

**PLANNING COMMISSION  
Meeting Agenda  
Monday – June 6, 2011  
7:00 PM - Special Meeting**

**Development Services Building Conference Room**

**111 NW 2<sup>nd</sup> Avenue**

**Chair Dan Ewert – Vice Chair Janet Milne**

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

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- 1. CALL TO ORDER**
- 2. CITIZEN INPUT ON NON-AGENDA ITEMS**
- 3. PUBLIC HEARINGS**
- 4. NEW BUSINESS**
- 5. FINAL DECISIONS**  
Note: These are final, written versions of previous oral decisions. No public testimony.  
  
Canby Police Facility – DR 11-02
- 6. MINUTES**
- 7. ITEMS OF INTEREST/REPORT FROM STAFF**
- 8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**
- 9. ADJOURNMENT**

**Immediately following special meeting there will be a work session on a prior condition of approval for Potters Industries**

**June 13, 2011 Planning Commission Meeting is Cancelled**

*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 to Jill Thorn at 503-266-7001.*

*A copy of this agenda can be found on the City's web page at [www.ci.canby.or.us](http://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.*

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



**REGARDING A REQUEST FOR SITE AND DESIGN REVIEW AT 1175 NW 3rd AVENUE, CANBY OREGON.** ) **FINDINGS CONCLUSION &**  
) **FINAL ORDER**  
) **APPLICATION: DR 11-02 CANBY**  
) **POLICE STATION**  
)  
)  
)

**A. NATURE OF APPLICATION**

The City has received an application Site and Design Review DR 11-02, a new single-story 25,300sf police facility with a 10,000sf daylight basement for future expansion. The proposed site plan provides 34 public parking stalls and 54 secure police parking stalls. The property is located in the L-1 Light Industrial zone.

This application is being reviewed through a Type III “Site and Design Review” requiring a Site and Design Review (DR) application. Canby Municipal Code (CMC) 16.49.030.1.a requires “all new buildings” to be reviewed as a Site and Design Review. This review is a “quasi-judicial” process which is considered through a public hearing with a decision made by the Planning Commission. This application requires notice to property owners and residents within a 500 foot radius from property limits; at least one neighborhood meeting is required. There is a 20 day notice period and 10 day appeal period. The Type III review process is described in further detail in Canby Municipal Code (CMC) 16.89.050. If appealed, the proposal is heard by the City Council.

## B. CRITERIA AND STANDARDS

### Canby Comprehensive Plan

Canby Comprehensive Plan

Land Use Element Goal: Policy No. 6, Areas of Special Concern

- Area “A” and
- Area “B”

### Canby Municipal Code Chapters

16.10	Off Street Parking
16.32	Light Industrial (M-1)
16.49	Site and Design Review
16.43	Outdoor Lighting Standards
16.89.040	Application and Review Procedures Type III Decision
16.130	Division XII. Riparian Preservation
16.140	Division XIII Wetland Preservation

***Land Use Element Goal: To Guide The Development And Uses Of Land So That They Are Orderly, Efficient, Aesthetically Pleasing, And Suitably Related To One Another.***

*Policy No. 6: Canby Shall Recognize The Unique Character Of Certain Areas And Will Utilize The Following Special Requirements, In Conjunction With The Requirements Of The Land Development And Planning Ordinance, In Guiding The Use And Development Of These Unique Areas.*

***Implementation Measures:***

- 1. Area “A” is significant because of its location on Highway 99-E at a main entry to the City. This site has long been zoned for industrial development but has remained vacant because of topographic constraints, lack of State highway access, and limited rail access. With the installation of traffic signals at the intersection of Highway 99-E and S.W. Berg Parkway, the opportunity for major access improvements to the site can be seen. It now appears that commercial development would better utilize this area, but with a large adjacent area designated for industrial development, it would seem most reasonable to allow either light industrial or general commercial development (provided that any commercial development utilize the signalized intersection for access to Highway 99-E). The development of Area “A” is expected to have an impact on access to Area “B,” which is adjacent. Area “A” has been rezoned C-M.*
- 2. Area “B” is designated for Heavy Industrial use on the Land Use Map. It is unique because of its location within an old aggregate removal site, with special access, water and sewer service, and drainage concerns which result from its physical condition and location. Area “B” will be upzoned to M-2 when all public facilities are available to serve the area and access problems have been resolved.*

**A. 16.49.040 Criteria and standards.**

In review of a Type III Site and Design Review Application described in Section [16.49.035.B](#), the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following A through D, and with Criteria 4, 5, and 6 below:

**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 proposed development incorporates the use of LID best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.

**4.** 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. 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. 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.

**5.** 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.

**6.** As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in [Chapter 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.

## C. FINDINGS AND REASONS

The Planning Commission held a public hearing on May 23, 2010, during which the May 23, 2011 Staff Report, including exhibits, and a presentation were presented by Staff. In the Staff Report dated May 23, 2011, Staff recommends that the Planning Commission **APPROVE** Site and Design Review DR 11-02 pursuant to the conditions presented in Section XIII of that Staff Report and public testimony and deliberation.

The Planning Commission, after holding a public hearing on May 23, 2010 and considering the May 23, 2010 Staff Report, deliberated and reached a decision approving the applicant's request for Design Review. The Commission adopted most of the findings and conclusions contained in the May 23, 2010 Staff Report and modified others and, concluded that, with the conditions of approval included herein, the applications meet the approval criteria, as reflected in the written Order below.

## CONCLUSION

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

1. Staff concludes that the use is in conformance with applicable sections of the City's Comprehensive Plan and the Zoning Ordinance.
2. Staff concludes that the relevant site and design standards and minimum acceptable scores are met.
3. Staff concludes that with the proposed conditions, the site can accommodate the proposed use.
4. Staff concludes that public service and utility provision to the site is available or can be made available through future improvements.
5. Intersection operations as a result of project traffic would not trigger significant impacts and corresponding mitigations.
6. The proposed police station is expected to add a sufficient quantity of vehicles during peak hours to both N Cedar Street and NW 2nd Avenue along the residential portions to require mitigation measures along these roadways as a result of this project.
7. With conditioned mitigation measures, the proposed access points are expected to meet the sight distance requirements.
8. In the immediate vicinity of the project there are no sidewalks available on the north side of NW 3rd Avenue between N Baker Dr. and N Cedar Street. Additionally, there is a gap in the sidewalks on the south side of NW 3rd Avenue between the skate park and the proposed site.
9. The bike lanes on the south side of NW 3rd Avenue may not be feasible west of N Baker Drive unless they are combined with the off-street path through the skate park.
10. Cedar St. could be particularly problematic for high-speed vehicles in an emergency response situation. This intersection is required to meet a sight distance minimum of 280 feet for stop controlled approaches; however, it is not currently meeting this required stop distance for eastbound moving looking to the north (190 feet of sight distance) or to the south (180 feet of sight distance).
11. The installation of a south-bound stop sign on N. Cedar at northern NW 3rd Avenue intersection combined with a diverter at N. Cedar at NW 3rd Avenue southbound would address both volume and safety considerations most effectively and with less cost than other options.

