

Canby Planning Commission
Regular Meeting
July 22, 1985

MEMBERS PRESENT: Commissioners Davis, Shinn, Cutsforth, Seale,
McKibbin and Schrader

MEMBER ABSENT: Chairman Kahut

OTHERS PRESENT: City Attorney John Kelley, Acting City Planner
Virginia Shirley, Bob Kacalek, Marty Clark, Marv
Dack, Bill Stevens, Ronald Pollutz, Cliff Bates,
Israel Flores, Mr. and Mrs. Urho Niemi, Mr. and
Mrs. Sam Schwarzin, Brad Taggart and David Bury

The minutes of the Planning Commission meeting of June 27, 1985,
were approved as presented.

Item No. 1: Request for approval of a preliminary plat of an eleven (11) lot subdivision on the south side of S.W. 13th Avenue east and west of S. Elm Street. The property is described as the northly 125' of Tax Lots 400, 500 and 600, Section 4C, T4S, R1E. The applicants are Terry W. and Kathleen M. Emmert. The staff report was read by Mrs. Shirley with a recommendation for approval subject to staff working out the misunderstanding of street improvements west of S. Elm Street on 13th Avenue. Brad Taggart, representative of Terry and Kathleen Emmert, stated that the subdivision was originally approved in 1983. Subsequent to the approval improvements are in the final stages of being completed. During this time, the preliminary plat expired, and that is why they are asking for preliminary approval showing Mr. and Mrs. Emmert as applicants. The only different issue today on the plat is some design changes in the actual construction of the subdivision and elimination of S. Elm Street as part of the plat. We would like preliminary approval of the plat as shown now and resolve a situation that exists regarding 13th Avenue west of Elm Street. We submitted plans for improvements in March of this year and the plans were approved. These showed our improvements to the centerline of the right-of-way, and since that time there has been some discrepancy between the staff and ourselves regarding a 12' strip of street that is going to exist between the existing curbs in place as they are now. It is our contention that we have submitted plans and they have been approved by your staff showing improvements developed to the centerlines of the street and that leaves a 12' piece of street now unimproved. We show our improvements to the centerline and the improvements the LDS Church proposes is 20' from the north curb - leaving 12' feet unimproved. It is our contention that there was a conditional use granted to the LDS Church in 1981 or 1982 that required them to develop a half-street and we contend that a half-street goes to the centerline of the road. The reason for this problem is the narrowing of the street to save the trees. Mr. Taggart stated that they would like to clear up the street situation if at all possible. Mrs. Shirley request the Commission to allow the staff

to research the matter. City Attorney Kelley stated that if the preliminary plat meets with the Commission's approval, it should be approved subject to staff resolving the issue of who is going to handle these improvements on 13th Avenue. Staff and Mr. Taggart can work these out directly without affecting the approval of the preliminary plat. It's a question of who is going to pay for the improvements, and we would like to wait until Mr. Atwood is available to talk to about that problem. After we discuss it with him, we will be in a position to resolve it with Mr. Taggart. Mr. Kelley further stated that he didn't see any problem with it. It is an issue of who is going to have to pay for some paving and it is an issue that doesn't bear upon the approval or disapproval of the subdivision.

Commissioner Schrader stated that it was a central issue and felt before they approve the preliminary plat the Commission should resolve it. City Attorney stated that without knowing what Mr. Atwood did, the staff is not in a position to settle it. Until we know Mr. Atwood's position we don't know how to approach Mr. Taggart. Commissioner Schrader didn't feel discussion of the preliminary plat should continue until the issue is settled. He wanted to table the public hearing until the issue was settled. Commissioner Schrader wanted the full story before any discussion of the preliminary plat. City Attorney Kelley stated they should go ahead and approve, deny or approve with conditions. Mr. Atwood was the one dealing with Mr. Taggart and when he returns he will be able to say who is responsible for the additional paving. Commissioner Shinn suggested that the public testimony should be taken. A short discussion by Commission and City Attorney regarding what they could do legally after the public testimony was taken. Chairperson Davis opened the public hearing and called for proponents. When none came forth, she called for opponents.

Bill Stevens, 1505 S. Douglas, stated he was not against the application, but felt the street issue must be resolved. The uncertainty of the width of the street and felt the Commission should hold until everyone knows, because if the Commission approve it could wind up in a big hassle with unpaved street. Sam Schwarzin, 482 SW 13th Avenue stated they have a seven foot ditch butting up against the curb lower than the crown of the road - asked if that was going to get paved while they hassle the west side of Elm Street. A very dangerous situation for the cars traveling down 13th Avenue. Marv Dack, 715 S.W. 13th, would like to ask the City Attorney if this was approved and it couldn't be agreed upon who was going to pave the street. We will have an approved subdivision and no street improved. The City Attorney stated the street would be improved. The only question is who is going to pay for those improvements.

Mr. Dack asked what assurance does he have that someone is going to pay for the improvements. It was stated that it had not been to the City Council at this time. Mr. Dack wanted to know how the subdivision can be approved without resolving the questions of the street. He asked what they were going to do at the end of the paving to Douglas Street so the property owners have ingress/egress. The Chairperson asked if there is no decision tonight, if they will halt work and leave the ditch on the east side of S. Elm. Mr. Taggart stated that they were going to pave the entire project Wednesday morning. Stated they can't wait until August 12th, the same body has already approved this plat once and it is basically the same plat. The problems with the street exists between the staff and Emmert Industrial - it is not a planning problem.

