

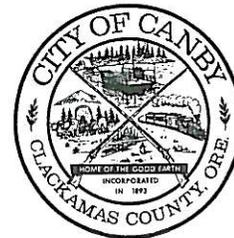


**PLANNING COMMISSION
Meeting Agenda
Monday – August 24, 2009
7:00 PM - Regular Meeting
City Council Chambers – 155 NW 2nd Avenue**

**Chair Dan Ewert – Vice Chair Janet Milne
Commissioners Ishah Ahumada, Sean Joyce, Charles Kocher, Jared Taylor and Misty Slagle**

1. CALL TO ORDER
2. CITIZEN INPUT ON NON-AGENDA ITEMS
3. PUBLIC HEARINGS
 - a. **Municipal Code Title 16 Land Development and Planning Ordinance Text Amendment** for the purpose of regulating temporary vendor activity on private property remanded from City Council for revisions – TA 09-02 – Staff: Melissa Hardy; Associate Planner **Page 2**
4. NEW BUSINESS
 - a. **Infill Issues** **Page 20**
5. FINAL DECISIONS None
Note: These are final, written versions of previous oral decisions. No public testimony.
6. MINUTES
July 13, 2009 **Page 35**
7. ITEMS OF INTEREST 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 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
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

TITLE: A CANBY MUNICIPAL CODE AMENDMENT, specifically amending the Land Development & Planning Ordinance (Title 16), for the purpose of regulating temporary vendor activity on private property.

APPLICANT: City of Canby

FILE #: TA 09-02

STAFF: Melissa Hardy, Associate Planner

REPORT DATE: August 13, 2009

HEARING DATES: August 24, 2009 (*re-open hearing*) / July 13, 2009 (*initial public hearing*)

I. APPLICATION UPDATE

The Planning Commission held a public hearing on this proposed code amendment on July 13, 2009, and voted to forward a recommendation of approval to City Council. On August 05, 2009, City Council received Planning Commission's recommendation, and after reviewing the proposal, expressed concerns that these new regulations might be too burdensome on non-profit temporary vendors (e.g., Boy Scouts tree lots, Kiwanis Club fireworks stands, church rummage sales, etc.) and city-sanctioned vendors (e.g., the Farmers Market).

City Council asked if Planning Commission could discuss non-profit and city-sanctioned vendors, and make a recommendation to City Council concerning:

- (1) Should non-profit vendors and/or city-sanctioned vendors be exempt from the proposed regulations?
- (2) If they should not be exempt from the regulations, then should they at least be exempt from paying any temporary vendor permit fees?

II. PUBLIC COMMENT

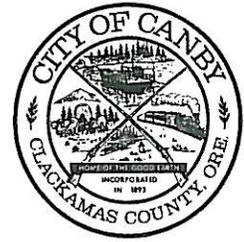
No public comments were received at Planning Commission's initial public hearing on July 13, 2009. City Council did not hold a public hearing on August 05, 2009, but interested persons were given an opportunity to comment on agenda items, and no comments were received on the 5th.

III. RECOMMENDATION

Staff recommends that Planning Commission re-open the public hearing to discuss the issues raised by City Council, and forward a recommendation back to City Council concerning these issues.

Attachments:

- A. August 05, 2009 City Council Staff Report (including attachments)



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council*
FROM: *Bryan Brown, Planning Director*
Melissa Hardy, Associate Planner
THROUGH: *Mark C. Adcock, City Administrator*
DATE: *August 05, 2009*
RE: *DEVELOPMENT CODE AMENDMENT ; Application No. TA 09-02*
A Canby Municipal Code Amendment, specifically amending the Land Development & Planning Ordinance (Title 16), for the purpose of regulating temporary vendor activity on private property.

Summary:

The Planning Commission initiated this code amendment application on April 27, 2009, for the purpose of amending the Land Development and Planning Ordinance (Title 16) concerning temporary vendor activity on private property. At that time, Planning Commission requested that City Staff return to the Commission with draft code language to address a number of issues. The issues the Planning Commission wanted the new code regulations to address are as follows:

1. Temporary vendor applications should be processed administratively, and should include a site plan review and safety review to ensure conformance with all zoning and safety codes;
2. Permit should be granted for 90 days, and then vendor should be allowed to apply for one 90 day renewal, for a total of two 90-day periods on a site per year;
3. A temporary vendor who is on a site for not more than 2 hours in a 24-hour period should be exempt from the temporary vendor permit requirements;
4. Cannot displace minimum required parking spaces, and if a site is already nonconforming in terms of required parking spaces, or if a site was granted a parking exception and currently has less than the minimum # of parking spaces required, then temporary vendor is not allowed there;
5. Establish a set of approval criteria that includes screening of mechanical equipment and trash cans, prohibits renewal of a permit if there are previous police department complaints, and includes any applicable items that can be pulled and used from the Site and Design Review criteria;
6. Add a Temporary Vendor permit fee and a renewal fee to the Planning Dept fee schedule.

Recommendation:

The Planning Commission, acting on a recommendation from staff to approve TA 09-02, voted to forward a recommendation for approval of this text amendment to City Council as drafted by staff.

Recommended Motion: *“I move that the City Council approve Text Amendment No. TA 09-02 as presented, based on the findings in this staff report, including all attachments hereto, and the recommendation of the Planning Commission, and direct staff to present Council with an ordinance for adoption.”*

Alternatives:

1. If the City Council wants to make any changes to the proposed amendment, the Council may approve a motion to reopen the public hearing at the next City Council meeting, and direct staff to return to Council at that time with changes as requested.
2. If the City Council wants to deny TA 09-02, the Council may approve a motion to reopen the public hearing at the next City Council meeting, and direct staff to return to Council at that time with appropriate findings to deny TA 09-02.

Discussion:

Background History. The Planning Commission held a work session on May 26, 2009, to review the draft code language that staff prepared. Then Planning Commission scheduled a public hearing on July 13, 2009, to receive public testimony concerning the proposed amendment. Notice of the July 13th public hearing was posted at City Hall and at the Canby Public Library on June 23, 2009. Notice of the public hearing was also published in the July 08, 2009, Canby Herald.

Major Amendment Provisions/Issues. Staff address each of the issues raised by the Planning commission in their work session within the proposed text amendment. The permit process is proposed as a Type I administrative permit. The proposed code includes a 90 day permit with a provision to allow one renewal. There is an exemption for temporary vendors that set up for less than 2-hours in a 24-hour period. The proposed code will prohibit displacing of required parking spaces. The proposed code includes screening requirements, and prohibits renewal in the event that public safety issues occur. Staff reviewed the City’s Site and Design Review criteria in Chapters 16.22, 16.35 and 16.49, and it does not appear that any of the criteria would be applicable to a temporary vendor activity. If this text amendment is approved, staff will return to City Council with a proposal to amend the planning department fee schedule in order to create an initial application fee that is comparable to the fee currently charged for other Type I Administrative permits, and a renewal fee that is slightly less, because it is anticipated that a renewal request would take approximately the same amount, or perhaps slightly less, time to process than an initial application.

Planning Commission Proceedings Summary. Staff presented a staff report to the Planning Commission at the Public Hearing. No public testimony was received for or against the proposed amendment. The Planning Commission then closed the public hearing on July 13, 2009, and discussed the issues of potential noise and whether there should be limits placed on the hours of temporary vendor activities. Since the City has a noise ordinance codified in Chapter 9.48 of the Municipal Code that temporary vendors would be subject to, as would anyone else, the Planning Commission decided that placing additional noise restrictions on temporary vendors is unnecessary. The Planning Commission then turned their discussion to hours of operation. They decided that because the City does not place restrictions on the hours of operation for other

commercial activities that are carried on in a permanent structure, it would be unnecessary to single out and restrict the hours of temporary vendor activities. Following deliberations, the Planning Commission voted 5-0 to forward a recommendation of approval of the proposed draft text amendment to City Council as presented. The recommendation is based on the approval criteria and staff findings attached to this report.

Attachments:

- A. Proposed Amendment
- B. Approval Criteria and Findings
- C. Draft Planning Commission Minutes

ATTACHMENT A
Proposed Amendment

The proposal is to add a new Section 16.08.140 to the General Provisions Chapter to list all of the temporary vendor regulations, and also to amend Section 16.49.030 to exempt temporary vendors from Site and Design Review. The proposed code amendment language as it will read by ordinance is outlined below. Deleted text is illustrated in ~~strikeout font~~, while added text is illustrated in red underlined font. Normal text is existing wording.

