

Canby Planning Commission
July 11, 1979
Regular Meeting

MEMBERS PRESENT: Chairman Ross, Commissioners Davis, Kahut, Hart, Edgerton, and Cutsforth (8:20)

MEMBERS ABSENT: Commissioner Schwartz

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Councilman Westcott, Andy DiTommaso, Gerald Grossnickle, Mr. and Mrs. Paul Kraft, Darrell Woolhiser, Roy Renoud, Mr. and Mrs. Toby Tyler, Dave Bury, Ron Tatone, Helen Stricklin, Bud Fawver, Fern Krueger, Marilyn Perkett, Laina Sprague, Alan Ivie, Arland Hart and Roy Lohse

The minutes of the Planning Commission meeting of June 13, 1979, were approved as presented.

Item #1: Request for approval of a final plat of a subdivision to be called "Brandy Estates". This property is located in the southwest quadrant of N. Maple Street and N.E. 22nd Avenue and described as Tax Lot 100, Section 28DB, T3S, R1E. The applicant is Gro Enterprises, Inc. City Planner Lashbrook stated there were no further comments to add to the staff reports of the preliminary plat and encouraged the Commission to authorize the Chairman to sign the final plat. *Commissioner Kahut moved to approve the final plat of "Brandy Estates" subject to all recommendations of other staff reports which were made conditions of approval of the preliminary plat. These included: 1) Proposed Brandy Lane to be named N.E. 21st Place; and 2) Exterior boundary easements to be twelve (12) feet in width; 3) Sidewalks on the interior of the cul-de-sac on the west side of N. Maple Street; and 4) Subject to ratification of the zone change by the City Council. The motion was seconded by Commissioner Hart. Commissioner Kahut added to the motion: Upon proof of zoning ratification, authorize the Planning Commission Chairman to sign the final plat. Commissioner Hart concurred. Discussion followed and it was determined all the conditions of approval had been met, other than the zoning ratification. Question was called and the motion passed unanimously.

Item #2: Request for approval of a final plat of a subdivision to be called "Harvest Oak Estates". This property is located east of N. Locust Street and north of N. Lupine Court and described as Tax Lots 7100 and 7800, Section 33AB, T3S, R1E and Tax Lot 1200, Section 28DC, T3S, R1E. The applicant is Ronald G. Tatone. City Planner Lashbrook stated two additions were necessary to the original conditions of approval. They are as follows: 1) Per the request of the Canby Telephone Association and made part of the conditions of approval by the Planning Commission, there shall be: A) 6 foot utility easements on all interior lot lines; and B) 12 foot utility easements on all exterior lot lines. 2) Add a signature line for certification of the City Engineer. *Commissioner Kahut moved to approve the final plat of "Harvest Oak Estates" subject to: 1) All staff reports; 2) 6 foot utility easements on all interior lot lines; 3) 12 foot utility easements on all exterior lot lines; 4) Addition of a signature line for the certification of the City Engineer; and 5) Authorize the Chairman of the Planning Commission to sign the plat when all conditions have been met. The motion was seconded by Commissioner Edgerton. Ron Tatone (applicant) stated the request for 12 foot easements along

the exterior lot lines could possibly become a hardship. Mr. Tatone stated the easement would fall in the allowable 10 foot setback area and since the adjoining subdivisions also have easements on exterior lot lines, he would prefer to go with a 6 foot easement on exterior lot lines.

Chairman Ross explained to Mr. Tatone that would require tabling the final plat until the Telephone Company were contacted to see if that would be satisfactory to them. Mr. Lashbrook stated he had checked with Mr. Cole of the Telephone Company to verify the original request of 12 feet on exterior lines and Mr. Cole said they would be staying with their original request. Question was called and passed unanimously.

