

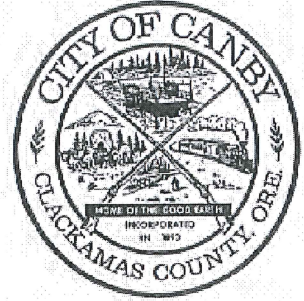
**PLANNING COMMISSION
Meeting Agenda
Monday – October 8, 2012
7:00 PM**

City Council Chambers – 155 NW 2nd Avenue

**Commissioners Dan Ewert (Chair), Randy Tessman (Vice-Chair),
Sean Joyce, Charles Kocher, John Proctor, Misty Slagle and Tyler Smith**

- 1. CALL TO ORDER**
- 2. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 3. PUBLIC HEARINGS**
- 4. NEW BUSINESS**
 - a. Consider a request from an applicant living near Canby Utility's concrete water reservoir site at 440 SW 13th Ave to amend the previously required refurbished tank color from a dark Cobalt-Blue to a lighter pastel color (**Request for a Minor Modification (MOD 12-03) of Condition #6 of the Final Order for (DR 08-02/CUP 08-01)**)
- 5. FINAL DECISIONS - None**
- 6. MINUTES**
 - a. September 24, 2012 Planning Commission Meeting Minutes
- 7. ITEMS OF INTEREST/REPORT FROM STAFF**
- 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. A copy of this agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503-263-6287



MEMORANDUM

TO: *Planning Commission*

RE: *Request for a Minor Modification (MOD 12-03) of Condition #6 of the Final Order for (DR 08-02/CUP 08-01)*

FROM: *Bryan Brown, Planning Director*

DATE: *September 14, 2012 (For the 9.24.12 Planning Commission Mtg.)*

City of Canby planning staff received a request from the immediate neighbors surrounding Canby Utility's water reservoir undergoing refurbishment at 440 SW 13th Avenue to amend or modify Condition #6 of the previously approved Site and Design Review and Conditional Use Permit (DR 08/CUP 08-01). They are requesting through our contact with Mrs. Holt, that the color of the water tank that was to match that used on the adjacent completed new reservoir be altered to a lighter pastel type color.

Since the original color provision was decided upon by the Planning Commission at a public hearing with findings noted in the Final Order, this request has been placed upon the September 24, 2012 Planning Commission agenda as a new business item to receive direction from the Planning Commission on this matter. Staff determined that this request meets the "minor modification" criteria set forth in Section 16.89.090 of Canby's Municipal Code. During the processing of this request, the requestor(s) indicated, and it was obvious, that they had been in contact with Canby Utility about this request and were instructed by them to seek out any possible color change through the Planning Commission. They indicated that any decision to change from the planned color, which was to match that of the newly constructed reservoir, was needed quickly to allow ordering of the paint so the project could remain on schedule.

Staff agreed to process this request in an informal manner, similar to other Type I minor modification applications which do not usually require any notification. However, we discussed with the immediate neighborhood resident representative that we felt it was important that they reach out to let others that may be directly impacted by a color change know that this request would be discussed for possible modification at this Planning Commission meeting. You may wish to ask the "requestors" about their efforts to meet with and gain consensus on a suggested new color. We also asked that the immediate neighbors arrive at a "suggested" new color prior to share with the Planning Commission that you could respond to and that they provide a narrative that we could send to you prior to the meeting explaining the primary reason for their request for a different color than that utilized on the adjacent new reservoir.

New exterior paint was a planned part of completing the seismic and operational

upgrades to the Utilities older existing 2.0 million gallon concrete reservoir. The work also included installation of a 3 sided concrete masonry unit wall enclosure around a new 300kW emergency generator, relocated trees and shrubs, and 10'wide gravel drive extension to access the emergency generator. Staff approved these modifications administratively early this year. Design Review DR 08-02/CUP 08-01 approved the plans for construction of the brand new water reservoir.

The Planning Commission should consider the merits of this request and weigh if there is sufficient reason to modify the planned exterior paint color to provide a more pleasing and compatible appearance to those home owners most directly impacted. A possible lighter blue color was suggested by phone as providing some continuity with the adjacent darker Cobalt – Blue on the new tank, while satisfying concern over an overly dark and dreary appearance this color presents to some.

Attachments to this memorandum include: the DR 08-02/CUP 08-01 Final Order containing Condition #6 about the originally required color for the water reservoirs and the staff report which contains several statements which have been highlighted about the original color determination.



STATEMENT FOR PLANNING COMMISSIONERS:

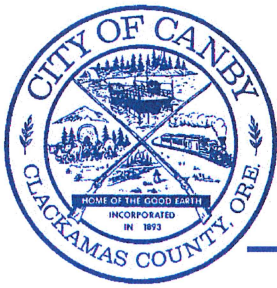
We are some of the immediate neighbors of the SW13Th Avenue water tanks. During the seismic upgrade, we would like the concrete tank painted a pastel color. At least one of us has SAD (Seasonal Affect Disorder) and some of us live very close to the concrete tank. We don't want another dark large tank to be painted cobalt blue as indicated in the conditional use permit of 2008 p.4, items 6 & 7. So, we are asking to change the color of the concrete tank to pastel blue, yellow, or peach.

We are in the process of polling the neighbors of the concrete tank. We hope to present you with just one color preference at your September 24 meeting.

