

CANBY PLANNING COMMISSION
SPECIAL MEETING
FEBRUARY 26, 1990

1. ROLL CALL:

Present: Chairman Schrader, Commissioners, Wiegand, Bear, Meeuwsen, Lindsay, Nicholson and Zieg.

Also present: City Planner Hank Skinner, City Recorder Marilyn Perrett, Kenneth & Mavourn Stuart, Lois & Archie McLeod, Marcella Baker, Gugeborg Zappaterreno, Pegeen Burke, John Schlitt, Gordon Ross, Lynn Kadwell, Jerome & Roberta Simmitt, Dena Worthington, Edna Vosika, Les Wilkens, Curt McLeod, Ronald Tatone, Jay Hoffman, Dan Stoller, Janice & Jerry Simmitt, Edward Montecuccio, Bob Kacalek, Sean & Barb McVicker, Jackie & Steve Krupicka, Lovelle Lack, Bob & Sharon Westcott and Carl Mead.

2. MINUTES:

A. The minutes of the regular meeting of the Planning Commission, February 12, 1990, were accepted as distributed with the comment that page 4, regarding the Anderson variance request, should have more details of decision discussion.

B. The minutes of City Council meeting, February 21, 1990, were received without comment.

3. COMMUNICATIONS:

Planner Skinner informed the Commission that he had received written notice today of request to appeal to the City Council the Planning Decision on the Garbage Transfer Station, CUP-89-09. Also, the attorney for the applicant, Roger Reif, will file a letter waiving the 120 day appeal period and the item will probably be on the March 21, 1990, Council agenda.

4. UNFINISHED BUSINESS:

City Planner Skinner informed the Commission of a third workshop with the City Council on March 5, 1990, 7:00 p.m., on the proposed Site and Design Review Ordinance. Copies of the draft ordinance are available in the Planning Department.

5. BUSINESS FROM THE AUDIENCE:

None was presented.

6. PUBLIC HEARING:

(A) CPA-90-01 and ZC-90-01 (CONTINUED from February 12, 1990 - An application by Times Mirror Land and Development Company to Amend the Canby Comprehensive Plan, expand the

Urban Growth Boundary and to Change the Zone from Agriculture to R-1 Residential on approximately 30.19 acres of land in the northwest section of the City.

Commissioner Nicholson asked if LCDC had responded to the subject property regarding having the property excluded from the UGB based on the sewer systems and reasons why LCDC would like to see this issue set aside.

Planner Skinner said he had not received anything from LCDC.

Commissioner Bear asked if the Periodic Review process had contained any information regarding this matter or the UGB.

Commissioner Schrader said the Periodic Review was primarily procedural information and nothing directly about the UGB was discussed.

Planner Skinner did note that the City has not met the projected population of the Comp Plan.

Commissioner Schrader asked if any of the Commission had any exparte' contact regarding the public hearing issue. None was voiced.

The public hearing was opened at 7:47 p.m. Commissioner Schrader called for testimony from the February 12th "sign up sheet" on the matter.

PROPNENTS: Roger Reif, declined to testify at this time.

Curt McLeod, 1315 N. Oak, expressed that two weeks ago the applicants addressed the Statewide and City Planning Goals, however, he wanted to address the exception process.

1. Agricultural Goal - does not apply to the property because it has utilities and transportation impact that can not be accomplished on any other site, is surrounded by residential uses and it is inside the City limits, therefore the definition of "agriculture" is limited by being within the City limits.
2. Alternate Sites - only this site can complete the transportation plan and an efficient utility system for the City; and it would eliminate the noncompatibility of agriculture with the surrounding residential. It's also a land and cost efficient use of the property.
3. Long Term Economic Effective - will control urban sprawl and eliminate farm land further out from being used for UGB. It does not create a demand but does satisfy a housing need.
4. Proposed Use Compatible with Surrounding - felt that was obvious due to low residential uses that surrounds area.

OPPNENTS: Gugeborg Zappaterreno, 420 N.W. 10th Avenue, expressed her concern about building housing that is not needed; concern about water pump station and who would pay for them; and concern about the too many students for the schools.

Mark Thompson, not present to testify.

Edna Vosika, 680 N.W. 9th, (Planner Skinner read her letter.) expressed concern about keeping the subject property for agriculture and specifically growing of seedlings, she questioned if housing would be a better use for the land.

Delbert Hemphill, 703 N.W. 13th, (Planner Skinner read his letter of February 15, 1990.) addressed the Canderly sandy loam soil on the parcel and specifically the better drainage of this site. Also, he said he only saw one ad in "The Digger", to sell the property.

