

Canby Planning Commission  
Regular Meeting  
March 14, 1988

COMMISSIONERS PRESENT: Chairman Kahut, Commissioners Seale, Lindsay, McKibbin, Schrader, Nicholson, and Harmon (Late 8:55)

OTHERS PRESENT: City Administrator Stephan Lashbrook, City Attorney John Kelley, Secretary Virginia Shirley, David and Cheryl Anderson, Public Works Director Rusty Klem, George Wilhelm, Mr. and Mrs. O. L. Brown, Don Bear, David Bury, Janice Weeks, Hank Scouten, John Regan, Scott Newberg, Eileen Osmer, Ben Maxwell and others.

The minutes of the February 22, 1988, meeting were corrected on page 7, 3 lines up from the bottom to read: Lot 13, *is* for staff decision as to *the* final arrangement. Mr. Don Bear made a point of order and requested to make changes in the Planning Commission minutes. City Administrator Lashbrook stated that the minutes were not a verbatim transcript and he recommended that the Commission not make changes unless the minutes did not accurately cover the "just" of what was said. The minutes were approved as the Commission corrected.

The Planning Commission considered written findings of fact on the zone changes heard on February 8 and 22, 1988, and Commissioner Nicholson moved to authorize Chairman Kahut to sign the W. L. and O. F. Brown and the William E. and Maxine Garmire findings of fact. The motion was seconded by Commissioner Lindsay and passed with Commissioner McKibbin voting no, Commissioner Seale abstaining and four ayes.

Item #1: Request for a zone change from R-1, Low Density Residential, to R-1.5, Intermediate Density, of 41.9 acres located on the south side of S.E. Township Road approximately 1400 feet east of S. Ivy Street and described as Tax Lots 600 and 700, Section 4A, T4S, R1E. The applicant is David Anderson, Agent for Joseph and Shirley Regan. The staff report on the zone change was given by City Administrator Lashbrook with a recommendation for approval subject to four conditions. At this time, the City Administrator read letters from Janice Hutton, Siloam Springs, Arkansas, and from David Bury, resident of 360 S.E. Township Road. David Anderson introduced John Regan, brother of Joseph Regan, and stated they are the new owners of the property. They raise Christmas trees and will use part of the property that is not under development to raise one crop of Christmas trees, which takes approximately six years from planting to maturity. Mr. Anderson expressed the desire of the applicant to reserve the R-2 zoning which could have been applied along S.E. Township to use in another location within the development.

Chairman Kahut opened the public hearing and called for proponents to the zone change. Ben Maxwell who lives on S. Maple and S.E. Township informed the Commission that he was all for the zone change. He said the zone change would improve the south side and would give the City some much needed housing. Scott Newberg, 431 S.E. Township, stated that he had just moved to Canby and worked at Cutsforth Thriftway Store, and it was his feeling that the zone change would allow more housing,

improve business for the businessman, give the city more tax money, and help employment. Eileen Osmer, 718 S.E. Township Road, expressed the feeling that the zone change and new development would be good for Canby. John Regan, brother of Joseph Regan, informed the Commission that he lived in Livermore California as did his brother. The brothers had proceeded north on I-5 and settled in the Willamette Valley. He said it is their desire to see the valley grow and further they desire to work with the community. George Wilhelm and engineer for the development, 546 S.E. Township, explained the ten (10) foot dedication along S.E. Township.

There being no further proponents, the Chairman called for opponents to the zone change. David Bury, 360 S.E. Township Road, asked about the densities in the development as he didn't want to see apartments built. He requested that only one phase be rezoned at a time. There being no further opponents, George Wilhelm addressed the question of density. He stated that the Comprehensive Plan calls for a higher density, as this development is proposed for single family residences. Mr. Bury asked the time line for development. Mr. Wilhelm stated that as soon as one phase is finished, they will start the next phase. Chairman Kahut closed the public hearing.

Commissioner Nicholson asked the City Administrator if the Commission wasn't bound to rezone the property adjacent to S.E. Township Road R-2. The City Administrator said it was a judgment call. He noted that all of the property is for residential use and none is designated for low density residential.

Commissioner Seale asked what the school's reaction had been to the proposal. Mr. Lashbrook stated that he had met with representatives of the grade school district and the only concern expressed was their desire to know how fast it was going to be built. Commissioner Schrader stated that you can't hold up development because schools are not ready to receive the children. Mr. Lashbrook said that if everything that could develop does develop the schools may have to go back to year around school.

