

MINUTES

CANBY PLANNING COMMISSION

November 12, 2002

7:00 PM

City Council Chambers, 155 NW 2nd

I. ROLL CALL

PRESENT: Chairman Keith Stewart, Commissioners Jim Brown, Randy Tessman, Paul Thalhofer, Geoffrey Manley, Mike Erekson

STAFF: John Williams, Planning & Community Development Director, Clint Chiavarini, Associate Planner, Carla Ahl, Planning Staff

OTHERS PRESENT: Larry McBride, Lee Leighton, Nick Netter, Jamie Netter, Georgi Cam, Ada Stout, Virgil Scheen, Nicholas Gitts, Brae Bunnels, Ken Burkert, Susan Burkert, J. Simnitt, Bob Tice, Sheila Tice, Jerry Simnitt, Paul Satter, Jan Milne, Mary Webber, Rich Greer, Tom Dodds

II. CITIZEN INPUT

None

Mr. Stewart explained that over the last couple of months, his family and job commitments have increased and he is no longer in a position where he is able to serve on the Planning Commission. He called for the election of a new Chairman and Vice-Chairman. Mr. Stewart explained that normally the Chair and Vice-Chair are the first and second senior members. Mr. Brown nominated Mr. Manley as Vice-Chairman. Seconded by Mr. Thalhofer. Motion carried 6-0. Mr. Stewart nominated Mr. Jim Brown to be the new Chairman of the Planning Commission. Seconded by the entire Planning Commission. Motion carried 5-0 with Mr. Brown abstaining.

Mr. Stewart removed himself from the dias. Mr. Brown thanked Mr. Stewart for his seven years of service.

John explained that Deborah Sommer, Superintendent of Canby School District was at the meeting to answer any questions the Commission had regarding a letter she had sent to Mr. Adcock, Canby City Administrator, that explained the district's plans for the potential use of portable classrooms, enrollment figures, the planning process for building a new school and the plans for Lee Elementary School.

Mr. Tessman stated the Commission had requested interpretation of the letter since the Planning Commission had recently voted not to recommend approval of a recent subdivision application due to the perception that the current school system is overcrowded and the letter stated that the district needed more enrollment to increase funding. Ms. Sommer explained that the revenues for the school district come from enrollment figures, so from a mathematical and fiscal point of view the more students in the district the more income they have.

Mr. Brown asked if there was anything that the Planning Commission could do to assist the school district since the schools are required to take every child. Ms. Sommer explained that the school district will most likely need to put portable classrooms at Trost because it is currently reaching capacity and Eccles and Knight Schools are facing increased enrollment.

Mr. Brown explained that portable classrooms are seen by the public as detrimental to education. Ms. Sommer stated that the portables are well maintained and meet the same safety standard as regular classrooms and believes the same quality education can be received in a portable as in a regular classroom. She stated people are concerned that the portables will become permanent, but in order to do away with portables a permanent facility is needed and that will require passing the next bond. Ms. Sommer stated that portables in themselves are not good or bad, they are just a planning tool.

Mr. Brown explained that the reason for the Planning Commissions concern is that they want to be helpful in regards to the school situation so the school district will not be overwhelmed and caught by surprise. Ms. Sommer stated there is a debate regarding growth/expansion and no growth/anti-growth, with the school district in the middle, she wants the school district to work in conjunction with the Planning Commission and the City Council because growth is going to happen.

Mr. Brown explained that the City's infrastructures are reaching capacity simultaneously and as the City grows there is a greater amount of houses verses industrial or retail situations and the resource needs are greater than the city can accommodate.

John stated that planned growth is the best growth and involving the school district with such issues as the rezoning and annexation priorities is important so that long range plans can be made. Ms. Sommer invited the Commissioners to continue to participate in citizen involvement groups for the school district.

Joe Driggers, School Board Member addressed the Commission. He explained that the letter the Commissioners had received had been directed by the Board and reviewed by the Board prior to being sent out, so questions that the Commissioners had for Ms. Sommers may be more appropriately addressed to Board Members.

Mr. Brown asked if Mr. Driggers had seen any of the issues differently than Ms. Summers had. Mr. Driggers responded that he had agreed with Ms. Summers. He expressed his opinion that the majority of the Board did not believe it was appropriate for the Planning Commission to use the schools to create a position one way or another on growth issues.