Thank you,

Katherine Holt 503-266-8774
1225 S. Fir Street
kah@canby.com





City of Canby

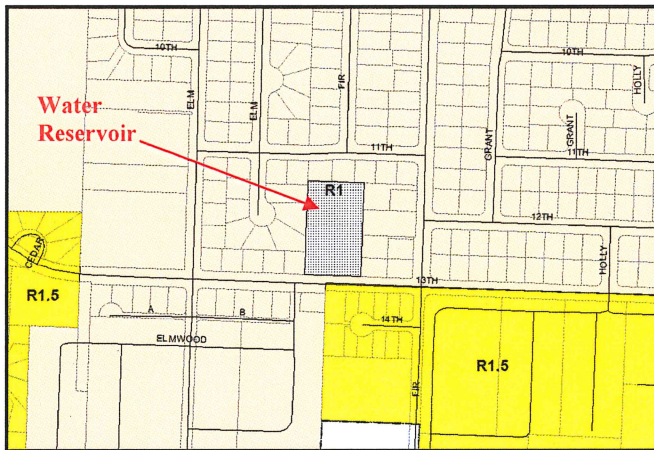
Notice of Public Meeting City of Canby Planning Commission

Monday – October 8 – 7:00 PM

City Council Chambers at 155 NW 2nd Avenue

The purpose of this notice is to inform and invite you as a nearby property owner to comment on this proposed Minor Modification request in your neighborhood.

NOTICE TO CHANGE CONCRETE WATER RESERVOIR PLANNED COLOR



Application: The applicant(s) is proposing a change to the color that Canby Utility would have their contractor paint the old concrete water reservoir which is undergoing seismic refurbishment at 440 SW 13th Avenue from the previously chosen cobalt-blue that matches the color of the newly constructed steel reservoir on the same site to a lighter color based on input from neighbors to date of a tan, light blue, peach, or yellow.

Location: 440 SW 13th Avenue - Tax Lot: 41E04BD07800

Lot Size and Zoning: The parcel is 1.9 acres and zoned R-1 – Low Density Residential

Property Owner: Canby Utility

Applicant: Concrete Water Reservoir Immediate Neighbor Katherine Holt

Application Type: Minor Modification

City File Number: MOD 12-03

Decision Process: The Canby Planning Commission will act on and provide a decision after reviewing the staff report, hearing arguments from the applicant(s), and receiving public input.

Staff Contact: Bryan Brown, 503-266-7001
brownb@ci.canby.or.us

Date of this Notice September 28, 2012

How do I get involved?

Public testimony will be taken at the Planning Commission meeting at 7:00 PM on October 8, 2012 in City Council Chambers.

Comments due

Written comments can be submitted to staff by 4:30 pm the date of the meeting or brought directly with you to the meeting.

Where can I send my comments?

They can be mailed to the Planning Department, P O Box 930, Canby, OR 97013; brought in person to: 111 NW Second Avenue; or emailed to brownb@ci.canby.or.us.

How can I review the documents and staff report?

You can review the applicant's submittal and staff report weekdays from 8 AM to 5 PM at the Canby Planning Department. The staff report is available now for inspection at the Canby Planning Department or the Canby Public Library. Copies are available at \$.25 per page or can be emailed to you upon request. Information is also available on the City webpage at:

http://www.ci.canby.or.us/CityGovernment/planning_commission/planningcommission.htm

CITY OF CANBY - COMMENT FORM

If you are not able to attend the Planning Commission hearing, you may submit written comments on this form or in a letter to the Planning Commission.

Please send comments to the City of Canby Planning Department.

By mail: Planning Department, PO Box 930, Canby, OR 97013
In person: Planning Department at 111 NW Second Street
E-mail: brownb@ci.canby.or.us

Written comments with your name and address must be received prior to the meeting at 7:00 PM October 8, 2012.

APPLICATION: Minor Modification

APPLICANT: Concrete Water Reservoir Immediate Neighbor Katherine Holt

CITY FILE #: MOD 12-03

COMMENTS:

YOU'RE NAME:

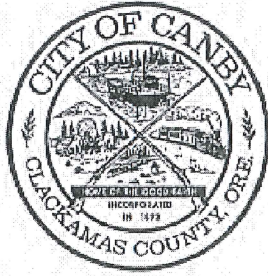
ORGANIZATION or BUSINESS (if any): _____

ADDRESS: _____

PHONE # (optional): _____

DATE: _____

Thank you!



STAFF REPORT

APPLICANT:

Gary Spanovich, AICP
P.O. Box 1067
Canby, OR 97013

FILE NO.:

CUP 08-01 / DR 08-02

OWNER:

City of Canby
P.O. Box 930
Canby, OR 97013

STAFF:

Melissa Hardy
Associate Planner

LEGAL DESCRIPTION:

Clackamas County Assessor Map
and Tax Lot Number 41E04BD-07800

DATE OF REPORT:

July 21, 2008

LOCATION:

440 S.W. 13th Avenue, west of S. Fir Street

DATE OF HEARING:

July 28, 2008

COMP. PLAN DESIGNATION:

Public (P)

ZONING DESIGNATION:

Low Density Residential (R-1)

I. APPLICANT'S REQUEST:

The applicant is proposing to construct a 2 million gallon above-ground water storage tank on a 1.9 acre property.

II. APPLICABLE REGULATIONS:

Canby Municipal Code (CMC) Title 16:

- 16.08 General Provisions
- 16.10 Off-Street Parking and Loading
- 16.16 R-1 Low Density Residential Zone
- 16.42 Signs
- 16.46 Access Limitations on Project Density
- 16.49 Site and Design Review
- 16.50 Conditional Uses
- 16.88 General Standards and Procedures
- 16.89 Application and Review Procedures
- 16.120 General Provision

III. SUMMARY OF PROPOSAL:

Development – The Canby Utility Board wishes to add a second 2 million gallon above-ground water storage tank to a 1.9 acre site where an existing 2 million gallon above-ground water storage tank and a pump house are already located.

