

Planning Commission
Regular Meeting
April 28, 1976

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

Absent: Commissioner Edgerton

Also Present: City Attorney Reif, Planning Consultant Edwards, Fire Chief
French, Councilman Westcott, Jack Bristol, Orval Denniston,
Curtis Gage, Otto Popp, Ron Tatone, David Walkoski, Ken
Williams and Other Guests

The meeting was called to order by Chairman Ross at 8:08 p.m.

The minutes of the previous meeting, held on April 14, 1976, were approved
as presented.

Correspondence: A notice was received from the Clackamas County Planning
Department of an application which has been submitted to them by David A.
Van Doozer, 24310 Hwy 99E, Canby, for a building permit for a single family
residence on N.W. 40th off of Holly. The 150' boundary of the Willamette
Valley Greenway bill requires application for an extraordinary exception,
since the total available building area of said lot is within the 150'
boundary. After brief discussion, the Commission could see no problems with
** the application. Therefore, Commissioner Johnson moved that the Canby
Planning Commission write to the Clackamas County Planning Department, ad-
vising them that we have no objections to the application or any requirements
which we would impose, and thanking them for the opportunity to provide input
in these applications. The motion was seconded and passed unanimously.

Orval Denniston, 408 S. Elm, zone variance to allow building of an addition
to an existing dwelling which does not conform to setback requirements in
present zoning ordinance. Planning Consultant Eldon Edwards presented his
findings, with a recommendation to approve - but to ask the applicant to
move the garage portion forward 6 feet to give the 10 feet rear yard setback
for the garage. He was concerned that a garage that close to the property
line might have to have special fire protection which would be expensive to
the builder. Mr. Denniston said he was afraid it would violate front yard
setback from Elm. He was assured that it would still be in conformance if
moved 6 feet forward, since it would still be 24 feet from Elm. The
construction plans would have to go through the Public Works Department.
There were no opponents to the application.
** Commissioner Shaw moved that the zone variance, as recommended by the Planner,
be approved; that the residence part of the building be allowed as shown;
that the garage portion conform to the code setbacks. Commissioner Cutsforth
seconded the motion, which passed unanimously.
The secretary was directed to write a letter to Mr. Denniston informing him
of the decision of the Planning Commission. Chairman Ross also requested
that a letter go to the Public Works office asking them to make sure that
the structure conforms to fire code.

David J. Walkoski, 741 N. Locust, request to divide one lot into two, with access drive to rear lot. (Also to include a discussion of possibility of providing street right-of-way through center of large blocks to allow access to land-locked areas.) This is a continuation of a discussion which was started at the last meeting and was to be continued after land owners in the area had been notified to attend this meeting to give input on providing access to the center of the block. Eldon Edwards presented a map of all tax lots on the block with names of owners of each lot designated on it. Gordon then asked all owners who were present to give their input, explaining that the plan would be to get enough land in the rear of these lots to bring a street through at some future time. If people want it, then the Planning Commission will try to help plan for it; but if they do not want it, then it will be left as it is. Lyle Read, who owns a large part of the land fronting partially on N. Juniper, asked whether the 15 foot right-of-way to the proposed rear lot would have to be discussed with Mrs. Sorenson, since her property abuts the Ayers property (the lot involved in the minor land partition). Chairman Ross indicated that this does not have to be discussed with her, as the access would come off the Ayers property.

From N.E. 9th Ave. down through the middle of the block to N.E. 4th is where the street would have to be. Mr. Read stated that he felt this street will probably be developed at some time. He wanted to know if you allow this lot to be split this way, take an access from Locust and require 20 feet in the rear of the lot, is this an automatic thing in the future? What if the property owner decides that he does not want to do it? Would they have to pay for the development of the street, just because the dedication has been made? He was told that a certain percentage of the people involved must agree to the development, through an L.I.D. (local improvement district). Ken Williams, who represented the applicant, also questioned this. The City is not involved in the actual development. The purpose of the dedication is so that you will have the land dedicated if the property owners decide that the street should go through. Mr. Read also asked whether the 15 foot access could be an easement instead of deeded to back lot, so that it could revert to the front parcel if the street went through the center of the block. He was told that, according to ordinance, it must be deeded.

