

# MINUTES

## CANBY PLANNING COMMISSION

7:30 PM, June 23, 2003  
City Council Chambers, 155 NW 2<sup>nd</sup>

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6:00 WORKSHOP  
Annexation Priority System

### I. ROLL CALL

**PRESENT:** Chairman Jim Brown, Commissioners Dan Ewert, Robert Able, Paul Thalhofer, Geoffrey Manley, John Molamphy

**STAFF:** John Williams, Planning and Community Development Director, Matilda Deas, Project Planner, Darrin Nichols, Planning Technician

**OTHERS PRESENT:** Rodney Rose 1420 SE Township Rd, Canby, OR 97013, Kevin Wilson, 455 N. Cedar St, Canby, OR 97013, Jerry Farley, 16576 Shore Drive NE, Lake Forest Park, WA 98155, Sandra Pollock 5215 SE 32<sup>nd</sup> Ave, Portland, OR , Douglas Pollock, 5215 SE 32<sup>nd</sup> Ave, Portland, OR, Russell Hanson, 215 NW Park Ave., Portland, OR 97219, Pat Sisul, 375 Portland Ave, Gladstone, OR 97027, Ed Netter, 334 SE 10<sup>th</sup> Ave, Canby, OR 97013

### II. CITIZEN INPUT

None

### III. PUBLIC HEARINGS

**MOD 03-02 TNT Fireworks** A request to approve firework sales in the Canby Square and Canby Market Center parking lots. (Note: only those who have filed written requests may testify at this hearing)

John explained that the code does not specify a time structure for this process and that he had scheduled this hearing tonight to get the applicant a decision before the critical season for firework sales. He explained the opponents are stating they did not have enough time to prepare for the hearing and are requesting a postponement, but unless the applicant receives a final decision for approval tonight, they cannot go forward with the firework sales since the next meeting will be July 14th.

Mr. Brown stated that if the people who have requested a public hearing could not be in attendance because of the late public notice the Planning Commission cannot make a decision without their testimony.

Kevin Wilson, Youth Pastor, Oregon City Assembly of God addressed commission. He explained he was placed in charge of the fireworks stand which he

stated would be ran by the young people in the church who are involved in the community. The proceeds from the stand goes towards youth mission trips and to support overseas missionary work. He stated it is a good fund raiser and a positive impact on kids lives and asked the Planning Commission to approve the application.

Jerry Farley, Representative for TNT Fireworks stated the applicant would like the Planning Commission to proceed with the hearing. He believed that the people who have requested a public hearing are associated with a competitor fireworks company and in essence were denying TNT an opportunity to operate this year.

Mr. Farley explained that this is a narrowly crafted exemption and only addresses legal firework sales and does not allow any other use. He asked that the Planning Commission grant the change to the conditions so the applicant can proceed in this and in subsequent years.

It was decided by the Commission to continue the hearing to give the opponents the ability to testify. Mr. Brown opened the public hearing, then continued the hearing for July 14, 2003 at 7:00pm.

**SUB 03-02** Valentine Meadows, Ed Netter Construction an application to subdivide two parcels into 17 lots to construct attached single family residences. Located North of NW 3<sup>rd</sup> & West of N. Cedar.

Mr. Brown read the public hearing format. When asked if any Commissioner had a conflict of interest, none was stated. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Matilda Deas presented the staff report. She explained that the development would be accessed from NW 3<sup>rd</sup> with a pedestrian and bike access off of N. Cedar. The applicant will provide sidewalks along the east and west side of the access strip, and dedicate right-of way as required by the Public Works Supervisor. The applicant has proposed handling storm water through a detention pond and are working on the design with service providers.

Matilda explained that the staff report states the applicant is asking for tandem parking, but that is not correct, they are providing the parking requirement of 2 spaces plus a garage for each unit, with an addition 2 spaces for guests.

Matilda explained the property was rezoned during the recent rezoning process and that the development is compatible with the overall zoning of the area.

Matilda stated that she has changed condition #3 in the staff report, which addressed interior easements. Since these are attached commonwall housing the language which discusses interior lot lines does not make sense and she has reworded that condition. Matilda also removed condition #5 which addressed the tandem parking.

