

Canby Planning Commission
Regular Meeting
July 27, 1977

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

Member Absent: Commissioner Edgerton

Others Present: City Attorney Roger Reif, Planning Consultant Eldon Edwards, Public
Works Director Ken Ferguson, Martin Clark, Pete Kelley, Don Kelley,
Mr. and Mrs. David Anderson, Mr. and Mrs. Don McIntosh, Fred Stefani
others.

The minutes of the Planning Commission meeting of July 13, 1977, were approved as
presented.

Item No. 1: Continued hearing of request for a minor land partition of property located on N.E. 4th Avenue northwest of Knott Street and described as Tax Lot 1400, Section 33CA, T3S, R1E. The particular request is to divide one lot into two lots. The applicant is Martin Clark. Consultant Eldon Edwards gave his presentation and showed alternative plans which included the proposal and also the possibility of a street going through the property and continuing north to 9th Avenue. Discussion followed regarding the amount of land fronting on 4th Avenue. This is 107.3 feet and there would be enough room for a 40-foot street and a 67-foot lot on the west. The Chairman reminded the Commission that they do have the right to approve a lot with substandard road frontage. The Chairman went on to explain that the basic reason a decision on this request was delayed was because Mr. Anderson was working on the possibility of developing the ground to the north by putting a road through the property in question to 9th Avenue. At this point, he asked Mr. Anderson to come forward and report any progress he has made. Mr. Anderson presented the Commissioners with a map which has been made a part of the minutes. He stated that 80 percent of the property owners were interested in seeing a road go through this area. He stated further that this is not something that will happen immediately, but will take a number of years to complete. A road through will alleviate the possibility of flag lots in the future as property values increase. He also presented the Commissioners with a letter from Agnes Sorenson stating that she would like to see a road on the west boundary of her property which is Tax Lot 10400. This would be for a 40-foot roadway. Some discussion followed regarding the route that would be taken by the road, if it were put through the land-locked properties. Mr. Case who owns Tax Lot 9100 and 9500 does not want the road to go through his property until such time as he is ready to sell the property and move. It was further stated that there could be a temporary cul-de-sac as the road progresses through from 4th Avenue to 9th Avenue. Mr. Lyle Reed, who owns property on the west side which is land-locked stated that he was in no hurry to see development in the area. However, He believes this type of program to put a road through could be a good one. Attorney Don Kelley pointed out that Mr. Case doesn't know when and if he wants the road to go through his property - some time after he decides to sell his home and it isn't on the market at the present time. The roadway was drawn splitting the lots, when it has been said that certain people won't cooperate and the road will have to be moved to accommodate him. This road could have many curves in a short span by what has been said. He further stated that the subject was brought up of another access to the property through another lot but that the property probably wouldn't be donated - who would be willing to buy it. They are asking the property owner of Tax Lot 1400

to donate property for the road. His feeling is that this is an "iffy" situation and there are too many ifs. City Attorney Reif informed the Commission he had some relevant information for the Commission. First of all in our Subdivision Ordinance under a minor land partition, which is Section 23. Under Section 23 a portion of it says: "Upon recommendation of the Planning Commission, the City Council may by ordinance create planning control areas under the procedures described." The City of Canby did that, which we have never used before in the Planning Commission. Ordinance No. 556, went through the procedures and filed it with the County Clerk. He read from that ordinance: "All of the incorporated areas of the City of Canby are hereby designated and shown on the map in Canby and is entitled Planning Control Area Map." We have designated the whole city as a Planning Control area. He read further "In a Planning Control Area no parcel of land or contiguous parcel under a single ownership within such area shall be partitioned for transfer of ownership or building development so as to conflict with applicable standards for subdivisions as set forth in Sections 25 through 31 of this ordinance." Discussion regarding Planning Control Areas followed. The Planning Consultant was asked for a recommendation from all of the input that had been gathered from the proponents, opponents and City Attorney. The Planning Consultant informed the Commission that it would not be possible to build a maximum cul-de-sac based on safety at 450 feet long, if this came down from N. E. 9th Avenue to the top of Tax Lot 10400. The Planning Commission has the right under the Ordinance to require that anything up to full subdivision improvements be applied on any minor land partition. A 40-foot street is the minimum that should go through from 4th Avenue to 9th Avenue and should presently go through Tax Lot 1400 as part of the minor land partition, and the street should be developed at the regular standards. The consultant was asked if this would put an extra burden of cost on the property owners. The question was answered in the affirmative and it will be a considerable extra burden of cost to open up and develop this land beyond what it would be if they were on a straight minor land partition. He was then asked if he was asking that a street be put through on the division line of this minor land partition and also that the improvement be put in at this time. This question was also answered in the affirmative. Mr. Kelley stated that with the cloudiness regarding putting the road through, that the Commission could approve the minor land partition because there is nothing in the development plan that has been presented that could keep this road from going through in the future. The possibility of a 40-foot right-of-way was questioned as being sub-standard. The consultant stated that under present conditions this would be sub-standard but it could be allowed. A discussion was held on the request itself regarding the ingress and egress regarding the two lots that would be created by this partition. The possibility of approving this partition with a street and conditions was brought before the Commission. More discussion followed regarding the street being considered through the property and the condition of 4th Avenue. Fourth Avenue is 40 feet wide and there is not much chance of widening the street. There was some discussion of the possibility of acquiring additional right-of-way, which does not seem possible. Planning Consultant Edwards quoted part of Section 24, subsection 3, of the Subdivision Ordinance which says: "The Planning Commission may require dedication of land and easements and may specify conditions or modifications in the sketch plan necessary to carry out the development plan. In no event, however, shall the Planning Commission require greater dedications or conditions than could be required if the parcel were subdivided." There is more but it seems to say the Commission is within their rights to ask for a additional dedication, easements and improvements. The City Attorney brought it to the attention of the

