

MINUTES

CANBY PLANNING COMMISSION

7:00 PM, July 28, 2003
City Council Chambers, 155 NW 2nd

I. ROLL CALL

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

STAFF: Clint Chiavarini, Associate Planner, Darren Nichols, Planning Technician, Carla Ahl, Planning Staff

OTHERS PRESENT: Don Kylo, Donna Palmer, Kareen Bayless, Jim & Cathy Burdett, Darrell & Darlene Woolhiser, Nicholas Gitts, Mona Nichols Alice Klohe, John Schultz, Lee Leighton.

II. CITIZEN INPUT

None

III. PUBLIC HEARINGS

DR 03-04 Woolhiser the applicant is seeking approval to place a 1300 square foot commercial structure adjacent to his home at 269 NE 3rd Ave. The structure is a former house that had been converted to commercial office space and will continue to be used as such.

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, Mr. Brown and Mr. Manley had visited the site but had drawn no conclusions.. No questions were asked of the Commission.

Darren Nichols presented the staff report. He explained that due to time constraints put on the applicant by the previous owner to remove the building from it's original site the applicant was given temporary approval to locate the building on the future site, pending Planning Commission approval.

Darren explained the applicant lives on the existing site which is a double tax lot. Darren stated that no building permits have been issued pending the Planning Commission's decision and the applicant had provided a \$5,000 bond to assure the structure will be removed if it does not meet the criteria and the application is denied by the Planning Commission.

Staff believes the application meets all necessary criteria except for parking. The parking off the alley in the back is fairly restricted and the applicant has provided the Planning Commission with 3 different parking scenarios for the Commission to

consider and explained that Mr. Woolhiser prefers option #1

Mr. Brown asked if the Commission had to approve the use and the location of the application. Clint Chiavarini explained that the property is already zoned for commercial development so the use is allowed outright in the commercial zone which has zero set backs but must meet building fire code requirements.

Mr. Brown questioned the use of the garage. Darren explained that the garage would be tied to the future residential use.

Mr. Manley questioned what the required parking was for this use. Clint explained that for the size of the commercial portion 4 spaces would be needed, and since the applicant intends to have residences upstairs he will need 2 per unit for a total of 6 spaces, one of which needs to be ADA accessible.

Mr. Brown questioned if any of the required parking could be handled by on street parking. Clint explained the code does not make a provision to count on street parking but it does allow the Planning Commission the ability to modify the parking standards if they find that the proposed parking is sufficient.

APPLICANT:

Darrell Woolhiser, owner addressed the Planning Commission. He stated his only concern is with the parking off the alley. His first choice would be the one that allows him to keep the garage in the location the movers left it so it would not have to be moved again.

Mr. Molamphy asked for clarity on the two spots next to the garage. Mr. Woolhiser explained that there would be a "no parking" driveway that would access those two spots. Mr. Molamphy asked if there was a fence separating the west lot line. Mr. Woolhiser stated there is a cyclone fence and an arborvitae hedge. Mr. Molamphy had a concern with the turning radius to access one of the parking spaces.

Mr. Brown questioned the mercury vapor light that will be installed 8' from the property line. Mr. Woolhiser stated that it is his house that is next to the light, and it is a blank wall with no windows. Mr. Brown expressed concerns that the ADA parking space was the farthest space from the entrance.

Mr. Ewert questioned what type of business would be using the building. Mr. Woolhiser explained 3 types of businesses have contacted him regarding the building, an accountant, an insurance office and a beauty shop. He stated they had discouraged the beauty salon because they did not want a business with high traffic in there.

Mr. Ewert asked if there were on street parking areas. Mr. Woolhiser stated there are two spaces in front of this business.

Mr. Brown asked if there were windows along the east and west sides of the house. Mr. Woolhiser explained the existing windows will be removed and boarded up to meet all fire code requirements the same with sky lights.

