

MINUTES
CANBY PLANNING COMMISSION
Monday, June 14, 2021

PRESENT: Commissioners John Savory, Larry Boatright, Jennifer Trundy, James Hieb, Jeff Mills, and Jason Padden

ABSENT: Commissioner Michael Hutchinson

STAFF: Don Hardy, Planning Director; Ryan Potter, Senior Planner; and Erik Forsell, Associate Planner

OTHERS: Brian Varricchione, Adam Olson, Mark Wilde

CALL TO ORDER

Chair Savory called the meeting to order at 7:00 p.m.

CITIZEN INPUT ON NON-AGENDA ITEMS – None

MINUTES – None

NEW BUSINESS – None

PUBLIC HEARING

- a. CANBY UTILITY, MAJOR VARIANCE (CITY FILE #VAR 21-03)

To consider a proposal from Canby Utility, requests Planning Commission approval of a Major Variance to construct a 10-foot tall security fence as part of Phase II of their previously approved project (DR 17-01), which is currently under construction. The proposed fence height is two feet above the maximum allowed in the M-1 (Light Industrial) zone by the City's Zoning Code

Chair Savory opened the public hearing and read the hearing statement. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare including a visit to the site. There was none.

Staff Report: Ryan Potter, Senior Planner, entered his staff report into the record. This was a request for a major variance for Canby Utility's headquarters, Phase II. He reviewed the applicable criteria to be used in evaluating this application and existing conditions on the site. The Canby Utility project was approved in 2017 and there were no proposed changes to the overall project or land use. The proposed project was a 10-foot security fence along S Pine Street with two 11-foot vehicular gates. The proposed fence height was in response to the threat of theft. Materials in Canby Utility's yard would include items essential to critical public infrastructure. Regarding the variance criteria, Canby Utility was a unique use in the M-1, Light Industrial, zone with specialized and expensive equipment and materials being stored on the site. The fence was a small change to the overall design and did not give the property owner a unique property right beyond what other property owners had in this zone. It would not conflict with the Comprehensive Plan or Zoning Ordinance other than the 8 foot height limit for fences. It wouldn't harm surrounding properties as it was designed to be as aesthetically pleasing as possible. The two feet of additional

fence and additional foot for the gates was a minor extension of what would normally be allowed. The exception or unique conditions weren't caused by the applicant. Staff recommended one condition, to require a final revised site plan so that planning staff could generate and transmit a site plan release letter to the County. One comment was received from a neighboring property/business owner regarding the design and location of the proposed fencing. Staff recommended approval of the application with the identified condition of approval.

Applicant: Brian Varricchione, representing the applicant, said this project was approved in 2017 to be done in two phases. The reason for the fence was to prevent theft that had occurred during the construction of Phase I. They would like to secure the site with a ten foot tall fence. Before now there had only been the office on site and not a lot of inventory or high value storage. That would change with Phase II that would have outdoor storage and specialized equipment. The variance was to increase the fence height along Pine Street only. The gates would be a foot higher than the fence due to the geometry of getting the gates to slide properly. He did not think this would set a precedent because this variance was specific to the property and it was a unique use with no other electric or water providers in the City. They had designed the fence to be aesthetically pleasing.

Proponents: None

Opponents: None

Chair Savory closed the public hearing.

The Commission expressed support for the application.

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Padden to approve VAR 21-03, a Major Variance to construct a 10-foot tall security fence for Canby Utility Phase II. Motion approved 6/0.

b. STATE STREET MULTI-FAMILY PROJECT (CITY FILE #DR 21-04)

To consider a Site and Design Review application to develop two buildings with 12 residential units, totaling approximately 10,588 square feet on a 0.44-acre site. The proposed development will be accessed off of SW 3rd avenue by the means of an existing easement. Both buildings will be 3-stories in height, approximately 5,294.25 SF. The proposal is to have a total of six (6) two bedroom / two bathroom units and six (6) one bedroom / one bathroom units. Each individual multifamily structure will have a total of six (6) units with a mixture of one and two bedroom units.

Chair Savory opened the public hearing and read the hearing statement. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare including a visit to the site.

Commissioner Hieb drove by the site and briefly spoke to a neighbor in the area.

Commissioner Boatright drove by the site and talked to the neighbor to the west.

