

# MINUTES

## CANBY PLANNING COMMISSION

7:00 PM July 26, 2004  
City Council Chambers, 155 NW 2<sup>nd</sup>

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### I. ROLL CALL

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

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

**OTHERS PRESENT:** Doris Dramov, Jamie Johnk, Ron Berg, Jerry Rothe, Ken Sandblast, Curtis James Rice, Shirley Kimberger, Lucy Freeman, Bruce Labaron, Pat Sisul

### II. CITIZEN INPUT

None

### III. NEW BUSINESS

None

### IV PUBLIC HEARINGS

**CUP 04-02 (Dramov)** The applicant is requesting permission to allow “automobile, motorcycle, boat, or truck service, sales, repair, rental, or storage” at the industrially zoned buildings located at 493 NE 3<sup>rd</sup> Avenue. The Planning Commission may approve such uses through the Conditional Use process. The applicant has proposed a development restriction preventing outside storage of vehicles outside of regular business hours to address potential aesthetic or parking concerns.

Chairman Jim 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. It was noted that there was a letter from Canby Business Revitalization and Development and as the President Mr. Helbling stated he had no prior knowledge of the project or exposure to the applicant.

John Williams, Community Development and Planning Director presented the Staff Report. John stated that the buildings are zoned M-1 Light Industrial which has some confusing language regarding the uses. It allows automobile body shop or heavy repair shop (but does not define what heavy repair is). It also allows machinery, farm equipment/implements sales, service or rental. Over the years there has been a lot of interest by tenants. When the zoning and uses were reviewed staff found the “tricky”

area was for small vehicle repair shops. Planning staff have used the “manufacturing component” to help in their interpretation for allowable uses. The current applicant would like clarification.

John further explained that there are two restrictions; the first would be “no outside storage of vehicles or boats except during regular business hours”. The second would be “all uses must conform to building codes”. Not all of these buildings are rated for containing vehicles. The applicant will need to get a building permit, change the occupancy and comply with the requirements.

The main element with conditional use permits is judging the compatibility with the neighborhood. In this case the main potential conflict is with the residential zoning across the street. The industrial zoning allows just about any kind of manufacturing or heavy industrial uses as long as the uses are limited to the inside of the buildings and vehicle storage does not become an issue. The design of the site should minimize any of these potential problems. There is no public service impact anticipated. The neighboring properties other than the residential mentioned earlier are all industrial. Staff recommends that the application be approved and that the three conditions requested be imposed.

Commissioner Ewert questioned changing the occupancy, from a building code standpoint and parking. Parking is flexible in the number of parking spaces but all agreed it is limited. Jim Brown stated that the uniform building code and the international building code use a car or a motorcycle as a hazardous materials receptacle so the fire resistance of the frame of the structure would have to have a specific rating and there would have to be separations between adjacent uses. Cars in the buildings with fuel in them inside the buildings require a different kind of occupancy.

Applicant was called forward. **Byron Kibbee** stepped forward, stated he is there on behalf of the Dramov’s and believe they are in accord.

**Jamie Johnk** came forward. She advised she is with Canby Business Revitalization and Development and she had been working with Mr. Dramov on this application. Mr. Dramov has looked at other locations in Canby but found that there is a limited supply of property available to fit this type of use.

Commissioner Helbling inquired into the amount of jobs this facility will offer. Ms. Johnk advised that there would be 5-6. The square footage is approximately 1,566 square feet. Chairman Brown inquired into the amount of inquiries into that specific type of use. Ms. Johnk advised that there have been 3 in the last couple of years.

Opponents called, none responded. Hearing closed.

Commissioners discussed their concerns regarding the wording of the conditional use. Parking could be a problem because of the number of employees and that would leave a lack of room for customers. Parking enforcement would be self monitored because of the other businesses in the complex. The city code enforcement officer could be involved if it became a problem. Commissioner Molamphy stated he

has a concern with semi's parking in the area. All agreed that the property is not set up for large vehicles, tractors. Another area of concern was the term "sales". This property should not be turned into a commercial property. John suggested writing the approval with a stipulation that would exclude sales-only type business. The commissioners agreed that they would like the permit amended to read "incidental sales and rental".

Commissioner Manley made a motion to approve the conditional use permit as amended. Seconded by Tessman. All voted in favor, no opposition.

