

Canby Planning Commission
Regular Meeting
March 14, 1979

MEMBERS PRESENT: Commissioners Perkett, Edgerton, Hart, Schwartz, Cutsforth and Kahut

MEMBERS ABSENT: Chairman Ross

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Mr. and Mrs. Richard Crites, Mr. and Mrs. Harold Wyman, Mrs. Marshall, Dave Bury, Dave Anderson, Robert Hill, Glen Cutsforth, Duane Weeks, John Stout, Anne Reusser, Sam Reusser, Marie Andrus, Eleanor Hansen, Barbara Bush, James Bolton, Martin Clark, Sharon Imholt, Antonio Savon, Dianna Schmid and others.

City Attorney Reif announced to the Commission and the audience that Chairman Ross was ill and could not attend this meeting. Also, Mr. Hulbert had been the Vice Chairman and was no longer on the Commission. The City Charter states a Vice Chairman can be elected or the City Attorney can conduct the meeting without being a voting member. The Commission and applicants were asked if there would be any opposition to the City Attorney chairing this meeting, There being none, City Attorney Reif asked if there were any additions or corrections to the minutes of the Planning Commission meeting of February 28, 1979. *Commissioner Hart moved to approve the minutes of the February 28th Planning Commission meeting. The motion was seconded by Commissioner Cutsforth. The question was called for and passed unanimously.

Item #1: Request for a Minor Land Partition to divide a 28,314 sq. ft. parcel into 3 smaller parcels, the smallest being 8,925 sq. ft. and the largest 10,500 sq. ft. The property is located at 1338 N. Maple Street between N.E. 10th Ave. and N.E. 14th Avenue and described as Tax Lots 2400 and 2401, Section 33AA, T3S, R1E. The applicant is Richard D. Crites. Before making his presentation, City Planner Lashbrook explained that the applicant had requested this item be delayed until 9:00 p.m. in order that a proponent of this request could be present. Mr. Lashbrook explained to the applicant the decision to delay this item is up to the acting Chairman or the Planning Commission. David R. Anderson, agent for Donald J. McIntosh (Item #4 on the Agenda) explained one of his clients needed to be at the Portland Airport by 10:00 p.m. and that it would be advantageous for their Zone Change Application to be heard first if there were no objections from the other applicants. Since there were no objections, it was the concensus of the Planning Commission to hear Item #4 (Request for a Zone Change) first.

Item #4: Request for a Zone Change from C-1 and R-2 to C-2 to bring into conformance with the City's Comprehensive Plan and to allow highway commercial uses. This property is located on the north side of N.W. 1st Avenue between N. Douglas and N. Elm Streets and described as Tax Lots 5700 and 5800, Section 33CC, T3S, R1E. The applicant is Donald J. McIntosh. City Planner Lashbrook gave his presentation and recommended approval assuming the Commission was considering

both the Zone Change and a Plan Amendment and that this request met the basic requirements. Mr. Lashbrook also suggested the Commission members consider the uses allowed within the zone and the fact that any use allowed in the C-2 Zone could end up in this location. Commissioner Kahut asked the city planner to read the uses allowed in a C-1 and a C-2 zone. Mr. Lashbrook read the uses in question for the perusal of the Commission. Acting Chairman Reif explained to the Planning Commission that a Zone Change must be in conformance with the Comprehensive Plan or a Plan Amendment must be requested. If the Zone Change is not in conformance, then the Public Notice was incorrect as this item was not advertised as a "Plan Amendment". Before the Zone Change request can be sent to the City Council for public hearing, it must be in compliance with the Comprehensive Plan. Whether it is in conformance or not, it is important to listen to the public testimony that might be given and then if the item has to be tabled, it will need a decision only. Commissioner Edgerton asked Chairman Reif what the legality was on this situation. Chairman Reif stated if the Commission determined the Zone Change was not in compliance with the Interim General Plan, they should not make a decision to approve the Zone Change at this meeting. It would then be necessary to advertise for a Comprehensive Plan Change Amendment. David R. Anderson (agent for the applicants) explained to Chairman Reif that the applicants were asking for an amendment to the Comprehensive Plan. Chairman Reif then suggested it would be advisable to wait another month for their presentation so the Plan Change Amendment could be legally advertised as a Public Hearing. Commissioner Kahut felt that whether a Plan Change Amendment were necessary would depend on the public testimony that would be presented. At this point, Mr. Anderson proceeded with his presentation. Mr. Anderson stated that the L.C.D.C. goals and guidelines specifically states: "Guidelines are not mandatory. They are suggested directions for local governments to consider when developing comprehensive plans and applying the goals". Therefore it is felt the map is general in nature and the plan allows for the entire parcel to be zoned C-2. Mr. Anderson also presented some statistics on the availability of C-2 zoned property in Canby. It was pointed out that with increased industry in the N.W. section of Canby, the corner of N.W. 1st and Elm (where the applicants property is located) will be getting an increase in heavy truck traffic. A C-2 zone would generally invite less foot traffic than a C-1 zone. By granting the zone change, the City would be: 1) Guiding and influencing the location and nature of land development so that different activities are harmonious with each other and their environment; 2) Arranging the uses of land so they are orderly, convenient and suitably related to each other, fulfill the needs of residents and property owners, and are adequately provided with necessary improvements and facilities; and 3) Providing a balance between residential, commercial, and industrial properties in the City. John Stout (The Power Shop) showed the Commission some pictures of the type of building he would be constructing on the property considered for the zone change. City Planner Lashbrook read a letter into the record from Sharon D. Imholt who stated she was in opposition to this zone change (the letter was made a part of the record). Anne Reusser of 587 N.W. 2nd stated she was in agreement with Ms. Imholt's letter of opposition. Antonio Savon (133 N.E. 37th Ave.) stated he was opposed to the additional noise The Power Shop would be adding in the area. He was also afraid that by allowing the zone change to C-2, it would be adding M-1 (Light Industrial) as a conditional use in this zone. Sam Reusser of 587 N.W. 2nd

