

**PLANNING COMMISSION
Meeting Agenda
Monday – February 11, 2013
7:00 PM**

City Council Chambers – 155 NW 2nd Avenue

Commissioner Tyler Smith (Chair)

**Commissioner Sean Joyce (Vice Chair)
Commissioner John Proctor
Commissioner John Savory**

**Commissioner Charles Kocher
Commissioner Shawn Hensley
Commissioner (Vacant)**

- 1. CALL TO ORDER**
- 2. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 3. PUBLIC HEARINGS – None**
- 4. NEW BUSINESS - None**
- 5. FINAL DECISIONS**

Note: These are final, written versions of previous oral decisions. No public testimony.

- a) Site and Design Review, Fred Meyer, DR 12-03 (Pages 2 – 8)

6. MINUTES

- a) Regular Planning Commission Minutes January 28, 2013 (Pages 9 – 18)

7. ITEMS OF INTEREST/REPORT FROM STAFF

- a. Next Planning Commission scheduled for Monday, February 25, 2013

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

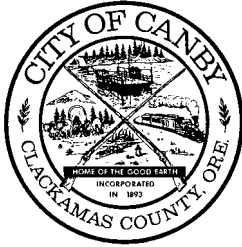
9. ADJOURNMENT

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting at 503-266-7001.

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**BEFORE THE PLANNING COMMISSION
OF THE CITY OF CANBY**

A REQUEST FOR SITE AND DESIGN) FINDINGS, CONCLUSION & FINAL ORDER
REVIEW FOR) DR 12-03
A NEW FUEL STATION AT 351, 369) FRED MEYER STORES, INC.
AND 391 SE 1ST AVENUE)
AND 354 & 392 SE 2ND AVENUE)

NATURE OF THE APPLICATION

The Applicant has sought three consolidated approvals from the City of Canby (“City”) for (1) Text Amendment #TA 12-01 seeking to adjust the subarea boundary of the Downtown Canby Overlay Zone (“DCO”) from Core Commercial (“CC”) to Outer Highway Commercial (“OHC”) (“Text Amendment”); (2) Zoning Map Amendment #ZC 12-02 corresponding to the requested Text Amendment (“Map Amendment”); and (3) Site Design Review #DR 12-03 for construction of the six unit fuel-dispensing station (“SDR”). The approvals involve property described as Tax Lots 100, 200, 300, 2200, and 2300 in Section 33 of Township 3 South, Range 1 East, Clackamas County, Oregon (the “Property”). The Property is zoned Highway Commercial (“C-2”) under the Canby Municipal Code (“CMC”).

HEARINGS

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02. The duly noticed hearing for DR 12-03 was held January 28, 2013 before the Planning Commission at which the Planning Commission unanimously approved DR 12-03. These findings are entered to document the approval.

CRITERIA AND STANDARDS

In judging whether or not a Site and Design Review application shall be approved, the Planning Commission determines whether criteria from the Code are met, or can be met by observance of conditions, in accordance with Chapter 16.49.040. Other applicable code criteria and standards were reviewed in the Staff Report dated January 28, 2013 and presented at the January 28, 2013 meeting of the Canby Planning Commission.

FINDINGS AND REASONS

The Planning Commission considered applications TA 12-01 and ZC 12-02 after duly noticed hearings on July 23, 2012, September 24, 2012, and October 22, 2012. The City Council after duly noticed hearings on November 7, 2012 and December 5, 2012 approved the applications for TA 12-01 and ZC 12-02. The public hearing for DR 12-03 was deferred pending City Council action on TA 12-01 and ZC 12-02. The duly noticed hearing for DR 12-03 was held January 28, 2013 before the Planning Commission at which the Planning Commission unanimously approved DR 12-03. These findings are entered to document the approval.

The Staff Report was presented, with the power-point presentation entered as part of the record, and written and oral testimony was received at the public hearing. Staff recommended approval of the Site and Design Review application with Conditions of Approval in order to ensure that the proposed development will meet all required City of Canby Land Development and Planning Ordinance approval criteria. In the course of public testimony, attorney Michael Connors representing Save Downtown Canby delivered written testimony dated January 28, 2013 that supported his oral testimony.

