MINUTES
PLANNING COMMISSION
REGULAR MEETING
Canby Adult Center
NOVEMBER 22, 1999
7:00PM

I. ROLL CALL

Present: Chairman Keith Stewart, Commissioners Geoff Manley, Jean Tallman, Derek Bliss, Teresa Blackwell

Staff: Jason Kruckeberg, Planning Director, John Williams, Associate Planner, Matilda Deas, Project Planner, John Kelly, City Attorney, Carla Ahl, Planning Staff.

Others Present: Mr. Remington, Dorothy Remington, Jim Gibson, Mr. Jackson, Karen Jackson, Ernie Graham, Alice Clymens, Krista Vasquez, Dennis Keenan, Tim Sercombe, Larry Wright, Kim Wilmes, Craig Wilmes, Janice Zauner, Curtis Gottman, Lila Gottman, Kathy Clifford, Sandra Corcoran, Chuck Sandsness, Randy Tessman, Bruce Broetje, Allen Morris, Chance Schmidt, Peter Hainley, Ms. L.Pena, Jeff Kerkman, Christine Kloser, Jolene Campbell, Dorothy Cofield, David Howell, Mr. Sather.

II. CITIZEN INPUT ON NON AGENDA ITEMS

None

III. PUBLIC HEARINGS

DR 99-06/CUP 99-04 CASA of Oregon and Catholic Charities proposed 46 unit farm worker motel located south of Redwood St. between 3rd and 4th Ave. Continuation of October 25, 1999 meeting.

Jason Kruckeberg, Planning Director explained that the record for the Public Hearing on the 25th of October had been left open for 14 days for additional testimony from all parties, then there was a 10 day rebuttal period during which rebuttal to the new testimony would be accepted. Jason explained that there would be a brief staff report then the attorneys would have an opportunity to testify then the Commissioners will have deliberations.

Chairman Stewart reviewed the hearing process, procedure and format. He referred to the applicable criteria posted on the wall and on page 2 of the staff report. Mr. Stewart asked if any Commissioner had a conflict of interest, none was expressed. Mr. Stewart asked if any Commissioner had ex-parte contact. Mr. Bliss stated that he had attended the meeting last

month, Ms. Tallman had no contact, Mr. Manley stated that he visited the site and had drawn no conclusions, Ms. Blackwell stated that she had visited the site but drew no conclusions, Mr. Stewart stated that he had visited the site, and read an article in the Canby Herald but drew no conclusions. No questions were asked of the Commissioners.

John Williams, Associate Planner read a brief summary of the staff report. He stated that two Comprehensive Plan Policies were crucial to the review of the application, Policy one of the Land Use Element and Policy one of the Economic Element. The land use element states that Canby shall guide the growth of development by separating compatible and incompatible uses while grouping compatible uses. If the Commissioners find that the Conditional Use criteria has been met then the development will be considered compatible and compliant with this policy. Policy one of the economic element states that to protect future industrial areas from encroachment of incompatible uses, if the Commissioners find that the proposed use is compatible then this criteria would be met. John added that the staff felt that based on criteria D of the Conditional Use, which states that the proposed use will not alter the character of the surrounding area in a manner that precludes the use of surrounding property from the uses listed as permitted in the zone.

John summarized the additional evidence that had been submitted for the record, there were letters from the following Proponents:

- Daniel Wells, Oregon Association of Nurserymen which dealt with the difficulty of siting housing on farm land due to land use regulations and lack of infrastructure.

- Ray Klupenger, Klupenger Greenhouses Inc. which addressed farm worker housing on farms and stated no other businesses in the area are forced to provide housing on their sites

- Norbert Kinen, J. Frank Schmidt and Son dealt with the difficulty of siting farm worker housing on farm lands and noted that farm workers social, health and other needs are located in cities and towns.

- Devin Cooper, Willamette Nurseries cited the difficulty of providing housing on farm lands and stated that locating housing on farm land would disrupt farm workers life rather than having stable housing as they move from job to job.

- Memo Timothy Sercombe, Attorney for CASA.

