

# MINUTES

## CANBY PLANNING COMMISSION

6:00 PM Workshop  
7:00 PM February 23, 2004  
Canby City Hall Conference Room, 155 NW 2<sup>nd</sup>

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### \* **WORKSHOP** \*

#### **I. ROLL CALL**

**PRESENT:** Chairman Jim Brown, Commissioners John Molamphy, Tony Helbling, Geoffrey Manley, Randy Tessman, Robert Able, Dan Ewert

**STAFF:** John Williams, Community Development and Planning Director, Darren Nichols, Associate Planner, Carla Ahl Planning Staff.

**OTHERS PRESENT:** Herman Bergman, Marlene Elmore, Minnie Coon, Jeff Bacharach, Don Hanson

#### **II. CITIZEN INPUT**

None

#### **III. NEW BUSINESS**

None

#### **IV. PUBLIC HEARINGS**

##### **SUB 03-05 Appeal by Apollo Custom Homes**

An application to subdivide one 15-acre parcel located on the southwest corner of NW 3<sup>rd</sup> Ave. and N. Cedar St. into 136 lots for the construction of attached and detached single-family residences. Vehicular access to the home sites is proposed by means of 1 access street off NW 3<sup>rd</sup> and one access via NW 2<sup>nd</sup>.

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. Helbling explained he had had discussions regarding the Apollo Homes subdivision with the President of Wilson Construction (which he works for), the President of Sprague Controls and the General Manager of Johnson Controls. He intends to participate in the hearing. No questions were asked of the Commissioners.

John Williams explained that the Planning Commission had heard this application in October of last year and denied it. The applicant appealed that decision

to the City Council and requested the Council allow new evidence to be considered. The Council agreed to allow new evidence on issues that have already been raised and asked the Planning Commission to review the new evidence first.

Mr. Brown explained there were 7 issues that the Commission based their denial of the original application on.

- Noise mitigation from the railroad
- Failure to meet minimum density standards
- Access points on NW 3<sup>rd</sup> (too many and conflicted with industrial traffic)
- Design not integrated or complimentary to the downtown commercial core
- No clear proposal for fencing along the railroad
- Overloading of intersections at 2<sup>nd</sup> & Elm and Elm & 99E
- Stormwater management

Darren explained that the Planning Commission had determined that the original proposal as presented was unacceptable. Apollo Homes provided staff with a number of documents and evidence to address the issues that Mr. Brown mentioned.

Darren stated the applicant had submitted a revised application to subdivide a 15 acre parcel into 136 lots for the construction of attached and detached single family residences. Vehicular access to the home sites will be from 2 driveways and a street on NW 3<sup>rd</sup> with an extension of NW 2<sup>nd</sup> Ave. into the development. Additional development requirements include 5' ADA sidewalks on all street frontages and an additional pedestrian path at the intersection of N Cedar and NW 1<sup>st</sup> Ave.

Darren explained that the property to the North is zoned M-1 light industrial and R-2 high density residential, to the East it is zoned C-1 downtown commercial, to the South is the Union Pacific Railroad. Adjacent to the West is vacant land intended for eventual park development, the Canby Skate Park then the Canby Utility property along the Molalla River.

The applicant has submitted an assessment by a geotechnical engineer that deals with the structural integrity of the soil but makes no conclusions regarding the environmental conditions or contamination. The vacant land intended for park development was originally used as a hazardous material dump site and the City is testing the area to see if it will need remediation to house the park and a storm water system for the entire downtown area.

The Planning Commission rezoned the parcel from light industrial to high density residential in April 2003. Traffic studies that were done for the zone change stated that the residential use of the property would increase the overall traffic, but there would be less traffic at peak traffic hours. Concerns the Commission had regarding the intersection of NW 3<sup>rd</sup> and Cedar have been addressed by having just one single street that has been moved away from the intersection, this creates less of a conflict and minimizes the amount of traffic that will utilize NW 3<sup>rd</sup>. The shared driveway accesses allow the cars to head out onto 3<sup>rd</sup> Ave. instead of backing out onto the street.

Darren stated the applicant had increased the density of the development from 128 units to 136 units, which meets minimum density requirements. The applicant has had many discussions with staff to address how the project should look and function to create a positive interaction between adjacent properties and zones.

Darren stated the applicant has proposed a wooden fence for noise abatement and as a safety measure to prevent children from crossing the tracks and that the applicant will address these issues later. The traffic study has stated that the intersections will be operating at an acceptable level until 2018. The applicant has presented a storm water management plan that the applicant's consultants will address.