After hearing public testimony, and closing the public hearing, the Planning Commission made the following additional findings beyond those contained in the staff report to arrive at their decision and support their recommended conditions of approval and the exact wording thereof:

- They agreed to approve the findings, conclusion, and final order at the next meeting to be sure staff was able to accurately capture areas of agreement, desired wording, and the conditions applied.
- They determined the Downtown Overlay District clearly authorizes the Commission to evaluate the applicability and suitability of alternative means to meet the intent of the downtown design standards. It was agreed the Commission has discretion to look at the context in which the standards are to be applied to determine their applicability.
- It was concluded that the monument sign as proposed did not fully conform to applicable ordinance standards and should be modified.
- The Fuel Canopy was determined to be a structure and not really a building, allowing flexibility in the application of certain Development Standards that would otherwise not be fully met as applied to the proposed development of this site.
- They accepted a correction staff noted with regards to staff's findings with regard to the point matrix within Table 16.49.040 clarifying that it was determined that the applicant had achieved 29 out of 37 total available points, and 6 out of 10 Low Impact Development points to fully meet the respective 70 and 15 percent requirement without any necessary rounding.
- Signage proposed on the canopy was determined to fall within the overall code allowance for all frontages in for both number and size based for on estimated size calculations for depicted. It was acknowledged that Oregon law requires that all fuel types be advertised if any are, contributing to the size of sign copy on the site. Canopy sign permits are necessary.
- Concern was voiced about the limited on-site parking, recognizing that some employees will be utilizing on-street public parking along 2nd Avenue. On street parking is allowed, but existing bus stops on both sides of SE 2nd Avenue currently restricts some on street parking. However, it was agreed that the minimum parking standards are based on building square footage, for which the site exceeds the standard by providing 2 parking spaces.
- The Commission concluded that the traffic study provided was properly prepared with reasonable methodology making the findings and recommendations valid. The study could have included additional intersection analysis, and possible different store comparisons, but the scope of work was approved by both the City's transportation engineer and ODOT representatives who would have asked for those items if they thought the additional analysis was necessary to assure whether additional mitigations might be needed to address possible safety or traffic capacity concerns. The applicant's traffic engineer's arguments citing use of site specific data rather than ITE manual data, and why the amount of additional traffic will not be enough to trigger the need for more intersection studies was accepted. The traffic study produced and its recommendations were therefore accepted.
- Consideration of restricting the shared 99E driveway up front with initial construction was finally

dismissed as being potentially harmful in terms of access to both the adjacent common driveway owner, and to other businesses – including across the street - due to the likelihood that such a restriction would be accompanied by a median in the highway.

CONCLUSION

In summary, the Planning Commission adopted the findings contained in the Staff Report, concluded that the Site and Design Review application meets all applicable approval criteria, and recommended that File #DR 12-03 be approved with the Conditions of Approval stated below. The Planning Commission decision is reflected in the written Order below.

ORDER

Approval of this application is based on submitted application materials and all written and oral public testimony. Approval is strictly limited to the submitted proposal and is not extended to any other development of the property. Any modification of development plans not in conformance with the approval of application file #DR 12-03, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. The Planning Commission concludes that, with the following conditions, the application will meet the requirements for Site and Design Review approval. Therefore, **IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that **DR 12-03** is approved, subject to the following conditions:

A. Design Conditions:

1. The applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk. Final sidewalk design must be approved by the city prior to construction.
2. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). As a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be determined to be final, with no further rights of appeal. *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
3. *Condition #3 presented in the January 28, 2013 Staff Report concerning the setback of the vehicle maneuvering area was omitted by the Planning Commission because it was determined that the setback in question was not applicable to the development and that the setback called for would not be an ideal configuration for the site.)*
4. The site's signage shall not result in glare onto neighboring properties or onto public right-of-way per the standard of 16.42.040(B) (3). *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
5. The applicant shall use canopy lights that are recessed up into the canopy or that apply shielding in a manner that prevents light trespass, as defined in 16.43.020. *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in*

order to provide more specificity.)