**DR04-04 Wade Smith RV Storage Lot** The applicant is requesting approval to construct an RV Storage Lot located on the west side of Redwood Street behind Spectrum Woodworking to accommodate approximately 250 recreational vehicles, i.e. motor homes, travel trailers, boats, etc.

Chairman 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 reviewed the staff report. The proposal would permit storage in an open-air parking lot with a landscaped perimeter, a small office and a gated entrance with a septic disposal facility all of which would be served by a 25-foot access drive. The site is located on an industrial flag lot behind an existing development in the Redwood Industrial park. Drive access to this parcel is located between Spectrum Woodworking and Club-Fit workout center on the west side of South Redwood, south of the fire station and north of SE Township. The property is zoned for M1 Light Industrial Use, this allows for uses such as transfer and storage, contractor's equipment storage, and other auto related uses.

Darren stated that three sides are zoned for light industrial use. To the west there is a portion of property adjacent to the subject parcel that zoned for R2 High Density Residential and is developed as apartment houses. Site and Design Review criteria required landscaping to be installed within the parking area of an industrial development. In this case the applicant's proposal is to create a use that is a parking lot. There would not be any structures associated with it. Landscaping would create an attractive entrance and buffer the parking area from the residential development on the west side. The applicant proposes to construct a 25' access drive, which would extend between Club-Fit and Spectrum Woodworking. The applicant also proposes to construct an RV Sanitary dump, which would be a secure dump station and would not be open to the public. It would be monitored between the hours of 8 and 5. Wastewater Treatment supervisor Darvin Tramel said he would be happy with the operation of the septic dump.

Darren continued stating the existing site has no landscape at present. The applicant intends to provide parking for five full size vehicles, which would be incidental to the office. One approximately 4 X 10, ground level sign has been proposed at the entrance. Other public facilities and services are adequate. This property has been difficult to sell, staff recommends approval as it is compatible and an appropriate use of

the land.

Commissioners asked staff questions regarding different issues. Darren responded stating that the applicant intends for the surface to be asphalt, part of the storm water design includes some strips of concrete. The City engineer has reviewed the proposal and approves it pending DEQ approval. Natural filtration systems, if constructed properly, include the top two or three inches of soil premeditating all oil and other pollutants just as good or better than a catch basin. His understanding is that it will be irrigated whether manually or through a mechanical system.

Chairman Jim Brown called the applicant forward. Wade Smith of 1195 Dollar Street West Linn OR 97068 came forward and stated that this lot is 311' deep and 50' wide. The project is compatible with surrounding uses and is less obtrusive than most other industrial applications. The project will generate minimal traffic and noise pollution. Landscaping will limit the visibility from basically all sides. He will be concentrating a lot of screening to the south area where the residential properties are. Regarding the leakage of oil he stated he would be on site each day. If he were to see something that is questionable, the vehicle owner would be telephoned and they will be given ten days to resolve the problem or be evicted. The maximum allowed signage for this zone would be 600 square feet. The applicant is proposing a 50 square foot sign, low to the ground with a brick or rock façade.

Chairman Brown inquired into the fence and security at the site. The applicant stated they are planning a woven wire 6' 3 strand fence around the property for security and no fencing on the drive access. The applicant stated that the security will be the fencing, the gate is PIN accessed. They are not initially planning on video surveillance at this time. The applicant would like to have the option of an on-site caretaker if security becomes an issue. The yard lights are to be provided by Canby Utility and applicant believes they are about 25 feet in height. Brown thought the applicant might be wrong about the height of the lights. The landscape plan includes a row of fir trees that already exist. In addition there will be 40 arborvitae along the western property line. The plan indicates that the arborvitae stop at tax lot 900. Applicant wants the record to show that if trees were to be placed, the applicant would like them placed so that they do not interfere with the sign. The storm water system uses the pervious concrete was an idea suggested by Darren of the Planning Staff. The applicants engineer thought it would be a good way to help with the storm water. That will absorb quite a bit of the water, any water that is not absorbed through the pervious concrete based upon the grading of the property will drain towards the west, where there will be a catch basin. Underneath the drive from the catch basin there will be a drainpipe going into the retention pond area.

Proponents/opponents – none – Hearing closed.

