

Canby Planning Commission
Regular Meeting
August 8, 1979

MEMBERS PRESENT: Chairman Ross, Commissioners Hart, Edgerton, Kahut, Cutsforth, Davis and Schwartz (8:15 p.m.)

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Gerald Grossnickle, Canby Utility Board Manager Fred Egger, Virgil Skyles, Mr. and Mrs. Toby Tyler, Roy Renoud, Marilyn Perkett, Helen and Sadie Stricklin, Mr. and Mrs. Paul Kraft, Arbie Irwin, Lovelle Lack, Ferne Krueger, Leo Garre, Chip Phelps, Wallace Carey, Fred Stefani, Red Sheppard, Maynard Nofziger, John Tatone, Mr. and Mrs. Lance Holmburg, Jeff Durham and Dave Bury

The minutes of the Planning Commission meeting of July 11, 1979, were approved as presented.

Chairman Ross called for a 5 minute recess in order that the Commission members have time to read three new letters pertaining to Agenda Item #1. Prior to the recess reconvening, Chairman Ross handed the gavel to City Attorney Reif in order that he could testify on the Grossnickle Annexation. The meeting reconvened with City Attorney Reif as the acting Chairman.

Item #1: CONTINUED 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. Acting Chairman Reif asked that those people testifying not repeat any testimony given in the previous meeting on July 11, 1979. City Planner Stephan Lashbrook gave his presentation and recommended denial based upon responses received from Fred Egger of the Canby Utility Board, Dan Lowrie of the Oregon State University Extension Service, Allen J. Gerig of the U.S. Dept. of Agriculture, Ed Miller of the Canby Elementary School District and Dick Brown, Superintendent of the Canby Union High School District. Commissioner Kahut asked Mr. Lashbrook what specific response changed his mind to recommend denial. Mr. Lashbrook stated the letter from Mr. Lowrie and the letter from Mr. Egger were the deciding factors in his decision. Mr. Lashbrook stated he had evidently misinterpreted Mr. Egger's first staff letter as he understood it to say there really wasn't much of a water problem. He felt Mr. Egger's second letter did point out that there definitely are water problems in Canby. Commissioner Kahut asked Mr. Egger if there was a water problem in the wintertime. Mr. Egger stated as far as quantity, there was no problem in the wintertime. Commissioner Kahut stated that if the water bond just passed will rectify the water problem by the spring of 1981, why not let the developer go ahead and annex but put a moratorium on any building on that property. Mr. Egger stated the water issue also centers around how much building will be completed inside the city limits during that time. Commissioner Kahut asked if Mr. Egger could request a moratorium on building if the water problem became severe. Mr. Egger stated he assumed that could be done. Commissioner Edgerton

felt the Utility Board should service those people inside the city limits first. Acting Chairman Reif then opened the meeting to testimony by calling on Mr. Grossnickle (applicant). Mr. Grossnickle stated he would be addressing three areas of prime concern: need, soils and water. He made the following statements: The population of Oregon is ever increasing, even faster than the national average. The population of Canby is also increasing. There is decreasing available land due to certain governmental regulations and also due to the increase in population. Clackamas County has a rural reclassification program which has deleted a great deal of rural land for development. Mr. Grossnickle pointed out that the Kraxberger/Driggers annexation was approved by Resolution 259 stating: "A) The city has a pressing need for acquiring developable land, b) All municipal services of required utilities are readily available to the property, C) The subject property is a logical extension of the city's boundaries, D) None of the land within the city's present urban growth boundary is a more logical extension of the urban boundaries in terms of availability of services or areas of natural expansion in terms of present city boundaries". Mr. Grossnickle then restated Item A. Mr. Grossnickle asked the commissioners how conditions have changed since that May 2, 1979 meeting. Mr. Grossnickle stated that realtors in the area had told him that available land in Canby is getting scarce. There is a demand for buildable lots and this demand will increase. A letter by David R. Anderson of Anderson-Ritter Realty was read into the record by Mr. Grossnickle. A letter from Duane Weeks of Canby Realty was also presented for inclusion into the record. Mr. Grossnickle exhibited a map of soil types and gave explanations of these soil types. Mr. Grossnickle stated that the two main soil types in Canby were the Hillsboro Variant and the Latourell. Mr. Grossnickle read a letter from Allen J. Gerig of the U.S. Department of Agriculture (part of the record) which states that the Hillsboro Variant soil (type located at site of proposed annexation) is a Class II soil due to its low water holding capacity and need for frequent irrigation. Mr. Grossnickle then read from a U.S. Dept. of Agriculture handbook explaining the differences between Class I and Class II soils. The Hillsboro Variant soil requires a lot of labor and care to keep the soil moist due to its excessive drainage. The Latourell soil requires less intensive care and both soils grow basically the same crops. The question then arises as to where Canby will expand, either to the north and east in the Latourell soils or to the north in the Hillsboro Variant. Mr. Grossnickle felt the property he was representing was the best suited for expansion because: 1) Excellent road accessibility to the subject property, 2) Sewer and water lines on adjacent property, 3) Recent development surrounding the property on the south and northeast, 4) Logical extension of N.E. 20th Avenue through the subject property. Mr. Grossnickle then read into the record the minutes of May 19, 1965 which approved the preliminary plat submitted by Dave Beeson of Tract 54 of Pruneland which stated as a condition of approval that N.E. 20th be left open for future extension of the street. Mr. Grossnickle stated the subject property consists of 8 lots and 8 homes, all of which are small lots except for the Stricklins (approx. 9 acres). None of these lots can conduct an economical farming unit except the Stricklins. For a small farm to purchase the necessary water equipment and other equipment necessary to keep the farming practices in line with the soil requirements would be prohibitively expensive for a parcel of 5 acres or less. Prior commitments to