Mr. Anderson stated that since the Comprehensive Plan calls for duplexes and triplexes on this property, he did not understand why the Planning Commission is "bad-mouthing" development. Mr. Anderson further stated that there was a definite need for housing in Canby. Chairman Kahut stated that for six months the Commission has heard considerable opposition to multi-family housing projects. Commissioner Schrader stated that the Commission should follow the Comprehensive Plan. Commissioner Seale informed the Commission of his desire to only rezone that portion that is being subdivided. Commissioner Nicholson wanted more answers on transportation (roads) and sewer (capacity). George Wilhelm stated that by his calculations, the development of all of the land in the rezone request would build 214 single family residences which would put 96,000 gallons into the sewer system each day, and the line running to the sewer treatment facility could carry 1.6 million gallons per day. Rusty Klem, Public Works Director, informed the Commission that when Curran and McLeod, Engineers, did their study two

years ago we were at about 50 - 55 percent of capacity but some individual pipeline segments are much closer to capacity than others

Commissioner Harmon arrived and stated that he worked in the same realty firm as did the developer's agent and wanted all to understand that he was not involved with this development. Chairman Kahut asked the audience if they felt Mr. Harmon had a conflict of interest. Don Bear stated "yes," Mr. Harmon did as he was a real estate agent and is close to Mr. Anderson. Commissioner Nicholson stated that he couldn't be condemned for being a real estate agent and if people were going to be treated in that manner the City would not be able to get anyone to serve on committees and commissions. The consensus of the Commission was that Mr. Harmon had no conflict of interest.

Mr. Anderson stated that the developer might like to use the higher density at a later phase of this development.

Commissioner Seale moved to recommend rezoning property described as part of Tax Lot 700, from R-1, low density residential, to R-1.5, Intermediate Density, for approximately 8.5 acres due to the Commissions concerns to service this acreage. He stated that this request meets the standards and criteria for the zone and meets Implementation Measures A and B of Policy No. 6 of the Comprehensive Plan and the neighbors are in favor of the change. This zone change is to be subject to the following conditions: 1) A ten (10) foot dedication for widening of S.E. Township Road; 2) Full curb and sidewalk improvements along the south side of S.E. Township Road frontage; 3) A waiver of the right to remonstrate against the formation of a local improvement district for full improvements to S.E. Township Road (It should be noted that this is intended to apply to those improvements not anticipated at this time, such as final street resurfacing, etc.); and, 4) Dedication and waiver of the right to remonstrate to be in a form approved by the City Attorney and conveyed without expense to the City. The motion was seconded by Commissioner Nicholson and passed with the Chairman voting and Commissioner Harmon abstaining.

Item #2: Request for approval of Phase I, consisting of 42 lots, of a 214 lot, single family residential, subdivision which will be developed in seven or eight phases on property located on the south side of S.E. Township Road approximately 1400 feet east of S. Ivy Street and described as a portion of Tax Lot 600, Section 4A, T4S, R1E. The applicant is David Anderson, Agent for Joseph and Shirley Regan.

Chairman Kahut opened the public hearing portion of the meeting. Ben Maxwell, 582 S. Maple, stated that this area needs development and Canby has good schools for children which will attract families. Eileen Osmer stated that she was in favor of the development. Scott Newberg, stated that he was in favor for the same reasons of helping employment, helping business and all around good for Canby. There being no further proponents, the Chairman called for opponents. David Bury, 360 S. E. Township Road, asked the Commission to think about what was going to be done to S. Pine Street. Mr. Bury had he was under the impression that S. Pine was supposed to connect to SE 99-E and south to SE 13th Avenue eventually. Also, Mr. Bury was concerned about the capacity of the sewer line from the south side and asked the Commission to be sure that

this development would not be more than could be handled by the sewer system. Chairman Kahut closed the public hearing portion as there were no further opponents.

