

# MINUTES

## CANBY PLANNING COMMISSION

7:00 PM May 10, 2004  
City Council Chambers, 155 NW 2nd

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### I. ROLL CALL

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

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

**OTHERS PRESENT:** Tom Scott, Catie Fernandez, R. J. Larios, Mike DeDeng, Larry Sorenson, Chuck Sanders, Pat Sisul, Brian Freeman, Ryan Jacobson, Jeff Scott, Kenny Guisinger, Kory MacGregor, Jason Hansen, Jerry Foy, Pat Harmon, Ken Williams, Deborah Wade

### II. CITIZEN INPUT

None

### III. NEW BUSINESS

None

### IV PUBLIC HEARINGS

**SUB 04-04 Postlewait** The applicant is seeking approval to subdivide two parcels located on the west side of N. Redwood St. north of Hwy 99E and south of NE Territorial, containing 7.57 acres into 31 buildable lots of approximately 8,000 – 10,000 sf. for single family homes. One existing house is proposed to remain on a parcel adjacent to the north of the proposed subdivision.

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

Darren Nichols, Associate Planner presented the staff report. He explained that the property contains springs and wetland; the applicant will consolidate the wetlands to 1 lot site and will make improvements to Willow Creek. He explained that the State has not approved the plan yet but approval is expected within 1 month.

Darren explained that this subdivision would add a small amount of traffic to the intersection at Hwy 99E and Territorial. He stated that the applicant had done his own traffic counts. The Traffic Engineer responded that the numbers provided by the applicant are what were expected.

Darren stated that the applicant would provide a 12' pedestrian access to the Logging Rd Trail. He has also offered to improve the Logging Rd behind the development by clearing out blackberries and brush, planting trees and installing ground cover. There is a condition and that if the applicant can keep the landscaping alive for 1 year the City would then accept it and take on the maintenance.

Darren stated that most of the Public Utility provider's comments were technical in nature and will be addressed in the pre-construction conference. There were comments received from neighbors.

Pat Muller wrote in opposition of the subdivision based on the dwindling amount of open space in Canby and that schools are at capacity. She suggested the Commission hold off on allowing development and annexations for a while.

Dan Liechner from Northeast Canby Neighborhood Association voiced concerns regarding the volume of traffic on Canby streets especially at Territorial and 99E. They suggested that the development be required to put in bike lanes along N Redwood to facilitate bicycle access.

Darren stated with conditions the proposed application meets the necessary criteria and staff recommends approval of the application.

Darren stated the applicant has requested waiving the solar requirements. He explained that he has done some research and many jurisdictions have abandoned their solar ordinances. The intention of the ordinance is to preserve light and air, but Canby already has setback requirements that provide about 98 percent of solar access. The shading requirement of the ordinance restricts some house plans and the owners modify the plans by removing windows from the affected side.

Mr. Able questioned the approval from the State regarding the wetland remediation. Darren stated he has not spoken with the State, but the applicant has told him that there would be an answer in 30 days, which was about a week and a half ago.

Mr. Brown questioned the applicant's traffic count and asked if 3 additional vehicles at Hwy 99E was a reasonable amount. Darren stated he had spoken with the Traffic Engineer who explained that she had anticipated traffic moving differently, but was not surprised by the applicant's traffic count. John explained that they had asked the Traffic Engineer to comment on a traffic study their company had not collected the data for. This study looked at the Redwood and Hwy 99E intersection because it is an intersection that does not have capacity issues. But it is a good intersection to look at how much traffic is turning north.

#### **APPLICANT:**

**Pat Sisul**, Sisul Engineering addressed the Commission. He explained this application is for Phase I of the Postlewait Estates Development. It would create a loop street system through the 31-lot development. Mr. Sisul explained the average lot size

would be about 8,200 square feet.

Mr. Sisul stated there is an existing wetland on site, most of the water to this wetland was cut off when the City installed storm drain improvements down the south side of the property along Redwood St., but there is still some underground water that surfaces in the middle of lot 4, it is not real active and not a high quality wetland nor will it ever be because there is no stream to give it water. The applicant has hired a wetland specialty firm to investigate the wetland, map it and to contact DSL and the Corp of Engineers. Through that process the idea came up to mitigate this wetland over in the Willow Creek area, which is owned by the City. The neighbors have been contacted and are on board with the proposed improvements to the wetlands, which include removal of invasive plants to expand the existing wetlands. That plan has been submitted and approved, what hasn't been approved is the fill permit for this site, but it is in the process and the state has 60 days to make a decision.

