

Canby Planning Commission  
Regular Meeting  
February 8, 1988

MEMBERS PRESENT: Chairman Kahut, Commissioners Harmon, Lindsay, Nicholson, and Schrader.

MEMBERS ABSENT: Commissioners McKibbin and Seale

OTHERS PRESENT: City Administrator Stephan Lashbrook, City Attorney John Kelley, Secretary Virginia Shirley, Janice Weeks, Mike Peck, Butch Olsen, Ray Radtke, Donald A. Bear, Donna M. Ylvisaker, Herman Hellhake, Charles Hagel, Mike and Irene Breshears Wesley Oustman, Walt Bever, Don Staurs, Leland D. Breedlove, Ronald G. Tatone, Bill Garmire, Kaylene Clawson, Paul DuPont, and others

The minutes of November 23, 1987 and December 14, 1987, were approved as presented.

Item #1: Request for a zone change from R-1, Low Density Residential, to C-2, Highway Commercial, of property located on the south side of Highway 99-E immediately west of S. Pine Street and described as Tax Lot 800, Section 33DA, T3S, R1E. The applicant is Herman Hellhake. City Administrator Lashbrook gave the staff report and reviewed the criteria needed to recommend approval subject to conditions. Charles Hagel, son-in-law of Herman Hellhake, stated that Mr. Hellhake was not interested in upgrading or developing his property and was most concerned over the requested dedication of a twenty (20) foot strip along the east edge of the property along South Pine Street. Mr. Hagel further stated that Mr. Hellhake was only interested in accommodating Mr. Radtke, operator of the service station. Mr. Hagel explained to the Planning Commission that the City had asked for a sewer easement about a year ago, but Mr. Hellhake feared having to pay for eventual improvements. Mr. Hagel said that he thought the City might expect as much as \$300,000 in improvements. Mary Hellhake stated that her father was retired and since no real development is planned, he can't afford to make any improvements that might be required there. Ray Radtke stated that he wanted to put in a mini-mart in the existing service station in order to improve his business and the area.

After a brief discussion of the nonconforming use status of the property, the Commission agreed that a zone change would be required to allow for the proposed use. Otherwise it would result in an expansion of a nonconforming use in violation of our ordinance. Chairman Kahut opened the public hearing portion of the meeting and called for proponents. When none came forth, he called for opponents. There being no opponents, Chairman Kahut closed the public hearing portion of the meeting. Mary Hellhake requested a five-minute recess in order to take her father-in-law outside to explain the situation to him as he is hard of hearing.

Chairman Kahut reconvened the meeting at 8:10 p.m. Charles Hagel stated that Mr. Hellhake would be willing to dedicate the required twenty (20) feet if the City would agree to pay for all the utilities and

improvements, such improvements to go with the land. Mr. Lashbrook gave the Commission the options of either going ahead and recommending approval, denial, or rezoning a portion of the property. Commissioner Harmon stated that he would be willing to rezone the north portion of the property (that portion fronting on 99-E). Commissioner Lindsay stated that as long as all the frontage on 99-E were rezoned that would be acceptable. Commissioner Nicholson agreed with the previous statements, if Mr. Hellhake was willing to make the dedication along S. Pine Street and would sign a waiver of remonstrance. Commissioner Schrader stated that he would be for denial unless some agreement could be reached on the dedication, since the dedication was crucial to future C-2, Highway Commercial, development. Commissioner Schrader stated that he was not opposed to a partial rezone of the property. The applicant indicated he was unwilling to provide a waiver of remonstrance, even if only a small section along 99-E was rezoned. \*Commissioner Schrader moved to recommend to the City Council that the property described as Tax Lot 800, Section 33DA, T3S, R1E, and containing 4.15 acres be rezoned C-2, Highway Commercial, based on the findings and conclusions that this application complies with the Land Use Map Policies #5 and 6, meets the Comprehensive Plan Policy #2, A)1), Transportation Section and Policy #4,F), Public Facilities Section. The required facilities are in place or would be in place as a result of conditions imposed on this application. This approval to be subject to the following conditions:

- 1) The dedication of twenty (20) feet of property along S. Pine Street for future street widening and utility purposes. Further, that S. Pine Street improvements will be constructed at such time that more substantial development or redevelopment of the property takes place.
- 2) A properly signed waiver of the right to remonstrate against future street, sidewalk, or utility improvements is to be recorded for S. Pine Street. The wording for both the dedication and waiver of the right to remonstrate are to meet the requirements of the City Attorney. The motion was seconded by Commissioner Lindsay and passed 5 - 0 with the Chairman voting. The applicant was informed that he would have the option of withdrawing his application before it reached the City Council.