Commissioner Nicholson pointed out that the wording on the Utility Board request for utility easements was different than the wording used by the City. City Administrator Lashbrook stated that it would be preferable to use the City's wording. Commissioner Nicholson stated that the proposed lots were not sited with solar access in mind. Commissioner Schrader asked for a deed restriction to require deciduous trees within south-side street rights-of-way. Engineer George Wilhelm reminded the Commission that there would not be any room in the right-of-way, or setback area, to place trees. Commissioner Nicholson asked if the developer had considered the dedication of property for public park purposes. Mr. Regan said that they were agreeable to such a dedication in the later phases of the project and that they had discussed this with the City staff. Commissioner Lindsay asked if Township Road was wide enough for a school bus to pull off the road for loading and unloading purposes, as the safety factor of the children must be met. Commissioner Lindsay was assured that if a school bus desired to get off the road it would be able to. Commissioner Schrader moved to approve the tentative subdivision plat for approximately 8.5 acres, containing 42 lots, since it does appear to meet the Land Use Policies of the Comprehensive Plan, does conform with the zoning ordinance and all public facilities are in place. This approval is subject to the following conditions: 1) Approval to be contingent upon the approval of the proposed zone change by the City Council; 2) A fence, five to six feet in height, is to be constructed along the eastern boundary of the subdivision (unless the developer has secured the ownership of the adjacent 30+ acres parcel); 3) All access to lots 1 through 7, of Block 1 and lot 1 of Block 3 to be from interior streets, rather than from Township Road. No curb cuts for driveways will be allowed in this area; 4) The standard street yard setback of fifteen (15) feet is to be maintained from Township Road for principal buildings but fences, hedge rows and accessory buildings will be allowed along the Township Road side of lots 1 through 7 of Block 1, as if they were rear lot lines; 5) Curbs and sidewalks to City standards are to be constructed along all street frontages; 6) No more than four lots in each block are to have the same house design; 7) A temporary turnaround, meeting the requirements of the Fire Marshal and Public Works Director, is to be provided at the southern end of S. Lupine Street; 8) Utility easements are to be provided with wording specified by the Public Works Director, twelve feet in width along all street frontages and along the perimeter of the subdivision. Utility easements six (6) feet in width are to be provided along all side lot lines. Special utility easements, with wording to the satisfaction of the Public Works Director and Canby Utility Board, are to be provided between lots 10 and 11 of Block 1, lots 7 and 8 of Block 2, and lots 5 and 6 of Block 3, to allow for looped or interconnected utilities; 9) All requirements of the Canby Utility Board, Fire District 62, North Willamette Telecom and the Canby Telephone Association to be regarded as conditions of approval; 10) Water lines to be constructed to the standards established by the Canby Utility Board. Hydrants to meet the requirements of C.U.B. and the Fire Marshal; 11) Electric service and street lights to meet the requirements

of the Canby Utility Board; 12) Street, curb, sidewalk, storm drainage, and sanitary sewer construction to meet the requirements of the Public Works Director; 13) Street name and traffic control signs to be provided at developer's expense. This shall include "dead end" signs for both S.E. 6th Place and S.E. 7th Place. "Stop" signs to be provided at S.E. 6th, S.E. 7th, and Township Road; 14) A barricade is to be provided, at developer's expense, at the end of S. Lupine Court unless the development of Phase II is proposed immediately after Phase I; 15) A one-foot street "plug" is to be dedicated to the City of Canby at the end of S. Lupine Street/ This plug is to prevent access to the remainder of the parent parcel until a subsequent development application has been approved for that area; and, 16) Deciduous trees or shrubbery only are to be planted in the right-of-way on the south side of the east-west streets. The motion was seconded by Commissioner Lindsay. Commissioner Harmon felt it would be difficult to enforce the planting of trees and shrubbery and would rather the staff suggest that neighbors take notice of the solar access when planning. The question was called for and the motion passed unanimously with the Chairman voting.

The Commission took a fifteen minute recess to allow for the chambers to be set up for the solar access presentation. The meeting reconvened at 9:45 p.m. and the Commission went into a workshop to consider a presentation by Les Tumidaj of Benkendorf and Associates. Mr. Tumidaj reviewed for the Commission the contents of three proposed ordinances which were prepared by the Metro Solar Access Committee. They dealt with the following subjects: 1) New Development Standards - for new subdivisions; 2) Solar Balance Standards - for development of individual lots; and, 3) Solar Access Permits - to protect existing homes from shading of adjacent property.

At the conclusion of the solar access presentation, the Commission stayed to discuss the efforts of the Sign Ordinance Committee and the density standards of the Comprehensive Plan. Commission McKibbin stated that he felt the sign ordinance committee should include private citizens and an architect. Some discussion followed about whether such a group would actually be a "Design Review Committee" rather than just an ad-hoc group.

Lashbrook said that he felt the subcommittee should complete its work before encouraging attendance by the public at large. He reminded the Commission that they were supposed to represent the lay citizen in the legislative process.

Chairman Kahut said that he did not support the direction being taken by the Sign Ordinance Committee and that he was considering resigning from that group. He went on to add that he felt the City needs to make changes to the Comprehensive Plan to provide more protection for single family development areas. Chairman Kahut said that he felt the circumstances surrounding the preparation of the Comprehensive Plan (high interest rates and plans for higher density housing) were no longer valid. He added that he was very frustrated by the fact that the Commission was no longer allowed to consider such things as vacancy rates and other "public need" criteria in making land use decisions.

Lashbrook said that he understood the Commissioners' frustration but that there was little that could be done about the legal requirements. He noted that the Commission cannot reduce the density allowed in any given part of the City without increasing the density of another area proportionately. He said that he didn't think the neighbors in any given area would like to see their density increased, so that the residents of another area could have theirs reduced.

A lengthy discussion followed.

Respectfully submitted,

A handwritten signature in cursive script, reading "Virginia J. Shirley". The signature is written in dark ink and is positioned above the printed name and title.

Virginia J. Shirley, Secretary  
Canby Planning Commission