

Canby Planning Commission
Regular Meeting
March 9, 1977

Members Present: Chairman Ross, Commissioners Shaw, Cibula, Kahut, Edgerton and Hulbert

Member Absent: Commissioner Cutsforth

Also Present: City Attorney Roger Reif, Planning Consultant Eldon Edward, Public Works Director Ken Ferguson, Joe Vraves, James E. Hall, Ron Tatone, Ed Warner, Barry Larson, Otto Popp, Dave Anderson, Don McIntosh and others.

The meeting was called to order at 8:05 p.m. The minutes of the last meeting, February 9, 1977, were approved as presented.

Item No. 1: Presentation of the final plat of "Douglas Addition" for Planning Commission approval. Consultant Edwards gave his report of the final plat and made a recommendation for approval subject to the deed restriction on lot 17. The Planning Commission held a discussion regarding various points of the plat which will be handled in the construction drawing and the need for the required easement lines to be shown on the plat. *Commissioner Shaw made a motion to approve the final plat of "Douglas Addition" subject to the easements being drawn in and the paving of Lot 17 as a deed restriction being shown on the plat. The motion was seconded by Commissioner Kahut and passed unanimously.

Item No. 2: Continued zone change request from R-1 and R-20, single family residential, to M-1, light industrial, on property located on the south side of State Highway 99E directly across 99E from Pine Street and described as Tax Lot 400, Section 34C, T3S, R1E. Applicant - Joe Vraves. Consultant Edwards stated that findings of fact were presented to him on March 1, 1977, and he had not made any recommendation from the report. Chairman Ross asked Mr. Hall if he were representing the applicant on this zone change. Mr. Hall answered that he was assisting Mr. Vraves but was not representing him as he is not an attorney. He presented the Commission with an aerial photo on which the present industrial land within the city limits had been outlined. At this time, he proceeded to recap the report which had been submitted to the Planning Commission. During the recap, he addressed each of the Fasano requirements which must be met in order that a zone change can take place. After Mr. Hall's presentation, Commissioner Shaw asked if there has been any consideration for a trailer park at the location. Mr. Hall stated that at the present time no certain use was under consideration. The Commission proceeded to go through the uses that would be allowed if the property is zoned M-1, light industrial. It was the consensus of the Commission that considering the uses that can be placed on the property they would not have a problem. Commissioner Shaw asked if there had been thought given to vehicular traffic problems. Mr. Hall stated that no consideration had been given to access as the developer of the property will have to go through the state for access to Highway 99E. A discussion followed regarding the development of South Pine Street, the amount of access at the present time, and the possible request for dedication of additional right-of-way due to the fact that it presently is very narrow. Commissioner Shaw asked if you can place a condition on an approval for a zone change. City Attorney Reif stated that conditions can not be attached to zone changes. Commissioner Hulbert asked if the Commission can request a sixty (60) foot right-of-way on South Pine Street. City Attorney stated that it can not be done with a zone change; however, the building department can request a