Mr. Brown clarified that the applicant has proposed to remove the wetland on this property. In exchange they will improve and create a larger wetland area in Willow Creek, which already has a good water supply. Mr. Sisul explained that there will be a small area of wetland left on site due to the permit difference between an individual permit which is quite a lengthy process and the national permit which allows for ½ acre of fill. So the applicant will fill in ½ acre and leave a small remnant piece of wetland.

Mr. Sisul stated the wetland area would be fenced and maintained by the homeowners association. Mr. Brown questioned how the water would make its way to Lot #4. Mr. Sisul stated they will do what they can to direct as much water as possible to the wetlands using perforated pipes and roof drains from the surrounding property. There will be an outlet, which will tie into the storm drain system and be raised up from the bottom of the wetlands to provide a permanent pool. He explained the fence would have a gate for maintenance reasons but would be a type (such as vinyl coated chain link) that would prevent people or pets from having access. Mr. Sisul added that the Homeowners Association would maintain the monument wall and fence.

Mr. Sisul addressed condition #13, which requires a 5' sidewalk along all street frontages including the frontages of the parent parcel along N. Redwood. Mr. Sisul explained their intent to improve just the part of the parent parcel that is in phase I; the improvements to the remaining frontage would be built along with phase II. He explained there would be utility stubs coming from Redwood that will be needed in phase II and they are not needed at this time. He suggested that the condition be changed to be specific to the part of the parent parcel that will be improved with phase I.

Mr. Sisul stated that when the applicant received the Traffic Engineers report they noticed that it was different than the report that was generated when this property was annexed in 2000, which proposed a 49-lot subdivision, this development is only 31. Mr. Sisul spoke with the Engineer and asked what the figures were based on and was told it was Engineers judgment. Since this is such a big issue the applicant spent 2 days having someone count traffic. What they found was that only 9-12% of the traffic from N. Redwood turned eastbound and of that half turned into Willow Creek. Mr. Sisul stated that since this development is close to the middle of N. Redwood the applicant

believes most people will use the signalized intersection to go north on Hwy 99E.

**Tom Scott**, President, Willow Creek Estates, Inc. addressed the Commission. He believes this is a well thought out, well planned development. He explained they have been studying this site for 3 years primarily due to the wetlands issue. Mitigating the wetlands is a long drawn out process they have been working on for a year and a half and are very close to receiving approval from the Division of State Lands.

Mr. Scott explained his company will build out the site and this development would add about a 2 to 2 ½ year supply of building lots at the current sales rate. His company uses local suppliers and builders, which supports the local economy.

Mr. Scott believes it is a very functional subdivision. He would like to clean up the Logging Rd and make it more functional for the citizens of Canby. He didn't know if it was a decision the Planning Commission could make but they would like to do it as part of this development.

Mr. Scott stated the development of this site would create a lot of income for the City and the businesses in town. The site is part of a storm water advanced financing district, which this site owes about \$120,000 to be paid off through development. Through the build out of phase I there would be SDCs collected including \$135,000 for Parks, \$75,000 for Transportation, \$45,000 for Sewer, \$80,000 for Water System Development Charges, \$35,000 for Electric and \$45,000 to the local Planning and Building Department. At build out of these 31 sites we could expect new tax revenue of \$150,000. There will be \$12 Million dollars that will be spent developing this site, most of which will be spent locally which will help the economy.

Mr. Scott explained that the City needs new residents. The schools need additional revenue, the population needs to grow they can't afford to go backwards.

Mr. Scott stated that the intersection at 99E and Territorial was dangerous; he lives within 500 yards of the intersection, but doesn't use it 95% of the time. He stated the traffic study he did shows people who go north on Redwood St are turning west, heading for the interstate. Many people that turn east off Redwood are going to one of the subdivisions.