John stated that Mr. Sercombe had faxed his memorandum on the November 8th deadline, but had not included all of the exhibits. John stated that Ms. Cofield, Attorney for Mr. Broetje contended that the exhibit should not be included in the record since it was received after the deadline. Mr. John Kelly was consulted as to his opinion, and he stated that he believed any evidence received after November 8th was new evidence and should not be entered into the record, Mr. Sercombe withdrew the memo.

stated that taking 10% of the Tier A land would reduce the available land significantly and does not meet the objective of the Comprehensive Plan.

Ms. Cofield added the statements by Mr. Sercombe that residential housing may be less intensive than other uses but it can preclude the zoned uses due to safety issues and complaints from residents. She stated that there are legal reasons to deny this application and disagreed with the applicant's statements that denying this use would violate the farm worker statues and be discriminatory. She stated that the city has the right to interpret the code and to decide what kind of hotels/motels should be allowed in the industrial zone. She added that OR statute 197 was a series of statutes that CASA of Oregon helped pass allowing some residential living for seasonal farm workers in rural zones which is where she feels it belongs.

She concluded her rebuttal by stating that the Commissioners could legally make the determination to deny this use, there are inadequate school facilities, it is not a moratorium, the Commission does not have to allow farm worker housing in an industrial zone, it is not discrimination, the Commissioners can interpret the code and the commissioners can decide if this application really is a hotel/motel or a multi-family housing which is not allowed in this zone.

Mr. Sercombe stated that he was not clear on the opponents definition of hotel/motel or their meaning of guest and that the difference between guest and resident was the core issue. In his opinion a person is no longer a guest when they reside at the facility, when they look to that facility as their permanent abode. He asserted that the residents are guests, there is no ownership and they are staying there on a temporary basis.

He stated reasons why he felt the school district capacity is not a relevant issue, ORS 195. 110 sub 10 states that school capacity shall not be the sole basis for the approval or denial of any residential development application(unless the application involves changes to the local government Comprehensive Plan or Land Use regulations) and the school Superintendent has stated that adequate public services available.

Mr. Sercombe addressed the issue of the use of this property for lodging being inconsistent with the Logging Road Advance Finance District adopted by the City Council. He pointed out that the district assessed more residential property than industrial property for improvements to the Logging Road and this property was assessed and will pay it's fair share.

Mr. Sercombe stated that the conflict between pedestrian uses and industrial traffic should not be a basis to deny this application, apparently that wasn't the opinion of the city when it located the bicycle path and sidewalks along Redwood Street as part of the Logging Road Improvement District. He stated that 2 incidences of vandalism does not show that industrial uses are being precluded in the area. He asked if the applicant had requested putting an "average" 131 unit motel on the lot, would the Planning Commissions reaction be the same, would the off site impacts from a 46 unit managed facility be substantially greater than a 131 unit "average" motel.

Mr. Manley asked Mr. John Kelly, City Attorney what his interpretation on ORS 197. 312 was. Mr. Kelly responded that there were a couple of issues, one is that no city or county shall impose any approval standards, special conditions or procedures on seasonal or year round farm worker housing that are not clear, objective or have the affect of discouraging seasonal and year round farm worker housing through unreasonable costs, delays or by discriminating against such housing. He then asked the Commissioners to decide if they had an application for a motel or for year round farm worker housing, if this is not an application for farm worker housing then he wasn't certain that this statute would apply. But if it does and you do have a motel that accommodates seasonal and year round farm worker housing, then are you discriminating against that housing by utilizing subjective standards not contained within the Comprehensive Plan. In other words, you have to make clear and objective findings.

Mr. Stewart asked for clarification that Canby's Comprehensive Plan was approved by the state of Oregon and at that time they did not find it in violation of any Oregon law in regards to discrimination, Mr. Kelly stated that was correct, but they could be found in violation through application by not making clear and objective findings.

Mr. Bliss asked if Mr Sercombe regarded this application as a seasonal housing for farm workers or as a motel and if it's a motel, in his opinion does the verbiage from ORS 197. 312 apply. Mr. Sercombe replied that Canby does not address farm worker housing in its code, so it's the only way to site farm worker housing is to put it into some other category of use, and when you do that then this statute applies and you need to apply clear and objective criteria, to make clear and objective findings. Mr. Bliss clarified that Mr. Sercombe thought that this application meets both criteria for motel and seasonal farm worker housing. Mr. Bliss stated that at the last meeting the applicant stated they would sign a waiver of conflict regarding noise ordinances or that noise from surrounding properties would not be used against property owners later, Mr. Sercombe stated that the whole issue of noise regulation is muddy because there are no noise regulations in the state and the notion that the applicant would sign a waiver limiting their right to proceed against and to use non existing remedies is confusing. The owner is willing to sign some sort of waiver that says they are not going to take any form of action against industrial users because of noise. Mr. Bliss stated that Mr. Sercombe sounded a little unclear and asked for clarification on that, Mr. Sercombe stated that the applicant would be willing to sign what ever the city wishes, Mr. Bliss asked what the intent and reasoning was behind signing a waiver, Mr. Sercombe said the reasoning was to dispose of it as an issue while not conceding that it is an issue.

Jason Kruckeberg stated that it was conditioned that Canby does have a noise control ordinance and that it specifically exempts sounds caused from legal operations in the industrial zones. The applicant was were notified that the situation exists. Ms. Tallman clarified that it does not say that they can't complain, no one is taking away their right to complain, Jason concurred

Mr. Bliss asked what the applicants definition of agriculture was and if landscaping was classified as agriculture in terms of eligibility for this housing. Mr. Sercombe stated that there are 2 definitions, the legal one (which he read) and the second might be the eligibility criteria that

would have to be met to qualify as a farm worker. He stated that there have been no detailed procedures established prior to basic planning approval for the facility. **Mr. Peter Hainley, CASA** responded that landscaping services would not qualify as farm work or as qualification for the housing. Jason Kruckeberg read the definition of agriculture in the city code.

Ms. Blackwell asked Mr. Sercombe if she was a farm worker who came to this area and met the qualifications could she get housing at the Redwood Inn. Mr. Sercombe responded that she could and it would be unlawful not to allow it.

Mr. Bliss stated that he received in his packet some modifications to the access and was wondering if it had been viewed as a safer plan by the opponents and staff. John responded that the design appeared to meet regulations and the specific details would be brought out at the preconstruction process. Jason Kruckeberg added that it appears to be a workable design the applicant had a traffic engineer review the drawing and the recommendation was that the only change which might be needed was a widening of the access from 24' to a 30'. Mr. Bliss asked if during pre site development was when the mailbox being in the way would be dealt with and if it was something that the Planning Commission should be concerned about. Jason stated that a preconstruction meeting was how the Planning Department dealt with the placement of pedestals and mailboxes to meet site requirements.

Mr. Stewart asked if there were any other questions of council or staff there were none. Mr. Stewart closed the public hearing, and opened Commissioner deliberations.

Mr. Stewart thanked the audience for attending, and stated that rarely does the Planning Commission receive that much input. He thanked the Attorneys for their precise briefs, and the Planning Staff for a well organized report. He stated that they would look at the application in 2 parts. First the Conditional Use portion of the application and then as a Site and Design Review application.

Mr. Stewart led the discussion stating that he feels it is not a motel and if it was a motel it would have to be incidental to the primary industrial use. He felt that the applicant failed the Comprehensive Plan goal of guiding development so it's orderly, efficient, aesthetically pleasing, suitably related to one another and separating conflicting or incompatible uses. He stated that in his opinion schools were part of public services and the project would have a negative affect on Trost school. He continued that the application failed the economic development goal of diversifying and improving the economy of the city of Canby. He added that the criteria to increase industrial development, protect future industrial areas from encroachment of incompatible uses and to increasing local employment was not met either.

Mr. Stewart stated that he has attended hundreds of meetings that basically had the same theme, in order for Canby to be an economically viable community there must be jobs, the city must bring in industry and pay for infrastructure in the community. He added that there has been substantial testimony as to how the development would negatively impact local businesses and cited Metal Innovations desire to expand by building a a helipad. He agreed that this type of housing is needed but didn't think the industrial park was the appropriate place to put it. He

concluded that in his opinion it failed Conditional Use criteria A, C and D.

Ms. Tallman stated with occupation and salary restrictions it was hard for her to view the application as a motel, in her opinion it is a short term residential facility. She continued that people have located in the industrial park with certain expectations of it remaining an industrial park. Ms. Tallman added that the housing is needed but felt the industrial park was the wrong place to put it. She also has major concerns regarding the safety of children who may be living in the development, small children may stay behind fences but teenagers with skateboards will not. She concluded that with these concerns and those already stated she doesn't think it's in the right place.

