on the west side of S. Ivy Street, facing S.W. 6th Place and is currently addressed as 688 S. Ivy Street (Tax Lot 1000 of Tax Map 4-1E-4AB).

As the hearing process, procedures and format was reviewed previously, and everyone in attendance was present when it was read, Commissioner Stewart did not reiterate it. He asked if any Commissioner had ex-parte communication or conflict of interest. Commissioner Prince explained that someone asked him if this application was coming before the Commission, and when. He explained that he did not discuss any aspects of the application whatsoever. No one in the audience had any questions of Commissioner Prince. Other than visiting the site, but coming to no conclusions, no other ex-parte contact or conflict of interest was reported.

Mr. Chiavarini presented the staff report. He explained that the property is located on S. Ivy, where S.W. 6th Place dead-ends into S. Ivy Street. There is an existing home on parcel 1, which will remain. There are several trees on the site, including a Blue Spruce which will have to be moved for construction, and a Walnut tree on the northern end of proposed parcel 2 which will have to be removed entirely. All of the trees along the shared property line (with 653 S. Knott Street) will be retained. The 195 foot access strip to the two flag lots will begin on the southwest corner of parcel 1 and may necessitate removing or trimming one of the large Fir trees. A cost-estimate has already been drawn up to remove a power pole that is in the right-of-way. Despite the fact that no sidewalks exist on either side of this parcel, staff is recommending that the Commission require 5 foot sidewalks and curbs along the entire frontage of the property, as the Commission has made it a practice to require sidewalks and curbs for any development where none are existing. Storm water drainage of the subject parcel is handled on-site. Staff is recommending that the standard 6 foot utility easement along the northern edge of the parcel is not necessary, as the property line already abuts a 12 foot utility easement. Staff recommends approval with conditions.

Applicant

Mike Moir, 688 S. Ivy stated that he concurs with the staff report, except for the required sidewalks. He explained that there are no sidewalks from Township Road to the subject site, nor to the Lee School. Mr. Moir stated that he takes issue with the requirement to construct a sidewalk because he has been having a lot of trouble with drainage problems onto his driveway and into his garage. He pointed out that lots have been similarly developed lots to the north, and were not required to construct sidewalks, nor was the Church required to construct sidewalks.

Mr. Wheeler explained that at the time the Church made improvements, S. Ivy was not overlaid, so the City accepted a fee in lieu of sidewalk construction, as was the properties that were developed to the north. Further, he explained that Ivy is at the appropriate height now and sidewalks and curbs could be constructed. Mr. Wheeler stated that he was not aware of any drainage problems, other than what Mr. Moir just explained.

Mr. Moir expressed concern about the required fee. Mr. Wheeler explained that the fee would cover the costs involved and would be collected at the time the final plat was signed.

Proponents

None

Opponents

None

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

1. The Commission discussed the tree retention plan and applauded the design of the partition as it retains as many trees as possible.
2. The Commission discussed the issue of sidewalks and considered the applicant's testimony regarding the drainage problem on the site to the approach. The Commission discussed the heavy traffic along S. Ivy and agreed that sidewalks are very important along S. Ivy and will be constructed within the near future as fees-in-lieu have been collected for such construction for nearby developments. The Commission agreed that staff should condition sidewalks, unless the Public Works Supervisor or the City Engineer determine that a drywell would be required to handle drainage along S. Ivy and, if so, that the applicant should pay a fee-in-lieu of sidewalks installation until the problem is remedied.

3. The Commission discussed the possible need for an additional fire hydrant. As the Fire Marshal did not condition it in his Request for Comments, the Commission asked that staff specifically discuss the issue with the Fire Marshal.
4. The Commission discussed the Solar Ordinance and agreed the orientation of the lots meets the ordinance.

Based on the findings and conclusions contained in the staff report dated June 13, 1997, on testimony at the hearing, and on Commission deliberations, **Commissioner Keller moved to approve MLP 97-04 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 97-04.
2. The final partition plat shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. The final partition plat shall identify the newly created parcels as Lot 1, Lot 2, and Lot 3. 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, and sidewalks shall be provided as follows:
 - 6 feet in width along all common lot lines except 1) the northern border of all three proposed lots which abuts an existing 12' public utility easement and 2) the southern board of Lot 1,
 - All parts of the access road (20 feet for Lots 1 & 2 and 10 feet along Lot 3), 12 feet in width along street frontages.

Prior to Construction

6. The construction plans shall include the access drive, storm water, sewer, water, electric, telephone, gas, street lights, and mail boxes.

Prior to Occupancy of Lot 2 and/or 3

7. A curb and a sidewalk, five (5) feet in width, shall be constructed along the full S. Ivy Street frontage of Lots 1. 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 (5) foot width. If the Public Works Supervisor or City Engineer states that a drywell will be required to handle the drainage, a fee in lieu of the improvements is required (\$1,800). The curbs and sidewalks will then become the City's responsibility to construct.
8. An access strip 20 feet in width shall be hard surface and be constructed from S. Ivy Street along the southern property line to the main body of Lots 2 and 3.
9. An emergency vehicle turnaround shall also be provided on Lot 3 that is acceptable to the fire district.

Notes

10. The Walnut tree in the middle of Lot 2 will be removed to allow for a new single family home.
11. One blue spruce will be moved to a different location on the property to allow for construction.
12. All trees along the shared property line of Tax Lot 108 (653 S. Knott St.) shall be kept, except if diseased.
13. One tree (2-3" in caliper) will be planted as replacement for the removed mature walnut trees. Trees selected for planting will be approved by the Planning Department.
14. 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.
15. House numbers shall be visible from S. Ivy Street, but shall not be painted on the curb.
16. No parking shall be permitted on the driveway easement, especially for recreational vehicles.
17. Fire hydrant(s) shall be provided at the request of the Fire Marshal. The Fire Marshal shall be contacted to provide verification of the need of fire hydrants prior to construction.

Commissioner Prince seconded the motion and it carried unanimously.

The Commission requested that staff advise service-providers that it is unacceptable to the Planning Commission that only 36% of the providers are responding to "Request for Comments."

VI. COMMUNICATIONS

With reference to Eileen Acres Subdivision on Township Road, Mr. Wheeler explained that there was a request for clarification of conditions regarding fencing. The condition required a 6 foot chain link fence along the perimeter of the property. There is an existing 5 foot chain link fence on the north side which is in good condition. On the west side there is no fence at all. On the east side, there is one portion that has a wood fence, which the applicant would like to match all along the east side, excepting the 20 feet off Township Road, where it must meet the reduced height requirement by Code. Another issue is the three large tree groups along the eastern property line south of the wood fence, that sit on the property line. There is a question as to how the Commission would like to deal with the fencing around the trees for the east property line.

Since some of the Commissioners had not been serving when this was approved, it was decided that the Commissioners would visit the site and discuss the issue at a future meeting.

VII. OLD BUSINESS

VIII. DIRECTOR'S REPORT

IX. ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,



Joyce A. Faltus