

**APPROVED MEETING MINUTES  
CANBY PLANNING COMMISSION**

6:00 PM – June 12, 2023

City Council Chambers – Virtual Meeting via Zoom

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**PRESENT** – Commissioners Matt Ellison (Chair), Dan Ewert (Vice Chair), Michael Hutchinson, Judi Jarosh, Craig Lewelling, Hannah Ellison, and Jennifer Driskill.

**ABSENT** – None

**STAFF** – Don Hardy, Planning Director, Ryan Potter, AICP, Planning Manager, Brianna Addotta, AICP, Associate Planner, and Laney Fouse Lawrence, Recording Secretary

**OTHERS** – Tracy Brown, Lisa Palmer, Derek Craven, Rosemary VanDerZanden, Greg Parker, Alex Hedges, Tom Watton, Kate, Kenny Werth, Tyler Smith, Mathew Robinson

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**1. CALL TO ORDER**

**Chair Ellison called the meeting to order at 6:00 PM.**

- a. Pledge of Allegiance
- b. Welcomed new Commissioners Driskill and Ellison

Chair Ellison introduced two new commissions, Hannah Ellison and Jennifer Driskill, to the Planning Commission. The Planning Commission has a complete quorum with the addition of the two new commissioners.

**2. CONSENT ITEMS**

- a. Draft Meeting Minutes – April 24, 2023

**Motion:** A motion was made by Commissioner Jarosh and seconded by Commissioner Lewelling to approve the draft meeting minutes for April 24, 2023, as written. Motion passed 7/0.

**3. CITIZEN INPUT ON NON-AGENDA ITEMS – None**

**4. NEW BUSINESS – None**

**5. PUBLIC HEARINGS**

- a. **4<sup>th</sup> Avenue 5-Plex** – Brianna Addotta, AICP, Associate Planner

The applicant proposed demolition of an existing structure and construction of five housing units on one R-2 zoned lot located at 442 NW 4th Avenue. The development would consist of one three-unit building accessed off of NW 4th Avenue and one two-unit building accessed off of a public alley. The applicant requested a variance to one dimensional standard, which if approved would allow a

five-foot reduction to the minimum building setback from the alley property line from 20 feet to 15 feet.

Chair Ellison opened the public hearing by asking if any of the Commissioners had any conflict of interest or ex parte contact with the applicant and to declare the nature and extent of such contact. None of the commissioners had any conflicts of interest or ex parte involvement that would affect their involvement in the meeting.

Brianna Addotta, Associate Planner, presented the staff report for the Fourth Avenue 5-Plex project (DR 23-01 & VAR 23-01). A site plan with highlighted areas representing project elements was provided to help visualize the project. She discussed existing conditions, the applicable zoning, and the development code provisions that apply to the project. Public comments regarding density, privacy, traffic, parking, and safety were mentioned as well as agency comments which all claimed to have adequate facilities to serve the proposed project. Canby Fire provided conditions of approval requiring repaving, painting, and signage, including no parking within the public alley. There was a concern regarding smoking by future residents, but Planning Staff cannot control resident behavior. Conditions of approval were mentioned, and staff acknowledged that determining project fulfillment with variance criteria is a more subjective exercise than other types of project analysis. Staff reviewed the application materials and determined that the Site and Design Review and Major Variance applications conform to the applicable criteria and standards. Therefore, staff recommended approval of DR 23-01 and VAR 23-01 subject to the conditions of approval contained in the staff report dated June 2<sup>nd</sup>, 2023.

Chair Ellison sought questions from members of the Commission regarding the hearing. Commissioner Driskill asked for clarity regarding the use of the alley. Addotta stated that although existing alleys are not always designed to current street design standards, it is still considered a public street. Commissioner Lewelling questioned emergency access within the alley and Addotta assured him that Canby Fire had reviewed the plans and would be working with the applicant to ensure that access is provided.

Jarosh questioned why the traffic study contained supplemental material to which Addotta explained how the applicant hired an outside traffic consultant, who did not adequately answer all the traffic criteria. The applicant then hired DKS who provided the supplemental material needed to complete the study. Lighting plan deferral, undue hardship, and other items were discussed to gain further understanding. Alleyways were discussed in more detail and Commissioner Driskill asked if there were any examples of alley frontage approvals.

Applicant: Tracy Brown, representing the applicant, introduced the project. Brown gave an overview of the project explaining the number of units for each building and what each building's street access would be. He discussed parking, building height, and landscaping standards, stating the landscaping plan was over by 0.8%. The applicant requested a variance for the rear alley setback plans. Elevation renderings were presented, and outdoor lighting standards were discussed along with additional code review standards. Brown identified variance approval criteria and asserted that requesting the variance was necessary to maintain the same property right as similar projects. The distance from the property across the alley was mentioned along with a trip generation letter that stated the project complies with the code and no mitigation is warranted.