Jay Hoffman, 1265 N. Grant, noting that he was a personal friend of many of the Northwood partners, however, felt compelled to state feelings on the issue. Mr. Hoffman was opposed for several reasons: no need for more land in UGB; many new subdivisions on the market now; current area residents were assured that area would be left as open space for agriculture; stubbed off streets provides privacy from future traffic; additional strain on overcrowded schools; noise and din with construction of new homes; and the original decision to leave this area out of UGB was a right choice with much deliberation. Finally, Mr. Hoffman suggested that Northwood make an effort to develop an area within the UGB.

Drew Hunter, Whiskey Hill Nursery, (Planner Skinner read the letter into the record.) noted that Canby has a diverse type of agriculture with many open spaces around the City and a good livability. Statewide Planning Goal #3, states that agriculture land shall be preserved for farm use consistent with existing and future needs. Oregon Land Use Planning Goal # 14 states that a factor to consider is the soil type and class with the highest priority for retention being class number one. The subject property is soil class number two and should be considered prime for farmland. Number 14 encourages development within urban areas before the conversion of rural lands into urbanizable lands. Mr. Hunter requested that the application be denied.

Jack Pendleton, 686 N.W. 13th, (Planner Skinner read the letter dated February 24, 1990.) pointed out that Canby is a "nice place to live" and wanted to keep that distinctive character. Mr. Pendleton suggested that Birch and Territorial need to be improved prior to a land use change; parks and open space need to be developed as a precondition to development; the suggested "trade" of another parcel already in the UGB should be done by the developer should be done prior to approval; and consideration should be given as to whether the change would enhance the quality of life in Canby.

Sean McVicker, 1485 N. Locust, noting that he was not for or against the proposal, suggested that recreational areas should be addressed. The applicant suggested that the Catholic Church and school district land on N. Holly and Territorial would address this matter. However, Mr. McVicker felt the church had not been

contacted and the school has stated that their parcel is too small to develop as a school site. Mr. McVicker mentioned several truck farmers in the area and stated they must be located in close proximity to urban areas and that Canby is a major truck farm area, even though the applicant contends that agriculture is no longer a viable type of industry. Mr. McVicker felt that "livability" should be more definitive, and the Commission needs to address the issue of whether Canby is to be a "bedroom" community or "industry" community. Also, recreation areas need to be addressed for the long term future.

Robert Westcott, 1073 N. Grant, noted that property owners bought their lots with the assurance that the UGB would exclude the property behind them. Planner Skinner read Mr. Westcott's letter of February 12, 1990, reiterating the concerns on the area not being included in the UGB and felt if this were changed, then a property right would be taken from the property owners.

REBUTTAL: Curt McLeod addressed the following issues in rebuttal: 1. They are not creating additional demand, but will divert home sites and consolidate sprawl. 2. Developer will pay all expenses for utilities and streets. 3. The cost of not having the develop, the new subdivision currently on Territorial will impact the transportation and Territorial cannot handle the available 100 acres in that area. 4. All five applicants are Canby residents and concerned with preservation of farm land and they agree this is good farm soil, however, the entire town is on good soil and they feel there is no logic in isolating a piece of property within the City limits. 5. Mr. McLeod spoke to Jim Sitzman of LCDC and Mr. Sitzman noted removing 30 acres from the UGB of compromising land. In 1984, all of the IFA property was removed from the UGB, including this parcel. 6. Comp Plan is a planning tool and 20 years from now, if we develop all of the UGB, a problem will be created with that "bottle neck" by eliminating the utilities and transportation system in subject property. 7. Entire Comp Plan needs to be reviewed with the same criteria as being used for subject property. Subdivisions are currently being developed on same class two soil. 8. In favor of a Parks Plan System. 9. The comment of state requirement to remove 30 acres would be to minimize the urban sprawl area. 10. Catholic Church was consulted and a liability was their concern and they did not propose using the Church property. However, the school property could be considered. 11. Agriculture is viable in Canby, however, does not have the labor force needed to support the community. They request a favorable review and felt the applicants could not legally find the 30 acres of UGB to remove themselves, they will assist the City.

Les Wilkens, Administrator and Forester for Times Mirror, reviewed the history of the property with IFA and Publisher's Paper Company. Mr. Wilkens did say the land was offered for sale through two publications, Salem Capital Press and The Digger, both agriculture trade publications and nobody has offered to buy the parcel.

Mrs. Zappaterreno voiced that the asking price was to high.

Gordon Ross, 2442 N. Locust, pointed out that all schools in every City have problems; streets are not put into place prior to need; developers pay for all the streets and improvements; there are ten buyers for every house now and all lots in the new subdivision on Territorial are spoken for already; in regards to "assurances" on property, he noted that "nothing stays the same"; he felt the subject was erroneously taken out of the UGB and felt we should not create an island in the middle of the City; and the street and utility stubs were put in for the purpose of future development.

Commissioner Schrader closed the pubic hearing at 8:48 p.m. A short recess was called at 8:48 p.m. and the meeting was reconvened at 8:58 p.m.

