

Canby Planning Commission
Regular Meeting
March 10, 1976

Present: Chairman Ross and Commissioners Cutsforth, Edgerton, Hulbert and Shaw

Absent: Commissioner Johnson

Also Present: City Attorney Reif, Planning Consultant Edwards, Supt. of Public Works Armstrong, Police Chief Graziano, Jack Ellis, Ron Tatone, Grant Schiewe and Several Other Guests

The meeting was called to order by Chairman Ross at 8:10 p.m.

The minutes of the previous meeting, held on February 11, 1976, were approved as presented.

Correspondence: A notice of application was received from Clackamas County Planning Commission, File No. VR-23-76, for a Minor Land Partition of land located at 1547 S. Fir, Canby, by Ed Harnack and Lela Carr. The request is to allow a variance in the road frontage requirement, in order to sell off the back 2½ acres of their 4.58 acre parcel. The back parcel would be landlocked, but the applicant would sell, by absolute deed, a 20 foot roadway for access to this parcel over their remaining property. The location of their house and other out buildings prevents them from providing the 70 foot road frontage required by ordinance; thus the request for a variance. The feeling of the Commission was that they would like to have 25 or 30 feet instead of 20 so that if, in the future, this land is annexed to the City, this access road could be incorporated into the street grid system for the City. The secretary was directed to respond to the Clackamas County Planning Commission, expressing the wishes of the Canby Planning Commission.

The first item on the agenda was a review of a preliminary plat for the Pitts Addition, located between S. Fir and S. Ivy on S.W. 13th, submitted by Grant Schiewe. As there was a sizable audience, Chairman Ross stated that this was a public meeting and we welcome input; however, we have had much input so far during each of the previous meetings regarding this subdivision. If anyone gives same input which we already have, he would stop it and go on to someone else.

The last question with which the Commission was faced was whether the State Highway Department and Clackamas County have any objections or comments on this subdivision. Since the last meeting, Clackamas County submitted the following: "It is noted that S.W. 13th Avenue located to the south of the preliminary plat is a county maintained street. It will be necessary for the developer of the property to improve the frontage along this street with curb, surfacing and storm sewer facilities." This refers to the City half of the street. Response from the State Highway Department was as follows: "The Pitts Addition subdivision plat has been investigated and we feel that your proposal to one 40 foot two way street connecting to Highway 170 is acceptable. We will not require curbing or channelization of the highway. The projected traffic generation is not sufficient to warrant a left turn refuge." The plat was re-submitted, and was the same one as was presented at the last meeting.

Chairman Ross asked if the commissioners had any questions which they wanted to raise or anything which they wanted to have clarified. Commissioner Shaw asked how the City was treating S.W. 13th - as a 60 foot right of way (reduced from 80 although the City Council had not made any official change) or as an 80 foot right of way, according to the zoning ordinance. Since there has been no official change,

it is still to be considered an 80 foot right of way, according to the ordinance. The plat had been submitted before on the basis of a 60 foot right of way on 13th, and 10 additional feet of right of way had to be provided to conform to the 80 foot right of way. This additional ten feet has been taken from the lots on S.W. 13th; even at this, these lots are still above the minimum standard according to the zoning ordinance.

Commissioner Ross then asked for input from guests who were present.

John Beck: asked who is to be notified of public hearings, stating that he was not notified of this meeting until between 4:00 and 5:00 today. He was told that he did not need to be notified at all, because this is a review of a preliminary plat and does not need a public hearing or any advertisement or notification of any kind. If and when there is a conditional use hearing for multiple family dwelling units around the perimeter of the subdivision, he, as an owner of land within 200 feet of the proposed subdivision, will be notified, and there will also be a notice in the Canby Herald. Mr. Beck also wanted to know what changes there have been in the duties of the Planning Commission in the last 16 or 17 years since it was originated. He stated that he sat on the first Planning Commission and had different duties then. City Attorney Reif gave him the ordinance number and ORS number dealing with duties and responsibilities of the Planning Commission. Mr. Beck stated that he wanted a copy of each of these documents and that they should be available to any member of the public whenever they want to see them. Mr. Reif invited Mr. Beck to come by his office and pick up a photocopy of same.