Matilda explained that most of the service providers have commented that services are available or will become available upon development. The Traffic Safety Committee had concerns regarding parking and the driveway access off of 3<sup>rd</sup>. She had

spoken with the Committee Chair who was unaware that "no truck parking" signs were already called out on the application and stated the Committee was satisfied. The Chair explained that the Committee believes the pedestrian pathway was a benefit to the area children who walk to school. She stated the Traffic Safety Committee had believed all of their concerns were addressed and had no further issues with this application.

Matilda stated the applicant is asking that they be exempt from the solar requirements in this subdivision. She explained the code standards are applied to detached single family dwellings and had not often been applied to attached dwellings. She stated that the solar standards are applied on a lot by lot basis when they apply for building permits, .

Matilda stated that a couple of late comments were received from Canby Utility and from the City Engineer. She explained that most of these issues were addressed at the pre application meeting and the conditions of approval require that all utility providers concerns be met.

Matilda stated that Public Works will not be requiring any frontage improvements other than sidewalks. The Bike and Ped Committee did have some concerns over striping for bike lanes. The Public Works Supervisor stated that since there were no frontage improvements required on NW 3<sup>rd</sup>, he would not be striping there and there is no right-of-way to stripe on Cedar. Matilda stated the bike and pedestrian access is available onto Cedar, and there are no requirement for the applicant to provide bicycle parking for single family dwelling units.

Matilda explained that the traffic study reported that the impact of this development would not reduce the rating at either intersections.

Matilda explained that since NW 3<sup>rd</sup> is a collector there are spacing requirements, the applicant is proposing to put their 20' access and sidewalk next to the neighboring property's 12' drive which accesses two single family homes to the west of the site which currently has a cyclone fence the length of the property. At this location the access will be slightly less than our spacing requirement of 150' from an intersection. Matilda stated that there are limited access points to this property due to the configuration and suggested the existing fence be kept to separate the access drives and reduce confusion.

Matilda stated the applicants have included some tentative designs which do meet the City's residential design standards. There are no other outstanding issues at this time.

Mr. Brown asked for clarity regarding the accesses. Matilda stated the main access for all of the units will be coming off NW 3<sup>rd</sup>. Mr. Brown questioned why a turnaround was not required. Matilda stated the Fire Marshal had conditioned a fire hydrant to be installed but had no other concerns with the application.

**APPLICANT:**

**Ed Netter**, Developer explained that the Fire Marshal has no concerns with the

development because fire sprinklers will be installed in the homes. He explained that all houses would use the access drive to prevent backing out onto 3<sup>rd</sup> St., but that the houses along 3<sup>rd</sup> would face 3<sup>rd</sup> so the development would look good.

Mr. Manley questioned the size of the front yards. Mr Netter explained that the requirements for parking reduces the front yard to a 3' planter strip which will abut the neighbors 3' strip.

Mr. Ewert questioned whether the cyclone fence, and the arborvitae would remain. Mr. Netter explained that the fence and the hedge belongs to the neighboring property owners.

Mr. Ewert questioned what the backyards of the lots against the Johnson Controls entryway would look like. Mr. Netter stated that the fence, arborvitae and trees are on the neighbors property and this property is inside of that area.

Mr. Ewert asked how the internal street would end. Mr. Netter asked Mr. Sisul to answer that question.

**Mr Pat Sisul**, Architect explained that the internal street would be curbed with landscaping, he did not believe a barricade would be appropriate. There would be sidewalks along the fronts of units 1 through 9 and out to Cedar, crosses the driveway and along the fronts of 12 through 17 with sidewalk all along 3<sup>rd</sup> Ave. as well.

Mr. Sisul explained that sanitary sewer is to the property from Cedar. The water department wants the water to loop through the development, and that the storm drainage would be handled through infiltration on site, perk tests have been done and the soil drains well. There will be a bio-swale leading to a larger depression in Tract A.

Mr. Sisul presented photographs that showed the distances for the existing driveways which do not meet the City standard distances. He explained that the driveway has been pushed back as far as possible from Cedar. There are "no truck parking" signs in place at this time and the applicant would be willing to paint the curb if required.

Mr. Manley questioned if the access drive could be striped to eliminate some confusion. Mr. Sisul stated the applicant is willing to do that. Mr. Brown questioned if the tight turning movements worked. Mr. Sisul stated there are a couple of units that are tight but he believed they would work.

Mr. Ewert asked if the applicant was still wanting tandem parking. Mr. Sisul explained that they are proposing 2 side by side spaces with a garage and are supplying 2 extra parking spaces for the development.

