

Canby Planning Commission
Regular Meeting
September 12, 1979

MEMBERS PRESENT: Chairman Ross, Commissioners Edgerton, Kahut, Davis and Hart

MEMBERS ABSENT: Commissioners Cutsforth and Schwartz

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Public Works Director Ken Ferguson, Ralph Hulbert, Dave Bury, William Hinckley, Earl Oliver, Charles Driggers and Carolee Morse

Item #1: Request for a Zone Change from R-2 (Multiple-Family Residential) to C-2 (Highway Commercial). The property is located north of S.E. 2nd Avenue and west of S. Locust Street and described as Tax Lots 1900, 2000, 2100, 2200, and 2300, Section 33DC, T3S, R1E. The applicants are William and Margaret Hinckley and Earl Oliver. City Planner Lashbrook gave his presentation and had no recommendation at this time. He stated the Commission should try to answer the following questions: Goal 9 - Will the change have a beneficial impact on the local economy? Goal 10 - Will the change have an adverse impact on the availability of local housing which is greater than any benefits which might be derived from the project? Goal 11 - Are public facilities and services adequate to meet the anticipated needs of the property if the zoning is changed? Goal 12 - Are there transportation benefits to the community overall if the zoning is changed? Commissioner Kahut asked whether the evidence from another recent Zone Change on N. Elm Street (McIntosh Zone Change) should have been included in the Planning Commission packets for referral purposes? Mr. Lashbrook stated he could provide this information but that it was the responsibility of the applicant to answer the question of "public need" on this application. City Attorney Reif stated the problem with using previous findings is one of administrative records. Each piece of land is considered unique in legal terms. Possibly some of the evidence in another case would be applicable but the burden of presenting that information would be on the applicant to bring it to the attention of the Commission. Chairman Ross explained the procedures of the public hearing to the audience and called on the proponents to speak. Earl Oliver (applicant) stated there was not a definite use for the property at this time. He stated the applicants' fears were that if they built an apartment complex in this block as it is zoned now, the rest of the block would be unavailable for commercial development. Canby's Interim General Plan shows this area as commercial. There are very few residences in this half block area now so there would be virtually no effect on housing. Public services are adequate for either multiple-family or commercial development. Chairman Ross explained to Mr. Oliver the most important item to address at this time was the "need best met" question. Why should this property be zoned commercial over any other property that could be zoned commercial? Mr. Oliver stated the location of this property in relation to other commercial property and its proximity to the highway (99E) made it feasible to change the zone. Since the highway now has "no parking" on it, and the setback requirements are 40 feet, there is not much space left. Commissioner Edgerton asked if there was a "public need" for this property to conform to the Comprehensive Plan? Mr. Oliver felt

there was a much greater need for this area to be zoned commercial (whether it was for businesses or offices) than for any type of residences. Commissioner Edgerton asked whether Mr. Hinckley and Mr. Oliver had sole control over the property in question. Mr. Oliver stated both he and the other applicant had highway frontage. William Hinckley (applicant) stated there was a big need for this zone change due to the fact there is no longer any parking on the highway. Some of the older buildings on S.E. Second have a very low assessed valuation. If a new office complex were built, there would be a much higher tax assessment, more employment and more businesses. Commissioner Kahut asked if one or both of the applicants owned all of the lots included in the zone change request. The applicants answered they did. Mr. Hinckley stated the need for more parking for the businesses on 99E was a major factor in this zone change request. Chairman Ross then asked the opponents to speak. Dave Bury stated he would prefer the zone change to be classified C-1 instead of C-2 due to foot traffic in the area. Chairman Ross stated the only problem with that was that the highway commercial zone (C-2) was established for automotive traffic (Highway 99E) and the C-1 zone was set for the interior of the city away from the main flow of traffic. Mr. Bury felt the C-1 zone would be better suited for the residences on S.E. 2nd Avenue. Chairman Ross stated he felt it would be hard to get businesses to occupy the zone when the remainder of the light commercial zone is across town. Chairman Ross asked for any further opponents and there being none, he closed the public hearing. Commissioner Kahut asked what C-2 property was still available in Canby. Chairman Ross stated the only other C-2 lot available was on the east side of the Union 76 storage depot on 99E. Everything on the west side of the depot is zoned Industrial. Commissioner Hart did not feel apartments would be appropriate on the subject property due to the fact they would be in such close proximity to Highway 99E. Commissioner Edgerton asked whether C-1 uses could be used in a C-2 zone and whether apartments could still be built in a C-2 zone. Chairman Ross stated both could be done but it would be unlikely that apartments would be built due to the price of the property. Commissioner Edgerton also asked City Attorney Reif if the applicant could give verbal testimony rather than written in addressing the questions posed by the city planner. City Attorney Reif stated that verbal testimony is just as good as written testimony if the questions are answered to the satisfaction of the Commission. City Planner Lashbrook instructed the Commission that the new zoning ordinance would allow them to put conditions on a zone change. City Attorney Reif stated the new zoning ordinance would not allow private residences (except pre-existing homes) in a C-2 zone unless it was in connection with a business. *Commissioner Edgerton moved to recommend approval of the zone change to the City Council due to the following findings of fact: 1) There is a public need for more C-2 property in Canby because of the shortage of undeveloped C-2 property, and 2) The applicant has addressed the four goals requested by the city planner as follows: Goal 9 - No impact at the present time; Goal 10 - No adverse impact on available local housing; Goal 11 - Easily met because public facilities and services are already available; and Goal 12 - There will be transportation benefits as the zone change will allow for adequate off-street parking for the existing businesses. The motion was seconded by Commissioner Kahut. Commissioner Kahut felt the "need best met" issue should be