Item #3: Consideration of a proposed annexation of 25.6 acres to the City of Canby. This property is located east of N. Locust Street and south of N.E. 22nd Avenue and described as Tax Lots 200, 300, 400, 402, 500, 600, 601, and 800, Section 28DB, T3S, R1E. The applicant is Gerald Grossnickle for Portland Lindsay Soft Water Company and other tax lot owners. Chairman Ross addressed the audience and gave them the hearings procedure. City Planner Lashbrook gave his presentation and recommended approval subject to the condition that the annexation be expanded to include all of N. Locust Street adjoining the property and all of N.E. 22nd Avenue from N. Locust Street to N. Maple Street and based on the following findings of fact: 1) There is a public need for the annexation of 25.6 acres for the development of single family dwellings; 2) The public need is best met through this particular annexation because of its specific location relative to existing development and the availability of services; 3) Annexation of the entire 25.6 acres at one time will improve the ultimate design and efficiency of service provision over the separate annexation of smaller lots on a piecemeal basis. This is especially true because of the recent annexation of the Kraxberger/Driggers property to the south of the subject property; 4) The annexation complies with the applicable Statewide Planning Goals and other than Goal #3 to which an exception is taken for the following reasons: A) The need for additional residentially developable land; B) The lack of alternative developable land which is available and suitable to meet the City's needs for growth; C) The environmental, energy, social, and economic impacts of the annexation have been considered; and D) No undue or unreasonable conflicts with adjacent land uses are anticipated. 5) The annexation conforms with the adopted City Plan and presents no conflicts with other adopted City policies or ordinances. Mr. Lashbrook contacted Mr. Gerig of the Soil Conservation Service and asked about the property in question. The two questions asked were: 1) Is the agricultural land in this area better, from a technical perspective of soils, than other agricultural lands surrounding the city? The answer was, "Not based upon the soil itself". 2) Are the soils in this area especially good for tree farming since it is an interest in this area? The answer again was, "No, not as far as he knew". All the soils in and around Canby are excellent. Commissioner Edgerton asked Mr. Lashbrook the approximate acreage included in the last three annexations. Mr. Lashbrook replied it was approximately 23 acres. Commissioner Kahut asked whether the three property owners who did not sign the annexation petition would have to pay the annexation fee if this application were approved. Mr. Lashbrook stated they would have to pay the fee. Chairman Ross stated due to a conflict

of interest, he would pass the gavel to City Attorney Reif since he was a property owner in the area and wished to speak. Gerald Grossnickle spoke as the agent for the annexation. He stated that L.C.D.C. has stated that the exception process is not applicable if you can show that the land is 1) physically developed or built upon; or 2) irrevocably committed to non-farm uses. Mr. Grossnickle stated that four lots had been built upon, and since the area was within the earlier urban growth boundary as adopted by C.R.A.G., Mr. Grossnickle felt the land had already been committed to development. He also stated that the individual parcels were not large enough to make farming them economically feasible. Mr. Grossnickle then addressed Goal #2 for the exceptions procedure. This procedure requires the applicant to show a need, demonstrate there are no alternative areas better suited for annexation, address the economic and social consequences of the annexation and the compatibility of surrounding lands. Mr. Grossnickle stated there is a continuing need for housing in general as demonstrated by the high cost of housing, the continuing rate of inflation, and current cost of land in Canby. This annexation would be more suitable than other alternative sites due to the fact that services (sewer, water, electric) are already available. Also, the proximity to other new developments, the closeness to Willamette Valley Country Club which has a nice area of homes, the proximity to open space farm land and the ease of construction due to good access make this area desirable for annexation. The economic and social consequences and compatibility with surrounding areas were previously addressed in Mr. Grossnickle's written report. Helen Stricklin (proponent) stated she and her mother owned the largest parcel in this proposal (approx. 9 acres). She stated that about 10 years ago when they purchased their parcel, a city official had told them that it would be logical to extend N.E. 20th Avenue through to N. Locust Street. This would also extend the sewer and water lines. Ms. Stricklin said she had nothing in writing on this. She stated that her mother raises shrubs on approximately 1 acre and is able to sell them but she works about 10 hours a day 7 days a week doing this. The other 8 acres are leased. Right now they are being used to raise onions. The man leasing that property right now does not think he will lease again next year as he is not realizing enough profit since there is so much hand labor to be done. She also felt that the differentiation between urban and rural lands be with the existing roads, not just because it looks better, but because it would be better to get needed services. Bud Fawver stated when he bought his property, it was with the idea that the property would be annexed and he would be able to put in some lots. He would like to see a plan before he would be in favor of this annexation so he could see how it would be developed. It seemed reasonable to Mr. Fawver that the annexation line should be along N. Locust Street. Andy DiTommaso (representing his father) stated his father was in favor of the annexation. There being no further proponents, the acting Chairman called for opponents. Toby Tyler (680 N.E. 20th) stated both proponents said the land was committed for development, yet it is being farmed at this time. He felt these statements were in direct conflict. He had been told that when the street was put in (N.E. 20th) that it would always be a dead end street. He did not feel there would be any purpose in continuing the street on through. Roy Renoud (670 N.E. 20th Avenue) stated he felt there was not adequate electric power