Location and Existing Conditions – The project site is located at 440 S.W. 13th Avenue, west of S. Fir Street on the north side of S.W. 13th Avenue (*see Exhibit A – Vicinity Map*). The property is zoned Low Density Residential (R-1), and is surrounded on the north, west, and east by properties that are also zoned R-1 and developed with single-family dwellings. Properties to the south of the subject property, on the other side of S.W. 13th Avenue, are zoned Low Density Residential (R-1) and Medium Density Residential (R-1.5) and are developed with single-family dwellings, duplexes, and manufactured dwellings. (*see Exhibit B – Zoning*)

There do not appear to be any mapped flood hazard areas on the subject property according to Federal Emergency Management Agency (FEMA) flood insurance rate maps. Vegetation on site consists of a variety of ornamental landscape plants and deciduous and evergreen trees (*see Exhibit C – Site Photos*). The Existing Conditions Tree and Shrub Removal Plan provided by the applicant indicates that there are 28 existing trees on the site, and that the applicant is planning to remove 17 of those trees to make room for the new construction and new landscaping (*see Exhibit D – Applicant's Site Plans*).

Land Use Permit Requirement – Conditional Use Permit approval is required prior to construction per CMC 16.16.020.G. Site and Design Review approval is also required prior to construction per CMC 16.49.030. The existing structures were constructed in 1982. A conditional use permit was issued by the City for the existing development on the site (*see Exhibit G - CUP 81-0.05*). However, no design review approval was issued by the City for the existing development because the construction occurred prior to the adoption of the site and design review ordinance.

IV. CONDITIONAL USE PERMIT ANALYSIS:

CMC Section 16.50.010 sets forth the approval criteria which the Planning Commission must use to judge whether or not a Conditional Use Permit application shall be approved or denied. The Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria A based on the following:

Oregon Revised Statutes (ORS) Section 197.195(1) provides that consistency with the comprehensive plan shall be achieved by incorporating all plan standards into land use regulations. Therefore, the application is deemed consistent with the policies of the Comprehensive Plan because it meets all applicable requirements of Canby's land use regulations (Title 16) as follows:

General Provisions (CMC Chapter 16.08) – As proposed, the development meets CMC Chapter 16.08 standards as follows.

The development proposal involves property which is considered a lot of record for development purposes. The property is not considered substandard, as described in CMC 16.08.080.

Pursuant to CMC 16.08.090, the Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. 13th Avenue abutting the subject property is currently designated as an arterial street in the Canby Transportation System Plan (TSP). According to the City Engineer, the right-of-way abutting the property is of sufficient width to meet the TSP adequacy standard and the street improvements also meet the TSP adequacy standard. Therefore, no right-of-way dedication or street improvements are required at this time. The vehicular access to the property does need to be brought up to meet code standards, and that issue is addressed on page 4 of this staff report in the discussion on access.

A water tank, as is proposed by the applicant, is exempt from building height limitations per CMC 16.08.100. Therefore, the building height limitation of 35 feet in the R-1 zoning district chapter does not apply to the proposed water tank. An appropriate maximum height allowance for the water tank is instead established by the Planning Commission through the conditional use permit review process, and is addressed under Criteria B of this section.

Pursuant to CMC 16.08.110, the Planning Commission may require site-blocking or noise-mitigating fencing up to eight feet in height for any development it reviews. There is an existing approximately six-foot-high chain link fence currently surrounding the property (*see Exhibit C for photo of existing fence*). The abutting properties surrounding the site are developed with dwellings, and are therefore considered to be occupied by a “noise sensitive land use” as defined by CMC Chapter 9.48. The applicant has not proposed to replace the existing fence with any type of site-blocking or noise-mitigating fencing, and the proposed development of a second above-ground water storage tank on the property is not anticipated to result in any increase in noise generated in the long term (exclusive of short-term construction related noise). Therefore, noise-mitigating fencing is not required. The applicant has not proposed any outdoor storage or other unenclosed area that would be considered unsightly. Therefore, site-blocking fencing is not required.

Analysis – MEETS all requirements of CMC Chapter 16.08.

Off-Street Parking and Loading (CMC Chapter 16.10) – There are no vehicular parking space, loading area, or bicycle parking space requirements listed in the CMC Chapter 16.10 parking and loading standards for a water tank. Parking and loading requirements for structures not specifically listed are determined by the City Planner per CMC 16.10.030.B. There are no permanent on-site employees associated with the proposed operation of a second water tank on the property. It is anticipated that the only visitors to the site will continue to be maintenance personnel who visit the site occasionally to perform repairs or maintenance. There is an existing gravel driveway on the site to accommodate the occasional maintenance truck traffic. Therefore, other than the existing gravel driveway, no vehicle parking spaces, commercial loading area, or bicycle parking spaces shall be required of the development.

Analysis – MEETS all requirements of CMC Chapter 16.10.

R-1 Low Density Residential Zone (CMC Chapter 16.16) – As proposed, the development meets CMC Chapter 16.16 standards as follows. The water tank is proposed to be located 30 feet from the property line abutting the street, 20 feet from the east property line, 42 feet from the west property line, and more than 140 feet from the rear property line (*see Exhibit D for Applicant's Site Plans*), all of which meet the minimum setback requirements. The 35-foot R-1 building height limitation does not apply to water tanks. There is no maximum lot coverage limitation. And the proposed tank is located well outside of the 10-foot vision clearance triangle required where the driveway meets the City street.

Analysis – MEETS all requirements of CMC Chapter 16.16.

Signs (CMC Chapter 16.42) – The development proposal does not include construction of any outdoor signage.

Analysis – MEETS all requirements of CMC Chapter 16.42.

Access Limitations (CMC Chapter 16.46) – The development proposal does not include construction of any new vehicular accesses. There are currently two vehicular accesses constructed along the 13th Avenue frontage, one near the west edge of the property and one near the east edge of the property, located within 200 feet of each other. Canby's access management guidelines require that vehicular accesses onto an arterial street be located no closer together than 300 feet. The westerly access is currently used by the property owner for access to the site, and it appears that the easterly access is not currently used by the property owner (*see Exhibit C for photos of both driveways*). The property must be brought up to current access code requirements at the time of the proposed development. Therefore, approval of the Conditional Use Permit shall be conditioned upon the property owner removing the easterly vehicular access and repairing the curb, gutter, and sidewalk in that location to the City's street construction standards. Approval of the Conditional Use Permit shall also be conditioned upon the property owner bringing the westerly vehicular access up to the City's ADA Approved Commercial Entrance standards.