Staff Report: Erik Forsell, Associate Planner, entered his staff report into the record. This was a request to develop a multifamily development with 12 residential units, totaling approximately 10,588 square feet on a .44 acre site. There would be six 2 bedroom/2 bathroom units and six 1 bedroom/1 bathroom units. Each individual multifamily structure would have a total of six units with an even split between two and one bedroom units. The development would be accessed off of SW 3rd Avenue by the means of an existing 26 foot wide area with a 20 foot wide travel surface. Both buildings would be 3 stories in height, approximately 5,295 square feet in size. The subject property and surrounding area had been zoned High Density Residential (R-2) since 1980, over 30 years. These properties were zoned for high density development and required a density of 14 units per acre. There was no maximum density that was mitigated by setbacks, coverage area, and height standards. The project avoided demolition of existing structures, saving the existing single family home. He displayed a building permit application showing how the property had been zoned R-2 since 1980. Market forces were the principle driver for development. The developer had determined that the market was appropriate for this scale of development. Staff did not propose development projects, they reviewed projects against the code and recommended actions for the decision makers. Staff understood that not all development was desirable for every person and that conflicts and difference of opinion would arise with projects. He discussed the approval criteria, existing conditions on the subject property, and applicant's preliminary site plan. The applicant had a traffic analysis done by DKS Associates. The analysis showed the trip generation of the project would be approximately 6 a.m. peak hour trips, 7 p.m. peak hour trips, and 88 daily trips. The adjacent local streets (SW 3rd Avenue and S Grant Street) would connect the site with nearby collector and arterial streets and maintain a level of traffic volume that was consistent with the local street classifications. The applicant proposed to include a 20 foot drive aisle within an existing 26 foot easement. The development would be located approximately 50 feet from the S Grant Street intersection and about 10 and 70 feet to the nearest driveways to the west and east respectively. The proposed connection complied with the City's driveway spacing and width standards along local streets. The 20 foot drive aisle would provide access for vehicles and bicycles. SW 3rd Avenue had an existing sidewalk along the frontage of the site, and bicyclists shared the roadway with motor vehicles, consistent with the City local roadway cross-section standard. The site would include sidewalk connections from the building entrances to the parking areas and it was recommended to include a walkway to connect to SW 3rd Avenue. This would require that the proposed driveway access be shifted towards the west property line, and a deviation to the code would be needed to allow for the driveway to be constructed less than 5 feet from the side property line where it met SW 3rd Avenue. These streets would safely accommodate additional vehicle, pedestrian, and bicycle trips. He showed images of the proposed access and the options for shifting the alignment and approach. He thought the applicant needed to consult with staff to choose one of these options for the access. He showed an example of similar access further down on SW 3rd Avenue that was exactly what staff would be looking for. It included a five foot wide concrete sidewalk with rollable curbs and 20 foot wide paved travel surface. The traffic analysis did not have any issues with the intersections and the project did not warrant any further study or analysis. The main recommendation was that the project included a pedestrian ADA safety accessible location.

Mr. Forsell showed the elevations of the proposed buildings which met the residential design standards. He then showed the applicant's preliminary landscape plan. The applicant proposed a good buffer between the R-1 and R-2 area. There was concern about the location of the recreation area. It would be in the southeast corner of the property. There was a condition of approval that it needed to be fully delineated in the landscape and site plans. Staff found that the project met the code as conditioned. The additional conditions related to pedestrian

interconnectivity, signage, and approach standards for the private access to the development area. Staff recognized that the development was concerning to the neighbors, but the Planning Commission was limited to the review of projects based on compliance with City Code and the approval criteria, recognizing that this property was zoned High Density Residential (R-2). Staff received a number of public comments which were addressed in the supplemental memorandum. The comments were largely concerned with the apartment structures themselves, compatibility, parking, access, and lighting. Staff recognized there were perceptions about compatibility with the surrounding neighborhood. The R-2 zone allowed for multifamily projects up to 35 feet in height. The project met the design standards, setbacks, parking requirements, and impervious percentage requirements. Chapter 16.10 (parking and loading), 16.20 (R-2 zone), 16.21 (residential design standards), and 16.49 (design review) had all been met by the applicant. Staff recommended approval of the application with the proposed conditions and to have the applicant adjust the approach so that it was consistent with City Code. The approach could be adjusted in the construction plan approval phase or with an administrative deviation. The conditions unique to this application were: constructing a 5 foot wide ADA accessible sidewalk or similar pedestrian pathway within the easement or flag pole area of the access strip and adjust the approach so that it was consistent with City standards and clearly designating the location of the recreation area on a copy of the plan submitted for construction demonstrating compliance with the minimum square footage required per the code.