Rich Birkemeier: informed Planning Commission that he had talked to a City Planner at Woodburn, who had given him some information regarding the duties of a Planning Commission regarding the review of a subdivision and also some information about Mr. Schiewe's subdivision in Woodburn. He stressed the need for consideration of the impact of the subdivision on the general health, safety and welfare of the City as a whole. He stated that when everything is at a minimum, you must draw a line somewhere and refuse to allow something which is against the public health, safety and welfare. He is worried about a decision on this land setting a precedent as to what can be done with the rest of the now undeveloped land on the south side of town. He pointed out that the north side of town has been planned more carefully with nicer subdivisions, and the south side needs better planning. He has also spoken with Dr. Mike Harms and Jack Lenhardt of the High School Board, who were both opposed to the subdivision because of the number of students it would put into the school system. The support of these students would be a tax burden on everyone, not just the owners of these houses. Mr. Birkemeier suggested that the Planning Commission recommend that the City Council increase the minimum lot size to 10,000 square feet, instead of 7,000 square feet. He gave three reasons for this request: 1) You would have approximately the same disposable income with fewer larger lots as with more smaller ones, but there would be fewer people who would require City services; 2) It would leave an option for people to improve their property later on, if they had larger lots; 3) It would allow for slower but more deliberate rate of growth for the City.

Virgil Giger: who lives on S. Fir, wants to see larger lots with nice homes. He doesn't want multiple family dwellings. He has a large lot on S. Fir (in the N.W. corner of the land proposed as the subdivision) and does not want to have a large number of small lots going in next to him.

Bob Weygandt: who lives across the street from Virgil Giger, wanted to know about how access to the property is to be handled. Eldon Edwards showed him the proposed

accesses on the plat. Mr. Weygandt then asked how the width of the street on S. Fir will affect the property owners on Fir, and was told that the subdivider is being required to dedicate additional right of way on Fir to comply with right of way projected in the ordinance. There will be no more right of way taken from the west side of the street because it has already been done. All right of way on this section of S. Fir has been obtained from all land owners.

Chairman Ross then asked for further opponents. There being none, he asked for proponents.

The applicant, Grant Schiewe, stated that the average size of the lots is 7,700 square feet, and that he wants nice homes in there and is not trying to develop a slum area. He stressed the fact that large lots do not necessarily mean large homes. As a point of clarification, Mr. Schiewe stated that he is the developer-- not the builder. Regarding Mr. Birkemeier's remarks, Mr. Schiewe stated that the City of Woodburn has had nothing but good things to say to him regarding the way his Woodburn subdivision has been developed. As he had said at a previous meeting, Mr. Schiewe stated that he would be willing to place any deed restrictions on the subdivision that the Planning Commission would want, but that he needed guidance as to what to put into the restrictions. Suggestions from the Planning Commission included: a minimum of 1,200 to 1,300 square feet requirement; a break in the roof line; shake roof (although this is very expensive and is not recommended). Placing deed restrictions has worked out well in other subdivisions in the City. The Commissioners were concerned that there have been developments in the City with just a slab by the house, instead of a garage, and they wanted to see at least a one-car garage in the restrictions. Chairman Ross indicated that the Planning Commission needed a written statement from the developer, regarding deed restrictions. A recess was called at 9:20 p.m., to allow Mr. Schiewe time to formulate deed restrictions and give the Planning Commission a written statement of same.

The meeting resumed at 9:30 p.m.

Ron Tatone presented the restrictions, which were kept to a minimum: 1) a minimum area of 1,200 square feet total living area in the building; 2) break in the roof line; and 3) an area (either carport or garage) to accommodate two automobiles. Mr. Tatone then discussed a letter from his firm, addressed to the Planning Commission, covering what was done since the last Planning Commission meeting. The five areas of special concern which were brought out in that meeting were: 1) Ingress and egress on South Ivy; 2) The dedications and street widths on South Ivy and S.W. 13th Ave.; 3) The 25 foot access lane for lots in block 7 and 8 which have restricted access on S.W. 13th Ave.; 4) Improvements required by the State Highway Department on South Ivy Street; and 5) Improvements required by Clackamas County Department of Public Works on S.W. 13th Avenue. The only improvement which will be required by the State Highway Department is for the access onto the highway. It must be according to State standards and be 10" base rock and 4" asphaltic concrete, and storm drainage must be taken care of. Any additional right of way required on S. Ivy is up to the City. If the developer dedicates enough for an 80 foot right of way on Ivy, and then the right of way is changed to 60 feet, the extra ten feet could be applied to the buffer strip required, abutting the highway. Since the State is not requiring street improvement between the curb and the existing pavement, perhaps this money could be put into a special fund to be applied to the improvement of the south half of S.W. 13th, details of which could be worked out between the developer, the County Public Works Department and the City Public Works Department. The County has expressed a willingness to cooperate in the improvement of this street.

The Commissioners felt that there should be some time limit placed on this improvement of S.W. 13th. Mr. Tatone replied that it could possibly be done next construction season, that by the time all plans are made, it will be too late for this construction season. This subdivision plat that has been submitted is an overall development plan which is to be done in three phases. Each phase will be brought in for the review of the Planning Commission before development begins, and the entire project is expected to take three to five years. Chairman asked City Attorney Reif what would be the City's position if, during that five years, there were drastic changes made in the zoning regulations which would affect this subdivision. Mr. Reif replied that he has read of two such cases and each was handled differently: one ended up with the City sticking to the original plans, regardless of ensuing changes in zoning; the other went the opposite way. Therefore, he stated, there is really no precedent and it would be a draw as to which way it would go. The developer indicated plans to develop without curbs on S. Ivy, with the State Highway Department putting in the curbs when they can; however, the Planning Commission can require the developer to provide the curbing along with the development of the rest of the land, if they wish to do so. The paving of S. Ivy would be done by the State Highway Department, as traffic demands. The Commissioners were concerned that this would cause problems, particularly regarding storm sewer to take care of the drainage. There was also concern about having an unimproved ditch between the existing pavement and the curbing of the subdivision. This is another area which should be worked out by the developer, the City Public Works Office and the State Highway Department. S. Fir would have curbing the full length and paving to meet the existing pavement, and S.W. 13th would have at least curbing the full length and paving to meet the existing pavement (if nothing more can be worked out by all those involved).

Sidewalks for the subdivision were discussed. The developer plans to put sidewalks on one side of each street, throughout the subdivision. The Commissioners questioned why sidewalks on S. Ivy and S.W. 13th were on the inside of the blocks instead of being on the outside of the subdivision along these streets. Eldon Edwards explained that this is something new that is being tried in order to get people off the main streets and get them to use sidewalks inside the subdivision. They would give it a couple of years to see if people would use the sidewalks instead of walking on the major streets; then, if it was not successful, they could put sidewalks on the Ivy and 13th Street sides. Money could be set aside for this purpose. Rich Birkemeier again asked to speak and said that, since he spends a good deal of time working in the orchard across S.W. 13th from the proposed subdivision, he has had a chance to observe pedestrian traffic both on 13th and on Ivy. He states that, even now, with the land vacant, there is very heavy pedestrian traffic along both streets.

At this point, Chairman Ross summarized the points which have been discussed so far regarding the subdivision, such as staff reports, deed restrictions, improvement of S.W. 13 and S. Fir with curb and oil mat to center line including storm sewer, S. Ivy with curb and oil mat to existing pavement, possibility of working out improvement of S.W. 13th with developer, City Public Works and Clackamas County, sidewalks, lot size, etc. Chairman Ross said that it was his feeling that if the deed restrictions were placed on these lots as the developer had said, it would set the development of the area; that with the lot sizes proposed and the deed restrictions presented, there could be good quality homes going in in this subdivision. He asked for further discussion by the commissioners.

Commissioner Shaw asked about Lot #10 in Block #3 (Phase 1), as to whether it would be a desirable lot, since it is triangular in shape and is on a corner. By the time setbacks are observed, there would be little building space left. He also stated

that, with regard to the improvement of the streets, he would like the developer to sign an agreement with City Public Works, handling details and agreements with other agencies involved (State and County). He would also like to see some outside time limit stipulated, such as having the streets improved completely before any lot in Phase 3 could be sold. Commissioner Shaw also wanted to discuss the 25-foot alley between 12th and 13th streets. He had previously discussed a 35 foot alley, which was to be put in, if the right of way on S.W. 13th could be reduced to 60 feet, instead of 80, as is projected in the Zoning Ordinance. However, this reduction has not been accomplished through official action of the Council; therefore, this alley is to be 25 feet, instead of 35. The 25 feet would paved, curb to curb and would be for access to the lots on the southern side, only. Parking could be limited to one side or no parking at all, which would allow for two-way traffic. (Traffic would be one-way only with parking on one side). The rear yard setbacks on those lots facing S.W. 13th would have to be 20 feet, in order to allow space for parking for two cars per dwelling unit.

Another recess was called at 10:25 p.m.

The meeting resumed at 10:37 p.m.

The lots to the north of the 25 foot alley, Blocks 6 and 9, were interpreted as double frontage lots, requiring two 20-ft. setbacks. This would leave on 60 feet on which to build. The developer stated that this portion of the development is in Phase 3, which is still three to five years away. The street right of way could change to 60 instead of 80 by that time. They could also ask for a variance of ten feet on the rear yard setback on those lots.

Street lighting was discussed, and it was felt that the subdivision appears to be pretty well lit, except for a few places where they are a little too far apart. Additional street lighting was thought to be needed on Fir, and the Public Works Department is to look at that in particular.

There being no further discussion, Chairman Ross advised that the Chair was ready for a motion. Commissioner Hulbert then stated his feelings regarding the proposed subdivision. He said that the Commissioners must realize the responsibility of acting as a planning group. We had spent three hours on trying to figure out this subdivision, but we had not spent any time on the impact on the entire community. We are contending all the time with minimums as far as ordinances are concerned. We do not have to approve something just because it complies with minimums. By approving this we are setting a guideline for the development of the vacant property on the south side of town, so we have to be very careful. The schools must be consulted. Hulbert stated further that he could not conscientiously approve the subdivision plat.

*Commissioner Hulbert then moved to deny the application as it is presented to the Planning Commission at this meeting, March 10, 1976. Commissioner Cutsforth seconded the motion.

During discussion which followed, Chairman Ross stated that in the minimums, we have 61 lots that have the minimum size. All others are larger than the minimum required. Approximately 14 or 15 lots have 72 foot frontage; about one quarter of the lots have 78 foot frontage; and 20 lots are 100'x120'. Commissioner Hulbert stated that one reason for his motion was that the Commission has reviewed this plat a number of times and spent a good deal of time on it, and, in his opinion, it is no better now than it was to begin with. It is too compact, and he hates to see the City develop in this manner. Chairman Ross asked Planning Consultant Edwards if the Mayor's Citizen's Advisory Committee dealing with park land has mentioned

