

**PLANNING COMMISSION
Meeting Agenda
Monday – October 24, 2011
7:00 PM**

City Council Chambers – 155 NW 2nd Avenue

Chair Dan Ewert – Vice Chair Janet Milne

Commissioners Sean Joyce, Charles Kocher, John Proctor, Misty Slagle and Randy Tessman

1. CALL TO ORDER

2. CITIZEN INPUT ON NON-AGENDA ITEMS

3. PUBLIC HEARINGS

None

4. NEW BUSINESS

Reconsideration of a request by Wayne Dillinger, Area Wide Towing of Molalla, for a **Use Determination** regarding his proposed business in an M-1 zone district at the NW/corner of SE 4th Avenue and Sequoia Parkway.

5. FINAL DECISIONS

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

6. MINUTES

September 12, 2011 Regular PC Mtg.

October 10, 2011 Regular PC Mtg.

7. ITEMS OF INTEREST/REPORT FROM STAFF

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

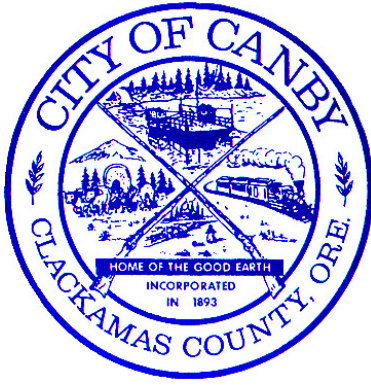
9. ADJOURNMENT

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.



City of Canby

Planning and Building Department

TO: *Planning Commission*
FROM: *Bryan Brown, Planning Director*
DATE: *October 14, 2011*
SUBJECT: *Zoning Use Determination(MISC 11 -03)*

Summary:

This agenda item is the result of a request by Wayne Dillinger, owner of Molalla Area Wide Towing who seeks reconsideration of a previous staff and Commission decision pertaining to classifying his proposed satellite business office for a towing service company as a use subject to the issuance of a conditional use permit rather than an outright permitted use in the M-1 (I-O) zoned district at the NW/corner of SE 4th Avenue and Sequoia Parkway.

Background:

Staff made an initial determination regarding what zoning district would allow a “towing service” in a written zoning determination letter to Mr. Dillinger on April 1, 2011. Upon several inquiries regarding this determination from a knowledgeable commercial realtor aware of Wayne’s request and staff’s determination, staff agreed to push an “informal appeal” of sorts up to the Planning Commission to make a determination as indicated in 16.32.010.W of the Canby Municipal Code (CMC).

On April 25, 2011 the Planning Commission considered and debated this issue and decided in the end that this use would best be considered a use permitted subject to the issuance of a conditional use permit in accordance with and falling into the use category identified in 16.32.020.C of the CMC.

The Planning Commission made it clear during their review and classification of this use that they were not necessarily against the proposed use but felt its best location was within heavy commercial zones and that reserving the conditional use permit requirement within the M-1 district would at a minimum afford an opportunity to fully access to potential impacts of the use at the proposed location and apply any possible needed conditions to assure compatibility if allowing the use.

Staff Analysis:

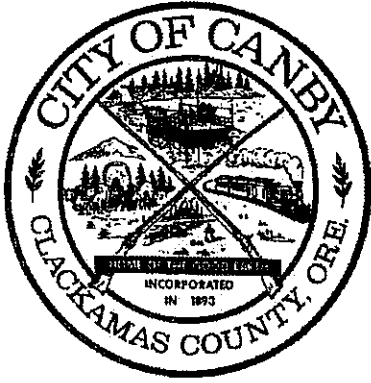
The subject use – towing service company – is not a specifically listed use within any zoned district. Therefore, this use should be compared and contrasted with listed uses having similar land use impacts to determine if it is an allowed use or not and into which zoned district it would most appropriately fit. This is the responsibility of the Planning Director by Canby’s code except in circumstances or situations where the director chooses to defer to the Planning Commission for a use determination or when the director’s decision is appealed.

The property on which Molalla’s Area Wide Towing is interested in operating a satellite office has an underlying zoning of M-1 Light Manufacturing and the I-O Industrial Overlay district. There are certain prohibited uses indicated by the I-O district, but staff is of the opinion that a “towing service” is not one of them. This leaves it up to the discretion of the Planning Director and/or Planning Commission to determine if the given use is similar to or dissimilar from listed use in various districts so as to determine in what manner the use might be allowed – outright or by conditional use permit.

Staff has attached a copy of our original “appropriate zoning determination” letter, and excerpts of the listed uses within both the subject M-1 district and the C-2 district in which staff has indicated the use would be allowed outright by our determination.

RECOMMENDATION:

Staff is willing to stand by our original “appropriate zoning determination” letter indicating that a towing service business is a conditional use within the M-1 zoned district, but recognized that there are legitimate arguments and reasoning that might lead to a deferring conclusion. Therefore, we agreed to “push this decision” up to the Planning Commission for a final determination. Staff recognizes that honoring any additional reconsideration of a previous decision by the Planning Commission could be judged to be harassment and would not anticipate allowing any further such requests on this issue.



City of Canby

Planning and Building Department

Molalla Towing Service
Attn: Wayne Dillinger
Ph: 503-910-3592
Molalla, OR

April 1, 2011

RE: Determination of Appropriate Zoning – Molalla Towing Service Company Branch Office in Canby

APPROPRIATE ZONING DETERMINATION: A determination of the appropriate zoning for a considered use is intended to identify those zoning districts for which an identified use would be allowed outright, as a possibility with approval of a Conditional Use Permit, or as determined by the Planning Commission. City staff is available to help determine and verify the existing zoning of a particular location or property. A zoning map of the City of Canby is available on the City of Canby website: <http://www.ci.canby.or.us> (click on "zoning map" link).

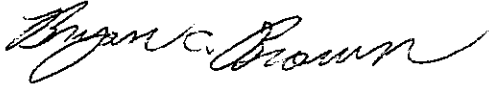
This letter is in reference to a request for information concerning the appropriate zoning district in which to appropriately locate an identified use. Once the appropriate zoning district(s) are identified, city economic development staff is available to assist a prospective client in locating possible areas in town with the appropriate zoning designation.

The considered use is for a branch location for a Molalla Towing Company. They see an opportunity to serve the I-5 and Canby area market. They described their possible operation needs to include up to a 2 acre site capable of parking/storing up to 10 to 15 cars at a time in a fenced area with a small office building. They tow autos and light duty trucks to the site and store them from 3 to 45 days at most.

- Although the considered use is not specifically listed, it has been determined to be included within the uses listed in 16.28.010.C Automobile, motorcycle, boat or truck sales, service, repair, rental, storage or parking. These uses are permitted outright within the C2, Highway Commercial and the CM, Heavy Commercial/Manufacturing Districts.
- The considered use could possibly be approved through a Conditional Use Permit application and approval process within the M1, Light Industrial District as determined by the Planning Commission.

We are pleased to provide you with this requested information. Please feel free to contact me if you have additional zoning or land use related questions.

Respectfully,

A handwritten signature in cursive script that reads "Bryan Brown".

Bryan Brown
Planning Director