Mr. and Mrs. Mays, owners of the lot north of the Ayers lot, said that the idea of the through street is o.k. with them. They would be interested in bringing a street through the block. Mrs. Sorenson said she would be interested in putting it through from 9th to 4th, but she does not like the idea of having the 15 foot access lane in its present location because it is right next to her bedroom window (12 feet away) and the traffic keeps her awake all night. Mrs. Sorenson's son was also worried about the possibility of more than the one house using the access drive--he was told that this would not be possible, as no building permit could be issued on a 15 foot access. Chairman Ross reminded them that the property being divided belongs to the owners, and they have the right to use their property as they want to, so long as it conforms to the appropriate codes and ordinances. The City cannot tell them where to put the access lane. Among the property owners present at this meeting, there is no objection to the right-of-way along the backs of the lots.

The existing garage toward the front of the lot is to be removed and the new house to be built there will be built to conform to all City codes and regulations. The old house at the rear of the lot probably will be torn down. Regarding fire access: Fire Chief French advised that there would be no problem with the 15 foot access drive to the rear lot.

The right-of-way for the through street was discussed and it was thought that it would probably be 20 feet for each lot, which would be 40 foot paved curb to curb (39 foot paved and 6" curb on each side). Planning Consultant Edwards advised against going to a 40 foot street in an area where there will be oversized lots (they would be 110 to 117 feet long), stating that the people would probably want to be able to park on the street and that 50 foot right-of-way would be more suitable for this. Also, he does not want to set a precedent for other parts of town. However, this is a special place where land is land-locked, and the access from 9th and from 4th can only be 40 feet wide - otherwise it would ruin the buildability of the lots in these locations. Ron Tatone reminded the Commissioners that such a plan would come under subdivision control; a plat would have to be looked at with the 70 foot lots and the right-of-way and all standards for a subdivision. He questioned whether this problem could be solved with a minor land partition. It is over three lots and must be considered a subdivision. He stated further that, if the Planning Commission accepted anything less than 25 feet of right-of-way on the lots, there might be problems later on. Chairman Ross quoted Section 21 of the Subdivision Ordinance, which reads:

"Creation of Streets. (1) 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:

(a) The establishment of the street is initiated by the city council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street."

Also quoted was Section 22 of the Subdivision Ordinance, which reads:

"Creation of Ways. Any easement of way providing access to property and which is created in order to allow the partitioning of land for the purpose of transfer of ownership or building development, whether immediate or future, shall be in the form of a street in a subdivision or as provided in Section 21 of these regulations, except that a private easement of way, to be established by the deed without full compliance with these regulations shall be approved by the Planning Commission provided it is the only reasonable method by which the rear portion of an unusually deep lot large enough to warrant partitioning into two parcels may be provided with access..."

This minor land partition would create a substandard lot in width in the front, but it would have the required lot area. Attorney Reif reminded the Commissioners that the zoning ordinance states that the Planning Commission can approve a less than 70 foot lot frontage.

The meeting recessed at 9:40 p.m. and resumed at 9:45 p.m.

- ** Commissioner Shaw moved that the minor land partition be approved, subject to dedication of 25 feet on the western boundary of the property of tax lot 10300, and subject to a waiver of remonstrance against not participating in the L.I.D. for a street in the dedicated area, and subject to the removal of the existing garage. Commissioner Cutsforth seconded the motion. The Commission asked the distance from the rear house to the western lot line and were informed that it is approximately 40 feet. Commissioner Shaw amended his motion to read - approval of the minor land partition subject to: dedication of 25 feet on the western boundary of the property of tax lot 10300; a waiver of remonstrance against not participating in the L.I.D. for a street in the dedicated area; and removal of existing structures on the property. Cutsforth, the second, concurred. After brief discussion, Commissioner Shaw again amended his motion to include a fourth condition: the creation of a 20 foot setback from the new westerly property line. Again, Commissioner Cutsforth concurred. The motion was defeated, 3 to 2. A roll call vote was called, as there was some confusion among Commissioners as to whether the application had been approved or denied. The vote on Commissioner Shaw's motion was as follows: Hulbert - no; Cutsforth - yes; Shaw - yes; Johnson - no; and Kahut - no.