Commissioner Mills could not find the conditions of approval and did not feel comfortable approving them. Mr Forsell directed him to their location in the staff report.

Commissioner Hieb asked about the existing easement going through someone's yard and the paved access road being close to the side of the nearby house. He did not think the 5 foot sidewalk would fit. Mr. Forsell said that was why staff suggested moving the approach. It would be tight with the 20 foot paved access and 5 foot sidewalk, but it was a private driveway and sidewalk and there were no setback standards from private structures.

Commissioner Hieb asked about the reduction of property value for that house. Mr. Forsell said that was not a criterion. The access easement had existed prior to the proposal to develop this property.

Commissioner Hieb asked how much impervious area was allowed. Mr. Forsell said the application met the pervious and impervious standards. The applicant had revised the site plan to provide stormwater treatment and meet code for pervious and impervious surfaces. All stormwater would remain on site.

Commissioner Padden appreciated the neighbors' concerns about the project, but the Planning Commission had to decide whether or not the application met code. He thought the application did meet the code. He agreed that there must be pedestrian access into the development. He asked if the landscape and trees in the buffer would meet the standards, especially the species of trees. He was concerned about their ultimate size. He asked if the developer would be working with the adjacent property owners to have a cohesive fence put in. He suggested it be an added condition. Mr. Forsell said a cohesive fence was proposed in the plans.

Commissioner Padden suggested finding ways to inform the public of the zoning around them and future development potential. Don Hardy, Planning Director, said outreach would be occurring as part of the Housing Needs Analysis. He agreed a better understanding of the zoning would be helpful.

Commissioner Padden agreed the recreation area needed to be delineated in the final plan.

Commissioner Boatright did not think there would be ten feet between the driveways and he did not think they would be able to get the five foot sidewalk because there was an air conditioning unit on that side of the house. The designated play area could not be in the setback area between the R-1 and R-2 zones.

Applicant: Mark Wilde, representing the applicant, said they had worked hard in planning this project to make sure that they met the City's code. The zoning had been in place for a long time. As a company, they looked for emerging markets and cities that they could bring responsibly planned projects to that were growing. There was expected 15% growth in Canby in the next five years and the City had a vacancy rate under 1% for rental homes. That meant there was a shortage of rental housing. He thought this would be an attractive development that met the standards. Regarding the pedestrian access, they thought it would be a positive addition and planned to work with staff to come up with something that met the standards and was economically feasible. There was a lot of concern about privacy from the neighbors. They were proposing fencing all around the property and extensive plantings to create a solid buffer with trees and plants. They met the 15% buffer between the R-1 and R-2 zones. For the outdoor recreation area, it would be next to the stormwater management area and they were including the balconies and porches as outdoor space. Regarding the access easement, it had already existed when they bought the property. It was available for any future development, whether it be this one or something else.

Commissioner Mills asked about the buffer and concerns regarding compatibility with the single family residences. Mr. Wilde said there were two layers of buffering, the wood fence and the plantings. For any emerging community that had existing high density zoning, there was generally a transition period as those communities grew and developed. They had spent a lot of time listening to the neighbors and made changes to their plans accordingly. They had worked hard to provide as much privacy as possible and propose attractive buildings.

Commissioner Padden said the trees proposed were all deciduous and would not be a good buffer in winter.

Commissioner Hieb asked if there was a requirement for ten feet between driveways. He did not think there would be enough spacing to meet that requirement. Mr. Forsell said the five foot curb cut created a separation between two access points. DKS made a finding for that which would require moving the approach slightly from the five foot curb cut distance away from the adjoining driveway. The driveway could be up to the property line.

Commissioner Boatright asked if the five foot separation met the code for high density residential or if it needed a variance. Mr. Forsell said no variance was needed. The approach would be moved to show there was a five foot curb cut. A deviation was allowed through administrative procedure, but staff did not think that was necessary. They would not have to get permission from the neighbor as long as they stayed within the 26 foot easement. He agreed it would be tight but he thought the applicant could meet the curb cut standard.

Commissioner Boatright said if they could shift the entryway and create the five foot separation at the curb, he did not have a problem with it. Mr. Wilde said the applicant supported that change.

Proponents: None

Opponents: Rhonda Shechtman, Canby resident, said this was a historic area and many properties had historic value. The purpose of the Historic Preservation Plan was to protect the value of Canby which was partly in its historic properties. The driveway proposed was ugly and a lot of concrete and she did not want it spread down the street towards her house. She thought there should be more mitigation and less density, like the building height reduced or 6 units instead of 12. She thought this would have a lot more impact on the street than was reported.