DISCUSSION BY THE COMMISSION:

Commissioner Meeuwsen felt the most important issue was to discuss withdrawing another 30 acres from the UGB prior to adding the subject property to the UGB.

Planner Skinner felt it needs to be the applicants responsibility to locate owners of land to trade on the fringe of UGB, favorable land exists on the southeast or easterly section and should be a commitment meeting City Attorney and State approval. Mr. Skinner suggested the applicants have a year to accomplish the trade. Lands in public use should not be considered and LCDC suggested lands that are not easily serviceable.

Commissioner Nicholson noted that the applicant felt there would be legal issues if they tried to find UGB areas to trade and noted that the process for the exchange would be the same as one to expand the UGB.

Commissioner Schrader suggested that the City pursue the land trade.

Administrator Michael Jordan noted the constraints on the limited City staff made it highly impractical for the City to pursue the issue.

Commissioner Lindsay asked if the County would be involved and was told they would be.

Commissioner Bear noted that Municipal Code 16.88.180 (D)(2), a public need for change, by adding more UGB would not be an orderly growth as Comp Plan advises and no need was set for the need for new UGB. He noted that the City must take a stand on staying a "bedroom" community or diversify. Also, it would be a strain on utilities, streets, schools and recreational facilities. Mr. Bear noted that the I-5

Access group is still active interested in increasing the City's industrial base.

Land Use Element # 2 states, "allow agricultural areas to remain in productivity for as long as possible before they are converted to urban uses. The best way to implement this objective is to increase the density and intensity of land uses within the urban areas." We will not increase density if we allow that land to come into the UGB.

Policy #3, CANBY SHALL DISCOURAGE ANY DEVELOPMENT WHICH WILL RESULT IN OVERBURDENING ANY OF THE COMMUNITY'S PUBLIC FACILITIES OF SERVICES. Canby schools systems are already strained; traffic on Territorial Road is overburdened. Forming an LID is not the answer to create the subdivision.

Since Territorial Road is concurrent to the subject property it should be developed.

Ron Tatone, applicant, the subdivision will be developed in three phases and Territorial Road would be the third phase, its not like an impact of 100 homes tomorrow.

Planner Skinner said that the subdivision would be another application and infrastructure would be outlined in detail.

Commissioner Bear said the public need has not been shown.

Environmental Concerns Element, 1-R, it has been shown this is valuable land for agriculture, such as nurseries, however, the property price is too high and agriculture owners have no interest. He felt this was a "stalemate." But it also requires that the least productive land be urbanized first and this is clearly productive and outside the UGB.

Statewide Planning Goals have not been addressed by applicant.

Planner Skinner noted that Commissioner Lindsay found in the OAR, that lands in the City limits are committed to urbanization. However, DLCD notes that issue to be debated at a pending hearing.

Commissioner Lindsay requested that Mr. Skinner read the OAR in its entirety for the record.

Planner Skinner, read Chapter 660, Oregon Administrative Rules, Division 1, Section 300.

Commissioner Schrader said he had personally contacted IFA and the land is very profitable for agriculture and have had two of their best years the last two years. However, the price of the land was appraised as a residential acreage and makes it not realistic for agriculture purchase.

Commissioner Nicholson felt the City and Planning Commission should pursue the trade by locating 30 acres in the UGB. Also, the Comp Plan should be upgraded and the future of the City considered. Also, the Council has criteria to consider in order to make a recommendation

Commissioner Schrader felt, in his perspective as a Commissioner for ten years, it is apparent that the common grounds are livability and a viable strong community with a mix of small business and industry with a small town atmosphere.

Recreation and open spaces needs to be addressed, we only have three parks now and none exist in this area. The school district indicated they would look for dedication and make their property a school building site if this proposal is approved, however, that's not their ideal site for another school.

The first of the six criteria: 1. relating to the Comp Plan and other jurisdictions - URBAN ELEMENT, #1, TO PRESERVE AND MAINTAIN DESIGNATED AGRICULTURAL AND FOREST LANDS BY PROTECTING THEM FROM URBANIZATION, sounds black and white to me.

Commissioner Meeuwsen stated that no matter where we go from here, we will not be preserving agriculture land, we will be growing and urbanizing into those areas.

Commissioner Schrader noted there were other lands designated by the Comp Plan as R-1, and if we have special land not designated as such and ample ground remains in UGB, we have a duty to preserve this agriculture land.

Land Use Element, regarding the parks and opens spaces, and the schools should be a major consideration.

Policy 5, indicates this should be zoned in compliance with the Land Use Map.

Policy 6, suggests this is a very unique area, and is protected by the agriculture designation.

Environmental Concerns Element, # 1-R-A, related to this proposal and this policy would hold true.

Policy 3-R, pollution might be worse with vehicles, noise, construction and visual aesthetic pollution.