Mr. Ewert questioned the proposed lighting. Mr Sisul stated that Canby Utility will design the lighting. Mr Ewert asked if there will be lighting on the pedestrian pathway. Mr Sisul stated that they could install a light pole there or ballards. Mr. Ewert stated he would prefer ballards to reduce potential problems with neighbors and excessive lighting.

Mr. Brown stated that the standard curbs would be installed on Cedar but questioned what the curbs would be on 3<sup>rd</sup>. Mr. Sisul explained there is a curb return in place at the corner, they will connect to that and install the same type. He explained that there will be right-of-way provided so if the intersection was ever improved the City would have the right-of-way to do it.

Mr. Brown questioned if storm water would be handled by dry wells. Mr. Sisul explained that DEQ requires permits to inject water into the ground, and it is a difficult process. Their surface water will be handled by a swale depression that is open with a catch basin that siphons to a second catch basin before it spills out. Mr. Sisul explained that Tract A and Tract B and the fronts of the units will have professionally maintained landscaping provided by the home owner association. The swale will be dressed up as much as possible to be an amenity to the project.

Mr. Ewert stated the area for the swale is large and questioned if there would be wet lands created. Mr. Sisul explained the soil is very sandy and that the water would probably not stay there long enough to support wetland vegetation. Mr. Brown explained that the turf grasses used for swales are usually 3" to 6" tall. Mr. Sisul explained the soil would not support a drywell, and swales are being used more and more due to the difficulty of getting dry well permits.

Mr. Ewert questioned how deep the swale would be. Mr. Sisul stated it would be 2' to 3' deep when used. Ewert questioned if a holding pond 2-3' deep right next to the sidewalk would be an attractive nuisance and questioned if there would be a liability issue with it. Mr. Sisul stated if it is not over 30" it is not a hazard that needs to be filled. He explained this would have gradually sloping sides. He stated that if the pond held water for an extended period of time they might want to fence it off, but he was not in favor of fencing it since fenced areas accumulate garbage and could become an eyesore. Mr. Ewert asked if there were any place else to site the swale. Mr. Sisul explained that the site naturally flows that direction and if there were a place on the interior of the site to place one, they would still need to place a swale at this location.

Mr. Manley asked if surface water included roof water or if it was just street water. Mr. Sisul stated that only road surface water would go into to swale, roof water can be injected into the ground.

#### **PROPONENT:**

Dennis Trey, neighboring home owner liked the access and not having cars back into the street due to the high truck traffic, and believes there needs to be a long term solution to the truck traffic as this area develops.

Mr. Trey stated that when the neighboring development was put in one of the homes was built with a second story balcony that over looks his yard which he feels he has lost his privacy. He stated it would be nice to have a sight obscuring fence between the properties and appreciated that this will be a nice development.

#### **OPPONENTS:**

None

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

Mr. Ewert expressed his concern regarding the bio-swale. He asked if there were other bio-swales that he could look at in the City. John stated there might be some in the City that would be similar but couldn't think of any that were the same as this. John explained that as it gets more difficult to get permits from DEQ the City will be seeing more creative ways of getting rid of the storm water.

Mr. Ewert stated he lives in this area and knows it can become very congested when employees are coming and going to work. Currently semi-trucks and trailers use Baker and Cedar streets for parking and storage of trailers, he suggested designating both streets as "No Truck Parking" zones. He believed that 17 homes would be an impact to the area, and questioned how many homes could be built on the property across the street. John stated there could be a single family subdivision of about 120 homes with access onto 3<sup>rd</sup>.

John explained that this development would help push the tractor trailers closer to the skate park. Mr. Ewert stated they should be pushed back onto the businesses property.

Mr. Ewert believed the whole property should be conditioned to be fenced and have ballard lighting on the pedestrian path.

Mr. Thalhoffer stated it is a denser development that is badly needed and agrees that there should be ballard lighting on the walkway.

Mr. Manley believed the project could be made to work, and questioned if adding striping on the street would help discourage parking along the access.

Mr. Molamphy explained he was familiar with bio-swales and that they can look attractive if done correctly, and the depression really isn't noticeable. He agreed there needed to be lighting on the walkway and that the higher density housing is needed.