Add the following section to CMC Chapter 16.08...

16.08.140 Temporary vendor.

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

A. Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:

1. Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;
2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;
3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or
4. Any person conducting a garage sale per Section 5.04.020.

B. Permit process.

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.
2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.

3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.

4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.

5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.

6. A Temporary Vendor must obtain a City of Canby business license.

C. Duration. A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed once upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than 180 days in any 12 month period.

D. A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

E. A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

F. Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

G. A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

H. A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or

2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

I. The property owner and the temporary vendor permit holder shall be jointly and severably responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred.

Amend the following section in CMC Chapter 16.49...

16.49.030 Site and design review plan approval required.

1. The following projects require site and design review approval, except as exempted in (2) below:

- a. All new buildings.
- b. All new mobile home parks.
- c. Major building remodeling above 60% of value.
- d. Addition of more than 5,000 square feet of additional gross floor area in a one year period.
- e. Construction activity which causes a decrease in pervious area in excess of 2,500 square feet in a one year period.

None of the above shall occur, and no building permit for such activity shall be issued, and no sign permit shall be issued until the site and design review plan, as required by this ordinance, has been reviewed and approved by the Board and their designees for conformity with applicable criteria.

2. The following are exempt from site and design review:

- a. Signs that are not a part of a reviewable development project. Signs that are a part of a reviewable development project, and that are proposed more than two (2) years beyond the final occupancy of the reviewed development.
- b. Alterations or remodeling that do not change the exterior of the building.
- c. Temporary public structures which will be removed within two (2) years of placement.
- d. Accessory structures under 500 square feet.
- e. Temporary commercial tent/canopy structures, which meet the Uniform building or Fire Code, and which will be removed within thirty (30) days of placement.
- f. Temporary Vendor activity permitted pursuant to Section 16.08.140.
- fg. Parking lot or paving projects. If no buildings or structures are involved, paving or parking lot development in excess of 2,500 square feet of impervious surface is

exempted from site and design review, except in the C-1 zone. In the C-1 zone, all new parking lots that do not involve buildings or structures are subject to site plan review as required in Section 16.49. All new paved areas and parking lots in excess of 2,500 square feet must meet the requirements of Section 16.49.150.

gh. Single family or two-family dwellings, and any alterations or remodeling thereof.

hi. Minor public facilities.

3. Construction, site development and landscaping shall be carried out in substantial accord with the approved site and design review plan. Review of the proposed site and design review plan and any changes thereto shall be conducted in accordance with site and design review procedures.

4. No fence/wall shall be constructed throughout a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission.

ATTACHMENT B
Approval Criteria and Findings

Sec.16.88.160 Amendments to Text of Title. A Title 16 text amendment is a legislative land use amendment. In judging whether or not Title 16 should be amended, the Planning Commission and City Council must consider the following five approval criteria:

Sec. 16.88.160(D)(1). The Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, in order to preserve functions and local aspects of land conservation and development.

Facts & Finding #1:

Citizen Involvement: The proposed text amendment establishes a Type I application review process for Temporary Vendor permits, and approval is based solely upon non-discretionary regulations. Because citizen involvement was provided for during the public hearing process when the regulations were created, and because there is no discretion involved in determining whether the regulations are met at the time of an application, it has been determined that direct citizen involvement is not necessary at the time that Temporary Vendor permit applications are processed. This is in line with the Canby Comprehensive Plan citizen involvement policy that "Canby shall strive to eliminate unnecessarily costly, confusing, and time consuming practices in the development review process."

Land Use Planning: The proposed text amendment provides a means for the permitting of temporary vendor activities only if the use (e.g., flower sales, fireworks sales, restaurant, etc.) is allowed within the particular zoning district. This is in line with the Canby Comprehensive Plan land use policy that "Canby shall guide the course of growth and development so as to separate conflicting or incompatible uses while grouping compatible uses."

Environmental Concerns: The proposed text amendment does not exempt temporary vendor activities from meeting applicable environmental regulations. They must meet all applicable regulations. This is in line with all of the Canby Comprehensive Plan land use policies regarding environmental concerns.

Transportation: The proposed text amendment requires that temporary vendor activities only be permitted on property that has adequate vehicular and pedestrian ingress/egress. This is in line with the Canby Comprehensive Plan transportation policies that "Canby shall work to provide an adequate sidewalk and pedestrian pathway system to serve all residents," and "Canby shall continue in its efforts to assure that all new developments provide adequate access for emergency response vehicles and for the safety and convenience for the general public."

Public Facilities and Services: This comprehensive plan element is not particularly applicable to the proposed text amendment, because the temporary vendor permit regulations are designed to insure that the activity is temporary in nature, and to insure that the activity does not impact water, wastewater, storm drainage, or transportation facilities and services.

Economic: The proposed text amendment provides a process for allowing temporary vendor activities, which is in line with the Canby Comprehensive Plan economic policy that "Canby shall encourage programs and projects which will lead to an increase in local employment

opportunities.”

Housing: This comprehensive plan element is not particularly applicable to the proposed text amendment, because permitting temporary vendor activities in zoning districts in which the use is allowed will not displace nor affect housing in the City.

Staff concludes that the facts indicate that the proposed amendment complies with this criterion.

16.88.160(D)(2) A public need for the change.

Facts & Finding #2:

The city currently does not have development standards specifically designed to regulate temporary vendor activities on private property. In order to ensure that temporary activities such as fireworks stands, holiday pumpkin lots or tree lots, food service, etcetera, are carried out in a manner that enhances the community and do not create negative impacts, the City finds that there is a public need to adopt and enforce standards for such activities. Staff concludes that the criterion has been met.

16.88.160(D)(3) Whether the proposed change will serve the public need better than any other change which might be expected to be made.

Facts & Finding #3:

The proposed change will serve the public need better than any other change which might be expected to be made. The permitting process and development standards proposed for temporary vendors are the best means of insuring that temporary vendor activities are carried out in a manner that enhances the community and do not create negative impacts. There is no other change which would better carry out these purposes. Therefore, staff concludes that the criterion has been met.

16.88.160(D)(4): Whether the change will preserve and protect the health, safety and general welfare of the residents in the community.

Facts & Finding #4:

The proposed change will meet this criterion by having a permitting process and standards in place to regulate and control temporary vendor activities, so that they are carried out in a manner that enhances the community and do not create negative impacts.

16.88.160(D)(5): Statewide planning goals.

Facts & Finding #5:

The applicable Statewide Planning Goals are Goal #1 (Citizen Involvement) and Goal #2 (Land Use Planning). The proposed text amendment establishes a Type I application review process for Temporary Vendor permits, and approval is based solely upon non-discretionary regulations. Because citizen involvement was provided for during the public hearing process when the regulations were created, and because there is no discretion involved in determining whether the regulations are met at the time of an application, it has been determined that direct citizen involvement is not necessary at the time that Temporary Vendor permit applications are processed. This complies with the Statewide Planning Goal concerning citizen involvement. The proposed text amendment provides a means for the

permitting of temporary vendor activities only if the use (e.g., flower sales, fireworks sales, restaurant, etc.) is allowed within the particular zoning district and meets the standards set forth. This complies with the Statewide Planning Goal that the City should adopt implementation ordinances to control the use and development of land in order to implement the City's comprehensive plan goals. The remaining Statewide Planning Goals are found to be not particularly applicable to this proposed amendment. Therefore, staff finds that conformance with this criterion has been demonstrated.

ATTACHMENT C
Draft Planning Commission Minutes

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MINUTES
CANBY PLANNING COMMISSION
7:00 PM – July 13, 2009
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Chair Dan Ewert, Vice Chair Jan Milne, Commissioners Sean Joyce, Misty Slagle and Jared Taylor

ABSENT: Commissioner Ishah Ahumada and Chuck Kocher

STAFF: Bryan Brown, Planning Director; Melissa Hardy, Associate Planner; and Jill Thorn, Planning Staff

OTHERS PRESENT: Eric Wilson, Trent Warren, Ken Hostetler and Mike Wellman

CALL TO ORDER

CITIZEN INPUT **None**

PUBLIC HEARINGS

a. Nonconforming Structure or Use to replace two legal nonconforming wall signs with one new nonconforming wall sign – Napa – 505 SE 1st Avenue – NCS 09-01.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the June 30, 2009 staff report for the record.