Analysis – MEETS WITH CONDITIONS all requirements of CMC Chapter 16.46.

Conditions of Approval required to meet approval criteria:

- The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. (*condition #11*)
- The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. (*condition #12*)

Site and Design Review (CMC Chapter 16.49) – Conformance with Site and Design Review standards is addressed in this staff report under Heading V.

Analysis – See Heading V for analysis of conformance with CMC Chapter 16.49.

Conditional Uses (CMC Chapter 16.50) – The proposed development requires Conditional Use Permit approval prior to construction. The applicant has applied for Conditional Use Permit approval in conformance with CMC Chapter 16.50.

Analysis – MEETS all requirements of CMC Chapter 16.50.

Application and Review Procedures (CMC Chapter 16.89) – The proposed development requires Conditional Use Permit approval and Site and Design Review approval prior to construction. The Planning Commission reviews both of these applications as a Type III process, which requires that a public hearing be held before the Planning Commission makes its decision to approve, approve with conditions, or deny the applications. The public hearing for each of these applications may be held concurrently. The applicant held a pre-application meeting with city staff on January 15, 2008. The applicant held a neighborhood meeting concerning the application on May 01, 2008. Public notice in conformance with CMC 16.89.050 was provided for the public hearing.

Analysis – MEETS all requirements of CMC Chapter 16.89.

General Provision (CMC Chapter 16.120) – When residential, commercial, and industrial development occurs, the City requires land dedication or payment of a system development Charge (SDC) in lieu of land dedication in order to provide for park, open space and recreation sites to serve existing and future residents and employees. Canby Utility District's proposed construction of a water tank does not trigger any park system requirements.

Analysis – Requirements of CMC Chapter 16.120 are NOT APPLICABLE.

B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria B based on the following:

The property on which the development is proposed is 1.9 acres in size (lot is approximately 214 feet wide by 386 feet deep), and is surrounded by residential development. The topography on-site is nearly level. Existing development on the property consists of a 2 million gallon above-ground storage tank, a pump house, and a 6-foot-high chain link fence. The applicant proposes to add a second 2 million gallon above-ground storage tank to the site, which will be located between the existing tank and the front property line, and which the applicant states will be of roughly the same dimensions as the existing tank (see *Exhibit E – Applicant's Written Statements*). The proposed tank is approximately 49 feet and two inches in height according to the applicant's elevation sheet (see *Exhibit D – Applicant's Site Plans*), and 120 feet in diameter (11,309.7 square feet in area). The applicant originally indicated an intent to replace the existing fence on-site, but then decided to retain the existing fence. The applicant is also proposing to remove a majority of the existing landscaping on the property and replace it with new landscaping as proposed in the submitted landscape sheets (see *Exhibit D – Applicant's Site Plans*). With the addition of the additional tank, the total built area on site will be approximately 38,500 square feet (just less than half of the area of the property). The remaining roughly half of the property area will be landscaping (40,200 square feet of landscaping is proposed) and a gravel driveway. At just over 49 feet in height, the proposed water tank exceeds the 35-foot maximum building height allowance for other structures in the zoning district by about 14 feet. There is no building height limitation on water tanks, except for discretionary limits placed on the development through the

discretionary conditional use review process. Because the applicant has submitted a variety of other possible tank options (*see Exhibit F – Applicant’s Proposed Tank Options*) that appear to be taller than that shown on the applicant’s elevation sheet (*see Exhibit D – Applicant’s Site Plans*), and because the property is completely surrounded by residential development, a condition of approval is recommended to limit the height of the tank to less than 50 feet. The applicant has also indicated in the submittals that there are a number of color choices available for the water tank, but has not stated which color they plan to choose. Therefore, a condition of approval is recommended to limit the color of the water tank to one of the darker more subdued colors in order that the tank fit in better with its surroundings. These limitations will provide the applicant with the ability to construct the required tank, but will also limit the applicant’s options of constructing a significantly taller version of the tank, and will limit the color choices, thereby minimizing the impact to the surrounding neighborhood as much as possible, and ensuring that the tank is suitable for the characteristics of the site.

The proposed addition of a second 2 million gallon above-ground tank to the property means that there will now be a potential for release of 4 million gallons of water in the unlikely event of a catastrophic failure of both tanks. Because the site is relatively small (214 feet by 386 feet), is relatively level, and is surrounded by residential neighbors, an emergency water containment system shall be put in place to handle a release of 4 million gallons and keep such waters from flooding neighboring properties. This will insure that the characteristics of the site are suitable for the proposed water tank.

The issues of limiting the height of the structure and having a system in place to contain and deal with 4 million gallons of water in case of a catastrophic failure of the tanks are both adequately addressed with conditions of approval, and the characteristics of the site are suitable for the proposed tank.

Conditions of Approval required to meet approval criteria:

- The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank. (*condition #5*)
- The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood. (*condition #6*)
- Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, to handle a release of 4 million gallons of water and keep such waters from flooding neighboring properties. The emergency water containment plan is subject to the approval of the Canby Public Works Director, and all appropriate permits related to the construction and operation of the emergency water containment plan shall be obtained by the applicant. After the plan is approved by the Public Works Director and all required permits are obtained, the emergency water containment system detailed in the plan shall be installed prior to issuance of any occupancy permit. (*condition #8*)

C. All required public facilities and services exist to adequately meet the needs of the proposed development. *Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria C based on the following:*

The proposed development has been reviewed by City of Canby Public Works, Canby City Engineer, Canby Utility, Canby Disposal, Canby Police Department, and Canby Telcom. Service provider comments are attached (*see Exhibit I*) which indicate that all required public facilities and services exist, or exist with conditions of approval, to adequately meet the needs of the proposed development. Comments are summarized as follows:

Canby Public Works:

- If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer.
- Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required.
- Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer.
- Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
- All City Erosion and Sediment Control permits must be obtained from Public Works prior to disturbing soil at the site.
- Minimize drainage to public right-of-way and street.
- Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure.
- Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant.
- Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities.
- Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase.
- Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval.
- If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City.
- Remove the driveway entrance on the east end of the sidewalk on 13th Avenue and replace with curb and sidewalk.
- Replace the existing non-handicapped approved entrance on west side of the property adjoining 13th Avenue with an ADA approved commercial entrance.