Chairman Brown opened the floor to the Commissioners. They discussed the issue of the fence. They inquired as to comments from the Fire Marshall. John stated there is a hydrant on the Spectrum property on the back lot. Any issues can be brought up at the pre-construction meeting and the fire Marshall should be there. The drawing before the Commissioners has a hydrant about 2/3 back on the west hand side of the

access drive. Brown stated he would like to limit the size and height of the fixtures. The applicant stated he knows of some lights behind Safeway that are said to be the exact same bulb and light fixture, they are 25 to 30 feet. Brown also has some concerns about the pervious surface. He said regardless of the management of the property, it does not safeguard the water table from hydrocarbons. He believes it should be hard piped along the eastern property edge. Darren stated this would work but would put more of a burden on the storm water swale system. Public dry wells would also be an option.

Commissioner Manley stated this proposal would require DEQ approval with regard to drainage. He is comfortable with the decisions DEQ has made in the past. Commissioner Tessman stated he has seen a demonstration of this pervious concrete and he thinks it works well in drainable soil. Commissioner Brown said he would like to request that the applicant add some trees along the access drive. Commissioner Ewert stated he thinks the project is good for Canby. If trees were required he would like them to trees that would not be caught by a vehicle, like an evergreen tree. Brown suggested extending the arborvitae along the length of the western property edge. The commissioners concluded their discussion by amending the proposal to include 1) height restriction on the lights, no more than 30', standard conditions for light 2) extend arborvitae 3) add four trees along the drive, keeping the first 50' clear 4) fire department review and sign-off 5) applicant needs to restrict use to RV Storage.

A motion was made by Commissioner Ewert to approve DR 04-06 with additional conditions. The motion was seconded by Commissioner Molamphy to approve as amended. Motion carried 6-0.

**DR04-06 Zoar Lutheran Church** The applicant is requesting approval to construct an education wing on the Zoar Lutheran Church property at the existing church site located between 2<sup>nd</sup> and 3<sup>rd</sup> Avenues one block west of Ivy Street. The proposal would extend the church development to add classrooms and office space. Access to the proposed extension would be provided by means of a newly paved drive and parking area with ingress/egress from drive entrances on SW 2<sup>nd</sup> and SW 3<sup>rd</sup> Avenues.

Chairman 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 reviewed the staff report. The applicant is John Kimball. This proposal is to construct a detached structure used for offices and classrooms for the church. Zoar Lutheran church is located on three tax lots between 2<sup>nd</sup> and 3<sup>rd</sup>. The site was recently approved for a rezoning on one portion of the church property in order to consolidate zoning under the C2 Highway Commercial designation. The intent of the church was to consolidate zoning of all three parcels to accommodate this redevelopment. Adjacent on three sides are additional parcels zoned for C2 Highway Commercial. To the south across SW 2<sup>nd</sup> are parcels zoned for R2 High Density Residential. This proposal would be the first phase of a complete redevelopment at the

church site. Other phases would include new chapel and parking areas. The site has existing landscape. Students at Clackamas Community College will prepare the landscape design. This has been delayed until school resumes. The design includes 13 new full size parking spaces; there are currently 40 spaces, this meets the minimum requirement for church use. Parking would be accessed from SW 2<sup>nd</sup> and SW 3<sup>rd</sup> Avenue. The driveway approach would meet the commercial standards. Sidewalks would be maintained and improved. No new signs are proposed. The architecture design calls for tilt up concrete walls with comp roofing and steeply pitched trusses. That design will be carried through into the new chapel when that phase comes up for review. Darren concluded by stating that this design scored 79%, well in excess of the minimum 65%. Staff recommends that the design be approved.

#### **APPLICANT:**

**Richard Rothweiler** came forward and stated he represents Zoar Lutheran Church. He is an architect and his business address is 363 State Street Salem, Oregon. He stated that the structure currently being used is antiquated and needs to be phased out. The plan is to build the education wing with restroom facilities, office and classroom uses. The profile will be low scale to fit in with the residential neighborhood. Phase II will be a multi-purpose area and Phase III will be a chapel. The projects calls for new parking areas including two handicap accessible spaces. The storm water application is awaiting approval from the DEQ.