6. The applicant will be required to maintain all landscaping on the site.
7. The applicant shall coordinate this development with the Oregon Department of Transportation (ODOT) and shall obtain all necessary permits from ODOT prior to construction.
8. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility (CU), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.” *(This condition has been modified from the original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
9. The development shall comply with all applicable City of Canby Public Works Design Standards. *(In order to provide more specificity, this condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report to assure construction plans conform to City standards.)*
10. The development shall comply with design requests from agencies and Canby Public Works representatives that submitted design recommendations; these comments are attached and incorporated into this staff report and include comments from:
 - a. Hassan Ibrahim, Curren McLeod, consulting City of Canby Engineers, items 1-9 in memo dated 1/10/13
 - b. Chris Maciejewski, DKS, consulting City of Canby Traffic Engineers, memorandum dated 7/17/12
 - c. Gary Stockwell, Canby Utility Board, comments dated 1/9/13 with attached site plan markups and comments dated 2/21/12
 - d. Dan Mickelsen, Canby Public Works, comments dated 1/14/13
 - e. Dan Kizer and Jennifer Wood, NW Natural Gas, comments dated 6/25/12 & 1/9/13
 - f. Darvin Tramel, City of Canby Environmental Services Coordinator, comments dated 1/14/13

(In order to provide more specificity, this condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report.)

11. Easements for electric service by Canby Utility shall be dedicated along the frontage of SE 2nd Avenue and a portion of the Locust Street frontage as indicated in Gary Stockwell’s comments dated 2/21/12 and 1/9/13. *(This condition has been modified from the Condition #9 original version presented in the January 28, 2013 Staff Report in order to provide more specificity.)*
12. Tree species suitable for planting under overhead lines along the Locust Street frontage, in compliance with the provisions of 16.49.120(F) and as approved by the City Arborist, shall be specified on the final landscape construction plans. *(This condition was modified from the Condition #10 original version presented in the January 28, 2013 Staff Report in order to provide more specificity and removes mention of SE 2nd Avenue as no overhead line exists or*

will exist.)

13. On-site stormwater management shall be designed in compliance with the Canby Public Works Design Standards, and in particular:
 - a. The project shall be required to retain and infiltrate on-site all stormwater generated by the development up to the 25-year, 24-hour storm event (25-year storm) as defined in Section 4.301 of the Canby Public Works Design Standards.
 - b. An emergency overflow shall be designed to direct runoff from storms in excess of the 25-year storm to the street as defined in Section 4.311 (b) of the Canby Public Works Design Standards.

(This condition has been modified from the Condition #11 original version presented in the January 28, 2013 Staff Report in order to provide more specificity as called for in the public works design standards.)

14. If future ODOT monitoring, evaluation, or design review of improvements to OR 99E find that the full access to OR 99E has safety issues related to queuing onto the highway, or crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island (e.g., inadequate deceleration space or queuing conflicting with safe crossing conditions for pedestrians), the owner/operator of the site will accept the access being restricted to right-in/right-out maneuvers. This condition shall be placed upon the property such that it carries from one owner to another (to be effective if the property ownership changes in the future with the same use). *(This condition has been added to the original list of conditions presented in the January 28, 2013 Staff Report to emphasize that ODOT may restrict this driveway in the future and to state the Planning Commission's support and desire for ODOT to have the authority to impose a restricted driveway in the future should actual traffic use parameters deem such consideration necessary to protect the safety of the general public and maintain suitable function and level of service of the State Highway.)*

15. The proposed monument sign shall have a distinct base, middle, and top, and the base and top shall be constructed of stone, brick, or wood as specified in 16.42.040(C). The sign shall also be in conformance with the requirements of 16.42.050, Table 3, "Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)". *(This condition was added to the original list of conditions presented in the January 28, 2013 Staff Report at the Planning Commission's request and determination that the monument sign as proposed needed a frame or top cap to more clearly meet the above cited standards.)*

B. Procedural Conditions:

Prior to issuance of Building Permits the following must be completed:

1. Submit final construction plans: Final construction plans shall indicate the design, location, and planned installation of all roadway improvements and utilities including but not limited to water, electric, sanitary sewer, natural gas, telephone, storm water, cable, and emergency service provisions. Construction plans shall be designed and stamped by a professional engineer registered in the State of Oregon.
2. Prior to the issuance of a County Building Permit/City Site Plan Review permit, final

construction plans must be approved by the city and all other utility/service providers. The City of Canby may require a pre-construction conference to obtain final approval from utility providers and applicable city departments. This includes, but is not limited to, approval by:

- a. City of Canby Planning: Reviews construction plans for depiction of the conditions of approval determined by the Planning Commission
 - b. City of Canby Engineering/Canby Public Works: Review stormwater, sanitary sewer/wastewater, grading/erosion control, street trees, and other applicable items. A non-residential wastewater survey must be submitted for review and approval by the city prior to final building occupancy.
 - c. Canby Fire District
 - d. Canby Utility – water and electric service
 - e. Northwest Natural Gas
 - f. Canby Telcom
 - g. Wave Broadband
3. **Clackamas County Building Codes Division** will provide structural, electrical, plumbing, and mechanical plan review and inspection service for this project. The applicable building permits are required prior to construction.