Darren stated this revised application was an improved design but that staff concluded that the subdivision was not in conformance with the comprehensive plan and development of this subdivision could potentially unduly hinder the use or development of adjacent property. Staff recommends denial of the application.

Mr. Manley questioned if the density requirement was met with or without the exemptions. Darren explained the steep ridge slope and the open spaces for the storm water system and the active spaces had been removed from the calculations. John explained there were 2 areas of land that were exempted, the unbuildable slope and the areas that were used for parks and storm water. If these areas were taken out, 30 additional units would be required to meet density standards.

#### **APPLICANT:**

**Jeff Bacharach**, addressed the Commission for Apollo Custom Homes. He explained that the applicant had decided to rethink the project and had hired OTAK, which they consider to be one of the best design teams in the state. He stated the original application asked for an outright exemption for less than the minimum density required. That is no longer the case, other than excluding steep slopes and the open space the required density is met on the remainder of the site. They have brought the density up to a level the design team believes is a logical number.

**Don Hanson, OTAK** presented the Commission with revisions to the original application. He explained that his design team had met with staff several times to understand the issues the Commissioners were concerned about. To answer specific questions the Planning Commission might have, the Civil Engineer, Soils Engineer, and the Acoustical Engineer were in attendance tonight.

Mr. Hanson stated there will be 74 single family homes, 24 duplexes (located on the corner lots of the development) and 38 townhouses for a total of 136 units which meets the minimum density. He explained they have changed the orientation of the houses on Cedar so they face the street and are accessed by an alley. They have proposed a uniform fencing treatment around the perimeter that will help it blend into the City

Mr. Hanson stated that the plan has been modified to meet all setback requirements. He stated that the emphasis has been put on the 2<sup>nd</sup> street entrance with extra street trees and a ½ acre park with a tot lot. Hopefully this will help disconnect

with the 3<sup>rd</sup> Street access. The 2 driveways will access the 12 homes on 3<sup>rd</sup> and will allow head in and head out movements.

Mr. Hanson had talked with the City to find the best way to connect the subdivision with the proposed future park. The City's comment was to create their own park, so they are proposing a ½ acre park with a tot lot.

Mr. Hanson explained that the trail area along the railroad tracks had been removed since it created an unsupervised area and it is better to have people walking on the sidewalks where it is more visible and might discourage people from crossing the railroad tracks.

Mr. Hanson explained at the narrowest point, the houses are 75' to 125' from the railroad tracks, there will be distance and a sound wall between the rails and the homes. The applicant has proposed a 8 to 10' 2" tongue and groove wooden wall on a 3' berm that will reduce the train noise by about 15 decibels.

Mr. Hanson stated the City proposed to cleanse the water as it goes to the river rather than creating a retention center. During a heavy rain event the City wants the water to go on to the river prior to the rest of the city street water reaching the system.

Mr. Hanson stated the soils engineer determined that the only area of concern is the steep slope which currently is about a 1/1 slope. The applicant will need to ease the slope by putting fill on the bottom and a cut on the top to create a slope that ranges from a 2/1 to a 3/1. They will also hold the foundation back 12' from the bank.

Mr. Hanson explained the traffic study shows there will be traffic issues in the year 2018 that would call for a 4-way stop at 2<sup>nd</sup> and Elm and a right turn lane at Hwy 99E. He stated the study used full potential build out of 300 units to determine the useage. He stated that the SDC's for this project would be sufficient to cover those street improvements.

Mr. Tessman questioned who would be responsible for the treatment of the wooden sound barrier fence over time. Mr. Hanson stated there will need to be a Home Owners Association (HOA) that would be responsible for the maintenance of the fence, park, landscaping etc.

Mr. Tessman stated he was told by the Fire Chief that not only was there a danger of trains throwing sparks and causing fires but children and vagrants were also a concern. He questioned why the applicant didn't go with a non-combustible concrete sound wall instead. Mr. Hanson explained that there is a cost difference between the two and technically feasible to build a wood wall on top of a berm. He stated that there is fire retardant lumber which could be used.

Mr. Able stated the area between the railroad and the sound fence would be an attractive place to children where their Mom's couldn't see them. Mr. Hanson explained that the area is railroad right-of-way and they have no way of restricting that.

John stated after looking at the location of the fence, storm drainage system and

the railroad location, staff had recommended removal of the pathway. Mr. Hanson stated it would be better for security reasons to have people walking in front of the houses instead of behind them.

