

Canby Planning Commission
Regular Meeting
April 14, 1976

Present: Chairman Ross, Commissioners Cutsforth, Edgerton, Hulbert,
Johnson and Kahut

Absent: Commissioner Shaw

Also Present: City Attorney Reif, Planning Consultant Edwards, Mayor Roth,
Councilman Westcott, Pastor Brindley, Orval Denniston, Otto
Popp, Ron Tatone, Grant Schiewe, David Walkoski, Ken Williams
and Several Other Guests

The meeting was called to order by Chairman Ross at 8:04 p.m.

The minutes of the previous meeting, held on March 10, 1976, were approved as
presented.

Correspondence:

A letter was received from John A. Buol, City Recorder of the City of Oregon
City, notifying the Planning Commission of the 1976 League of Oregon Cities
Regional Meetings to be held at the West Linn Inn April 28, 1976, from 2:30 p.m.
to 9:30 p.m. There are to be two concurrent clinics: one to update State Building
Regulations; and the other on Land Use Planning. An open forum workshop discussion
period will follow, and a no host dinner will include a review of League activities
and plans for the 1977 legislative session. Anyone wishing to attend these
meetings should contact the City Recorder's office by April 26. Commissioners
should keep in mind, however, that our Planning Commission has a regularly
scheduled meeting for the same evening, April 28.

Eldon Edwards asked that a special meeting be set for April 21 to review the
Comprehensive Plan, as it is to go before the City Council for their final action
on April 26 and must be seen by the Planning Commission before that date. Chairman
Ross directed that a special meeting be held for that purpose on the 21st and also
that a notice be put in the Canby Herald for the next publication.

St. Patrick's Catholic Church, 488 N.W. 9th, public hearing for modification of
an existing conditional use by enlarging and altering the existing Catholic
Church building. Eldon Edwards gave a presentation of his evaluation of the
application with a recommendation for approval of the proposed addition to the
St. Patrick's Catholic Church, based on the following findings:

1. The Public Hearing was advertised as is required by the ordinances.
2. The Public Hearing was held.
3. The Fasano requirements appear to be met in that:
 - A. It is compatible with the Comprehensive Plan.
 - B. There is an apparent need for this since the Church feels that the
additional building is needed to serve their community.
 - C. This is the best site for an addition to the existing church.
 - D. It serves the health, safety, and general welfare of the community.

Chairman Ross called for proponents of the application. Ron Tatone, representing
the applicant, stated that all parking is being provided according to ordinance
requirements and that, aside from that, all necessary information was provided

in the report presented by Mr. Edwards. Chairman Ross then called for further proponents. There being none, he called for opponents. There being none, the public hearing was closed. After discussion Commissioner Edgerton moved to approve the application, providing that all staff reports are met. Commissioner Hulbert seconded the motion, which passed unanimously.

First Conservative Baptist Church, 1905 N. Maple, public hearing for a conditional use to use the Church buildings week days for an Accelerated Christian Education School, elementary and secondary. Eldon Edwards gave his evaluation of the application, with a recommendation for approval, based on the following findings:

1. The application was advertised as required by ordinances.
2. A public hearing was held for the purpose of receiving opinions and questions regarding the use.
3. Fasano requirements:
 - A. Comprehensive Plan does not specifically address this kind of proposal; therefore it is difficult to relate whether the plan is in agreement with this or not.
 - B. There is apparently a demonstrable need for the proposed use since the Church has come to us with the request to establish the school.
 - C. This is a location in an existing church which the applicants feel is the most appropriate building to house their needs.
 - D. It does not seem to endanger the health, safety and general welfare of the community at large.

Chairman Ross asked for proponents of the application. The applicant was represented at the meeting by Pastor Brindley and Mr. Orval Denniston, who said that they had nothing to add to what Mr. Edwards had presented. Chairman Ross called for further proponents. There being none, he called for opponents. He called for opponents, and, since there were none, the public hearing was closed. Commissioner Edgerton questioned whether the State Fire Marshall had inspected this site to see if any changes would have to be made for exit requirements. Attention was called to the letter from Fire Chief French stating that if the conditional use were granted it should be done with the understanding that changes might be required by the State Fire Marshal or by the Canby Rural Fire Department prior to its being utilized. It will have to be inspected by the State Fire Marshal and Canby Fire Department if the use is granted. Commissioner Johnson asked whether there was any idea of the maximum school size. Mr. Denniston stated that they are going by similar schools in similar areas, and that they anticipate around 100 students maximum. When asked whether there would have to be additional building to accommodate that number of students, Pastor Brindley stated that the Church size at present is adequate to accommodate the anticipated number of students and that if any additional building is done, it will be for the Church itself, not for the school.