12. It was decided that out of the 3 different emergency access routes presented and discussed, that Route 3 through the south edge of Darcy Estates within a designated emergency access easement was the preferred route to utilize – citing its current legal easement status, previously constructed gravel base for fire truck access when originally constructed, determination as being the safest and most useful and direct alternative route to town which also avoids the use of narrow internal neighborhood streets and lessens adverse impacts on the neighborhood properties than the other routes, and is most suitable for long-term use.
13. Public parking shall continue to not be permitted along NW 3rd Avenue.
14. The Site and Design Review criteria are satisfied.

## ORDER

**IT IS ORDERED BY THE PLANNING COMMISSION** of the City of Canby that DR 11-02 is **APPROVED** subject to the following conditions.

### Conditions Unique to this Proposal

Prior to Issuance of Certificate of Occupancy the following must be completed:

1. Complete all required frontage improvements on NW 3rd Avenue to City collector standards (except parking).
2. Ensure adequate sight distance at the site driveways by restricting landscaping or any potential obstructions on the project frontage within sight distance triangles.
3. Guide signage directing vehicles to the police station via NW 3rd Avenue and Douglas Streets, shall be provided in the general area and specifically at the intersection of Highway 99E at N. Elm Street, to reduce vehicle trips on NW 2nd and Cedar Streets.
4. A police employee education program shall be conducted on the appropriate routes for both their commute and emergency response trips to lessen traffic on Cedar between 2nd and 3rd and on 2nd Avenue east of Cedar. The property owner will also contact the owners of the industrial properties in the area and provide intersection and route change information to the property owners for dissemination to the industrial employees.
5. A stop sign shall be installed for south-bound traffic along N. Cedar St. at the northern NW 3rd intersection on the west side of Cedar. This stop sign shall be combined with all of the following:

Improve neighborhood through-trip conditions on N Cedar Street and NW 2nd Avenue by constructing:

- Construct a diverter (see example in May 19, 2011 DKS Memo – Exhibit D of the May 23 Staff Report) on the south leg NW 3rd Avenue/N Cedar Street to prohibit vehicles traveling south from the intersection on N Cedar Street. This improvement would be combined with signing all-way stop control at the intersection, which in total would also mitigate the intersection sight-distance issues that were identified. The diverter would divert southbound traffic on N Cedar Street (headed to NW 2nd Avenue) to NW 3rd Avenue. In addition the improvement would divert eastbound traffic from the industrial area to stay on NW 3rd Avenue instead of cutting south on N Cedar Street to reach NW 2nd Avenue. Two-way

traffic flow could be maintained on N Cedar Street on both sides of the diverter to minimize impacts to local access.

- Provide stop sign striping on the travel lane at the northern NW 3rd at Cedar intersection on the south-bound travel lane at the newly-provided stop sign.
- To reflect the mid-block location of this intersection, provide stop sign conventional warnings and markings for motorists on the travel lane on the approach, prior to the northern NW 3rd at Cedar intersection on the south-bound travel lane. Additionally, install a “stop ahead” signage along this road at an appropriate location. An example is below:



6. A public information meeting (with the same notice list as previous meetings and including those property owners along NW Cedar and NW 2nd as well as NW 3rd east to Douglas Street) shall be held to provide information and answer questions about circulation changes.
7. A sidewalk conforming to City standard shall be constructed on the south side of NW 3rd Avenue between the project site and N Baker Dr.
8. A bike lane conforming to City standard shall be painted on the south side of NW 3rd Avenue from NW Baker Dr. to N. Cedar St. which is combined with the off-street path through the skate park; or
9. A 14-foot wide multi-use path delineated by white paint and filled with green or blue paint shall be created.
10. The applicant shall assess and substantiate that stormwater emanating from this site shall not negatively affect in any way the City’s drinking water quality at the Molalla intake facility. The analysis would include:
  - Identification of the likely pollutants and water quality indicators and total suspended solids (TSS) that may be contained in, or influenced by the stormwater effluent from the proposed development
  - Description of the design elements of the proposed stormwater facility and their ability to mitigate the pollutants, indicators or solids and how the facility ameliorates the effluent’s pollutant/indicator/TSS composition and any associated effects.
11. All driveway access connections to NW 3rd Avenue shall have commercial driveway approach aprons in conformance with City of Canby public works standards.
12. The proposed improvements on NW 3rd Avenue are intended at this time to provide a viable access to the new police station. In the future and upon the extension of NW 3rd Avenue street

alignment to Berg Parkway, these improvements may be altered and temporarily interrupt the police station access.

13. The storm drainage runoff from NW 3rd Avenue shall be collected in a conveyance system and discharged onsite with an energy dissipation structure. The City of Canby will assume all maintenance responsibilities of this storm drainage line. The runoff overflow from the newly created impervious surfaces will be permitted to connect to this system.
14. Emergency access to and from the site shall be provided. The route shall be aligned as “route 3” is shown and described in the Staff Report.
15. The applicant shall install an emergency access gate to prevent non-emergency vehicles from entering this emergency access road at N. Cedar Street. There shall also be a “no trespassing” sign at this entrance.
16. Provisions for a structural barrier such as a fence to provide continued limited access to the Canby Utility drinking water intake at the terminus of NW 3rd Avenue shall be made in conjunction with Canby Utility. The applicant shall construct this fence at their expense.
17. As part of the final engineering process, Canby Utility should coordinate with the applicant regarding the wall construction on the northwest corner of the site for reasons of fill material and continued access to the access road.
18. A vehicle barrier shall be provided at the expense of the applicant along the length of the improved roadway on top of the proposed wall on the northwest corner of the site.
19. Deleted

#### Procedural Conditions

Prior to Issuance of Building Permit the following must be completed:

20. The applicant may submit the civil construction drawings separate from the building permit submittal package for final preconstruction conference sign-off approval.
21. A Pre-Construction Conference with sign-off on all final plans is required.
22. The property owner’s design engineer shall provide 3 copies of the final Storm Drainage Report detailing infiltration and drainage analysis with the final construction plans submittal.
23. A Grading and Erosion Control Permit will be required from the City prior to commencing site work.
24. The building permit application shall include a revised set of all full size development plans (including site plan, landscape plan, elevations, etc.) which depicts each of the written conditions to the satisfaction of the City Planning Department. All written conditions must be met prior to final occupancy of the building unless otherwise noted.
25. 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.

26. Construction plans shall be designed and stamped by a Professional Engineer registered in the State of Oregon.
27. Clackamas County will provide review of Fire & Life Safety, Plumbing, and Electrical permits for this project. Fire & Life Safety approval must be obtained from Canby Fire prior to issuance of a City building permit.