PROPONENTS:

Kareen Bayless, neighbor expressed her concerns that the building was too large for the site. She also believed that the neighbors should have been notified prior to the building being placed on site, that the building is an eyesore and that only low density businesses should be allow there. She would like to see something smaller that has the look of the existing neighborhood.

OPPONENTS:

None

REBUTTAL:

None

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

The Planning Commission discussed the proposed parking options, they had concerns regarding the turning radius for the spaces by the garage, the need for 24' of backing room for the spaces off the alley and the location of the ADA space.

It was decided by the Commission to Continue DR 03-04 until August 11, 2003, at 7:00pm to allow the applicant the opportunity to come back with a parking proposal that would work better.

ANN 03-06 Cam/Dodds the applicant is seeking to annex one 4.63 acre tax lot into the City of Canby. If annexed, the applicant intends to build 20 single family homes. The site is located north of NE Territorial Road along the west side of N. Locust St.

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.

Darren presented the staff report. He explained that this property had been part of a larger application for annexation that had been denied by the voters. He stated the property is Priority A, currently being used as agricultural land and is designated R1, low density residential in the Comprehensive Plan.

Darren stated that the applicant's conceptual plan shows a 20 lot subdivision but explained that a formal development application had not been submitted. Traffic analysis and Utility information is based on the conceptual development.

Darren addressed the need for buildable land in Canby, currently there is a 1 year , 1 month supply which does not include annexation applications pending voter approval. If all of these annexations are approved it would bring the buildable land supply to 2 year, 6 month supply. This property would add approximately ½ month supply to the buildable land.

Darren stated that the utility providers had commented that facilities were or would become available through development of this property except for adequate access. He explained that N. Locust St. between NE Territorial and the subject parcel is only a half width street, with the center of the roadway being the location of the PGE primary transmission line. There are concerns regarding moving that transmission line in order for N. Locust to be improved to full width.

Darren explained that Federal Law prevents the City from requiring off site improvements to be a condition of annexation application approval. But the applicant has indicated they are willing to make improvements or to enter into an agreement that would provide for the Locust St improvement in the event of annexation.

Darren stated that the application meets the necessary criteria and staff recommends that the Planning Commission forward a recommendation of approval to the City Council.

Clint explained the Federal Law Darren had referred to was the Dolan case, where the Supreme Court case set the precedent nationwide that off site improvements cannot be required of an applicant. The Commission can require ½ street improvements in front of their development, they can not require improvements on the approach but the Commission can decide that access is not adequate and deny the application. In this case the applicant has offered to do the off site improvements and to enter into a development agreement to assure it is done.

Mr. Manley asked if the Northwoods area was added to the buildable lands totals. Clint stated that the development would add about 2/3rds of a year to the supply. Clint stated that the Northwoods decision has been appealed to LUBA.

APPLICANT:

Lee Leighton, Director of Planning, Westlake Consultants addressed the Commission. He believed that in the May election the voters demonstrated they wanted to control the rate that land is brought into the city limits that becomes eligible for development. He explained that this property is less than 5 acres and would basically become phase I of the project.

Mr. Leighton explained that Locust Street is the necessary access corridor to reach the property, the City has the necessary right-of-way and the applicant is willing to relocate the power line. The applicant has agreed to make the off site improvements, acknowledging that it is the proper way to achieve safe access to the property.

Mr. Leighton stated that the residential land inventory is about 1 year, 1 month, and even if all of the annexations are approved the City will still be shy of the City's policy of a 3 year supply. He did not believe there was a risk of having too much land for development.

Mr. Leighton stated that the platted buildable land is about a 7 month supply, given that the plat process itself is a 6 month process there is a possibility that in 7 or 8 months the supply will be gone.

Mr. Leighton stated that the applicant was using a traffic study analysis that was part of the original annexation, explaining that this application is only about 25% of the size of the original application. He added that the analysis addressed the intersection at Territorial and Hwy 99E stating it is a stressed intersection that needs to be signalized. He explained that this development was not the cause of the stress on the intersection and that it will need a signal whether this application is approved or not. He stated the alternate routes that people can use all have adequate capacity and this development would not stress those intersections.

Mr. Leighton addressed the parks requirement and suggested that a 2 acre park would be a feasible dedication from a 20 acre development but it was not feasible for a 5 acre development. He believed that the discussion of a park dedication should be part of a subdivision application.

Mr. Brown stated that Clackamas County Transportation had explained the current roadway covers less than 50% of the right-of-way on Locust and that an additional dedication of 5' will be needed. He asked for clarity on the half street improvements the applicant has agreed to and if it would get the City to a paved roadway that will serve capacity. He added that the Public Works Supervisor had expressed concerns regarding access to the parcel because the parcel is north of land that is not annexed, road improvements will be difficult to perform and the existing roadway is not adequate for increased traffic volume or to maneuver school buses.

Mr. Brown questioned when the amount of paving on the opposite side of the street is added to the ½ street improvements would that get the street to an adequate road width.

Clint stated that the additional 5' of dedication Clackamas County referred to was for Clackamas County roadway standards, there is 40' of existing right-of-way width. Mr. Brown questioned if when the applicant completes his half street improvements will there be just a 32' paved roadway. Mr. Leighton stated they had not done a boundary or a topo survey for the property at this time but he believes that the center line is known there. He explained that currently there are several large trees that the roadway curves around, so when there is a bulb out it feels very narrow.

Mr. Leighton understood that there is adequate existing right-of-way to do the improvements necessary to provide two way travel and parking can be accommodated between the tree bulb outs. Clint stated that the condition states that the improvements would meet current minimum City standards.

Mr. Brown questioned how the development would grow. Mr. Leighton stated there had been conversations with the Simnits during neighborhood meetings regarding aligning the street grid to match up with their property. He then showed how the street grid might work to keep the number of cul-de-sacs on Holly down.

Mr. Brown questioned why the applicant is willing to take the financial risk of fronting the money for off site improvements. Mr. Leighton explained the applicant to demonstrate the kind of quality that the community expects regarding the unknowns that are associated with any annexation application.

Mr. Ewert questioned why this parcel was selected to develop first. Mr. Leighton explained that it is a legal lot of record that is eligible for annexation it is adjacent to the City and all utilities are to the property. He stated the applicant is aware that he is responsible for extending the utilities through the property for the next phase of development. Mr. Brown asked where the utilities are currently located. Clint explained that there are services up Locust and the only thing that is not there is the adequate roadway.

PROPONENTS:

None

OPPONENTS:

Nicholas Gitts, Owner Swan Island Dahlias, addressed the Commission. He stated the voters had turned down this annexation in May. He was concerned that carving smaller pieces out of the area to develop, makes the rest of the farmland less valuable. He stated that with the increase in development there will be more concerns regarding the use of chemical sprays, dust and noise issues. Mr. Gitts did not believe a residential development belongs in the middle of farmland.

Mr. Brown asked if Mr. Gitts currently leased the proposed property. He stated they owned property a few hundred feet from this site. When asked why Mr. Gitts thought the first annexation failed, he agreed that it could be that the original application was too large, but he had also promoted the sandy soil issue with articles in the newspaper stating that the soil needs to be protected.

REBUTTAL:

Mr. Leighton believed that the voters had not approved the original application due to its size, he cited that the two smaller applications on the ballot had been approved. He added that all of the City of Canby is built on prime farmland and that the annexation priority system had a lot of study and deliberation put into it, this property was given the designation of Priority A and the process should be respected.

Mr. Leighton stated the applicant has had conversations with the Simnits regarding the future development of their property and the result of those conversations is a proposed street alignment and a future concept that enables the Simnits to develop their property efficiently.

Mr. Leighton addressed Mr. Gitts concern regarding the ability to farm his property if this area was developed, he cited the City ordinances that protect the farmers right to use standard agricultural practices.

Mr. Ewert asked if the hedges would be removed and the utility poles relocated on N. Locust St. Mr. Leighton explained that the poles are at or near the center of the right-of-way and the hedge seems to be located in the right-of-way which would require that it be removed.