Mr. Brown asked where the residents of Postlewait Estates would recreate. Mr. Scott stated there were several parks in that area of town. Mr. Brown questioned what, besides the one time SDCs would the City gain from this development typically the fees and taxes that are raised do not cover the cost of services. Mr. Scott stated that business and industrial is the tax base that is needed in Canby, residents keep those things in town. To increase the industrial tax base you also need to increase the residents to support those businesses.

Mr. Ewert questioned what the price range of these homes would be. Mr. Scott stated they are anticipating them to be in the \$250,000 to \$400,000 range. Mr. Ewert asked what the time frame for the build out was for phase II. Mr. Scott stated they are estimating 2-2 ½ years for phase I and hopefully start phase II within 6 months of completion of phase I, approximately 12-15 homes a year.

Mr. Helbling questioned the wetland area and asked if the applicant had considered looking at it as a greenspace or a park instead of something that had to be done to mitigate. Mr. Scott explained the parks people had said that small parks are not good for the City, 1 lot parks are harder and more costly to maintain and less likely to be used. Some wetlands needed to be maintained and this was the site of the original wetlands. Mr. Helbling stated that a fenced lot would accumulate trash and asked how it will be maintained. Mr. Scott stated the Homeowners Association would maintain it.

## **PROPONENTS:**

**Kory McGregor**, Owner of Roth Heating and Cooling addressed the Commission. He expressed his appreciation of the Commissions commitment to the City. He stated he has lived in Canby for 15 years from Carlton, which has no overcrowding in schools or no traffic problems. But Canby is a much better community to live in. He stated his company hires over 80 people and that most of his business is not in the City of Canby.

Mr. McGregor stated that the Scotts have gone to school in Canby, and live right here in the City; even in the subdivisions they have built. They have created businesses and homes that are good for Canby. The Scott's are good members of the Community.

**Deborah Wade**, stated she has lived adjacent to this property for 10 years. She stated she is in favor of this subdivision. She explained there is other land in the City that has very good soil, but this area is not real productive. She would like to see the Scotts build this subdivision because they build quality homes that families that buy from them tend to contribute to the community and are good neighbors. She likes the fact they are willing to improve the Logging Rd since her property abuts it from the other side.

**Ken Williams** stated he has grown up in Canby and used to coach Tom Scott in T-ball. He is in the construction industry and believes the Scotts are good for Canby they contribute a lot of time and money to the City. He stated that Canby will grow, it is inevitable. He stated in other communities homes are going up on 3,000 square foot lots selling for the same amount of money. He believes this property will develop and the Scotts are the best people to make this happen.

**Ryan Jacobson** stated he is a local business owner and does a lot of subcontractor work for LES Inc. He stated that what is in this application for the City of Canby, was that Tom Scott almost always exclusively uses local people which keeps the money in the City. Canby is well served to develop quality homes like this.

**Pat Harmon** states he moved to Canby in 1962 and has seen it grow a lot. Everyone talks about quality of construction, which is great but the state mandates that we get highest and best use of our land, Canby is known for the quality of land but east of Redwood the soil quality start declining. The land was used for pasture and grass goes well with homes.

**Ken Guisinger**, Manager of Canby Building Supply stated that he has lived in Canby for 30 years and that Canby has high quality builders that aren't found in other towns. It isn't about money; it is the quality of life the employees have by living in town. The City needs to continue to grow in planned circumstances and some of the residents need to be convinced that bringing new lots in a timely manner is important and bringing in larger areas of land doesn't mean it will all develop at once, it takes time. If we don't get new lots in Canby there will be a decline in employment.

## **OPPONENTS:**

None

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

Mr. Able expressed his concern the approval from the state at this time and wanted it conditioned. He agrees that the little fenced off wetland areas can become ugly areas of weeds and blackberries. He wished it could have been integrated into the community better than being blocked off. He stated that with a development this large he would have like to have seen a park created.

Mr. Helbling believed this proposal makes sense to approve. The Commission has wanted to rechannel traffic down Redwood and away from the intersection at Territorial and Hwy 99E, this development does that. He agrees with the request from Mr. Sisul to reword condition #13 to specify phase I.

Mr. Manley was also concerned that the wetlands was not something that could be enjoyed, just a boxed off area that could not be seen or enjoyed. He stated that the applicant is asking that the sidewalk standard be waived so they could have curb tight sidewalks. He did not believe it should be waived.