Mr. Brown agreed it should be conditioned that the project be fenced on all sides, lighted ballards with appropriate spacing.

Mr. Ewert questioned if there will be any balconies on the second floor where they can look down into other yards. Mr. Netter stated that are no balconies because they would be attached and have to be 20' from the back property line.

Mr. Thalhoffer moved to approve SUB 03-02 as modified with conditions requiring fencing, striping on the access strip and lighting for the pedestrian pathway. Seconded by Mr. Molamphy. Mr. Ewert questioned the interior street light requirements were covered by the conditions of approval. John stated it would be addressed in the conditions of approval. Mr. Ewert questioned if the "No Truck Parking" signs could be conditioned with this application. John stated that issue would need to be looked at separately. Motion carried 5-0.

(Pierpont LLC) on S. Redwood. The subject parcel was part of a recently approved partition application.

Mr. Brown asked if any commissioner had a conflict of interest, none was stated. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Matilda Deas presented the staff report, she explained the applicant is proposing a 28,800 sq ft. storage warehouse of which 2,400 sq ft will be office space to relocate his existing Portland business. The site is approximately 2.64 acres but this application is only developing 1.7 acres at this time, which is the front part of the site.

Matilda stated that the parking issue needs to be addressed, the code requires 8 spaces for the office use and 26 spaces for the warehouse for a total of 34 spaces. The applicant is proposing 16 spaces using a methodology proposed by Lancaster Engineering. She stated that the proposed parking lot would be built in such a way that it could be expanded if the use ever changed.

Matilda stated the code requires two 12' X 60' loading berths for industrial use, staff believes that the code allows for some discretion on this issue and the applicant is aware of what the actual loading requirements for his business are. She stated the applicant is providing the required bicycle parking.

Matilda stated the applicant is proposing a 24' wide access with curbs and a sidewalk from Redwood to their building. The Traffic Safety Committee had concerns regarding how the intersection of Township and Redwood will function with future development and that this will be an ongoing issue to deal with, but they really didn't have any specific concerns about this development.

Matilda stated the applicant is not proposing any signs at this time, but they would probably be allowed a 600 sq ft sign and would bring it before the Commission as a new business item.

Matilda stated the applicant is proposing an automatic irrigation system and have met the landscaping requirements. She added that no trees will be removed from the back of the property at this time. She stated this will be a concrete tilt up building in earthtone colors that will fit with the surrounding buildings.

Matilda stated there have been 2 pre application meetings and the applicant has worked with service providers to meet their needs. She added that the applicant will be installing internal sprinklers.

#### **APPLICANT:**

**Doug Pollack**, Owner stated he has owned this business for 26 years. He deals primarily with people who restore cars and plans to be in Canby for the next 20 years. He explained that he will bring 8 employees plus himself to Canby but does not see a time when he will ever have more than 10 employees.

Mr. Pollack stated that the average number of customers that come to his business in Portland is just 2 a day, with only 26 vehicle trips a day in Portland when he

moves to Canby but that will probably decline when he moves to Canby. He explained that 99% of his business is done outside Oregon with the majority of being done through mail order. UPS brings shipments in and takes orders out, so 16 parking spaces works for this business. If it becomes necessary to increase the parking he will have the ability to do that.

Mr Pollack stated that he has no use for a loading dock since he does not receive large loads, he would like the option to make provisions for a loading dock for any future business, but he only takes delivery from semi-trucks once maybe twice a year so a loading dock is a waste of time.

#### **PROPONENTS:**

Rodney Rose, property owner on SE Township Rd. He stated he was glad to see this business coming to Canby.

#### **OPPONENTS:**

None

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

Mr. Brown stated that this seems like a straight forward application. The issues that needed to be discussed were the proposed parking and the design of the loading dock. Matilda explained that the plan shows a future loading dock. John stated that the Commission could place a condition of approval allowing reduced parking and loading dock standards for this business only, and if the use changed a loading dock would be necessary.

Mr. Thalhofer stated this application seems like a good business for that section of the Industrial Park, it's a successful established business that will be here awhile.

Mr. Ewert stated that there are rules and regulations for a reason. He stated that the building should be built to current standards with the loading dock and parking spaces in place. He believes that if an exception is made for this business, and the property changes hands in the future the improvements will not be made, it can be conditioned but the chances are in 5 years it won't happen. He believes the development should be built to standards.

