

**MINUTES**  
**CANBY PLANNING COMMISSION**  
7:00 PM – Monday, May 14, 2018  
City Council Chambers – 222 NE 2<sup>nd</sup> Avenue

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**PRESENT:** Commissioners Larry Boatright, John Serlet, Derrick Mottern, Shawn Varwig, and Andrey Chernishov

**ABSENT:** John Savory and Tyler Hall

**STAFF:** Bryan Brown, Planning Director, and Laney Fouse, Recording Secretary

**OTHERS:** Curt McLeod, Amber Mathiesen, Jason Padden, Susie Meyers, Regina Taylor

Vice Chair Boatright called the meeting to order at 7 p.m.

**CITIZEN INPUT ON NON-AGENDA ITEMS**

Roger Steinke, Canby resident, spoke about the Beck Pond Subdivision. Stafford Development had said that Mr. Steinke was in support of their development, but that was not the case. If staff had known that, they would have proceeded in a different manner. He met with Stafford and discussed a different access to his neighbor's property rather than going through his property. Mr. Steinke had asked that the access be removed from his property on the plans for the subdivision, but the City had said no. He had also been keeping the City Council apprised of these conversations. He would be coming back to the Commission on June 11.

**MINUTES**

- a. Approval of Planning Commission Minutes for April 23, 2018.

**Motion:** A motion was made by Commissioner Varwig and seconded by Commissioner Mottern to approve the April 23, 2018 Planning Commission minutes. Motion passed 5/0.

**NEW BUSINESS**

- a. Consider a Minor Modification requesting a change to a condition of approval in Northwood Estates, Phase 3 Subdivision (**SUB 17-01**) in order to construct a two-story home instead of a single-story home (**MOD 18-01**).

Bryan Brown, Planning Director, entered his staff report into the record. This was a minor modification located in Northwood Estates Phase 3, Lot 94. There was a voluntary agreement for this phase to make certain lots that were adjacent to long time existing subdivisions restricted to one story homes. That would make them more compatible to the older neighborhoods. The applicant stated it was an error for this lot to be included as this lot backed up to a lot that was developed in Phase 2, not one of the older lots. The owner of the adjacent lot did not have an issue with the proposed two story home for Lot 94. Staff supported the findings of the applicant and recommended approval of the minor modification.

Curt McLeod, applicant, stated this was an oversight when this plan was developed 13 years ago. He explained due to the neighbors' input for privacy that they volunteered to limit some of the homes to single story. The property owner would like to put a two story home on the lot and there would be a two story home built on Lot 95 and behind Lot 95, Lot 61, had a two story home as well. They had worked with the neighbors and he thought it was a good development.

Jason Padden, Canby resident, read from the letter he passed out to the Commission. His home bordered one of the properties that had the one story restriction. The restriction was one of the reasons he purchased this home, and he thought that restriction was now under threat of being reversed. Lot 94 was still somewhat adjacent to an existing property on NW 12<sup>th</sup> Avenue and the homes next to it on Lot 60 and 93 were one story homes. Those individuals purchased those lots with the understanding that the home on Lot 94 would adhere to the same restriction. To change the rules now would be unfair to those individuals. The purchasers of Lot 94 should have been aware of the restriction and if they wanted to build a two story home there were other lots available within the development they could have purchased. It came down to trust and precedence. The lot behind his neighbor had developed their home with a second story claiming that it was a storage room when it was actually a bonus room with a closet. If this change was authorized, it would set a precedent for the other lots with this restriction to make the same request. He asked that the Commission deny the request.

Mr. McLeod explained the process for approval for this development and how the lots had been developed. The reason for this request was the guidelines for one story homes did not apply to Lot 94. Lot 94 had a newly developed home, not an older existing home, behind it. This situation did not apply to any other lot and he did not think it would set a precedent. He passed out a handout regarding Lot 75 and explained how the homes had to be single story or a story and a half. He explained what a story and a half meant and how Lot 75 had been misinterpreted as a two story home. If the storage room was eliminated, it would not reduce the elevation of the peak of the house. This house only had one real dormer window and two false dormers to give the appearance of a two story home, but it was only a story and a half. It was planned for this home to have a storage room upstairs. From the existing homes, the appearance of the house was no different. He felt badly that a neighbor was upset about this, but he thought it had been misinterpreted.