Commissioner Milne stated the sign being replaced is simply one light bar and felt it would tie the building together.

Commissioner Joyce asked what makes it a sign instead of a light. Ms Hardy responded that the code defined many things as signs, such as sculptures, symbols and graphics.

Applicant: **Eric Wilson** – stated that there was another previous sign that was about to fall down and he removed it for safety reasons. He felt the illuminated light bar would look better than the existing signs.

Commissioner Ewert asked if the bar came in other sizes. Mr. Wilson said they did, but he had already purchased this size before the sign code was changed, but had not been able to get it installed until now.

Commissioner Taylor asked why another standard type sign was not proposed. Mr. Wilson said it was all one building with the roof lines being different.

Proponents: **None**

Opponents: None

Neutral: None

Rebuttal: None

Chair Ewert closed the public hearing.

Commissioner Taylor stated that there was no reason to have a sign code and not enforce it. He stated he would oppose the application.

Commissioner Joyce stated the light bar did tie the building together and met the intent of the code. He felt it would hopefully eliminate confusion and was more pleasing.

Commissioner Slagle felt the proposal was more pleasing than what is there now and had no problem with the application.

Commissioner Milne stated she could not see making the owner spend more money. She felt an illuminated light bar was not a sign and it would tie the two buildings together.

Commissioner Ewert said he agreed with Commissioner Taylor that since we had a sign code, it should be enforced. He didn't think the code was intended for things of this nature. He felt it was a good effort to tie the building together.

Commissioner Milne moved to approve Nonconforming Structure or Use application NCS 09-01 as presented. It was seconded by Commissioner Slagle. The motion passed 4-1 with Commissioner Taylor voting no.

b. Site and Design Review to construct a single story 2,033 sq ft commercial building and accessory parking lot – Warren Medical Building – 1507 SE 3rd Court – DR 09-01.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the July 1, 2009 staff report for the record.

Commissioner Slagle asked if lights in the parking lot were being proposed. Ms Hardy said the code did not require lights, and the applicant was not proposing to install any parking lot lighting.

Commissioner Joyce asked if any of the lots on 3rd Court were had buildings. Ms Hardy stated there was one medical building already built on the lot that is on the other side of the driveway.

Commissioner Joyce voiced concerns about the parking during construction.

Commissioner Milne asked staff to elaborate on the requirements for pedestrian access and extending the walkway to the next lot. Ms Hardy said it was to encourage and accommodate alternate forms of transportation such as pedestrians and bicyclists.

Commissioner Milne stated she felt three bike parking spaces would not be used and one ADA parking space would not be adequate.

Ms Hardy responded that in each case that was the minimum required by the code, but that the applicant could install more bicycle parking or more handicapped parking if he felt he needed it.

Applicant: **Mike Wellman – Architect for the project** – stated all of the existing sidewalks were already 5 feet wide; the bike parking as shown in the drawings would be put in. He said the driveway on page C1 met ADA requirements. He felt the sidewalk extension to neighboring properties was a bad idea for safety reasons. He said the landscape plan was drawn to 8 scale and met the criteria.

Commissioner Slagle asked if the landscape, if the walkway was extended, was a problem. Mr. Wellman stated that it wasn't because of the grade.

Commissioner Ewert asked how much the grade was. Mr. Wellman said it was a 1 / 2 slope and discussed his intention to install a retaining wall system.

Commissioner Milne asked what the depth of the lot was. Ms Hardy said it was 117.29' x 93.6'.

Ms Hardy asked Mr. Wellman where the retaining wall was shown on his plans. Mr. Wellman responded it was on the civil plans, but felt it would go away and not be an issue.

Proponents: **Ken Hostetler** – Mr. Hostetler stated he was the contractor for the project. The light pole will have to be re-sighted. The business hours would be until 6 PM. He felt the current sidewalks were sufficient for connectivity.

Commissioner Taylor asked if it would be possible to make the sidewalk at the site's grade and the neighbor could then make their site to that grade. Mr. Hostetler said it could possibly be used for bike parking.

Trent Warren – Owner – He indicated he was there to answer any questions. He also stated that the color of the building is restricted by CC&Rs.

Commissioner Ewert asked how many employees would be at the site. Dr. Warren said that daily there would be 5 to 6 employees.

Commissioner Ewert asked what the average turnover of clients was. Dr. Warren indicated they had 30 to 40 patients daily.

Commissioner Ewert asked about the signage. Ms Hardy said that the applicant has stated that his sign proposal will be submitted later.

Opponents: **None**

Neutral: **None**

Rebuttal: **None**

Chair Ewert closed the public hearing.

Commissioner Taylor said he felt the pedestrian access and connectivity was necessary because the use of the building, or a neighboring building, could change at a later date. He felt

it was reasonable thing to ask to allow the neighbor to adjust to grade. He would like to add a condition for the retaining wall. He said the color of the building siding should be compatible, but not necessarily tan and should be handled by staff. He didn't think a lot of lighting was needed.

Commissioner Milne agreed with Commissioner Taylor on the color and felt that Condition 8 should be modified.

Commissioner Taylor said Condition 2 should be modified so that if the plans were correct, they would not need to be revised and could be submitted as is.

Commissioner Ewert felt Condition 8 should be dropped as the property had CC&R's that governed color. He would have rather have seen the drawings with the grade and retaining wall. He felt a new Condition 8 was needed to deal with the retaining wall. He felt Condition 5 should be modified to require signs to deal with the No Parking and not allow painting the curb for no parking.

Commissioner Joyce asked for a new Condition 11 to deal with the construction parking and sight distance.

Commissioner Milne moved to approve Site and Design Review application DR 09-01 as presented with the following modifications: Revise Condition 2 to remove the word "revised" modify Condition 5 to allow only signs; remove Condition 8 and replace with a condition about the retaining wall and add a Condition 11 to prohibit parking of vehicles and equipment on Redwood and SE 3rd Court 40 feet from the intersection during construction. It was seconded by Commissioner Taylor. The motion passed 5-0.

c. Municipal Code Title 16 Land Development and Planning Ordinance Text Amendment for the purpose of regulating temporary vendor activity on private property – TA 09-02.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the July 1, 2009 staff report for the record.

Applicant: None

Proponents: None

Opponents: None

Neutral: None

Rebuttal: None

Chair Ewert closed the public hearing.

Commissioner Ewert stated he felt the application process could be more labor intensive than staff anticipates. Ms Hardy said that after processing several applications, staff will have a better idea.

Commissioner Slagle asked if the enforcement would be by the Code Enforcement Officer. Ms Hardy said it would.

Commissioner Milne felt the language dealing with "no public safety incidents have occurred" was too broad.

Commissioner Ewert wondered if Item F dealing with generators needed to be addressed in regard to noise. He felt a vendor could operate 24 hours a day.

Commissioner Taylor said the City deals with noise in the nuisance section of the code and this situation would be covered.

Commissioner Ewert said the amendment was well crafted and as good as it gets, but personally he did not feel it met the criteria. He felt there was no public need for the change.

Commissioner Taylor stated he felt the amendment added more control and did meet the criteria and that there is a public need for the change because the current code does not control these activities at all, and this will create standards for these uses.

Commissioner Milne felt the amendment will have more teeth and would benefit the public.

Commissioner Taylor moved to recommend to the City Council approval of TA 09-02 as presented. It was seconded by Commissioner Joyce. The motion passed 4-1 with Commissioner Ewert voting no.

NEW BUSINESS **None**

FINAL DECISIONS

a. **NCS 09-01 – Napa** - It was moved by Commissioner Joyce to approve the written findings for NCS 09-01 – Napa – as presented. It was seconded by Commissioner Taylor. The motion passed 5-0.

b. **DR 09-01 – Warren Medical Building** – Bryan Brown, Planning Director, said that staff would make the changes to the findings and conditions the Commission approved at the close of the public hearing and route the document via email to the Commissioners for their approval. It was moved by Commissioner Milne to await the electronic version with the changes for DR 09-01, upon receipt of the Findings each Commissioner would respond via email their approval or disapproval. It was seconded by Commissioner Taylor and passed 5-0.

Commissioner Slagle asked if by sending the findings to each commissioner's personal email made the commissioner's entire email a public record. Commissioner Ewert asked that staff research the question and if it was possible to have the City could set up an email address for each commissioner on the City's system.

