

**MINUTES**  
**CANBY PLANNING COMMISSION**  
**May 13, 2013 at 7:00 PM**  
**City Council Chambers – 155 NW 2<sup>nd</sup> Avenue**

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**PRESENT:** Commissioners Sean Joyce, Shawn Hensley, Charles Kocher, John Proctor, John Savory, Tyler Smith (Chair)

**STAFF:** Bryan Brown, Planning Director, Angie Lehnert, Associate Planner, Laney Fouse, Planning Staff, Greg Ellis, City Administrator, and Amanda Zeiber, Assistant City Administrator/HR Director

**OTHERS:** Bob Cornelius, Matt Michel, Karl Refi, Troy Ainsworth, Eric Wilcox, Bob Backstrom, Katherine Christiansen, and Brian Christiansen

**1. CALL TO ORDER:**

Chair Smith called the meeting to order at 7 pm.

**2. CITIZEN INPUT ON NON-AGENDA ITEMS: None**

**3. PUBLIC HEARING:**

Public Hearing to consider approval of a Site and Design Review and Major Variance (Type III) to build a new city library to be located at 162 NW 2nd Ave in the C-1 Downtown Commercial/Core Commercial subarea of the Downtown Overlay Zone **(DR 13-01/VAR 13-01)**.

Chair Smith read the public hearing format.

Commissioners stated they have no conflict. Chair Smith said he had ex parte contact – he spoke with Bryan Brown, Planning Director; was asked questions by community members, and had previously spoke with Commissioner Hensley about the library project.

Commissioner Savory said he too had ex parte contact. He had conversations with Commissioner Hensley before the library project was put on the Planning Commission's agenda. Commissioner Joyce said he had no ex parte contact. Commissioner Hensley said he had ex parte contact. He said he spoke with Commissioners Smith and Savory prior to the library project being put on the Planning Commission's agenda.

***Staff Report:***

Angie Lehnert entered her Staff Report into the record. She said the proposed development includes a new 22,600 square foot Library and a renovation to the existing City Hall with the entire site consisting of 30,450 square feet. She said the recent code amendments had not taken effect when this application was received so it is being reviewed under the code chapters in place at the time of submittal. She also said none of the new code revisions affected this application.

Ms. Lehnert explained there was written testimony from Canby Utility Board and the City Administrator regarding the property ownership issue and that no other written testimony had been received.

Ms. Lehnert noted there are no parking requirements in the C-1 Zone but there are loading berth and size requirements that staff is asking for an exemption because a large loading berth is not needed for a library.

Ms. Lehnert said the trash and recycling area will be screened by landscaping. She said she would like to make it a condition of approval to ensure the landscaping island will stay in place should there be design change as part of the screening is on an adjacent Tax Lot owned by the City.

Ms. Lehnert said when the adjacent parking lot modifications or possible new construction design is final they will be reviewed under a Type 1 Administrative process by the Planning Director, and Clackamas County will do the review for the accessible parking spots.

Chair Smith asked about the shared access with Canby Utility. Ms. Lehnert explained that Canby Utility would be sharing access to the library's proposed private alley drive pretty much as they do today.

Chair Smith asked how the requirement in 16.41.010 requiring a 2-story building was dealt with and if the applicant had applied for a variance.

Mr. Brown explained that the 2-story intent in 16.41.010 A. is in the overlay district purpose statement where intent is noted and although relevant, is not representing an actual development standard in itself, and since the applicant has otherwise demonstrated that the identified development standards are met, they should not have to comply with the 2-story building intent.

***Major Variance:***

Ms. Lehnert said the applicant is requesting a major variance in the minimum area requirement for landscaping because the code calls for 7.5% landscaping and the project is proposed to have 450 square feet of landscaping instead of the necessary

2300 square feet. She said the main reason for the variance is there is not enough room. She said the applicant would go into more detail during their presentation.

Ms. Lehnert said the conditions of approval were standard but included other provisions as well as Condition #12 requiring a written signature from Canby Utility prior to construction.

There was some discussion about why Condition #12 was included and Chair Smith asked if doing so would set any precedent. Mr. Brown explained that it was a practical approach taken in processing this application due to the uniqueness of the application with two public entities involved. Mr. Brown said no construction would happen until the ownership issue was resolved by condition of approval.

Commissioners had a discussion about the Canby Utility parking lot issue. Matt Michel, Canby Utility General Manager had concerns that CU would not be able to obtain their need for a sufficient number of off-street parking spaces and review of the traffic circulation on their site if the library's parking needs were evaluated through a Type 1 process which only needs the Planning Director's approval.

Mr. Brown explained that the number of parking spots for Canby Utility is part of the negotiations for the land swap or sale and not a matter for evaluation in the site and design review process for the library which does not require any on-site parking.

