

Canby Planning Commission
Regular Meeting
January 23, 1980

MEMBERS PRESENT: Vice-Chairman Kahut, Commissioners MacKenzie, Baller, Cutsforth, and Sowles

MEMBERS ABSENT: Commissioners Hart and Davis

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Marlin DeHaas, Charles Landskroner, Dave Bury, John Brosy, Dave Amato, Frank Amato, Eric Longstreet, Walter Schmeiser, Lynn Robinson, Steve Thieus, Dwight Nofziger, Myra Weston, Mr. & Mrs. Osmer, Dick Nichols, and Earl Oliver.

The meeting was called to order at 8:04 p.m. Vice Chairman Kahut was elected Chairman, and Gary Sowles was elected Vice-Chairman on unanimous votes. Chairman Kahut postponed approval of the minutes of the meeting of December 12, 1979, as only three members were present from the December 12, 1979 meeting to February 13, 1980.

Item #1: Request for an annexation of approximately 16.59 acres located along the South side of S.W. 13th Avenue directly across from the termination of S. Elm Street and described as Tax lots 400, 500, and 600 Section 43, T4S R1E. The applicant is Estate Eight Development Company represented by Marlin DeHaas. City Planner Lashbrook gave his presentation and recommended denial of the application based upon the findings: A) The applicant has not proven that there is a sufficient public need for the annexation of this property at this time. B) The exception to Statewide Planning Goal #3 (Agricultural Lands) has not been justified, particularly the public need criteria implied in the Goal exception explanation of "why these other (non-agricultural) uses should be provided for?" Mr. Marlin DeHaas (proponent) consulting engineer from Lake Oswego, 1500 Boones Ferry Road, presented a letter to the Board which authorizes Peter Boyle to sign the annexation. Mr. DeHaas, in reviewing his staff report did not see all the exhibits that he had included with his report. Chairman Kahut stated that in the best interest of the applicant in proposing this annexation it would be better for everybody to have copies of this information for review. Chairman Kahut explained that the commission would take the testimony at this meeting and make the decision at the next regular Planning Commission meeting, February 13, 1980. Mr. DeHaas indicated that they had been involved in this project since July of 1977, and mentioned that they had had a number of meetings with the staff, and other people trying to understand the annexation process here in Canby. Mr. DeHaas felt that access was good since 13th avenue had been improved recently, with curbs on one side but not on the side of their proposed development. Public services, schools, police, fire protection, sanitary sewer lines are immediately available on S.W. 13th Avenue. Water appears to be the number one issue. Mr. DeHaas expressed the feeling that last year, as far as a water year, was an extreme year and that you don't always have the same use one year as you do another. Mr. DeHaas was concerned about Canby "waving a flag" and calling a moratorium when we are not in that bad of a situation as far as water is concerned. Mr. DeHaas referred to a newspaper article at a time when we were having water problems and he read, "If you are worried about losing your lawn because of water shortages, there is good news for you, the Canby Utility Board is not placing any sprinkling or odd-even restrictions on City water users. The Canby Utility Board Manager, Fred Egger said that he believes Canby is in better shape for water than other communities." Mr. DeHaas felt that we do not have a water problem that we are in good shape.

Mr. DeHaas felt it would be better to have more users and to use the available water that we have, to sell it to produce revenue to build either a sinking fund or a whole new water treatment plant, or a pledge for paying off the bond issue. Mr. DeHaas stated that the property involved is within the Urban Service Boundary that we are planning. Mr. DeHaas felt that they were in conformance with the City's Adopted Plan, that they complied with the Statewide Planning Goals, that there is a public need for additional property. Mr. DeHaas stated it might take two or three years to build the development, and by that time all the necessary water lines, sewage, and electrical facilities would be adequate to meet their needs for the development.