Mr. Hanson presented elevations showing the proposed housing with trees and either a metal or wood fence with masonry columns. A park toward the center of the project has a meandering trail that forms a plaza with benches and a play area to the south. The equipment for the play area has not been decided on yet but it will be built by the developer and maintained by the HOA.

Mr. Brown questioned why with all the ways to reach density the applicant had chosen to use small lots to reach density. Mr. Hanson stated that it was driven by the market and people want single family homes and it was a good balanced approach to meet the density requirements with a housing type that will be appealing.

Mr. Helbling stated his concern regarding the 68 homes on the west side of Aspen St. he believes will exit onto 3<sup>rd</sup> St. Mr. Hanson explained the development was oriented so that most people would use 2<sup>nd</sup> Street. They had considered eliminating the entrance on 3<sup>rd</sup> but there were concerns that it was needed as an emergency access.

Mr. Helbling stated that on street parking can become a significant issue and questioned what the plan was for 3<sup>rd</sup> St. since it is the only route to the industrial park and has heavy truck traffic.

Mr. Hanson explained all units have tandem spaces plus garage parking. John explained that the interior streets are to city standards and will allow parking on one side. Mr. Able questioned if there would be adequate space between driveways to allow parking for cars. Mr. Hanson stated there is room between most, the lots are smaller but are wide.

Mr. Ewert questioned the plans for the slope along 3<sup>rd</sup>. Mr. Hanson believes it will be revegetated after the slope is improved. Mr. Ewert questioned the maintenance of the landscaping along the railroad tracks. Mr. Hanson stated the fence and the landscaping will be part of the maintenance contract through the HOA.

Mr. Ewert asked what the difference was between the proposed wooden fence and the concrete wall that a development on the north end of town has put in. Mr. Hanson asked the acoustic engineer to address the Commission.

Cliff Sroka, Acoustic Engineer explained that there are 3 sources of noise coming from a train, the horn, the engine and the wheels. He stated there is little that can be done about the horn noise, by law the horn must be sounded prior to a crossing. What can be addressed is the engine and the wheel noise. He explained that making the wall thicker would not stop the "flow over sound". Concrete walls are used on freeways but there are other solutions for this type of situations.

Mr. Sroka stated they can contain most of the engine and wheel noise but they will not be able to contain the horn noise. Mr. Able asked if this system would help the noise levels on the second story of the homes. Mr. Sroka explained that internal noise

is addressed by the construction of the homes.

Mr. Tessman questioned if a concrete block wall would be a better sound barrier than a wood wall. Mr. Sroka agreed it would be for the transmission of sound through the wall but what you hear is the noise over the top of the wall, the "flow over" and there is a limitation of how high that wall can be built. Mr. Ewert stated that a 8' wall on a 3' berm would not be enough of a barrier for the engine noise.

**PROPONENTS:**

None

**OPPONENTS:**

**Marlene Elmore**, Chairman of the Traffic Safety Committee stated the Committee has several concerns with this application. There are 92 school buses that travel on Elm St. every school day, there are 20 to 25 trains that go through town every day, 24 hours a day. She added that since last March there have been 8 accidents on Elm and 99E, 2 at 2<sup>nd</sup> and Elm and 1 on 3<sup>rd</sup> and Cedar. Ms. Elmore doesn't understand how the Traffic Engineer figured that adding 2.2 cars per household would be acceptable since traffic is a mess now.

**Herman Bergman**, addressed some of his concerns regarding this application. He did not believe the wooden wall would be effective since most of the homes will be taller than the wall. He did not believe people will want to live in a house next to a railroad track. He lives on 4<sup>th</sup> St and he has had his bed shaken by trains at night.

Mr. Bergman suggested that there be a monitor placed so the audience can view the exhibits during the hearing.

Mr. Bergman agreed that there will be an overloading of Elm St. with this development. He believed the City should address the connection either over or under the railroad tracks before they approve any further subdivisions.

Mr. Bergman believes this project will be overcrowded and is not good for the people who will live there or for the community. Over time it will become a slum. He stated his opinion that the area should have been left industrial land. He also had concerns that the storm water from this application would be allowed to drain down to the river where Canby Utility draws the City's water supply.

Darren Nichols presented a letter from Betty Ramey who expressed her concerns regarding traffic at Elm & 99E, the number of school buses using that road, additional traffic that would be generated and the train noise.

**REBUTTAL:**

Mr. Hanson stated there were no specific items they wanted to address, but would answer any questions the Commission had. Mr. Helbling questioned if they will need a sewage lift station plant.