Commissioner Edgerton moved to approve the application provided that the staff requirements are met. Commissioner Cutsforth seconded the motion, and it was passed unanimously. The secretary was directed to write a letter to the applicant informing them of the decision of the Planning Commission.

David J. Walkoski, 741 N. Locust, minor land partition application to divide one lot into two, with access drive to rear lot. Eldon Edwards presented his staff report with recommendation that the Planning Commission develop a policy with regard to providing a street down the center line of the large blocks. If it is felt that the density concentrations in the City and the effort of forcing one through are not worth the benefits then it is appropriate to approve this

particular lot division. If it is felt that it would be sufficiently beneficial to open up the property then a dedication should be required along the west property line.

Chairman Ross then called for proponents. Mr. Ken Williams, representing Mr. Walkoski, was asked if he knew of any plans which adjacent land owners might have for their properties. He stated that there is a one-acre piece of land, half R-1 and half R-2, to the south of the proposed minor land partition, owned by one man who has no plans for the land. There is a half acre piece between the acre and the proposed partition site, and that he does not know if the owner of that piece has any plans for its use. Chairman Ross called for opponents. There were none.

Providing some kind of access to those portions of land which are in the center of the block was something that all of the commissioners seemed to feel was advisable. Also, there has been interest expressed in the past by people who owned this land, although plans to do so were held up by one land owner. It would be impossible to get a 60 foot right-of-way through these blocks of land, but it might be possible to get 30 to 40 feet paved curb to curb to provide the needed access.

The application included a proposed house to be located on the front parcel, with a 9'6" setback from the house to the access drive off of N. Locust. This setback, according to the applicant, was measured from the foundation instead of the roof overhang, thus making the setback even smaller. The applicant stated that the house plan could be changed to conform to the setback regulation.

Since there were factors which the Commission needs to research further before they can make a decision on this property, Commissioner Hulbert moved to lay the matter on the table to be discussed at a later meeting. Commissioner Cutsforth seconded the motion, and there followed a 2/3 vote to table. Ken Williams again stated that the house could be moved to allow for the property setback and added that the plan would be null and void after April 14, 1976--that they needed a decision right away or it would not do them any good. For this reason, Commission Edgerton moved that the matter be brought up for discussion again at that time, with Commissioner Hulbert seconding the motion. The motion passed unanimously, and the application was discussed further. There was no question as to whether the 59.5 ft. lot frontage on N. Locust was to be approved, as the total square footage of the lot would be adequate for the zone, and the Zoning Ordinance states that "All lots shall abut a street other than an alley with a minimum front footage of seventy (70) feet, or shall be approved by the Planning Commission.", clearly giving the Planning Commission the authority to approve the 59.5 ft. frontage. The question was whether or not the Commission wished to require a dedication on the back of the lot for future improvement. Attorney Reif advised that we can take the dedication now and then, if it does not go through as a street, the City can vacate the land which was dedicated. The question of whose responsibility the maintenance of the land was to be was brought up, with a question as to whether this could be a part of the minor land partition decision.

The meeting recessed at 9:06 p.m.

The meeting resumed at 9:16 p.m.

Attorney Reif quoted from Section 21 of the Subdivision Ordinance: "The creation of streets shall be in conformance with requirements for subdivision except, however, the Planning Commission shall approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:..."

This seems to mean that there does not have to be paving at the time of the development if the Planning Commission does not wish to require it. Mr. Reif also quoted another portion of the Subdivision Ordinance, which states, "In those cases where approval of a street is to be without full compliance with the regulations applicable to subdivision, a copy of the proposed deed shall be submitted to the Superintendent of Public Works at least five days prior to the Planning Commission meeting at which consideration is desired. The deed and such information as may be submitted shall be reviewed by the Planning Commission and, if not in conflict with the standards of Section 25 to 31 of these regulations, shall be approved with conditions necessary to preserve these standards." This means that no decision can be made regarding this dedication at this meeting, since the necessary information was not submitted to the Superintendent of Public Works. He suggested that either the ordinance should be changed or that, in the future, a deed should be required either beforehand or at the meeting. Another reason why the Commission did not think it should make any decision at this time was that there was no report from the Fire Department, and they were concerned about access for safety equipment on the 15' proposed accessway.