dedication prior to issuance of a building permit. Chairman Ross asked for further proponents for this zone change. None came forth. The Chairman then asked for any opponents to this zone change. None came forth. The public hearing portion of the request was closed. Commissioner Edgerton asked that if this application is approved, how many more steps are required prior to completion of the application. The Chairman explained that the Planning Commission recommendation would be sent to the City Council would set a hearing date which would be published in the paper. After the City Council has heard the request an ordinance must be written by the city attorney and signed by the Mayor and City Recorder. Commissioner Cibula asked if the City Council could approve the type of use. City Attorney Reif said no. Commissioner Shaw asked if all the property is within the city limits. Mr. Hall stated that it was. Commissioner Shaw asked for a Public Works report. Mr. Ferguson stated that water was available; however, sewer is some distance away and the sewer line may not be extended for some time. Commissioner Shaw asked if the building permit would be reviewed by the Planning Commission. It was stated that this is not the standard procedure. A discussion followed regarding the use of the property to the east of this property which is presently in the county. Commissioner Edgerton spoke of the fact this this would be granting a zone change at the northeast entrance to the city and loosing control at the site because at the present time the city does not have the property ordinances to handle it. Commissioner Kahut stated that due to a possible conflict of interest he would abstain from voting on this application. *Commissioner Edgerton made a motion to approve the zone change from R-1 and R-20, single family residential, to M-1, light industrial, to include the report submitted by James E. Hall, dated March 1, 1977, as the findings of fact. The motion was seconded by Commission Shaw. Discussion followed regarding the findings of fact and the necessity for them, which is required by the Fasano decision. Commissioners Shaw and Cibula stated they had problems with a zone change because they don't feel the Commission has the available tools to handle such requests. Consultant Edwards stated the Planning Commission will need to retain the aerial photo for the file. Mr. Hall stated the -erial photo is the property of the Planning Commission. The vote was taken and passed with Commissioners Edgerton, Hulbert and Shaw voting for the motion, Commissioner Cibula voting against the motion and Commissioner Kahut abstaining. The secretary was directed to send a letter to the applicant and place the item on the City Council agenda.

Item No. 3: Consideration of a zone change from R-1, single family residential, to C-2, highway commercial on property located on the south side of Highway 99E immediately north of the Canby Manor Mobile Home Court and described as Tax Lot 802, Section 33DA, T3S, R1E. Applicant - David Anderson of Anderson-Ritter Realty. Mr. Anderson came forth and requested this item be continued until the next regular meeting of the Planning Commission, which will be on April 13, 1977. The Chairman approved the request and directed the secretary to send Mr. Anderson the next agenda and place this application request on it.

Item No. 4: Continued hearing of a zone variance for off-street parking within the front yard setback for the apartment complex located on the southwest corner of S. E. Second Avenue and S. Knott Street and described as Tax Lots 7700, 7800, and 7900, Section 33DC, T3S, R1E. Applicant - Marvin Dack. Commissioner Shaw stated he would

unable to take part in this application due to a conflict of interest. Consultant Edwards gave a review of this application hearing at the meeting of February 9, 1977, and showed slides of the area. The scale drawing of the lots, buildings, and proposed parking had been sent to the Commissioners in their packets. Commissioner Kahut stated this was not what he had hoped for in the way of a scale drawing. The distance between building was not shown nor was the size of the building, parking spaces, patios, etc. shown. Consultant Edwards stated that the patios were approximately 20 feet deep with approximately 45 feet between the buildings. The Chairman recapped the use of the property when it was developed, and the zoning ordinance at that time only required one parking space for each unit. Commissioner Kahut asked how many autos were owned by the tenants in the eleven units. Mr. Dack stated there were 14 autos belonging to the occupants. He stated further that there were 9 interior parking spaces in existence when he bought the property. A discussion followed regarding the problems involved regarding approval of this application. Commissioner Hulbert asked if approval of this application would set a precedent. More discussion followed regarding the setting of a precedent. The Chairman asked the Planning Consultant to read the conditions for granting a variance. Mr. Edwards read the requirements from the Zoning Ordinance. City Attorney Reif stated that in most instances a variance is granted for enlargement or other such conditions. In this instance, the applicant was in conformance and the variance is not in conformance. Commissioner Kahut asked how many parking spaces were required when the apartment complex was built. The Chairman stated that only one (1) parking space per unit was required at the time these units were built. A discussion followed on the number of parking spaces that are presently required, the number that Mr. Dack is proposing and the largest number of parking spaces that could be available on the perimeter of the property. The Chairman asked if the City Attorney if he comes up to and provides the off-street parking in a similar manner in which he has had it before then he would be conforming. The City Attorney stated that this was not correct except as far as numbers are concerned, but you still have the problem of backing out into the street. The Chairman stated that he has been backing out into the street anyway. The City Attorney stated that that would have to be the distinction, so as not to set a precedent. The Chairman then cited other apartment complexes which back out onto the street. He stated that it was not an unusual use in the area. Commissioner Kahut stated that his objection was that he had at one time nine off-street parking spaces that were taken away, and this is one of the things we are requiring now behind the setbacks. He stated that he was very opposed to deleting the nine parking from the interior. Mr. Dack stated this had been done to provide some living area on the inside of the court for the people and their children. The Chairman asked for any further proponents or opponents. None appeared. The Planning Consultant suggested that from the submitted plot plan that five more parking spaces could be added which would maximize the green space and still leave a walk-thru area. The Chairman stated that basically the variance before us this evening in light of the Planning Consultant's suggestion would be allowing the applicant to provide five more off-street spaces adjacent to Knott and Second Street in lieu of the interior parking spaces. Commissioner Kahut stated that he can't see the Commission going ahead and approving taking away off-street parking and adding parking that is right on the street and he couldn't see any justification for it. Commissioner Hulbert stated that traffic-wise it is in worse shape now, maybe on-site with the patios and all it is better, but the street is worse.

