

MINUTES
PLANNING COMMISSION
June 10, 2013 at 7:00 PM
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Commissioners Tyler Smith, Sean Joyce, Charles Kocher, Shawn Hensley, and John Savory

ABSENT: Commissioner John Proctor

STAFF: Bryan Brown, Planning Director; Angie Lehnert, Associate Planner; Laney Fouse, Planning Staff; Renate Mengelberg, Economic Development Director; Greg Ellis, City Administrator; Amanda Zeiber, Asst. City Administrator/HR Director; Penny Hummel, Library Director; Marty Moretty, Library Office Supervisor

OTHERS: Carrie Richter, Paul Refi, Troy Ainsworth, Eric Wilcox, Bob Cornelius Matt Michael; Frank Berg, Robert Backstrom, Jeanette and David Van Tassel

1. CALL TO ORDER

Chair Smith called the meeting to order at 7 pm.

2. CITIZEN INPUT ON NON-AGENDA ITEMS - None

3. PUBLIC HEARINGS

- a. Public Hearing to consider approval of a revised **Site and Design Review** to build a new public 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**).

Chair Smith opened the public hearing and read the public hearing format.

Commissioners responded they had no conflict, ex parte contact and had not visited the site.

Chair Smith stated no objections had been made by any audience member or Planning Commissioner regarding comments about the Library at the last hearing. Those comments were made prior to any knowledge this application would be remanded back to the Planning Commission. The discussion and comments are part of the record. No audience member stated any objections.

Staff Report:

Bryan Brown, Planning Director entered the staff report into the record. Chair Smith asked for clarification regarding staff presenting the report and also being representatives for the application. Mr. Brown explained staff would be presenting the report and the City had a team of people who would explain the application and answer any questions the Commission might have.

Applicant:

Mr. Brown stated two sets of findings were included in the Commissioners' packets, one for approval of the application and one for denial. If the Planning Commission considered approval, staff is recommending a change in two of the conditions of approval.

Mr. Brown stated Carrie Richter, Land Use Attorney will focus on concerns the Planning Commission had identified at the last hearing, such as the mass, bulk, size and height of the building, and the issue of the ownership and signature on the application form in regards to the Commission's ability to approve or deny the application.

Mr. Brown stated Eric Wilcox and his team from FFA Architecture will address the Commission's concerns regarding the design of the private drive to the south and how it will function. He said they will also discuss the changes in the landscape plan how it now meets the code and no longer requires a variance application.

Mr. Brown explained the adjacent parking lots are not a part of this application. He said DKS had completed a traffic study and there is newly revised one-way driveway which flows from Holly St. out onto 1st Ave with the issue of the radius and the width at the drop off box being addressed by FFA Architecture and DKS.

Mr. Brown said Greg Ellis, City Administrator was in the audience as part of the City Team and would be available to discuss negotiations regarding the specific location of the proposed Library.

Mr. Brown explained the intent of having the signature line on the application was so there could not be any land use action done on a property where the owner was not aware of it. He stated Matt Michaels was fully aware of this application and it was common practice to put conditions of approval on an application so it would alleviate concerns the Commission might have.

Mr. Brown stated a new narrative had been provided which discusses the landscape issue and other changes needed. Chair Smith questioned when the meeting between the Canby Utility Board and the City regarding the purchase of the proposed property would be held. Mr. Brown stated it would be on Tuesday June 11th, the day after this meeting.

Angie Lehnert, Associate Planner addressed the Commission stating Condition #3 had been revised to address the new driveway and circulation. She explained Condition #16

addressed the property owner's signature and requires all property owner's consent must be obtained prior to issuance of a building permit.

Chair Smith questioned why tonight's meeting was not being held after the meeting with Canby Utility. Mr. Brown stated the timing was critical with this application. Chair Smith stated one of the Planning Commission's concerns was the General Public would see this process as the Commission doing favors or creating a special processes the public would not be able to use. Mr. Brown explained the City Council is the deciding body and they chose to evoke the state statute allowed them to remand it back to the Planning Commission.

There were questions regarding the wording on condition #3, where it states the applicant should consider eliminating on street parking. Mr. Brown explained in this instance with buildings right up to property lines, slow traffic, DKS did not consider elimination of on street parking needed to be a requirement.