Canby City Engineer:

- Any impact on the existing curbs, sidewalks and driveways resulting from the construction of the new storage tank should be repaired to the existing condition or better, or to the satisfaction of the City.

City Utility:

- Adequate public services are available.

Canby Disposal:

- Adequate public services are available.

Canby Police:

- Adequate public services are available.

Canby Telcom:

- Adequate public services will become available through the development.

Conditions of Approval required to meet approval criteria:

- For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer. *(condition #9)*
- For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable. *(condition #10)*
- The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. *(condition #11)*
- The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit. *(condition #12)*

D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria D based on the following:

Neighboring properties that abut the project site to the north, east, and west are zoned R-1 and are developed with residential dwellings. There is no evidence that the proposed construction of the additional water storage tank will alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the R-1 zone.

V. SITE AND DESIGN REVIEW ANALYSIS:

CMC Section 16.49.040 sets forth the approval criteria which the Planning Commission must use to determine whether or not a Site and Design Review application shall be approved or denied. The Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

- A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.A based on the following:**

The application, as proposed and with conditions of approval, is in compliance with Criteria 1A based on the Criteria A findings detailed on pages 2 through 5 of this staff report under Heading IV concerning Conditional Use Permit approval, and also based on the following additional findings concerning site and design review standards in CMC Chapter 16.49.

Site and Design Review (CMC Chapter 16.49) – Conformance with the applicable design review matrix (Table 16.49.040) is detailed below in the discussions involving Criteria 1B, Criteria 1C, and Criteria 1D.

CMC 16.49.065 bicycle and pedestrian facilities standards shall not apply to the proposed development because there is no public access to the facility, and maintenance crew personnel who visit the site periodically do not do so by bicycle or on foot. Therefore, there is no need for bicycle or pedestrian connectivity to or from the subject property.

CMC 16.49 standards for landscaping are met by the proposal (*see Exhibits D and E for Applicant's Site Plans and Statements*). A minimum of 30 percent of the site is required to be landscaped. The proposal includes provisions for 48.6 percent of the site to be landscaped, which exceeds the minimum requirement. There is no parking lot onsite. Therefore, the parking lot landscaping standards do not apply to this proposed development. To ensure conformance with all CMC 16.49 landscaping standards, approval shall include a condition that a landscape plan in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this application, and in conformance with all CMC 16.49 standards, be submitted at the time of building permit application.

Condition of Approval required to meet approval criteria:

- At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards. All approved landscaping shall be installed prior to issuance of a final occupancy permit. *(condition #3)*

B. The proposed design of the development is compatible with the design of other developments in the same general vicinity. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.B based on the following:

The proposed design of the development is considered to be compatible with the design of other developments in the same general vicinity because the application, as detailed below under Criteria 1D, has achieved a minimum acceptable score on the applicable Site and Design Review matrix.

C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.C based on the following:

The location, design, size, color and materials of the exterior of all structures and signs are considered compatible with the proposed development and appropriate to the design character of other structures in the same vicinity because the application, as detailed below under Criteria 1D, has achieved a minimum acceptable score on the applicable Site and Design Review matrix.

D. The Board shall, in making its determination of compliance with subsections B and C above, use the following matrix to determine “compatibility”. An application is considered to be “compatible”, in regards to subsections B and C above, if a minimum of 65% of the total possible number of points (not including bonuses) are accumulated for the whole development. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.D based on the following design matrix analysis:

TABLE 16.49.040

CRITERIA	SCORE ACHIEVED
Parking	
Screening of loading facilities from public ROW: not screened = 0; partially screened = 1; full screening = 2.	
Analysis: No new loading facilities are proposed; therefore this benchmark is not applicable.	NA
Landscaping (breaking up of expanse of asphalt).	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA

Parking lot lighting: No = 0; Yes = 1.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
Location (behind the building is best): front = 0; side = 1; behind = 2.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
Number of parking spaces (% of min) x=120%; x=100%-120%; x=100%.	
Analysis: No new parking area is proposed; therefore this benchmark is not applicable.	NA
NA Points	

Traffic	
Distance of access to intersection: x<70'; x=70'-100'; x>100'.	
Analysis: No new accesses proposed; therefore this benchmark is not applicable.	NA
Access drive width (% of minimum): x<120% or x>150%; x=120%-150%.	
Analysis: No new accesses proposed; therefore this benchmark is not applicable.	NA
Pedestrian access from public sidewalk to building: 1 entrance connected = 0; all entrances connected = 2.	
Analysis: No public access to property; therefore this benchmark is not applicable.	NA
Pedestrian access from parking lot to building: No walkways = 0; Walkway next to building = 1; no more than one undesignated crossing of access drive and no need to traverse length of access drive = 2.	
Analysis: No parking lot; therefore this benchmark is not applicable.	NA
NA Points	

Tree Retention	
For trees outside of the building footprint and parking/access areas (3 or more trees): No arborist report = 0; follows <50% of arborist recommendation = 1; follows 50%-75% of arborist report = 3.	
Analysis: The trees that are removed appear to have been specifically in the project site area; no other trees proposed for removal; therefore this benchmark is not applicable.	NA
Replacement of trees removed that were recommended for retention: x<50% = 0; x>50% = 1.	
Analysis: No trees were recommended for retention, therefore this benchmark is not applicable.	NA
NA Points	