and water to serve this area. He also stated that when he purchased his property that he had been assured that N.E. 20th Avenue would not be extended and there would remain a buffer zone at the end of this street. He stated he felt the residents in the area needed more information. Gloria Kraft agreed with Mr. Renoud's statements. She stated once the property is annexed, the developer is free to construct what they want. She would like to see plans first. Roy Lohse (building a house at 2393 N. Locust) opposed the annexation because he wants to farm his land (five acres at building site). City Attorney Reif asked Mr. Lohse if he was going to make his five acres an economic farm unit or whether he had another job also. Mr. Lohse stated he did have a full time job elsewhere. Fern Krueger (2366 N. Locust) was opposed to the annexation. She has 5 acres and raises vegetables by herself and supports herself from the sales of the produce. Dana Tyler (opponent) felt there had to be a limit set someplace. Felt that these were excellent soils and that someone (possibly Industrial Forestry Assn.) could make good agricultural use of this land. Felt the reason Canby has a land use proposal done in 74-75 was to restrict Canby's growth. Marilyn Perkett (660 N.E. 20th) agreed with the opponents who had previously spoken. She also felt there would be an adverse impact on the school system. Toby Tyler spoke again by stating the developers had said this property would probably not be improved in the near future, but the adjoining property owners had no guarantee of that fact. He stated that the developer was considering lots as small as 7,000 square feet. He did not feel that was compatible with anything around it. Roy Lohse stated the reason Mr. Grossnickle's property is not farmed is because they choose not to do so. Mr. Lohse also stated Mr. Grossnickle had been offered \$85,000 for 7.7 acres and turned the offer down. Dave Bury (360 S.E. Township Road) felt the electric, water and sewer facilities were not adequate at this time for an annexation of this size. Laina Sprague (2041 N. Locust) was opposed as this annexation would put a strain on an already overcrowded school system. Stated this application needed more statistics, and there is nothing which says Canby has to get larger or that this annexation is necessary or has to be approved. Paul Kraft (575 N.E. 22nd Avenue) informed the Commission he refused to sign the annexation petition as he had not been shown any plans as to how the future development would be laid out. Darrell Woolhiser (Tax Lot 601) stated his property is just large enough to have a nice garden (.46 acre). He had property on the south side of town which was just like clay and turned hard when it dried out. The property he has now is beautiful and he feels this area should be left in farm land. Gordon Ross (2442 N. Locust) has 10 acres that he farms. Also works as a realtor. Grows truck crop produce which supplies his market (Garden Spot) and also has enough to take to the Portland market. If he worked his land full time, he could make a living from it. Does not agree that the parcels being annexed meet the "exceptions" rules. The reason there is a need in Canby for housing is because it is rural city. As soon as the rural setting is lost, Canby will become just like any other city. Doesn't go along with growth boundaries adopted by C.R.A.G. and L.C.D.C. Stated the Kent property was annexed because it was in Phase I of the urban growth boundary Canby adopted in the "Interim General Plan". The Kraxberger/Driggers annexation was approved because the City had a problem extending their main lines down Territorial Road. In order to make it