Dave Shechtman, Canby resident, thought three story buildings would not fit with the neighborhood. It would be especially impactful to the privacy of the single family residential homes. He thought it was not right that this growth and density was being forced on them and the neighborhood had no say.

Jonathan Clayborn, Canby resident, said his property had the easement going through it. He thought the project was very invasive. It was a tight area and the driveway would be 4-5 feet to his house. There would be no buffer space between the five foot sidewalk and the property line. He bought his house because of the historic value and aesthetic and the proposed apartments did not fit with the neighborhood. They looked completely modern with no historic aspect to them. Several trees would be removed and the fence would be right up against his window. The construction would be noisy and disruptive to the community. He did not think there was 50 feet from the center line on Grant to the center line of the easement. He thought the project was too massive.

Jenni Driskill, Canby resident, said the original easement was for 20 feet and it was changed in the later stages of planning to 26 feet. There was four feet between the easement and Mr. Clayborn's house. His air conditioning unit would be right up against the required six foot fence. There needed to be two feet distance around an air conditioning unit. She discussed the property on the other side of the easement who had a green yard with large trees lining it that would be immediately against the new driveway. The traffic assessment was incorrect. There was not ten feet of distance between the next closest driveway and it was very close to the intersection. All of the houses on the south end of 3rd were historic. The porches and balconies did not count towards the recreational area. The area by the stormwater was within the 15 foot buffer with the R-1 properties.

Maria Valadez, Canby resident, was concerned about minimum density. This was .44 acres and the number of apartments proposed did not follow the code. The development would not be compatible with the neighborhood. The traffic study was done during Covid when there was less traffic and she did not think it was accurate. There were plans in the City's Transportation System Plan to divert traffic from SW 3rd Avenue. There was another apartment complex built on 3rd recently and she did not think they should add more traffic to an area that already had concerns. The City's responsibility was to assess whether there was traffic congestion and if the application was to the betterment of the City and adhering to the regulations in place. There were a lot of accommodations for the builder and conditions to make the application fit. She would have to move her pond to the other side of her property due to privacy.

Patsy Fifield, Canby resident, was the direct neighbor on the west side of this site. She was concerned about the driveway as there was no separation between her driveway and the proposed driveway. The trees in that location would have to be removed and they would have to encroach on her property to remove them. She was concerned that she would not be able to get in and out

of her property while they were removing the trees. The proposed fence would be 9 feet from her front door. She was also concerned about the construction noise and disruption as well as added traffic and pedestrians.

Karen Bourbonnais, Canby resident, was catty-corner to this development. She had already gone to the City's Traffic Safety Commission about the parking on Grant and 3rd as Enterprise Rental Cars was parking cars on the street. The traffic study that was done for this project was not correct. There was a lot of traffic on Grant and a lot of speeding on 3rd. This development would put another driveway on the road, dumping potentially 24 more cars onto the street and there were a lot of pedestrians on the road and kids walking to school.

Sandra Salmonson, Canby resident, was concerned about the height of the buildings, lack of privacy, and wood fence that would fall down in a couple of years. The development would not fit in the neighborhood. There would be no privacy in her backyard and the buildings were way too big for the site. Driving on 3rd Avenue was a nightmare as it was basically a one way street and the traffic study did not address these concerns.

Billie Jean Clayborn, Canby resident, said the road had many high school students walking on it to and from school. It would add cars to the road, especially if there was not enough parking, and it did not fit with the neighborhood.

Rebuttal: Mr. Wilde said they took the neighbor's concerns seriously and understood that any new development did impact the neighborhood. The project met the code and they were not asking for adjustments or variances. He was not familiar with the Historic Preservation Plan for Canby, but he did not think it affected the proposed project. The driveway was tight, but the easement had been in place for a long time. Regarding the spacing for the air conditioning unit, they were providing the required spacing. They did not have to do a traffic analysis, but did so because of the neighbors' concerns. The report showed that the proposed project did not highly impact the neighborhood. He thought the porch and balconies did count towards the outdoor area. This project fell within the minimum and maximum density range for the R-2 zone. They were meeting the criteria for the spacing between driveways. Regarding parking on the street, they were proposing 18 parking spaces on site which was 1.5 vehicles per unit. He thought it was a liberal amount of parking on site to mitigate the impact on local streets. The fencing would be high quality and he did not think it would fail in a couple of years. The applicant would maintain ownership of the property and would continue its maintenance.

