

MINUTES

CANBY PLANNING COMMISSION

7:00PM, April 22, 2002

City Council Chambers, 155 NW 2nd

I. ROLL CALL

PRESENT: Vice-Chairman Jim Brown, Commissioners, Paul Thalhofer, Geoffrey Manley, Randy Tessman

STAFF: John Williams, Planning and Community Development Director, Matilda Deas, Project Planner, Carla Ahl, Planning Staff

OTHERS PRESENT: Melody Thompson, Evie Berg, Ron Berg, Craig Bowcock, Ed Netter, Allen Manuel, Mr. Fetters

II CITIZEN INPUT

Ron Berg, asked the Commission for an update on concerns expressed by neighbors of Mackin Auto Body Repair Shop regarding air quality. Matilda Deas explained that a meeting had been held April 10th with Mr. Mackin, auto body painters, managers and representatives from the neighborhood.

Matilda stated that Mr. Mackin is willing to work on additional measures that would help the situation. It was stated that emissions had been reduced to 5% and 0.5%, by installing "state of the art" equipment, but some neighbors were still concerned regarding what exact chemicals were still emitted, and about the odors. Mr. Mackin and the representatives have agreed to do additional research, send out letters on the research to the community and hold a follow up meeting.

Mr. Brown read a letter Matilda had received from Mr. Larry Mackin thanking her for her assistance with the neighborhood meeting and confirming that they will draft a letter to the community within 30 days and will continue to try and reach an equitable answer to address the neighbor concerns.

II NEW BUSINESS

None

III. PUBLIC HEARING

SUB 02-01/CUP 02-01/ZC 02-01 An application by Allen Manuel and Craig Bowcock to subdivide three parcels into 8 lots; construct five row houses (conditional use), two single family houses and one duplex; and to upzone proposed lot "8" from

Low Density Residential to Commercial Residential as designated on the Comprehensive Plan.

Mr. Brown 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. When asked if any Commissioner had a conflict of interest, none was stated. When asked if any Commissioner had ex-parte contact, Commissioners Tessman and Brown had visited the site, but had drawn no conclusions.

Matilda Deas presented the staff report. She explained the property is located on S. Ivy St., 135' north of South Township. Mr. Manuel is asking to change the map designation from Low Density to Commercial Residential which is the designated zone on the Comprehensive Zone map.

Matilda stated the applicant is also asking for approval of an 8 lot subdivision for 5 single family units of attached housing, a duplex, and 2 single family homes. She explained that there is a 20' wide tax lot that is currently being used for an access, and will continue to be used for the access to the development. Matilda explained that at grade there is a drop in the access and the conditions of approval require that be raised to grade.

Matilda explained this is a land locked piece of property and there are some issues with the development, the up zoning will increase density as prescribed by the comprehensive plan. She stated that the code allows for 3 triplexes (9 units), but the applicant is asking for a conditional use permit to allow 5 common wall houses.

Matilda addressed comments that were received from service providers. The School District is concerned about growth, but are required to provide facilities. The Traffic Safety Committee and the Bike and Ped Committee have expressed concerns that the driveway access is below grade. Matilda explained that Clackamas County is requiring the applicant to raise the grade, and when the Secretary of the Traffic Safety Committee heard the condition she believed it addressed the concerns the Committee had.

Matilda stated that the rest of the Service Providers had stated that all services were either available or would become available upon development. Matilda believed this development fits well with the existing community since it is surrounded by a mixed use of low density, high density and commercial/residential use.

Matilda stated the Traffic Engineer from Lancaster Engineering believed the perfect situation would be for the development to have access onto Holly St. but that is not an option. The Engineer explained that the intersection of Township and Ivy operates at a "C" level except for the left turn off of Township south onto Ivy, which operates at level "F", but accounts for only 3% of the traffic movements at the intersections. Their determination was that this development would have little impact on the intersection.

Matilda explained the traffic study showed there was not enough traffic or accidents at this time to warrant a stop light at the intersection, the Transportation System Plan does not anticipate a traffic signal being placed at that intersection for another 10 years.