Commission that the Consultant was reading from Section 24 and that now that this is designated as a Planning Control Area it says that Sections 25 through 31 shall apply. It doesn't say anything about Section 24. After further discussion regarding the ramifications of the Planning Control Area, it was the consensus of the Commission that in the future all minor land partitions will need to go to full subdivision specifications unless a street is not necessary. Attorney Kelley stated that the applicant would agree as a condition not to build on the 40 feet at any future time that a road could be negotiated through, and another possibility would be for the applicant to deed that 40 feet to the city but no dedicate it as a road. The City Attorney stated that it was not the policy of the city to accept property under these conditions. *Commissioner Shaw moved the minor land partition be approved as submitted with the following conditions: 1) The easterly side yard setback be increased from that required by ordinance to 28 feet; 2) No parking be allowed in this setback; and, 3) Fourth Avenue along the frontage of the partition be improved from the existing oil mat to the curb. The Chairman request the maker of the motion to clarify the motion. Commissioner Shaw stated that the motion was to approve the minor land partition as presented with the following three conditions: 1) The easterly setback be increased from that required by the ordinance to 28 feet; 2) No parking be allowed in the setback; and, 3) The street improvement. The present ordinance requires either 10 or 12 feet or interior yard setback on that easterly boundary of this proposal of the westerly portion of the minor land partition be 28 feet to the proposed buildings. To clarify the 28 feet, this would, in effect, provide for the opportunity for a 40 foot street to go in with a standard front yard setback of 20 feet. The motion was seconded by Commissioner Cibula. Discussion followed regarding the setback requirement and the possibility of sale of the easterly portion of the minor land partition being requested tonight. If this were to happen, you would never get the road through the property. City Attorney Reif ruled the motion out of order as these are more stringent requirements than the ordinance requires. Discussion followed regarding the legality of the motion. Commissioner Shaw stated that if it was an illegal motion and could not be rectified in some manner he would withdraw the motion. The City Attorney stated that the motion could not be rectified, and the only way to make certain if it was a legal motion were if it was passed and someone challenged the motion. More discussion regarding the legality of the motion. Commissioners Shaw and Cibula voted aye and Commissioners Cutsforth, Hulbert and Kahut voted nay. The motion failed for lack of majority vote. **Commissioner Kahut moved to deny the minor land partition as submitted because it does not conform to the requirements of Section 23 of Minor Land Partitioning and also Section 26 , Subsection 5 of the Subdivision Ordinance. The motion was seconded by Commissioner Hulbert. There being no discussion, the question was called for. Commissioners Kahut, Cutsforth and Hulbert voted aye. Commissioners Shaw and Cibula voted nay. The motion carried.

Item No. 2: Continued: Consideration of a proposed annexation to the City of Canby of property located south of S. Elm Street and described as Tax Lots 400, 500 and 600, Section 4C T4S, R1E. This parcel contains 16.59 acres. The applicant is the Robert Randall Company. Based on the study by Consultant Edwards, as requested by the Planning Commission, in 1974, there were some 454 acres still vacant shown as residential (R-1) property. In July, 1977, it would appear that we have about 117 acres left. This is counting only the large parcels and not the smaller back portions of existing residential dwelling units. Those lands that appear to be developable at the present time are inside the City at the southwest corner, adjacent to the river and the city

limits, above the new elementary school, east of Ivy Street, and between the city limits and south of 4th Street, and along the northerly boundary and south of Territorial Road are two more segments of approximately 13 and 14 acres. The total city limits acreage is 1,727 acres, 117 acres is 6.9 percent of the property left. Also adjacent to the City and inside the Urban Containment Area are 54 acres of developable ground which are outside the City but adjacent to the City Limits. If we compare the 171 acres which is the large area inside and adjacent to the City on the outside to the 1,727 acres, we have a balance of 10 percent of the property available for single family residential development at the present time. Discussion followed the figures presented by the Consultant. The Consultant explained the L.C.D.C. and C.R.A.G. framework which had been drawn up, and ours has been rather strictly drawn except that they gave us more land than we wanted on the east boundary. We were more interested in the south and eventually in the north. The property in question was not included in our area to be annexed. One of the questions is, when are we going to be in a position to ask them to change our boundaries. They hear those requests once a year in September. Presently we have a water problem and we won't be doing any annexing until we get some kind of resolution of that problem. If we go ahead and start recommending annexation without considering the water problem, our decision should be on planning considerations - but one of those considerations is utilities. Doesn't feel we should hurry into annexations until the water problem is solved; however, 10 percent is a low figure for land available. Ten percent of the city's developable ground could be held by people who are not interested in developing their property. This would put us into an absolute "no growth" position and the City has never indicated that is what they want. Discussion followed regarding the planning issues, utilities, and just what the Planning Commission considerations should be on this issue. The question arose of whether we should annex any more property to the city when we don't have the potential of utility service for any more than is already in the City. The Planning Consultant stated that he felt the Commission and the Council are both going to be heavily criticized, particularly now with such a prevalent no growth attitude on people's part - if we start talking seriously about annexing large areas while we don't have the capacity to serve what we have presently. However, we should take the position that yes, there is going to be annexations and there should be annexations fairly soon - probably we should not annex and serve other people until we have the potential of serving all the land presently in the City. The Chairman stated that he felt we could recommend to the Council that based on the study by the Planning Consultant that we have 10 percent of the property left within the City undeveloped, it is time to pursue or review future annexations provided that the property within the current city limits can be fully served by utilities. Commissioner Shaw asked what the relative balance of various types of zoning in the community - are we in favor of annexing more residential property or should there be a heavier balance of industrial property? There is definitely a relationship between the health of the city economically and the balance of various zones of property. The Chairman stated this is not the concern at the present time because the property would need to be rezoned from county zoning after it is annexed into the city and would become the question at that time. The question was raised regarding both annexations on this evening's agenda being considered at the same time and there being only one motion for both. By consensus of the Commission it was decided that this could not be covered under one motion as one is outside the urban containment boundary and the other is inside the urban containment boundary. Mr. Stevens stated that the mushrooming effect that the south side of town is taking at the present time, in all honesty, he would not like to see the town get completely carried away from its growth factors. Commissioner Shaw stated that one consideration could be 13th Avenue is being considered as an arterial or major loop road and if and when this property were annexed it would open the opportunity for

further improvement of this road the city has been trying to get for some time. The Chairman stated that the south side of 13th Avenue is in Phase 11 of the Comprehensive Growth Plan. It is outside of the C.R.A.G. Urban Development Plan. Consequently, we have two strikes against annexation of this property. *Commissioner Kahut moved to recommend the City Council deny this request for annexation because it is in the second phase of the Canby Urban Growth Plan and outside the C.R.A.G. Urban Containment Plan. The motion seconded by Commissioner Cutsforth. Some discussion followed regarding the growth plan for the city. The priorities for growth were established by the Citizens Advisory Committee with Planning Commission and the City Council. Motion carried unanimously.

Item No. 3: Continued: Consideration of a proposed annexation to the City of Canby of property located south of Territorial Road and approximately 190 feet east of N. Pine Street and described as Tax Lot 1601, Section 28DD,T3S,R1E. This parcel contains 0.60 acre. The applicant is Robert Funnell. Mr. Fred Stefani represented the applicant. He informed the Commission that the property in the application was bounded on the north by the City Limits and the sewer and water were available on Territorial Road. He also stated that this property could not be developed until it has been annexed into the city for use of city utilities. This parcel of land is on an adequately improved road so the transportation element to the property is good. Commissioner Shaw further stated that his only question was the size of the property and whether it is reasonable to annex such a small parcel at a time. It is within the Urban Containment Area. Mr. Stefani stated the owner of the land had tried to get some of his neighbors to join him in annexation, however they were not interested. There is much interest in developing this property with a single family residence. He also stated that he realizes it could also be developed with a flag lot in the rear if they wished to minor partition the property. The Planning Consultant stated that this parcel is shown as being within the city service area on the growth plan. *Commissioner Cibula moved to recommend to the City Council that the proposed annexation to the City of Canby of approximately .6 acres applied for by Robert Funnell be annexed because it is adjacent to utilities, and it is shown as existing urban in the growth element of the Interim General Plan. The motion was seconded by Commissioner Kahut. The Chairman asked the maker of the motion and the second if they would concur to adding the words to the motion "provided the City feels we have adequate utilities for service." The maker of the motion and second concurred to the addition. The motion then read: Recommend to the City Council that the proposed annexation to the City of Canby of approximately .6 acres applied for by Robert Funnell be annexed because it is adjacent to utilities, and it is shown as existing urban in the growth element of the Interim General Plan and provided the City feels we have adequate utilities for service." The motion passed unanimously.