** Commissioner Edgerton then moved to continue consideration of the application at a later date. Commissioner Cutsforth seconded the motion, which passed unanimously. The applicant was advised to contact the Public Works office during the next four days if he wished to have this application put on the agenda for the next regular meeting, April 28.

Chairman Ross also requested that the secretary add the words "Signature of Legal Owner" with a space for signature to the presently used application form for minor land partition. City Attorney Reif will draw up an amendment to the Subdivision Ordinance regarding the deed requirement and take it to the City Council.

Pitts Addition, Preliminary Plat, Grant Schiewe, Rt. 2 Box 392, Molalla, subdivision to be located on S.W. 13th, between S. Ivy and S. Fir.

Eldon Edwards presented his report, with a recommendation for approval of the subdivision plat, contingent upon the previous contingencies discussed and contingent upon the street improvements on the property being established. The alleyway serving Blocks 6 and 7 in the previous plat has been taken out and the area from that alleyway applied to lot area. The minimum lot size is now 7,200 square feet. The lots on S.W. 13th now will face S.W. 13th with access onto that street. Both the State Highway Department and the Clackamas County Public Works Department have indicated their approval of the present plan. Ron Tatone, who represented the developer on the plat, stated that a meeting had been held the previous week with the Canby High School Board and that they have stated that they have no objections to the development as presented. The State Highway Department has agreed to reduce their requirements as to full-depth pavement along S. Ivy so that the three or four foot area which needs to be paved to the existing pavement can be tapered in. Sidewalks will be constructed at the time the building permits are issued. Regarding improvement of S.W. 13th, the County has said to submit the plans for approval for drainage and curb sections and profiles. They will examine it and, at the time that we want full width pavement, they will take another look at it and decide how improvement is to be handled. In the meantime, the developers will improve the street to the existing pavement. On Fir St., there will be 27 feet dedication to provide 60 foot right-of-way, and there will be curb and pavement to the existing pavement.

Commissioner Hulbert asked whether, since this subdivision is to be developed in three phases, is the Planning Commission approving the entire development or each section, as it is developed. He wanted to know if development could be stopped if we didn't like what they did on Phase 1. He was advised that, if approval is given, it will be on the entire project. They have given the City a plan of the entire area of development so that we will avoid future confusion, instead of bringing in just a small section at a time. The entrances to the subdivision will be developed as follows: Phase 1, access on S. Fir at the north side of the development; Phase 2, access on S. Ivy; and Phase 3, second access on S. Fir and on S.W. 13th. Commissioner Hulbert also asked what is to be done with the six walnut trees located at lot 15. Mr. Tatone stated that there is no restriction placed on these trees--that they were placed on the plat just to show where they are in relation to lot lines. Mr. Schiewe stated that any trees on the property are to left if at all possible. Commissioner Hulbert wanted to know if lot 15 could be reserved as a little walk-in park. Commissioner Edgerton brought out the question of who would maintain such a walk-in park, and Chairman Ross brought out the fact that there is a grove of trees and swimming pool and tennis courts across the street from there. Mr. Tatone suggested that perhaps there could be a restriction on that lot regarding the trees. Two of the trees are in the right-of-way and so we have no control over those. But the others could be retained. Attorney Reif asked that the deed restrictions which were proposed at a previous meeting be re-stated. The applicant stated that the deed restrictions are: 1) minimum of 1,200 square feet of living area; 2) double garage; and 3) at least one horizontal break in the roof line. There followed a brief discussion regarding garages and carports. As was stated at the previous meeting, the developer wishes to have the option of either garage or carport for two vehicles. Commissioners Johnson and Hulbert wanted to have the restriction stipulate garages only. Commissioner Kahut stated that many of the homes in Country Club Estates have carports and that they look very nice. Mr. Schiewe stated that he wanted to give the contractors a choice as to which they wanted to include in their building plans--a carport or a garage. In either case, it is to provide two off-street parking spaces per lot.