Mr. Driggers explained that the school board does not have a position on whether growth is good or bad and does not believe the Planning Commission should use their perceived inadequacies of the school district being able to handle growth as a rationale for denying applications.

Mr. Brown questioned if the Planning Commission were to bring in 5000 acres of developable land and 40,000 homes were built on it, would that negatively impact the schools. Mr. Driggers believed that the school board would be able to effect appropriate change and educate the children of Canby.

III. PUBLIC HEARINGS

MLP 02-04 Pierpont, LLC/JVNW

The applicant is requesting to divide a 9.94 parcel into three lots, two of which will be 3 acres each and sold as buildable lots with the 3rd lot being 3.94 acres and contain the JVNW building.

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, Mr. Manley stated he had visited the site, but had drawn no conclusions. No questions were asked of the Commissioners

Jodi Buchanan, Planning Technician explained Commission had seen this application before as a request to divide this property into two parcels, which they had approved. Before the final plat was submitted, the applicant had two offers to purchase smaller lots, so he is requesting to modify the application to create three lots instead of two, all lots would be zoned light industrial.

Jodi explained that no concerns had been expressed by service providers and that notice had been resent to surrounding property owners with no responses being received

No applicant was present, no one testified in favor of or against the application. Mr. Brown closed the public hearing and opened Commission deliberations.

Mr. Thalhofer stated that if this application would bring about the use of the land

he was in favor of it.

Mr. Manley believed the application met all the necessary criteria for approval.

It was moved by Mr. Thalhofer to approve MLP 02-04 as written. Seconded by Mr. Tessman. Motion carried 5-0.

John explained there is not a modification process for land use approvals like there are for design approvals. Since this was an unfinished application, staff allowed the applicant to come back to the Commission with the modification. John stated that staff would be coming to the Commission at the next meeting with a modification process so in the future issues like this could be brought back as a new business item.

Erosion Control Ordinance

A proposal to establish erosion control procedures/inspections, and adopt an erosion control manual containing best management practices. The Planning Commission will be making a recommendation to the City Council on this issue.

Jodi Buchanan presented the staff report. She explained that due to stricter DEQ requirements Public Works have requested a mechanism that would allow them to regulate contractor activities better. She stated that most builders willing complied with erosion control but there have been some subdivisions that have polluted the street storm water system.

Jodi explained that she had gathered information for the manual from Clackamas Co., Washington Co. and the City of Gresham and created a document that fit Canby's size and needs.

Jodi explained the manual sets guidelines for erosion control, erosion plans would be submitted to Public Works for approval, Public Works would also be responsible for inspections of the sites. She stated that the fees were established by taking into account time needed for administration, inspections, equipment, record keeping for each inspections and the Public Works hourly rate. Jodi stated builders who participate in an erosion control class given by the public works department would be certified and charged a lower rate than builders who do not go through the certification process.

Jodi stated an erosion control plan must be submitted to and approved by Public Works prior to issuance of any building permits. Base fees would be collected at the time of submittal and any additional inspection fees will be charged after the issuance of building permit finals. Public Works will do inspections at the beginning of the project, after any permanent erosion control method has been put into place, before the Building Inspector issues the final approval, after any major storm event and six months after the end of any project where a permanent erosion control system was installed.

Public Works could require a maintenance bond for any permanent erosion control for up to a year.

Jodi explained that if violations occur there is a process of issuing a written notice of violation, if that fails a stop work order is issued, and if that fails a fee of \$100 per violation per day is assessed until the violation is repaired. If the work continues and the violation is not corrected the fee is still assessed and the responsible party is reported to DEQ who can assess even greater fees, and the City could hire a professional erosion control specialist to come in and fix the problem and all costs would be assigned to the responsible party.

Mr. Thalhofer asked if this issue had been a problem. Jodi stated that recently there have been a lot of issues where soil has been drastically moved from one site to neighboring sites. It also fills the filters with things such as cement which means the filters need to be replaced immediately and they are very expensive. Mr. Thalhofer asked what type of procedures would need to be used if someone built a house and has dirt in the yard until it is purchased. Jodi stated there are sediment fences and bio-bags to surround the storm drain so nothing but water gets to the filters.

John explained that erosion is a natural process, but when the soil is disturbed during construction it flows into the streets and then into the filters. He stated that most of the builders are not causing problems but there have been a few over time that there have been problems with and there was no process established to deal with those problems.