Item No. 4: Request for a zone variance for front yard setback on the four corner lots at S.W. 11th Avenue and S. Elm Court in the subdivision of Filbert Estates. The applicant is Leisure Resources, Inc. Consultant Edwards that this situation has arisen because of the typo in the zoning ordinance and the Planning Commission is in the process of getting the ordinance revision. The four conditions for granting a variance are: 1) Exceptable or extraordinary conditions applying to the property that do not apply generally to other properties in the same zone or vicinity, which are the result of circumstances over which the applicant has no control - this is a situation over

which the applicant has no control and the variance gives him the same property right as others enjoy. 2) The variance is necessary for the preservation of a property right to give the applicant substantially the same as possessed by owners of other property in the same zone or vicinity - We do have a precedent for setting it and we will be giving the right that this person is asking for to everyone as an automatic one in the future.) Shall not be materially detrimental to the ordinance, property or vicinity in which the property is located or otherwise detrimental to any city development plan or policy - Well if we are changing the ordinance, it can't be detrimental. 4) The variance is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship - He proposes to use the regular setback zone which we assume will be the universal setback requirement in the future to correct the typo. Therefore, I feel that these conditions have been met. *Commissioner Kahut moved to approve this request based on the findings of the Planning Consultant. The motion was seconded by Commissioner Cibula and passed unanimously.

Item No. 5: C-1-A Zone: Consultant Edwards presented the Commissioners with a letter which recommended three general alternatives to the Planning Commission to consider in developing a new commercial zone. The three are: 1) All uses in the Central Commercial Zone (under Uses Permitted Outright) be allowed as permitted uses except item #1, which a use permitted in a R-2 Zone or residential uses. Residential Uses under subsection 1 would be a conditional use. 2) Businesses and office professional uses as transitional uses would be outright uses (Subsection 23) and all other uses would be conditional uses. 3) All uses permitted outright and conditional uses would be handled through a Planned Development Procedure and conditions and special requirements would be attached in a C-1-A Zone. Commissioner Shaw asked why only the C-1 zone was being considered and not both the C-1 and C-2. The Planning Consultant replied that this is being C-2 is Highway Commercial and mostly highway related. The area the Commission has been talking about was to be a transitional zone, and a lot of the uses permitted outright in a C-2 are not appropriate in a transitional zone. C-1 is primarily a retail sales oriented type of zone where you are handling fairly small items. C-2 becomes a heavy commercial use. Discussion followed regarding the difference between the two zones and the uses allowed in each zone, and the need for a new zone due to the growth taking place in the city and the containment policy of Oregon. The discussion turned to the three alternatives presented by each of the three alternatives presented by the Planner. Some thought was given to alternative No. 3, but our Planned Development Procedure does not allow for commercial development, as it was written for residential purposes. The discussion turned to alternative No. 2 and the possibility that it would be the best alternative with some changes, as they don't want the zone to allow residential uses. After a lengthy discussion of the wording which would allow commercial uses but would not allow residential uses, it was decided that the C-1-A zone could possibly be a zone which included all C-1 uses as permitted outright except for residential. After researching the uses allowed outright in a C-1 zone it was decided that the uses permitted outright would be the business and office professional uses and all other uses would be conditional. The Planner stated that this was his original intent. Commissioner Hulbert asked if it would be possible to have a draft of this proposed zone drawn up so that it could be compared with the existing zones. The Planner stated that he would draw it up for the next meeting. The Chairman asked that this be put on the next agenda for the Planning

City Planning Commission
Regular Meeting
July 27, 1977
Page 7

Commission. This will be creation of a new zone to be called C-1-A.

The meeting adjourned at 10:45 p.m.

This meeting has been recorded on tape.

Respectfully submitted,


Virginia J. Shirley, Secretary
Canby Planning Commission