Signs	
Dimensional size of sign (% of maximum permitted): x>75% = 0; x=50%-75% = 1; x<50% = 2.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Similarity of sign color to building color: No=0; Some=1; Yes=2.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Pole sign: Yes=0; No=1.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
Location of sign: x>25' from driveway entrance = 0; within 25' of entrance = 1.	
Analysis: No signs are proposed; therefore this benchmark is not applicable.	NA
NA points	

Building Appearance	
Style (architecture): not similar = 0; similar to surrounding = 1 or 2.	
Analysis: The proposed water tank is similar to the existing tank onsite, and therefore a score of 2 is awarded.	2

Color (subdued and similar is better): Neither = 0; similar or subdued = 1; similar and subdued = 2.	
Analysis: Applicant has provided color options for the new tank, which are not similar to the existing tank, but some of which are subdued and dark (see applicant's tank options in Exhibit F). Approval shall be conditioned upon the color of the tank being one of the dark and subdued colors, such as cobalt blue or forest green, and therefore a score of 1 is awarded for subdued and similar colors.	1
Material: concrete or wood or brick is better.	
Analysis: No building is proposed; therefore this benchmark is not applicable.	NA
Size (smaller is better): over 20,000 sq ft = 0; under 20,000 sq ft = 1.	
Analysis: The footprint of the tank is less than 20,000 square feet, and therefore a score of 1 is awarded.	1

4 points out of 5 possible

Types of Landscaping	
# of non-required trees: x<1 per 500 sq ft of landscaping = 0; 10 or more per 500 sq ft of landscaping = 1.	
Analysis: 76 trees are proposed in an area of landscaping 40,200 square feet in size, all of which are non-required, which is 0.94 tree per 500 sq. ft of landscaping, and therefore a score of 0 is awarded.	0
Amount of grass: <25% = 0; 25%-50% = 1; x>50% = 2.	
Analysis: No grass is proposed in the landscaping, and therefore a score of 0 is awarded.	0
Location of shrubs: foreground = 0; background = 1.	
Analysis: Shrubs are located in the foreground (identified as zone B on the preliminary landscape plan), and therefore a score of 0 is awarded.	0
Automatic irrigation: No = 0; Yes = 4.	
Analysis: No automatic irrigation is proposed on the preliminary landscape plan, and therefore a score of 0 if awarded.	0

0 points out of 8 possible

Bonus Points	
2 or more trees at least 3" in caliper.	
Analysis: More than 2 trees are proposed at a size greater than 3" in caliper, therefore 1 bonus point is awarded.	1
Park/open space retention for public use.	
Analysis: No park/open space dedication is proposed.	0
Trash receptacle screening.	
Analysis: No outdoor trash receptacles are proposed; therefore this bonus is not applicable.	NA

TOTAL: 4 points out of 13 possible

As detailed in the above design matrix analysis, the "Parking", "Traffic", "Tree Retention", and "Signs" categories are not deemed applicable to the proposed development. The "Building Appearance" and "Types of Landscaping" categories are applicable to the proposed development. Out of 13 possible points in these two categories, the application as proposed only achieves a total of 4 points, which is less than the 65% required to meet the approval criteria. The application needs to achieve an additional 5 points to reach the minimum 65% score. Therefore, the following two conditions of approval are recommended in order that the application can achieve the additional required 5 points: (1) The existing water tank onsite shall be repainted to match the color of the new water tank, and (2) Automatic irrigation shall

be installed onsite. With these two conditions of approval, the application achieves the minimum 65% score and is in conformance with Criteria 1B, 1C, and 1D.

Condition of Approval required to meet Criteria 1B, 1C, and 1D:

- The existing water tank onsite shall be repainted to match the color of the new water tank within one year of the issuance of the building permit for the new tank. *(condition #7)*
- At the time of building permit application, the landscape plans shall include provisions for automatic irrigation. The automatic irrigation shall be installed prior to issuance of final occupancy permit. *(condition #4)*

E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 1.E based on the following:

The application, as proposed and with conditions of approval, is in compliance with Criteria 1E based on the Criteria C findings detailed on pages 6 through 8 of this staff report under Heading IV concerning Conditional Use Permit approval.

2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 2 based on the following:

The application, as proposed and with conditions of approval, is in compliance with Criteria 2 based on the Criteria C findings detailed on pages 6 through 8 of this staff report under Heading IV concerning Conditional Use Permit approval.

3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance. Staff recommends Planning Commission find that the application, as proposed and with conditions of approval, is in compliance with Criteria 3 based on the following:

The application does not involve development of any dwelling units, and there is no evidence that approval of the proposed development will affect availability or cost of any needed housing.

4. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.32, the city Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review. Staff recommends Planning Commission

find that the application, as proposed and with conditions of approval, is in compliance with Criteria 4 based on the following:

There are no existing street trees in the right-of-way abutting the subject property (*see Exhibit C – Site Photos*). Therefore this criteria concerning removal of street trees is not applicable to consideration of this application.

Additional Conditions to ensure that the public is protected from the potentially deleterious effects of the proposal, that the need for services created, increased or in part attributable to the proposal is fulfilled, and to further implementation of CMC requirements.

Staff recommends Planning Commission find that the following conditions protect the public from the potentially deleterious effects of the proposal, ensure that the need for services created, increased or in part attributable to the proposal is fulfilled, and further implementation of CMC requirements:

- Approval of this application is based on submitted application materials (a reduced copy of which are attached hereto as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR 08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code. (*condition #1*)
- At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted. (*condition #2*)
- Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. 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 television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed. (*condition #13*)
- Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire. (*condition #14*)

VI. PUBLIC INPUT RECEIVED:

Neighborhood Meeting – The applicant held a neighborhood meeting on May 01, 2008, and provided a copy of the notes from the meeting (*see Exhibit J – Applicant's Neighborhood Meeting Notes*).

Public Comments – Notice of the public hearing was mailed to all property owners and residents within 500 feet of the subject property, and three public comments were received as of the date this staff report was prepared (*see Exhibit K – Public Comments*).