Mr. Brown said one other letter had been submitted from the owner of Lot 63 who was concerned about varying the requirements which could potentially lead to lowering the quality of life in the neighborhood. Mr. Brown had responded that this was not a code requirement, but a voluntary condition and the property owner did not make further comments.

**Motion:** A motion was made by Commissioner Chernishov and seconded by Commissioner Serlet to approve MOD 18-01. Motion passed 5/0.

## **PUBLIC HEARING**

- a. Consider a request for Site & Design Review/Conditional Use Permit for warehouse space in the Canby Pioneer Industrial Park (**Clark/Piedmont DR 18-02/CUP 18-01**).

Vice Chair Boatright opened the public hearing and read the public hearing statement. He asked if any Commissioner had conflicts of interest or ex parte contacts to declare. There were none.

Mr. Brown presented the staff report. He entered his staff report into the record. This was a site and design review and conditional use permit for warehouse space in the Industrial Park. There would be a shared driveway with the property to the north and with the property to the west. He reviewed the site layout. There would be 25,000 square feet of buildings that would be built in two phases. The first phase was to construct a 12,000 square foot building that would be partially leased and partially used by Clark Products. The entire site plan was being reviewed tonight. All of the drainage and water quality facilities would be sited towards the front near Hazel Dell Way. The driveway to the west was proposed to be 40 feet and the driveway to the north would be 36 feet. They exceeded the minimum parking standards and met the landscape requirements. They also met the design matrix requirements for reasonable quality development. They were using tilt up concrete type walls that would match what was currently in the Industrial Park. They were required to put in the sidewalk improvements along the frontage. The traffic impact study indicated that other than the shared driveways, there was no need for any mitigation. There was a condition that prior to occupancy it was verified that the site distance was being

maintained at the driveways. Since they did not know who would occupy the lease space and the second phase, they had applied for a Conditional Use Permit. The code currently stated if an applicant was unsure they would meet the 12 employees per acre standard that they would have to apply for a Conditional Use which gave the Commission some discretion to decide if the use was appropriate. What was being proposed was a typical type of development in the Industrial Park and there was a high chance that good job creating uses would go into these buildings. The Council viewed the 12 employees per acre as an aspiration, not a strict standard. He showed a rendition of what the buildings would look like. There was a condition that the applicant needed to locate where the bicycle racks were going to be and another condition requiring the applicant to meet the City's sign code requirements. There was no public input. The City Engineer submitted a memo which included technical requirements that the applicant would have to follow during the construction phase. Staff recommended approval of the application.

Commissioner Serlet asked if there were going to be any large trucks loading and unloading on the site. Mr. Brown said two loading bays were proposed.

Aric DeBriac, architect with Greenbox Architecture, was representing the applicant. He explained where the parking would be located on the site and how there would be ample vehicle and bicycle parking. He described the Phase 1 building, which would be 12,000 square feet. Most of it would be used for storage of large bulk spices. There would be 7 maximum employees for the 7,000 square foot portion. Another portion of the building would be leased out in the future. The signage was on deferred submittal as they had not decided on the signage yet. They anticipated a typical 53 foot trailer to come to the site once in while. They would have an at grade loading dock and there would be a one way access for the larger trucks which would be separate from the smaller vehicles. They were comfortable with the shared driveway condition. There would be a sidewalk on the frontage with an accessibility ramp. They had a landscape plan and all stormwater would be mitigated on site with a bioswale and a series of drywells. There would be a single trash enclosure.

#### Opponent:

Bob Cambra, Canby resident, was against this plan because there was not adequate information about traffic mitigation. The traffic study spoke about the number of trips this new building would generate, but it did not give a baseline for the traffic that was currently on Hazel Dell Way. They would not know if the added 100 trips would cause a problem and need mitigation because they did not know what the current situation was. He thought the decision should be delayed until the traffic study was amended to provide the Commission with that data.

Mr. Brown discussed the traffic study and vehicle trip estimations. Mr. Cambra was correct that the study did not include existing traffic counts. He thought the reason was because this was the firm that did the City's Transportation System Plan and they had a broad knowledge of Canby's transportation system. When the TSP was adopted they did both a near term and a build-out analysis of the Industrial Park. The TSP said in general the traffic volumes might become greater near build-out, and before build-out an additional means of access to the highway was needed. The streets were designed to handle the Industrial Park and were meant to have high volumes of traffic.

