

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – October 24, 2011
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Chair Dan Ewert, Commissioners Sean Joyce, John Proctor, and Randy Tessman.

ABSENT: Commissioners Misty Slagle, Janet Milne, and Chuck Kocher

STAFF: Bryan Mr. Brown, Planning Director; and Laney Fouse, Planning Staff

OTHERS: Roger Skoe, Kathleen Polley, Brad Anderson, Wayne Dillinger, Bob Zimmer, Buzz Weygandt, Craig Lewelling, Charles Burden, Jerry Turner, Phil Shepard, Brian Hodson and Roger Reif

1. **CALL TO ORDER 7:00 pm**

2. **CITIZEN INPUT- None**

3. **PUBLIC HEARINGS**

None

4. **NEW BUSINESS**

The reconsideration of a request by Wayne Dillinger, Area Wide Towing of Molalla, for an **Outright Permitted Use determination** regarding his proposed business in an M-1 zoning district at the NW corner of SE 4th Avenue and Sequoia Parkway.

Staff Presentation:

Bryan Brown, Planning Director provided some background information on the towing company's request for a determination that his proposed towing business be an outright permitted use. He said this was somewhat of an appeal of a staff level decision already indicating that the subject use would need a conditional use permit. The request is being brought to the Planning Commission to make a use determination for the towing business in an M-1 zoning district.

Mr. Brown said the property Mr. Dillinger located as suitable is in the Canby Pioneer Industrial Park which has the M-1 underlying base zoning with an (IO) industrial overlay district. He said it will be up to the Planning Commission to make a final determination as to whether the use is allowed outright or if it must go through the conditional use process.

Mr. Brown explained uses allowed in the M-1 zoning district and conditions appropriate in the industrial overlay. He indicated that he did not believe the proposed use was prohibited by the industrial overlay use provisions.

Applicant Presentation:

Applicant Wayne Dillinger clarified that this is not a wrecking or salvage yard operation. He said he basically needs a place for vehicles impounded by city and county law enforcement. He said vehicles will be towed and parked at his yard for about two to three days maximum. The lot will

be located in a small section which is fenced and sits in the back on the property. Privacy fencing is already up. It's a temporary spot for vehicles and will house 3 or 4 cars plus his tow truck.

Public Testimony:

Roger Reif, spoke on behalf of the Burden Trust property. He said the statute that most prohibits this type of business is the prohibited use under the industrial overlay. He said parameters need to be set similar to those used for KB recycling and thinks Commissioners need to look at it further.

Craig Lewelling, property owner at Walnut and First Street said the original goal was to make Canby Pioneer Industrial Park a grade A industrial park. He said the other businesses may look at it negatively.

Bob Zimmer, property owner in the industrial park said the industrial overlay was something they grumbled about originally but was the standard they set for the park. Zimmer said he wants to maintain those standards by having this use be allowed only by conditional use.

Jerry Turner, one of the owners of Pioneer Pump said he is concerned about property values falling because of businesses that do not live up to the image set for the industrial park. He thinks there should be conditions set.

Charles Burden, Trustee for Ray L. Burden Family trust supports the Commission findings of April 25 when the Commissioners stated this should be a conditional use permit. He said he wants to be sure the usage of the land has conditions in order to maintain a good image for property owners who have invested in the park.

Applicant Rebuttal:

Wayne Dillinger said he is not here to downgrade anyone's business and did not appreciate some of the things that were being said to that effect. He said he does not understand how he's going to hurt anyone's business. He pointed out that one business has cars lying in the bushes and there is another towing business across the street from the same industrial park. Dillinger said prior businesses at the same location included a port-a-potty and a towing business.

The current building is an eyesore and he said he wants to come in, clean it up and put some nice signs on it. Dillinger also said he wants to be a good neighbor.

Commission Discussion:

Commissioner Tessman said there are other possible categories under which the towing business could fall like a transfer and storage company although there are other categories it could also be interpreted to fall under. He said the commissioners need to narrow it down to what is allowed.

Commissioner Proctor said he agrees with Tessman. It's a tough decision, he said, but understands the standards sought for Pioneer Industrial Park and concerns about this business. He cannot say he's 100 percent for or against it.

Commissioner Joyce said if the towing business was intended to be an outright use in an M-1 light industrial zone then it would have been written that way. He said he is inclined to choose to go with a conditional use permit.

Chair Ewert said when he thinks of tow trucks and towing yards it has a stigma in his mind. It wasn't a very appealing thing yet believes a towing service serves a community well.