Prior to Issuance of Occupancy Permit the following must be completed:

28. A non-residential wastewater survey must be submitted for review and approval prior to final building occupancy.
29. The design engineer shall submit to the City of Canby for review and approval a storm drainage plan and analysis for the storm water disposal from both the building and the parking areas. The drainage analysis should conform to the City of Portland or Clean Water Services storm drainage design standards. The water treatment facilities design must be based on a 2-year 24-hr storm event recurrence and the existing stormwater conveyance system has adequate capacity to convey the runoff following the 25-year 24-hr storm event.
30. Prior to issuance of a building permit, a copy of the proposed deed and survey (plat) shall be provided to the City and any new or amended easements be recorded with the Clackamas County Recorder's Office.
31. Approval of this application is based on the submitted site plan, elevations, and other relevant application materials and submitted testimony. Approval is strictly limited to the submitted proposal and is not extended to any other use of the property. Modification of the approved site plan and elevations with regards to building height, sign size and design, colors, materials, building placement, setbacks, or any other approved elements, shall require an approved modification in conformance with the relevant sections of the Canby Municipal Code.
32. A non-residential wastewater survey must be submitted for review and approval prior to final building occupancy.

**I CERTIFY THAT THIS ORDER** approving **DR 11-02**, was presented to and **APPROVED** by the Planning Commission of the City of Canby.

**DATED** this 6<sup>th</sup> day of June 2011.

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Daniel K. Ewert, Chair  
Canby Planning Commission

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Markus Mead,  
Associate Planner

**ATTEST:**

**ORAL DECISION – May 23, 2011**

**AYES:** Ewert, Joyce, Milne, Slagle, Tessman

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Kocher, Proctor

**WRITTEN DECISION – June 6, 2011**

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**



**M E M O R A N D U M**

**TO:** *Planning Commission*

**RE:** *Potters Industries Landscaping (DR95-20/MOD11-04)*

**FROM:** *Markus Mead, Associate Planner, Planning & Building Dept.*

**DATE:** *May 27, 2011*

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This memorandum is intended to convey information regarding the consideration of landscaping area previously designated. The attached documents and below memo provide specific information to the discussion topic germane to the Hearing. This memo contains the most relevant information and also contained in Section VII Summary Of Major Considerations of the attached Staff Report. This information also contains guidance for the scope of decision needed by the Planning Commission

Please find attached documents relevant to the June 6 PC Hearing. The documents include:

1. Staff Report
2. Applicant's Narrative
3. Conclusions and Order, DR95-20, Feb. 12 1996
4. Minutes of the January 9, 1996 Planning Commission Hearing

Landscaping at the corner of SW 3rd at Baker Drive. According to the findings (condition #5) for the previous warehouse approval in DR 95-20, the corner of this intersection is to be designated for landscaping:

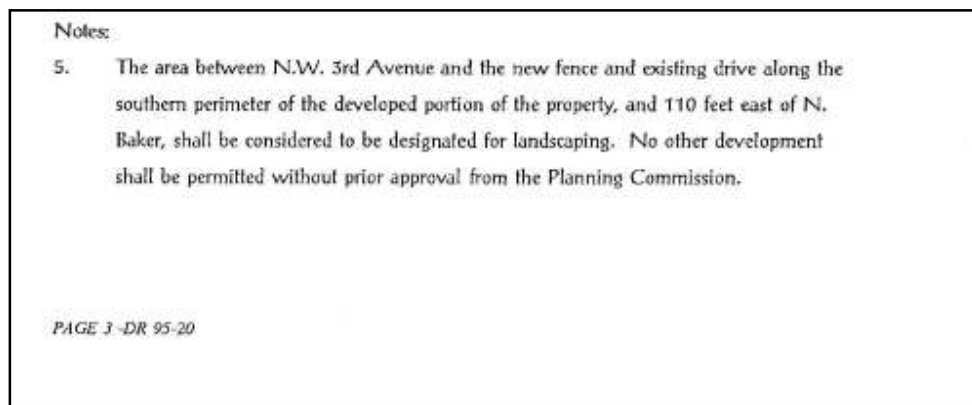


Figure 1: Findings, Conclusions and Order, DR95-20, Feb. 12 1996

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According to the minutes of the January 9, 1996 Planning Commission Hearing when the former warehouse addition was considered in a Site and Design Review Application, this area was identified to be reserved for “landscaping”. However, the condition is labeled as a “Note” and there are no findings in the accompanying Staff Report to substantiate the condition. The Planning Commission minutes (contained in Exhibit C do not specifically address the reason for this area’s enhanced Planning Commission review. Interpreting the discussion, it seems that the desire was to assure that the landscape minimum percentage could be met should the site build-out and that this area would be a designated landscape area. It is also possible that because of the City’s new Low Impact Development (LID) code provisions, the term “landscaping” could now be considered to include native vegetation and trees whereas, the term landscaping may have previously meant designed, installed and maintained vegetation.

The proposed warehouse in this modification application is located partially within (approximately 39 linear feet) of the designated area. According to the current zoning standards, the structure is permitted to be located in its proposed location (if not considering the former condition). Adhering to this condition, it is possible for this proposed warehouse to be located 110 feet from N. Baker Drive. At this location, there would be no reason for the Planning Commission to consider the structure’s location. Therefore, the following questions are generated specifically for Planning Commission consideration:

1. Why is this area described as needing additional consideration by the Planning Commission prior to development?
2. What evaluation metrics would Staff, the Planning Commission use to determine if a structure could be located in this area?

### **Code Guidance**

According to the Canby Municipal Code guidance on landscaping, landscaping does not have to be manicured; it can be mature trees, vegetation and grass. According to CMC 16.49.080.2, native vegetation and mature, healthy trees are encouraged. Additionally, per 16.49.110.C.1, any mature, healthy tree or grove of trees retained in the landscape (as approved by the Site and Design Review Board) may be counted directly toward the percentage of landscaping required for a development. The minimum amount of landscaping required is 15% or approximately 1.479 acres of the total site. Approximately 5+ acres of the total site is still undeveloped. Much of this area is characterized by mature trees. Therefore, the minimum standard is exceeded by the existing tree grove and other native on-site vegetation. Additionally, there is parking lot landscaping that is maintained and conforms to zoning standards, adding to the impervious area and landscaping provision.

With this application, there is approximately 50 feet of landscaping on the frontages of both NW 3<sup>rd</sup> Avenue and N. Baker Dr. These frontages will be landscaped with grass and maintained by the property owner. A swale (with grass) will be located along the

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NW 3<sup>rd</sup> Avenue frontage. Thus, significant landscaping will be provided with proposal. The minimum setbacks are exceeded, and more landscaping is provided than could be while meeting code standard.

Staff believes that with the new LID standards and associated language, and in combination with condition of approval #3, the interpreted intent of the corner's function of being landscaped is met and that the site meets minimum development standards.

As required by this condition, Staff will bring this proposal before the Planning Commission. However, the Commission's decision scope is for this landscape area only. The land use decision is being processed as a Ministerial Type I application and the Commission should not consider the existing development or the proposed Modification other than how it relates to this landscape area.

Because the proposed warehouse meets all minimum code standards and the land use is permitted outright, the Commission should consider the following:

- The structure's location; should the proposed structure be allowed in its proposed location.
- The initial rationale for this landscape area to be designated and the requirement for its continuation based on new code language and possible landscaping allowable elements.
- That the existing tree grove is acceptable to be considered "landscaping" and be applied to meet the minimum standard.