John explained that Canby is facing increased Federal and State requirements on what we are allowed to dump into rivers, so they have to be passed along to the builders so that the City is only responsible for what we create.

Mr. Brown stated it was about universal in most municipalities that they require erosion control. John explained that this manual is similar to what is coming out in other jurisdictions.

Mr. Erekson questioned if this is directed to residential builders since it seems to be directed toward subdivision development. Jodi stated that subdivision developments seems to move the most ground, but it is for anyone who disturbs more than 100 square feet of soil.

Mr. Tessman asked what it would cost the developers was compared to what it costs the City to replace filters. Jodi stated that the bio-bags are relatively inexpensive and can be used again, as with the sediment fences but she did not have the information regarding actual costs. Jodi stated that Roy Hester will attend the next Planning Commission meeting and he is willing to answer questions.

Mr. Brown explained that Canby is pretty flat compared to other Cities such as

West Linn. He stated in the Canby area it will mostly consist of a couple hundred feet of fencing and some straw, so the cost will not be too expensive, but the steeper the slope the more costly the solution will be.

John explained that this is not a formal land use application, but he believed the Planning Commission was the right place to hold the public hearing and then have the Planning Commission submit a recommendation to the City Council.

Mr. Thalsofer questioned if there was an opt out process for someone with a very flat piece of property. Mr. Brown explained that one of the biggest concerns is the amount of soil that is removed from the property on the tires and tracks of the equipment that is used during the construction process. John stated that the control devices necessary in a situation like that would not be very substantial but there would still be the need for the erosion control permit. John added that another complaint that is heard is from the wind blowing dirt into others yards.

Mr. Brown approved of the City issuing permits with the Public Works Dept. reviewing plans, approving permits and making inspections. Mr. Brown questioned the section of the ordinance that allows Public Works to require a maintenance bond be obtained for up to a year after the final inspection. Jodi explained that it could be required for any permanent structures in place at the time of the final erosion control inspection, usually for large commercial developments.

Public Testimony:

Rodney Rose stated there are already laws in place that cover erosion controls and believed the City was just adding fees. He believed the building permit process was already frustrating and difficult to understand and believed this would add to the confusion.

Mr. Rose explained that his project cost him over \$100,000 more that he had planned on mainly due to expenses that were not explained to him at the time of his application.

John explained that the City Council directed that fees be based on a cost of service study that was done and that it was important to get the information out to the applicants. Mr. Brown questioned how this ordinance would be implemented, once it passes would all projects under construction have to meet the new rules. Jodi stated it was her belief that it would only apply to new projects not to projects already in place. John stated this is an issue that would need to be discussed to get some clarity.

Mr. Erikson questioned if the fees were associated with just subdivision developments or will it also apply to the contractor with commercial project instead of residential. Jodi explained that any project that disturbs 100 square feet of ground. John explained it was the impact to the ground that triggers the need for a permit not

who does it or the type of project.

Mr. Erekson stated he had not noticed any fees associated with projects he had been associated with it was a bid item, and he had to fill out a weekly report with inspections by an erosion control specialist. He asked if other cities or counties had fees. Jodi stated in the Planning Commission packet she had included a table that compares the rates from the surrounding cities and counties.

Mr. Erekson stated the table addressed single and multi family projects but did not address commercial projects. Jodi explained that instead of being labeled "multi-family" it should be "anything other than single family homes".

Mr. Brown asked if this was a part of the building permit. John explained that it is a separate permit that needs to be approved prior to the issuance of any building permits. Jodi explained that the applicant would apply for all permits at the same time, but the building permit would not be issued until the erosion permit had been issued.

Mr. Brown stated that the erosion control permit should be part of the permit process from the beginning. Jodi explained that the erosion control site plan must be approved before the first building permit is issued.

Karl Lange, Construction Manager, Renaissance Homes stated he was there to answer any questions the Commissioners might have regarding how the erosion control permit affects local builders. He explained that currently he is writing several checks per application to the City of Canby and Clackamas County and is paying approximately \$15,000 per house for permits and fees.

Mr. Lange stated that an alternative to doing erosion control per site is to do an overall bond that would handle anything that would happen within the required years time. That would fit with a developer that handles the whole development and finishes out the subdivision, the problems that Canby is having right now are with developments that sell off lots to individual developers.

Mr. Lange stated that because Canby is so flat, there are not a lot of problems like there are in West Linn which require silt fencing. He explained that in Phase IV they had to hydro-seed 41 lots which was quite an expense, hay could have been used but it affects the overall look of the development and that does not help to sell their product.