Commissioner Baller stated the property is presently zoned R-20, which is a County 20,000 square feet minimum or approximately $\frac{1}{2}$ acre, and the proposal is to have this annexed into the City to make it into minimum lots of 10,000 square feet to 7,000 square feet. Mr. DeHaas was asked how many units are planned and he stated approximately sixty. Mr. DeHaas was asked if a plan was proposed for this portion of land, and he stated they had not drawn a subdivision configuration. Commissioner Sowles asked, "Do we have a moratorium?" Lashbrook stated "no," that the City would probably allow annexation of small parcels of land. Chairman Kahut asked for names of principals involved. Mr. DeHaas named members of Estate Eight as Mr. Jerald Ratts, Mr. Charles Landscroner, Mr. Larry Harrison, Mr. Allen Klutz, Mr. William Gary, Mr. Peter Doyle, Mr. Gordon Betts, Mr. Dennis Reese, Mr. Jerry Harris, and Mr. Robert Deering. Chairman asked any other proponents of the application to please step forward. Mr. Charles Landskroner, one of the principals, stated for the record that he was one of the proponents, and he endorsed the comments of Mr. DeHaas, if there were any questions that he would answer them to the best of his ability. He stated that they were looking to be a responsible developer in this community and would do whatever is necessary. There being no questions, the Chairman called for those who were in opposition to please step forward. Dave Bury, 360 S. Township, felt it was too early to be talking about annexation outside the Urban Growth Boundary that we have now because Council has not approved the Comp Plan. The Road was one of the biggest issues to him. The water and electrical power is an issue. Chairman Kahut called for anyone else in opposition. Denny Barhan, 1625 S. Elm stated that there was a definite road problem, also mentioned homes in that area that the Real Estate Companies were having a hard time selling. Chairman called for other opponents, and Dave Bury stood and stated the housing problem another big issue because there is already Mr. Dack's property that has not been developed and there are 16 or 17 acres there and Amato property, and there are quite a few acres there that can be developed and he felt that before you look at an annexation you have to look at what you already have. Chairman called for more opposition, Merle Holstein, 458 S.E. 13th mentioned lift station for the sewage, felt that was not the only problem. From what he understood the City is studying requirements for a new plant and the present plant is not making permit standards. Also mentioned that it is better to have the water sitting there than to not have the extra water in case of a crisis. Chairman called for anyone else in opposition. Hershall Walls representing Nathan Walls of 787 S. Ivy who is unable to be here because of sickness, not opposed to development but questions several parcels in that area which adjoins it which have not been developed because of the nearness of them yet they are very deep and due to the

fact that the roadways which are required right now to go to the back of these properties that are already there which is annexed into the City it is impossible to develop that area and was wondering if this would open up that area and make roadways where it would not contest this area but open it up so it could be developed. Chairman Kahut stated that probably would happen, but it would be very hard to tell until the application actually comes in for a subdivision. At that time the Commissioners would look at all the parcels in the adjacent areas to make sure that they would be serviced. Chairman Kahut called for anyone else in opposition. There being none the Chairman addressed Marlin DeHaas for any other rebuttal comments that he might have or any rebuttal on anything that had been said. Marlin DeHaas stated that he did not.

Chairman Kahut stated that Mr. DeHaas in his testimony expressed his concern for the "red flags" coming up and being waved, and this is the biggest concern of the City and this Commission. The Commission would rather turn down an annexation now than go ahead and put their utilities in and then be denied a building permit due to a moratorium on water. The public hearing was closed. Attorney for the City, Roger Reif recommended that if they did not feel comfortable about making a decision without seeing the other exhibits, that copies of the exhibits would be made and distributed to them for review before the next meeting. A decision should be made tonight whether the next meeting is going to be a continuation for public testimony or whether it is going to be continued only for discussion and a decision on the matter. Chairman Kahut recommended continuation of the hearing at the next meeting with the matter being open for public testimony. City Attorney Reif stated the Board should consider this application on its own merits. *Commissioner MacKenzie moved to continue the public hearing until February 13, 1980. The motion was seconded by Commissioner Sowles and passed unanimously.

Item #2 The applicants propose to amend the Interim General Plan Land Use designation of approximately 9 acres from the present "Low Density" residential to "Medium Density" residential. The applicants have also requested a zone change from R-1 (Low Density) to R-2 (Medium Density) residential for the same property. The subject property is located South of Township Road, approximately 500 feet East of S. Ivy Street. The subject property is presently zoned R-1. Property to the North, across Township Road, is zoned R-2. To the Southwest is a small area zoned C-2 (Highway Commercial). City Planner Lashbrook gave his presentation and recommended approval of both the plan amendment and the zone change. It is recognized that this recommendation is based largely upon the applicant's willingness to undertake the development in phases, within the public service constraints of the City, and upon the other restrictions upon the development which have been voluntarily offered by the applicants, and also that A) the proposal conforms with other portions of the Comprehensive Plan which will not be amended by this action, and with the Plans and Programs of other affected agencies or Local Districts. B) There is a public need for the proposed change. C) The public need is best served through this particular change, when compared to other available property. D) The change will preserve and protect the health, safety, and general welfare of the residents of the area. E) The proposal complies with applicable Statewide Planning Goals. Chairman Kahut asked if there were any questions of the Planner. Commissioner Baller questioned if this piece of property, the way it is so located in this Division, would block off access to the other properties in the back which it borders? Stephan, "part of my point," "it could if it was subdivided," Commissioner Baller, "That's the way it looks like it is to be divided, there is no road access." Stephan, "My point is we are not acting on that as a subdivision tonight." "If the City Council approves ultimately the final amendment in the zone change phase, the applicants will still have to come back before you and talk about subdivision design." Chairman Kahut, "At what point do we throw the Interim General Plan out?" Stephan, "When we adopt a new one." Chairman Kahut, "When is that projected to be finished?" Stephan, "My honest appraisal, it will probably be about mid-summer." Discussion followed whereby Commissioner Baller felt it would be better to postpone any type of decisions on zone changes, amendments, of any kind in the City until a complete Comprehensive Land Use Plan is finalized before the Board. Stephan agreed that it would be better, but pointed out that we cannot refuse to hear applications which have been legally filed. Chairman Kahut requested representatives for Amato Bros. Enterprises to come forward. John Brody 225 S.W. Harrison, Suite 4 Portland, Oregon. Brody understands that the nine acres is in good stead with the Citizens Advisory Committee recommendations to this point. Brody stated they would like to do some construction during 1981. He felt it was very important to get going on at least a portion of this phase this year. Brody stated they proposed to have a subdivision with individual lots and individual units from 3 plexes to 4 plexes, and 1 six plex on the lot. The intention is to have the ability to sell them in separate entities and also encourage in some instances the possibility of condominium ownerships, and also the possibility of owner occupied units.