I CERTIFY THAT THIS ORDER approving DR 12-03 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this _____ day of _____, 2013

Tyler Smith
Planning Commission Chair

Bryan Brown
Planning Director

Attest

ORAL DECISION: January 28, 2013

WRITTEN DECISION: February 11, 2013

Ayes:

Ayes:

Noes:

Noes:

Abstain: _____

Abstain: _____

Absent:

Absent:

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – January 28, 2013
City Council Chambers – 155 NW 2nd Avenue

- PRESENT:** Commissioners Shawn Hensley, Sean Joyce, Charles Kocher, John Savory, Tyler Smith, and (Vacant)
- ABSENT:** John Proctor
- STAFF:** Bryan Brown, Planning Director; Angie Lehnert, Associate Planner and Laney Fouse, Planning Staff
- OTHERS:** Steve Abel, Mike Connors, Jim Coombes, Lee Leighton, Brent Ahrend, Jake Tate, Curt Hovland, Wayne Oliver, Ryan Oliver, Mike Arb, Roger Skoe

1. CALL TO ORDER

Chairman Smith called the meeting to order at 7:00 pm.

There was a request by Commissioner Proctor to participate by video conferencing. Commissioner Savory moved to allow Commissioner Proctor to participate by video conferencing. The Motion was seconded by Commissioner Kocher. The motion passed 5/0.

2. CITIZEN INPUT – None

3. PUBLIC HEARINGS – None

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

All five Commissioners stated they had no conflict of interest.

Angie Lehnert, Associate Planner entered the staff report with the PowerPoint presentation into the record. Ms. Lehnert said the previous Type IV application which received final approval from the City Council regarding the Downtown Overlay Boundary is currently under appeal to Land Use Board of Appeals.

Ms. Lehnert presented the conditions of approval recommended by staff and said that staff had some proposed rewording of some of the conditions for specificity. Ms. Lehnert said the conditions of approval include the following:

1. The applicant shall demolish the existing driveway along Locust Street and replace is with a new curb and sidewalk that matches the existing curb and sidewalk and the final sidewalk design must be approved by the city prior to construction.

Chair Smith asked for clarification on who recommended the condition of approval for the demolition of the driveway. Ms. Lehnert said both the City and the applicant but the City had not received engineering construction drawings for the driveway and wanted to have the City engineer look at the final construction drawings.

2. The applicant has received approval of file #TA 12-01/ZC 12-02 by an ordinance of Canby City Council regarding the amendment of the Canby Land Development and Planning Ordinance to alter the subarea boundary of the Downtown Overlay District. The case is currently under appeal to the Oregon Land Use Board of Appeals (LUBA). As a condition of approval of this Site and Design Review, files #TA 12-01/ZC 12-02 must be determined to be final, with no further rights of appeal.
3. The site's vehicle maneuvering area shall be set back an average of 15 feet from the front lot line; this setback shall comply with the landscaping standards of 16.49.080.100 and 16.49.120.
4. The site's signage shall not result in glare onto neighboring properties or onto public right-of-way per the standard of 16.42.040(B) (3).
5. The proposed canopy lights shall be recessed up into the canopy or apply shielding in a manner that prevents light trespass, as defined in 16.43.020.
6. The applicant will be required to maintain all landscaping on the site.
7. The applicant shall coordinate this development with the Oregon Department of Transportation (ODOT) and shall obtain all necessary permits from ODOT prior to construction.
8. The development shall comply with the standards of all applicable outside utility and regulatory agencies; including Canby Utility (CUB), Northwest Natural Gas, Wave Broadband, Canby Fire District, Canby Telcom, the Oregon Department of Transportation (ODOT), and Clackamas County.”
9. The development shall comply with all applicable City of Canby Public Works Design Standards.
10. The development shall comply with design requests from agencies and Canby Public Works representatives that submitted design recommendations; these comments are attached and incorporated into this staff report and include comments from Hassan Ibrahim, Curren McLeod, consulting City of Canby Engineers, items 1-9 in memo dated 1/10/13; Chris Maciejewski, DKS, consulting City of Canby Traffic Engineers, memorandum dated 7/17/12; Gary Stockwell, Canby Utility Board, comments dated 1/9/13 with attached site plan markups and comments dated 2/21/12; Dan Mickelsen, Canby Public Works, comments dated 1/14/13; Dan Kizer and Jennifer Wood, NW Natural Gas, comments dated 6/25/12 & 1/9/13, and Darvin Tramel, City of Canby Environmental Services Coordinator, comments dated 1/14/1.

