

A G E N D A
CANBY PLANNING COMMISSION
REGULAR MEETING
City Council Chambers
Monday, April 28, 1997
7:30 p.m.

I. ROLL CALL

II. MINUTES
April 14, 1997

III. CITIZEN INPUT ON NON-AGENDA ITEMS

IV. PLANNING COMMISSION DISCUSSION OF PLANNING ISSUES

V. FINDINGS

CUP 97-02 - Canby School District #86
VAR 97-03 - Rod Shippee

VI. PUBLIC HEARINGS

None

VII. COMMUNICATIONS

VIII. NEW BUSINESS

JV Northwest

IX. OLD BUSINESS

Brad Gerber - tent

X. DIRECTOR'S REPORT

X. ADJOURNMENT

MINUTES
CANBY PLANNING COMMISSION
Regular Meeting
April 14, 1997
7:30 P.M.

I. ROLL CALL

Present: Chairman Ewert, Vice-Chair Stewart, Commissioners Dillon, O'Shea, Prince and Keller.

Staff: James Wheeler, Planning Director, Larry Vasquez, Assistant Planner, and Joyce Faltus, Secretary

Others Present: Rod Shippee, John Bee, Don Staehely

II. MINUTES

Commissioner Keller moved to approve the March 24, 1997 minutes, as submitted. Commissioner Stewart seconded the motion and it carried unanimously.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. FINDINGS

None

V. COMMUNICATIONS

None

VI. COMMISSION DISCUSSION OF PLANNING ISSUES

The Commission reiterated its concern that staff advise them whenever any large company showed interest in locating in Canby, as opposed to their reading it in the newspaper.

1. The Commission asked if the modular units were ever used in the evenings, other than for classroom use. Mr. Staehely explained that, to the best of his knowledge, they were not used after school hours for private use.
2. When asked if the long range facility plan met the appropriate guidelines for population and building capacity studies, Mr. Staehely explained that they did.
3. The Commission asked about the capacity of Eccles, Knight and Trost Elementary Schools. Mr. Staehely explained that all three schools are all near capacity, and until September 1, it is impossible to know the exact number of new students. He added that all the classrooms are being used and the class sizes are being increased and the student/teacher ratios are going up.
4. The Commission discussed having the school district come back once a year with updates regarding where they are regarding capacity in the various school buildings and the need for modulars.
5. When asked when the district plans to propose a bond measure for a new school building, Mr. Staehely explained that it is dependent on growth within the next two years and, based on the current study, the district projects to propose a bond in the year 2001. At one point, the district was going to propose a maintenance bond to modify some of the buildings, but due to Measure 47, the board has decided to wait for clarification on the 50% voter turnout issue.
6. The Commission questioned what the life of a modular unit was and agreed that they are usable for at least 7-8 years.
7. The Commission discussed school capacity. It was agreed that modulars are one way to expand and contract, and if sited well, are not too unattractive.
8. The Commission agreed that there was really no way to predict growth because there are so many factors to consider.
9. The Commission discussed the possibility of having the building inspector inspect the modular units to make sure they are sound. Mr. Wheeler explained that there might be a problem implementing such inspection because of the commercial building code and that he would have to check with Mr. Codon as to whether this was acceptable.
10. Mr. Wheeler explained that when the modulars were originally approved, did not require Site and Design Review and, under current provisions, they would now have to undergo Design Review. Mr. Vasquez explained that it was his understanding that they had already been reviewed under Site and Design Review [DR 93-05].

Based on the findings and conclusions contained in the staff report dated April 4, 1997, on testimony at the hearing, and on Commission deliberations, **Commissioner Keller moved to approve CUP 97-02 with the following conditions:**

utilities are already installed, and that the structure does not contain any flammable materials. In addition, Mr. Shippee stated that he had no intention of trying to set a precedent or any intention of trying to change policy and that if the City needed that 3 foot area, they could have it. Furthermore, Mr. Shippee stated that the neighbor who is complaining has lived with the structure in the same place while the previous owner lived there, and wondered why it suddenly has become a problem. He explained that there had been a leak, from the waterfall portion of the structure when he had left the water turned on for too long a period, which has been repaired with silicon. The pond, he added, holds approximately 70-80 gallons of water and has fish in it.

