

Canby Planning Commission
Regular Meeting
February 13, 1980

MEMBERS PRESENT: Chairman Kahut, Vice-Chairman Sowles, Commissioners Hart, Mackenzie, Baller, and Davis

MEMBERS ABSENT: Commissioner Cutsforth

OTHERS PRESENT: City Attorney Roger Reif, City Planner Stephan Lashbrook, Marlin DeHaas, Gerald Grossnickle, Gordon Betts, Dave Bury, and others.

The meeting was called to order at 8:04 p.m. Chairman Kahut welcomed those present.

The minutes of the Planning Commission meeting of December 12, 1979, were approved as presented, and the minutes of the Planning Commission meeting of January 23, 1980, were corrected as follows: On Page 2, line 20, strike Chairman Kahut, as asking for names of principals involved, and insert Vice-Chairman Sowles. The minutes were approved as corrected.

Item #1: Continued from January 23, 1980, request for an annexation of approximately 16.59 acres located along the South side of S.W. 13th Ave. 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 again recommended denial of the application. This recommendation included consideration of the evidence and testimony presented by Marlin DeHaas, and other proponents. Chairman Kahut stated that whatever decision they made would only be a recommendation to the City Council. Mr. DeHaas (proponent) summarized the testimony of the meeting on January 23, 1980, referring to the successful passage of the water bond issue, the conflict between L.C.D.C. and MSD, and CRAG in that Canby was now responsible for its growth boundaries. With these two problems disposed of, they pursued the annexation. Mr. DeHaas felt that they had addressed Canby's Comprehensive Plan Goals and that they have properly addressed the Statewide Planning Goals of L.C.D.C. He asked that the Commission consider strongly their findings and conclusions in their report. Mr. DeHaas asked the Commission to consider their application on its own merits. Mr. DeHaas also stated that their application should not be compared to the Lindsay Soft Water Company application, nor should the Lindsay Soft Water Company application set any kind of a precedent or set a moratorium. Mr. DeHaas concluded his presentation and stated that he would answer any questions there might be. Chairman Kahut asked if there were any questions of the applicant. Commissioner Hart made mention of Mr. DeHaas's letter dated December 19, 1979, which was part of the packet of the January 23, 1980, meeting, in that the letter referred to agricultural land, and noted that there was no recent use put to the property except an effort to grow popcorn in the summer of 1979. Commissioner Hart stated that he would like to take exception to that since he lives on S.W. 7th, and has for ten years, and that he had seen pumpkins grow there by the thousands, and that he had seen this just recently. Commissioner Hart stated that maybe they

had changed to popcorn last year and that they might not have done too well at it, but that it does grow pumpkins. Mr. DeHaas stated that the people who owned the property did use it for popcorn a year ago. Commissioner Hart stated that the property used to be used to grow other things, and that he made mention of that merely to show that the property has been used for agriculture. Chairman Kahut asked if there were any other questions of the applicant. There being none, Chairman Kahut opened the hearing to the public for any opponents or proponents to the application. Chairman Kahut called for anyone in favor of the application. Charles Landskroner, 6835 S.W. Raliegewood Way, a principal of Estate Eight, addressed the Chairman. He made mention of the fact that he had spoke in favor as a proponent at the January 23rd meeting, and again he wanted to renew on behalf of himself as one of the principals of the company that he was concerned with respect to the development of the property and briefly mentioned three points; 1) The process that the principals used to approach the City of Canby with their request for the annexation; 2) Their relationship to the Plan; 3) Their relationship with Public Facilities and the Public Works Departments' approach to their application. Charles Landskroner stated that the Public Works Director in his report offered no objection. Chairman Kahut asked for anyone else in favor of the application. Gordon Betts, 2979 Dellwood Drive in Lake Oswego stated that since the City is in a posture of accepting growth that this property was a natural, that it is an extension of the City. He also stated that the Utilities that are necessary are very convenient to hook up since they are right across the street. Gordon Betts felt there was good access and egress. He pointed out that if the application was turned down now, that if and when it is accepted that it certainly would not be cheaper at that time. Chairman Kahut called for anyone else wishing to speak in favor of the application, there being none, Chairman Kahut then called for those who wished to speak in opposition. Dave Bury stated that his letter pretty much stated how he feels and he went on to say that the access was one of the biggest problems, because 13th Avenue does not go through. He felt that the whole corner there was going to be a real bottleneck with 60 additional units, and approximately two cars per unit. He felt that the location and the time was just not right for the area now because of access problems. Dave Bury mentioned that the Citizens Advisory Committee that he has been on for the past year has had this in their file and they have gone over it. He stated that it will be included in the new Urban Growth Boundary, but it has not yet been adopted by the City. Bury also stated that as far as he knows, it could not come in unless the Urban Growth Boundary is adopted, and that Stephan would have to correct him if he is wrong, and that when the City Council adopts an Urban Growth Boundary, he would not have the problems with it that he has now. Chairman Kahut asked for anyone else speaking in opposition, there being none, Chairman Kahut asked Mr. DeHaas if he had anything else he wanted to say. Mr. DeHaas addressed the staff findings item #1 Soils predominant class I & II recalling his comments of the last meeting that they had looked at the soils map of Canby and that it appears that all the soils are good. Mr. DeHaas felt that they had developed an argument for the suggestion that there is a pressing need. He felt that there were conflicts to the statement based upon the reports from the City records, from the Planning Commission and from the City Administrator and others. Mr. DeHaas mentioned the uncertainty of the City's future water system, and