#### **16.49.080    *General provisions for landscaping.***

*2.    The purpose of these landscaping standards is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution.*

*These standards are also intended to facilitate Low Impact Development (LID) techniques through the retention of existing native vegetation and mature, healthy trees, to the extent feasible. Additional LID related goals of this chapter are to: reduce erosion and storm water runoff; preserve and promote urban wildlife*

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*habitats; reduce the amount of carbon dioxide in the air; shade and reduce the temperature of adjacent waterways; and enhance the streetscapes along the city's public rights-of-way with an emphasis on trees and LID stormwater facilities.*

**16.49.110 Landscape area credit for preservation of existing trees.**

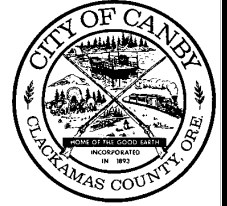
*A. Policy. It being the policy of the City of Canby to preserve healthy, mature trees wherever possible within its city limits, a system of landscape area credits is hereby established as an incentive for property owners and developers to preserve existing healthy, mature trees and to include them in the landscape plan for a proposed development.*

*C. Landscape Credit.*

*1. Program for Landscape Credit. One hundred percent (100%) of the area preserved under any mature, healthy tree or grove of trees retained in the landscape (as approved by the Site and Design Review Board) may be counted directly toward the percentage of landscaping required for a development.*

**STAFF REPORT TO THE  
PLANNING DIRECTOR**

**FOR THE CITY OF CANBY, OREGON**



**SECTION I                      APPLICATION SUMMARY**

***APPLICANT:***  
Potters Industries  
350 N. Baker  
Canby, OR 97013

***FILE NO.:***  
MOD11-04 Potters Industries Warehouse  
(Case No. DR95-20, a 7,200 square foot  
warehouse building and original site approval of 1979.)

***OWNER:***  
Potters Industries  
350 N. Baker  
Canby, OR 97013

***STAFF:***  
Markus Mead  
Associate Planner

***LEGAL DESCRIPTION:***  
Tax Lot 1001 of Tax Map 3-1E-32D

***DATE OF REPORT:***  
May 25, 2011

***LOCATION:***  
350 N. Baker,

***DATE OF HEARING:***  
N/A

***COMP. PLAN DESIGNATION:***  
Light Industrial (LI)

***ZONING DESIGNATION:***  
M-1 (Light Industrial)

**SECTION II.                      PROPOSAL:**

The proposal as illustrated in the Pre-application application, one new 10,000 square foot building for product storage, and associated site improvements for access and loading. This proposal would modify a previous Site and Design Review application (Case No. DR95-20, a 7,200 square foot warehouse building and original site approval of 1979.)

**SECTION II                      STAFF RECOMMENDATION**

Based upon the findings in this Staff Report, and without benefit of testimony at a public hearing, Staff recommends **APPROVAL** of MOD11-04, pursuant to the conditions presented in this Staff Report.

### SECTION III. APPLICABLE CRITERIA

#### Canby Municipal Code Chapters

16.10	Off Street Parking
16.32	Light Industrial (M-1)
16.49	Site and Design Review
16.43	Outdoor Lighting Standards
16.89.030	Application and Review Procedures Type I Decision

### SECTION IV BACKGROUND

**Existing Conditions:** The site currently includes the existing Potters Industries facility.

**Case History:** The application is a modification to previously approved land use application, and associated site plans (case number DR 95-20, a 7,200 square foot warehouse building and original site approval of 1979), thus meeting the test for a modification.

The original application staff report concluded the following:

- with appropriate conditions, the proposed development as described in the application, site plan, and this report, is in conformance with the standards of this and other applicable ordinances; the design is compatible with the design of other developments in the vicinity; and, the location, design, size, and materials of the exterior of the structure will be compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
- 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
- the proposed design for the development is compatible with the design of other developments in the same general vicinity; and
- 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; and
- the conditions listed are the minimum necessary to achieve the purposes of the Site and Design Review Ordinance, and do not unduly increase the cost of housing.



## SECTION V      PROCESS

This application is reviewed as a Minor Modification with a Type I process but reviewed against the Site and Design Review Criteria of a Type III procedure. According to the Canby Municipal Code (CMC) 16.89.090.D, *Modification applications shall be evaluated based on the criteria pertaining to the original application being modified.* In this case, the original application was a Type III Site and Design Review.

Staff has concluded that Minor Modifications originally processed through Type III procedures can satisfy due process requirements in cases where there are clear and objective review criteria and no discretionary decisions to be processed as Type I applications with no property owner or public notice because:

- The use has already been determined to conform to the City's Comprehensive Plan and Zoning Ordinance during a previous quasi-judicial public hearing with associated notice.
- No new public infrastructure is proposed.
- No significant off-site impacts are associated with the proposal.

The Minor Modification application is considered a Type I Decision. Factors to be considered in this determination include the date of the original application, the impact on neighboring properties, and the impact on public service provision.

To be a "Minor Modification" the proposed modification, would have a "negligible impact on an approved site plan, land use decision, or condition of approval (of the previous approval of case number DR 95-20, a 7,200 square foot warehouse building and original site approval of 1979). Based on the applicant's information, the Planning Director has determined that the proposal would likely have a "negligible impact" and thus be processed as a Minor Modification. This is based on the use of an existing access (not proposing a new access) and not increasing air, noise, light impacts beyond the code lot coverage/intensity intent or significantly beyond the existing use intensity.

Type I decisions are made by the Planning Director without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying those criteria requires no use of discretion. This process is detailed in Canby Development Code Chapter 16.89.030 and .090.

Therefore, this application's modification process will follow the Site and Design Review Type I procedure in terms of notice and decision-making process and is reviewed against the Type III Site and Design Review criteria found in the review matrix used in the original application, satisfying CMC 16.89.090.D.

## SECTION VI STAFF REPORT APPROACH

This Staff Report includes the applicant's narrative and site plan as findings to describe compliance for applicable regulations found in Section VIII, Review for Conformance With Applicable Approval Criteria. This narrative is found in Exhibit A of this Staff Report. Each criterion references findings that identify the associated narrative sections.

## SECTION VII SUMMARY OF MAJOR CONSIDERATIONS

Lighting Plan and possible light trespass to residential uses across SW 3<sup>rd</sup> Avenue. It is not possible to determine by the submitted information how the proposal will comply with the exterior lighting standards of CMC 16.43. According to subsection 110 of that Chapter, a lighting plan is required. The solution to this is as specified in Condition #1 of this report.

Sidewalk along SW 3rd Avenue. Half street improvements are typically required for unimproved street frontages. The applicant has proposed to delay the sidewalk and other typical streetscape improvements until other future development is proposed adjacent to, and eastward along SW 3rd Avenue. The solution to this is specified in Condition #2 of this report.