Ms. Blackwell said that philosophically it is a good idea, but feels it does not belong in the industrial park. She cited safety concerns for children and adults and thought that a chain link fence with a security gate tended to ghettoize the situation. She also stated that the difference between this application and Casa Verde was that Casa Verde had an appropriate location but given the public testimony she believes the Redwood Inn will severely alter the industrial park.

Mr. Manley stated that he could argue either side of this application but he heard testimony stating that this development would hinder some of the current industrial zone users. He continued that when Mr. Sercombe was giving his rebuttal and talked about the issue of schools and state law, the issues he pointed to stated that an application couldn't be denied based on schools, but this application is in an industrial zone and so by definition it is not a residential application, or it shouldn't be sited there. He felt the ruling would not be applicable It does fail on that area, and based on what it says about schools that is reason enough to say it does not meet public facilities. Since it does conflict with some of the industrial uses it is not compatible as well. Mr. Stewart asked for clarification if Mr. Manley would deny because of criteria C and D, he stated that he would.

Mr. Bliss stated that he felt some of the opposition was taken to extremes. He agreed that the application would not preclude people from conducting their business but he felt it would be a hindrance on the applicant and stated that needed to be taken into consideration. He felt that under criteria D this was not the best use of industrial land and does not feel the project is what is best for Canby and it's citizens. He added that under criteria B there are some safety issues with the location, if this was a motel there would not be a lot of kids that would stay there on a permanent basis but cited that Mr. Sercombe had said that this application was both a motel and seasonal farm worker housing. Since the applicant is asking for both we need to consider that housing for farm workers will have youth living there. Mr. Bliss stated that his decision was not solely based on the public schools system, but that it has been proven that the schools would be negatively impacted. He cited Criteria A, B, C and D he didn't feel that this was the best use of industrial land and recommenced denial based on those conditions.

Mr. Stewart commented that there was continued reference to the City Council, and wanted to state that the Comprehensive Plan was adopted in 1984, no current member of the City Council or the Planning Commission was sitting on the council at that time.

Mr. Stewart asked John Williams to give a report on the Site and Design Review portion. John stated that the original proposal had a 24' access strip over 300' long and the staff had written a condition that the driveway be curved at the end so it connected with S. Redwood St. as close to a 90 degree angle as possible. Conditions were added regarding the width of the access and that no parking was to be allowed as recommended by the police department. Flexible conditions were written so it could be final designed in the preconstruction stage. There were questions regarding the sight clearance and the proposed sign, John stated that they had submitted a new design which met the sight requirements.

Ms. Blackwell recalled a 24' drive with a lot of landscape, John agreed that the access strip is 50' wide. Ms. Blackwell asked if there would be a problem with requiring it to be wider. John explained that the way the application is conditioned meets the city's minimum criteria plus some, they call for 6' sidewalks, 20' of landscaping with a 24' access driveway. Ms. Blackwell suggested a 34' access driveway.

Mr. Bliss asked if the vote on the Conditional Use application and the Site Design Review were done congruently or separately and if congruently isn't this site review unnecessary. Mr. Stewart responded that in case this application goes to the City Council on appeal it will be a complete package and will not be remanded back to us, they would have our complete thoughts on this application.

Mr. Stewart asked for comments regarding Ms. Blackwell suggestion of 34' access. Ms. Tallman stated that she didn't feel it was necessary for residential use to be wider than 24'. Mr. Manley said that with other access strips into multi-family units 24' have been the width that was required and doesn't feel it would be necessary to increase it to 34'. Ms. Blackwell stated that her concerns were passage through and emergency vehicle access since that is the only access to the property. Mr. Manley stated that one of the conditions is that there will be no parking on the access strip.

Mr. Manley wondered if the driveway being 30' wide at the street was something that needed to be conditioned. Mr. Stewart stated that he would prefer not to condition it and to let public works handle the exact details of the throat of the driveway. Jason Kruckeberg stated that it could be done either way.

Mr. Manley asked about conditioning the maximum length of time guests could stay at the facility. John Kelly stated that it was not really a Site and Design Review question.

Ms. Blackwell stated that in condition #21 it states that there would be an access gate and wanted clarification. John explained that a limited access security gate was proposed but it was not specific as to the type. Mr. Stewart asked where it would be located, Mr. Bliss stated the site plan shows 38' from the closest part of the access.