Proponents:

Carrie Richter, Attorney with Garvey, Schubert and Baer stated she has been working with the City for approximately 10 years as Special Land Use Council.

Ms. Richter addressed the issues the Commissioners had concerns with at the original hearing the height of the building, the Floor to Area Ratio (FAR), and the owners signature on the application. Chair Smith stated it was not the FAR that concerned the Commission, it was their interpretation that a two story building was required in the downtown zone.

Ms. Richter stated if Canby's Planning Code intended to exclude single story buildings it would have been clearly stated. Instead it is in the Purpose Statement that the FAR is required to be at least 80% giving the Planning Commission the ability to approve single story buildings in the zone.

Chair Smith stated the Commission can determine whether the Purpose Statement should be used as criteria for approval on an application. Ms. Richter used the Canby Herald building as an example of a one story structure in the Downtown overlay zone. She added that a two-story Library structure would provide no transition for the historic City Hall building.

Ms. Richter addressed the owner signature issue. She stated if the City cannot get land use approval, they would not purchase the property, but according to the Planning Commission's interpretation of the code, they can't get land use approval unless they own the land.

Ms Richter understands the Commission's concern regarding treating private developers differently than the City, but she believes this is a different issue. Canby Utility is aware

of the land use application, they have not opposed it and they have asked for this condition to be imposed.

She added the obligation for the signature is a completion criteria, the Planning Director has the authority to and chose to deem the application complete. She added there is case law that once an application has deemed complete you cannot go back and say it didn't include a requirement of completion. Normally situations such as this would be handled by adoption of a condition of approval, which is proposed with this application.

Ms. Richter stated one of the differences between this application and the previous one is there is now an agreement between Canby Utility and the City but no sales agreement has been signed.

There was a discussion regarding the Purpose Statement's intent, which is to require two-story buildings in the downtown zone and how it would work with the existing and historical buildings that are one story at this time. Ms. Richter explained preference would be given to a two-story complex, but in this situation, where the historic City Hall will remain on the site, there would be no transition from the single story. She added that a two-story complex would not achieve the goal of a full length pedestrian friendly street front.

Paul Refi, FFA Architecture said they had met with the Fire Department and received some clarity on the requirements for the alley. He said the Fire Department was not requiring the full width of the alley to be paved it just needs to be obstruction free and with that they were able to add landscaping by way of a planting strip most of the length of the alley except along the area where the book drop off is located so permeable paving would be used at the drop off site. He said the cement ramp on the west wall of the City Hall building will no longer be needed, since there are other accesses available and, by removing the ramp the bicycle rack can be moved closer to the building, and a structural grass which allows grass to grow will be used allowing the amount of landscaping in that area to be increased and gets the landscape coverage to 8% well over the requirement of 7.5%.

Mr. Refi explained they started with the desire to work with the design of the 1937 historic City Hall Building, creating a unique design opportunity. Their solution, he said, melded the old with the new, by recessing the common entrance and as the structure moves away from City Hall it steps up in height. He said, they have included a brick parapet to incorporate the brick from City Hall, and believed the brick, glass and aluminum design bridges the old City Hall Design and with today's modern one.

There was discussion regarding the code requirement of the second story to look like a residential structure and how this design meets that. The design standards require a store front look on the ground floor and a more residential look to the top portion. This design reduces the glass on the top to a smaller scale and separates the glass with bands on both the top and bottom for more details.

The Commission asked for clarity on the increases in landscaping and where they would be located. The landscape plan will now include a 6' wide strip along most of the driveway, removing the old Fire Station driveway allowed more landscaping, removal of the old cement ramp on the west side of City Hall allows the bicycle ramp to be moved closer to the building which will allow structural grass to be installed in that area. The Commission asked for clarity on what "structural grass" was. It is a plastic form that is installed about 3" below grade and allows grass to grow on the top, it is not intended for vehicles to drive on, but it will support the weight of a Fire Truck's outriggers.

Greg Ellis, City of Canby Administrator addressed the Commission. He stated that the ownership issue is being worked on and a tentative agreement has been drawn up. He agreed that the Planning Commission shouldn't give the City special treatment, but also believes the City should not be held to a higher standard. The Commission has traditionally allowed applications by imposing conditions of approval. Chair Smith stated the usual practice would be to have an approved purchase agreement with a condition the sale is contingent upon approval of the land use application. Mr. Ellis stated there may be terms that need to be decided in the executive session and not be public knowledge until it goes before the City Council where the terms can be talked about in a public setting. There would hopefully be a public session on the June 19th.