*Commissioner Kahut made a motion that the Planning Commission deny this variance due to the fact that we are taking away 9 previous off-street parking spaces. The motion was seconded by Commissioner Edgerton and passed unanimously with Commissioner Shaw abstaining. The secretary was directed to send a letter to Mr. Dack informing him of the decision and of his right of appeal to the City Council.

Item No. 5: Correspondence between John C. Carlson and City Attorney Roger Reif regarding the Globe Union property and uses allowed within an M-1, light industrial, zone. City Attorney Reif stated that he had received a letter addressed to the Commission from Mr. Carlson stating his concern about the wording of our zoning ordinance with regards to an M-1 zone. He was concerned because he was of the opinion that when Globe Union was put in it was a conforming use and met all the zoning requirements. Then, Mr. Carlson was of the opinion that we changed our zoning ordinance which made the Globe Union non-conforming, and now Globe Union is seeking some type of expansion and the zoning ordinance requires that any expansion of a non-conforming use must be done so that it is conforming. Mr. Reif further stated that he then reviewed the ordinance and determined that the particular sections had not been changed. Mr. Carlson had also expressed concern that one of the uses was not for storage. Mr. Reif had told Mr. Carlson that this was not a problem because that with any type manufacturing type operation storage was necessarily a part of it and also one of the permitted uses of an M-1 zone was a warehouse. There is some type of proposed expansion of another industry on this type of property and that Mr. Carlson is of the opinion now that it is permitted use outright in an M-1 zone. Mr. Carlson stated that the problem that arises with any substantial industry coming in wants to know they are welcome and that there are not a number of surprises. The initial letter of Mr. Carlson's to the Planning Commission was occasioned by inquiries that were initiated not only by Globe Union but also by the people who wish to develop the remaining 10 acres in the industrial park. After receiving correspondence from Mr. Reif and telephone conversations with him, I came to the conclusion the company wishing to develop the other 10 acres were being over cautious. In order to be sure that there is no misunderstanding between the city of Canby Planning Commission and the industry that wishes to come to Canby, I wrote a letter (which the Commissioners have copies of) in which I attempt to explain carefully what the proposed industry will be. He went on to explain the operation to the Commission. He explained that applications have been made to D.E.Q. on the premise that they will develop in Canby. They do want it known that they would like to come to Canby, and due to the technical wording of the Zoning Ordinance they would like some expression from the Planning Commission that you don't find it an obnoxious industry. The Chairman stated that the particular word Mr. Carlson was drawing reference to was "previous" prepared materials. Mr. Carlson stated that this industry will have arc furnaces which will be in a soundproof building. This is the only portion of their operation that makes any noise. It does not generate any vibration. He went on to explain the operation to the Commission. Commissioner Kahut asked if before this industry could come into Canby would they need a variance. The City Attorney stated they wouldn't need a variance they were after an interpretation. He feels that it falls under the M-1 uses. He also stated the Commission may want a representative of their company to come out and explain the process and what it means, if the Commission would feel more comfortable that way. Commissioner Kahut asked if this is