Mr. Brown said the staff would make the changes to the findings and conditions as directed and notify the Chair to stop by the office and sign the document.

It was moved by Commissioner Taylor to approve the written findings for DR 09-01 – Warren – as submitted and modified in the Public Hearing. It was seconded by Commissioner Milne. The motion passed 5-0.

MINUTES

June 8, 2009 - Commissioner Milne moved to approve minutes of June 8, 2009 as presented. Motion seconded by Commissioner Taylor and passed 5-0.

ITEMS OF INTEREST FROM STAFF – Bryan Brown reported that members of the Commission received copies of the City Council goals.

ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT

CITY OF CANBY PLANNING COMMISSION
Staff Work Session Issue Worksheet

Presentation Date: August 10, 2009

Time: 7:00 PM

Length: 90 minutes

Issue Presentation Title: Infill Compatibility Code Amendment – Discussion of code proposal to alleviate incompatibility of 2-story infill homes adjacent to existing single-family homes.

Department: Planning

Presenters: Bryan Brown, Planning Director; Melissa Hardy, Associate Planner

POLICY QUESTION

Is it appropriate or reasonable to require single-story construction next to an existing single-story home in order to preserve compatibility and maintain a sense of privacy?

ISSUE & BACKGROUND

The current “Infill Homes” standards were adopted in 2002, and then amended in 2007 in order to make them also apply to triplexes (3 dwelling units in one building).

QUESTION(S) PRESENTED FOR CONSIDERATION

Do you have recommendations for staff regarding the following specific aspects dealing with this issue? (*Questions are in italics*)

- The current code does not limit development on an infill lot to only single-story, but instead imposes a maximum lot coverage, and step-up height regulations (taller structures require greater setbacks) when there are 2 or more existing houses on abutting lots.
“Are the existing infill standards achieving the intended goal of increased compatibility with existing development?”
- Current infill standards apply when at least 2 abutting lots have houses built at least 5 years ago that are located within 25 feet of the common property line. The current code does not address the height or number of stories of the existing houses next door.
“When should infill standards apply? – When there are at least 2 single-story houses next door? When there is one single-story house next door?”
- *Is it too restrictive to existing lot owner’s to impose a new zoning restriction that limits the number of stories to one?*
- *Are there other considerations that should be considered?*

OPTIONS AVAILABLE

- Provide feedback to staff on specific aspects of the issue to further develop and explore.
- Direct staff to concentrate on other compatibility infill issues or techniques.

RECOMMENDATIONS

Provide direction to planning staff on how you wish to proceed on this specific infill development issue.

PREPARED/SUBMITTED BY:

Prepared by: MT
Approved by: Bryan C. Brown

For information on this issue or copies of attachments, contact Melissa Hardy @ 503 266-7001.

Attachments

- Existing Ordinance Language Addressing this Compatibility Issue
- Possible Ordinance Amendment that would eliminate the Perceived Incompatibility Problem
- Graphic Visualizations

Current definition of "Infill Homes":

16.04.255 Infill homes.

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval).

Potential new definition of "Infill Homes":

16.04.255 Infill homes.

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that have ~~existing homes on two adjacent sides~~ **an existing single-story single family dwelling on an abutting lot**. Each ~~The~~ adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval).

Legislative History

2002 (original legislation):

Definitions to Be Added to Chapter 16.04 Definitions

16.04.255 Infill Homes

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, and duplexes on lots that:

- A. Have existing homes on at least two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill home, and, have pre-existed for at least 5 years from final building permit approval.

2007 (applied standards to triplexes also):

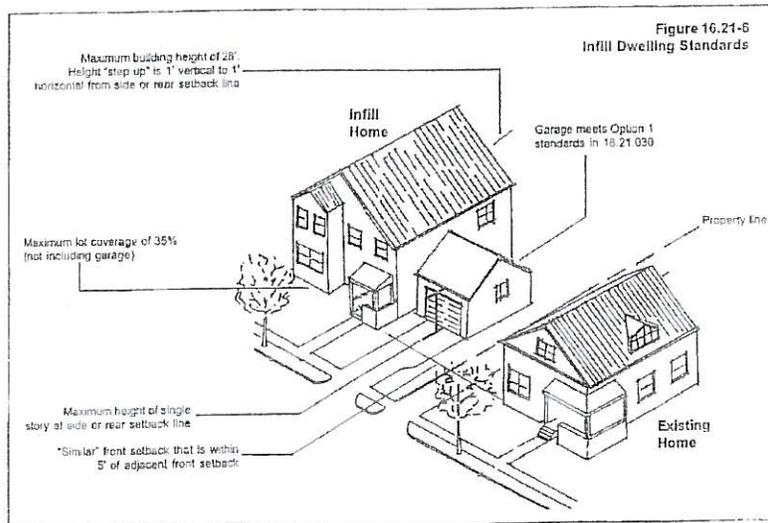
16.04.255 Infill homes.

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes ~~and triplexes~~ on lots that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002)

Regulations for "Infill Homes":

16.21.050 Infill Homes

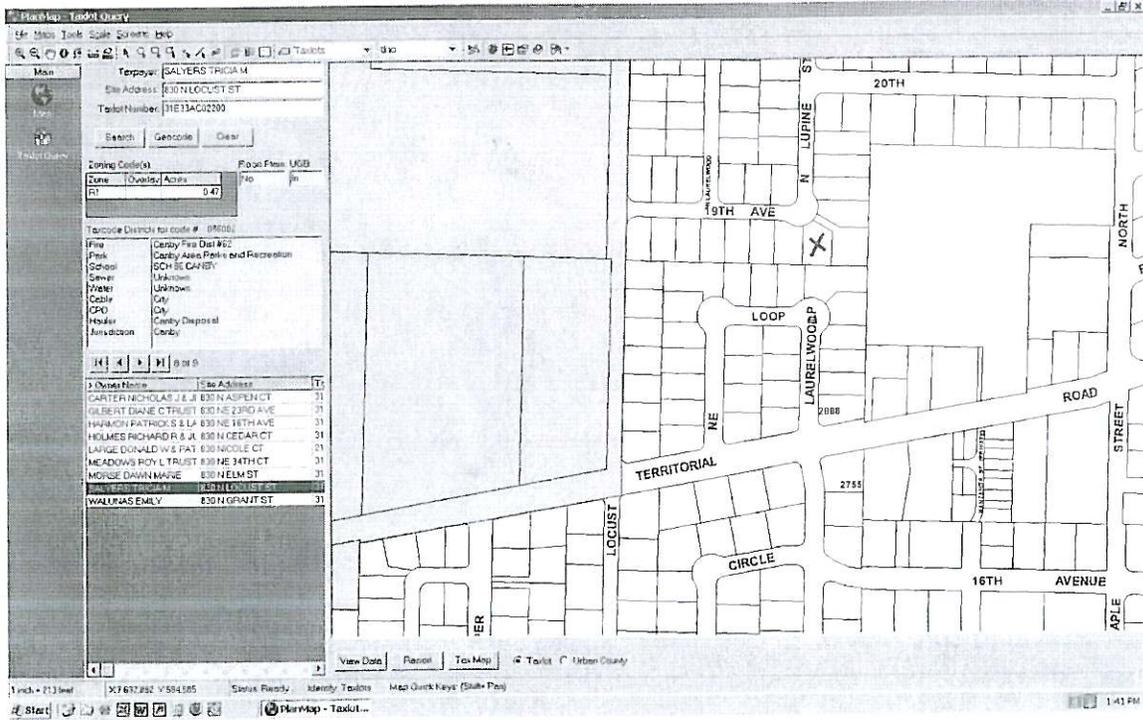
- A. Purpose. The purposes of these standards are to promote compatibility between new development and existing homes, and, to provide for the efficient use of residential land.
- B. Applicability. These standards apply to all new infill homes as defined by 16.04.255. The standards also apply to remodels of existing infill homes where the remodel increases the homes floor area by more than 50%, not including garage area.
- C. Standards for Infill Homes (see figure 16.21-6)
 - 1. ~~Lot Coverage~~—~~Infill homes exceeding one story shall not exceed a lot coverage of 35%. In this standard, lot coverage applies to portion of the lot covered by structures, not including garage area.~~
 - 2. Garage Standards - Infill homes must meet the Option 1 garage standards in 16.21.030. The infill home is exempt from garage standards if located on a flag lot, or, if an adjacent home fronting the same street does not comply with the garage standards in 16.21.030(C).
 - 3. Similar Front Setback - Infill homes shall establish a front yard setback that is within 5 feet of the front yard setback for the closest adjacent home on the same side of the street. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.
 - 4. Maximum Height. Infill homes shall have a maximum height of 28 feet. **Infill homes shall not exceed a single story.**
 - 5. ~~Step-up Standard. At the interior and rear setback line, the infill home shall not exceed a single story exterior wall height (not to exceed 10 feet from finished floor to top plate). The area within a gable is not included in the wall height. Finished vaulted ceilings or unfinished attic spaces without exterior windows are allowed in the gable area. The building may increase in height by one foot vertically for every foot horizontally away from the setback line, up to the maximum height allowed. Building height is measured as defined by the Oregon Structural Specialty Code. The Planning Director or Planning Commission may exempt infill homes from this standard for any yard that abuts a property on which the existing home is greater than one story.~~