Mr. Dillinger said they are bringing it to another level such as cross training with the fire department so they can implement something the community has never had before.

Chair Ewert said what it boils down to is what we do here and that is to plan. He said outright use takes away assurances within the industrial park. He believes it is a good service but they cannot avoid the process. He said he felt it needed to come under a conditional use.

Commissioners Tessman and Joyce said it needs to be a conditional use.

Chair Ewert told Mr. Dillinger the Commission wished they could make the conditional use process simpler and asked Mr. Brown if they had that ability.

Mr. Brown said they did not as it is now outlined specifically within the code and adopted master fee schedule. Also, as Mr. Reif pointed out, there is a provision in the industrial overlay zone that states a business must have 12 employees per acre and if a business is going to have less than that then this aspect also requires a review of a conditional use permit.

MOTION:

A motion was made by Commissioner Joyce and seconded by Commissioner Tessman to deny the request for an Outright Permitted Use for a towing service in the M-1 district and that it must be a Conditional Use Permit.

The motion passed 4-0.

Chair Ewert called for questions.

Mr. Dillinger asked even if he had a conditional use permit who would determine what he needed and would it satisfy the industrial park business owners.

Chair Ewert explained with a conditional use permit, it would bring a more defined picture of what he was going to do and what it was going to look like, although, he could not say for certain if it would be approved or not.

Commissioner Joyce said it would offer a plan to look at and a plan to enforce later.

Mr. Dillinger asked what would be enforced.

Commissioner Joyce responded that it would be the conditions that are asked for with approval.

Brad (tow company employee) said they were a small business and had already invested time and money in this project and the conditional use permit was a roll of the dice.

Chair Ewert explained that the conditions would not be any more or less than what anyone else would have to do.

Brad said it was his understanding there was no guarantee they could move forward even if there was a conditional use permit application.

Mr. Brown said there is no guarantee a conditional use permit is going to be approved until a public hearing is advertised and held. In most cases conditional use permits are indeed

approved due to the comfort factor of knowing exactly what you are getting and being able to mitigate any identified adverse impacts through the application of appropriate conditions.

Commissioner Tessman said it's a better vision of what they are looking at and an opportunity for us to see what we can and cannot approve. Then they can set the conditions on what would make it possible to be approved.

Brad said he understood all the concerns and conditions and assumes under current zoning there are rules and regulations to be followed. What it boils down to is whether the property is zoned for our business or not.

Chair Ewert said the Commission felt it did not fit the outright use part of the zoning.

Brad said that even with the conditions there is not a guarantee it would be allowed.

Chair Ewert suggested they talk to Mr. Brown because he could probably give them a comfort level to help them decide whether to go forward with the project or not.

5. MINUTES

September 12, 2011 – Commissioner Tessman moved to approve minutes of September 12, 2011 as presented. Motion seconded by Commissioner Joyce and passed 4-0.

October 10, 2011 – Commissioner Joyce moved to approve minutes of October 10, 2011 as presented. Motion seconded by Commissioner Tessman and passed 4-0.

6. ITEMS OF INTEREST FROM STAFF

Mr. Brown told the Commission about the new associate planner – Angeline Lehnert, stating that she was a part time planner in the office on Monday, Tuesday and Thursday and had started work on October 19, 2011.

He also reminded the commissioners about the Special Planning Commission meeting Nov. 21, 2011 to continue the public hearing of the Village of Lochs project which was continued to that date certain.

Currently there is nothing scheduled for the Nov. 14, 2011 Planning Commission Meeting so a cancellation notice will be sent.

7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

Mr. Brown introduced Laney Fouse, administrative office specialist to Commissioner Procter.

Commissioner Joyce has concerns that they are not enforcing appropriate standards across the board.

Mr. Brown said the particular issue being discussed was difficult because it involved occupying an existing building. People kept raising the industrial park design standards but they do not apply if you are not building something new. That is why the issue discussed tonight was all about a “use determination”.

Commissioner Joyce said his concern is telling someone they can't use it for a specific use or they must have a conditional use.

Mr. Brown said you have the opportunity through a conditional use to approve a use with certain conditions versus other uses which are outright permitted. When construction is involved there is a site plan. But what may have evolved over time may not have been shown on that site plan. Although no one is out there looking for violations, when it comes to our attention than we look for possible violations or conformance with anything we have as being approved on record.

Mr. Ewert said it behooves us all to police our own community.

8. ADJOURNMENT at 8:03 PM.

(Minutes Approved November 21, 2011)