- Commenter One: Inquired whether the water tank is earthquake proof.

- Commenter Two: Is supportive of additional water supply.
- Commenter Three: Is supportive of additional water supply.

VII. CONCLUSION:

Staff concludes that, with recommended conditions of approval, the application meets all criteria for Conditional Use Permit approval and for Site and Design Review approval. As detailed herein this staff report, including all attachments hereto, staff conclude the following:

- A. The proposal is consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.
 - 1A. The proposed development of the site is consistent with the applicable standards and requirements of the Canby Municipal Code and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - 1B. The proposed design of the development is compatible with the design of other development in the vicinity; and
 - 1C. The location, design, size, color, and materials of the exteriors of the structure is compatible with the proposed development and appropriate to the design character of other structures in the same vicinity; and
 - 1D. The proposal is deemed compatible given that the application achieves scores equal to or greater than the minimum acceptable points in the Design Review matrix; and
 - 1E. All required public facilities and services exist or can be made available to adequately meet the needs of the proposed development.
 - 2. Public utility and service providers have indicated that the existing proposal can be made to comply with applicable standards.
 - 3. The proposed development will have no impact on the availability or cost of housing.
 - 4. No street trees are being removed.

VIII. RECOMMENDATION:

Based upon the application materials received by the City, the facts, findings and conclusions of this report, and without the benefit of a public hearing, staff recommends that the Planning Commission APPROVE CUP 08-01 and DR 08-02 with the following conditions:

- 1. Approval of this application is based on submitted application materials (a reduced copy of which are attached hereto as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR 08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.

2. At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted.
3. At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards. All approved landscaping shall be installed prior to issuance of a final occupancy permit.
4. At the time of building permit application, the landscape plans shall include provisions for automatic irrigation. The automatic irrigation shall be installed prior to issuance of final occupancy permit.
5. The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank.
6. The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood.
7. The existing water tank onsite shall be repainted to match the color of the new water tank within one year of the issuance of the building permit for the new tank.
8. Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, to handle a release of 4 million gallons of water and keep such waters from flooding neighboring properties. The emergency water containment plan is subject to the approval of the Canby Public Works Director, and all appropriate permits related to the construction and operation of the emergency water containment plan shall be obtained by the applicant. After the plan is approved by the Public Works Director and all required permits are obtained, the emergency water containment system detailed in the plan shall be installed prior to issuance of any occupancy permit.
9. For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
10. For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a

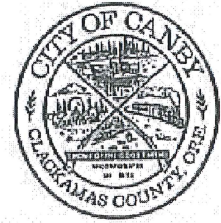
direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable.

11. The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
12. The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
13. Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. 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 television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed.
14. Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire.

Exhibits:

- A. Vicinity Map
- B. Zoning
- C. Site Photos
- D. Applicant's Site Plans
- E. Applicant's Written Statements
- F. Applicant's Proposed Tank Options
- G. Applicant's Geotechnical Report
- H. CUP 81-0.05
- I. Service Provider Comments
- J. Applicant's Neighborhood Meeting Notes
- K. Public Comments

BEFORE THE PLANNING COMMISSION
OF THE
CITY OF CANBY



A REQUEST FOR A CONDITIONAL USE) FINDINGS, CONCLUSION & FINAL ORDER
PERMIT -AND- FOR SITE AND DESIGN) CUP 08-01
REVIEW APPROVAL TO CONSTRUCT) DR 08-02
A 2 MILLION GALLON ABOVE-GROUND
WATER STORAGE TANK

NATURE OF APPLICATION

The City has received CUP 08-01, a Conditional Use Permit application, and DR 08-02, a Site and Design Review application, for construction of a second 2 million gallon above-ground water storage tank on a 1.9 acre property where an existing 2 million gallon above-ground water storage tank and a pump house are already located. The property is zoned R-1 (Low Density Residential).

CRITERIA AND STANDARDS

In judging whether or not a Conditional Use Permit shall be approved, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the location proposed and to approve such use, shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.

In judging whether or not a Site and Design Review application shall be approved, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the proposed location and, to approve such use, shall find that the following criteria are either met, can be met by the application of conditions, or are not applicable:

1. The Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:
 - A. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - B. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and
 - C. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
 - D. The Board shall, in making its determination of compliance with subsections B and C above, use the following matrix to determine "compatibility." An application is considered to be "compatible," in regards to subsections B and C above, if a minimum of 65% of the total possible number of points (not including bonuses) are accumulated for the whole development. The Industrial Overlay design matrix relies on minimum acceptable points for each category rather than an overall percentage.
 - E. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development.
2. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this section. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards.
3. The Board shall, in making its determination of compliance with the requirements set forth, consider the effect of its action on the availability and cost of needed housing. The Board shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Board from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this ordinance.
4. As part of the Site and Design Review, the property owner may apply for approval to cut trees in addition to those allowed in Section 12.20.080 of the City Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.20 of the City Tree Ordinance. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review.

FINDINGS AND REASONS

The Planning Commission, after holding a public hearing on July 28, 2008, and considering the July

Findings, Conclusion and Final Order

CUP 08-01 / DR 08-02

Page 2 of 6

21, 2008, staff report, deliberated and reached a decision approving with conditions the applicant's request for a Conditional Use Permit and for Site and Design Review approval. The Commission adopted the findings and conclusions contained in the July 21, 2008, staff report, with modifications as recorded in the record of the proceedings, as reflected in the written Order below.