Landscaping at the corner of SW 3rd at Baker Drive. According to the findings (condition #5) for the previous warehouse approval in DR 95-20, the corner of this intersection is to be designated for landscaping:

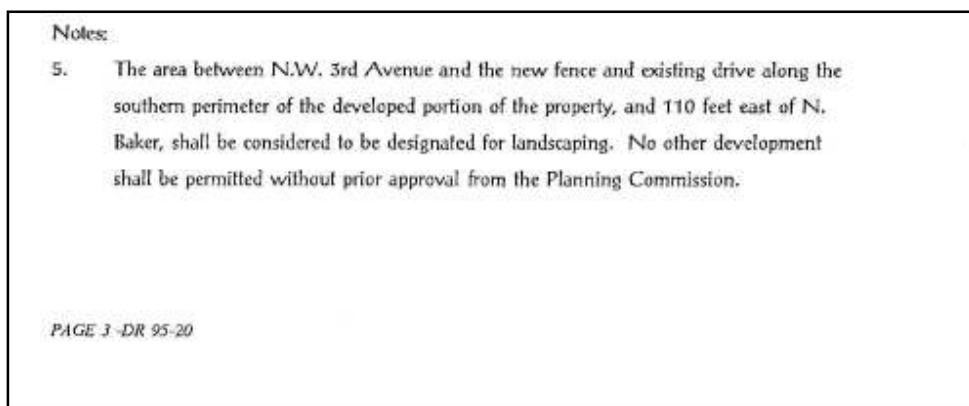


Figure 1: Findings, Conclusions and Order, DR95-20, Feb. 12 1996

According to the minutes of the January 9, 1996 Planning Commission Hearing when the former warehouse addition was considered in a Site and Design Review Application, this area was identified to be reserved for “landscaping”. However, the condition is labeled as a “Note” and there are no findings in the accompanying Staff Report to substantiate the condition. The Planning Commission minutes (contained in Exhibit C do not specifically address the reason for this area’s enhanced Planning Commission review. Interpreting the discussion, it seems that the desire was to assure that the landscape minimum percentage could be met should the site build-out and that this area would be a designated landscape area. It is also possible that because of the City’s new Low Impact Development (LID) code provisions, the term “landscaping” could now be considered to include native vegetation and trees whereas, the term landscaping may have previously meant designed, installed and maintained vegetation.

The proposed warehouse in this modification application is located partially within (approximately 39 linear feet) of the designated area. According to the current zoning standards, the structure is permitted to be located in its proposed location (if not considering the former condition). Adhering to this condition, it is possible for this proposed warehouse to be located 110 feet from N. Baker Drive. At this location, there would be no reason for the Planning Commission to consider the structure’s location. Therefore, the following questions are generated specifically for Planning Commission consideration:

1. Why is this area described as needing additional consideration by the Planning Commission prior to development?
2. What evaluation metrics would Staff, the Planning Commission use to determine if a structure could be located in this area?

### **Code Guidance**

According to the Canby Municipal Code guidance on landscaping, landscaping does not have to be manicured; it can be mature trees, vegetation and grass. According to CMC 16.49.080.2, native vegetation and mature, healthy trees are encouraged. Additionally, per 16.49.110.C.1, any mature, healthy tree or grove of trees retained in the landscape (as approved by the Site and Design Review Board) may be counted directly toward the percentage of landscaping required for a development. The minimum amount of landscaping required is 15% or approximately 1.479 acres of the total site. Approximately 5+ acres of the total site is still undeveloped. Much of this area is characterized by mature trees. Therefore, the minimum standard is exceeded by the existing tree grove and other native on-site vegetation. Additionally, there is parking lot landscaping that is maintained and conforms to zoning standards, adding to the impervious area and landscaping provision.

With this application, there is approximately 50 feet of landscaping on the frontages of both NW 3<sup>rd</sup> Avenue and N. Baker Dr. These frontages will be landscaped with grass and maintained by the property owner. A swale (with grass) will be located along the NW 3<sup>rd</sup> Avenue frontage. Thus, significant landscaping will be provided with proposal. The minimum setbacks are exceeded, and more landscaping is provided than could be while meeting code standard.

Staff believes that with the new LID standards and associated language, and in combination with condition of approval #3, the interpreted intent of the corner's function of being landscaped is met and that the site meets minimum development standards.

As required by this condition, Staff will bring this proposal before the Planning Commission. However, the Commission's decision scope is for this landscape area only. The land use decision is being processed as a Ministerial Type I application and the Commission should not consider the existing development or the proposed Modification other than how it relates to this landscape area.

Because the proposed warehouse meets all minimum code standards and the land use is permitted outright, the Commission should consider the following:

- The structure's location; should the proposed structure be allowed in its proposed location.
- The initial rationale for this landscape area to be designated and the requirement for its continuation based on new code language and possible landscaping allowable elements.
- That the existing tree grove is acceptable to be considered "landscaping" and be applied to meet the minimum standard.

#### **16.49.080      *General provisions for landscaping.***

*2.    The purpose of these landscaping standards is to provide uniform standards for the development and maintenance of the landscaping of private property and public rights-of-way. The purpose of landscaping is to improve the livability of residential neighborhoods, enhance the customer attraction of commercial areas, increase property values, improve the compatibility of adjacent uses, provide visual separation and physical buffers between incompatible adjacent land uses, provide visual relief from the expanse of parking lots, screen undesirable views, contribute to the image and appeal of the overall community, and mitigate air and noise pollution.*

*These standards are also intended to facilitate Low Impact Development (LID) techniques through the retention of existing native vegetation and mature, healthy trees, to the extent feasible. Additional LID related goals of this chapter are to: reduce erosion and storm water runoff; preserve and promote urban wildlife habitats; reduce the amount of carbon dioxide in the air; shade and reduce the temperature of adjacent waterways; and enhance the streetscapes along the city's public rights-of-way with an emphasis on trees and LID stormwater facilities.*

**16.49.110 Landscape area credit for preservation of existing trees.**

*A. Policy. It being the policy of the City of Canby to preserve healthy, mature trees wherever possible within its city limits, a system of landscape area credits is hereby established as an incentive for property owners and developers to preserve existing healthy, mature trees and to include them in the landscape plan for a proposed development.*

*C. Landscape Credit.*

*1. Program for Landscape Credit. One hundred percent (100%) of the area preserved under any mature, healthy tree or grove of trees retained in the landscape (as approved by the Site and Design Review Board) may be counted directly toward the percentage of landscaping required for a development.*

## SECTION VIII REVIEW FOR CONFORMANCE WITH APPLICABLE APPROVAL CRITERIA

### 16.10 Off-Street Parking And Loading

**Findings:** Per Table 16.10.050 of CMC 16.10.050, Warehousing and Manufacturing uses require: 1.00 space per 1,000 gross square feet of non-office warehousing space. Thus, 10 new spaces are required. There are 18 spaces existing for a 34,500sf structure which does not meet the current standard and did not meet the previous standard which would require 39 (5.0 for the 1440 square feet of office space, and 26.6 for the 26,640 square feet of existing warehouse/manufacturing space). The applicant has stated that the proposed warehouse will not require any changes in the current operation of the facility nor any changes in the number of employees or shifts being worked. Therefore, the applicant maintains that no additional parking is necessary for the proposed warehouse. The applicant is responsible only for the proposed additional parking, not for any deficiencies of the current operation with the current ordinance (16.10.010.C).