Mr. Lange explained that they use built in erosion control methods such as graveling the driveway and sidewalks which handles the erosion during the construction of the house. Currently Renaissance Homes landscapes the front of homes but not the rear yards, which leaves an area of disturbed soil that is not covered with vegetation. Mr. Lange explained that it is the homeowners responsibility to get landscaping in within a certain period of time. He questioned if the approval for the final erosion control

inspection would be subject to the backyards being done because if it was, it would require Renaissance to get bonds for every house they built.

Mr. Lange hoped that he could continue to keep working with the Public Works Dept. in Canby because they have a realistic approach to what needs to be done, instead of turning it over to a private company to handle, that's when things can get out of hand.

John asked if Mr. Lange knew what the costs would be of buying bio-bags and silt fencing were per single family home. Mr. Lange stated bio-bags are relatively inexpensive and easily replaceable since they do get destroyed during construction. But if a company is hired that specializes in meeting erosion control standards or if you have your own crew do it, it can get expensive. Mr. Lange stated he didn't know what the average cost per lot will be, but stated the real cost will be in the fees.

Mr. Brown explained the proposed fee is \$110 for a single family permit which includes 4 inspections and \$40 per inspection beyond that. He questioned if Public Works realized how many inspection they would be required to do in a years time. Jodi stated that Public Works had related that they spend a lot of time out in the field anyway and are often in the area.

Mr. Tessman questioned what the cost would be for a builder to take the class to become certified. John believed the classes could be done without cost to the contractor, but he would look into that issue.

John responded to Mr. Lange's suggestion regarding an overall bond for developers who build out the entire subdivision was an issue that could be looked at. He suggested there could also be incentives for builders who have no failures after so many inspection, either a reduction in fees or in the number of required inspections.

Mr. Lange explained that many catch basins in Canby are not hooked to a storm sewer system that runs to a river. He stated that when silt gets into the catch basin it sits in the bottom then Canby has to send a crew out to vacuum out the catch basin. A bond could make the developer responsible to make sure the catch basins are cleaned once a year.

Mr. Lange stated that he spends about \$500 a month to have street sweepers come through the subdivision to keep the streets clean and make the subdivision presentable to clients.

John agreed that many of the catch basins do not hook to the storm sewer system and that the City will have to maintain them forever and that the City will have some real issues to deal with in the next 5 to 10 years trying to deal with the installation and maintenance costs of the systems that DEQ will be requiring.

Mr. Thalhofer questioned if it would be feasible to charge fees only to non flat lots that had a certain degree of slope to them. Mr. Brown questioned the possibility of not charging fees but to charge fines for problems. John explained that idea had been discussed, one drawback is that if people don't have to turn in plans and are not entirely clear on what needs to be done, problems can happen which means dirt goes into the river or into the catch basin. He stated another problem is that the inspections will still be required but the program would not pay for itself.

Mr. Erekson stated that he had been the erosion control manager for an ODOT project which required an erosion control plan be submitted and approved along with weekly reports that he had checked on the erosion control measures and they were still in place. He explained that ODOT would only do random inspections making sure his reports were correct, if they weren't then fines would be imposed.

Mr. Manley stated that there were many home owner projects that could disturb more than 100 square feet of soil, and questioned how home owners would know they need to get an erosion control permit. Mr. Brown agreed that the home owner could be an issue with erosion control due to lack of understanding.

Jodi explained that no one would be going and knocking on people's door to look in their back yards, but if there is an obvious problem, Public Works needs the ability to control the situation. Mr. Brown questioned why there needs to be a square footage amount why not have it be a function of a building permit. It was explained that if a storage shed was under 120 square feet that a building permit was not required and no permit is required for excavating a back yard.

Mr. Manley questioned if there would be fines imposed on home owners that did not know they needed a permit. John stated the issue would need to be looked into.

Jodi explained that even with flat lots there is still a problem with wind erosion especially for flat lots. John stated that even when they excavate flat lots they will create large piles of dirt that can create problems.

Mr. Thalhofer suggested that the ordinance should be addressed toward the exceptions rather than the 95% of the builders who are doing things right. If you have a problem, deal with the problem instead of dealing with people who are not causing a problem. Jodi stated that with not requiring a permit, you would be dealing with problems after they happen, and once pollution has happened it can be costly to clean up.