There was discussion as to whether the Council could appeal the decision made by the Planning Commission. Mr. Brown explained that the Council has the ability to make an appeal of any application reviewed by the Planning Commission as does the applicant.

***Applicant:***

Troy Ainsworth, FFA Architects & Interiors talked about the process that was taken for the design of a new library which has taken place during the last three years. He said it also included hosting three community meetings which were well attended.

Carl Refi, FFA Architects & Interiors designer presented a 3-D computer model of the proposed library and explained how its design responds to the downtown Canby requirements.

There was discussion regarding the decision to have only a one-story library building. Mr. Ainsworth explained that a one-story building was strongly recommended because it is more economical to build, maintain, and more economical to staff.

There was discussion regarding the variance which was requested by the applicant to in not meeting the 7.5% landscaping standard. Chair Smith questioned the applicant about their requested variance and said he was struggling to figure out how the

variance review criteria is being met in terms of how the owner could not have control over the property to meet the landscaping since they are building from scratch. Mr. Ainsworth said the library needs to be a certain size.

Proponents: There were none.

***Opponents:***

Robert Backstrom, citizen and chair of Riverside Neighborhood Association, said he has concerns about the ownership of the land and whether the City is going to buy the CUB property and feels the Commissioners are spending their time on something that might not happen.

***Neutral:***

Matt Michael, General Manager, Canby Utility, provided clarification on the ownership issue. He said the City has made an offer to purchase all three tax lots which Canby Utility owns and are currently in negotiations for the land purchase. Mr. Michel said CUB would like clarity on the location of the loading area as it pertains to the flow of traffic leaving Canby Utility.

Mr. Michel said they are concerned about their employees' parking needs should the parking lot be evaluated through a Type 1 process. The Type I process, he said, does not give CUB a voice to address their parking needs and asked to Commissioners to make it a condition of approval to notify CUB and allow them to be able to review the parking issues applicable to them.

Mr. Michel said CUB questioned the landscaping variance as a safety issue because there will be traffic circulation by both library patrons and CUB customers. In his comment letter, Mr. Michel asked the Commissioners to consider asking why the applicant is unable to change the library's design to provide more landscaping to act as a buffer between the various uses that will be sharing the space.

Chair Smith asked Mr. Michel to identify the types of parking issues they might have.

Mr. Michael explained that it was the common sense aspects like how would the flow of traffic work, is there enough clearance for the significant traffic using their payment drop box and those using the library book return, a functional turn radius, the screening for the trash area and a pad mount transformer would which would take up additional parking spaces. All of these issues, he said, affect their designated on-site parking for customers and employees.

Chair Smith asked Mr. Michel about his position on ownership of the property in relation to written comments from the City Administrator which included a clause from Chapter X, Section 4 of the Canby City Charter. Chair Smith read from the

comments, in which it stated, that members appointed to the Canby Utility Board are subject to removal by the Mayor and a majority of Council members.

Mr. Michael pointed out that CUB could sue and be sued unlike the Planning Commission and therefore, this makes CUB a municipal corporate entity separate from any City authority. This, he said would mean that the property in question is owned by CUB.

***Rebuttal: None***

Chair Smith closed the Public Hearing at 8:38 pm.

***Commissioner Discussion:***

Commissioner Savory said he was uncomfortable giving approval while negotiations with CUB were still ongoing. He said the Code calls for two floors and he is concerned about bypassing code regulations and procedures which they would not allow with a private entity. In addition, he said he shares the concerns of Mr. Michel regarding parking and the turning radius and these issues need to be resolved first.

Chair Smith asked for clarification from Commissioner Savory about his comment regarding the Code requiring a minimum of two floors and if it should be part of the approval criteria. Commissioner Savory said that is what he meant by his comment.

Commissioner Kocher said the Commission did not know what was going to happen with the development because they did not have enough information to approve it and he said he was still concerned about having exits in the northeast corner of the building should a fire ever occur and it could have the potential of turning into a real hazard.

Chair Smith said he too is uncomfortable with the whole scenario of a conflict going on between two different government entities. He said it did not seem fair or appropriate to give the City the leverage or upper hand in the negotiating power in the negotiations against CUB. He said there is a requirement for a complete application which includes being signed by all owners and because it is not, he feels the application is incomplete. Chair Smith said they would not give other applicants the leeway requested in this application including the requirement for the development to be two floors along the street and to not meeting the landscaping requirements in the code. He said the applicant needs to go back to the drawing board. He also complimented FFA for the architecture and design of the new library structure.