Unless specifically waived by the Planning Commission, in accordance with the provisions of 16.10.010.A ("A lesser number of spaces may be permitted by the Planning Commission based on clear and objective findings that a lesser number of parking spaces will be sufficient to carry out the objective of this section."), 10 additional parking spaces are required. Possible "clear and objective findings" for no additional parking spaces is that there will be no personnel or shift changes as a result of the construction of the proposed warehouse.

The City has an interest in assuring sufficient parking is provided for commercial and industrial uses so that future tenants or property owners are not limited by parking limitations resulting from a failure to be constructed by a previous tenant.

Therefore, with ten proposed additional parking spaces, the standard is met. Staff finds that the applicant site plan is sufficient for the purposes of this staff report and the criterion is met.

### 16.10.060 Off-street loading facilities

**Findings:** This Staff Report incorporates the relevant Section of the applicant's narrative as findings. The proposed building is 10,000 sf., therefore (1) loading stall is required. One loading area has been proposed to be specifically designated. The loading and unloading of material to and from the proposed building will occur by forklift, so that no special loading facilities will be required.

Project proposes (1) loading bay and therefore meets the requirement. Staff finds that the applicant narrative is sufficient for the purposes of this staff report and the criterion is met.

16.10.070.B Parking lots and access

**Findings:** This Staff Report incorporates the relevant Section of the applicant's narrative as findings. Staff finds that the applicant narrative is sufficient for the purposes of this staff report and the applicable criteria are or can be met.

16.32 Light Industrial (M-1)

**16.32.010 Uses Permitted**

**Findings:** Referencing the use provisions of the M-1 zone 16.32.010. In this Section, subsection T permits "warehouse" uses outright. The additional land use of manufacturing is permitted outright per provided that the operation will not generate impacts listed in CMC 16.32.010.A.1-3. Therefore, the existing use and proposed use is permitted outright.

**16.32.030 Development standards**

- A. *Minimum lot area: five thousand square feet;*
- B. *Minimum width and frontage: fifty feet;*
- C. *Minimum yard requirements:*
  - 1. *Street yard: Remaining property none, except ten feet where abutting a residential zone.*
  - 2. *Interior yard: none, except ten feet where abutting a residential zone;*
- D. *Maximum building height:*
  - 1. *Freestanding signs: thirty feet;*
  - 2. *All other structures: forty-five feet.*
- E. *Maximum lot coverage: no limit;*
- F. *Other regulations:*
  - 1. *Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.*

**Findings:** This Staff Report incorporates the relevant Section of the applicant's narrative as findings. Staff finds that the applicant narrative is sufficient for the purposes of this staff report and the applicable criteria are or can be met.

Landscaping 16.49.080

The minimum amount of landscaping required is 15% or approximately 1.479 acres of the total site.

**Findings:** Approximately 5+ acres of the total site is still undeveloped. At least 1.479 acres should remain undeveloped. The minimum standard can be met with the proposed development as it will leave at least 1.479 acres as landscaped.

## 16.43 Outdoor Lighting Standards

**Findings:** This is in designated Lighting Zone Two (LZ 2) which is a non-residential district. However, a residential district is directly across the street. This Staff Report incorporates the relevant Section of the applicant's narrative and subsequent memorandum as findings. Staff finds that the condition of approval combined with the applicant narrative is sufficient for the purposes of this staff report and the applicable criteria are or can be met.

## 16.49.040 Criteria and standards.

**Findings:** This Staff Report incorporates the relevant Section of the applicant's narrative as findings. According to the Canby Municipal Code (CMC) 16.89.090.D, *Modification applications shall be evaluated based on the criteria pertaining to the original application being modified.* In this case, the original application was approved prior to the City's "Acknowledged" zoning code and Comprehensive Plan. Thus current design review criteria are not applicable to this proposed modification (case number DR 95-20, a 7,200 square foot warehouse building and original site approval of 1979), Staff finds that the applicant narrative is sufficient for the purposes of this staff report and the applicable criteria are or can be met.

## 16.89.090 Modifications

**Findings:** According to CMC 16.89.090, Factors to be considered in determining the type of modification (minor, intermediate and major) include the date of the original application, the impact on neighboring properties, and the impact on public service provision. Specifically, the application must have "negligible impact on an approved site plan, land use decision, or condition or approval." As described in the applicant's narrative, the manufacturing process will not be changed to include any hazardous, dangerous, explosive, noxious, odorous or other element or process which could become a nuisance or hazard, thus having an impact on neighboring properties. Additionally, other on-site activities such as traffic volume will not be significant (as determined in the City Traffic Engineer Scope<sup>1</sup>) to be a nuisance or have impact on neighboring properties or transportation system. Thus, any impact is negligible and the modification can be classified as Minor.

## **CONCLUSION REGARDING CONSISTENCY WITH THE STANDARDS OF THE CANBY MUNICIPAL CODE:**

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<sup>1</sup> January 24, 2011 email from Todd Mobley, City Traffic Engineer, Lancaster Engineering  
Staff Report  
MOD11-04  
Potters Industries Warehouse Modification  
May 25, 2011



Staff has reviewed the standards and intent of the applicable portions of the Canby Comprehensive Plan and Municipal Code and concludes that, with the proposed conditions, the site and design application is consistent with the applicable Canby's Comprehensive Plan Policies and Municipal Code Standards and criteria.

## SECTION IX COMMENTS SUMMARY

Comments were received from the following agencies/departments:

- City of Canby Public Works
- City of Canby Fire
- City Engineer
- Oregon Dept. Of Transportation (ODOT)
- Canby Utility

### **City Traffic Engineer Comment Summary:**

The proposal for an increase in 10,000 square feet of building area may normally trigger the need for a traffic analysis of some kind, the proposed building will not be occupied or have standard utilities. If it is only used for materials storage, it would result in an increase in trips that would be significant enough to warrant a study.

## SECTION X CONCLUSION

1. The staff hereby concludes that, with appropriate conditions, the proposed development as described in the application, site plan, and this report, is in conformance with the standards of this and other applicable ordinances; the design is compatible with the design of other developments in the vicinity; and, the location, design, size, and materials of the exterior of the structure will be compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
2. Staff concludes that the use is in conformance with applicable sections of the City's Comprehensive Plan and the Zoning Ordinance.
3. Staff concludes that the relevant site and design standards and minimum acceptable scores are met.
4. Staff concludes that with the proposed conditions, the site can accommodate the proposed use.
5. Staff concludes that public service and utility provision to the site is available or can be made available through future improvements
6. Intersection operations as a result of project traffic would not trigger significant impacts and corresponding mitigations.

7. 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; and
8. The conditions listed are the minimum necessary to achieve the purposes of the Site and Design Review Ordinance, and do not unduly increase the cost of housing.
9. The City Planner finds that the modification requested has a negligible impact on the preliminary site plan approval (DR 95-20) and on the associated conditions of approval.
10. The proposal for an increase in 10,000 square feet of building area may normally trigger the need for a traffic analysis of some kind, the proposed building will not be occupied or have standard utilities. If it is only used for materials storage, it would result in an increase in trips that would be significant enough to warrant a study.