Chair Smith asked for some clarification on the design requests from agencies and noted that it sounded like a blank check for what the agencies might request. Mr. Brown suggested language stating the applicant shall comply with the design statements within the comment forms. Chair Smith said the Commissioners could work that out during their discussion.

11. Easements for electric service by Canby Utility shall be dedicated along the 2nd

Avenue and Locust Street frontages as indicated in Gary Stockwell's comments dated 2/21/12.

12. Tree species suitable for planting under overhead lines along the Locust Street frontage, in compliance with the provisions of 16.49.120(F) and as approved by the City Arborist, shall be specified on the final landscape construction plans.
13. On-site storm water management shall be designed in compliance with the Canby Public Works Design Standards, and in particular:
 - a. The project shall be required to retain and infiltrate on-site all stormwater generated by the development up to the 25-year, 24-hour storm event (25-year storm) as defined in Section 4.301 of the Canby Public Works Design Standards.
 - b. An emergency overflow shall be designed to direct runoff from storms in excess of the 25-year storm to the street as defined in Section 4.311 (b) of the Canby Public Works Design Standards.
14. New condition concerning right-in/right-out only restriction, use city traffic engineer's wording. Condition the site so that if future ODOT monitoring, evaluation, or design review of improvements to OR 99E find that the full access to OR 99E has safety issues related to queuing onto the highway, or crash frequency increasing above typical levels, or conflicts with the design for the pedestrian refuge island (e.g., inadequate deceleration space or queuing conflicting with safe crossing conditions for pedestrians), the owner/operator of the site will accept the access being restricted to right-in/right-out manoeuvres. This condition should be placed upon the property such that it carries from one owner to another (to be effective if the property ownership changes in the future).

Commissioner Joyce asked if CAT was still considering re-doing the bus routes and bus stops.

Mr. Brown said there is always an ongoing evaluation but due to the recent significant downsizing the routes have been set and this new set of routes includes stops both ways on 2nd Ave. and at the intersection of Hwy 99E and Locust. He said the bus will not be able to stop where the driveway exists onto 2nd Avenue and additional conflicts with on-street parking may occur.

Ms. Lehnert suggested the Commissioners change the wording from "should" to "shall" in order to be certain the condition placed upon the property will carry from one owner to the next.

Ms. Lehnert said there were some procedural conditions the applicant would need to complete like getting a building permit prior to the start of construction.

15. The proposed monument sign shall have a distinct base, middle, and top, and the base and top shall be constructed of stone, brick, or wood as specified in 16.42.040(C). The sign shall also be in conformance with the requirements of 16.42.050, Table 3, "Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)". *(This condition was added to the original list of conditions presented in the January 28, 2013 Staff Report at the Planning Commission's request and determination that the monument sign as proposed needed a frame or top cap to more*

clearly meet the above cited standards.)

Ms. Lehnert said there were two potential conditions the Commissioners could consider which included the requirement of a frame around the sign as well as decreasing the size of the signs.

COMMISSIONERS DISCUSSION:

Chair Smith asked if the sign sizes were calculated from the ground up or just based on the actual wall face of the canopy. Ms. Lehnert said she used just the size of the canopy in her calculations. She said if the measurements started at ground level than the size of the signs would be okay.

PROPONENTS

Lee Leighton, Westlake Consultants, gave a recap of the previous application for a Text Amendment/Zone Change to alter the subarea boundaries of the Downtown Canby Overlay Zone.

Jake Tate, Great Basin Engineer, Design Engineer, pointed out the main design features of the fuel station site design.

Commissioners voiced concern about the limited on-site parking although they recognized that employees would be using public on-street parking along 2nd Avenue.

Commissioner Savory said he was concerned about the restrooms not being made available to the public. Mr. Tate said the lack of a public restroom was mainly due to maintenance issues and that the restrooms would be provided only for employees.