- ** Chairman Ross then asked for a new motion, to approve or deny the application. Commissioner Hulbert then moved to deny the application for a minor land partition because there are three adjoining pieces of property with the same lot size with the same potential of providing 15 foot easements and selling off the rear property; because he does not like to create flag lots; and because he feels that if the property owners feel it is desirable to develop these lots, then they should get together and develop it. Commissioner Johnson seconded the motion. During discussion which followed, Commissioner Shaw stated that it is possible to improve two unfortunate conditions through minor land partition, and that it would not impede the future potential to create the interior street. The dedication of the 25 foot right-of-way would be encouragement to develop the street. In response to a question from City Attorney Reif, Commissioners Johnson and Hulbert both said that 59.5 feet frontage on the front lot was one of the reasons why they wanted to deny the application - they don't like creating a substandard lot.

The vote which followed was 3 in favor and 2 against. A roll call vote was again requested, with the following results: Hulbert - yes; Cutsforth - no; Shaw - no; Johnson - yes; and Kahut - yes.

The applicant was advised that he has ten days during which he can appeal in writing to the City Council, to ask them to reverse the decision of the Planning Commission. Commissioner Hulbert also reminded them that they can come up with a new plan and submit it to the Planning Commission.

Popp's Addition, preliminary plat, Otto Popp, 14310 Carol Ave., Milwaukie, subdivision to be located on S. Locust. Ron Tatone, as the applicant's representative, presented a new plat, stating that they feel that all suggestions made by the Planning Commission at the last meeting have been incorporated into the new plan. Chairman Ross stated that the plat is in conformance with the requirements made at the last meeting: there are two stub streets - to the east and south - and the additional right-of-way has

** been dedicated on S. Locust. Therefore, Commissioner Kahut moved to approve the preliminary plat of the Popp's Addition, as presented. Commissioner Johnson seconded the motion, and it passed unanimously.

Bristol Gage Addition, Jack Bristol and Curtis Gage, preliminary plat, subdivision to be located on South Ivy St. south of S.W. 7th (Clackamas County Tax Map 4 1E 4 AB Tax Lot #3200). Eldon Edwards presented his staff report with recommendation for approval. There was some question as to whether the plat could be considered at this meeting, due to the fact that the applicant is not yet the legal owner of the land, and he had no written permission from the present owner to apply for this subdivision. Walter Brog, from Florence, owns the land and Mr. Bristol has the property under earnest money agreement. Chairman Ross asked the City Attorney Reif if the Planning Commission could hear it and pass, subject to the receipt of a letter from the owner. Mr. Reif advised that this would be acceptable, but that they could not approve it, subject to changes in the plat itself - such as street location of width, lot sizes, etc.

Ron Tatone, representing the applicants, advised that there has been an effort to coordinate this plan with the Pitts Addition, to the south, between Ivy and Fir. Regarding the concept of access during the development of the Pitts Addition: the first phase of Pitts allows for access only on Fir St. The Bristol-Gage Addition would allow access through from Ivy, also, during the first phase, instead of having to wait until Phase 2 to get two accesses into the Pitts Addition. Also, he said, the lots are well above the standard of the subdivision ordinance. Jack Bristol is the builder and Curtis Gage is his electrician. They will be building all houses. When asked about deed restrictions, Mr. Bristol stated that these will all be \$30,000 homes, at least. The deed restrictions will be at least the same as those for the Pitts Addition: 1,200 square foot houses and double garages (these garages will all be closed garages, instead of carports) and a break in the roof line. There is one flag lot because of the shape of the property and the fact that there is one pre-existing lot which cuts into the area on the corner along Ivy. The applicants are aware of the staff reports and requirements.

** Commissioner Johnson moved to approve the preliminary plat of the Bristol-Gage Addition, subject to: receipt of signature of approval letter from existing land owner; staff reports; and deed restrictions of 1,200 square foot houses, double car garages and a break in the roof line. Commissioner Kahut seconded the motion, which passed unanimously.

Canby Heights, John Tatone, Final Plat, to be presented for review and signature. After reviewing the plat and all pertinent correspondence, Commissioner Shaw moved to accept the final plat of Canby Heights. The motion was seconded by Commissioner Hulbert and passed unanimously.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Merrie Dinteman

Merrie Dinteman, Secretary
Canby Planning Commission