Commissioner Joyce said he does not have a problem with the interpretation of the code or the design of the building. He said he has a problem with the landscape requirement because this building continues on with the feel and structure in the Downtown core. Commissioner Joyce said with the utility customers and the library patrons focused in one area there will be traffic problems. He said there needs to be

landscaping for both the trash area and the transformer. He also said he has problems with the ownership issue and it needs to be settled before moving on.

Commissioner Proctor said this was not a complete application, and in regards to the landscaping issue he wondered if maybe adding a green roof would help the requirements. He said he was okay with it being a one story building, but the code says it should be a two story and the City should not get a free pass. He said he loves the design of the new building.

Commissioner Savory said there were 105,000 visitors to the library in 2011 and according to Library Director Penny Hummel there would be a 15% increase with the new library. He said there would be a substantial increase in traffic with no provisions in dealing with that increase.

Commissioner Hensley said he had issues with the traffic study because the one corner they did not provide any traffic information on was the corner on which the library now resides.

Mr. Brown said the applicant (the City) spent considerable money for a traffic analysis which included the parking lots which included the busy intersections along Hwy 99E. He said Ivy and Hwy 99E is the City's worst intersection. He said the study found that the increase in demand the new library would present would not trigger the need for mitigation at any of the intersections.

Mr. Brown said in thinking about the conundrum should the Planning Commission decision be appealed, the appeal would go to the City Council. He said although the Council has already considered this item it was not in the sense of review pertaining to conformance with the review criteria for a site and design review application. Mr. Brown said if an appeal came before the Council they would evaluate whether the Planning Commission used the proper criteria in its decision; did they veer off course in what they utilized to make their decision, and did they apply the site and design review criteria appropriately.

Commissioner Joyce said he wanted to clarify that the traffic study was not an issue but he was more concerned with CUB knowing what was going on with the parking lot so they could voice their concerns.

***Motion:***

Joyce moved that the Commission deny DR 13-01/VAR 13-01, because the ownership issue is in question with the property proposed for development as well as no variance being requested in regards to the Code section 16.41.010, Section A, that calls for a second level to a building in the C-1 Core Commercial area. Commissioner Kocher seconded the motion.

Chair Smith said he would like to suggest they add into the motion to provide rationale that it is the Commission's interpretation the Code section 16.41.010 is an actual approval criteria. He also suggested they rephrase the ownership issue to not being a complete application. He said he would like to modify those two items. In addition, he said, he would like to modify the motion to add that the evidence presented was not sufficient enough to grant the variance requested.

Chair Smith moved to amend Commissioner Joyce's motion. Commissioner Savory seconded the motion.

***Discussion:***

Commissioner Joyce said he did not have an issue with the landscaping matter because it matches the landscaping design in the downtown core.

Mr. Brown explained that the code calls for 7.5% landscaping and that it is more the variance criteria and how well it is met that should be the deciding factor.

Commissioners discussed the landscape issue and whether or not the applicant gave sufficient reasons as to why they were unable to meet the variance requirements.

There was a call for vote on the amended motion, the amended motion passed 6/0.

Chair Smith said in summary the motion now included a completed application, the interpretation of 16.41.010 as an approval criteria that was not met and no variance was requested for it, and the actual variance criteria was not met for the landscape area reduction.

Motion to deny DR 13-01/VAR 13-01, motion passed 6/0.

**4. NEW BUSINESS**

Request from property owner to consider modifying or deleting the Development Concept Plan requirement from the annexation ordinance.

Bryan Brown, Planning Director presented information how the current annexation ordinance provisions were established and how the process for review was initiated to update the annexation criteria to better reflect the needs of the community. He said the extensive process reflects the recommendations which updated the annexation ordinance to now include the Development Concept Plan. He said the current requirement for a DCP is costly and time consuming for individual property owners.

Brian Christiansen, a resident near Hope Village, said there were financial requirements which would be a huge burden plus the lack of support from neighbors all making the demands of a Development Concept Plan impossible.

Chair Smith proposed the Planning Commission hold a work session to take a look at the exception provision in order to clarify or modify it. Smith suggestion that some further parameters as to when an exception might be appropriate could be looked at.

After some discussion Commissioners agreed to have staff put it on the calendar in a couple of months for a 6 pm off-camera work session and make sure to invite Mr. Christiansen.

**5. FINAL DECISIONS - None**

**6. MINUTES**

Regular Planning Commission Minutes, February 11, 2013.

***Motion:***

Commissioner Savory made a motion to approve the minutes of February 11, 2013, as presented, Chair Smith seconded. Motion passed 6/0.

**7. ITEMS OF INTEREST/REPORT FROM STAFF – None**

**8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None**

**9. ADJOURNMENT**

***Motion:***

Commissioner Kocher made a motion to adjourn the meeting, Commissioner Savory seconded. Motion passed 6/0

Meeting was adjourned at 9:42 pm.

(Minutes Approved 5-28-13.)