Item #2: Request for a zone change from R-1, Low Density Residential, to R-2, Medium Density Residential, of property located on the south side of N.E. Territorial Road west of N. Maple Street, and described as Tax Lots 1400, 1401, 1500, and 1300, Section 28DC, T3S, R1E. The applicants are W. L. and O. F. Brown, Raymond W. Brown, and William E. and Maxine Garmire. City Administrator Lashbrook gave the staff report and recommended approval subject to four conditions. Janice Weeks, representing W. F. and O. F. Brown, stated that Mr. Brown was ill and unable to attend the meeting. Mrs. Weeks stated that she could not speak for the Browns, but would like to see a recommendation made tonight, in order to expedite matters. Raymond Brown was not in attendance. William Garmire was present and stated that he would like to see the public hearing continue. Mr. Lashbrook suggested that the Commission take public testimony and continue the public hearing until February 22, 1988.

Chairman Kahut opened the public hearing and called for proponents. When none came forth, the Chairman called for opponents. Donald Bear,

1630 N. Maple Street, felt applicants should describe their plans when making application. Presented the secretary with a petition containing 47 signatures against the rezoning. Mr. Bear further stated that there are 74 apartment units in the neighborhood and he doesn't want more, due to the large number of apartment units, and the traffic on N. Maple, which he considers hazardous. Leland Breedlove, 592 N.E. Territorial, asked to go on record as opposing this zone change. Kaylene Clawson, 1770 N. Maple Street, spoke of the undesirable residents who reside in apartments, and speeding traffic on N. Maple that turns in to the apartments. Several members of the police force in Canby have identified the apartments located at 16th and N. Manzanita as trouble spots in Canby. Ms. Clawson stated that her property had already decreased in assessed valuation by \$5,000. Upzoning would only compound her problems and destroy her quality of life.

Jay Scott, 730 N.E. 16th, stated that apartments in any neighborhood lower the property values. The only fires in his neighborhood have been in apartments. N. Maple Street is used as a speedway and traffic is heavy. Don Gehrig, N.E. 16th, stated that there are insufficient services to accommodate apartments. He said that there is Maple Street Park traffic, traffic from existing apartments and traffic from the north end of Maple all using Maple Street and the street would not be adequate even with improvements. Mike Peck, 1688 N. Maple, stated that he has lived in the same house for 13 years and watched as the neighborhood built up and the quality of life diminished. Mr. Peck does not want more apartments. Donna Ylvisaker, 17th and Maple, stated that she was opposed for the same reasons as given by her neighbors.

There being no more opponents, the Chairman asked the applicant's representative if she would like to rebut the testimony. Mrs. Weeks stated that from a real estate perspective there was a need for additional apartment units, especially housing for the low income and elderly.

Mr. Bear spoke up and said that he was in agreement that we needed more housing for the elderly and that he would not mind seeing some built.

William Garmire stated that he had lived in Canby all his life and that he sold the property to Mr. Brown that he is trying to get rezoned. Mr. Garmire stated that Mr. Brown has tried several times to sell the property due to ill health and the fact that taxes are high. He said this is the first time that anybody has really been interested and that Mr. Brown can't afford to keep the property.

Chairman Kahut stated that the public hearing would be continued for two weeks until February 22, 1988, due to the applicant's ill health.

Item #3: Request for a Minor Land Partition from one lot to three lots of property located on the north side of N.E. Tenth Avenue and on the west side adjacent to N. Pine Street, and described as Tax Lot 600, Section 33AA, T3S, R1E. The applicant is Walt Bever. Mr. Lashbrook gave the staff report and made a recommendation for approval subject to several conditions. Walt Bever, applicant, stated that the existing home on the property was very old and that the home would only remain

until Mr. Zimmerman leaves - probably not over one year. Mr. Bever stated that he had read the staff report and looked at the property on N.E. Tenth and there are no sidewalks on either side, and feels it is not reasonable to require him to install curbs and sidewalks as a condition of approving this application. Commissioner Schrader asked about the existing trees on the property. Mr. Bever stated the trees were all old and overgrown and needed to be thinned.

Chairman Kahut opened the public hearing portion of the meeting and called for proponents. There being none, the Chairman called for opponents. When none came forth, Chairman Kahut closed the public hearing.

Commissioner Harmon stated that he was opposed to jogs in lot lines. He wanted to know if it would be possible to make the lot line straight and give the owner a maintenance easement. Mr. Bever stated that Mr. Zimmerman was very concerned that the property be kept up. Mr. Klem, Public Works Director, brought up the matter of an unfinished driveway on a house built by Mr. Bever in another part of town. Mr. Bever stated that it would be finished when the weather permitted, or he would be willing to give the City a check to hold that would cover the expense involved. No decision was made on this matter.