Commissioner Cherishnov agreed with Mr. Brown. A traffic study was done when the Industrial Park was developed that looked at future build-out and to design the roadway system to handle the peak traffic flow.

Mr. Cambra was still concerned that there was not enough data to make a good decision.

#### Proponent:

Susan Meyers, Canby resident, was representing Piedmonte Group, the current property owner. They planned to sell the property to Clark Products and this was Clark Products' design. She served on the Citizen Advisory Committee for the Transportation System Plan update and the Committee had been shown how each

development's impact had been considered on the overall model. There was very little traffic on this road currently and the Industrial Park was in its early stages of development. She did not think the application should be held up because they did not have the numbers. The City Engineer had advised no mitigation was required.

Vice Chair Boatright closed the public hearing at 8:14 p.m.

**Motion:** A motion was made by Commissioner Mottern and seconded by Commissioner Varwig to approve DR 18-02/CUP 18-01. Motion passed 5/0.

- b. Consider a request for a Minor Land Partition of an existing lot on SW 8<sup>th</sup> Place into two parcels, and sell the newly created parcel. **(MLP 18-02 Mathiesen).**

Vice Chair Boatright opened the public hearing and read the public hearing statement. He asked if any Commissioner had conflicts of interest or ex parte contacts to declare.

Commissioners Mottern and Varwig drove by the site.

Mr. Brown provided the staff report. He entered the staff report into the record. This was a request for a minor land partition of an existing lot at 115 SW 8<sup>th</sup> Avenue at the corner of S Ivy Street. The lot was 17,000-plus square feet in an R-1 zone. There was an existing home on the northern end of the property and the plan was to divide the property in half to create an additional buildable lot. The access for the new lot would be on SW 8<sup>th</sup> Avenue along the west property line between the existing house and the property line. The reason for the access on SW 8<sup>th</sup> was S Ivy was an arterial road and if there was an alternative means of access, the code required there not be access on an arterial road to cause conflicts to traffic flow. There was a condition to evaluate whether the parcel that would be created would be an infill lot and subject to the residential infill standards. Any possible utility easement needed across the frontage of the lot would be made part of the recorded partition plat. The driveway was probably the biggest issue. Staff did not think it was a flag lot because the definition of flag lot meant that it would not have adequate street frontage. This lot had frontage on S Ivy, it just could not take access to Ivy. There was only 12 feet between the property line and the wall of the house for a regulation width driveway to the new lot. If it was a flag lot, it would be required to have a minimum of five feet from the wall of the house. However, since it was not a flag lot, just an access easement, there was no such requirement. This part of Ivy Street was owned by Clackamas County, and the County submitted a memo of requirements for the application including sidewalk improvements and potential street improvements. Staff contacted the County about the memo and made them aware of the project that was already funded and ready to move forward for sidewalks and street improvements on this street. The County then submitted a supplemental memo withdrawing the requirements except for Condition #4. This would be added to the City's Condition #6. The applicant had asked him about the frontage improvements on SW 8<sup>th</sup> Ave which included ADA ramps at the intersection with Ivy which would most likely be covered by the City's project. There might be a small gap to the existing sidewalk along 8<sup>th</sup>. When the driveway was paved and the new house built, they would need to redo the ADA ramps where the driveway connected with the street. The applicant was requesting that the responsibility for the paving of the driveway and the driveway connection be that of the new homeowner. Public input had been received from Julie Helms which he read into the record. Ms. Helms lived next door to this property and was concerned about her trees that bordered the property line. She was also concerned about potential on street parking in front of her house and the amount of noise from vehicles close to two bedrooms of her house from the new proposed driveway. She would like an arborist report to show no damage would be done to her trees. Ms. Helms submitted another letter which expressed concern about the placement of the driveway. She requested the driveway be placed on the east side of property instead. Staff had looked into this option, and found that that driveway location would be in violation

of the separation requirement between driveways and an intersection. Ms. Helms also had concerns about resale value of her home. If the application was approved she asked that a 6 foot rock retaining wall be built between the driveway to the new parcel and her property at the expense of the owner of the new parcel. She also would like a restriction put on the new parcel that it would be a single family dwelling. Staff had looked into it, and Mr. Brown did not think anything other than a single family dwelling could be placed on the lot even through a Conditional Use Permit.