Mr. Ewert stated he was concerned that the roadway be built to a standard that would accommodate future development of the remaining properties.

Clint explained that the City's minimum requirement would be a 20' from center line with no parking. He stated that they would not require a bike lane since it is a local street. Mr. Brown questioned whether there would be curbs and sidewalks as a "minimum". Clint believed that curbs would be required but not sidewalks.

Mr. Leighton explained the applicant believes this is a safety issue and is aware that the value of this development would be higher if he provides a safe, attractive and comfortable access for the people who live there. Mr. Leighton believed the discussion regarding the specifics of the street to be premature, it might include a sidewalk on the far side of the street, but there will need to be a process to create a design that will be acceptable. He stated the City has a Transportation System Plan designating Locust as a local street, so the standard is known.

Mr. Brown expressed his concern that the term the applicant used of "minimum requirement" would be less than what the Planning Commission would consider desirable. Clint stated that a standard street it would be from the non bumped out portion, with curbs, 36' of paved roadway with a 5' sidewalk (2' in City right-of-way and 3' on property). Mr. Brown stated that was not a "minimum" street and according to "Dolan" anything over the minimum could not be required of the applicant.

Clint stated that the applicant has 2 choices, to improve the road which is off-site or to wait to develop until the southern property owners to annex and develop their portion of the street.

Mr. Leighton suggested an advanced financing district be established to cover the cost of the street improvements and be recovered when the other properties develop. Mr. Leighton stated that this issue is not able to be settled at this meeting. There needs to be a subdivision approval process and a development agreement needs to be established.

Mr. Leighton explained that the city has a minimum pavement width for two way circulation that is identified to be safe an interim standard and that the developer agrees to provide that minimum off site improvement. It may be feasible for more than the minimum to be done if it is backed up by a cost recovery agreement.

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

The Commission discussed the needs issue. Bringing in too much property puts a strain on public services and creates social problems in the community, but not having enough land creates affordability issues. With the annexation applications currently on the ballot, and the IFA property issue unsettled the Commission cannot make a decision on the needs issue.

The Commissioners discussed the need for the access to be built so that is safely accessed, and the area looked at as a whole so that the access will

accommodate the remaining properties if and when they develop. There is a concern that even though this is a smaller piece of property it has a large impact on the surrounding farmland.

It was moved by Mr. Manley to recommend denial of the application to the City Council on the basis that it does not meet criteria 2, 3, and 4. Seconded by Mr. Ewert. Clint asked for clarity on criteria #2. Mr. Manley stated that with the annexations that are already on the ballot and with the Northwoods issue not being settled the need for the land is not clear. Motion carried 4-1 with Mr. Thalhofer voting nay.

IV. NEW BUSINESS

None

V. FINDINGS

ANN 03-04 The applicant is seeking to annex one 1.65 acre tax lot into the City of Canby. If annexed, the applicant intends to build approximately 9 single family homes in addition to one existing single family home. The site is located south of NE Territorial and is part of an island of County land surrounded by property within the City boundary. The property is designated priority A for annexation.

It was moved by Mr. Molamphy to approve ANN 03-04 as written. Seconded by Mr. Manley. Motion carried 3-0-2 with Mr. Thalhofer and Mr. Manley abstaining.

DR 03-03 The applicant is seeking approval to build a 6000 square foot storage warehouse for medical supplies adjacent to JVNW (Pierpoint LLC) on S. Redwood.

It was moved by Mr. Thalhofer to approve DR 03-03 as written. Seconded by Mr. Molamphy. Motion carried 4-0-1 with Mr. Manley abstaining.

VI. MINUTES

None

VII. DIRECTOR'S REPORT

Clint stated that this would be his last Planning Commission meeting, he was moving to Tucson Arizona. The Commissioners thanked Clint for his work for the Planning Commission and wished him luck in his move.

VII. ADJOURNMENT