his observation that once the bond issue was passed, the main hurdle was out of the way. The only thing that would be left, would be to get the facilities in, and that by the time the City would get a sufficient load, they would have the additional water to meet the needs. Mr. DeHaas stated that if a moratorium were called now with the progress that is being made on the water system, there would be a gap of a year or two while people geared up. Mr. DeHaas felt that if people came on line now, it would help retire the bond issue. Mr. DeHaas mentioned the recommendations for denial, Findings of Fact A & B, and stated that he had addressed each of these items. In regards to fact A "The applicant has not proven that there is a sufficient public need," Mr. DeHaas stated that they had provided testimony that says there is. On the exception of Statewide Planning Goals, Mr. DeHaas stated that they had gone into pretty lengthy commentary on it. Chairman Kahut closed the public hearing. Commissioner Sowles talked about the Three Million Dollar Bond Issue. He stated that he thought the City Council had earmarked one million dollars of the three million dollars for water source. Commissioner Sowles felt that the City Council would not want to spend three million dollars putting in improvements just to move water from place to place. He felt that like oil, there was no guarantee that they could find an alternate source of water. He felt that this was the prime concern in this annexation. Commissioner Baller addressed Chairman Kahut stating that he feels the water situation in the City of Canby is very serious even to the existing property that is within the City limits that has not been built on, and the new homes that are going up within the City itself. As far as the utilities being able to provide water service and electrical service to the existing property is something that they have to think about. Commissioner Hart addressed Mr. Landskroner stating that although the Public Works Director, if you read his letter, does say that he does not object to the annexation, he does say, "making note of such annexation or development in the area would certainly increase the traffic flow," and if you go back one paragraph, he says, "however, South Elm Street is not included as City standards and is not adequate within certain areas". "What he is saying in effect is, that it isn't up to par at all, and although he is not against the annexation, he does have several stipulations in there that he really is against the annexation, that he just can't say it as such". Commissioner Hart also stated that Fred Egger of the Canby Utility Board said that they have been promised power, which they might get by 1981, no guarantees at all. Lashbrook commented on parts of Mr. Landskroner's testimony; 1) Mr. Landskroner's comment about the Public Works Director's report; the Public Works Director would oversee roads, sewers and storm drainage, but would not be involved with the water project, because of the way the City is structured with the Utility Board. 2) Mr. Bury's comment that he feels the City is legally not supposed to annex land until the plan is adopted and until the Urban Growth Boundary is adopted is not really true, that the burden upon the applicant is heavier when you don't have an Urban Growth Boundary. If we had an adopted Urban Growth Boundary that was approved by L.C.D.C. and this property was within, they would not have to go through that process, the goal exception for agriculture lands would not be necessary. 3) Lashbrook mentioned Mr. DeHaas's comment about the soils, stating that it was entirely valid. Mr. Lashbrook said that