Matilda stated the subdivision conforms with the requirements of the Land Development and Planning Ordinance. She explained the existing 20' access would service the development, except that the width would narrow to 12' to service the one single family lot which is allowed in the code if servicing one flag lot.

Matilda stated that the application with conditions, meets the criteria for a Subdivision, Conditional use, and Zone Change and is in compliance with the Comprehensive Plan.

Mr. Tessman questioned the need for additional CR land. John explained the building analysis was based on build out, since there hasn't been a lot of activity in the CR zone, it was projected that most of the new businesses would be in the Downtown and Highway Commercial Zones.

Mr. Brown explained it was expected that since this is such a well traveled road, it would develop into a commercial area. John stated that has happened with many of the homes there. Matilda explained that Mr. Manuel owns the property fronting on Ivy street and this would be a commercial opportunity for him.

Mr. Tessman stated the Commission looks at the need for High Density (R2) land, looks at a need for Medium Density (R1.5), he questioned whether there was a need for addition Commercial Residential land. John stated the need for Commercial and Industrial land would be revisited as part of the periodic review process.

Mr. Manley questioned why the boundary was angled instead of straight like the Comprehensive Plan called for. Matilda stated it was probably to get the proper square footage per lot.

Mr. Brown questioned the distance from Township Rd to the driveway access. Matilda stated it was 135'. Mr. Brown stated there was another access south of this property and questioned what the standard was for adjacencies of access points. John explained this is an arterial street and the access standard would not be met. But under the City policies, since this is the only access to the property, the City can not forbid an access there.

Mr. Brown questioned the small strip of land that is a part of the 20' access and how it would work. Matilda stated a reciprocal access agreement would be necessary. Mr. Brown asked if the owner was willing to do that. Matilda explained that it was conditioned that the applicant obtain the easement and if he doesn't then the project couldn't go forward.

APPLICANT:

Mr. Allen Manuel addressed the questions the Commission had asked. He explained there is an existing 10' easement where the access narrows making a 20' access for all properties to use, he explained that the 2 existing homes do not have accesses on to Ivy, they also take their access from that driveway. Mr. Brown questioned how that access tax lot came into being. Mr. Manuel explained it was part of a project he started in 1991 that was approved by the City, but fell apart in escrow leaving the strange shaped lots.

Mr. Manuel stated the access to the single family homes slanted, which is why the proposed zoning slants, he believed the zoning should follow the land use. Mr. Manuel read a letter from Mr. Greg McElroy, who owns the eight plex north of the proposed development stating his support for Mr. Manuel's application, it would develop vacant land, increase density and would be in the best interest of the City.

Mr. Manuel explained he has been trying to come up with a working project for this property since 1991, but nothing worked out. After the City adopted some of the new code requirements it made this application possible.

Mr. Manuel explained the common wall houses would each have a front yard and a back yard, but no side yards, easements are provided for access to the rear property for maintenance. He believed this was a good transition development from the high density use to the north, and the low density use to the south.

Mr. Manuel stated the traffic study shows this development would add only 6 vehicle trips an hour, which would have little impact on the intersection of Ivy and Township. He stated the Canby school district has a program underway to provide additional elementary education on this side of town in the not too distant future.

Mr. Manuel stated this project will provide more residences in the area which will help support the downtown businesses. He believes this development would be the best use of this property, the site is too large to be vacant this close to the center of the City. He asked the Commission to approve his application.

Mr. Brown questioned why the applicant was proposing common wall housing instead of 3 triplexes. Mr. Manuel stated that when he drew up these plans he hadn't realized he could put tri-plexes there. He explained that as a realtor he knows that Canby has enough apartment complexes, but need smaller, more affordable housing. He explained that other similar developments he has created have sold very quickly.

Mr. Brown questioned if the applicant believed this was an appropriate mix of use off of one access drive. Mr. Manuel believed that it is an appropriate mix. He stated as a realtor, he knows how difficult it is to sell a house that is backed up to an apartment complex. With this development there will be the eight-plex to the north, then the 5 common wall, the duplexes then the 2 single family homes.