emphasized in that Canby does have a shortage in highway commercial property. Chairman Ross also addressed the "need best met" issue by stating that due to the highway (99E) and the Southern Pacific property, there is very little C-2 developable property available for highway business. Commissioner Kahut stated the adjoining half block presently zoned C-2 has very little available parking due to the setback requirements and also that there wouldn't be any adverse effects on the surrounding housing due to this zone change as most of the housing is apartments. The question was called and the motion passed unanimously.

Item #2: Request for a Zone Change from R-20 (County Zoning) to R-1 (City Zoning) on recent annexation of property to the City which must conform to city zoning. The property is located east of N. Locust Street and north of N.E. Territorial Road and described as Tax Lot 900, Section 28DC, T3S, R1E. The applicant is Rufus Kraxberger. City Planner Lashbrook gave his presentation and recommended approval adopting the following findings of fact: A) There is a public need for the change in order to allow the property to be developed to conventional City single family development standards; B) The public need is best met through this particular change; C) The change conforms with the City's Interim General Plan; and D) The change complies with the applicable Statewide Planning Goals (Goal #3 no longer being applicable because of the annexation). Charles Driggers (representing the applicant) stated this was strictly a formality in changing the zoning from a county to a city designation. Chairman Ross then called on any opponents and there being none, the public hearing was closed. Commissioner Edgerton asked about the jurisdiction of Territorial Road and whether curbing would be required when the property was subdivided. Public Works Director Ken Ferguson stated that Territorial Road would still be under the jurisdiction of the county even though it would be inside the city and that curbing would be required when the property was developed. *Commissioner Edgerton moved to recommend approval of the zone change adopting the findings of fact stated in the Kraxberger/Driggers Annexation Hearing of February 28, 1979 and the current findings of fact as presented by the city planner. The motion was seconded by Commissioner Hart. Commissioner Kahut requested clarification of the motion. City Attorney Reif suggested adopting the findings of fact established by the Planning Commission at the February meeting. Chairman Ross requested the maker of the motion and the second to withdraw the motion. *Commissioner Kahut moved to recommend to the City Council approval of the zone change using the findings of fact of the Planning Commission meeting of February 28, 1979 and subject to the following findings of fact: A) That there is a public need for the change in order to allow the property to be developed to conventional City single family development standards; B) The public need is best met through this particular change; C) The change conforms with the City's Interim General Plan; D) The change complies with the applicable Statewide Planning Goals (Goal #3 no longer being applicable because of the annexation); and E) The zone change is necessary so the property will conform with city zoning. (Letter stating findings of fact on annexation as submitted by Attorney Jon Henricksen attached). The motion was seconded by Commissioner Hart. Question was called and the motion passed unanimously.