Chairperson Davis closed the public testimony portion of the hearing. Commissioner Schrader stated that he still felt the Commission should continue the hearing of the plat. Wanted to know why all this didn't come up earlier. Stated they didn't have to put down near as much road as if they had knocked the trees out. This saved them money in the long run. Commissioner Seale asked if the matter of the road wasn't resolved - why do you need to talk to Mr. Atwood. Mrs. Shirley gave a history of SW 13th Avenue as best she could in order to explain what has happened in this case. Commissioner Seale asked if they could approve the subdivision with Emmert to pave the original 20' width. City Attorney Kelley stated that it was a can or worms because the Planning Commission stated they had to pave to the centerline. Commissioner Schrader stated that it was the City's policy to narrow the paving to save the City money and to save the developer money. Chairperson Davis stated that although the Commission doesn't know which tree to measure from for paving, they did make a commitment to the people to have a nice development in this location that fit into the rest of the community. Discussion continued into who was responsible for the paving of that portion of the street - Emmert, the LDS Church, or the City due to a misunderstanding. Mr. Taggart stated that he didn't feel it was fair for the Commission to say they (Emmert) had to pay when it was not known how much responsibility the LDS Church had.

*Commissioner Schrader moved to approve the preliminary subdivision of eleven (11) lots on the south side of S. W. 13th Avenue described as the northerly 125' of Tax Lots 400, 500 and 600, Section 4C, T4S, R1E. This conforms to the Plan and Land Planning and Development Ordinance. This approval to be subject to the following conditions: 1) Completion improvements for the proposed subdivision to be followed up on; 2) All the staff report, including the most recent ones, be adhered too; and, 3) The applicant be required to pave 20' of road surface on 13th Avenue west of S. Elm, and 13th east of S. Elm as originally approved. The motion was seconded by Commissioner Seale and approved unanimously with the Chairperson voting.

Item No. 2: Request for a ten (10) lot subdivision to be located on SE Township Road directly south of S. Knott Street and described as Tax Lots 100, 1001 and part of 200, Section 4AB, T4S, R1E. The applicant is Martin Clark. The staff report was read by Mrs. Shirley with a recommendation for approval subject to several conditions. Martin Clark, applicant stated his reasons for asking for a subdivision, the types of homes he intended to build, and stated that each was to be a single family home. He expressed concern over the Utility Board requesting an 8-inch water line from S. Ivy to S. Knott Street. He asked the Commission to consider a smaller line to his project. He stated that he had spoke to Joe Gary late the day of the meeting and was told the present 4-inch line was inadequate for the area. Mr. Clark does not feel his development should have to supply a water line that is already needed.

Chairperson Davis opened the public testimony portion of the hearing and called for proponents. Dave Bury, 360 SE Township Road, asked several questions regarding the application. The questions were answered by the Chairperson, City Planner and City Attorney. There being no further proponents, the Chair person called for opponents. When none came forth, the public hearing portion of the meeting was closed. Discussion centered on the alignment of S. Knott Street, the required 8-inch water line, and development to extend S. Knott further and access it to S. Ivy Street.

*Commissioner Sinn moved to approve a preliminary plat of 10 lots for Martin Clark on property described Tax Lots 100, 1001, and part of 200, Section 4AB, T4S, R1E, subject to the following conditions: 1) All conditions of other staff reports to be made conditions of approval. 2) A dedication of ten (10) feet along S. Township Road to be required for street widening purposes. 3) An access permit will be required from Clackamas County as S. E. Township Road is under County jurisdiction. 4) Easements to be furnished on plat for sidewalks on both sides of S. Knott Street. 5) A barricade will be required across S. Knott Street at its South end. 6) Street name and traffic control signs to be the responsibility of the developer. 7) Final plat to be submitted within one year after approval of the tentative plat. If the applicant wishes to proceed with the subdivision after the expiration date, he must formally request an extension of time, in writing, stating the reasons therefor. The Commission may allow an extension of not more than 6 months, provided the request is properly filed prior to the end of the one year period. 8) The subdivider shall, without delay, submit the final plat to the County Assessor and the county governing body for signatures as required by ORS Chapter 92. Approval of the final plat shall be null and void if the plat is not recorded within 6 months of the date of the signature of the Chairman of the City Planning Commission. 9) After the plat has been approved by all City and County officials, two reproducible copies of all data (plat face, dedications, certifications, approvals) and one copy of recorded

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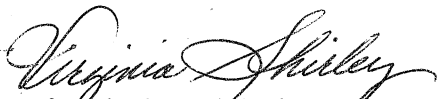
restrictive and protective covenants shall be returned to the Public Works Office. The following findings of fact were made for approval of this subdivision: 1) The application is in conformance with the text and applicable maps of the Comprehensive Plan. 2) This application is in conformance with the subdivision section of the Land Development and Planning Ordinance. 3) The overall design of the lots will provide building sites, utility easements, and access facilities for the development of the site. 4) This plan will open up property that has been landlocked due to the development of housing on that portion of those lots facing S. Ivy Street access. The motion was seconded by Commissioner Cutsforth and passed unanimously with the Chairperson voting.

Letter from Terry Emmert regarding recreational equipment at the "Elmwood Mobile Home Park." Commissioner Shinn moved to accept the proposed substitutions in lieu of the tennis court for the mobile home park. The motion was seconded by Commissioner McKibbin and passed with Commissioner Seale voting against the substitution.

The Planning Commission was given the landscaping plans and underground sprinkling system for their opinion. Expressions of approval of the landscaping and sprinkler system were received. (A copy of the plans are in the mobile home park file.)

This meeting has been recorded on tape.

Respectfully submitted,


Virginia Shirley
Acting City Planner