plans for parks in this specific area. He was told that there was nothing for this area that Mr. Edwards could recall, but that there was something proposed for the school area across Ivy from the property proposed as the subdivision. The closest park area is the River Park. In almost any subdivision, there are children playing out on the street. Perhaps they would still play out in the streets if you provided them with park areas, but maybe they would use park areas and playgrounds instead, if they were there. Could the Planning Commission require that a certain amount of this land be set aside for park area and play area? Attorney Reif advised that this could be a recommendation. The Planning Commission can consider the need for parks, orderly development, etc. Commissioner Edgerton said that he felt this was a lot of land to put into lots of this size; that, with lots this size, you are pretty well locked into what type of thing you can build, and he would like to see more room. Chairman Ross took a roll-call vote on the motion, with the following results: Hulbert-yes; Cutsforth-yes; Shaw-no; Edgerton-yes. The motion to deny was passed, with one dissenting vote. The applicant was advised that he has ten days in which to appeal, in writing, the decision made tonight with the City Council. The secretary was directed to write a letter to the applicant stating the decision of the Planning Commission and reminding him of his right to appeal the decision to the City Council.

The third item on the agenda, a minor land partition application submitted by Jack Ellis, 1012 N.E. 10th, was considered next. Mr. Ellis wanted to divide one 39,930 square foot (121' x 330') lot into two lots of 17,675 square feet (101' x 175') and 22,255 square feet (121' x 155'), one being a flag lot. The front lot, where Mr. Ellis' house is located, would have 101.29' fronting on N.E. 10th, and would leave a 21 foot wide strip, running 175' north into the lot to provide access for the rear lot, which he would sell. Eldon Edwards presented the findings of the planning staff with a recommendation to approve the application, subject to a waiver of remonstrance on improvements. Mr. Ellis was present at the meeting, and stated that he had originally intended to divide this piece of land into three lots, but that after talking with Jack Armstrong, Supt. of Public Works, who advised that this would not be acceptable to the city, he had changed the application to a division of only two lots, with the 21 foot strip on the west side to be deeded to the owners of the rear parcel for access. The house which is on the land is located directly on the east property line, and there is only 31 feet between the house and the west property line; this is the reason for the proposed access being only 21 feet wide, since this is all the space there would be after allowing a 10 foot setback between the house and the access road. The Planning Commission wanted at least 25 feet width on the access road, but this would be impossible. Also, the 31 feet from the house to the westerly property line was measured from the house itself, instead of the roof overhand (the furthestmost projection), thus making the distance less than 31 feet; however, the width of 21 feet was left instead of adding more to the 10 foot side yard setback for the house, because it was felt that it was more important to have a wider access route to the back property than to have a fire setback on a piece of property which is to abut a roadway. The Planning Commission agreed that the 21 feet would be enough space for the access way, and they also informed the applicant that this access way must be part of the rear lot, under the same ownership. This is to avoid problems with upkeep and maintenance of the road. If it is not clear who owns such a piece of land, people usually end up thinking it belongs to the City and is therefore a City responsibility. The applicant agreed with this. Commissioner Hulbert asked whether the applicant was aware of Section 24, subsection 6, of the Subdivision Ordinance, which states that "After all conditions are met, the lot shall be surveyed by a registered surveyor and the survey map shall be signed and dated by the Planning Commission Chairman certifying that the condition(s) of approval have been met by the applicant. A

copy of this survey and map shall be retained in the Planning Commission files. The final survey shall be completed and approved before any lot(s) shall be transferred or sold, or structures built thereon." Mr. Armstrong advised the Commission that Mr. Ellis is aware of this. As to street right of way on N.E. 10th, since the street is out of alignment on the south side from Locust to Pine, any additional right of way will be taken off the south side; therefore, Mr. Ellis will not be required to dedicate additional right of way on his property, which is on the north side. *Commissioner Hulbert moved that the application for the minor land partition be accepted. The motion was seconded by Commissioner Cutsforth and passed unanimously. The secretary was directed to write a letter to the applicant, informing him of the decision of the Commission and reminding him that the access road must be deeded to the owner of the rear property and that all setbacks must be observed.

At this time, Grant Schiewe asked to speak. He stated that he has tried to cooperate in every way possible with the Planning Commission and felt he should have better direction from them. Chairman Ross stated that he felt the request was in order. Commissioner Hulbert said that he wants to see less crowding and more air space. Eldon Edwards was directed to pull together all the data which we have on the subdivision thus far and to come up with some sort of recommendations to give to Mr. Schiewe. The only real problem seems to be the density, although there are some very tentative items, such as what actual improvements are to be done on S. Ivy and S.W. 13th, which must be worked out before any decision can be made to approve the subdivision plat.