development of this land include the inclusion of this property in Canby's Urban Growth Boundary as set forth in the Comprehensive Plan, inclusion in C.R.A.G.'s urban growth boundary and the designation as residential in the Comp. Plan. This property is now surrounded on the south (Kraxberger annexation) and the east by the city. In considering other areas in Canby that might be able to annex, Mr. Grossnickle made a phone survey of those property owners around the area of 1045 N.E. Territorial (1977 annexation by Funnell) and found there was no way additional land in that area could be annexed as the majority of the surrounding property owners did not favor annexation. Mr. Grossnickle pointed out that the Citizen's Advisory Committee in Canby was planning to include the subject area in the new urban growth boundary and felt that the recommendation would be significantly undercut if this annexation were denied. Mr. Grossnickle then addressed the water shortage problem. Due to the recent heat wave, Mr. Grossnickle posed the question of whether the water shortages are the result of poor planning or the result of extreme weather conditions. Mr. Grossnickle stated with the recent water bond measure passing, water improvements to the subject property would be occurring just about the time the property would be developed. He felt it would be perfect for their situation. Virgil Skyles (proponent), part owner of Lindsay Soft Water Co. property, stated that at least six times the owners of the Lindsay property tried unsuccessfully to get farmers in the area to rent the property for farming purposes. For ten years previous to Lindsay Soft Water Co. buying the property, no crops were grown there. He stated these parcels were too small to farm. Helen Stricklin (proponent) owner of the 9 acre parcel, stated that 10 years ago they rented a portion of their land to a local dahlia grower but one portion he stated wasn't good land. The next renter also stated the southeast portion was not good soil for raising onions. Ms. Stricklin stated she was not an expert on soils but felt if other farmers had stated that portions were not good, that it would not be suitable for tree farming either. She stated that would leave approximately 5 acres that was suitable for farming. She stated only two firms had approached her to buy land to farm. Weyerhaeuser had approached her about a portion of her land if they could get the Montecucco's to sell a portion of their land also. The Montecucco's were not interested. About a year ago, Sadie Stricklin approached Industrial Forestry Assoc. about raising seedlings on the property and they discouraged her from doing it as they stated it would take about 15 years to really get into it. Ms. Stricklin agreed with Mr. Grossnickle's report on the excessive drainage of this soil and need for extra irrigation. Ms. Stricklin stated her mother spends four to five days each week during the summer watering the 1 acre she currently farms. Ms. Stricklin stated she is not interested in developing her property at this time as she is single and working and it would put her into a higher tax bracket. Arbie G. Irwin (proponent) 2236 N. Locust, was not opposed to this annexation and stated that three of the four corners (corners of N. Locust and N.E. 22nd) already have homes on them. Since there were no more proponents, Acting Chairman Reif closed that portion of the hearing. Mr. Wallace Carey of Industrial Forestry Association (neither a proponent nor opponent) spoke next to offer information only. Mr. Carey stated that Industrial Forestry Assoc. was a tree farm, not a nursery and that they do not operate as a