Legislative History: *Hasn't been changed since adopted in 2002.*



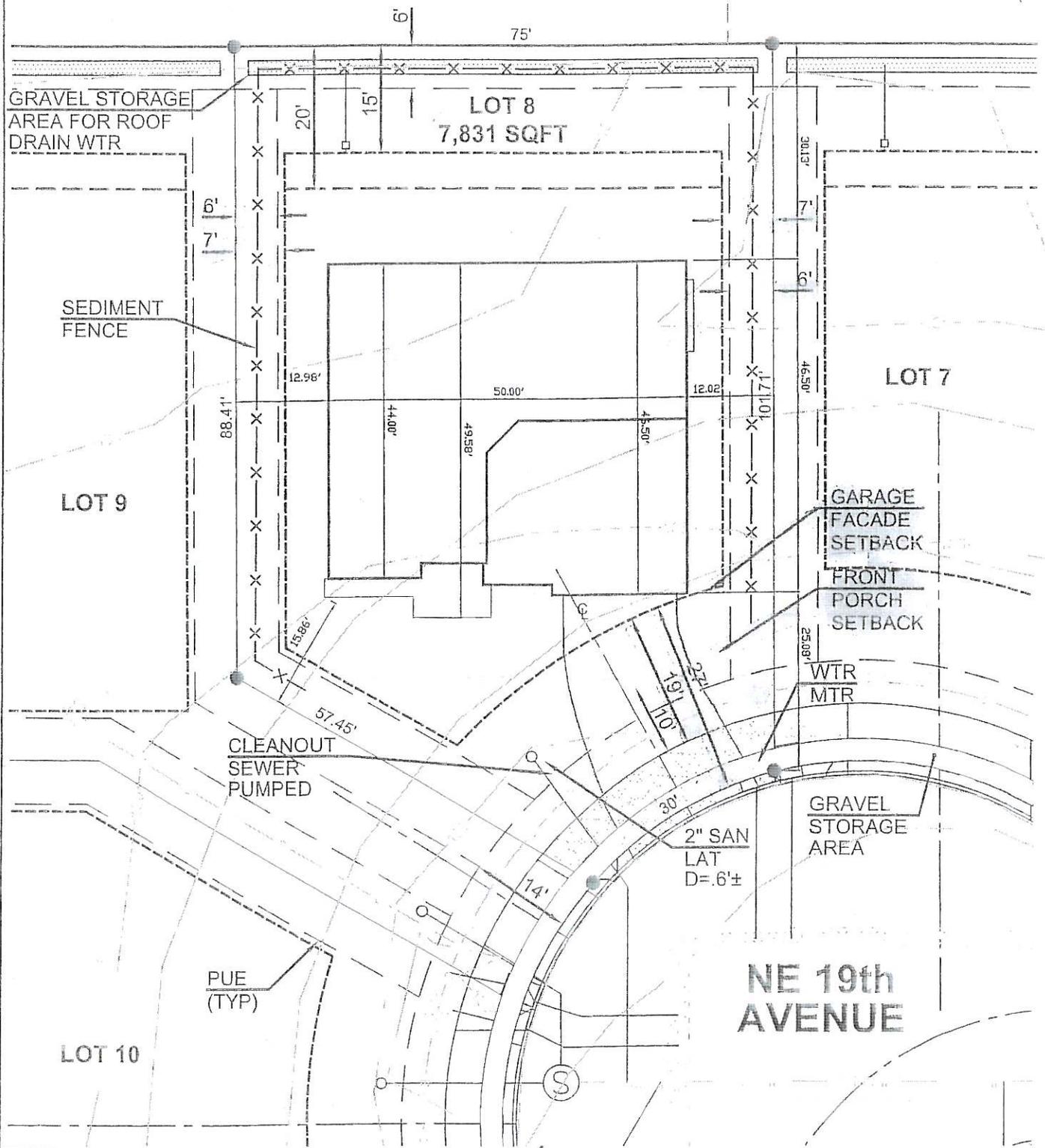




DESIGN INFORMATION
BASED ON AS-BUILT DATA,
NOT DESIGN.

HOPPER
DENNIS
JELLISSON
P.L.L.C.