Commissioner Schrader moved to approve the Minor Land Partition of Tax Lot 600, Section 33AA, T3S, R1E, as the partitioning is in conformance with the Comprehensive Plan, the Zoning requirements and the overall design is good. This approval is to be subject to the following conditions: 1) Utility easements of 5 feet for interior and 12 feet for street frontage are to be provided with Parcel II having five feet on the south side. 2) All other recommendations of other responding agencies are to be regarded as conditions of approval. 3) Ten (10) feet is to be dedicated to the City along N. Pine to allow for future street or utility improvement. The form of this dedication is to meet the requirements of the City Attorney. 4) Curb and sidewalk improvements to City standards are to be provided along both street frontages. Completion of these improvements for parcels I and II can be delayed until building permits are issued for those sites but improvements are parcel III are to be completed prior to completion of the partition. 5) Sewer connections for lots I and II should be made in Tenth Avenue instead of Pine Street to minimize street cutting. 6. Ten (10) foot setback is to be maintained along west side of Parcel I and along north side of Parcel III. 7) Lot lines should not come closer than one (1) foot of the existing home on the property included in parcel III. 8) Survey to show that all lots meet minimum development standards as to square footage. 9) A five (5) foot maintenance easement is to be provided by parcel II to allow maintenance of the house on parcel III, until it is destroyed. The motion was seconded by Commissioner Nicholson and passed with the Chairman voting.

Commissioner Schrader was called and left the Planning Commission meeting at 10:20 p.m.

Item #4: Request for a Major Land Partition from one lot to three lots of property located north of Knights Bridge Road and west of N. Ash

Street and described as Tax Lot 300, Section 32A, T3S, R1E. The applicants are Ronald G. Tatone and Gloria Ives. Mr. Lashbrook gave the staff report and made a recommendation to approve subject to several conditions. Mr. Tatone stated that he couldn't understand why the City wanted twelve foot easements along the street. There was already ten feet behind the curb for utilities and sidewalk and with an additional twelve feet, this would make twenty-two feet of your front yard behind the curb that was controlled by the City. Mr. Tatone took offense at the idea of having to place the house on parcel I adjacent to the two proposed smaller lots on N. Ash Street. Mr. Tatone informed the Commission that he had sent a check for \$10,607 to the Clarks on December 9, 1987. There being no further discussion, Chairman Kahut opened the public hearing portion of the meeting and called for proponents. There being no proponents, the Chairman then called for opponents. Paul DuPont stated that being an adjacent property owner, he would like to see what Mr. Tatone is doing, as it will affect ingress/egress to his property on the west. Mr. Tatone brought a map from his briefcase showing both properties and how they could be developed. Mr. DuPont seemed satisfied. Chairman Kahut closed the public hearing portion of the meeting. Chairman Kahut expressed dissatisfaction with the piecemeal development used for this large parcel of land. Commissioner Nicholson questioned Mr. Tatone as to why he was developing the land in this manner. Mr. Tatone stated that it was the only cost effective way he could develop it and that it suited his desire to sell only one or two lots each year. Commissioner Harmon disagreed with the staff recommendation that a certain area in Parcel I be specified for placement of a dwelling unit. Commissioner Harmon moved to approve the major land partition as requested as it meets the comprehensive plan and the land use planning ordinance for the City. The approval is to be subject to the following conditions: 1) Utility easements are to be provided having a minimum width of twelve (12) feet along all street frontages. Easements along interior lot lines are to be as specified by the Canby Utility Board or the Canby Telephone Association. 2) All recommendations of other agencies are to be regarded as conditions of approval. 3) Full street, sidewalk, and storm drainage improvements to City standards are to be constructed along the street frontage of parcels II and III. One-foot reserve strips dedicated to the City are to be provided at each end of the new street improvements, to prevent access from the unimproved areas. 4) Dedication of property for street, sidewalk, and utility improvements is required for parcels II and III. The form of this dedication is to meet the requirements of the City Attorney. 5) Street, sidewalk, sewer, and storm sewer improvements are to meet the requirements of the City Public Works Director. 6) Street lights, electrical system, water system improvements, and hydrant locations to meet the requirements of the Canby Utility Board. The local Fire Marshal's requirements for hydrants and water line sizing shall also be observed. 7) Final approval for recordation shall not take place until the City Attorney is satisfied that the requirements of the Bargain and Sale Deed between Double "C" Construction and the City of Canby, dated 2/10/77, have been met. 8) A waiver of remonstrance against utility and street improvements on N. Ash Street. and 9) No development on Parcel I is to take place in the proposed right-of-way for N.W. 9th Avenue. The motion was seconded by Commissioner Nicholson and passed unanimously with the Chairman voting.

There being no further business the meeting adjourned at 11:20 p.m.  
This meeting has been recorded on tape.

Respectfully submitted,

  
Virginia J. Shirley, Secretary  
Canby Planning Commission