

Canby Planning Commission  
Regular Meeting  
May 9, 1979

MEMBERS PRESENT: Chairman Ross, Commissioners Cutsforth, Edgerton, Davis, Kahut, Hart and Schwartz (8:10)

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Tim Ramis, Martin Clark, Mr. and Mrs. Bob Kacalek, Maynard Nofziger, Chuck Danske and Dave Bury

The minutes of the Planning Commission meeting of April 25, 1979 were approved as presented.

Item #1: Request for a Minor Land Partition to divide a 10.02 acre parcel into three parcels to consist of approximately 2, 3, and 5 acres respectively. The property is located at the northwest corner of N. Baker Drive and N.W. 3rd Avenue and described as Tax Lot 800, Section 32D, T3S, R1E. The applicant is Martin L. Clark. City Planner Lashbrook gave his presentation and recommended approval based on the following findings of fact: A) The application complies with the applicable Statewide Planning Goals; B) The application conforms with the adopted City Plan; and C) The application meets the requirements of local ordinances. Suggested conditions of approval would be as follows: 1) All recommendations of other staff reports be made conditions of approval; 2) N. Baker Drive to have full 50' of right-of-way dedicated for full frontage along subject property. N. Baker Drive to be improved to full City standards; and 3) Sewer line to be extended from present location in N.W. 3rd to a point on N. Baker Drive which is adjacent to the north property line of the subject property. If a local improvement district is formed for the completion of the improvements mentioned in Items #2 and #3, the applicant shall be responsible for that portion of improvements as determined by the City Council in the creation of the L.I.D.; 4) Dedication and improvement requirements should also be imposed for the frontage portion of N.W. 3rd Avenue as determined by the City; and 5) A Waiver of Remonstrance should be required for each parcel assuming there was separate ownership before the L.I.D. was formed. Discussion followed on the width of the right-of-way on N. Baker Drive. Public Works Director Ferguson stated N. Baker Drive should be a forty foot paved street (39 feet between curbs). There should be a minimum right-of-way of forty feet. Chairman Ross asked if Globe-Union had been required to dedicate 20 feet on N. Baker Drive when the zone change went through in 1970. The Planning Commission secretary stated there was no information on any dedication in the file. Public Works Director Ferguson stated that Globe-Union had not signed the petition for the L.I.D. on N. Baker Drive. He stated that 20 feet might have to come off the west of N. Baker Drive in order to have a 40 foot street. He stated that Globe-Union would have to pay their fair share of the improvements if the L.I.D. is approved, but they would not have to dedicate property. City Attorney Reif stated that according to the Zoning Ordinance, N. Baker Drive should be a 60 foot street. Mr. Ferguson recommended cutting N. Baker Drive down to a 20 or 30 foot width at the northerly end to allow only automobile traffic, since the residents would be against truck traffic. Tim Ramis (attorney for applicant) stated the petition for the L.I.D. has signatures and waivers of remonstrance over 50%. This petition will be presented to the City Council on May 16, 1979 and the applicant is expecting approval at that time.

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Mr. Ramis stated in their research, it appeared that Globe-Union had made a commitment to dedicate and Mr. Clark would be pursuing that issue. Mr. Ramis asked that an additional condition be added to specify the amount of footage Mr. Clark would be asked to contribute so there would be no problems in the future. Mr. Ramis stated they wanted to go on record stating they would only be able to dedicate 15 or 20 feet. He stated there should be a contingency in the motion that the L.I.D. would eventually be approved. City Attorney Reif stated that a 60 foot right-of-way was required at Canby Park East. Since the ordinance requires a 60 foot right-of-way, anything less would have to be requested through a variance application. Bob Kacalek asked whether the 20 feet needed to improve the street would have to be divided equally on each side of the street. Mr. Ferguson stated placement of dedications didn't make any difference as long as there was 60 feet. Commissioner Edgerton asked whether Southern Pacific would be participating in the L.I.D. with relation to N.W. 3rd Avenue. Mr. Ferguson stated in his discussions with City Attorney Bettis, Southern Pacific could be assessed for the improvements on adjacent property. Martin Clark (applicant) stated that when Globe-Union was granted their Minor Land Partition, no dedication was required on N. Baker Drive. Now that he is making application for a minor land partition, he is expected to come up with a 40 foot dedication and Globe-Union gave nothing. He did not feel this was fair. He stated he would not have enough money to improve all of N. Baker Drive and all of N.W. 3rd Avenue. He also stated time was important in getting this application approved as he has clients waiting to build. Chairman Ross stated the Planning Commission would have to act on a 60 foot right-of-way on this application and if the applicant so desired, request a variance to reduce the street width. Bob Kacalek asked when there is an existing parcel and an existing right-of-way, does the burden of improvement fall on the individual that happens to be on one side or the other of the right-of-way. City Attorney Reif stated that minor land partitions are a planning controlled area and therefore come under the jurisdiction of the Subdivision Ordinance. Since subdivisions are required to have improvements, it creates the problem of trying to coordinate the property owners in putting in the improvements. Bob Kacalek asked if the applicant could be required to put in his half of the street only. City Attorney Reif stated the ordinance states "full streets shall be developed to city specifications". Commissioner Davis asked whether Globe-Union had recently been asked if they would make the 20 foot dedication. City Planner Lashbrook stated that at a recent City Council meeting during a discussion of the L.I.D. which Mr. Clark was starting, the new Comptroller at Globe-Union made it quite clear that Globe-Union had no intention of participating in dedication or improvements on N. Baker Drive. Further discussion indicated that Mr. Clark could build on this property now, but because he has applied for a minor land partition, he has to meet the subdivision requirements for improvement. City Attorney Reif stated that if the L.I.D. goes through, he felt Globe-Union would be assessed their fair share and Mr. Clark would not bear the burden of paying the full improvement cost. Further discussion was held on street right-of-way on N. Baker Drive. City Planner Lashbrook stated that comparing this application to customary procedures on a residential subdivision where lot development was only on one side of the street, dedication would only