Opponents:

None

Neutral:

Robert Backstrom, Canby citizen, stated he was fairly neutral on this issue, but he had read Mayor Hodson's blog regarding the Library becoming obsolete in 10 years and it would only be half paid for. He said the City Council had first voted to not proceed with the project, and one councilor changed his vote. He said there is no guarantee the City Council would vote to go forward and asked the Commissioners to go slow in making this decision.

Rebuttal:

Troy Ainsworth, FFA Architecture addressed the Commission. He stated his company has been working on this project for over 3 years, and did the needs assessment before then. He stated his company plans for the long term, they usually plan for 15 to 20 years, past 20 years is difficult to predict. They designed the project to the best of their ability for the long term.

Chair Smith, asked if the research was done 3 years ago and whether it is only good for 12 more years. Mr. Ainsworth explained they have updated it every year using new data, when the 2010 Census numbers came out they incorporated those new figures into the data. Chair Smith asked if the building size had changed at all, Mr. Ainsworth stated it had not.

Carrie Richter responding to statements the City should not fund the Library; stated funding is not an approval criteria.

Greg Ellis, clarified the City Council will not be meeting tomorrow; they will be meeting on the June 19th.

Commissioner Deliberation:

Commissioner Joyce said the architect did a great job on the landscaping. He said under the Conditions of Approval item #3B should be stricken. He said he did not have a problem with the ownership issue because previously the Commission had approved a Site and Design Review for the Fred Meyer store prior to them actually owning the property on which they now reside. He said the Commission should not hold the City to a higher standard than the private population and vice versa. Commissioner Joyce said the two-story issue is an area of the code he feels conflicts with itself.

Commissioner Kocher said he likes the design of the Library, how it appears to be a two-story building and the change in the landscaping.

Commissioner Savory said he appreciates the effort on the addition of landscaping. He said he is still uncomfortable without a signed agreement stating transfer of the land has been made. He said he cannot move beyond the fact the maximum lot coverage insures the development will be a minimum of two floors.

Commissioner Hensley said he was impressed by the landscaping. He said he has a problem with the ownership of land issue because the property owner, Canby Utility, is still not comfortable giving their consent and he did not want to give an upper hand to the City.

Chair Smith said he did not see anything changes from when they made their last decision. He said the City Council did not reverse anything, they did not issue any interpretation, and they did not say we got this wrong and they want us to reconsider it with this factor. He said he has concerns with the land ownership because there is no signed contract. And, he said the Commissioners would be doing something amiss if they approved this under the current code.

Motion:

Commissioner Savory made a motion to deny the DR 13-01 based on 1) CDC 16.41.010 is currently an approval criteria and the building is not two-story and 2) the City is currently not the owner of all of the property. Commissioner Hensley seconded. Motion passed 3/2.

4. NEW BUSINESS

- a. Food cart policy discussion

Commissioners and staff held a discussion on a process needed that would allow permanent food carts and other small scale vendors in the City of Canby.

Commissioners agreed they would like to see this type of business but there needs to be process which includes time limits, design standards, what types of carts could be used, and determine application costs.

Jeanette spoke briefly to the Commission explaining that their food cart was the first mobile processing unit in the State of Oregon and they need the space for their cart to get their product to market.

Commissioners directed staff to put a process together and bring it back the Planning Commission for their review.

5. MINUTES

- a. Regular Planning Commission Minutes, May 28, 2013.

Motion:

Commissioner Kocher made a motion to approve the May 28, 2013 minutes as presented, Commissioner Hensley seconded. Motion passed 5/0.

6. ITEMS OF INTEREST/REPORT FROM STAFF

- a. Mr. Brown said the June 24th meeting will consider the Fred Meyer application which was remanded back to the Planning Commission by the Land Use Board of Appeals (LUBA).

7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

- a. None

8. Adjournment

Motion:

Commissioner Savory made a motion to adjourn, Commissioner Hensley seconded. Motion passed 5/0. Meeting adjourned at 9:29 pm