Opponent: Alex Hedges, Canby resident, made two points after watching the applicant's presentation. He stated the alley access examples that were given for multi-unit dwellings were all corner lots, unlike the project in question, which would have to bypass another lot to access the main street. He also mentioned the lot size has been consistent prior to the applicant's purchase so

he questioned why the project was not designed appropriately to the available lot space. He read the City code's definition of a variance and stated that granting the variance would do nothing to improve the surrounding properties or neighborhood and would signal to developers that Canby is a place where rules can be skirted around in the name of profit. DKS completed the traffic study in July, which Alex argued does not paint an accurate picture of the traffic impact within that area. Lastly, he stated that the resident examples used within the presentation were granted the variance after the project was built.

Opponent: Kate Murphy, Canby resident, read a letter that she submitted to the City that was included in the staff report materials. She stated that Jim Walker from Canby Fire told her that the alley is intended to be a fire access lane only. Concerns regarding childrens' safety and traffic flow into the school zones were mentioned. Due to an increase in multi-unit housing, she warned that parking is at a premium and the street does not have the infrastructure to support five more units. Kate argued that on January 20, 2022, there was a hearing to discuss this matter and it was dismissed. She felt like many of the concerns and objectives were not accurately portrayed in the meeting minutes. She strongly urged the Commission to reject the current plan based on beliefs that the project promotes overcrowding of the neighborhood, exceptions to City regulations, and necessitates unsafe and intended fire lane use in order to maximize profit within a single lot. Lastly, she mentioned that no other dwelling, not even the multi-unit dwellings, have frontages that face the alley.

Opponent: Rosemary Vander Zanden, Canby resident, stated that she is not entirely against the project. She had concerns about privacy along the alley, but her questions were answered during Addotta's staff presentation. She agreed with comments made by Kate regarding parking and mentioned residents are frequently blocked in during events. She asked who will be responsible for managing the tenants of the property when and if issues start to arise.

Neutral: Greg Parker, Canby resident, mentioned he has been following the project over the past few years. He recommended that Canby needs to densify and focus on infill development. The development complies with newly created laws associated with Senate Bill 100 and is within walking distance of downtown services. Despite the project taking place directly across from his property through the alley, his position for increased density and infill remained the same. Urging Council to amend the old code development standards to allow higher density was mentioned. He advised the Commission to not discriminate against variances that are repeatedly requested. As the City densifies, there will be a need for stricter code enforcement to maintain peaceful living communities.

Applicant Rebuttal: Tracy Brown & Tyler Smith

Smith reminded the Commission of the importance of approval criteria. Decisions regarding approval or denial can only be made legally based on the approval criteria. He stated that the project meets all the approval criteria except for what is laid out in the variance. According to state law, land use codes provide variances to allow for unique situations such as this project.

In reference to the comment regarding the traffic study made by the opponent, Alex Hedges, Brown mentioned that the study was completed in good practice. The study was done to provide a theoretical prediction of traffic flow which resulted in a lack of need to complete a full-blown traffic analysis. Brown spoke to the concerns of the opponents mentioned in the staff report. He clarified that a street is considered a highway, a road, an alley, a lane, etc according to the city's code. The alley behind the designated site is not considered only a fire lane according to the comments that Canby Fire provided staff and the applicant.

Architect: Tom Watton

Tom stated that the area is currently zoned high-density so this type of development fits and works within the neighborhood. He suggested making some slight adjustments to the design to accommodate the neighbors' concerns. He urged that he has taken a lot of time and gone to great lengths to make the design work. The state is pushing for higher density designs which Watton is not in favor of developing. Watton also stated that standards allow the building to be developed at a higher height, but he chose a lower height in favor of the neighbors' wants and/or concerns.

Questions from Planning Commission to the applicant:

Commissioner Hannah Ellison asked for additional clarification regarding the alley and whether it is strictly a fire lane or not. She also stated she would like additional clarification on whether this is an infill project or not.

Commissioner Ewert questioned whether the development will be rentals or privately owned. He asked if there were going to be any improvements made to the alley. The applicant sent pictures to Public Works, but they need to visit the site to determine how much improvement is needed. Brown mentioned they plan to pave the alley in front of the new units but will do whatever Public Works suggests. Ewert asked where utilities would be located regarding the units along the alley side.

Watton stated all utilities will come off 4th Avenue and storm water will be collected and taken care of onsite. He met Canby Fire at the site and received their approval for alley access. The staff report mentioned the applicant is required to improve four feet between the asphalt and the property line, which the applicant intends to do.