Mr. Tate explained the preferred setback option of 5 to 6 foot versus the 15 foot setback requirement next to Hwy 99E which is called for in Condition #3 and how the smaller setback would allow improved circulation on the site and making it more auto customer friendly.

Chair Smith asked if the applicant would be able to move forward if they were to go with the 15 foot setback.

Mr. Tate said the 15 foot setback creates a bottleneck for vehicles during peak times but it can be done although they would prefer the much narrower 5 to 6 foot landscape buffer.

Mr. Tate also noted that fuel stations must also meet the State of Oregon requirements when it comes to their signs, which requires them to post all fuel prices and thus their bigger sign conflict with City's sign regulations. He asked the Commission to take the State's extra requirement into consideration.

Chair Smith asked Mr. Tate where he thought the measurements for the canopy sign should be taken

Mr. Tate said that if the canopy face was considered a building the sign would be within the allowed limits because it would be measured from the ground up. He said he had seen it done by measuring just the canopy section as well as from the ground up, depending on the jurisdiction.

Chair Smith asked Mr. Tate if he was aware of any City or State code provisions which specifically said that a canopy was a building. Mr. Tate said he did not and the way he interpreted it as a structure whereas a building has to do with habitation.

Commissioner Joyce asked to revisit the parking issue and asked how the minimum number of parking stalls was determined for this site.

Mr. Tate said they were determined by the square footage of the two kiosks which totaled only about 330 square feet and would require only one parking stall although they added an additional ADA parking stall.

Commissioner Joyce said his biggest concern is the on street parking that the employees might need to utilize and how that might affect the existing bus stops on SE 2nd Avenue.

Brent Ahrend, Traffic Engineer, Group Mackenzie talked about key points of the Traffic Analysis and said that now is the time to address the impacts of the proposed fuel facility and to talk about the Traffic Study requirements and what it found. He said the scope of the Traffic Study is determined by the City and their consultant traffic engineer DKS.

Mr. Ahrend said an approach application was submitted to ODOT for full movement access which ODOT approved. He said ODOT was agreeable to what is currently proposed allowing a right in/right out restriction and a median would probably be installed at that time.

Mr. Ahrend said that DKS reviewed and accepted the Traffic Impact Analysis and made their recommendations in a July 17, 2012 memo which was a part of the Planning Commission packet and stated their trip generation was based upon surveys taken at two Fred Meyer facilities; one at Oak Grove and one at Sandy. He said DKS used the higher AM/PM trip generation numbers as a worst case scenario in their analysis. Mr. Ahrend said ODOT reviewed and approved the left turns onto Hwy. 99E and DKS had noted that left turn conflicts would be infrequent. He said that the City has a plan for a pedestrian refuge sometime in the future and that it would also restrict traffic to right in/right out.

Mr. Ahrend said there were some questions whether a neighborhood through trip study was needed on 2nd Avenue. He said he didn't think one was needed because 2nd Avenue is the boundary between residential and commercial and that 2nd Avenue has to serve both uses.

Commissioner Kocher said he had a problem with traffic that will be added to 2nd Avenue because it is bordered by a neighborhood which is full of apartments. He also said there would be a problem for drivers trying to turn left onto Hwy. 99E from Locust Street, who would now travel down 2nd Avenue to Ivy Street which would create an even greater problem for an already congested street.

Mr. Ahrend said compared to today it would not be as many trips as some people think.

Lee Leighton talked about the landscape widths and how the alternative “wavy” landscape pattern would appear to be wider to those traveling along Hwy. 99E. Mr. Leighton also noted that Mr. Ahrend’s surveys were based on actual customers at Fred Meyers fuel stations who buy their fuel on the same trip as when they are visiting the Fred Meyer Store making them shared trips. He said that restrooms are available at the stores and not really needed at the fuel islands.

OPPONENTS:

Mike Connors, Hathaway, Koback, Connors, the attorney for Save Downtown Canby, submitted a six-page letter to the Planning Commission listing concerns raised about the proposed fuel facility and how it does not meet several development approval standards.

Mr. Connors said when this started out they were under the impression they were addressing two consolidated applications but then the applications were separated and the Text Amendment/Zone Change application was the first one to be addressed. He said that three of his previous letters were introduced during the Text Amendment/Zone Change process and formally requested they be entered into the Site and Design Review record.

Mr. Connors said Fred Meyer has responded only to issues raised during the Text Amendment/Zone Change portion and took the position that the Site Plan process had not begun and they would deal with it later.