Chair Savory closed the public hearing.

Questions: Commissioner Trundy clarified for the R-2 zoning, the minimum density was 14 units per acre, not a maximum. The 12 units on .44 acres met the code. Mr. Forsell said that was correct.

Commissioner Padden asked if a letter was sent to the neighbors to get input in advance and if there was a neighborhood meeting. Mr. Wilde said they sent a letter to those living within 500 feet of the site. They also held a Zoom meeting to speak with the neighbors. That was the reason a traffic analysis was done.

Commissioner Hieb referred to Regina Taylor's letter that spoke about Chapter 16.46.30 and access management guidelines for City streets that said there had to be ten feet between driveways. Mr. Hardy clarified that was for neighborhood and local access, not driveways. Mr.

Forsell said that would be addressed by the five foot curb cut separation with the private driveway. This was not a public road so it did not apply.

Commissioner Boatright read the language. He agreed there was not ten feet between driveways. Mr. Forsell said this analysis was done in the traffic study, looking at the safety of the access. The recommendation was for the five foot separation and curb cut approach from the adjacent driveway. Staff thought that was an acceptable distance to provide safe access.

Commissioner Boatright said the traffic study also said there was 50 feet to the east and 10 feet between driveways to the west and that was wrong. Mr. Forsell clarified it was 50 feet to the center line of Grant Street.

Commissioner Mills also questioned whether the ten foot minimum had been met. Mr. Forsell was relying on what was in the traffic study which said it was acceptable with the five foot curb cut separation. He did not think they could deny the access from the property onto a public road. The traffic study called for the pedestrian infrastructure and the City Engineer recommended a commercial approach with ADA wings and good vision clearance on both sides. With those conditions, staff thought it was acceptable.

Commissioner Trundy did not think the Commission should be interpreting code on the fly. The consultants had taken a holistic look at all the codes and what the requirements were.

Deliberation: Commissioner Mills would be voting in favor, but with great reservations. This development was at a density of 27 units per acre and nearly double the minimum. It was sitting in what had traditionally been single family residential. He did not think compatibility was enough of a basis for denial, but the aesthetic was not good or compatible and they had overstepped on the density.

Commissioner Padden appreciated where the citizens were coming from. They did not have a robust inventory of historic houses, and in order to not approve developments because of the historic area, the houses had to be registered historic homes. When they were not registered, they were considered as any other home in the City. The Commission was bound by both City and State laws that when applications met the criteria and requirements, they had to be approved or there could be legal ramifications. He agreed the buildings did not meet the aesthetic of the neighborhood as they were more modern looking. He would be voting to approve it.

Commissioner Hieb was not in favor of the project and what it would do the area, but there was no legal justification to deny it.

Commissioner Boatright did not think it met the code. Without a variance, he would be voting against it.

Commissioner Trundy also felt for the neighbors, but the developer had done his due diligence as far as meeting the code. She would be voting in favor with the recommended conditions. She encouraged the developer to talk to the neighbor about the fence directly facing her front door to see if it could be adjusted.

Chair Savory did not think the application fit the neighborhood and was an intrusion on the neighbors. However, the application met all of the criteria and he would be voting in favor.

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Mills to approve DR 21-04 State Street Project with the proposed conditions including the adjusted approach, ADA accessible sidewalk, and specific designation of the recreation area on the plans to be submitted to staff. Motion approved 5/1 with Commissioner Boatright opposed.

FINAL DECISIONS

a. VAR 21-03 Canby Utility

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Padden to approve the final findings for VAR 21-03 Canby Utility. Motion approved 6/0.

b. DR 21-04 State Street Project

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Mills to approve the final findings for DR 21-04 State Street Project with the conditions of approval. Motion approved 5/1 with Commissioner Boatright opposed.

ITEMS OF INTEREST FROM STAFF

a. Next Planning Commission meeting scheduled for Monday, June 28, 2021.

Mr. Potter said there would be two hearings at the next meeting.

Mr. Hardy said DLCD would be providing funding for the Housing Needs Analysis and Housing Production Strategy work that would begin in September.

ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

Commissioner Trundy asked if they planned to hold additional Planning Commission meetings this summer. Mr. Hardy said it would be late summer/fall when those extra meetings would occur.

Commissioner Padden suggested developing instructions for people to identify themselves on Zoom.

ADJOURNMENT

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Padden to adjourn the meeting. Motion approved 6/0.

Meeting was adjourned at 10:30 PM.