Mr. Brown then explained if the driveway was no more than 100 feet to the body of the lot, a minimum 12 foot wide paved drive was required. If it was more than 100 feet, a 20 foot minimum of paved driveway width was required. The driveway proposed was just over 100 feet, but he did not think it required a 20 foot driveway because there was adequate fire access from the Ivy Street frontage.

Commissioner Cherishnov clarified the driveway had to be 12 feet wide minimum at the property line extended 20 feet back into the property, but beyond that it could be narrowed up to allow more setback from the neighboring property.

Vice Chair Boatright suggested sharing the driveway of the existing house.

Amber Mathiesen, applicant, explained the driveway could not be put anywhere else than where it was proposed as if it was on the east side, it would be too close to the intersection and if it was a shared driveway she would not be able to use her driveway and garage. The east side of her property had a large landscaping berm with mature trees and it would be significant to excavate it. She was not in favor of putting a retaining wall between her and her neighbor as there was already a fence there. She did not think a car driving between the two houses would add to the noise levels they already experienced being near Ivy. Her neighbor's trees were right up against the property line and the branches encroached on her yard.

Proponent:

Jim Langdon, Canby resident, was a neighbor. There were homes nearby that accessed Ivy and he thought this property should do the same. Mr. Brown said it was the current standard that no new homes be permitted to access arterials.

Mr. Langdon said the applicant had a double lot and he thought it was big enough for another home.

Opponents:

Regina Taylor, Canby resident, agreed there was plenty of room for two lots on this parcel. She was concerned that the applicant intended to sell the new parcel and it would be developed by someone outside of the applicant's control, however she did not see a problem with a new single family home being built here. If a Conditional Use was applied for, there was a potential for a townhouse and she did not think this lot was suitable for that use. She suggested adding a restriction that the parcel would only be allowed to have a single family dwelling built on it. Another concern was the potential for the existing lot to be partitioned into two separate 5,000 square foot lots in the future. It was highly unlikely this would occur, but she suggested adding a restriction on the deed to prevent it from occurring. Her final concern was the safety of the driveway as it was very close to the existing home. The overhang of the roof of the existing house was inside the driveway area. It also impacted the neighbor to the west whose home was also very close to the driveway. She thought there should be a 7 foot setback in addition to the 12 foot driveway, which would not fit in the proposed space. She suggested the driveway be relocated to the other side of the existing parcel. She recommended approval of the application with the condition that the access easement be located on the east side of the property, limit the new parcel to a single family residence, and limit the existing parcel to a

single family residence with no future division. She asked if a setback was required for the driveway. Mr. Brown replied no, driveways could be built right up to the property boundaries.

Bob Cambra, Canby resident, would like a review of the current sidewalk on SW 8<sup>th</sup> as it was in need of repair. He would like it to be incorporated into the approval.

Vice Chair Boatright closed the public hearing.

**Motion:** A motion was made by Commissioner Varwig and seconded by Commissioner Mottern to approve MLP 18-02, encouraging the applicant to narrow the driveway after 20 feet as discussed and removing the restrictions from the County except for Condition #4. Motion passed 4/1 with Commissioner Serlet opposed.

## **FINAL DECISIONS - None**

### **a. Final Findings Clark/Piedmont DR 18-02/CUP 18-01**

**Motion:** A motion was made by Commissioner Varwig and seconded by Commissioner Mottern to approve the final findings for Clark/Piedmont DR 18-02/CUP 18-01. Motion passed 4/1 with Commissioner Serlet opposed.

### **b. Final Findings Mathiesen MLP 18-02**

**Motion:** A motion was made by Commissioner Mottern and seconded by Commissioner Varwig to approve the final findings for Mathiesen MLP 18-02. Motion passed 4/1 with Commissioner Serlet opposed.

## **ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a.** Next regularly scheduled Planning Commission meeting on Monday, May 28, 2018 was cancelled due to the Memorial Day holiday.

Mr. Brown shared that the Planning Department was the busiest it had ever been processing applications.

## **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None**

## **ADJOURNMENT**

Vice Chair Boatright adjourned the meeting at 9:16 pm.