Ms. Tallman moved to deny CUP 99-04/DR 99-06 for failure to meet Conditional Use criteria A, C & D. Mr. Bliss stated that he would like more discussion on the Design Review application. He stated that under condition 1 sub E, all public facilities must be available and he

felt there was not adequate school facilities. He addressed condition #3 and stated that he felt it failed there because there was not a strong need demonstrated to justify using valuable industrial land.

Ms. Tallman withdrew her motion.

Mr. Bliss moved to deny CUP 99-04/DR 99-06 for failing Conditional Use criteria A, B, C & D and for failure to meet Design Review criteria #1 sub E and #3. Seconded by Ms. Tallman. Motion carried 5-0.

- **FINDINGS**

DR 99-07 Applicant: MGA, INC. **Location**: 225 NE 2nd Ave
Phase 2 of Cutsforths Thriftway, a proposal to construct a 11,550 sq. ft. building parallel with NE 2nd Ave. and a 7,950 sq. ft. building parallel with N. Ivy St.

Ms. Tallman moved to accept DR 99-07 as written. Seconded by Ms. Blackwell.

Mr. Bliss asked for clarification if he had abstained or voted against a application how would that affect voting on the findings. Mr. Stewart stated that Mr. Bliss was free to vote however he chose. John Williams stated that it is not confirming the vote on the original, this vote is to confirm what is in the findings. Motion carried 5-0.

- **MINUTES**

June 14, 1999

Mr. Bliss moved to approve the minutes of June 14, 1999 as written. Seconded by Ms. Blackwell. Motion carried 5-0

July 26, 1999

Mr. Bliss addressed the wording of the size of the Canby Skate Park and suggested that the wording be changed to state the approximate size of the skate park portion instead of the size of the whole facility.

Ms. Blackwell moved to approve the minutes of July 26, 1999 as amended. Seconded by Mr. Manley. Motion carried 5-0

September 27, 1999

Mr. Bliss moved to approve the minutes of September 27, 1999 as written. Seconded by Ms. Tallman. Mr. Stewart questioned Jason Kruckeberg regarding what the 3 major concerns of the Industrial Area Association are. Jason responded that the #1 concern was annexation (who would be the applicant in a major annexation the home owners or the city), financing of the Industrial Park infrastructure and assessment of those costs and how they get proportioned to the

owners.

Motion carried 5-0.

October 11, 1999

Ms. Blackwell questioned if there could be more clarification on her remarks on page 4, and suggested adding the words "a matter" of paperwork instead of just paperwork. Jason stated that this was paraphrased and the wording could be added.

Ms. Tallman moved to approve the minutes of October 11, 1999 as amended. Seconded by Mr. Bliss. Motion carried 4-0 with Mr. Manley abstaining.

- **COMMUNICATIONS**

NONE

- **DIRECTORS REPORT**

Jason Kruckeberg handed out a list of ongoing grant projects. Jason stated that the first grant is the Smart Development grant Phase 1, the work has been completed and the commissioners will be receiving a final report on that soon. The funding for Phase 2 of the Smart Development has been awarded but a consultant has not yet been selected. Requests for proposals have been sent out for the Downtown Master Plan and anticipate having responses to the proposals in house by December 1st 1999, then a selection committee will be formed that will involve staff as well as the Chamber of Commerce and Canby Business Revitalization to select a consultant. Jason added that the Canby Gateway project is currently underway.

Jason stated the Transportation Plan Update will go before the City Council on December 15th. He added that the bike and ped committee had met with representatives from downtown and had come up with a feasible alternative for the bike plan. Ms. Tallman stated that the bike lanes will be erased from Grant St., Jason stated that the work began that morning.

Jason continued that a request has been put out for proposals from graduate students from the University of Oregon to help with some zoning code research. The project would be funded through the University and the only cost would be staff time.

Jason stated that applications for the new Planning Commissioner will be considered by the City Council on December 7th and hopefully they will appoint someone soon after that.

Jason reminded the Commissioners that there will be 2 public hearings at the meeting on the 13th of December and that no meeting is scheduled for the 27th of December and that the Planning Commission Christmas Party is on the 3rd of December.

- **MEETING ADJOURNED**