economical to tie the main lines in, Canby is trying to get property on both sides of the main arterial (Territorial Road) to share the costs on the improvements. Another reason is to get Territorial Road under full jurisdiction of the City instead of half county and half city. Mr. Ross stated any time a street is put in when the property is developed, the continuance of that street through the adjoining property when it develops is always considered (referring to N.E. 20th). Mr. Ross did not feel the applicant had met the "need best met" criteria. All applicants are going to feel that their property is the best piece to annex. Mr. Ross felt that there were plenty of other sites. The County has zoned this area Residential-Agricultural. This area was designated as Phase III in the "Interim General Plan" which would be the last area around Canby to be developed. Mr. Ross felt the additional pressures of development on the surrounding property owners would make farming their land no longer feasible. He expressed the feeling that if annexations continued to the north, it would be one mass clear to the river. Alan Ivie (685 N.E. 20th) agreed with Mr. Ross. Felt that some of the people who might live in this new development would not be working in Canby. Did not know if that would justify growth. He would also like to know what the standards would be for the proposed 80 units that could be built. Also, would be curious to know the economics of farming this area in the last several years. Disagreed that the soils around Canby are basically the same. Would like to see a soils map of the area and a plan of alternate areas for growth. City Attorney Reif asked if there were any more opponents. Since there were none, he stated Mr. Grossnickle would now be allowed to rebut any of the statements made by the opponents. Mr. Grossnickle stated it was important that the City address the problem of leapfrogging in regards to property annexed into the city. Since Canby has to develop its urban growth boundary which is submitted to L.C.D.C., it could be established along C.R.A.G.'s line at N. Locust and N.E. 22nd Avenue and would not disturb properties to the north as growth beyond the Urban Growth Boundary wouldn't get by L.C.D.C. Also, the County down-zoned this area from R-20 (minimum ½ acre parcels) to 2 to 5 acre parcels. He stated this property had not been farmed for many years. He stated he is not an outsider. He is from Oregon City and he is not proposing this annexation just to make money. Arland Hart (proponent) stated he was an employee of Lindsay Soft Water Company and has been acting as their agent in the purchase of their property for some time. Felt the agricultural question should have been brought up when the Kraxberger/Driggers property was annexed. It was the largest parcel contained in this whole area and contains the best well. He felt that annexation set a precedent. He has three young children in the Canby schools. Likes the Canby school system with year around schooling. Mr. Hart stated he had contacted several people in the area, (The Stricklins, Montecucco's Industrial Forestry Assn., Oregon Bulb and others) none of which would rent this property for enough to pay the taxes which amount to approximately \$200 per acre per year. This property is taxed as developable property. Mr. Hart stated Gordon Ross had made an informal offer on this property. Mr. Hart discussed the offer with the Lindsay Soft Water Co. and proposed to Mr. Ross that the company would sell him the property if, when the property were annexed into the city, Mr. Ross would sell back to the company ½ of the property at the then appraised value. Mr. Ross then lost interest in buying the property. Mr. Hart didn't feel it was agriculturally feasible to farm this area at the price of the property. No one in agriculture has shown a sincere interest in buying this property. Helen Stricklin spoke again by addressing Mr. Ivie's request for more history of

farming in the area. Ms. Stricklin said that the people who owned her parcel 11 years prior to her purchase tried to raise lily bulbs on it and found it was not fit for that and raised nothing on it from that time. There being no more proponents, City Attorney Reif closed the public hearing. City Attorney Reif called for a 5 minute recess and the meeting then reconvened. Commissioner Edgerton felt the proponents had not shown that this land was not suitable for farming. He stated Lindsay Soft Water Company had bought this land for speculation, and if that fact were removed, the land could be rented at a reasonable rate and farmed economically. He did not feel the applicant had answered the farming question adequately. Commissioner Kahut questioned the feasibility of farming this land as only one tax lot (T/L 800 totaling 9.40 acres) was of a size large enough to farm. He felt this was a good area to annex as services were available to this site and it had roads on all four sides. His only concern was whether the soils in this area were very "special"; would this property be better suited for tree farming? Commissioner Edgerton questioned the availability of water to this area because of the wording of the Utility Board's staff report. He feels there is a problem which will not be solved soon. Mr. Lashbrook stated through meetings with the Utility Board, he did know they were in the process of upgrading the water system at this time. Commissioner Edgerton stated his concern was with the source of the water itself. Since we now get our water from the Molalla River and that supply is running short, we will have to go elsewhere for water. His concern was whether this area could actually be served. Mr. Lashbrook stated that if the Planning Commission felt they needed more information from people involved, he recommended seeking that information rather than denying the application based upon the assumption that facilities were not adequate. *Commissioner Hart moved to continue the public hearing for additional input until August 8, 1979. The motion was seconded by Commissioner Edgerton. Commissioner Kahut disagreed with the motion. He felt the staff report from Canby Utility Board was clear in stating that service would be made available to the site. He also felt that all the parcels in this annexation would not be developing at the same time. Commissioner Kahut did not feel that another public hearing was necessary as those who gave testimony would just be saying the same things. He felt the important issue was the agricultural question. City Attorney Reif stated if a public hearing were held, those who spoke would be asked not to repeat any testimony given tonight. Commissioner Hart felt it would be advisable that Mr. Egger of the Canby Utility Board be in attendance at the next meeting to specifically address the question of availability of services to this area. Commissioner Edgerton was in agreement to Mr. Egger's attendance. Question was called and the motion carried with Commissioners Cutsforth, Hart, Kahut and Edgerton voting for and Commissioner Davis voting against.