CONCLUSION

The Planning Commission concludes that, with the application of certain conditions:

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the city; and
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features; and
- C. All required public facilities and services exist to adequately meet the needs of the proposed development; and
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.
 - 1A. The proposed development of the site is consistent with the applicable standards and requirements of the Canby Municipal Code and other applicable City ordinances insofar as the location, height and appearance of the proposed development are involved; and
 - 1B. The proposed design of the development is compatible with the design of other development in the vicinity; and
 - 1C. The location, design, size, and materials of the exteriors of structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity; and
 - 1D. The proposal is deemed compatible with the design review matrix because the development achieves 65 percent of the total possible number of points possible (9 out of 13) in all applicable categories in the matrix; and
 - 1E. All required public facilities and services exist or can be made available to adequately meet the needs of the proposed development.
2. Public utility and service providers have indicated that the existing proposal can be made to comply with applicable standards.
3. The proposed development will not increase the cost of housing in Canby.
4. The property owner is not removing any street trees.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that CUP 08-01 and DR 08-02 are approved, subject to the following conditions:

1. Approval of this application is based on submitted application materials (a reduced copy of which are attached to the staff report as Exhibits D, E, F, and G) and other relevant application materials and submitted 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 no. CUP 08-01/DR

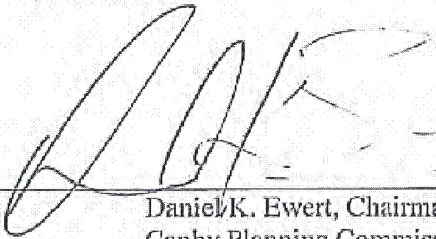
- 08-02, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.
2. At the time of building permit application, the applicant shall submit a full size revised set of all development plans (including site plan, landscape plan, elevations, etc.) that is consistent with the development approved herein, including all conditions of approval, to the satisfaction of the City's Planning and Public Works Departments. All written conditions must be met prior to final occupancy of the building unless otherwise noted.
 3. At the time of building permit application, the applicant shall submit a full size landscape plan that is in conformance with the area of landscaping illustrated on the preliminary landscape plan submitted with this Site and Design Review application, and in conformance with all CMC 16.49 landscaping standards, and that includes vegetation on top of the perimeter berm. All approved landscaping shall be installed prior to issuance of a final occupancy permit.
 4. At the time of building permit application, the landscape plans shall include provisions for an above-ground temporary automatic irrigation system. The automatic irrigation shall be installed prior to issuance of final occupancy permit, and shall be operated for a minimum of three years from the date of final occupancy permit.
 5. The height of the tank shall be no greater than 50 feet, as measured from the average grade within six feet of the tank to the highest point on the tank.
 6. The color of the tank shall be dark and subdued, such as forest green or cobalt blue, so as to help minimize the appearance of its size and not create glare on the neighborhood.
 7. The existing water tank onsite shall be repainted to match the color of the new water tank within two years of the issuance of the final occupancy permit for the new tank.
 8. Prior to building permit issuance, the applicant shall provide the City with an emergency water containment plan, approved and stamped by a licensed engineer, that consists of a two to four foot high earthen berm along the north, east, and west perimeters of the property, and that is designed in the event of an emergency water release to keep such waters from flooding neighboring properties. All appropriate permits related to the construction of the berm shall be obtained by the applicant.
 9. The berm shall be installed prior to issuance of any occupancy permit.
 10. For sanitary sewer discharge: If the facility is to have interior floor drains, they must be routed to an approved oil water separator prior to the sanitary sewer. Flushing and/or wash water generated must be routed to the sanitary sewer. Solids removal may be required prior to discharging to the sanitary. The rate of discharge may be regulated to protect the sewer infrastructure. If chlorine solutions are used for disinfection, de-chlorination may be required. Canby Utility shall get WWTP authorization prior to discharging to the sanitary sewer. Rainwater/stormwater is prohibited from being discharged to the sanitary sewer.
 11. For stormwater: All City erosion and sediment control permits must be obtained from Public Works prior to disturbing soil at the site. Minimize drainage to public right-of-way and street. Trash and/or dumpster enclosures that are exposed to rainfall may not have a direct connection to the storm drain or sanitary sewer system. Drain should be located at least 10 feet from enclosure. Any proposed connection of stormwater flow to the sanitary sewer

requires written authorization by the Wastewater Treatment Plant. Roof drains should be routed to infiltration planters, bioswales, or other approved disposal facilities. Proposed bioswales and/or infiltration basins must be protected from compaction during construction phase. Design criteria for stormwater detention and disposal system must be submitted to Public Works for review and approval. If drywells (UIC's) are proposed for onsite parking lot storm flow, they must meet DEQ criteria and be registered. Documentation of DEQ approval of UIC's and DEQ registration shall be provided to the City if applicable.

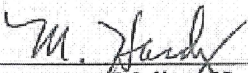
12. The property owner shall remove the easterly vehicular access driveway entrance, and the curb, gutter, and sidewalk in that location shall be repaired to meet the City's street construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
13. The property owner shall replace the westerly vehicular access driveway entrance with an ADA approved commercial entrance to meet the City's construction standards. The property owner shall obtain construction permits from Public Works prior to starting work. All work shall be completed and pass all Canby Public Works inspections prior to issuance of any occupancy permit.
14. Prior to the issuance of a building permit, installation of public utilities, or any other site work other than rough site grading, construction plans must be approved and signed by the City and all other utility/service providers. 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 television, and emergency service provision is subject to approval by the appropriate utility/service provider. The City of Canby's preconstruction process procedures shall be followed.
15. Prior to issuance of building permits, applicant shall meet all fire & life safety requirements of Canby Fire.

I CERTIFY THAT THIS ORDER approving CUP 08-01 and DR 08-02 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 25th day of August 2008.



Daniel K. Ewert, Chairman
Canby Planning Commission



Melissa Hardy
Associate Planner

ATTEST:

ORAL DECISION – July 28, 2008

AYES: Ewert, Holte, Milne, Slagle, Taylor
NOES: None
ABSTAIN: None
ABSENT: None

WRITTEN DECISION – August 25, 2008

AYES: Ewert, Holte, Kocher, Milne
NOES: None
ABSTAIN: None
ABSENT: Slagle, Taylor