Mr. Molalmpy had concerns about the wetlands also. If it does not get enough water it could become a fire hazard, when it rains will it be a pond or a bog, will it create a mosquito problem? He does not believe all the issues have been addressed.

Mr. Brown believed the solar requirement should be waived and that the code should be looked at. He expressed his concern that phase II should be coordinated with adjacent property owners to come up with a better design.

Mr. Brown read Pat Muller's letter in opposition to this development. He addressed the school issue and explained that he Commission always considers schools but they cannot use schools as the sole reason for denying an application.

Mr. Brown stated it was discussed at the last Planning Commission meeting that subdivisions that created traffic onto Territorial Rd intersection would have their certificate of occupancies tied to the completion of the signal at the intersection.

Darren stated that they have had conversations with the City Attorney and that any roadblocks at any phase of construction either at the start of annexation or the end

of building permits basically becomes a defacto moratorium on development and there is concern about the legality of enforcing it. John explained that state law says if you have a pattern of denying developments it is a defacto moratorium and you have to declare a moratorium. It is do able but there is a process under state law.

Mr. Brown stated this is a major policy decision and would like to have the Mayor and City Council's input. The Commission decided that a determination needed to be made as to what constitutes a "significant" amount of traffic before a policy can be made. It was discussed that it is not the amount of traffic at the intersection that is the problem it is the severity of the crashes at the intersection. It was decided that this was an idea worth pursuing.

It was moved by Mr. Able to approve SUB 04-04 with the amendments of condition #29 waiving the solar standards, #11 changing the typographical error of DEQ to DSL, #13 to include a reference to phase I of the parent parcel and #15 revise to allow curb tight sidewalks only along Redwood St. Seconded by Mr. Molamphy. Motion carried 4-2 with Mr. Manley and Mr. Ewert voting no.

**CPA 04-01/ZC 04-02 Plantore/SR Smith** The applicant is seeking to amend the Comprehensive Plan Land Use Map and zoning designation and to reconfigure a 2.20 acre taxlot on the southwest corner of Highway 99E and SW Berg Parkway. The property would be rezoned from Light Industrial to Heavy Commercial Manufacturing.

Mr. Brown read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. 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 this application does not include a specific site development proposal that would be subject to review at a later date. The SR Smith development contains just less than 9 acres. The lot line adjustment and rezoning involves just 2.2 acres on the corner. The company has increased their efficiency and the buildings on that corner are no longer needed. They would like to remove those buildings and develop that property as CM, Commercial Manufacturing. To the west is the Molalla River, the property to the south is also zoned M1, light industrial, to the east the property is zoned C2, highway commercial and property to the north is zoned CM, commercial manufacturing.

Darren stated that there would be increased traffic volume at the intersection of Hwy 99E and Berg Parkway but it is a fully signalized intersection. He stated that ODOT has expressed a potential concern regarding the intensity of use but there is no site development proposed.

Darren stated there are no hazard areas identified with this portion of the property. There will be no impact on the Molalla River. All facilities are available and no concerns were expressed from utility providers.

Darren explained that the proposed rezone of the property would allow higher density of use and better utilize the exposure to the highway. The proposed zone change would not allow housing so there is no potential for residential development.

Darren stated that staff concludes the proposal meets all necessary criteria and recommends approval.

**APPLICANT:**

**Katie Fernandez**, McKenzie Group representing Plantore/SR Smith. She explained they are proposing a zone change, comp plan amendment along with a lot line adjustment with the new zoning boundary. She stated that there is a demolition permit ready to be picked up for the demolition of the existing buildings.

Ms. Fernandez stated that the purpose of this application is to allow the owners more flexibility in redeveloping the site. Right now it is zoned industrial and the commercial manufacturing district allows retail and service type uses along with the industrial use under a conditional use permit.

Ms. Fernandez believes the necessary criteria have been met. There were issues raised by the Fire Department and the Electrical provider that were related to future development of the site and making sure that the utilities are taken care of during demolition.

Ms. Fernandez stated that the State has raised some issues with future development of the site with both the volume to capacity ratio and access to 99E. It is the applicant's wish that these issues be deferred to site and design review when we know what is proposed for the site and what the new tenants transportation needs are and what kind of impact they will have on the system. They have put together a traffic study based on worst-case scenario, which is a 14,000 square foot retail establishment and 4,500 square foot drive thru restaurant.