Proponents

None

Opponents

John Bee, 1022 S.E. 7th explained that he lived just to the east of Mr. Shippee. Mr. Bee stated that Mr. Shippee climbs up on the waterfall to service it and takes this opportunity to stare in his neighbors' yards and scares people, especially the children. Additionally, he can look into the kitchen and bedroom windows of the Bee home, when on top of the structure. Mr. Bee submitted photos in evidence. When this occurs, it also causes all the dogs in the neighborhood to bark, annoying all adjacent neighbors. He pointed out that if the water structure was removed, there would be no reason for Mr. Shippee to peer over the fence. In addition, Mr. Bee pointed out that the structure has numerous plants around it that require watering. They are planted in sandy loam soil, which allows the water to drain very quickly, especially when they are over watered. There is poor drainage in the area anyway, which makes a bad situation even worse. Mr. Bee explained that neighbors to the north called the police last summer, when the water was left on for many hours, as their yard flooded. Additionally, he pointed out that there was a lot of standing water with algae growing in it all during last summer, which is very detrimental to the two houses to the north, which already have poor drainage conditions existing under their homes, and who have already installed pumps to reduce existing water, without having the additional water added because of this structure. There are no safeguards built into the water structure to ensure safety for small children wandering into the area. Mr. Bee pointed out that he erected a fence along the property line to keep small children from leaving his yard and wandering into the Shippee yard. Other neighbors also erected fences to keep small children from accessing the pond, while the structure was being built. From a landscaping point of view, a pond should not be in direct sunlight, he added, because it creates algae and problems for the fish that are in the water. Mr. Bee explained further that the previous owner built the structure as a selling point when he was preparing to put the property up for sale. It was put together rather quickly and poorly, he added.

Rebuttal

Rod Shippee stated that many people accidentally water their lawns for too long a period of time, like he did the one time it flooded. He further explained that Mr. Bee is opposing this application because he reported that the fence that Mr. Bee installed was not in compliance with the Canby ordinance regarding fence heights. Furthermore, Mr. Shippee stated that he did not see anything intrusive about servicing his pond, denied looking over into neighboring property when doing so, and explained that it was well constructed.

Chairman Ewert noted that the majority of staff reports are generated by Mr. Vasquez, and thanked him for all his hard work.

Mr. Wheeler reported that it appears that a commercial developer who works with a number of different type retailers is interested in the Arneson property. It appears likely that some type of a grocery store will locate there, although no specifics have been forthcoming. No specific design for the layout of this phase of the industrial park has been submitted for consideration.

Staff reminded the Commission about the workshop on April 16, 1997, at 6:00 p.m., and that Senator Baker and Representative Schrader would be attending.

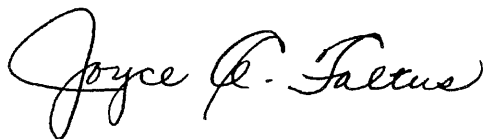
Staff explained that talks are underway with regard to Tofte Farms Phase 2, regarding future layout. Chairman Ewert asked if people could occupy homes prior to the traffic signal being installed. Staff explained that it is a timing issue and they might be required to install a 4-way stop prior to the signal being installed. The signal is scheduled for installation in early July. The Commission discussed the request from Tofte Farms to reduce setbacks or add fireplaces and windows into the setbacks. The Commission commented on how close the houses appear to be to each other and how much closer they appear to be to each other due to the large sizes of the homes.

Staff reported that a meeting was held with METRO regarding the language to be included in an intergovernmental agreement for the area between Canby and METRO, in order to maintain the separation and not to enlarge the urban growth boundary. Discussions were also held regarding how to deal with other jurisdictions, including Clackamas County, and regarding the Highway 99-E corridor.

IX. ADJOURNMENT

The meeting was adjourned at 9:10 p.m.

Respectfully submitted,



Joyce A. Faltus

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

A REQUEST FOR APPROVAL TO)
EXTEND CUP 93-01 TO RETAIN)
THREE MODULAR CLASSROOMS)

FINDINGS, CONCLUSIONS & ORDER
CUP 97-02
(Canby School District #82)

NATURE OF APPLICATION

The applicant is requesting approval of a Conditional Use Permit to extend CUP 93-01 to retain three modular classrooms located at the Knight Elementary School campus, north of N.W. 4th Avenue, west of N. Grant. (Tax Lot 1400 of Tax Map 3-1E-33CB). The modulares were previously approved (DR 93-05/CUP 93-01) on November 8, 1993.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of April 14, 1997.

CRITERIA AND STANDARDS

In judging whether or not a conditional use permit shall be approved, the Planning Commission shall weigh the proposal's positive and negative features that would result from authorizing the particular development at the 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.

- A. The proposal will be consistent with the policies of the Comprehensive Plan and the requirements of this title and other applicable policies of the City.

- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements, and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed use will not alter the character of the surrounding areas in a manner which substantially limits or precludes the use of surrounding properties for the uses listed as permitted in the zone.

FINDINGS AND REASONS

The Planning Commission deliberated on all testimony presented at the April 14, 1997 public hearing, and incorporates the April 4, 1997 staff report, and Commission deliberations as support for its decision. The Planning Commission accepts the findings in the April 4, 1997 staff report, insofar as they do not conflict with the following supplemental findings:

1. The Planning Commission finds that the modular classrooms allow the district to expand classroom space in response to student growth and the classroom capacity. In order to better understand the continuing needs of the school district, the Commission requests that representatives of the school district come back to the Commission, in December of each year, with an update regarding school building capacity and the need for modulares.

CONCLUSION

The Planning Commission concludes that CUP 97-02 can be made to comply with the applicable criteria by the application of certain conditions.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that CUP 97-02 is APPROVED, subject to the following conditions:

1. The temporary classrooms are approved for a three year period beginning August 1997 and ending August 2000 and the temporary classrooms are to be removed at the end of this same period.
2. That the school district shall come back before the Planning Commission annually, in December, to review current capacity conditions.

I CERTIFY THAT THIS ORDER was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 28th day of April, 1997.

Dan Ewert, Chair
Canby Planning Commission

Joyce A. Faltus
Secretary

ATTEST:

ORAL DECISION - April 14, 1997

AYES: Keller, Ewert, Stewart, O'Shea, Dillon, Prince

NOES: None

ABSTAIN: None

ABSENT: None

WRITTEN FINDINGS - April 28, 1997

AYES:

NOES:

ABSTAIN:

ABSENT:

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

**A REQUEST FOR VARIANCE
APPROVAL TO RETAIN A POND
IN VARIANCE TO THE 3' SETBACK
REQUIREMENT**

) **FINDINGS, CONCLUSIONS & ORDER**
) **VAR 97-03**
) **(Shippee)**
)

NATURE OF APPLICATION

The applicant, Rod Shippee, is requesting approval to retain an existing pond/waterfall structure in the backyard of the home located at 830 S.E. 7th Avenue, (Tax Lot 2100 of Tax Map 4-1E-3BB). The pond/waterfall is 5 1/2' in height, and is within the 3' setback of the rear property line.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of April 14, 1997.

CRITERIA AND STANDARDS

In judging whether or not a Variance Application should be approved, the Planning Commission must consider the following standards:

A variance may be granted only upon determination that all of the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the City and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control, and
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone, and
3. Granting of this variance will not be materially detrimental to the intent or purposes of the City's Comprehensive Plan or the Land Development and Planning Ordinance, and
4. Granting of this variance will not be materially detrimental to other property within the same vicinity, and
5. The variance requested is the minimum variance which will alleviate the hardship, and
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives, acting in deliberate violation of these or other City regulations.

FINDINGS AND REASONS

The Planning Commission deliberated on all testimony presented at the April 14, 1997 public hearing, and incorporates the April 4, 1997 staff report, and Commission deliberations as support for its decision. The Planning Commission accepts the findings in the April 4, 1997 staff report, insofar as they do not conflict with the following supplemental findings:

1. The Planning Commission finds the variance requested to retain an existing pond/waterfall structure in the backyard of the property located at 830 S.E. 7th Avenue is 5 1/2' in height and must meet the required minimum setback of 3' for all structures 30+" above grade.
2. The Planning Commission finds that a variance may be granted upon determination that all of the applicable variance criteria conditions are present, and that the variance requested to retain the pond does not meet criteria A, B, C, and D.
3. The Planning Commission finds that it was through complaints received from the subject property owner and by the adjacent property owner that the City was made aware of the setback ordinance violation and, in order to maintain the same property rights and development standards for properties located in the R-1 zone, the pond must conform to the 3' minimum yard setback.

CONCLUSION

The Planning Commission concludes that VAR 97-03 does not meet all applicable criteria.

ORDER

IT IS ORDERED BY THE PLANNING COMMISSION of the City of Canby that VAR 97-03 is denied.

I CERTIFY THAT THIS ORDER denying VAR 97-03 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 28th day of April, 1997.

Dan Ewert, Chair
Canby Planning Commission

Joyce A. Faltus
Secretary

ATTEST:

ORAL DECISION - April 14, 1997

AYES: Keller, Ewert, Stewart, Prince, Dillon, O'Shea

NOES: None

ABSTAIN: None

ABSENT: None

WRITTEN FINDINGS - April 28, 1997

AYES:

NOES:

ABSTAIN:

ABSENT: