

MINUTES  
CANBY PLANNING COMMISSION  
Regular Meeting  
October 27, 1997

**I. ROLL CALL**

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

Staff: James Wheeler, Planning Director; Jason Kruckeberg, Assistant Planner

Others Present: Scott Greenberg, Dave Kimmel

**II. MINUTES**

There were no minutes to approve.

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

No items were discussed

**IV. FINDINGS**

DR 97-05 - U.S. West Communications Wireless. Commissioners discussed DR 97-05 and the change to page 3, finding 1. The word "sill" should be "will." Commissioner Keller moved to accept final order DR 97-05 as corrected, to City Council. Commissioner Prince seconded the motion and it carried 4-0 with one abstention.

ANN 97-08 - Harvey and Anne Toft. Commissioner Prince moved to accept final order ANN 97-08 as written, to City Council. Commissioner Tallman seconded the motion and it carried 4-0 with one abstention.

**V. PUBLIC HEARING**

Chairman Ewert reviewed the hearing process, procedures, and format. He referred to the applicable criteria on page 2 of the staff report. Mr. Ewert asked if any Commissioner had a conflict of interest and none was indicated. One Commissioner utilizes BP gas on occasion; one Commissioner had visited the site but drew no conclusions. Chairman Ewert visited the site and had slight contact with the attendants wanting to know what he was looking at. There were no questions from the audience.

**VAR 97-05**, an application by the Stein Oil Company to relocate and rebuild the fuel islands and canopy on their existing property (BP Gas Station). The property is located at 262 SE 1st Ave. (Hwy 99-E) between S. Locust to the east and S. Juniper to the west (Tax Lots 6500/6600 of Tax Map 3-1-33DB). A variance is requested to allow the applicant to site their fuel pumps and canopy within the twenty foot street setback along Hwy. 99-E.

**STAFF REPORT:** The application is for a variance to the street setback from Highway 99 E, which is 20 feet. The site is located on the north side of Highway 99-E, west of S. Locust Street and east of S. Juniper Street. The variance would allow the applicants to site their canopy and fuel pumps within a 20-foot street setback of Highway 99 E. The canopy is proposed to be set back 7 feet.

The property line and fuel pumps are proposed to be 16 feet back. There is an exception to this case, in accordance with criteria one, as the lots are quite narrow. The railroad and Highway 99E create a fairly narrow lot. Lot 6600 is 75 feet wide and 6500 is 79 feet wide. With the 20 foot setback it makes it hard to develop certain uses.

Regarding the canopy, staff feels the proposal meets the criteria. There have been several variances granted for gas station canopies along Highway 99-E. Regarding the fuel pumps, staff did not find any compelling reason to site them 16 feet as opposed to 20 feet from the setback. There is 69-foot width to locate fuel lines, kiosk, and adequate access and egress from the site. The proposed plan shows a 31-foot separation between the two sets of islands. This allows adequate space for servicing cars and ingress and egress. Criteria one, staff feels there is no compelling reason the pumps need to be set back 20 feet.

Criteria two, staff feels is met in the application, since other canopies have been sited the same distance. To maintain the property rights, the variance should be granted for the canopy in this case. The fuel pumps, staff saw no reason to move them back into the setback four feet. Siting the pumps four feet back would not infringe property rights of the applicant, they could still use the site as a gas station/service station. Criteria three and four have to do with whether the variance will or will not be detrimental to the city's plan documents or the other property owners within the general zone and area. Variances have been issued for several other service stations in the past. Staff does not feel this is a problem granting the variance for either the canopy or the pumps. Both the pumps and the canopy would meet criteria three and four.

Criteria five, there was no compelling argument in the plan to keep the pumps where they are. The seven-foot setback for the canopy did meet the criteria. In conclusion, staff feels for the canopy, the variance request meets all the criteria in the plan and the code; and the fuel pumps, staff feels don't meet criteria one, two and five.

Staff recommends approval of the variance of the canopies but recommends the fuel pumps be sited at the 20-foot setback line.

Staff answered questions by the Commissioners.

APPLICANT: Dave Kimmel, 122 SE 27th Avenue, Portland, OR 97214, speaking on behalf of the applicant Stein Oil. Mr. Kimmel stated the Shell Station has a 16-foot setback which was granted two years ago. The applicant eventually intends to develop this property as a convenience store or some other use. The reason for the 31 feet is to allow two things to happen: vehicle fueling and other vehicles able to pass them. 27 feet does not do that. With the 31 feet there is a lot more opportunity for vehicles to move safely in and out of the property. The purpose was to allow more cars to pass each other further back from the street side of the island and making it safer for pedestrians.

PROPOSERS: None

OPPOSERS: None

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

1. The 16-foot versus the 20-foot setback of the islands and the logistics of cars passing one another.
2. Granting a variance for something that may or may not be built in the future.
3. The fact all six criteria would have to be met to grant a variance. Staff report indicates one, two and five would have yet to be met and the Planning Commission would have to provide the reasons how those could be met.
4. Commissioners agreed with the staff report and the variance for the canopy should be granted but not for the fuel pumps.

Based on the findings and conclusions contained in the staff report, on testimony at the hearing, and on Commission deliberations, Commissioner Stewart moved to recommend approval of VAR 97-05 as amended to City Council. Commissioner Prince seconded the motion and it carried unanimously.