Commissioner Jarosh questioned the applicant on their scoring for the Site and Design Review criteria. She mentioned that there is a 27% difference between the applicant's scoring and the scoring that staff had provided. Parking lot lighting and location, trash storage location, utility screening and landscaping standards were questioned based on different scoring values. Addotta explained that the 11th parking space is not required until there are 10 or more total units on the property. Since the spot is not required it is considered extra, which provides over 100% of the required minimum parking.

Commissioner Driskill mentioned the walkway coming off forth and leading to the units on the back with frontages facing the alley. She asked if there is going to be a walkway connection for Unit E, Building B. Brown deferred the questions to City staff but stated that the City did recommend the removal of the walkway from the plans. She was concerned with the access to the unit not complying with ADA access requirements. Trash pick-up process for the alley facing units was mentioned and Addotta clarified that waste management did not return any comments to planning staff.

Chair Ellison asked Watton why the applicant is requesting a variance when he mentioned that he could redesign some aspects of the project to meet the rear setback for the staircase. Watton mentioned that he was given the incorrect rear setback a few years ago when he was first designing the development. The incorrect information was given to the applicant's team by an employee who is no longer with the City of Canby. Watton suggested that if a 20-foot setback is enforced, he may be tempted to add a third floor to the building. He stated he did not mean for the statement to come off as a threat, but he felt as though the 15-foot setback for the staircase should be granted due to past documentation stating that there is a 15-foot rear setback.

Commissioner Driskill wanted clarification on why the setback for the alley facing units had changed. Rear setbacks are 15 feet and frontage setbacks are 20 feet from the property line. Since an alley is defined as a street, it changed the setback of the alley facing units from being 15 feet (rear) to 20 feet which is required for frontage setbacks.

Chair Ellison reopened the conversation for opponents and proponents and the opportunity for applicant rebuttal.

Opponent: Kate Murphy, Canby resident, asked for clarification regarding the variance change. She mentioned there was a meeting held on May 8th, 2023, that discussed a major variance pertaining to parking stalls being accessed off the alley with a depth of 18 feet. She also asked for clarification regarding maximum building height after the applicant's architect, Watton, threatened to add an additional floor/story. She mentioned the current design's height is only two feet below the maximum height stated in the staff report.

Applicant Rebuttal: Watton

Watton stated that his interpretation of parking requirements since starting the project a few years ago was parking had to be on the property parking located 19 feet from the property line. In the last few months, he learned that there is off-street parking available with a 24-foot setback. He said he didn't change the design of the building but changed the depth of the parking spaces which still conformed to the parking requirements. Impervious landscaping surfaces were slightly tweaked to accommodate the additional parking depth.

Questions for Planning Staff:

Addotta addressed Commissioner Ellison's questions regarding infill and the designation of the fire lane for this project. She mentioned that the applicant met with Jim Walker a variety of times at the site, and he mentioned in emails that the Canby Fire granted the applicant access for personal vehicles to enter the alley. According to the code's definition an alley is considered a public access way as well as a fire lane. The code has narrowly defined parameters for classifying a project as "infill." Essentially where boundaries of residential zoning districts meet, would be the only place where infill conditions would comply with current code standards. Addotta clarified that her references to infill development was of a more general, informal nature.

Director Hardy added that the alley is designated a public street and within the public right of way. He mentioned there will be future discussion with the City Council to strategize the maintenance of alleys.

Commissioner Jarosh asked what the process is for aligning the design criteria. She mentioned there is a 27% difference between the applicant's and planning staffs scoring. Addotta explained she met with the applicant via zoom to discuss every design criterion, point by point. A conclusion was made where both the applicant and staff agreed on the scoring represented within the staff report. The previous scoring that was submitted by the applicant was considered a draft version, while the scoring in the staff report will be the official determination.

Commissioner Lewelling questioned why the traffic study was not conducted during the most actively trafficked months. Director Hardy explained that there is a summertime condition used to help to capture an accurate traffic model during the non-school months. He also mentioned the peak traffic hours would be no different while school is in session or not due to meeting the generation and impact standards. Addotta explained that there are two levels of traffic analysis to which this project only required the lower threshold of the two, which was the transportation analysis letter. The letter was selected based on the ITE standards, which is a manual that all traffic

engineers use when completing an analysis. Lewelling reiterated Kate's question about building height. He asked if the applicant could increase the building height if the variance was not approved and by how much. Addotta stated the proposed height is 25 feet with the maximum allowed height at 35 feet.