To touch on the 14 State Planning Goals which are used in lieu of a State

approved Comprehensive Plan: One of the reasons for the zone change is the existence of the similar zoning in large quantities on the South end of town being zoned the same density. This would not be a spot zone, but an extension of the existing zone R-2 area. Brosy stated that a development of this size would eventually act to counterbalance some of the other developments which have primarily been occurring in the North end of town. Brosy stated that development would probably occur over a period of four to five years. Brosy stated they are in full agreement with the staff recommendations and have absolutely no qualms to any of the conditions. They would like to see Township Road improved paying their share of the improvements referring to the LID rules of cost appropriation. Brosy clarified the condition of separate sewer systems. With the condominium circumstance they would wish to separate building by building water and sewer utility hookups. Brosy felt that Canby had the market for their type of units. Briefly going over the Statewide Goals, Goal one and two have to do with citizen involvement and land use plan are pretty much City type goals, and they do not really pertain to their involvement. The Goal regarding agricultural lands is not directly related to their project because it is in the City limits and within the growth boundary. Brosy stated that the rest of the Amato property would be continuing in agriculture. Goal number five: There is nothing scenic or historic to keep. Goal number six: Air, water and land resources quality are available. They will be constructing their own storm sewer per City standards. Goal number seven: Natural disasters and hazards: this being a flat, stable piece of property, not near a flood plain or a stream. Goal number eight: Recreational needs: will be discussed as this development proceeds. Goal number nine: Economy of the State: This is not a commercial or industrial development so it is not really pertinent. Goal number ten, Housing: The nature of the upkeep and the individual units is such as not to involve a lot of City cost. Goal number eleven, Public facilities: They intend to pay their share of any future local improvements, and the existence of all facilities as mentioned in their presentation. Number twelve, Transportation: They feel it is beneficial in terms of transportation because it is a very central location. Number thirteen, Energy: Phasing is important, common walls save 30% heating costs, fireplaces in units. Number fourteen, Urbanization: Property is already annexed, facilities are basically in place, it balances the growth with more development on the South end of town. Regarding "Public Need" and "Need Best Met" they feel this is the property that is best suited, because of size and location.

Chairman Kahut asked for any questions of the applicant at this time, there being none, Chairman Kahut called for a five minute recess and meeting reconvened at 9:30 p.m.

Dave Amato 2517 N.E. 14th Portland, Oregon 97202. Commissioner Sowles asked Dave Amato if he planned to sell these lots on an individual basis or if he planned to develop them and sell the units. Amato stated their intent was to put in the streets, develop the lots in all of Phase I the first year, and to do their own building. Commissioner Sowles asked Dave Amato if the first phase would be completed the first year. Dave Amato stated they would be very pleased if they were able to start three or four buildings this 1980 season. Commissioner Sowles asked Dave Amato if there happened to be an LID down Township Road that might be on a square footage basis rather than linear footage

if that would be alright too. Dave Amato replied that this was a good faith situation.

Chairman asked for any other proponents, there being none Chairman Kahut asked for the opponents. Eric Longstreet 315 Township Road read a Petition to commissioners: A) The proposal conforms with other portions of the Comprehensive Plan which will not be amended by this action and with the plans and programs of other affected agencies of local districts. In speaking to representatives of the Canby Utility Board and Public Works Department of Canby, they found that although the agencies responded that their indeed would be adequate facilities available in the future, for the proposed plan, they in fact did not as yet have a viable plan setup for it. B) Canby's sewer capacity is now approximately at 75% according to the Department, and that the number of already developed lots in the immediate area do not have sewer hookups, and this is also true of the Canby Utility Board. C) Mr. Longstreet pointed out that there are Condominium units on the corner of Locust street and Township which are vacant and unsold with only one exception. Mr. Longstreet also pointed out the potential traffic problem on S. Ivy street and S.E. Township Road near the proposed zone change and development. Mr. Longstreet said a spokesman for the Canby Police Department, Brad Baker, reported that the amount of crime is definitely increased in a Multi-family dwelling area as opposed to a single family dwelling. In conclusion he hoped that a denial would be eminent and forthcoming on this matter, because the applicants have failed to demonstrate each of the above required findings in their request.