Commissioners asked for more information on the landscaping plan. The applicant stated that plant layouts and irrigation system would be designed once school resumes at CCC. The south property will be developed during Phase II. Jim Brown stated that there were a lot of small issues with this property that already exist. The applicant agreed stating that these issues, access, landscaping and parking will be remedied in future phases. Commissioner Helbling inquired into designing the building to fit in with the new apartment development. The applicant stated that they are trying to keep Phase I a little lower and more residential in feel because of height and materials. Phase II will be a bit larger and then the chapel, Phase III, will be accented with concrete tilt panels that reveal score lines to help break up the panels. Helbling suggested as this phase progresses that they keep the other side of the street in mind as it could enhance the area and remove the stark contrast. Darren stated that this design is similar to the commercial property just across Second Avenue. The shape has similar wall heights, gables and architecture.

#### **PROPONENTS:**

**Ron Berg** stated he lives right across the street from the church on Third Avenue. He is in support of the project and is excited about the landscaping plan and the people involved in establishing it. Mr. Berg stated he also represents the church building task force. He feels their proposal is compatible with the neighborhood and useful to the church.

**Jerry Rothe** stated his property joins the church property on Third Street. He is also a member of the church building task force. He stated he is very much in favor of

the construction.

No other proponents, no opponents, hearing closed.

Commissioners discussed adding a buffer along Third Avenue, consolidating access and improving onsite-parking circulation.

Commissioner Tessman made a motion to approve DR 04-06 as written. Motion was seconded by Commissioner Ewert and approved 6-0.

**SUB04-05 Dupont** The applicant seeks approval to subdivide one 12.85 acre parcel into 30 buildable lots of approximately 8,000 – 15,000 SF. One existing house is proposed to remain on a newly created parcel at the end of NW 8<sup>th</sup> Way. The applicant proposes to provide street access by means of a forty-foot wide public right-of-way extending from N Ash and N Aspen Streets. The application meets zoning and comprehensive plan designations of R-1 Low Density Residential.

Chairman Brown read the public hearing format. When asked if any Commissioner had a conflict of interest, Commissioner Molamphy stated he was within the 500' zone and had received a notice in the mail. He stated he had not formed any opinion on this application and he has also no financial interest. No other conflicts were expressed. Commissioner Molamphy stated he intended to participate in the hearing. When asked if any Commissioner had ex-parte contact. Commissioner Manley stated he had visited the site and had not formed any conclusions. None other was stated. No questions were asked of the Commissioners.

Darren Nichols summarized the staff report. He stated this applicant is by Paul and Susan Dupont seeking approval to divide a 12.85 acre parcel into 30 buildable lots. This tract is undeveloped and is approximately 24,000 square feet. The existing house will remain on a newly created parcel within the proposed subdivision at the end of NW Eighth Way. Other access is proposed by means of 40' wide public streets from N Baker and N Ash. The parcel is located on the east bank of the Molalla River immediately to the north of Knights Bridge Road. The site includes approximately 1200 linear feet of river frontage, that river frontage includes four acres of steep bank. That river bluff contains evergreens and deciduous trees as well as low growing vegetation on slopes which are up to and greater than 45 degrees. The proposed lots are to be constructed on the gently rolling sites on the top of the bluff. The property to the north, east and south are all zoned for R1 Low Density Residential. The property to the west across the River is outside the city limits and outside the UGB. Those properties are zoned by Clackamas County for Exclusive Farm Use and should not be impacted significantly by this development.

The subject parcel is located immediately to the northwest of an existing development, Lillian's Meadow. The proposal shows an extension of existing streets, which would create a uniform neighborhood. It would create a loop connection through the subdivision as well as a small cul-de-sac to the north of the existing home. The applicant proposes a 40 foot wide public right-of- way which would include 36 foot wide paved streets, 5 foot sidewalks and street trees. The housing on this site is an

approved use of the property. The average lot size not including the conservation easement is 10,250. The average lot size is well over 10,000 square feet.

Darren said some of the issues that needed to be addressed are erosion, fire protection and creating and maintaining an emerald necklace in accordance with the parks master plan. Darren stated that one option would be to create a 15' wide public access easement. This easement would 1) create some security along the top of the bluff 2) minimize the amount of erosion 3) create an automatic setback at the top of the bank that would help to protect homes from any kind of wild fire.

The balance of the lots, not including the steep slope, are located well out of the flood plain on suitable soils for development. It is not involved in any strict agricultural production. The height of the bank ranges from roughly 75 ' to 115 ' above the river.