Policy 7-R, more houses does not improve the aesthetic quality of this area.

Policy 8-R, we are seeking to protect open space.

Economic Element, Policy #4, this is highly productive area and employs 80 to 90 people, and one of the goals is to improve industry.

Lovelle Lack, IFA Manager, noted that IFA has 106 acres, inclusive with the subject 30 acres.

Commissioner Schrader questioned criteria #2, public need for change.

Commissioner Nicholson the lowest projection of population in the Comp Plan was above 11,000 and we are substantially below that at 8,000 +, therefore there is no need for a change at this time.

Commissioner Bear noted that criteria #3, change will serve the public need better than other changes - the proposed housing is projected at \$100,000 to \$150,000 and we don't need that type of home for the basic middle class salary citizens. Current subdivisions are selling at a lower price.

Mr. Bear would like to see small industry encouraged to come into Canby.

Commissioner Schrader requested comments on criteria #4, regarding health, safety and welfare of residents.

Commissioner Zieg and Commissioner Wiegand both felt this criteria didn't need addressed.

Commissioner Schrader noted that #4 would be a neutral point.

Criteria #5, Statewide Planning Goals.

Curt McLeod noted that they basically addressed the components of each of the Statewide Planning Goals, some where not addressed that did not apply.

Commissioner Schrader felt that Statewide Goals, #3, preserve and maintain agriculture lands; Goal #5, conserve open space and protect natural and scenic resources; and Goal #14, provide for an orderly and efficient transition from rural to urban land were not addressed by the applicant.

Criteria #6, regarding public facilities and services.

Commissioner Wiegand felt the time frame for some of the development of the services would be at an unacceptable time frame.

Commissioner Nicholson noted that there were some potential benefits from hooking up utilities.

Planner Skinner noted that Clackamas County did not respond to this particular project, however, he felt the City should develop a better line of communication with the County on infrastructure and Land Use Issues.

Commissioner Schrader reviewed the criteria: 1. ten

Comprehensive Plan potential problems, 2. not met population projections and still available land, 3. homes availability to average individual and to encourage small industry such as IFA, 4. not applicable, 5. Statewide Planning Goals 3,5 and 14 were in conflict, and 6. time line concern but some benefits.

Four out of the six criteria are lacking in evidence.

Planner Skinner noted that the Zone Change also be addressed. One of the criteria in the Zone Change, Policy #6 of the Land Use Element, should be addressed.

Commissioner Schrader Policy #6 was addressed potential problem regarding unique character of the area.

**Commissioner Bear moved (with clarification from City Planner Skinner) that the application of the Northwood Investments request for amendment to the Comprehensive Plan, CPA-90-01, to permit expansion of the Urban Growth Boundary to include an additional 30.19 acres of territory identified as Tax Lot 800, Tax Map T3S, R1E, Section 32AA, Tax Lots 100,200, and 1700, Tax Map T3S, R1E, 32AD, Tax Lots 300 and 501, Tax Map T3S, R1E, Section 33BB, and Tax Lot 6600, Tax Map T3S, R1E, Section 33BC be DENIED based on the following findings:

1. not met criteria one and specifically the ten policies that were referenced by Commissioner Schrader and the staff report findings;
2. not met burden of proof for public need based on the record,
3. not met due to encouragement of industry and the nature of the proposed homes,
4. not applicable,
5. not met based on Statewide Planning Goals 3, 5, and 14 not being met, and
6. applicant has met this criteria.

Also, the request for the one Change, ZC-90-01, be DENIED based on the Policy #6, of the Land Use Element; and number two, all required public and existing services to adequately meet the needs has shown the ability to do this.

Commissioner Wiegand seconded the motion.

Roll call of the Commission showed the motion for DENIAL, passed 5-2, with Commissioner's Zieg and Lindsay voting nay.

Planner Skinner said this would be scheduled for a public hearing with the City Council at the earliest possible date.

7. REPORTS:

Planner Skinner informed the Commission that the request to consider an extension of a current Conditional User Permit, CUP-89-02, of the Elmwood Mobile Home Park needed to be a new application since it was automatically revoked at the end of twelve months. The Commission decided to ask for another fee only if the Garbage Transfer Station paid a fee, this matter will be researched and the applicant will be notified.

Commissioner Schrader requested that condition number 21, with an open space improvement concept be addressed at the time of the new application.

8. BUSINESS FROM THE COMMISSION:

Commissioner Schrader suggested consulting the City Attorney as to the definition of "Rebuttal", for procedural clarification.

In making motions, the maker of the motion can refer to what has previously been summarized by staff or the Chair.

9. ADJOURNMENT:

Commissioner Schrader adjourned the regular session at 10:29 p.m.

Rusty Klem,
Public Works Director

Kurt Schrader, Chairman
Planning Commission