what they are asking for tonight. Mr. Carlson stated that it was and that they were on a tight schedule and that he had been trying to straighten this out for a couple of months, so anything the Commission can do or tell Mr. Carlson to carry back to the interested parties would be appreciated. He would like to have a resolution or motion by the Planning Commission specifically siting item 22 or otherwise would be additional support for them. Commissioner Kahut asked what the traffic situation was in that area. Discussion followed regarding the traffic pattern used by Globe Union and what would be used by the proposed new industry. Commissioner Edgerton stated that we do have industrial property there and any use by any kind of company is going to have to have roadways to travel on, and whether it is Pacific Steel or Globe Union or somebody less the problem is there. Doesn't think that this is really the issue, if they have agreed to it already that is good. He knows that DEQ and anything like punchpresses or similar uses have to have permits from the state of Oregon for vibration of the soil and all this kind of thing. Commissioner Shaw wanted to clarify that the zoning ordinance provides for two industrial zones, M-1 and M-2, but we don't have any M-2 property. The M-2 as outlined in the ordinance seems to be expressly confusing, and feels the ordinance is quite inadequate in this area because the primary distinction is that M-2 says that ". . . other uses involving manufacturing or storage except any use which has been declared a nuisance by statute." What those other uses are is unknown. There is no definition of what the difference between an M-1 and M-2 is other than that one says light and the other says heavy. The thing of concern is that we have seen fit as a planning commission in the past to grant an M-1 zone change adjacent to a residential zone, and wonders what conditions were placed on that zone change. Maybe there wasn't any as it doesn't seem you can place conditions on a zone change to protect the R-2 zone which is immediately adjacent to this M-1 site. Stated he would feel more comfortable if he knew those things that normally would come out in design review considerations; how this industrial park would affect adjacent property, don't know if any landscaping is contemplated, what the building will look like, or what disturbing effect on other property owners they could have. The other concern is the rail line that is coming in - it's a quite logical thing that makes that M-1 property very valuable for certain industries that need access. Stated that our ordinances are inadequate. As for the question you pose to the Commission, whether or not this industry that wishes to come in is in the M-1 category is what you are really looking for from the Commission. Stated he felt from the evidence presented thus far it could fit within the M-1 category. Commissioner Shaw asked Mr. Carlson if there was anything he could do to clarify the situation. Mr. Carlson stated he could have the president of the company and his technical staff to explain the exact processing. Commissioner Shaw said he was not as concerned so much with what went on inside the building as what happens outside the buildings and adjacent property. When the zone change was granted, stated Mr. Carlson, there was consideration given to the effect on adjacent property and, in fact, when the zone change was granted with a very specific condition and that is that the north 150 feet was not changed to M-1 but was to be a buffer area between the industrial uses and the single family residential. There are plans for multiple housing to go on that which is typical criteria to separate the single family from commercial or industrial uses by multi-family uses. Discussion followed on exactly where they planned to locate the new building(s). Commissioner Edgerton stated that the only problem he saw was the wording of number one in which they are talking about "prepared materials" which if they are using is metal comes in the form of ingots so it is already prepared. So, I don't think there is