Mr. Able asked if there was any pending development or are they considering marketing it. Ms. Fernandez believes that Plantore is interviewing people to market the property. They intend to continue manufacturing at the SR Smith plant.

Mr. Manley questioned the shape of the proposed lot. Ms. Fernandez explained that the new property line is basically 20 feet from existing buildings that will remain on site. Mr. Manley asked if the idea is to share a common access on Berg Parkway. Ms. Fernandez stated that is the intention.

**PROPONENTS:**

None

**OPPONENTS:**

None

Mr. Brown closed the public hearing and opened Commission deliberations. He explained that it was pretty straightforward. The Commission would have another opportunity to look at this during site and design review.



Mr. Able asked what the availability was for commercial property. Mr. Brown stated this is a desirable corner and could be merchandized many ways. It was discussed that this is the gateway to Canby and whether it should be an area of special concern. John explained that it would be a comprehensive plan amendment.

Mr. Ewert questioned if there were any issues with the City's right-of-way and Berg Parkway. John explained that the work designing the road to 13<sup>th</sup> is underway. The design of the intersection and truck movement would be looked at with the site and design review.

It was moved by Mr. Manley to recommend approval to the City Council of CPA 04-01/ZC 04-02 and to approve LLA 04-01 as written. Seconded by Mr. Ewert. Motion carried 6-0.

## **V FINDINGS**

**SUB 04-02** An application by Nick and Jamie Netter to subdivide two parcels into eleven building lots for the construction of single-family homes. The parcels contain 2.98 acres located at 2147 NE Territorial Rd., west of Hwy 99E.

It was moved by Mr. Able to approve the Findings for SUB 04-02 as written. Seconded by Mr. Helbling. Motion carried 4-2 with Mr. Manley and Mr. Ewert voting no.

**SUB 04-03** An application by Primelan Properties requesting to subdivide one 4-acre parcel into twenty building lots for the construction of single-family homes at 185 NE Territorial Rd. Located on the southwest corner of N. Juniper and NE Territorial Rd. Existing structures would be removed from the property.

It was moved by Mr. Manley to approve the Findings for SUB 04-03 as written. Seconded by Mr. Able. Motion carried 5-1 with Mr. Ewert voting no.

## **VI MINUTES**

It was moved by Mr. Ewert to approve the minutes of 4-12-04 with the modification of the date, which was listed as March 22, 2004. Seconded by Mr. Manley. Motion carried 6-0.

## **VII DIRECTOR'S REPORT**

John asked if the Commission wanted to visit the solar ordinance. It was agreed to have staff work on it.

John addressed the commercial land supply availability; he explained that people have come into the office looking for commercial land, concerned about the price of commercial land and the location of the land that is available. The Commission stated they would like to have staff bring back some information.

John asked if it would be appropriate to have design standards for Highway 99E. There are design standards for the downtown and the industrial areas and it may be

appropriate to have standards for the highway.

John asked if there was something the Commission wanted staff to do regarding the intersection at Hwy 99E and Territorial. Mr. Brown asked if there could be a joint meeting with the City Council. John explained there had been a discussion regarding having a meeting about the current lands supply, it would be worthwhile having that meeting since there are 6 annexation applications for the next election. It was suggested that a joint meeting be set up to cover both issues.

John stated that the proposal to connect Ardnt Rd with NE 3<sup>rd</sup> St would be presented to the Clackamas County Board of Commissioners on May 25, 2004 at 9:30am. He stated he would confirm with the Commission regarding what will be presented.

John questioned the Commissioners regarding how many hearings they want to hear a night. It was decided to limit the hearings to 3 a meeting. If the backlog gets too large they would prefer to schedule a special meeting.

The Commission questioned where the Northwood application was. John explained that the Court of Appeals has had it's hearing and a decision is expected in June.

The Commission questioned what has happened with the Apollo homes subdivision. John explained that it is past the appeal time, but there have been no pre-construction meetings or proposals at this time.

Mr. Brown stated that Habitat for Humanity is looking for reasonably priced property to build on so if anyone has some property and is willing to sell let them know.

## **VIII ADJOURNMENT**