Chairman called for anyone else in opposition.

Walter Schmeiser 11715 Makin Lane, who owns property right across the street from the proposed development felt there was an overabundance of homes in the area at this time that are not sold. Mr. Schmeiser said he had seen apartment for rent signs out in this area. Mr. Schmeiser felt the condominiums and apartments had developed a slum area in this part of the City. He stated that Township Road could not handle anymore traffic.

Chairman called for anyone else in opposition.

Dave Bury 360 S. Township, has a problem with the LID, did not feel that all the people on Township Road should have to pay to improve the road conditions because of the complex going in there.

Chairman called for anyone else in opposition.

Lynn Robinson 375 Township Road, was concerned with the schools being already crowded.

Chairman called for anyone else in opposition.

Steve Thieus 490 Township Road, was concerned with the traffic problem and and the fact that there was no place for the children to play since there were no park facilities in the area.

Chairman called for anyone else in opposition.

Dwight Nofziger 415 S.E. Township was concerned about the traffic problem.

Chairman Kahut called for anyone else in opposition. There being none, Chairman Kahut asked Mr. Brody if he wanted to rebut anything that had been said. Mr. Brody felt it was not their responsibility to argue the virtue of single family over multi-family units. Mr. Brody stated that housing units should be affordable and there should be some kind of a logical mix. The point regarding location and facilities that sewer or water lines are available to the property or very close and the actual lines that would serve the individual lots be constructed once the full approval is met. Regarding the other 15 acre parcel, he did not feel it was fair to compare the two lots.

Dave Amato stated that vacant houses now are common, not because there is no demand for the housing, but because of the interest rates which are prohibiting people from buying homes. Dave Amato felt at this point they were not discussing LID. He also felt that the school issue would be a plus factor since they were talking about dividing houses at a little higher density than perhaps single family, closer to the existing schools than any other development in the immediate area.

Chairman Kahut closed the hearing to the Public.

Mr. Lashbrook explained that mixing the storm water and the sanitary sewer system was not really a problem in Canby, except in isolated cases. Mr. Lashbrook also explained that utility separations would include sewer and water lines for condominium units. The City Council has the authority to assess property in a local improvement district either on linear footage or square footage or a combination of the two. Commissioner Sowles questioned the new Comprehensive Plan, if this particular area in this development is in fact in the new plan to be modified to R-2. Mr. Lashbrook explained to him that if it were adopted today in its preliminary form that would be true. Chairman Kahut asked if it was proposed just to have a buffer zone of apartment houses that are multi-family. Mr. Lashbrook explained that the intention was recognizing the odd shape lots fronting Township and Ivy, a number of which are long thin lots with usually a home in the front and poor access to the rear. That it is the intent of the CAC in that whole area to allow for density in the neighborhood of 10 units per acre being kind of a special situation, on the basis of trying to solve some of those access problems. Commissioner Sowles asked Mr. Lashbrook if he was speaking of the entire Amato property or just a certain area. Mr. Lashbrook said "no," it was the adjoining property and only the area just on the border of the Amato property. Commissioner Baller stated that he felt there was already adequate area set in the R-2 zone that has not been developed, and he feels that there is not sufficient public need and made a motion that the request for amendment be denied, and the reason for this that there is not sufficient public need in this area at this time. Commissioner Sowles made a second to the motion. Chairman Kahut asked if we had enough apartment houses in the City of Canby or in that general area at this particular time. Commissioner Sowles feels that we already have a lot of R-2 area there, and questioned whether the developers could say whether this would be a owner occupied unit once it is sold to an investor. Commissioner Sowles feels that

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the traffic considerations there are paramount. Commissioner Sowles stated that he would like to see that area kept at a low density. Chairman Kahut asked all those in favor of the motion to signify by saying aye. Approved 3-1, with MacKenzie dissenting. Commissioner Baller moved to deny zone change as it does not conform to interim general plan, Commissioner Sowles made a second to the motion and it was passed unanimously.

The meeting was adjourned at 10:40 p.m.

This meeting has been recorded on tape.

Respectfully submitted,



Virginia J. Shirley, Secretary
Canby Planning Commission