question really. Ken Ferguson stated that when an industry comes into a city there is an environmental impact. DEQ requires that the odor be confined to the premises. Now in the case of Wa Chang, the people down there have lived with that odor for a long time, whether it is confined or not and whether you say it will be, when a wind from the right direction is blowing you will have odor. All I'm saying is that with Pacific Steel and with Globe Union there should be some kind of an environmental impact study made related to these two industries as to other cities and what they have done with them if anything. The reason for mentioning it is because it is either the position of the Council or the Planning Commission to have such a study made. He knows people have had experiences with steel mills and knows they create an odor with an electric arc welding process. Controversy could be created by not making the study. Mr. Carlson stated that his letter addressed this matter with regards to the use of air filtration. Further discussion followed regarding odor containment within the boundary of the property. Mr. Carlson stated further that DEQ would have to approve the operation. City Attorney Reif stated that Mr. Ferguson's point was it would be pretty hard to enforce the ordinance once the plant is built. Commissioner Kahut wanted to know if there was any way to get some information from the businesses that are adjacent to their present operation. Commissioner Edgerton asked for an engineer's description of what their intentions are in the way environmental control of equipment? Mr. Carlson said if they would tell him they wanted he would provide it. Chairman Ross stated from the discussion he feels we need an architectural rendition of the exterior appearance of the building, a landscape plan, a professional person to describe scrubbing and filtration, etc., and also fully to describe the type of operation that you have. The Commission has voiced almost unanimously that the use fits the M-1 category. Mr. Carlson expressed concern that it was to soon to provide complete architectural and landscape plans. The Chairman stated that a letter with regards to the landscaping plan would be acceptable and only a design of the exterior of the building was needed not complete plans. Mr. Carlson stated he would provide this material within a few days to the secretary and you can give some indication of whether they should proceed or drop their plans. City Attorney Reif asked how the Commission could be reassured there would be no smelly pollutant in the air. Mr. Carlson stated the environmental impact statement or whatever submission is made to DEQ will suffice. Discussion followed regarding DEQ's standards in each community. Commissioner Shaw stated that if the criteria from Item #1 of the M-1 standards in the zoning ordinance can be met, it does fall within that category. Mr. Carlson wanted to know if he could carry that message back the people he is representing. The Chairman asked the planning commission members if they were in agreement. It was the consensus of the Planning Commission that if the noise and odor criteria could be met it would be permissible in an M-1 zone. Further information is to be submitted by Mr. Carlson before any definite answer can be given.

Item No. 6: Deed Restriction of 1200 square feet per dwelling unit on Popp's Addition and Popp's Addition Annex No. 1: Mr. Ron Tatone, representing Mr. Otto Popp, stated that Mr. Popp would like to retract that portion of the voluntary deed restrictions which requires 1200 square feet per dwelling unit. The reason for asking for the retraction that the restrictions were put on voluntary and the 1200 square foot per dwelling unit has probably been misinterpreted in that the intent was 1200 square foot per structure which they intend to retain, but in the R-2 zone

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where he is able and the lots are of the proper size to construct a duplex, the structure would be at least 1200 square feet but the living unit may not be the 1200 square feet. This is the reason it has come before the Planning Commission, as they do not want to make a retraction without the Commission's review and approval. Commissioner Shaw asked if they would be willing to modify the deed restriction to say 1200 square foot per single family unit. Discussion followed regarding this point. All that is needed is a clarification of the deed restrictions. *Commissioner Shaw made a motion that deed restrictions be amended on Popp's Addition and Popp's Addition Annex No. 1 to read: For 1200 square feet per single family dwelling units only. The motion was seconded by Commissioner Cibula and passed unanimously.

Commissioner Edgerton wanted to know when they would start working for getting the Design Review Board. Doesn't want to wait until the last thing on the agenda because the meetings disperse very quickly. Discussion followed regarding when design review could be placed on the agenda and the Chairman proposed that the Planning Commission hold a workshop on the 23rd of March, 1977. He further stated that along with design review, the steel foundry, and corner lot setbacks. It was the consensus of the members to hold a workshop on the 23rd of March.

Mr. Ron Tatone spoke to the fact that at the present time corner lot setback requirements are 25 feet. Regardless of what the front yard setback is, the other yard facing a street must also be 25 feet. This is becoming a problem in that with the exceptionally large setback nice homes can not be placed on the lot. He feels this should be changed to 20 feet or maybe even 15 feet on the side yard which faces a street. A discussion was held by the Commission members and it was decided to discuss this matter at the workshop session on March 23, 1977.

The meeting adjourned at 11:05 p.m.

Respectfully submitted,



Virginia Shirley, Secretary
Canby Planning Commission