## SECTION XI RECOMMENDATION and Decision

Based upon the application, elevations, the site plan 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 Director **approve** MOD11-04, the following conditions apply:

## SECTION XII CONDITIONS OF APPROVAL

Approval of this application is based on submitted application materials as indicated in Exhibits A. 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. MOD11-04, including all conditions of approval, shall first require an approved modification in conformance with the relevant sections of the Canby Municipal Code.

### Conditions Unique to this Proposal

Prior to Issuance of Building Permit the following must be completed:

1. The property owner shall submit a Lighting Plan conforming to the applicable standards of CMC 16.43, or provide documentation that no exterior lighting is proposed and that any future exterior lighting will conform to the applicable standards of CMC 16.43, specifically those about shielding light trespass.

Prior to Issuance of Certificate of Occupancy the following must be completed:

2. The property owner shall prepare and enter into a development agreement with the City. The Agreement shall be recorded with Clackamas County and be legally binding upon present and future owners, upon this parcel, which stipulates the following:
  - The property owner shall install, at the owner's expense, the required half street improvements along the entire frontage of SW 3<sup>rd</sup> Avenue from Baker to the eastern property boundary when any subsequent development is proposed along SW 3<sup>rd</sup> Avenue on this property.

### Procedural Conditions

Prior to Issuance of Building Permit the following must be completed:

3. The applicant may submit the civil construction drawings separate from the building permit submittal package for final preconstruction conference sign-off approval.
4. A Pre-Construction Conference with sign-off on all final plans is required.
5. The property owner's design engineer shall provide 3 copies of the final Storm Drainage Report detailing infiltration and drainage analysis with the final construction plans submittal.
6. The building permit application shall include a revised set of all full size development plans (including site plan, landscape plan, elevations, etc.) which depicts each of the written conditions to the satisfaction of the City Planning Department. All written conditions must be met prior to final occupancy of the building unless otherwise noted.

7. 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.
8. Construction plans shall be designed and stamped by a Professional Engineer registered in the State of Oregon.
9. Clackamas County will provide review of Fire & Life Safety, Plumbing, and Electrical permits for this project. Fire & Life Safety approval must be obtained from Canby Fire prior to issuance of a City building permit.

Prior to Issuance of Occupancy Permit the following must be completed:

10. A non-residential wastewater survey must be submitted for review and approval prior to final building occupancy.
11. The design engineer shall submit to the City of Canby for review and approval a storm drainage plan and analysis for the storm water disposal from both the building and the parking areas. The drainage analysis should conform to the City of Portland or Clean Water Services storm drainage design standards. The water treatment facilities design must be based on a 2-year 24-hr storm event recurrence and the existing stormwater conveyance system has adequate capacity to convey the runoff following the 25-year 24-hr storm event.

#### **Exhibits:**

1. Applicant's Narrative
2. Conclusions and Order, DR95-20, Feb. 12 1996
3. Minutes of the January 9, 1996 Planning Commission Hearing

## Appendix A: Applicant Narrative

### Narrative in Support of a Minor Modification – Design Review

April 25, 2011

**Property Owner:**

Potters Industries

**Site location:**

350 N. Baker Drive  
Canby OR 97013

**Applicant:**

Mildren Design Group  
Gene Mildren, Architect  
7650 SW Beveland Street, #120  
Tigard OR 97223  
503-244-0552

**Proposal:**

This application is for a modification to the prior approved site development to allow the addition of a new freestanding storage building.

**Applicable Canby Municipal Code Sections:**

**Zoning:** The site is in the Light Industrial (M-1) zoning district (Canby Development Code Chapter 16.32) and has a Comprehensive Plan Designation of Light Industrial. The existing and proposed use is permitted outright and is not a conditional use. The proposed warehouse is permitted outright as a primary use in CMC Section 16.32.010.U.

**Zoning Standards:** Industrial Zoning standards are found in CMC Section 16.32.030, parking standards in 16.10 and landscaping standards in 16.49. The applicable industrial zoning standards are lot coverage, setbacks and building height. In this zone there is no maximum coverage except to the extent of the minimum landscape requirement, so this standard is met. The new building is outside of the 10 foot setback on NW 3<sup>rd</sup>, and there is no setback required on N. Baker. The building is lower than the allowed 45 foot height maximum. The existing site development does not provide sufficient parking under the Code minimum, but the proposed site development in association with this application provides additional parking based on the additional floor area proposed. The minimum amount of landscaping required by 16.49.080 is 15% of the site. Since approximately 5+ acres of the site are undeveloped, the site will remain in compliance with this standard after the new building is constructed.

**Review Criteria:** According to CMC 16.49.030, this proposal is larger than the 5,000 square foot minimum and therefore the site and design review criteria of 16.48.050 apply. Each is addressed as follows.

- A. *Compliance of the proposal with all applicable city ordinance requirements;*  
**Comment:** The application meets the Minor Modification approval criteria set forth in Canby Municipal Code (CMC) 16.89.090.A and the applicable zoning standards as addressed above.
  
- B. *A determination that the proposal will result in no unusually hazardous conditions for motorists, bicyclists, pedestrians or other users of the site;*  
**Comment:** The proposed building will be located inside the access-controlled part of the site and therefore will have no impact on public access and circulation. This criterion is met.
  
- C. *A determination that exterior lighting will not result in a glare on neighboring properties or a hazard to motorists;*  
**Comment:** The proposed building has no lighting except for the Code-required one foot-candle at required exits.
  
- D. *A finding that any previously established conditions of approval (for a variance, conditional use permit, etc.) have been met.*  
**Comment:** This modification does not effect any previous variances or conditional uses approvals since none have been applied for on this site. The building has a negligible impact of the preliminary site plan approval (DR 95-20) and on the associated conditions of approval because the proposed location is within the approved development area and the use is storage in support of the primary use on the site.

**Review Procedure:** To be a "Minor Modification" the proposed modification, as detailed above, must have a "negligible impact on an approved site plan, land use decision, or condition of approval (of the previous approval of Case No. DR 95-20, and original site approval of 1979.) Based on the information provided above it can be concluded that the proposal will likely have a "negligible impact" and thus should be processed as a Minor Modification. This is based on the use of an existing access (not proposing a new access) and not increasing air, noise, light impacts beyond the code standards nor beyond the existing intensity of use on the site.

A Minor Modification application is processed as a Type I Decision. Factors to be considered in this determination include the date of the original application, the impact on neighboring properties, and the impact on public service provisions.

Type I decisions are made by the Planning Director without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying those criteria requires no use of discretion. The above findings show that these standards are met by the application.

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

A REQUEST FOR SITE AND DESIGN ) FINDINGS, CONCLUSIONS & ORDER  
APPROVAL FOR A WAREHOUSE ) DR 95-20  
(Potters Industries)

**NATURE OF APPLICATION**

The applicant is requesting site and design approval to construct a 60X120X14 post frame warehouse building. The property is located on the northeast corner of N.W. 3rd Avenue and N. Baker Drive (Tax Lot 1001 of Tax Map 3-1E-32D).

**HEARINGS**

The Planning Commission held a public hearing and considered this application at its meeting of January 8, 1996.