be required on that one side, based upon the assumption that the dedication for the other side of the street would come later on when the other side of the street was developed. Commissioner Kahut felt that this application should be considered after problems on the L.I.D. have been worked out. Chairman Ross expressed the feeling the same problems would still exist. \*Commissioner Kahut moved to approve the Minor Land Partition subject to the following conditions: 1) All recommendations of other staff reports to be made conditions of approval; 2) N. Baker Drive have a full 60' dedicated right-of-way and to be improved to full City standards; 3) Sewer line to be extended from present location in N.W. 3rd to a point on N. Baker Drive which is adjacent to the north property line of the subject property; 4) Improvements on N.W. 3rd as determined by the City; and 5) To adopt the staff's findings of fact. The motion was seconded by Commissioner Hart. Question was called for and passed with Commissioner Edgerton voting against. Chairman Ross notified the applicant that the decision is appealable to the City Council within 10 days and that a variance may be applied for regarding street width.

Item #2: Request for a Minor Land Partition to divide a 19.11 acre parcel into two parcels to consist of approximately 2 and 17 acres, respectively. The property is located on the north side of N.W. 3rd Avenue, west of N. Baker Drive and described as Tax Lot 801, Section 32D, T3S, R1E. The applicant is Maynard Nofziger. City Planner Lashbrook gave his presentation and recommended approval based upon the following findings of fact: A) The application complies with the applicable Statewide Planning Goals; B) The application conforms with the adopted City Plan; and C) The application meets the requirements of local ordinances. Suggested conditions of approval would be as follows: 1) All recommendations of other staff reports to be made conditions of approval; 2) N.W. 3rd Avenue to have full 60 feet of right-of-way and be improved to full City standards. (If a local improvement district is formed for the improvement work, the applicants shall be responsible for that portion of the work as determined by the City Council in the creation of the L.I.D.); and 3) A Waiver of Remonstrance against any and all improvements to be recorded. Commissioner Edgerton asked whether all of the land on this partition was above the bluff. Public Works Director Ferguson stated the site of the proposed racquetball facility is on top of the bluff and the second half of the minor land partition is in the flood plain. Commissioner Kahut asked why the applicant was partitioning that portion which lies in the flood plain, why weren't they acting on the portion on the bluff only? Bob Kacalek (proponent) stated just for a matter of simplicity in supplying legal descriptions, etc., they went with the original survey which included the flood plain. He stated they would be using only that portion on top, however. Chairman Ross pointed out the Public Works Director's staff report stating use of this property should be limited to dry type industries (no chemicals) as requested in the original report on the zone change request. \*Commissioner Edgerton moved to approve the request for a Minor Land Partition subject to: 1) All recommendations of other staff reports to be made conditions of approval; and 2) A Waiver of Remonstrance on the improvement of N.W. 3rd Avenue. The motion was seconded by Commissioner Schwartz. Commissioner Kahut felt that

N.W. 3rd Avenue should be clarified in the motion since it was a recommendation of the city planner. Commissioner Edgerton amended his motion to include:  
3) N.W. 3rd Avenue to have full 60 feet of right-of-way and be improved to full City standards. Commissioner Schwartz concurred. Question was called for and passed unanimously.