Scale 1" = 20'
20 10 0



CENTEX HOMES

16520 UPPER BOONES FERRY ROAD
SUITE 200
PORTLAND, OREGON 97224
(503) 608-3060

AUBURN FARMS

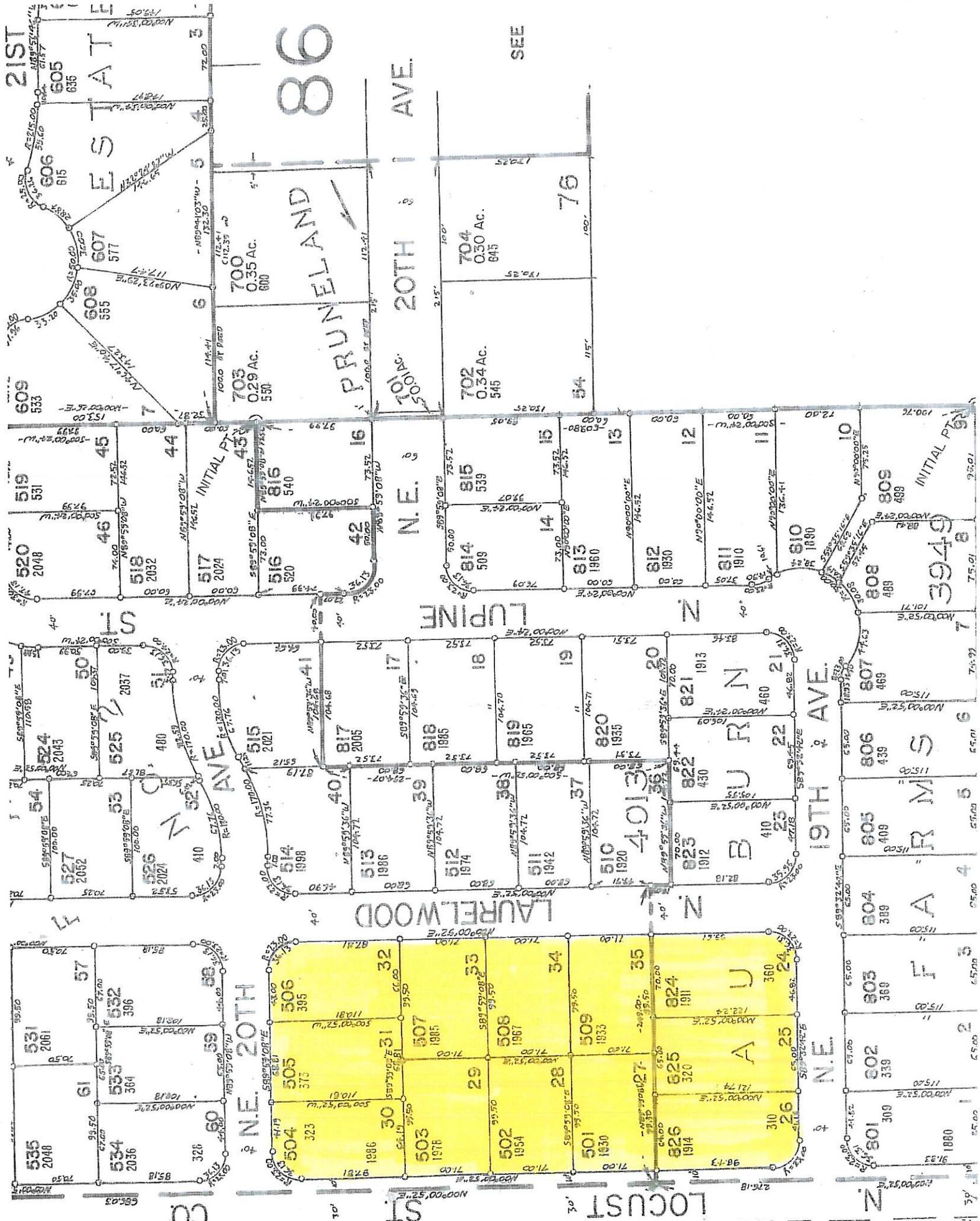
489 NE 19th AVENUE CANBY, OR 97013

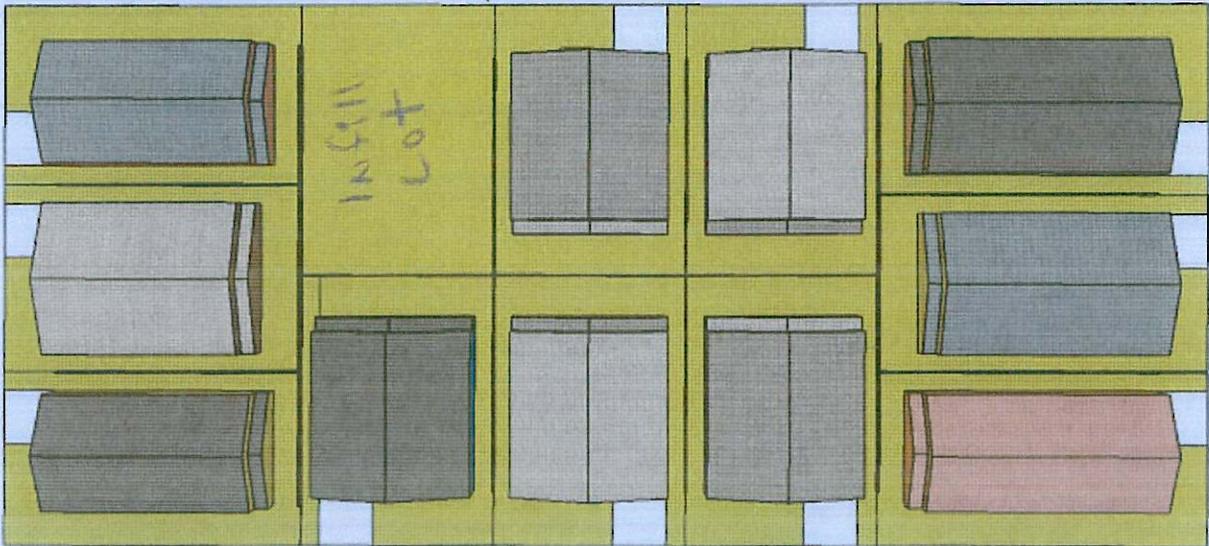
LOT 8 PLAN 3338

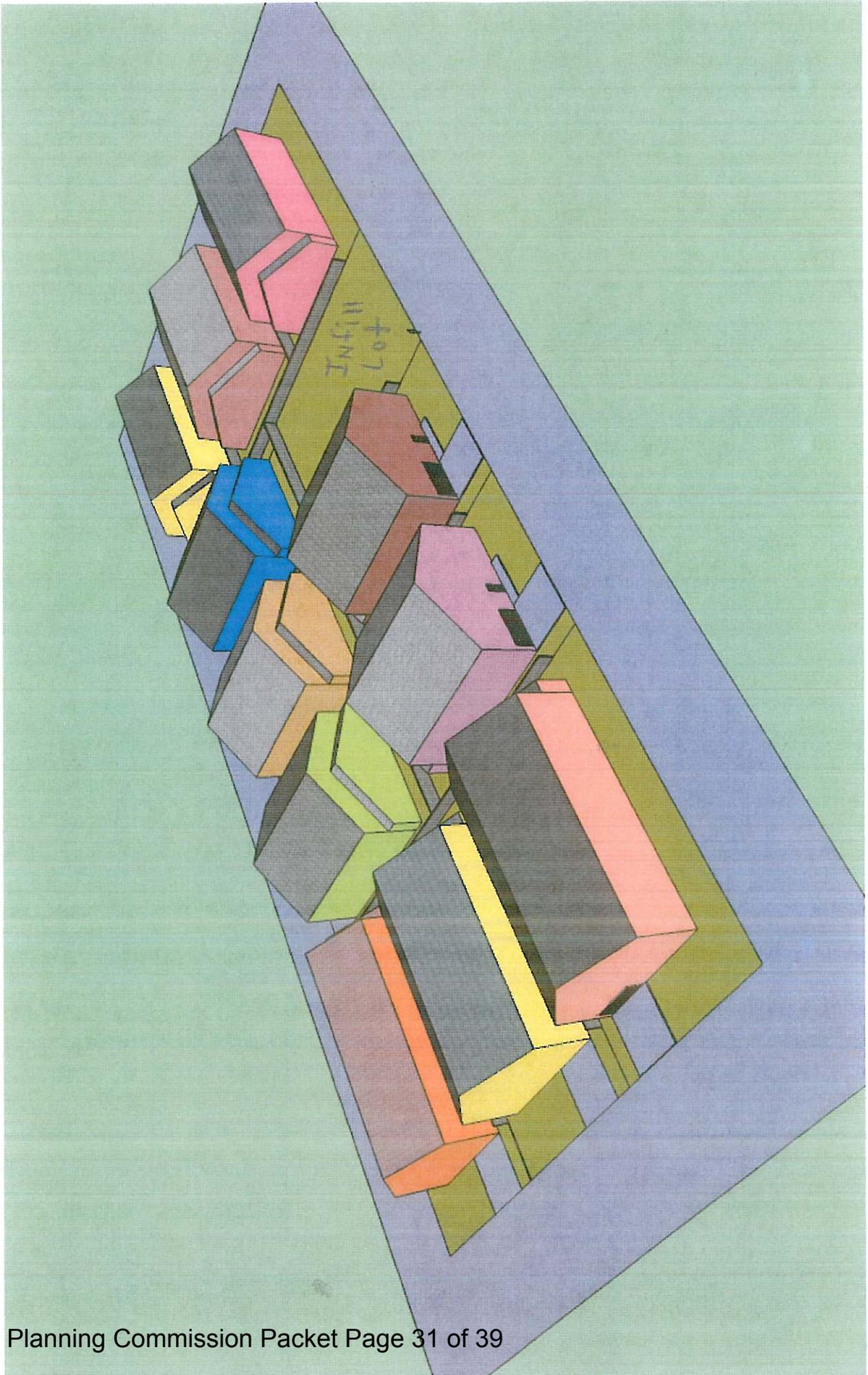
SR LOT 8
9-1-06

BP 86 46

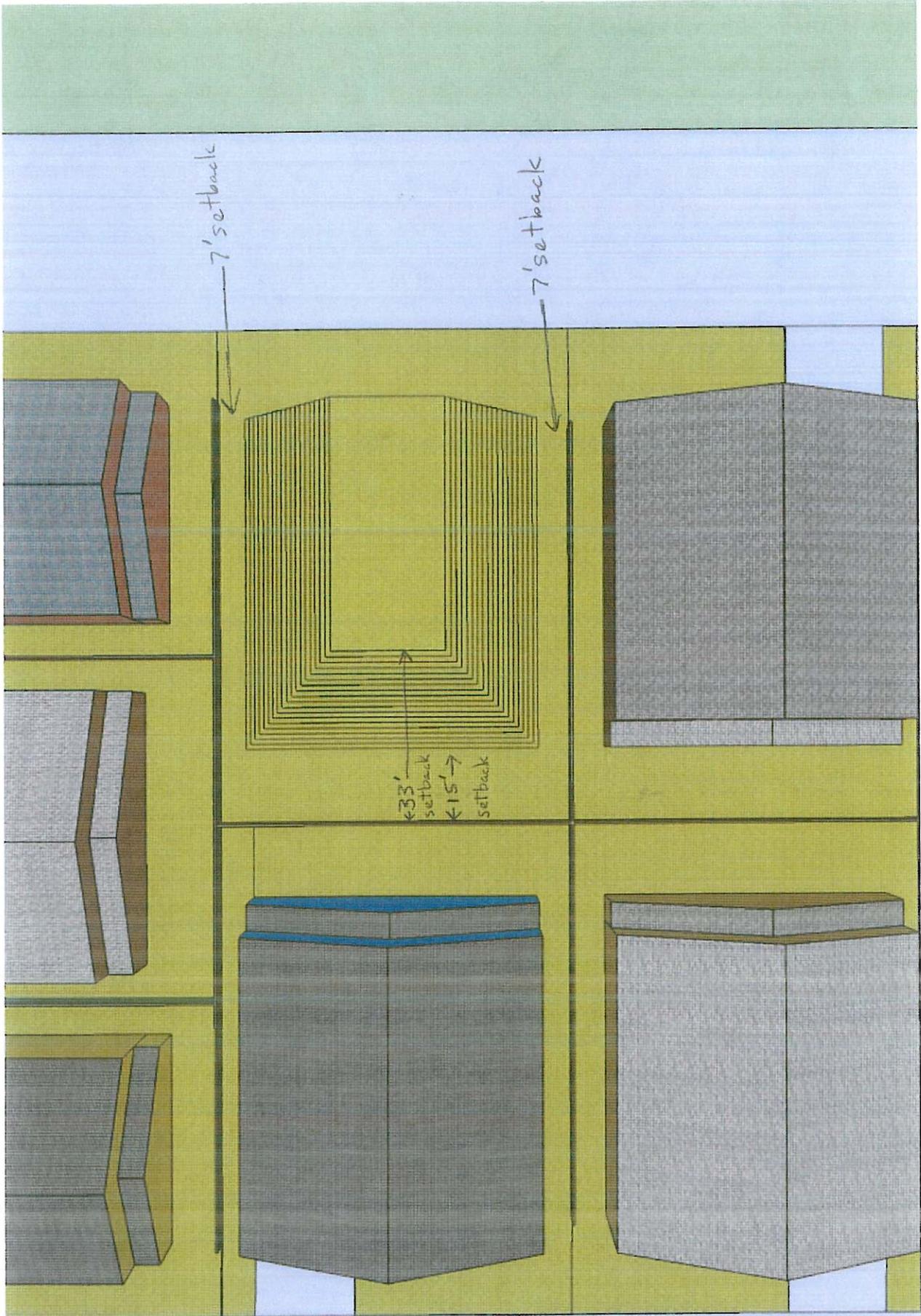




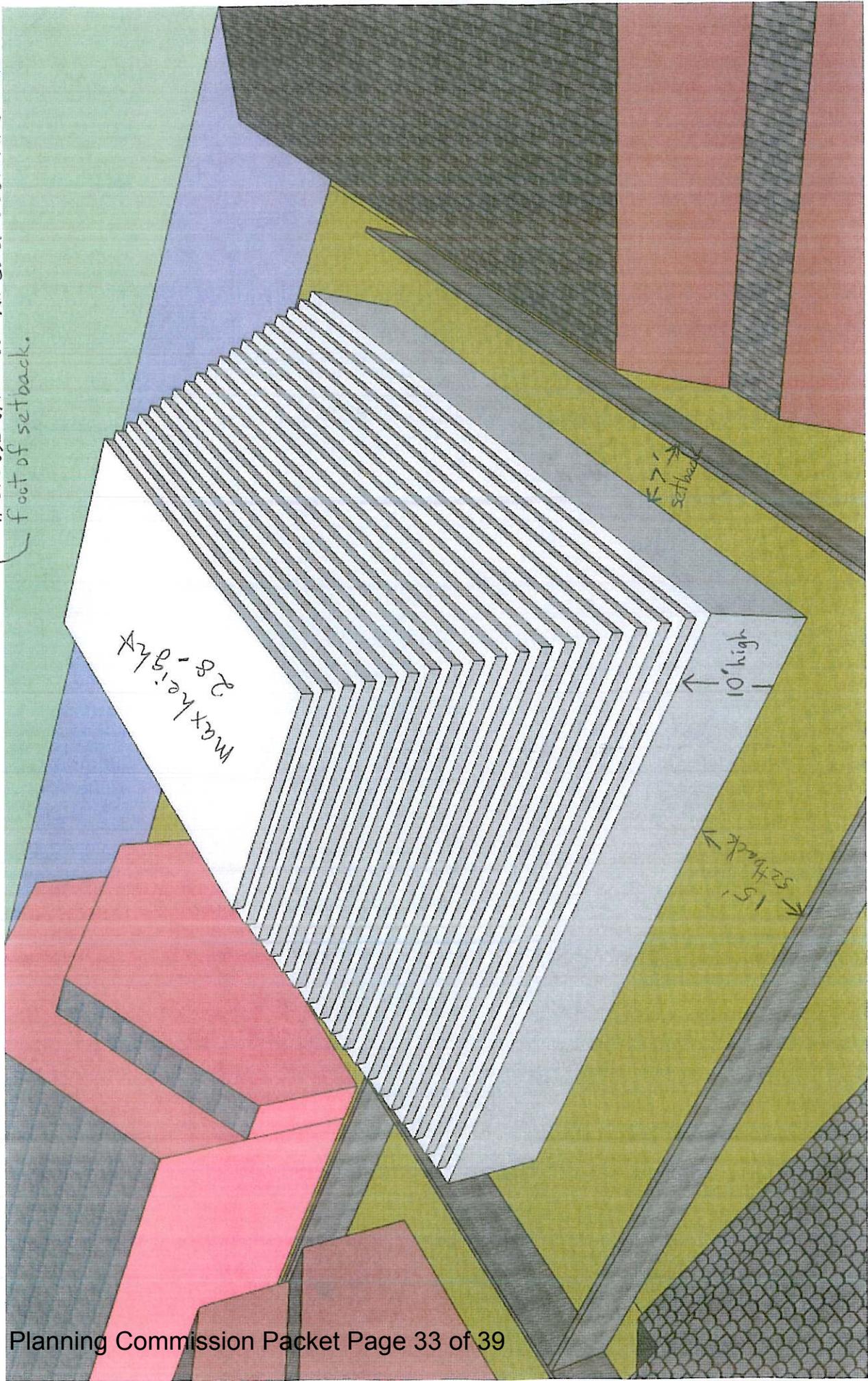




Infill Stepup Standard



INfill STEP-UP STANDARD
Ten foot max wall height at minimum interior and rear setback lines, which may increase one foot for each additional one foot of setback.



MINUTES
CANBY PLANNING COMMISSION
7:00 PM – July 13, 2009
City Council Chambers – 155 NW 2nd Avenue

PRESENT: Chair Dan Ewert, Vice Chair Jan Milne, Commissioners Sean Joyce, Misty Slagle and Jared Taylor

ABSENT: Commissioner Ishah Ahumada and Chuck Kocher

STAFF: Bryan Brown, Planning Director; Melissa Hardy, Associate Planner; and Jill Thorn, Planning Staff

OTHERS PRESENT: Eric Wilson, Trent Warren, Ken Hostetler and Mike Wellman

1. CALL TO ORDER

2. CITIZEN INPUT **None**

3. PUBLIC HEARINGS

a. Nonconforming Structure or Use to replace two legal nonconforming wall signs with one new nonconforming wall sign – Napa – 505 SE 1st Avenue – NCS 09-01.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the June 30, 2009 staff report for the record.

Commissioner Milne stated the sign being replaced is simply one light bar and felt it would tie the building together.

Commissioner Joyce asked what makes it a sign instead of a light. Ms Hardy responded that the code defined many things as signs, such as sculptures, symbols and graphics.

Applicant: **Eric Wilson** – stated that there was another previous sign that was about to fall down and he removed it for safety reasons. He felt the illuminated light bar would look better than the existing signs.

Commissioner Ewert asked if the bar came in other sizes. Mr. Wilson said they did, but he had already purchased this size before the sign code was changed, but had not been able to get it installed until now.

Commissioner Taylor asked why another standard type sign was not proposed. Mr. Wilson said it was all one building with the roof lines being different.

Proponents: **None**

Opponents: **None**

Neutral: **None**

Rebuttal: **None**

Chair Ewert closed the public hearing.

Commissioner Taylor stated that there was no reason to have a sign code and not enforce it. He stated he would oppose the application.

Commissioner Joyce stated the light bar did tie the building together and met the intent of the code. He felt it would hopefully eliminate confusion and was more pleasing.

Commissioner Slagle felt the proposal was more pleasing than what is there now and had no problem with the application.

Commissioner Milne stated she could not see making the owner spend more money. She felt an illuminated light bar was not a sign and it would tie the two buildings together.

Commissioner Ewert said he agreed with Commissioner Taylor that since we had a sign code, it should be enforced. He didn't think the code was intended for things of this nature. He felt it was a good effort to tie the building together.

Commissioner Milne moved to approve Nonconforming Structure or Use application NCS 09-01 as presented. It was seconded by Commissioner Slagle. The motion passed 4-1 with Commissioner Taylor voting no.

b. Site and Design Review to construct a single story 2,033 sq ft commercial building and accessory parking lot – Warren Medical Building – 1507 SE 3rd Court – DR 09-01.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the July 1, 2009 staff report for the record.

Commissioner Slagle asked if lights in the parking lot were being proposed. Ms Hardy said the code did not require lights, and the applicant was not proposing to install any parking lot lighting.

Commissioner Joyce asked if any of the lots on 3rd Court were had buildings. Ms Hardy stated there was one medical building already built on the lot that is on the other side of the driveway.

Commissioner Joyce voiced concerns about the parking during construction.

Commissioner Milne asked staff to elaborate on the requirements for pedestrian access and extending the walkway to the next lot. Ms Hardy said it was to encourage and accommodate alternate forms of transportation such as pedestrians and bicyclists.

Commissioner Milne stated she felt three bike parking spaces would not be used and one ADA parking space would not be adequate.

Ms Hardy responded that in each case that was the minimum required by the code, but that the applicant could install more bicycle parking or more handicapped parking if he felt he needed it.

Applicant: Mike Wellman – Architect for the project – stated all of the existing sidewalks were already 5 feet wide; the bike parking as shown in the drawings would be put in. He said the driveway on page C1 met ADA requirements. He felt the sidewalk extension to neighboring properties was a bad idea for safety reasons. He said the landscape plan was drawn to 8 scale and met the criteria.

Commissioner Slagle asked if the landscape, if the walkway was extended, was a problem. Mr. Wellman stated that it wasn't because of the grade.

Commissioner Ewert asked how much the grade was. Mr. Wellman said it was a 1 / 2 slope and discussed his intention to install a retaining wall system.

Commissioner Milne asked what the depth of the lot was. Ms Hardy said it was 117.29' x 93.6'.

Ms Hardy asked Mr. Wellman where the retaining wall was shown on his plans. Mr. Wellman responded it was on the civil plans, but felt it would go away and not be an issue.

Proponents: Ken Hostetler – Mr. Hostetler stated he was the contractor for the project. The light pole will have to be re-sighted. The business hours would be until 6 PM. He felt the current sidewalks were sufficient for connectivity.

Commissioner Taylor asked if it would be possible to make the sidewalk at the site's grade and the neighbor could then make their site to that grade. Mr. Hostetler said it could possibly be used for bike parking.

Trent Warren – Owner – He indicated he was there to answer any questions. He also stated that the color of the building is restricted by CC&Rs.

Commissioner Ewert asked how many employees would be at the site. Dr. Warren said that daily there would be 5 to 6 employees.

Commissioner Ewert asked what the average turnover of clients was. Dr. Warren indicated they had 30 to 40 patients daily.

Commissioner Ewert asked about the signage. Ms Hardy said that the applicant has stated that his sign proposal will be submitted later.

Opponents: None

Neutral: None

Rebuttal: None

Chair Ewert closed the public hearing.

Commissioner Taylor said he felt the pedestrian access and connectivity was necessary because the use of the building, or a neighboring building, could change at a later date. He felt

it was reasonable thing to ask to allow the neighbor to adjust to grade. He would like to add a condition for the retaining wall. He said the color of the building siding should be compatible, but not necessarily tan and should be handled by staff. He didn't think a lot of lighting was needed.

Commissioner Milne agreed with Commissioner Taylor on the color and felt that Condition 8 should be modified.

Commissioner Taylor said Condition 2 should be modified so that if the plans were correct, they would not need to be revised and could be submitted as is.

Commissioner Ewert felt Condition 8 should be dropped as the property had CC&R's that governed color. He would have rather have seen the drawings with the grade and retaining wall. He felt a new Condition 8 was needed to deal with the retaining wall. He felt Condition 5 should be modified to require signs to deal with the No Parking and not allow painting the curb for no parking.

Commissioner Joyce asked for a new Condition 11 to deal with the construction parking and sight distance.

Commissioner Milne moved to approve Site and Design Review application DR 09-01 as presented with the following modifications: Revise Condition 2 to remove the word "revised" modify Condition 5 to allow only signs; remove Condition 8 and replace with a condition about the retaining wall and add a Condition 11 to prohibit parking of vehicles and equipment on Redwood and SE 3rd Court 40 feet from the intersection during construction. It was seconded by Commissioner Taylor. The motion passed 5-0.

c. Municipal Code Title 16 Land Development and Planning Ordinance Text Amendment for the purpose of regulating temporary vendor activity on private property – TA 09-02.

Chair Ewert read the public hearing format. When asked if any Commissioner had a conflict of interest, none was expressed. When asked if any Commissioner had ex-parte contact, none was stated. No questions were asked of the Commissioners.

Melissa Hardy, Associate Planner presented the July 1, 2009 staff report for the record.

Applicant: None

Proponents: None

Opponents: None

Neutral: None

Rebuttal: None

Chair Ewert closed the public hearing.

Commissioner Ewert stated he felt the application process could be more labor intensive than staff anticipates. Ms Hardy said that after processing several applications, staff will have a better idea.

Commissioner Slagle asked if the enforcement would be by the Code Enforcement Officer. Ms Hardy said it would.

Commissioner Milne felt the language dealing with "no public safety incidents have occurred" was too broad.

Commissioner Ewert wondered if Item F dealing with generators needed to be addressed in regard to noise. He felt a vendor could operate 24 hours a day.

Commissioner Taylor said the City deals with noise in the nuisance section of the code and this situation would be covered.

Commissioner Ewert said the amendment was well crafted and as good as it gets, but personally he did not feel it met the criteria. He felt there was no public need for the change.

Commissioner Taylor stated he felt the amendment added more control and did meet the criteria and that there is a public need for the change because the current code does not control these activities at all, and this will create standards for these uses.

Commissioner Milne felt the amendment will have more teeth and would benefit the public.

Commissioner Taylor moved to recommend to the City Council approval of TA 09-02 as presented. It was seconded by Commissioner Joyce. The motion passed 4-1 with Commissioner Ewert voting no.

4. NEW BUSINESS None

5. FINAL DECISIONS

a. NCS 09-01 – Napa - It was moved by Commissioner Joyce to approve the written findings for NCS 09-01 – Napa – as presented. It was seconded by Commissioner Taylor. The motion passed 5-0.

b. DR 09-01 – Warren Medical Building – Bryan Brown, Planning Director, said that staff would make the changes to the findings and conditions the Commission approved at the close of the public hearing and route the document via email to the Commissioners for their approval. It was moved by Commissioner Milne to await the electronic version with the changes for DR 09-01, upon receipt of the Findings each Commissioner would respond via email their approval or disapproval. It was seconded by Commissioner Taylor and passed 5-0.

Commissioner Slagle asked if by sending the findings to each commissioner's personal email made the commissioner's entire email a public record. Commissioner Ewert asked that staff research the question and if it was possible to have the City could set up an email address for each commissioner on the City's system.

Mr. Brown said the staff would make the changes to the findings and conditions as directed and notify the Chair to stop by the office and sign the document.

It was moved by Commissioner Taylor to approve the written findings for DR 09-01 – Warren – as submitted and modified in the Public Hearing. It was seconded by Commissioner Milne. The motion passed 5-0.

6. MINUTES

June 8, 2009 - Commissioner Milne moved to approve minutes of June 8, 2009 as presented. Motion seconded by Commissioner Taylor and passed 5-0.

7. ITEMS OF INTEREST FROM STAFF – Bryan Brown reported that members of the Commission received copies of the City Council goals.

8. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

9. ADJOURNMENT