Next item on the agenda was a draft copy of a Proposed Planned Unit Development Overlay Zone. Mr. Lashbrook explained that this was a type of zone that could be combined with any other zone. What that would say is that those areas could only be developed as planned unit developments. The reason this would be valuable is that it would eliminate some of the problems Canby has with developers in changing their plans from a planned unit development to something else. It would be one way of holding them to a P.U.D. Mr. Lashbrook stated he would like this item

scheduled for a public hearing. Commissioner Ross stated this item would be scheduled for a public hearing on August 8, 1979.

The Condominium Ordinance Draft was discussed next. Mr. Lashbrook read over the changes suggested by the Planning Commission at its last meeting. Commissioner Ross scheduled a public hearing on this item for August 8, 1979.

There being no other business before the Planning Commission, Chairman Ross stated he was representing Commissioner Edgerton in a property transaction. Commissioner Edgerton is purchasing a lot owned by Rufus Kraxberger which was minor partitioned late last year. This parcel has a 15 foot pole portion to a flag lot. Both builders involved have encumbered the property using the ingress and egress for both pieces of property on the 15 foot paved portion. Chairman Ross did not feel this was legal on a minor land partition. If they were going to use one ingress and egress, he felt the Planning Commission would have asked for more than a 15 foot paved driveway. After Commissioner Edgerton had put earnest money on the back parcel, he found out the builder on the front lot had an easement over Commissioner Edgerton's ingress and egress. Commissioner Ross felt it should be red flagged and stopped until it's brought back to its original condition or a variance should be applied for to bring it into conformance with whatever the Commission decides tonight. City Planner Lashbrook stated he did not feel the access problem constituted actual violation of conditions of the minor land partition. And further, that at this point, since easements had already been recorded and building permits issued, it would be very hard for the City to enforce any kind of action on this situation. Commissioner Kahut felt this could be a problem if all subdividers used this system on flag lot ingress/egress situations. Mr. Lashbrook stated had he been here when this partition took place, he would have recommended using the same access strip of greater width to serve both properties and to prevent the front lot owners from backing on to a main arterial (Territorial Road). Commissioner Ross stated that if the Planning Commission determines that there is a violation of the conditions of the minor land partition, the City would have to red flag the buildings and the owners would have to get together and settle this as no property would be sold until the red flags were removed. Commissioner Kahut stated he thought it would be better if both houses shared the same access since the one house fronted on Territorial Road, but he could also understand Commissioner Edgerton paying taxes on the paved portion of the flag lot and not wanting anyone else to use it. Commissioner Hart asked for the City Attorney's opinion. City Attorney Reif stated he also had a conflict of interest. He stated that he was unable to find anything in the zoning or subdivision ordinances which specifically showed this partition was in conflict with any Canby regulations. Commissioner Edgerton stated that Sec. 28(2) of the Subdivision Ordinance labeled "Access" reads: "Each lot shall abut upon a public street". He interpreted that to mean that each lot should have its own private access onto a public street. Mr. Lashbrook stated that he had listened to the entire tape of the meeting of November 8, 1978 when the minor land partition was approved and found nothing on the tape about the front lot using the paved portion of the flag lot as its ingress and egress. Chairman Ross felt this situation should be interpreted by the City Attorney and a decision reached on what action

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to take by the city attorney and the city planner. City Attorney Reif stated he did not feel there was any violation in this situation. He felt that the way the ordinance reads, the City had no authority to become involved in the dispute. As far as a lot line adjustment is concerned, there is nothing in the ordinance which states it must be heard before the Planning Commission. As long as the minimum lot size is kept and setbacks are correct, there should be no problem. Discussion followed on the interpretation of access in regards to flag lots. Most Commission members felt that separate access to each lot was implied but this was not specified in the ordinance. After lengthy discussion, the Planning Commission members decided no action could be taken as both the city attorney and the city planner felt there was no clear violation of the minor land partition conditions.

The meeting was adjourned at 11:45 p.m.

This meeting has been recorded on tape.

Respectfully submitted,



Virginia J. Shirley, Secretary
Canby Planning Commission