**Bruce Goldson**, Compass Engineering responded to that question explaining that the lift station servicing this development is in place in the City Park.

Mr. Tessman questioned if the development would be built by Apollo Homes. Mr. Hanson stated the intent is for Apollo Homes to do the construction, there may be parts sold but they would still be required to meet the City's design standards.

Mr. Ewert questioned the price range of the houses. Tim Ralston, explained that they expect the common wall housing to sell for around the \$139,000 range with the single family homes selling for \$149 - \$179,000 depending upon the size.

Dan Gruenwald, stated that a similar development they are doing in Vancouver the homes are being purchased by first time home owners. Mr. Ewert questioned if the elevations that were presented would be the same design that would be built here. Mr. Gruenwald stated it would be.

Mr. Molamphy stated his concern regarding the amount of run off and the bioswale. Mr. Gruenwald explained that the final system will be subject to the City Engineers final decision. The proposed bioswale system is approximately 2' deep with a retention area of about 4' to 5'. In a significant rain event the water will pass through the system through the park and on to the City's storm water system Mr. Gruenwald explained that the roof water will be disposed of on each individual lots.

Darren explained that the City Engineer would prefer not to retain the water but to use the bioswale to cleanse the water and to let the water flow into the City storm facilities.

Mr. Ewert stated there will be a large concentration of water to collect and clean before it gets into the City water system. John explained that when it is required there will be a storm water treatment system in that location. He clarified that the idea is that during a major rain event to get the water from this property out of the system before the main deluge from the rest of the city gets there.

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

Mr. Manley questioned why the open space and the bioswales were excluded from the density requirements. John stated that the code is not clear regarding what type of parks could be counted.

Mr. Helbling questioned how the proposed causeway from 3<sup>rd</sup> to Hwy 99E would integrate into this project. Mr. Brown stated because of the cost of the bridge it may never be built. Mr. Helbling expressed his concern that if the road isn't built that the existing businesses will be choked out by the increase of residential developments and the hazards of on street parking. John explained the bridge has not been engineered yet but it is intended to go over the City property not over this development.

Mr. Able stated this is a difficult piece of property to develop and believes the infrastructure costs for properly mitigating the traffic and noise issues require a higher

density. He does not believe the proposed wall would solve the noise issue and that the area for the bioswale should be counted in the density formula. He does not believe the design is complimentary with the downtown core area and would prefer that the road be a connection with the proposed city park.

Mr. Able questioned if the traffic studies took into consideration the time delays caused by trains. He believed that moving the wall up close to the houses created a hideaway area for children and would be unsafe.

Mr. Molamphy stated one of his major concerns is the potential of a fire starting by the railroad tracks, either from sparks from the train or from kids playing in the area. He does not believe the proposed wall will help the noise issue much or that the density requirement had been met.

Mr. Tessman stated there is a need for housing in this price range but the development could be more dense. He did not believe a wooden sound wall would be acceptable. He stated that this is a better application than the original.

Mr. Ewert stated the noise issue will probably never go away, but people who purchase homes there would know the train is right there. He is concerned about the wood wall and sparks from the wheels of the train and questioned if there was a fire, how would the fire department could access the area. He would like to see conifers planted since there used to be conifers there.

Mr. Ewert believes the HOA rules need to be very clear. John stated a condition could be added that would require the CC&Rs to address the responsibilities of the HOA.

Mr. Ewert stated any development would increase traffic and it was a bad decision to create an Industrial area in that location. He suggested closing N. Baker St. and creating a hammerhead at the 90degree turn to keep the cars out of Johnson Controls area.

Mr. Manley liked this plan better, but the bioswale area should be added in the calculations for overall density. He wants to see a condition put in for noise reduction construction, such as triple pane windows.

Mr. Helbling expressed concern regarding additional traffic and suggested there should be no accesses on 3<sup>rd</sup> St and an access onto 1<sup>st</sup> Ave. should be added. It was discussed that vehicles only make a right turn on Elm St. John explained that staff had asked the applicant remove the 1<sup>st</sup> St. access because of the concerns at 1<sup>st</sup> and Elm, we wanted the traffic focused at 2<sup>nd</sup> and believed that was a more efficient access. John asked if there was to be discussion on traffic the Commission should point to the evidence that they were basing their decision on.

Mr. Brown there may not be a way to mitigate the noise from the railroad, but the acoustical engineer had named 4 types of walls that would work in this situation, the applicant had picked the cheapest one.