John stated there has been discussions regarding smoothing the way for people who know what they are doing. He asked for some direction of what the Commission wanted staff to do after they had made their recommendation to the City Council.

Mr. Tessman asked for more information regarding cost to the contractor verses

the cost to the City. Mr. Brown suggested making a recommendation to the Council that they look at procedures that hold costs down.

Mr. Lange addressed subdivisions that had multiple builders where the final grade levels varied in height, he suggested that if the balance grade level method was used what ever amount of fill is taken off the same amount must be brought back on. He explained by using this method all final grades would be the same even with different builders involved.

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

The Commission agreed there was a need for the erosion control manual and agreed with the mechanism that was chosen to implement it. Issues that need to be forwarded to the City Council were.

- implementation issues regarding phasing the system in
- should there be an universal fee
- how to handle differences between commercial projects and residential
- what are the threshold and triggers
- cases where building permits would not be required but soil will be disturbed
- cost of compliance, both the City's and the contractor's
- issues around who pays fees, such as fees for sloped property only
- single builder type subdivision using a bonding method for the subdivision
- reducing fees for builders who demonstrate they can control the erosion
- ways of reducing the amount of fees or inspections required
- the necessity of requiring an inspection a year after completion
- fee for the certification classes, how often and who pays
- how to make home owners aware of the erosion control requirements

It was moved by Mr. Thalhoffer to forward a recommendation of adoption of the erosion control manual and code with the commentary that has been listed. Seconded by Mr. Erekson. John asked if the Commission wanted to forward any guidance on how to deal with those issues.

Mr. Manley suggested that a policy should be set that outlines how to deal with local owner issues, which could be notification and assistance in compliance with the ordinance. John stated that staff would be willing to work with home owners but it would probably be a good idea to have the issue dealt with in writing. John suggested there could even be a smaller fee for smaller project that would not require as many inspections.

Mr. Tessman stated that Roy Hester, Public Works Supervisor's input could be helpful to the City Council. Jodi stated that Mr. Hester had agreed to go to the City Council meeting.

John summarized that the Commission wanted staff to look at ways of streamlining the process and making it easier, to get a good result but look at creative ways of implementation. Other issue the Commissioners are concerned about are the fees and methods of notification to homeowners. Mr. Brown added it has to be a reasonable process both to contractors and to home owners.

Motion carried 5-0.

IV FINDINGS

TA 02-01 An ordinance to establish residential design standards.

John stated that the main thing that had changed had come out of public testimony regarding subdivisions and partitions and what happens when they go in next to existing neighborhoods. He explained language has been added in the infill sections of subdivisions and partitions that allows the Planning Commission to require design standards where applicable. John added there was also definitions added regarding infill homes and the definition of a covered porch.

Mr. Manley stated the findings seem to cover the issues the Commissioners were concerned about and requested that when the final document was done the columns would be correctly aligned.

It was moved by Mr. Manley to approve TA 02-01 as written. Seconded by Mr. Thalhofer. Motion carried 5-0.

V MINUTES

October 14, 2002

It was moved by Mr. Manley to approve the minutes of October 14, 2002 as written. Seconded by Mr. Erekson. Motion carried 5-0.

VI DIRECTOR'S REPORT

John stated the City Council would like to meet in a joint session with the Planning Commission on December 4, 2002 at the Canby Adult Center to discuss the Industrial Area Annexation. Mr. Brown questioned if the reason for the joint meeting was to expedite the application. John explained that the City Council wants to get the annexation on a special election ballot in March, this requires that everything be to the County by the 9th of January.

Mr. Brown questioned how a joint meeting would be handled. John stated both the City Council and the Planning Commission would open up their public hearings

simultaneously, then public testimony would be heard, the hearings would be closed, the Planning Commission would then discuss the application and pass a recommendation onto the City Council who would then make a final decision.

Mr. Manley stated he did not have a problem with a joint meeting but that he would be out of town on the 4th. Mr. Tessman stated he would also be out of town on the 4th. Mr. Manley questioned if the meeting could be held on the 9th instead. John stated that if the 4th just didn't work out he would go back to the Council.

The Commissioners expressed their thanks to Mr. Stewart for his leadership and for all the time he had dedicated to the City over the last several years. John will look into having a plaque made for Mr. Stewart to commemorate his years of service with the Planning Commission.

VII ADJOURNMENT