He said they were surprised that nothing had been submitted by Fred Meyer in response to issues raised in particular about traffic.

Mr. Connors said that when the Text Amendment/Zone Change vote took place, a number of the Commissioners expressed concern regarding the traffic and had serious doubts about the methodology with the conclusion of the traffic impact analysis and the applicant had yet to respond to the serious flaws in the TIA.

Mr. Connors said the January 28th Staff Report incorrectly concludes that certain approval standards do not apply and provided the Commissioners with a list of those issues.

Mr. Connors said the issues raised regarding the applicant’s traffic analysis never received a response.

Chair Smith said that the City code requires mitigation measures of any impacts to be adequate and feasible but that he had not yet heard that addressed.

Mr. Connors said basically there had been little or no mitigation proposed and before mitigation is determined you have to evaluate all of the impacts making sure the amount of traffic is accurate and the scope of the area being studied includes the whole one half mile area.

Ms. Lehnert said that Staff goes with the hired traffic engineer’s conclusion.

Mike Ard, PE, transportation engineer, Lancaster Engineering talked about the detailed

review of the Group Mackenzie Transportation Impact Analysis. He said there are safety and capacity concerns on Hwy 99E in the vicinity of this site, especially at Ivy St. Mr. Ard shared information on trip generation and that the TIA needs to be corrected to reflect a more accurate estimate of traffic which will be generated by the development.

Mr. Ard told the Commissioners there were a number of questions they should be asking of the applicant including if the trip generation the applicant used was typical for Fred Meyer sites; what is the impact on the local streets like SE 2nd Avenue and at Pine and Ivy Streets.

Commissioner Joyce asked for clarifications about trip generation to which Mr. Ard referred to the distribution diagram in the traffic study to explain trip generation.

Commissioner Smith asked if Mr. Ard had previously argued that the shared trips were overestimated by the applicant. Mr. Ard said he had. Commissioner Smith asked if the amount of shared trips went down then the amount of pass-by trips would be increased which in turn would lessen the impacts.

There was some discussion about whether the internal reductions would apply to the site if it was not located next to a Fred Meyer store. Mr. Connors directed attention to the emails from the City's traffic engineer and ODOT both having concerns whether the internal trip reductions would apply for this site.

Curt Hovland, owner of Hulbert's Flowers, pointed out the major problems he sees with the increased flow in traffic to the fuel station when drivers will be utilizing the center lane which also provides the left turn lane into Hulbert's Flowers.

REBUTTAL:

Steve Abel, Stoel Rives, attorney for Fred Meyer, addressed some material Mr. Connors presented regarding development standards. He said the City's 16.41 code allows for alteration by the Commission's discretion to better meet the purposes of the code. He said he thinks staff responses to 16.49 standards as they relate to the site and design review are accurate.

Mr. Ahrend rebutted testimony given by Mike Ard and explained how trips were counted. He said they had adequately addressed the impacts of this particular project. Mr. Ahrend said that if there are significant traffic problems in the future that ODOT could come in and install a median which could impact all of the driveways. He said that should a pedestrian refuge be put in it would restrict left turns in both directions.

Commissioner Hensley said he took part in the meetings where the idea for a pedestrian refuge came up. He said he thought it was being taken out of context here.

Chair Smith closed the public hearing.

DELIBERATIONS:

Chair Smith asked that the Commission accept the three letters referenced by Mr. Connors into record.

Chair Smith said he agreed with the proponent that the Commission would have more leniency on interpretation to fulfill the intent of the code. He said the reason he brought up the interpretation on the frontage is because the code makes it clear that it should be measured from the ground up and he did not think they needed to fulfill any intent. He said if they required the right in/right out as a mandatory condition they would be remiss as it could impact both businesses so he thinks that condition should be left out. He said it makes sense to have more than one parking spot but the code calls for one parking spot and they meet the criteria. Chair Smith said as a condition of approval they should require the applicant to submit and use a revised lighting plan. He said he had mixed feelings on what the applicant called the “wavy” setback line versus the straight across 15’ line and although he leaned toward the 15’ setback he could go either way. Chair Smith said the elephant in the room was the traffic issue and agreed with Mr. Abel that it had come down to a battle of the experts. He said he has not seen any tangible impacts that had not been dealt with.