PROPONENTS:

Mr. Berg, neighbor addressed the Commission, he explained that the one eight-plex is the only apartment complex in the area. He questioned whether there will ever be sidewalks on the west side of Ivy St. and more crosswalks on Ivy Street. He is concerned about the pedestrian traffic due to the location of the schools and the swim center, and that Ivy St. seems to be one of the busiest traveled streets in Canby.

Mr. Berg questioned if easements could be required across property that has already been developed. He stated that he had seen instances where sewer lines had been put in across existing developments, cutting tree roots, and eventually killing the trees. He questioned who would be responsible for maintaining the sewer lift station.

Mr. Berg questioned how the existing property to the east that faced Ivy St would be affected when the grade of the access is raised. Once the access is raised there will be a quick drop into their garage. He stated the traffic study had suggested moving the access driveway from the front of the house to the rear of the house would mitigate any problems. He questioned who would to pay for it.

Mr. Berg asked what set back would be allowed from his property located on the west side of the proposed common wall homes. Mr. Brown stated he had written his questions down and would get the answers.

Mr. Craig Bowcock, addressed the Commission. He stated he owned the land Mr. Manuel was purchasing. He explained it is a difficult piece to develop due to the shape of the lot and because it was so far away from utilities. But changing the zoning to match the Comprehensive Plan brings everything together making the project feasible.

Mr. Bowcock stated he also owned the 4-plex off of 3rd St. which he has converted into condos and has been selling them individually. He agrees with Mr. Manuel that there is a need for low income, higher density single family housing.

Mr. Ed Netter, stated he would be the builder of the project. He looked at this piece of property 5 years ago, but there was nothing that could be done with it, without tying all three pieces together with the access off Ivy St. He agreed with Mr. Manuel that Canby has a need for affordable housing, and believes the common wall houses to fit that need. Mr. Netter explained he has built other multi-family projects in Canby and believes they have turned out nice.

Mr. Brown questioned if the single family homes will be one or two story. Mr. Netter explained that he usually builds a single story home with a bonus room over the center part of the house, or over the garage.

Since there were no other proponents Mr. Brown addressed Mr. Berg's question regarding when the sidewalks will be put in on the west side of Ivy St. He explained that the sidewalks go in as the property gets developed, which accounts for the different

standards of sidewalks throughout Canby. Unfortunately the west side of Ivy has already been built and it would be the City's responsibility to install sidewalks. Due to financial restraints it is not scheduled to be done.

John explained that SDCs have been set aside to do Ivy St. from Hwy 99E to 13th in 2 sections, the section from Hwy 99 to S 2nd Ave is scheduled to be done in the next 1-3 years, if we get the money for it. The second section is 4-10 years out, it's in the plan but it is not funded.

Mr. Brown questioned how to start the process for getting more crosswalks on Ivy St. John suggested it should begin with asking the Traffic Safety Committee to look at the issue.

Mr. Brown stated he was unsure about the necessity of a sewer lift station for this project. John explained that the City Engineer was talking about routing to Holly St. If an easement could be obtained to go through the property. But the City would not force an easement on anyone. Matilda believed Mr. Manuel planned on coming off Ivy St. and suggested asking the applicant.

Mr. Manuel stated that if he could purchase an easement from the property owner he would go to Holly, but if the owner was unwilling to sell he would go off Ivy by necessity. John explained that if it was from Ivy St. Mr. Manuel would need a pump. Mr. Manuel stated the pump would be supported by the neighborhood association.

Mr. Brown asked for clarification on if it was necessary to relocate the neighbor's driveway who would be responsible for the cost. Matilda explained the applicant had not proposed doing that. She explained the garage is currently being used as living space and not as a garage, when she was looking at the site she noticed there was room behind the garage to park the vehicle which they currently park in the access driveway.

John questioned how the grade change was going to affect the driveway. Matilda stated that she did not know. Clackamas County had not given her a real answer. The County is requiring linking the grade 50' out and she is unsure what it might mean for the people who come out there.

Mr. Manuel agreed it is a very difficult situation, he explained that the people in the second house back had a similar situation and have already begun modifications to their house to turn their driveway sideways and to change their parking. He stated the City had required no parking signs to be installed in 1995, but they have been removed.