Commissioner Driskill mentioned she was surprised that fire signed off on the alley approach despite it being one foot smaller than the minimum 21-foot-wide approach that is required. Addotta stated she could not speak to the Fire District's processes but clarified that Canby Fire did respond with conditions of approval and agreed to the 20-foot approach. Driskill stated concern regarding the alley traffic flow being two ways due to the narrow width. Addotta mentioned the code states that a local, single lane is 10-feet in wide. With the alley spanning 20 feet, she reassured the Commission that this allows two-way traffic. Driskill also questioned the removal of the second walkway attached to the rear, facing the alley. Addotta explained that in order to stay within the 70% impervious surface standards, the applicant had to remove the second walkway. Six feet of impervious surface was added when the alley facing parking spots were shifted from 18 feet to 24 feet onto the private property. Addotta clarified that all addresses would face 4th Avenue.

**Commission Deliberation:**

Commissioner Hutchinson stated his concerns about using alleys and private streets/roads as frontages. He mentioned the use of fences within alleys and how the visibility at the ends may be affected as more development continues. He stated that the alleys are indeed able to withstand the weight of large emergency vehicles that may need to park in the alley. He asserted that this project provides both an aesthetic building and increased density and stated that he was in favor of approving the variance.

Commissioner Jarosh brought up concern regarding citizen reactions towards high density development and future outreach efforts. She mentioned there seems to still be a gap in communication about why higher density is being required by the state and how the City is facing the challenges. She asked if approvals for variances will be perpetuated based on past approvals that may have been made from errors.

Commissioner Driskill stated her appreciation for the design and aesthetics of the project and thought Fourth Avenue would still provide respectable street parking. She reiterated her concerns over the unclear definition of whether the alley is designated a fire access lane, or an alley, and what is considered frontage. She suggested doing a continuance to gain further clarification to avoid future issues. Further discussion took place regarding fire safety and access. Planning staff reassured Driskill that Fire will have other attempts to comments during the pre-construction phase, if approved.

Commissioner Ewert reminded the Commission that discussion needs to focus on the criteria related to the project. He stated he likes the design of the project and thinks that it meets the criteria. He cautioned the architect to refrain from making possible threats if the variance is not approved. He responded to the concerns of the opponents and understood there are safety concerns relating to the school but mentioned that nearly every school in Canby has some sort of safety issue.

Chair Ellison entertained a motion to vote on the application for DR 23-01 / VAR 23-01.

**Motion:** A motion was made by Commissioner Ewert and seconded by Commissioner Lewelling to approve DR 23-01/VAR 23-01 as submitted with recommendations for conditions of approval. Motion approved 6/1.

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### **PLANNING COMMISSION WORK SESSION**

The Planning Commission met in a work session to discuss the following items:

- a. **Housing Efficiency Measures**, presented by Don Hardy, Planning Director, and Read Stapleton, AICP (DOWL).

Director Hardy introduced the goals of the work session, which are focused on single family detached home ownership in different configurations and case studies of cottage cluster development.

Stapleton briefly mentioned the purpose of the meeting along with opportunities to encourage residential development in commercial areas. A variety of case studies were presented with their design characteristics detailed. Code allowances and conflicts for cottage clusters within the R-1, R-1.5, and R-2 zones were discussed.

Commissioner Jarosh asked if the City can regulate whether the cottages will be owned or rented. Hardy responded that trying to regulate ownership would present its own challenges but may be doable.

Commissioner Ellison mentioned homeowners associations (HOAs), and other home management organizations have the ability to set a rental cap. She believes that conditioning those caps within the code, if possible, could help bridge the affordability gap. She asked if the housing products that were presented at the last meeting were meant to favor rental development.

Commissioner Driskill suggested the City look into becoming its own housing agency with further discussion about setting parameters on the rental market. She talked about possibly rewarding homeowners with a tax break who offer to provide affordable rental opportunities.

Commissioner Ewert stated that he is not in favor of changing the existing residential zones to accommodate cottage cluster housing. He suggested developing a code specifically for cottage clusters.

Hardy explained there would be challenges with this idea since the criteria would still have to apply to the existing zones. A new zone would have to be created in order to create a separate code. An overlay can be established to allow more infill with incentives that push for higher density. Traditional development, however, does not provide those incentives. Discussion continued involving what zone this would best fit into and how many units would be required to consider it a cottage cluster.

Clarification was requested regarding planned unit developments (PUDs). Planning Manager Potter used Hope Village as an example of what a PUD currently looks like when implemented in Canby.

Stapleton presented examples of PUD case studies along with code conflicts facing these types of developments. Amenities, standards, and a PUD ordinance that allows for cottage clusters were discussed.

**6. ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a. Planning Commission meeting is planned for Monday, June 26, 2023, at 6:00 pm in the Council Chambers.
- b. Planning Director's Update

**7. ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION – None**

**8. ADJOURNMENT**

***Motion:*** A motion to adjourn the meeting was passed 7/0.

**The meeting adjourned at 10:18 PM.**