Mr. Molamphy stated that Mr. Pollard has been in business for 26 years and plans on staying in Canby. He believes conditions should be put on the building and if there are changes in the use they would have to come in for site review and the conditions would be part of that review. Mr. Molamphy questioned since it will be a tilt up concrete wall will it accommodate a door if a loading dock becomes necessary. Mr. Pollack stated the door will be in place.

Mr. Manley stated he had seen applications that required modification when the uses changed and they have come back and made those modifications. He would prefer not to see extra concrete or pavement if it wasn't necessary since it creates more area for surface water run off and he would rather see grass and landscaping.

Mr. Brown agreed that Mr. Ewert had a good point since once something is built there is no going back. He believed the loading dock is a bigger issue.

Mr. Brown stated that Mr. Ewert had a point once something is built it is hard to get the changes made. Mr. Ewert explained that if the new owners used the facility for a warehouse there would be no change of use and they would not have to come back to the Commission. John stated that the only process in place is that the new owners would have to have a business license and that it should be caught at that time by the conditions of approval in the tax lot file. He agreed that Mr. Ewert had a valid point that in 10 years from now he couldn't promise that it would be caught.

Mr. Ewert stated he had no problem with the business itself and likes to see business come to Canby, but he believes that the rules and regulations are in place and he will not approve an application that does not meet them.

Mr. Thalsofer stated that if the use of the property changed and it was not caught at the time of business license and it became a problem the City could check the files and make the business comply with the conditions at that time.

Mr. Ewert stated 20 -25 years ago a battery plant was built and now they have 30 40 trailers parked on the street because it wasn't mandated that they have enough parking on site for that size of facility. He was unsure if there was a rule in place at that time but if they did and there was an allowance made, we are now having to deal with the problem. He stated that if even if they don't use it when they build the building, now is the time to put in the parking spaces.

It was moved by Mr. Thalsofer to approve the DR 03-02 with the condition allowing the modification now of 16 parking spaces with the condition that if the use should change the new user will be required to add 16 spaces, and with the condition that the loading dock not be added now, but that the door be added and if the use should change the new user would be required to add the loading dock at the location on the plans. Seconded by Mr. Molamphy. Mr. Ewert suggested changing the wording to replace change of use to change of ownership. Modified to state that if the owners changes or the use. Mr. Molamphy seconded the change. Motion carried 3-2 with Mr. Brown and Mr. Ewert voting nay.

#### **IV. NEW BUSINESS**

None

#### **V. FINDINGS**

None

#### **VI. MINUTES**

None

#### **VII. DIRECTOR'S REPORT**

John stated the Planning Commission has been working on the annexation priority system and he will be bringing a draft back to the Commission regarding the type of matrix that will bring in the property that is needed into the City.

John stated there is one public hearing scheduled for the next meeting and the continuation of the modification by TNT.

Mr. Manley asked how far along the draft motion was for the new plan for the Northwood property. John explained that we are within the lengthy notice period, he explained he had not brought any information with him at this time but at the next meeting the Commission could work on the specifics of what it should look like. The meeting will be scheduled for the second Planning Commission meeting in August. The City Council has approved the findings that were prepared by the applicant's attorney.

Mr. Brown questioned the process regarding the parking of trailers on Baker and Cedar. John explained there has been some conversations lately regarding the issue due to the development in the area, and he has had discussions with the local businesses. He stated the problem is that the majority are contract drivers who bring trailers in and drop them off, so it is difficult to control where they go. He suggested the Planning Commission could make a direct recommendation to the Traffic Safety Committee who could look at it and take a recommendation to the City Council.

Mr. Ewert stated there is a very simple solution to make the area a tow away zone. He believed the situation is a hazard at this time with the proximity of the skate park and the kids on skate boards moving in and out between the trailers. He would prefer to do something prior to a having a problem.

John explained that the Traffic Safety Committee had discussed this issue and have recommended yellow curbed areas and "no parking" signs in front of the businesses on Baker and in front of businesses on 5<sup>th</sup> Avenue where there has been vandalism in the past.

Mr. Ewert stated it is not just one business's problem, it has notoriously been an area that truckers have dropped their trailers and drivers use for an overnight area. John explained the best course of action would be to send a recommendation to the Traffic Safety Committee and suggested a Commissioner could attend a meeting to discuss the issue.

## **VII. ADJOURNMENT**