Darren reviewed the request for comments received from neighbors and service providers. Initially the design called for a fairly deep storm water pond on what is now lot #10 and would have concentrated all the storm water into a fairly deep pond. There were quite a few comments that came back that didn't show that to be a favorable system and so the applicant is proposing now to concentrate storm water infiltration into a series of drywells at the first corner of north Ash Street. According to city engineer this would be a favorable solution if it receives DEQ approval. It concentrates storm water infiltration away from the bank and minimizes the erosion exposure without creating a deep storm water pond or infiltration facility.

The Fire Marshall recommended that all the lots adjacent to the proposed conservation easement provide a 100-foot fuel break and a minimum of 30 feet of defensible space. Staff came to a conclusion that it is not realistic to expect homeowners to maintain a fuel break over the top of a steep slope; it would be difficult to enforce. It would also be very difficult to maintain and would increase the potential for erosion with people working on the slope doing maintenance. Staff felt it was not an option. The conservation easement should be maintained at a 50' proposed setback. This is a guideline only. Lots 1, 2 & 4 would be difficult to maintain at that distance. The existing homes would be well within the 50' proposal.

Darren concluded saying that the proposal falls within the goals and policies of the Comp Plan as well as the Land Development Planning Ordinance. Staff recommends with the proposed amended conditions that the subdivision be approved.

Commissioners discussed the utilization of the Molalla River; the area is used by a lot of city residents when the temperatures rise. This could cause a concern for people who live in that area if a fire were to start and breach the bank. How defensible would it be at that point? How compatible will the development be with those types of uses? How visible will the homes be along the river frontage? John responded regarding the park along Knights Bridge Road. It is a County park and the City of Canby contributes a lot to its usage. John stated he would like to see a park in the long-range plan. The Commissioners also discussed the lot lines, issues regarding flooding and the placement of some of the lots at the south end of the property. Commissioner Manley inquired in lots 1 & 2. Those lots extend into what is proposed for the conservation

easement.

Chairman Brown set ground rules for public testimony. He stated that the discussion would be limited to the merits of the subdivision application and the ramifications of it. The decision on whether the lots should be developed had already taken place. Their decision would be based on the application meeting the 6 points set out in the criteria.

**APPLICANT:**

**Ken Sandblast**, Planning Resources, Land-Use Planning Consultant. He and Pat Sissul, civil engineer, are working with the Dupont's on the proposed subdivision. Their goal in the planning stage was to get as far off the bank as possible. The conservation easement is at the top of the bank; there is no development that is proposed in the easement and no structures, no landscaping, no vegetation removal planned. It is completely out of the flood plain. The County is currently surveying the property, as the County believes the property line runs to the center of the river. The land slopes back after the bank to the east. It was quite natural that the storm water and all the run off goes back to the east side of the site. The utility plan is designed as sedimentation manholes and drywells. The plan is pending DEQ approval. Water from the roads will be collected and put into those drywells. The private system will be used to collect runoff from the individual rooftops and driveways. Runoff from the lots on the bluff would go into an underground system on an easement in the back of lots 28 & 29. The Ash street extension will be completed and will provide two access points and better circulation and connectivity for the subdivision. The cul-de-sac was created for access to Mr. Dupont's home and the three adjoining lots.

Mr. Sandblast continued referring to one of the configurations that the city engineer noted was in the vicinity of lots 25, 26<sup>th</sup> and 27<sup>th</sup>. That is simply a configuration that is attempting to try and get at the 10,000 lot size maximum. Lot #27 on the east edge tends to be more irregular but it also a little over 10,000 sf. Also, between #18 & 19 there is a tract of land. At some point in the future that has been designed so that it can be partitioned into three lots. The services would be right there for the extension of 11<sup>th</sup> as it comes off Ash Street.

Mr. Sandblast then referred to the staff report and focused on the conditions of approval. Condition #7 encompasses both of the big issues, the minimum 50' setback as well as the 15' public access easement. A geotechnical report was done and it indicated that to do a standard foundation for a house it would be a minimum 30' setback from the top of the slope. They do not plan on being any closer than 30'. Lots 1 & 2 do go over the top of the bank. That is because the buildable envelope depth isn't quite deep enough. Those lots would take some site-specific geotechnical work to insure that they were stable. That bank is not quite as high as the rest of the properties. The applicant requests the Planning Commissions support for the 30' setback, both for geotech and fire safety. The applicant met with Ron Yarbrough to talk about his concerns. He would like to see fire resistant building materials and vegetation. He would like to see the yards manicured instead of in a more natural state. The 30' will achieve the same fire protection safety. The applicant does not support the idea of the

public access easement. Erosion and fires safety is a concern and introducing the public down there affects these issues.