virtually all the soils around Canby are classified I or II. Mr. Lashbrook said that the point of stating that in his staff report is that they really do not have a choice about taking the Goal exception where an annexation is concerned. To annex virtually anything outside the City unless it is already urbanized, requires a Goal exception until there is an approved Urban Growth Boundary. Chairman Kahut asked if everyone understood. Commissioner MacKenzie stated that the only comment he wanted to make was in regards to the power situation for the City of Canby, and that it had already been indicated that there is no guarantee that additional power will be available in 1981, and mentioned the power failure in Canby about three weeks ago, which indicated that we are at capacity load at the present time, and this should be taken into consideration. Commissioner Davis said that one thought that she has had is that she knows this is a lengthy process for everyone, but the applicant does have to prove that there is a need and must satisfy all the Findings of Fact. Commissioner Davis also feels that right now is not the time for them to approve the annexation. Chairman Kahut asked the other Commissioner's if they had anything that they would like to add. Commissioner Sowles referred to Dave Bury's statement about the traffic congestion on 13th street and on Elm. Commissioner Sowles also stated that they had not as yet mentioned the Marv Dack zone change which would allow them to build 167 units there. Couple that with what is being proposed now, could cause a horrendous traffic situation. Chairman Kahut stated to Commissioner Sowles that what he was saying was very valid, but he had to agree with the applicant that it is probably one of the most logical pieces to come in, however, the Comprehensive Plan has not been adopted at this time. Chairman Kahut stated that as far as the traffic goes, he did not know how some of these things would ever be solved. He felt that some of these things are never solved until there is a development, and the City is forced to take some kind of action. Commissioner Baller said that as far as the costs going up, everybody is aware that things are going to cost more, and it will continue to cost more in the future, and inflation is something that we are just going to have to live with. Chairman Kahut stated that one of the biggest issues is that the Comprehensive Plan as it has been presented, has not been adopted by the City Council at this time. Chairman Kahut feels that if it had been adopted, it might have shed a little more light on it, however, from the poll that was taken from most of the Commissioners, they seem to think that water and electricity are very valid issues. Chairman Kahut then stated that if there were not any more comments, he would honor a motion to recommend denial of the application. Lashbrook addressed Chairman Kahut stating that he would like to remind the Planning Commission to consider their Findings of Fact and to include their Findings within the motion. Chairman Kahut asked for a motion to recommend denial based on electricity, water, traffic, the need to address the agricultural goal, because the property is not in the immediate Urban Boundary, and there has not been proof of sufficient need at this particular time. Commissioner Sowles made a motion to deny the application for the annexation of the (3) tax lots totalling 16.59 acres located on S.W. 13th and S. Elm streets because of the following findings of fact:

- 1) The proposal is not in compliance with the state wide planning goals because;
 - a) The City has not yet set its Urban Growth Boundaries
 - b) When the boundaries are set this area could be classified as "Agricultural land" by L.C.D.C. definition because of its


- unique soil classification.
- 2) The preponderance of evidence suggests there is not a public need for new annexations into the City.
 - 3) There is clear evidence the City of Canby does not have the capacity to furnish minimum water or electricity to newly annexed land;
 - a) Although three million dollars has been approved for water source and distribution systems, it does not have that capacity now.
 - b) The utility board would be hard pressed to deliver electricity to newly annexed land into the City.
 - 4) There is failure to prove by the applicant the need is best met through annexation of this property.

Commissioner Baller made a second to the motion. Chairman Kahut stated that there has been a motion made and seconded recommending to the City Council denial of the application. The motion was passed unanimously, Chairman Kahut and Commissioner Davis abstained.

The meeting was adjourned at 8:50 p.m. and a workshop was conducted on "Findings of Fact."

This meeting has been recorded on tape.

Respectfully submitted,



Virginia J. Shirley, Secretary
Canby Planning Commission