tax write-off. They operate on a type of Hillsboro Variant soil called "Sifton Sand". They are able to harvest trees on this soil in the middle of winter because of the tremendous drainage. They also have a good labor market in this area. He stated there are uses for this soil. There is a long term commitment to use this soil for tree farming. He handed out a brochure about tree farming which was made a part of the record. Toby Tyler (opponent, of 680 N.E. 20th Avenue) stated the applicant did not present proof that this area could be adequately serviced by utilities. Mr. Tyler felt all statements made so far had been rather negative in that respect. He felt the other point that should have been addressed more thoroughly was the question of "need". He felt one broker's letter was not sufficient in proving there was actually a need. Mr. Tyler did not feel the applicant had proven the "need" for this particular annexation. Dana Tyler (opponent, of 680 N.E. 20th) felt the school impact issue hadn't been addressed. She felt if 80 families had to be provided for, there would be an impact. She also felt there were already areas of Canby inside the city limits that had not been developed. She further stated that Canby had suffered water shortages in the past and it was not always during the hot weather. She also felt that Industrial Forestry Association was a good, clean industry and felt this might be considered for this area. Roy Renoud (opponent) stated he felt Mr. Grossnickle had not dealt with all the statements in Mr. Dan Lowrie's letter regarding the soil issue. Mr. Renoud also stated that the people living in Canby know what the water situation is like and until we have sufficient water, we cannot deal with this annexation. He also disagreed with Dave Anderson's letter. He felt there was more than 3 dozen lots available in Canby considering all the recently annexed land. He felt more information was needed as to the availability of services to the area. Marilyn Perkett (opponent) stated with the proposed developments of Ron Tatone, Dick Morse, Kraxberger and Driggers and Willamette Green #2, there will be a lot of new housing in this area. Ms. Perkett also stated she had been given a verbal figure of 8% per year growth in Canby, asking "How long can the City keep up with this?" Leo Garre (2512 N. Holly, opponent) farms approximately 13½ acres of Hillsboro Variant, grows 18 different crops and harvests about two crops a year. In the near future, there will be a water system produced for farming that will irrigate at the rate of 15 gallons an acre. When the profit margin increases in this area, this system will become economically feasible. Mr. Garre stated his farm supports six people quite reasonably and also stated he was looking for more available land in the area. Mr. Garre stated he knew of at least 15 other farmers in the area who were also looking for more land. He also stated he could plant early (Jan.) and harvest late on this land due to the ease of getting in and out of the fields with his equipment. Lovelle Lack of Industrial Forestry Assoc. (opponent) stated Industrial Forestry Association had been several different places looking for land. Their Toledo nursery is located on a floodplain. Mr. Lack stated their Canby nursery had the best nursery soil for tree farming in the United States. The trees do not get root rot like they do in other soils. The land is valuable not only because it is ideal for tree farming but also due to the number of people employed from this area in the tree farming industry. Canby has the title of being the "Garden Spot of America" because things grow so easily in this area. Ferne Krueger

(opponent) stated she had nothing to add to the testimony already given. Gordon Ross of 2442 N. Locust (opponent) stated he was a local realtor. He agreed with other realtors in the area stating there was a need for more housing. Mr. Ross stated the question was, "Is this the best place to put houses?" Mr. Ross stated he felt that testimony given tonight had established that this soil was unique in its ability to grow crops. Mr. Ross felt land to the south and southeast should be annexed in first before going to the north of town. He stated the only reason the Hillsboro Variant soil is in a Class II soil is it needs more water. He stated this soil is capable of producing from \$3,000 to \$7,000 per acre. He stated the Amato property to the south could be developed right now. Mr. Birkemeier had mentioned the possibility of annexing and he has approximately 40 acres to the south of town. Mr. Ross stated there was in the neighborhood of 60 lots now inside the city limits that had not yet been built on, not including the undeveloped properties inside the city limits. Mr. Ross felt the real issue on this annexation is the agricultural issue. Mr. Ross stated the agriculture issue had not been adequately addressed on the Kraxberger/ Driggers annexation. However, he felt the testimony given tonight was excellent and he wanted to see the soil and agriculture issue answered once and for all. Acting Chairman Reif closed the testimony of the opponents and gave the proponents a short rebuttal. Mr. Grossnickle stated there were 8 parcels involved in this annexation request. Those individual parcels are much too small to support a farming operation. Also, the annexation of these parcels would not mean the end of the Hillsboro Variant soil in Canby, only of this 25.6 acres. Acting Chairman Reif then closed the public hearing and called for a 5 minute recess.

The meeting was reconvened at 9:40 p.m.