objected to the additional noise this zone change would create. The street is considerably narrower in the block in question and there is already traffic congestion in the area. Marie Andrus owns property on 2nd and Elm and is in agreement with the letter submitted by Ms. Imholt. Eleanor Hansen of 175 N. Elm Street objected to the noise created by the sharpening of saws at The Power Shop. Mrs. Hansen also questioned what might happen if a motorcycle shop were to be put in this zone. Barbara Bush of 552 N.W. 2nd felt the parking facilities on N.W. 1st were non-existent and therefore more parking would be necessary to keep the cars from parking on the street. James Bolton of 541 N.W. 2nd stated he was not opposed to The Power Shop but wondered why it was necessary to change the zone. Why couldn't Mr. Stout move his power shop across the street and leave the zone the same as he was not changing the nature of his business? Mr. Lashbrook explained that a part of the property in question was zoned R-2. He further explained that The Power Shop was an existing business prior to the zoning ordinance going into effect and that a business of this nature is not a permitted use in a C-1 zone. However, the zoning ordinance is not retro-active and therefore, The Power Shop was allowed to stay in its present zone. Mr. Bolton felt if the zone were allowed to change to C-2, many more uses would be allowed and there are residences existing right behind the property in question. Dave Anderson (agent for applicant) then spoke for the zone change. He explained that N.W. 1st Avenue was a 50' street even though there is only 25' of paving. Therefore, the applicants feel the street would be adequate. Mr. Anderson explained that on the Comprehensive Plan, the whole block in question was designated to be General Commercial, which would be C-2. Mr. Stout is planning on building a 9,000 square foot modern building to house his business. It would be insulated for noise abatement, all repair work would be done inside, and 5% of his inventory displayed outside during business hours. Since this property is now in a C-1 zone, Mr. Anderson felt there were several uses available now that would be more detrimental to the area than The Power Shop. Some of those would be: amusement enterprises, building materials supply and sales, a bus depot, club or lodge hall, marine craft sales, service repair or supplies. Mr. Anderson summarized by stating that since this area was shown as general commercial on the Comprehensive Plan, it would just be a matter of time before this area would become zoned C-2. Commissioner Edgerton pointed out that the zone change would occur on two lots only and not on the area as a whole. Discussion followed on the definition of General Commercial in the Comprehensive Plan. Mr. Lashbrook explained that there is no specific definition in the Comp. Plan. It was also pointed out that the public testimony seemed to show that citizens were not opposed to The Power Shop but to some of the other uses a C-2 zone would allow. It seemed to be the consensus of the Commission that it would be necessary to request a Comprehensive Plan Amendment and that this item should be tabled for further study. Chairman Reif explained that one of the "Fasano" requirements on a zone change is that it must comply with the Comprehensive Plan. If it does not, an amendment to the Plan must also be requested along with the zone change request. Since a Plan Change was not publically advertised, it would be advisable to hear this request at a later date. *Commissioner Kahut moved to approve the Zone Change application since he interpreted the zone change to be in compliance with the

Comprehensive Plan. The motion died for lack of a second.

Chairman Reif called for a short recess and the meeting reconvened at 9:10 p.m.

Mr. Anderson requested this item be tabled until proper publication can be made and a request for a Zone Change and a Plan Change can be made at the same time. *Commissioner Edgerton moved to table this request until April 11, 1979, as requested by Mr. Anderson. The motion was seconded by Commissioner Kahut. The question was called for and passed unanimously. Chairman Reif explained to the audience that those who spoke this evening had done so as public testimony which became part of the official record, but they could, if they so wished, come back at the next meeting and speak again.

Item #1: Request for a Minor Land Partition to divide a 28,314 sq. ft. parcel into 3 smaller parcels, the smallest being 8,925 sq. ft. and the largest 10,500 sq. ft. The property is located at 1338 N. Maple Street between N.E. 10th Ave. and N.E. 14th Avenue and described as Tax Lots 2400 and 2401, Section 33AA, T3S, R1E. The applicant is Richard D. Crites. City Planner Lashbrook gave his presentation and recommended approval subject to the following conditions: 1) All recommendations of other staff reports to be made conditions of approval; and 2) Access strip to flaglot to be 20' in width and paved for its full width and length. Commissioner Kahut requested curbing on N. Maple Street. A 10' dedication would also be required. Richard Crites stated he felt he had complied with the requirements made at the last meeting on this request and felt it should be approved. Robert Hill asked where the lane was coming out on the flaglot. The Commission explained the driveway on the flaglot would enter onto N.E. 14th Ave. Mr. Harold Wyman stated he was an opponent of this request. He stated he was not in agreement with the staff reports as presented. He also felt a rental unit was not compatible in an R-1 zone. Mr. Wyman stated Mr. Crites had no easements on Tax Lot 2400. He stated a rental unit directly across from his back yard would lower the value of his home and lot. Myrtle Marshall of 1304 N. Maple Street felt a rental unit so close to her property (approx. 10') would be detrimental to the value of her home. Martin Clark felt it should be the right of a property owner to rent a unit on his property if he so desired. Because many people cannot afford to buy a home, rental homes give people another choice as to how they want to live. Duane Weeks felt the issue was the availability of land in and around Canby and that if all requirements had been met, the request should be approved. Discussion then centered on the question of easements and whether all facilities were available to this property. It seemed to be the consensus of the Commission that according to the staff reports received from the Utility Board and Telephone Company, these services could be supplied and it was up to Mr. Crites to secure these services and they should have no bearing on the decision of the Commission to approve or deny this application. *Commissioner Edgerton moved to approve the Minor Land Partition subject to the following conditions: 1) Proper dedications needed by all utilities; 2) A ten foot dedication on N. Maple Street; 3) Curbing on N. Maple Street according to city specifications; 4) A twenty foot wide, fully paved pole section on the flag lot and 5) Subject to all staff reports. The

motion was seconded by Commissioner Schwartz. Commissioner Kahut requested an amendment to condition #1 by changing the wording to easements instead of dedications. Commissioner Edgerton moved to change the wording in condition #1 to "easements" and added Condition #6 - that the existing surface on N. Maple Street be extended to the curb line. Chairman Reif stated this was an amendment to the motion and requested a vote. Question was called for and the amendment passed unanimously. Question was called on the main motion as amended and it passed unanimously. Chairman Reif explained that any aggrieved person could appeal this decision to the City Council within 10 days.

Item #2: Request for a Minor Land Partition to divide a 1.967 acre parcel into two parcels to contain approximately .34 and 1.63 acres, respectively. The property is located south of S.E. Second Street and east of South Pine Street and described as Tax Lot 400, Section 34C, T3S, R1E. The applicant is Canby Enterprises, Inc. City Planner Lashbrook gave his presentation and recommended approval subject to the following conditions: 1) All recommendations of other staff reports to be made conditions of approval; 2) The improvement requirements of the Canby Park East Subdivision to remain in effect and also apply to this partition; and 3) Applicant be advised to contact the Oregon Real Estate Commission office concerning any changes to the original subdivision public report which might be necessary as a result of this partition. *Commissioner Edgerton moved to approve the Minor Land Partition subject to the city planner's recommendations. The motion was seconded by Commissioner Cutsforth. The question was called for and passed unanimously.

Item #3: Request for a Minor Land Partition to divide a 10 acre parcel into two parcels to consist of approximately 3 and 7 acres, respectively. The property is located north of N.W. 3rd Avenue and west of N.W. Baker Drive and described as Tax Lot 800, Section 32D, T3S, R1E. The applicant is Martin L. Clark. City Planner Lashbrook explained that the applicant had requested this item be tabled until the next meeting as there are some changes anticipated which would mean looking at this request again. Martin Clark explained he is trying to form an L.I.D. on N.W. 3rd and N. Baker Drive and would bring this item back to the Commission after seeing what kind of response there was to the L.I.D.

The meeting was adjourned at 10:30 p.m.

This meeting has been recorded on tape.


Virginia J. Shirley, Secretary
Canby Planning Commission