Mr. Sandblast referred the Commissioners to the site plan. He reviewed the NE corner at the end of Ash Street. At that point there is an existing platted ten' wide pedestrian access. He stated their configuration not only redirects but also improves it and should provide pedestrian connections through the property. He believes the emerald necklace concept will be difficult to implement and asked the Commission to remove the requirement for a public access easement.

Mr. Sandblast requested the conditions regarding setbacks be amended to require 30' setbacks. He stated that condition #11 had a reference to wetland remediation and the applicant is asking that condition be removed since there are no associated wetlands with this application.

Commissioner Helbling stated that the dry well concept should have a safety back-up plan; in a significant rain event the dry wells can plug up due to biological contamination and fill up. Geotests show that water infiltrates at 12 – 17 inches an hour and then drains to the west into the river.

**Pat Sisul** of Sisul Engineering stated that in addition they have tied the drywells together so that if one has poor soil and does not drain well then the other backs up.

Chairman Jim Brown questioned whether they looked at extending NW 9<sup>th</sup> to the north of Lot #9 instead of creating the cul-de-sac. Mr. Sandblast stated that Mr. Dupont had talked to owner of tax lot #1500 behind 7, 8 & 9. He is the owner of the existing house on the south end, the wider part of the triangle. He stated that they could not get a road through because of the house; there is the possibility in the future there might be a property line adjustment to integrate that into Lot 9 or even 8. Brown stated this leaves some rough edges along this diagonal. He questioned their intent to come back and clean up the edges of the ownerships? For example, extend NW Baker. Another example is on lot #2 in the adjacent development. Is that somehow going to get linked and create a full lot? Mr. Sandblast responded saying what they tried to on lot #27 was dedicate what is an irregular shaped right of way. Lot 2 has a partial easement access because it did not have any frontage. The irregular shape dedication was an effort to give lot 2 frontages across its entire shape, even though it's a diagonal.

**PROPONENTS:**

None.

**OPPONENTS:**

**Curtis James Rice** questioned the exact location of what is referred to as a 40' public right of way extending from North Ash to North Aspen Streets. There is confusion over where the access will be. It was determined by Darren, John Williams and the Planning Commission that there were a number of errors regarding the streets referred to and whether these streets were NW or N. Jim Brown stated that any errors

in the staff report will not become part of the record and will be corrected. Another party, who was not identified, shared the same concerns as Mr. Rice on where this right of way was located.

**Richard Sutter** questioned the dispersal of the rainwater. He was not aware of the revised plan and would like to know where the drywells will be placed. Mr. Sutter stated he is a contractor and deals with flooded crawl spaces. His property is across the street from where the pond was going to be and is seven feet lower. He is concerned that his crawl space will flood during the winter months. He stated he has no objection to the proposal; he just wants to have proof of where the drywells will be so that he can be assured that his crawl space will not flood. John William stated the PC looks at the design of the lots, the traffic, the landscaping, etc. If approved, the next stage is to work out the details with the utility providers, the sewer department, the DEQ and Canby Utility. John stated that the project engineer should be able to answer the questions to the Commission's satisfaction.

**Shirley Kimlinger** states her home is beside lots 1 & 2. Her concern is building homes on the small lot to the south. She stated she had been to the Planning Department prior to the purchase of her home and had been told that this lot was too small and too close to the riverbank to build on due to erosion concerns and overhanging trees which could be a fire hazard. She had taken this information and felt that she was purchasing a home that would remain on a quiet dead end street. She would prefer that no homes be built on the southern part of the proposed subdivision. Chairman Brown stated that this property had been zoned R1 for over twenty years. John stated that Darren had recommended in his staff report that lots 1 & 2 be combined, the applicant had agreed.