Item #3: 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 discussed briefly some of the condominium ordinance requirements of other cities and reviewed the procedures taken in drafting the current proposed ordinance. Chairman Ross asked why a filing fee was necessary on a subdivision when the developer is already required to pay 3% of the total development cost to the City in the form of a development fee. City Planner Lashbrook stated the development fee is basically for inspection of the project, and the application fee would be to cover the cost leading to the Planning Commission Hearing (typing, duplicating, staff reports, etc.). Discussion followed on the merits and/or drawbacks of having both a development fee and an application fee for subdivisions. No set conclusion was reached through the discussion and the application fee was left in the draft. The Commission members requested the city planner add a new Item 12 to the General Requirements to read as follows: 12. The Planning Commission may require proof that any units proposed for conversion to Condominium ownership meet all code requirements applied to new construction of multiple family dwellings. Commission members asked what guidelines were used to establish the four requirements listed for a condominium development. City Attorney Reif explained the first two items were added to address Goal #10 regarding Housing Needs. The second two items were added to have a guideline for design capabilities. Chairman Ross opened the public hearing. Dave Bury (proponent) stated he would like the street requirements read aloud. Public Works Director Ferguson stated code requirements for city streets would have to be met. Chairman Ross stated this ordinance was designed to protect both the city and the potential buyer. This ordinance will be recommended to the City Council who will also hold a public hearing on the item. Two to three consecutive hearings, called readings, will be held after the City Council hearing before the proposed ordinance would go into effect. Chairman Ross called for any further proponents or opponents. There being none, the public hearing was closed. *Commissioner Kahut moved to recommend to the City Council adoption of an ordinance amending Ordinance No. 443 as amended, providing a procedure for the review of condominium proposals, amending the requirements for Planned Unit Developments, modifying the access requirements, establishing a fee schedule for various applications, and declaring an emergency; and adding Item #12 to the General Requirements as follows: #12 - The Planning Commission shall require proof that any units proposed for conversion to condominium ownership meet all code requirements applied to new construction of multiple family dwellings; and to renumber the present Item #12 to Item #13. The motion was seconded by Commissioner Edgerton. Question was called and passed unanimously.

City Attorney Reif read an Order on the Grossnickle Annexation reflecting the findings of fact of the Planning Commission meeting of August 8, 1979. Before the Order was passed, Commissioner Edgerton requested that the minutes of the Planning Commission meeting of August 8, 1979 be corrected to show the motion as follows: *Commissioner Edgerton moved to recommend denial of the application for the proposed annexation

based on the following findings of fact: 1) The land is unique for certain agricultural purposes such as raising of seedling fir trees and specialty crops. The testimony and evidence submitted to the Planning Commission on this subject was superior to that evidence presented at the Kraxberger/Driggers annexation; 2) The applicant has not met his burden of proof that there is a present pressing need for housing which would justify annexing this unique parcel of property to the City of Canby; 3) The proposed annexation is not timely; and 4) There is a need to coordinate and develop the existing utilities system to serve the existing residents and committed developments within the City of Canby. After correction of the motion on the Grossnickle Annexation, the minutes of August 8, 1979 were approved. After reading of the Order, *Commissioner Edgerton moved to adopt the Order as presented and authorize the Planning Commission Chairman to sign it. The motion was seconded by Commissioner Hart. Question was called and passed with Commissioners Hart, Davis and Edgerton voting for and Commissioner Kahut voting against. Chairman Ross did not vote due to a conflict of interest.

City Planner Lashbrook notified the Planning Commission of the upcoming City Council joint meeting on September 17, 1979, which would be reviewing the suggestions of the Citizen Advisory Committee on development of the Comprehensive Plan. Mr. Lashbrook urged all Commission members to attend if possible.

Mr. Lashbrook explained to the Commission that John Stewart, owner of Bo's Wash 'N' Dry had asked if he could plant shrubs along the 12 foot access strip along the side of his car wash. It was the concensus of the Planning Commission that since the ordinance required 12 feet of paving as an access strip, that no shrubs should be allowed.

Public Works Director Ferguson explained to the Planning Commission that a local developer had received approval of his construction plans and had proceeded to partially develop his subdivision without signing a subdivision agreement. He had already put in his curbing which now does not align with the development of the rest of the street. Mr. Ferguson felt the subdivision ordinance should be changed to prevent any developer from starting construction until he has signed the subdivision agreement. It was the concensus of the Planning Commission that on future subdivision hearings, one of the conditions of approval would be that no construction could take place prior to the developer signing the subdivision agreement and payment of the development fee.

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

This meeting has been recorded on tape.

Respectfully submitted,


Virginia J. Shirley, Secretary
Canby Planning Commission