Mr. Brown stated the Planning Commission needs to spend some time interpreting what is allowed to be in and out on the density calculations. He stated that the Planning Commission rezoned this area to R-2 to increase density, it was known that increasing density would increase vehicle traffic.

Mr. Brown believes that when the Planning Commission rezoned this property they expected a development that utilized 2-3 story complexes and allowed more open space to help integrate the proposed ball park to the downtown. He also stated his concern that the elevations the applicant proposed would not be the ones that will actually be built. He stated this application is better than the first but still falls short of meeting all the requirements.

Mr. Manley suggested the condition #5 clearly state that the Home Owners Association will be required to maintain the park, bioswale, sound wall, landscape, etc.

The Planning Commission decided that the wooden sound wall was not acceptable due to the fire danger, to require an emergency access that was acceptable to the Fire Marshal, the buildings be built as proposed and the condition regarding language in the CC&Rs regarding maintenance. There was discussion regarding parking on Cedar and closing Baker St. It was determined that these issues should be dealt with in a different process.

It was moved by Mr. Helbling to deny SUB 03-05 the revised application by Apollo Homes due to not meeting density issues and the constriction of the Industrial Park. There was no second.

It was moved by Mr. Tessman to approve SUB 03-05 the revised application by Apollo Homes with changes to the conditions of the wall material not to be made of wood, an emergency access to that area behind the wall provided to the satisfaction of the Fire Marshal, the construction of the homes be to the proposed design and the Home Owners Association maintaining the areas that have been discussed. Seconded by Mr. Molamphy. Motion failed 2-5.

The Planning Commission discussed the areas of concern. Whether there should be a visual connection from the park to the downtown area or if it would be better not to have people going to the park through the development. John explained that staff had discouraged the connection due to parking in the complex and there is no plan to put a connection to the park through the proposed storm water facility.

There were concerns that the condition on the sound wall was too ambiguous and it should specify the type of wall wanted. They discussed the traffic issue, even if the traffic study is wrong, it would be the evidence the City Council would consider when they heard the appeal. The issue of increased traffic on 3<sup>rd</sup> and the amount of children playing in the area is a safety issue and should be addressed, there will need to be public hearings and meetings with the Traffic Safety Committee on this issue.

The Commission discussed the small lots that would be created. The price of lots in Canby is too high to allow affordable housing on larger lots. There were Commissioners who did not believe the application met the density requirements

because the calculations did not include the bioswale area. John questioned how the density issue balances out with the public service impacts the Commission have discussed, how does the Commission want to tie the impact to the design criteria since the zoning allows this type of development.

It was moved by Mr. Able to approve SUB 03-05 with the conditions that were stated previously and the added condition that the wall would not be made of combustible material or metal. Seconded by Mr. Molamphy. Motion carried 4-3 with Mr. Helbling, Mr. Manley and Mr. Brown voting nay.

## **V FINDINGS**

None

## **VI MINUTES**

January 12, 2004

It was moved by Mr. Ewert to approve the minutes for 1-12-04 as written. Seconded by Mr. Able. Motion carried 7-0.

February 9, 2004

It was moved by Mr. Ewert to approve the minutes for 2-9-04 as written. Seconded by Mr. Able. Motion carried 6-0-1 with Mr. Tessman abstaining.

## **VII DIRECTOR=S REPORT**

John suggested that the Planning Commission have a workshop to discuss which issues they want to work on. Mr. Brown asked how the “area of special concern” can be used in the Northwood’s development in case the Court of Appeals upholds LUBA’s decision. John explained that Northwoods themselves have filed a cross appeal that would allow the Court of Appeal a way of making a decision on a different issue that would settle the case. It was agreed that the Commission should know what an “area of special concern” is, how it’s defined and what is included.

Mr. Tessman stated that many Cities have set minimum standards for affordable housing, and suggested the Commission discuss the issue. Mr. Brown explained that in other jurisdictions, as part of their annexation process the applicant is required to submit a proposed development plan. John stated these issues could be discussed during an annexation priority workshop.

Mr. Brown stated that a member of the Traffic Safety Committee had asked to have a meeting with the Planning Commission to discuss transportation issues.

The Commission discussed the progress of the County’s Arndt Rd project. John explained that the County is still interested in extending 3<sup>rd</sup> across the river and connecting

with Berg Parkway. The County is looking at the feasibility of the project and the advantage to them is that the city could contribute funds. John explained it is still in the preliminary stages.

## **VIII ADJOURNMENT**