Chairman Ross noted that the Commission has been spending too much time on each agenda item. We have been doing too much of the planning of the plat, which is not the responsibility of the Planning Commission. The plat should come to us either acceptable or deniable. We must pick up on the items that we do not want, and the applicant must come back with something which incorporates what we want.

A recess was called at 11:35 p.m.

The meeting resumed at 11:45 p.m.

The next item discussed was a request for an extension of time on a conditional use which was granted April 9, 1975 to the First Christian Church, 444 N. Holly. Ron Tatone, representing the Church, submitted a letter to the Planning Commission, which read as follows: "The Planning Commission at their meeting of April 9, 1975, approved a variance in set back requirements and reduction of parking spaces from 49 to 42 spaces subject to certain restrictions.

"Plans are in progress for development of the parking area, storm drainage system and educational building.

"Financial responsibility must be secured prior to commencing construction.

"It is requested a 6 month extension of time be allowed to the previously approved variance."

Chairman Ross then read the minutes of the meetings last year when this matter was decided, in order to refresh the commissioners' memories. There were two variances and two conditional uses heard last year. None of the project has been undertaken, to date. Commissioner Shaw stated that he felt that the extension request should be granted. Commissioner Hulbert expressed concern that nothing has been done about the bus parking, which was one of the major concerns regarding this project. There was a petition, signed by many of the people in the neighborhood,

expressing displeasure regarding having the Church buses parked in their present location, and requesting that the Church be required to do something else with the buses. Nothing has been done about this, and Commissioner Hulbert felt that something should be done. Commissioner Shaw reminded him that the request for extension of time is for an extension of the original motion, which includes the prohibition of the buses, and that they still will be required to do something else with these buses.

*Commissioner Shaw then moved that the extension of 6 months be granted. The motion was seconded by Commissioner Cutsforth and passed unanimously. The secretary was directed to write a letter informing them of the decision of the Commission and also advising them that it has been noticed that the bus situation has not been handled, yet, and that it must be taken care of in the near future.

Next, in a guest hearing, Mr. Harold S. Jeans, one of the developers of the Willamette Green Planned Unit Development on N.E. Territorial, asked the Planning Commission to advise him as to whether the land on which Willamette Green is located is zoned R-1 or R-2. He stated that he has asked several members of the City staff, none of whom could give him an answer as to how this property is zoned. The commissioners discussed it and could not give him a definite answer at that meeting. The land had to have come into the City as R-1, since all land annexed to the City is R-1 to begin with. In order for it to have changed to R-2, there had to have been a zone change, which requires hearings before the Planning Commission and City Council. It also requires an ordinance changing the zone, which should be on file with the City. The commissioners who were on the Planning Commission at the time the PUD was put through did not recall ever having a zone change on it. The Commission is to look through the files at City Hall and try to find a definite answer. If City can show that it should still be R-1, then it will be up to Mr. Jeans and his associates to prove otherwise. Mr. Jeans says that it was represented as being zoned R-2 at the time he bought it (by the people who sold it to them).

Next on the agenda was a review of a compilation of facts for the order in the matter of the application of John Tatone for preliminary plat approval of Canby Heights, subdivision to be located at the west end of N.W. 13th Avenue. After discussion of these findings of fact, Commissioner Edgerton moved that it be approved and adopted as presented as a finding of fact. Commissioner Shaw seconded the motion, and it was passed unanimously, with all commissioners present signing the original document, which will be presented at the appeal hearing for Mr. Tatone, which is to be heard by the City Council on March 15, 1976.

The meeting adjourned at 12:50 a.m.

Respectfully submitted,

Merrie Dinteman

Merrie Dinteman, Secretary
Canby Planning Commission