After calling the meeting back to order, Acting Chairman Reif asked the city planner if he had anything to add to his report. City Planner Lashbrook stated if there were any questions on the L.C.D.C. "Exceptions" process (if the annexation is approved) he would be glad to answer them. He also stated that he felt the testimony given at this hearing was very well researched and presented. Commissioner Kahut asked the applicant if he would be willing to hold up on any building permits until 1981. Mr. Grossnickle stated that was correct on the Lindsay Soft Water Co. property and the Stricklin property. He had not talked with Mr. DiTommaso or the Fawvers. Commissioner Kahut asked the City Attorney if the city could legally ask Mr. Grossnickle to hold up on developing the property. Mr. Reif stated he thought it would be legal in terms of putting it into an ordinance but did not think it would meet the goals of "Fasano" and L.C.D.C. because they speak of "present need" and "buildable lots for development". In that case, it would make more sense to look at this annexation in 1981. Commissioner Edgerton then asked if Commissioner Kahut's question were made a part of the annexation recommendation, what would happen to a smaller annexation? Could that developer build prior to 1981? Acting Chairman Reif felt this was a question the Planning Commission would have to decide. Commissioner Edgerton then addressed a question to Mr. Egger of the Canby Utility Board by asking if the present water bond was for improvement of the water circulation system within

the city. Mr. Egger stated it was for improving circulation and also to lay more pipeline along the perimeter of the city limits. Mr. Egger stated the new system should double the water capacity the city now has. Commissioner Hart stated in computing the number of vacant houses and lots already available in Canby plus the areas already inside the city limits but not yet developed, he comes up with approximately 250 lots or houses already in existence. Commissioner Hart did not feel this annexation was necessary based on the housing need. Mr. Grossnickle stated he was basing his answer on the fact that at the May 2, 1979 City Council hearing on the Kraxberger/Driggers annexation, one of the statements made by the City Council was there was "a pressing need for additional housing" in Canby. Commissioner Schwartz asked Mr. Egger whether the problems of inadequate and "bad" water in the area of the golf course had now been solved. Mr. Egger stated the mains in that area still periodically have to be flushed and the water pressure isn't as high as the residents would like. Commissioner Kahut felt one of the reasons there were homes sitting vacant in Canby was due to the high interest rates. He felt the housing market was just beginning to stabilize and that prices were starting to come down. He felt this was due in part to the theory of "supply and demand". When there are more lots than people to buy them, the price comes down. He felt that this particular property with eight small parcels, with city services on two sides, was the most logical piece to annex in. Since this land is not being farmed and hasn't been for several years, it would be more logical to bring this piece in than to bring Mr. Birkemeier's filbert orchard in which he is still farming. If this land is so valuable for farming, why isn't someone farming it? *Commissioner Edgerton moved to recommend denial of the application for the proposed annexation due to: 1) The testimony shows the use of the land has high agricultural characteristics and was better testimony than was presented on the Kraxberger/Driggers annexation; and 2) The applicant has not met his burden of proof that there is a pressing need for additional housing within the City of Canby. The motion was seconded by Commissioner Davis. Commissioner Davis stated she felt the issue was a "matter of timing". At some point in the future, this proposed annexation may be approved. The need could not be proven at this time. Commissioner Kahut stated the agricultural goal was addressed at the Kraxberger/Driggers hearing and he felt the agricultural goal was considered at that hearing. Commissioner Edgerton felt the Canby Utility Board should have a "breathing spell" in order to get their system caught up. Question was called and a roll call vote was taken. Commissioners Edgerton, Davis, Hart and Cutsforth voted for the motion. Commissioner Kahut voted against the motion. Commissioner Schwartz abstained due to the fact he had missed the previous public hearing on this item. The motion carried by a vote of four to one. The Planning Commission will recommend to the City Council that the Grossnickle Annexation be denied. Acting Chairman Reif advised the audience that this is just a recommendation and is not binding upon the City Council and suggested all proponents and opponents attend the City Council hearing on this item.

A brief recess was called.

The meeting reconvened at 10:07 p.m.