**DR 97-06**, an application by the Stein Oil Company for site and design review approval to relocate and rebuild the fuel islands and canopy on their existing property (BP Gas Station.) The property is located at 262 SE 1st Avenue (Hwy 99-E) between S. Locust Street to the east and S. Juniper Street to the west (Tax Lots 6500/6600 of Tax map 3-1E-33DB.)

Chairman Ewert asked if any Commissioner had a conflict of interest and none was indicated. Mr. Ewert asked if there had been any ex-parte contact. Chairman Ewert and one Commissioner had visited the site but drew no conclusions. The audience had no questions.

**STAFF REPORT:** Staff reported the site is the same location as previous one in VAR 97-05. It is currently being used as a service station with four pumps and a building. After rebuilding there will be six pumps, a larger canopy and significant landscaping on the site. The applicant is proposing 24.6 percent landscaping; requirement is 15 percent. The criteria for landscaping is met. The paving requirement and trees ratio criteria is met. Parking spaces are required based on commercial floor area, which indicates a requirement for three spaces and the applicant is proposing seven, with one handicapped space. Wheel stops are not proposed but would be required and they are a condition in the staff report.

Regarding access, the plans call for two 40-foot driveway accesses, one-way ingress and one-way egress. Staff did not feel that the provisions for connecting the public sidewalk to the existing office building are applicable. There will be an eight-foot sidewalk along Hwy. 99-E. Additional fuel pumps and canopy will match existing fuel pumps and canopy. In terms of signage, there will be two BP signs. One on the northwest side of the canopy and one on the southeast of the canopy. 150 feet of signage is allowed; they will be using 85 feet, well within the requirement.

In terms of the compatibility matrix, staff feels the application meets 22 out of 33 points, which is 67 percent. The points are outlined in the staff report. 65 percent is needed according to the ordinance. All utility providers were sent comment forms. No deficiencies or concerns were mentioned by any providers. ODOT mentioned curbs and sidewalks would be required to meet their standards. They also require a miscellaneous permit obtained from them before working on the right-of-way. The Canby Utility Board mentioned that utilities will need to be moved and that would be the responsibility of the applicant. It is one of the conditions.

In conclusion, staff feels the site design review meets all the applicable criteria and recommend approval.

Questions by Commissioners were answered by staff.

APPLICANT: Dave Kimmel, 122 SE 27th Avenue, Portland, Oregon 97213 speaking on behalf of the applicant. He went through the staff report and has no issue with the staff report, other than to make some minor design changes.

Commissioners asked questions of the application regarding the color of the canopy, the signage, the crosswalk, and hooded lights.

PROPOSERS: None

OPPOSERS: None

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

1. Traffic flow and access to the convenience store, if put in the future.
2. Six foot high chain link fence put on as a condition.
3. Parking lights to be hooded - no upward lighting as a condition.
4. The signs on the ingress and egress should be clearly marked.

Based on the findings and conclusions contained in the staff report, on testimony at the hearing, and on Commission deliberations, Commissioner Stewart moved to recommend approval of DR 97-06 as amended, to City Council. Commissioner Keller seconded the motion and it carried unanimously.

## **VI. COMMUNICATIONS**

A letter from the Planning Commission Chair to Canby Utility Board and to the City Council is in packet. Commissioners felt it was well written.

## **VII. NEW BUSINESS**

**DR 96-14 (Air Touch/Nextel) Modification.** Mr. Wheeler reported on a request for a modification for the Air Touch cellular tower. Nextel is one of the co-locators and they are trying to locate their equipment in a better layout to provide room for emergency vehicles and avoid existing utilities. Commissioner Tallman moved to accept modification of site design review DR 96-14 as submitted, to City Council. Commissioner Stewart seconded the motion and it carried unanimously.

## **VIII. DIRECTOR'S REPORT**

Mr. Wheeler indicated the industrial park master plan technical advisory committee is meeting November 5th at 9:00 a.m. in the meeting room. The joint City Council/Planning Commission meeting is 7:00 p.m. November 5th. The Gramor hearing will immediately follow.

A homeowner in Township 8 is not happy with having a street tree, or the type of tree. The City Council was given a report on the street tree issue. Staff is looking to change the requirements so that development would require the street trees. The Planning Commission discussed their role as the Planning Commission and the importance of their input to the City Council. The Planning Commission discussed the conditions of subdivisions in order to have street trees planted, and that it is important for the City Council to understand the importance of street trees, and that the Planning Commission feels strongly about requiring them for subdivisions. The Planning Commission also discussed their desire to have the first review for any requested exemption to the street tree planting requirement. The Planning Commission also discussed different methods of requiring the street trees that may result in less homeowner opposition, such as: requiring CC&R's or some similar document to be recorded with the plat that will be passed on with the title to individual lots; or requiring the planting of the street trees prior to the occupancy of the home - to be done by a landscape contractor.

The Church of Christ does not want the eight-foot sidewalk at Fourth and Elm. They had approval for four foot off the curb. Preference of the Planning Commission at the last meeting was for an eight-foot sidewalk. Since four-foot was already approved, they are not willing to put in an eight-foot. They are willing to put in a five-foot. The Planning Commission approved a 5-foot sidewalk, to be located against the curb, to be constructed on the block that is made up by 3rd and 4th Avenues, and N. Douglas and N. Elm Streets.

## **IX. ADJOURNMENT**

The meeting was adjourned.

Respectfully submitted,  
Catherine Teach-Schmitz