Mr. Brown stated there will have to be some negotiation and coordination between Mr. Manuel and the property owner to the south. Mr. Manuel stated that if there has to be some mitigation, he would be willing to work with them.

Mr. Brown asked if the neighbors had been contacted. Mr. Manuel stated he had contacted the neighbors and one neighbors response had been to put their house

up for sale.

Mr. Brown asked for the set back requirement on the east side of the common wall houses. John explained it would be the same as the side yard set back of 7'. Mr. Manuel stated that he was requesting a zero setback on the end of the common wall were it abuts the adjoining parking lot. Matilda stated that it was an issue that needed to be discussed because she had not included it in the staff report.

Mr. Berg questioned if a zero set back was allowed on one end if a 7' set back would be adequate on the other. It was explained that a zero set back would be an exception to the requirements.

Mr. Fetters addressed the Commission, explaining he owned the property to the southeast of this development. He has spoken with his neighbors to the north and was told that they had not discussed a reciprocal access easement with Mr. Manuel and that they were very upset and had put their house up for sale. Mr. Fetter stated it was his understanding the neighbors parked their Corvette in their garage.

Mr. Fetters read a letter he had written, which stated that he has lived on Ivy St. for 36 years, and in that time he has seen a marked increase in traffic volume, during heavy traffic it is easier to make 4 right hand turns to get to Hwy 99E (going 9 blocks out of his way) than to cross Ivy St. He is concerned that the increase in traffic will create gridlock and make an already bad situation worse. He questioned if the traffic study was an accurate depiction of rush hour traffic, he believes it would take more than an occasional short term observation.

Mr. Fetters stated that this property is narrow and its placement on Ivy St. is very bad, in his opinion it would be suitable for 2 or 3 single family homes to allow more than that would be placing future drivers, pedestrian and bike riders in danger. He questioned who would pay to fix the traffic problems in the future, after Mr. Manuel has taken his profits and left. He questioned the City's legal liability regarding future accidents when it is discovered that they have been warned about traffic hazards and ignored the information.

REBUTTAL:

Mr. Manuel stated that he is not a hit and run developer, he lives in Canby and had been building homes in Canby since 1984. He doesn't make money in Canby and then leave, he will find another development to invest in.

Mr. Manuel agreed that Ivy and Township was a congested intersection but this access is 135' north of Township, the traffic study states this project will not significantly affect the intersection. He addressed the zero lot line and believed an interpretation would be needed. He believed the code requires a 7' set back where the development abuts a residential development, but would allow a zero lot line set back if it abuts a commercial development. He explained that he owned the property to the north and anticipated it would eventually be a commercial use so the common wall houses would

simply be facing the parking lot.

Mr. Brown closed the public hearing and opened Commissioner deliberations.

Mr. Manley questioned the lot size required with common wall houses. Matilda explained that in the R2 zone, which is what the development standards are based on there is only a density requirement of 14 units per acre.

Matilda explained she had discussed the zero lot line with John Williams, and decided this application was not a single family subdivision so it did not apply and did not include it in the staff report.

The Commission discussed whether there could be a zero lot line where a residential development abuts a commercial zone. If the R2 development standards are being used, does the CR zone standards over ride the R2 standards. Matilda explained that the CR zone allows a zero lot line where it does not abut a residential development, but the applicant is asking for a conditional use permit, which states that the R2 development standards will be used and that an interpretation would be needed from the Commissioners. John suggested tabling that issue until later in the meeting.

Mr. Tessman stated he had almost been involved in an accident when he had visited the site and was concerned about the traffic situation. He also agreed with Mr. Berg, that more crosswalks were needed on Ivy St. He stated he was still unsure there was a need for additional Commercial Residential zoning. He also was unsure if this property was really developable for any type of density due to the traffic concerns.

Mr. Manley questioned why the boundaries for the zones didn't follow the Comprehensive Plan. Matilda explained that staff preferred the tax lot to have just one zoning designation.