Item #2: Request for a Variance to reduce side yard setback so furthestmost projection on side of dwelling approaches no closer than 8'6" to property line; therefore new structure projection will match appearance of existing house. The property is located south of S.W. Sixth Avenue and east of S. Fir Street at 680 S. Fir Street and described as Tax Lot 4600, Section 4AB, T4S, R1E. The applicants are Lance and Janis Holmberg. City Planner Lashbrook gave his presentation and recommended approval noting that the encroachment would only be 1½ feet into a ten foot required setback, and adopting the following findings of fact: A) The application conforms with the adopted City Plan, B) The application complies with all applicable Statewide Planning Goals, C) Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control (i.e., the existing shape and design of the house), D) The variance is necessary for the preservation of a property right of the applicant substantially the same as is possessed by owners of other property in the same zone or vicinity, E) The authorization of the variance will not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any city development plan or policy, and F) The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship. City Planner Lashbrook showed the Commission a print of the proposed addition showing the new overhang to be directly above the existing overhang on the present garage. Chairman Ross stated the old ordinance used to require the setback to measure from the foundation wall. Mr. Lance Holmberg (applicant) stated that by maintaining the same overhang, they would retain the integrity of the roofline and appearance of the house. Dave Bury (opponent) was against the variance and felt the architect should be able to work around this problem. Janis Holmberg (applicant/proponent) stated the variance requested is the same overhang already existing but that overhang would be moved directly above the garage by approximately 10 feet. City Planner Lashbrook stated the staff has routinely allowed repairs to replace an existing roofline. *Commissioner Edgerton moved to approve the variance request due to the fact when the home was built, the setback was measured from the foundation wall and would not set a precedent for new home construction. The motion was seconded by Commissioner Schwartz. The city planners findings of fact were adopted as a part of the motion by the maker of the motion and the second concurred. Question was called and the motion passed unanimously.

Item #3: An Amendment to Ordinance No. 659, if approved by the Canby City Council on August 1, 1979. The purpose of the proposed amendment is to enact a Planned Unit Development overlay zone. *Commissioner Hart moved to recommend to the City Council the adoption of the P.U.D. overlay zone. The motion was seconded by Commissioner Cutsforth. Question was called and passed unanimously.

Item #4: Amendments to Ordinance No. 443, the City Subdivision Ordinance which would: a) Provide a procedure and establish requirements for condominium development and approval; and b) Establish a fee schedule for minor land partitions, subdivision applications, condominiums, and appeal from Planning Commission decisions to City Council. City Planner Lashbrook advised the

Commission to make the following changes in their draft copies: Page 2, Item G - remove period at the end of the sentence and add "and the easements provided therefore". Page 2, item 2 (UTILITIES) - remove the first five words of the second sentence. On Page 3, Mr. Lashbrook stated the 20% - 80% figures the Commission came up with on conversions might cause some problems as Canby is already at the 20% level on multiple family rental units. Discussion followed on the number of condominiums now available in Canby and whether a ratio figure for conversions was even necessary. Mr. Lashbrook suggested using a number figure (such as 500) rather than a percent figure in reference to units wishing to convert. Chairman Ross stated we weren't trying to do away with condominiums, only limit the number of apartments converting to condo's. Commissioner Davis asked whether Canby could choose not to allow conversions of apartments to condominiums. Chairman Ross thought that possibly by allowing apartments to convert, they could be upgraded through the conversion process. Discussion followed on the manner the City would use to enforce the ratio figure. Chairman Ross stated that it is now more economically feasible for developers to build condo's than apartments, not only because of the price of land but because condo's are easier to finance. Chairman Ross stated if no figures on conversions were provided in the ordinance, probably 50% of the existing apartment owners would be requesting conversions. Discussion followed on what percentage or numerical figure would be a good starting point on conversions. Chairman Ross stated he hated to see apartments converted to condo's since they weren't built for conversion to begin with. He felt a census of multi-family units in Canby should be taken, platted on a map, and a pre-determined number of conversions per year arrived at and maintained. Commissioner Edgerton asked the city planner what regulations a developer now has to meet to build a condo. Mr. Lashbrook stated Canby has no condominium ordinances at this time. The developer only has to abide by those City regulations governing multi-family zones and meet State requirements. Chairman Ross stated he felt condo's should come under the jurisdiction of a planned unit development so open space, recreation, etc., would be built into the plan. It was the concensus of the Commission members to have the Planning Commission recommend to the city planner that the proposed condominium ordinance be re-written to have condominiums built as a planned unit development and also to eliminate apartment conversions to condo's. Chairman Ross directed the city planner to draft a planned unit development ordinance adopting condominium developments as a part of that ordinance and ruling out conversions. This item was scheduled as a public hearing for the first meeting in September.

The meeting was adjourned at 11:00 p.m.

This meeting has been recorded on tape.

Respectfully submitted,


Virginia J. Shirley, Secretary by mp
Canby Planning Commission