**Lucy Freeman** states she has concerns with traffic near her home. Aspen Court is one block west of Birch and it is the first access to Knights Bridge going to Interstate 5. There already is a lot of traffic on her street accessing Knights Bridge and she has concerns that this subdivision will bring more. Additionally she expressed concern with construction traffic using Aspen Court. She was referred to the Traffic Safety Committee as an alternative to address her concerns. John Williams agreed that her suggestion of using an alternative route by construction traffic was valid.

**Dick Colenso** representing Canby Grove Conference Center for which he is the chairman of the Board and the Executive Director. He stated that they do not oppose the development but have some concerns regarding lots 1 and 2 being so near the center that they would intrude upon the peace and quiet of the center. He stated they are also concerned regarding fire hazards due to this development.

**Bruce Labaron** stated he has concerns regarding lots 1 & 2 and the "Safe Harbor Act"; which draws a line at 90 degrees from the high water mark and then goes back 75 feet. Where does that leave these houses? Darren says the mark is half way up the slope. Mr. Labaron said every agency he talked to have a different interpretation of the high water mark and questioned where he could get accurate information.

## **REBUTTAL:**

**Mr. Sandblast** clarified the drywell system and pointed out their locations.

**Pat Sisul** added that their plan was to restrict any infiltration within 200' of the river. Lots 1,2,3,4, 5, 6 and a portion of 7 would fall within that 200' line. Everything that is closer than 200' to the top of the bank will have their roof water hard piped to some other to the back of lots 28 & 29. Those lots beyond the 200' dimension would have the standard roof drain systems. They are attempting to keep roof water and street water separate. Roof drain water will go to a private system, maintained by a homeowners association. Street water will go to public drywells. Drywells will be located on lots 28 & 29 and Baker Street at the corner. The geotechnical report requires that infiltration rates be confirmed at the time of construction. Their intention is to test it out in the field at that time.

Mr. Sandblast explained the measurement of the 75' setback is shown on the plan, it is measured vertical and is a true 75' setback and lots 15, 16 & 17 there will be over 150' setback.

Mr. Sandblast stated they would accept and adjust for Mr. Rice's concerns regarding driveway access for lots #1, 2 & 3. This access would come from NW Eighth Way effectively making Mr. Rice's house a dead end driveway.

Mr. Sandblast he would like the record to reflect they do not believe there is legal basis for requiring the public access easement. Chairman Brown clarified that the applicant was making a claim "asking for the public access easement represents a "taking in Dolan"". Mr. Sandblast further stated that the staff report failed to explain the essential nexus as required by the Dolan case.

Mr. Sandblast stated he had requested Ron Yarbrough send an e-mail to confirm the statements he had made to the applicant. Darren stated they had received an e-mail from Ron that had come into the office that afternoon indicating that he thought that the plan was for a 50' easement. Mr. Sandblast requested a copy of this e-mail.

Closed Public hearing. Chairman Brown proposed that this application be continued for a few weeks. The other commissioners agreed stating that they would like further information and clarification on such issues as setbacks, measurements from the center of the river, storm water dispersal, emerald necklace concept, essential nexus.

Chairman Brown would like to have the City Attorney, look at the nexus issue and the public easement in relation to that. Brown also requested information on lots 1 & 2 and the required setback. It was agreed to continue the hearing until August 9<sup>th</sup>, 2004 at 7:00 p.m. The applicant and public can respond to any new information presented.

## **V FINDINGS CPA 04-02/ZC04-03 Perman**

A Motion was made by Commissioner Ewert and seconded by Commissioner Tessman to approve the Findings, Conclusion and Final Order for the Perman CPA/ZC. Commissioner Manley pointed out an error in the text, motion amended to reflect the correction. The motion is to deny the zone change. All in favor, approved 6-0.

## **VI DIRECTOR'S REPORT**

John Williams reported on the Arndt Road project. The project budget is \$17M. The council likes the project and would like input from the Commission. The question is what will have to be put on hold in order to fund this. Projects that could be delayed are the signal at Township and Ivy, Ivy Elm and 99E improvements and resurfacing Knights Bridge Rd. The Arndt Road Project includes extending 13<sup>th</sup> through to Berg Parkway.

Commissioner Tessman suggested a joint meeting between the Commission and the Parks Advisory Board. Chairman Brown agreed citing a discussion he had with the Chamber regarding the downtown master plan and other policy decisions. The Commissioner agreed to call the Parks Board and set up a meeting.

## **VIII ADJOURNMENT**