Item #3: Request for a Conditional Use Permit to build a racquetball facility in an M-1 (Light Industrial) zone. The property is located on the north side of N.W. 3rd Avenue, west of N. Baker Drive and described as Tax Lot 801, Section 32D, T3S, R1E. The applicant is Maynard Nofziger. City Planner Lashbrook gave his presentation and recommended approval. Mr. Lashbrook recommended that the Planning Commission adopt the following findings of fact: A) There is a public need for the proposed development and this development is the best method of meeting that public need. B) The proposal complies with the applicable Statewide Planning Goals. C) The proposal conforms with the adopted City Plan and implementing ordinances. Mr. Lashbrook recommended the following conditions of approval: 1) All recommendations of other staff reports to be made conditions of approval; 2) Applicant to return for final approval of ingress/egress, parking and sign design after a decision has been reached on the formation of a local improvement district in the area. 3) Existing telephone line through the site to be relocated to the satisfaction of the responsible utility company. 4) Structure to be designed to minimize any adverse impact on the slope above the Molalla River Floodplain. 5) Subject to completion of the Minor Land Partition passed previously (in these minutes).

The city planner stated that street alignment and parking could possibly be affected by completion of the L.I.D. Commissioner Kahut asked about access of foot traffic in the area. Chairman Ross stated that could be addressed by the applicant. Maynard Nofziger (applicant) stated that racquetball is such a new sport many people do not know what it is. He stated that even though this facility will be called a club, it will be a family club. Racquetball is played in a 20 by 20 by 48 foot long room. It can be easily learned and the degree of skill is up to the individual. The facility will also have an exercise room. It is an inexpensive sport to play as tennis shoes, racquet, ball and court fees are the only necessary items. There will be a membership fee. There are now 6 million people playing this sport and in the next five years it is predicted that 35 million will be playing. Mr. Nofziger stated it is hoped that the facility will supply 8 to 10 courts, one of which will have a glass wall for viewers. He stated they would also have saunas and jacuzzi's for the patrons. There will be a lounge area with snack foods and natural fruit juices. The site was chosen because it would be in a low traffic area. They also wanted a controlled atmosphere so patrons could be viewed entering and leaving the area. Mr. Nofziger stated that at a recent seminar in Seattle, it was stated that most racquetball clubs have located in industrial areas. One reason is the size of the building. One reason for this particular site was that they were able to buy the adjoining property so they could control the industry directly adjacent to this facility so there won't be conflicting businesses side by side. Being in an industrial area would also enable the industrial employees

to enjoy the facility during their noon hours or break time. Mr. Nofziger stated this was a very clean industry. Mr. Kacalek (applicant) stated that an informal survey was taken to see if this facility would work well in Canby. A very positive response was received. Mr. Kacalek stated that with the gas situation getting worse, it would be advantageous for Canby to have a facility like this. Membership fees were not known at this time but he stated they would be comparable to surrounding areas. Mr. Kacalek stated other sites were looked at but this site gave plenty of room for this size of building and more than adequate parking space for members. Mr. Kacalek stated the heaviest usage would be after work (5:00 p.m. and later). He stated the truck traffic for the surrounding industry is predominantly during the day. He felt the traffic usage would be compatible. He stated there was approximately 1½ acres in this parcel and the completed project will cost approximately ½ million dollars. Chairman Ross asked Mr. Kacalek to address the "need best met" requirement in his testimony. Mr. Kacalek stated the biggest problem with this facility is finding a large enough lot to build on. He stated they had looked at other sites but felt they needed 1½ to 2 acres. They also were considering compatibility with the surrounding buildings and felt that a building of this size that would look somewhat like a warehouse would be more esthetically compatible in an industrial area. He stated that parcels of that size were simply not available in a commercial area anyway. He stated that the parcels outside the city that were large enough presented septic problems. Chuck Danske (proponent) stated during the winter time most of the schools will let the public use their facilities. But he stated there are no organized activities. He felt this facility would be a good idea. Dave Bury (opponent) stated he thought the facility was a good idea but didn't think the industrial area was the right location. Mr. Kacalek stated he was aware of the need to develop the area for light industrial use. He felt since the land should be developed to its highest and best use, the increased tax base and the draw from the outside area would provide the same needs that would be met by a light industrial use. Because this would be a family club, he felt there would be very little foot traffic. There would probably be an age limit of 12 years and all children would have to be a member and usually the parents would be with them. Chairman Ross closed the public hearing. Commissioner Hart asked the applicants what would happen if the interest in racquetball declined and the facility had to close. Mr. Kacalek stated he and Mr. Nofziger had researched this area completely. The age group that is most supportive of this type of facility is between 20 and 44. However, many older people are using the exercise areas only. Canby High School and Clackamas Community College have both shown an interest in using the facility. The sport itself is over 25 years old but was not organized until 1970. This sport is just starting out and Mr. Kacalek feels the interest will continue to grow. \*Commissioner Edgerton moved to approve the conditional use permit request after the completion of the minor land partition and using the following findings of fact: A) There is a public need for the proposed development and this development is the best method of meeting that public need; B) The proposal complies with the applicable Statewide Planning Goals; and C) The proposal conforms with the adopted City Plan and implementing ordinances.

Commissioner Edgerton recommended the following conditions: 1) All recommendations of other staff reports to be made conditions of approval; 2) Applicant to return for final approval of ingress/egress, parking, size of the sign and sign design, and landscaping; these requirements to be met after a decision has been reached on the formation of a local improvement district in the area; 3) Existing telephone line through the site to be relocated to the satisfaction of the responsible utility company; 4) Structure to be designed to minimize any adverse impact on the slope above the Molalla River floodplain; 5) Subject to the minor land partition being passed as previously recorded in these minutes; 6) After one year, if the project has not progressed properly and the racquetball court has not been constructed, the conditional use permit would no longer be valid and a reapplication for a conditional use permit would be necessary. The motion was seconded by Commissioner Schwartz. Commissioner Schwartz asked whether the Planning Commission was on good ground by accepting the testimony of Mr. Kacalek that other properties were considered prior to buying this parcel. He also asked whether this use would be located in a C-2 zone if the conditional use permit were not being requested. Mr. Lashbrook stated the burden of proof is on the applicant in regards to the requirement law. Mr. Lashbrook felt the C-2 zone would be the "permitted use" for a racquetball facility. He added that it would be a matter of interpretation in a C-1 zone. Chairman Ross stated you could always put a more restrictive use in a less restrictive zone. He stated that the cost of a lot in a C-1 or C-2 zone would not be feasible for this project. The cost factor forces the applicant into a different type of area where the property is less expensive in order to make the project more equitable. Commissioner Kahut stated the idea of foot traffic in an industrial area was of concern to him. Bob Kacalek stated he could base his answer to that only on other courts he had seen and there was minimal, if any, foot traffic at those facilities. Chairman Ross stated he felt those attending the courts would be the avid players and that there would not be any loitering by the younger kids. Bob Kacalek stated this would not be an amusement area (no pinball machines or pool tables). It would be organized exercise in the form of racquetball, gymnastics or karate lessons. Discussion followed on the length of time the applicant would have on his conditional use permit regarding construction before the permit would expire. Commissioner Edgerton amended his motion to read: 6) After two years, if the project has not progressed properly and the racquetball court has not been constructed, the conditional use permit would no longer be valid and a reapplication for a conditional use permit would be necessary. Commissioner Schwartz concurred. Question was called for and passed unanimously.

There being no other business on the Commission agenda, City Planner Lashbrook stated the "Mar-Lon Townhouse Subdivision" final plat had been delivered. Since there were no improvement requirements other than those from the telephone company (which have been completed) the plat seems to be in order. City Attorney Reif stated there was a problem on the question of easements. \*Commissioner Kahut moved to approve the final plat of Mar-Lon Townhouse Subdivision subject to the approval of the City Attorney and the City Planner. The motion was seconded by Commissioner Cutsforth. Question was called for and passed unanimously.

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Mr. Lashbrook then brought up the subject of the extension of S.W. Berg Parkway through to S.W. 13th Avenue. Mr. Lashbrook and Public Works Director Ferguson met with a group of property owners in the area last week who asked that the City Council take some action regarding a decision on whether this road will be put through. The property owners asked that the Planning Commission go on record as making the request to the City Council that some decisions on this road be made. Discussion followed on the possible proposed alignment of this street should it go through. \*Commissioner Edgerton moved that the Planning Commission ask the City Council if they intend to follow the intent of the adopted plan as interpreted by the Planning Commission which would be to connect a loop system from S.W. 13th Avenue to S.W. Berg Parkway. The motion was seconded by Commissioner Cutsforth. Question was called for and passed unanimously.

Planning Commission Secretary Shirley notified the members that the City Council and Planning Commission banquet would be held June 9, 1979, at the Oregon City Elks Lodge.

Chairman Ross notified the Commission of the City Council's reversal of the Planning Commission denial of the Variance Application for Curt McLeod. The City Council stated the applicant had met all four conditions for granting of a variance. The Planning Commission's findings were that not all of those conditions had been met.

The meeting was adjourned at 10:50 P.M.

This meeting has been recorded on tape.

Respectfully submitted,



Virginia J. Shirley, Secretary  
Canby Planning Commission