Commissioner Savory said he preferred the 15’ straight across setback because it would lessen the bottleneck in traffic flow but could be persuaded to go with the wavy design setback. He said he is concerned with the traffic impact on residents on 2nd Avenue.

Commissioner Hensley said he prefers the 15’ setback but could be persuaded to go with the wavy design if the traffic flowed through the site better. He said he does not feel there would be a major issue with Ivy Street because a lot of people bypass it and use Knott Street instead. Commissioner Hensley said he does not see any traffic impact at Pine Street.

Commissioner Kocher said he does not have any preference in the landscape design, but struggles with the traffic problem. He said the parking for only one employee means others will be parking out on the street, and because the station will not be located near Fred Meyers, not having a public restroom on the site is still an area of concern for him.

Chair Smith pointed out some procedural steps for when they make decisions. He said he wants to be sure they address the factual questions like, were mitigation efforts enough and the legal questions – if there are any interpretations they are making. He said the Commission can adopt staff findings or modify them, do a combination of the two or even reject them. He said they would want to make sure they make findings about the various issues so everyone will know why we make the decision we make.

Commissioner Joyce said he thinks they should stick with the sign code provisions called for because there is a specific design the City is trying to accomplish and they should not waver from that. He said he is struggling with the parking and the definition of a structure.

There was discussion about the whether the canopy was considered a structure or a building and more discussion about parking and maneuvering but because the applicant is not proposing substantial buildings the standard which is called for in the code is not applicable.

Mr. Brown said he thinks the wavy design for landscaping would function better because it would allow for more onsite maneuvering and less traffic being stacked up on Hwy.

99E.

Commissioners voiced their concerns about the limited on-site parking and Chair Smith said that unless they amended the code there was no way to require them to have more on-site parking because they had already met the minimum parking standards based on building square footage.

MOTION:

Commissioner Joyce made a motion to approve the Fred Meyer DR 12-03 with the following conditions as submitted in the PowerPoint addendum presented at tonight's meeting: Condition #1, the applicant shall demolish the existing driveway along Locust Street and replace it with a new curb and sidewalk that matches the existing curb and sidewalk; Condition #2 will stay the same; Condition #3 stay the same; Condition #4 stay the same; Condition #5 stay the same; Condition #6 stay the same; Condition #7 stay the same; Condition #8 stay the same; Condition #9 stay the same; Condition #10 stay the same; Condition #11 stay the same; Condition #12 stay the same; Condition #13 stay the same; Condition #14 will stay the same with additional language at the bottom to read: "with the same use"; Condition #15 will stay the same with the following added: "the monument sign will comply with our City for monument signs of that sort." Commissioner Savory seconded motion.

Discussion on Motion:

Chair Smith asked that the motion be amended to state "it is our interpretation that the canopy is not a building for purposes of the sign code provision"; add "and use" to Staff's proposed findings on Page 18 and Page 20 on the lighting plan; and we add to the findings that "the Traffic Impact Analysis presented by the applicants was more convincing and that mitigation measures were adequate and feasible as presented by the applicant in the Traffic Impact Analysis."

Commissioner Joyce said he would second the changes made to his motion.

Commissioners discussed Condition #14 which would restrict access to the site to right-in/right-out depending upon safety issues relating to queuing onto Hwy. 99E or if crash frequency increases.

Mr. Brown said the condition is written to give ODOT more support and ability to go in and restrict an existing driveway if necessary in the future.

Commissioners discussed the 15' setback requirement and determined the setback was not applicable to this development at all and would not be an ideal configuration for the site.

Commissioner Joyce said he would drop Condition #3 from his motion.

Motion passes 5/0.

4. NEW BUSINESS - None

5. MINUTES

- a. Commissioner Joyce moved to approve the December 10, 2012 Regular Planning Commission Meeting Minutes as submitted, Commissioner Kocher seconded.
Motion passed 3/0 with 2 abstentions.
- b. Commissioner Kocher moved to approve the January 14, 2013 Regular Planning Commission Meeting Minutes as submitted, Commissioner Savory seconded.
Motion passed 5/0.

6. ITEMS OF INTEREST FROM STAFF

- a. Mr. Brown said the Commissioners now had access to the Planners Website.

7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

- a. Commissioners discussed parking standards

8. ADJOURNMENT: 10:25 PM.

Minutes Approved on:

Tyler Smith, Planning Commission Chair

Laney Fouse, Preparer's Signature