** Commissioner Edgerton moved to approve the preliminary plat subject to all staff reports and that the letters from Zarosinski-Tatone, dated March 30 and April 2 be incorporated, as deed restrictions, and all possible effort should be made to preserve the trees. Commissioner Cutsforth seconded the motion. In the following discussion, the letter of March 30 was reviewed and is to be corrected to say, "an area (either garage or carport) to accommodate two automobiles" instead of "Double garage for standard automobile." Both the maker and the second of the motion concurred with this change, and the motion passed unanimously. The secretary was directed to write a letter to the applicant informing him of the decision of the Planning Commission.

Popp's Addition, Preliminary Plat, Otto Popp, 14310 Carol Ave., Milwaukie, subdivision to be located on S. Locust (Clackamas County Tax Map 3 1E 33 DD, Tax Lot 1303). Eldon Edwards presented his findings with a recommendation for approval as submitted, since the subdivision conformed to all requirements of the ordinance in block length, lot size, street provisions, and utility proposals. A letter received from Clackamas County Planning Department stated that, after reviewing the plat submittal, they had the following comments:

1. Additional right-of-way dedication along Locust St. to eventually get the desired width.

2. A "stub" street into Tax Lot 1900 of Section 33DD, T3S, R1E should be reviewed and possibly required.
3. Proposed S.E. 4th Avenue is indicated to be 100 feet northerly of the South property line. Consideration should be given to the land use on Tax Lots 1301 and 1302 for the future extension of 4th Avenue.

Ron Tatone, representing the developer, suggested a stub through Lot 2 of the proposed Popp's Addition. Mr. Otto Popp does not want to stub one of the lots because he would lose that lot. He pointed out that these lots are in an R-2 zone and are to be used for single family residences, which is much less density than is required in the zone. The Planning Commission must look at the entire area and provide for access to all properties possible. There is no alternative but to have a stub here for access to the lots to the south. As much of the discussion involved the surrounding area, for which there were no maps, Chairman Ross requested that, in the future, when a subdivision plat is brought before the Commission, the secretary also bring in the Clackamas County tax maps and topographical maps for the area. This would help when the Commission is trying to establish a street grid through a particular area. In addition, on page 13 of the Subdivision Ordinance, item #5 states: "Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end may be approved without a turn around, if such extension is less than 250 feet in length...." This indicates that the Planning Commission is bound by the ordinance to provide the stub street for access to the other lots.

Regarding right-of-way on S. Locust, Clackamas County wants an additional ten feet of dedication to the City to get the desired street width. It was feared that this would take away part of the lot area for lots 7 and 16; however, if a stub is put in through lot 2, this would take 60 feet, leaving 10 feet which could be added to the lots, thus eliminating the problem of less area for the two lots on Locust. With regard to utility easements, the Commission has been going by what is requested by the various departments, usually five feet or ten feet; however this is not in conformance with the requirements of the ordinance. On page 16 of the Subdivision Ordinance, Section 27, Part 3, reads as follows: "(a) Utility Lines. Easements for sewers, drainage, water mains, electric lines or other public utilities shall be dedicated wherever necessary. The easements shall be a minimum of 12 feet in width and centered on rear or side lot lines except for guy wire tie-back easements, which shall be six feet wide by 20 feet long along lot lines at change of direction points of easement." Chairman Ross directed the secretary to write letters to the staff advising them of this discrepancy.

** Commissioner Johnson then moved that the plat be redrawn to accommodate the extra ten feet on Locust and the stub through lot 2 and rearrangement of the rest of the lots of 4th Avenue. Attorney Reif recommended that the Planning Commission move to deny the plat as submitted and ask for resubmission. This way, they would not be committing themselves to approval of the plat the next time it is submitted. Commissioner Edgerton so moved, with Commissioner Hulbert seconding the motion. The motion passed. Chairman Ross directed the secretary to place Popp's Addition preliminary plat review on the agenda for the April 28 meeting.

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Further Business: Ron Tatone brought in the final plat for Canby Heights subdivision, being developed by John Tatone, for signature. He stated that the plat had been submitted to the Public Works Department and reviewed and approved, verbally, by the City Engineer. The hard copy was submitted at this meeting, and the mylar copy will be brought in when all necessary information has been gathered, to get the proper signatures for final approval. The Commission also requested that Mr. Tatone bring in a copy of the preliminary plat which was approved with the conditions of approval noted on it, so that it can be compared with the final plat.

The meeting adjourned at 11:05 p.m.

Respectfully submitted,

Merrie Dinteman

Merrie Dinteman, Secretary
Canby Planning Commission