Mr. Thalhoffer believed there is a need for in fill property to increase density. He stated his concern that traffic would queue up to block the vision of the driver trying to get out on Ivy from the development. John explained the traffic engineers reported that 95% of the time the length of the queue would be 2 vehicles. But it did not say it would never back up past 4 vehicles, and it did not address left turn queues from Township or from the access drive.

Mr. Brown believed the proposed zoning was appropriate, that all the public facilities would be available. He stated the problem with this application is the traffic but stated the traffic would be a problem no matter what type of development is put in there. He stated the access easement was still a problem that needed to be clarified.

Mr. Brown addresses the traffic situation. He stated that the residents living around this development have a right to use their property, the citizens of Canby have a right to use the street and the applicant has the right O.T. use his property as well. A traffic study was done which addressed the increase in the traffic figures the count would go from 404 to 405 vehicles. He stated that the level of service at the

intersection is poor now, it would not be exacerbated by this proposed development.

Mr. Brown stated he was unsure if the use was an appropriate mix for that area. And was concerned the proposed project could alter the character of the neighborhood. Mr. Brown stated the applicant accommodated the setback requirements for lot 5, and believed they should be able to accommodate the set back for lot 1.

Mr. Manley asked for clarification on where the access was located. IT was explained the access starts 10' north of the bike lane. Mr. Manley stated that the Commission is not allowed to deny someone access to their property, it is the only access they have. Mr. Brown agreed and stated that issue will never go away, that is where the access point will be forever.

Mr. Manley explained if the conditional use portion was denied, the applicant could actually come back with a denser subdivision than what he has proposed. Mr. Manley state that with the County's requirement of improving the grade on the access, he was in favor of approving the application.

Mr. Thalhoffer suggested having the Public Works Supervisor look in to installing yellow caution signs, warning drivers of possible traffic coming from the left. John explained that Ivy is a county road, and any signage would have to be approved by the county as well as the City' Public Works supervisor.

Mr. Manley suggested requiring the CC&Rs to stated that no parking signs will be put up on the access drive, and the signs will be monitored and replaced if they get removed.

John explained the issue of the zero lot line had not been resolved yet. He stated that when there isn't a set answer, he looks at what is reasonable and makes the determination on that. John stated it appeared to him that the code's intention was to provide setbacks next to residential areas, and stated there is not guarantee that the commercial property would never again be used as a residence.

The Planning Commission addressed the criteria for approving the application. Mr. Manley stated the only issue he saw was traffic, but did not believe that the Planning Commission could deny the application because they have to be allowed access to their site. Mr. Brown stated the determination had to be made that the system is adequate to handle the increase in traffic.

Mr. Tessman stated the school district indicated this development would be adequately served if a ballot measure passed. Mr. Brown stated he served on the redistricting committee and that at this time all schools are under capacity, and by law the school has to provide an education no matter what their capacity is.

Mr. Thalhoffer requested a condition be added for a caution sign contingent upon approval by the Public Works Supervisor, and subject to county approval.

Mr. Brown stated that since the applicant can put a common wall development on lot 5 and meet all set back requirements, he believes the applicant should be required to meet the set backs for lot 1 also, so the integrity of the development code for the R2 is maintained. Mr. Manley stated he agreed the set back should be required.

Mr. Brown questioned why there was no hammerhead or turnaround for the development. Matilda explained that the Fire Marshal had stated the development as proposed was fine. Mr. Manuel stated the agreement he has with the Fire Marshal is that he will sprinkle the buildings. Mr. Manley questioned if the single family homes will also be sprinkled. Mr. Manuel stated they would be.

Mr. Brown stated that there were 2 conditions to be added, a caution sign on the east side of Ivy, and a requirement for a 7' set back on the east property line. Mr. Manley questioned if it should be stated in the conditions that the applicant would conform to the Fire Marshal's requirements, it was agreed to add that as a condition.

It was moved by Mr. Manley to approve SUB 02-01/CUP 02-01 and recommend approval of ZC 02-01 as amended. Seconded by Mr. Thalhofer. Motion carried 3-1 with Mr Tesson voting against approval.

V. DIRECTOR'S REPORT

None

VI. ADJOURNMENT