**CRITERIA AND STANDARDS**

In judging whether or not a 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.
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 requirement 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.

## **FINDINGS AND REASONS**

The Planning Commission deliberated on all testimony presented at the January 8, 1996 public hearing, and incorporates the December 29, 1995 staff report and Commission deliberations as support for its decision. The Planning Commission accepts the findings in the December 29, 1995 staff report, insofar as they do not conflict with the following supplemental findings:

1. Sidewalk construction along N. Baker Drive is necessary in order to facilitate pedestrian traffic and access.
2. The required parking spaces can be accommodated within the currently developed area.
3. The required additional two (2) trees are not required to be provided within ten (10) feet of the new parking spaces.



## CONCLUSION

The Planning Commission accepts the conclusions of the December 29, 1995 staff report, that DR 95-20 can be made to comply with all applicable criteria by the application of certain conditions.

## ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that DR 95-20 is approved, subject to the following conditions:

### Prior to the issuance of the Building Permit:

1. The Data Disclosure Form shall be completed and submitted to the City's Sewer Department prior to the issuance of a building permit.

### For the Building Permit Application:

2. Seven (7) additional parking spaces shall be provided. There shall be two (2) trees located with ten (10) feet of a paved surface.

### During Construction:


3. The sidewalks shall be located against the curb, and shall be five-feet wide, including the curb. Where mailboxes, newspaper boxes or other obstructions (such as fire hydrants) are located at the curb, the sidewalk shall be set away from the curb such that the sidewalk remains unobstructed for a full five-foot width. The sidewalk shall be constructed from the northernmost property line on N. Baker Drive to N.W. 3rd Avenue.
4. Erosion-control during construction shall be provided by following Clackamas County's Erosion Control measures.

### Notes:

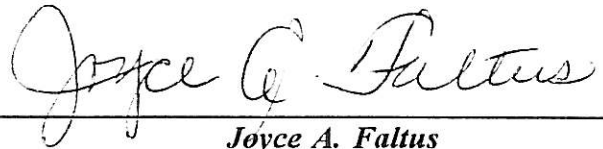
5. The area between N.W. 3rd Avenue and the new fence and existing drive along the southern perimeter of the developed portion of the property, and 110 feet east of N. Baker, shall be considered to be designated for landscaping. No other development shall be permitted without prior approval from the Planning Commission.

*I CERTIFY THAT THIS ORDER approving DR 95-20 was presented to and APPROVED by the Planning Commission of the City of Canby.*

*DATED this 12th day of February, 1996.*



*Kurt Schrader, Chairman  
Canby Planning Commission*



*Joyce A. Faltus  
Secretary*

**ATTEST:**

**ORAL DECISION - February 12, 1996**

**AYES: Schrader, Ewert, Gerber, Dillon, Stewart, Hartwell**

**NOES: None**

**ABSTAIN: None**

**ABSENT: Jackson**

**WRITTEN FINDINGS - February 12, 1996**

**AYES: Schrader, Ewert, Gerber, Dillon, Stewart**

**NOES: None**

**ABSTAIN: Hartwell**

**ABSENT: None**

## Appendix C: Minutes

- f. The arbor will not block, or in any way impede any present vistas enjoyed by neighboring homes and/or any other points of interest existing at the time of the building of the fence or arbor.
- g. Homeowners would be responsible for upkeep.
- h. The primary purpose of the arbor is to support and sustain foliage.

Commissioner Gerber seconded the motion.

Chairman Schrader proposed amending the motion to include a statement that if the greenery became too full, it would be the owner's financial responsibility to rectify the situation.

A short discussion was held regarding the possible lack of any greenery. The Commission agreed that if no greenery was planted, it would just be a fence which is in violation of the fence ordinance and that in order to be considered an arbor, it must support or sustain foliage.

Both Commissioner Ewert, who made the motion, and Commissioner Gerber, who seconded the motion agreed to amend the motion to include the foregoing statements. The motion was approved unanimously.

Mr. Wheeler explained that staff would try to incorporate this interpretation into a Code revision at the appropriate time.

### IX. FINDINGS

Commissioner Ewert moved to approve the Final Order for MLP 95-07 [Free], as submitted. Commissioner Stewart seconded the motion and it carried unanimously.

### X. PUBLIC HEARINGS

DR 95-20, an application by Potters Industries for site and design approval to construct a 60X120X14 post frame warehouse building. The property is located on the northeast corner of N.W. 3rd Avenue and N. Baker Drive (Tax Lot 1001 of Tax Map 3-1E-32D).

Chairman Schrader asked if any Commissioners had ex-parte contact or conflict of interest. None was indicated, other than visiting the site, but drawing no conclusions. He then reviewed the hearing process and procedures and applicable criteria, which was not posted on the wall, although copies were prepared and available in the room.

Mr. Wheeler presented the staff report. He explained that Potters Industries would like to construct a warehouse for dry storage on the southwest portion of the developed area of the nearly 10 acre site, immediately west of one of the current storage units. The size, dimension, and appearance would be similar to the existing storage units, although the building would not be serviced by power or water as it would be utilized to ensure storage of products are moisture-free until shipping. It would be located between two existing drives that access N. Baker. Although the Code does require additional parking spaces for the additional warehouse space, the applicant has advised staff that they are not adding employees so there would be no increased demand for parking spaces. Unless specifically waived or reduced by the Commission, staff has included the additional parking spaces in the recommended conditions of approval. Along with additional parking, additional landscaping would be then required. The current landscaping that is within the developed area are Juniper shrubs, between the existing parking and N. Baker. Unless the Commission decides otherwise, staff is recommending that the area on the southwest corner of N Baker and N.W. 3rd Avenue, where landscaping [grass and trees] already exists, remain in landscaping, in order to meet the landscape requirements of 15% of the developed area. Should the applicant develop the site further, the landscaping issue would have to be reviewed. There are no sidewalks on any portion of the property frontage. Although the Commission generally requires sidewalks along the full frontage of the site, staff recommends that the Juniper shrubs on N. Baker be removed or set back, and sidewalks constructed all along N. Baker to N.W. 3rd Avenue, as nothing is being developed along N.W. 3rd Avenue.

### **Applicant**

**Philip Seale, 715 N.W. Territorial** stated that he concurred with the staff report. He requested that the Commission waive the additional parking requirements, explaining that Potters has 18 full time employees who work in four shifts. The existing 17 parking spaces are more than sufficient, he added. He requested that if the spaces are required, that they be permitted to stripe an area that is already paved. Further, he explained that they do not have, nor do they need, off-street parking. The applicant would prefer not to construct sidewalks, he added, but did not object to constructing them on N. Baker, from the northern driveway on N. Baker to the second driveway on N. Baker, and then south to the corner of N.W. 3rd, but not where the shrubbery is on N. Baker, nor on the north side of the shrubbery to Johnson Controls, as there is a utility pole there. In addition, Mr. Seale added that the applicant would be happy to designate the 110' landscaped, park-like area on the southwest portion of the site to meet the landscaping requirements.

With no additional testimony, the public portion of the hearing was closed for Commission deliberation. Issues discussed included: