

CANBY PLANNING COMMISSION MINUTES

Regular Meeting

October 22, 1990

7:30 p.m.

APPROVED

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I. ROLL CALL

Present: Chairman Schrader, Commissioners Mihata, Bear, Zieg, Westcott, Wiegand and Fenske.

Others present: Rusty Klem, Director of Public Works; Bob Hoffman, Interim Planner; John Kelley, City Attorney; Joyce Faltus, Secretary; Leona and George Julian, Eileen Osmen, Mr. and Mrs. Tom Kerr, Howard and Loyd Alice Lowie, Donna Jean and John McManamon, Dave Anderson, Don Smeback, T. Kay Yeoman, Mr. and Mrs. Lawrence Gooding, Mr. and Mrs. D. J. Canny, Mr. and Mrs. Roy Dworschak, Mr. and Mrs. Marvin Brigman, G. Wipl, Bob and Belva Clark, Ben Maxwell, George Wilhelm, Scott Neuberger, Jerry and Carol Coleman, Karen and Rich Cary, Ernie and Alice Reames, Jan and Herb Kluth, Walter and Jean Martin, Willy and Marion Fenerstack, Donald A. Pierce, and Ron Tatone.

II. MINUTES

The minutes of **October 8, 1990** were **approved** unanimously.

III. COMMUNICATIONS

Mr. Hoffman explained that the City received communication from Al Sizer (Cedar Creek), requesting SUB 90-04/CUP 90-08 be postponed to November 5, 1990, with the additional request the hearing be reviewed first under Public Hearings. The Commission unanimously agreed to honor the request.

IV. UNFINISHED BUSINESS

None

V. BUSINESS FROM THE AUDIENCE

None

## VI.

### PUBLIC HEARINGS

**SUB 90-02**, a request by Regan Enterprises (Township Village Phase III) for approval to construct a 36-lot subdivision on 8.3 acres on the northern 768 feet of Tax Lot 1800 of Tax Map 4-1E-3. The property is presently a tree farm. A revised Master Site Plan for the larger Township Village area has been submitted. Thirty-six single family lots are proposed, varying in size between 6,565 and 11,215 square feet. Improved Solar Access and a collector street are proposed.

Chairman Schrader explained the hearing procedures and timelines. He asked whether any Commissioner had ex-parte contact or conflict-of-interest. None was expressed.

Mr. Hoffman presented the staff report. He noted two corrections on page 1: the Comprehensive Plan Designation and Zoning Designation should be corrected to read Township Road, rather than Territorial. The R-2 Medium Density Residential designation covers 220 feet along Township, as opposed to the 200 feet described under the Zoning Designation.

Mr. Hoffman explained that the developer is not limited to building single family homes because the zoning of the property would allow multiple dwelling usage of some of the lots. A revised Master Plan has been submitted which is not entirely consistent with previous approval of the first two phases. Improved solar access has been provided for, by improved orientation of the lots, and a collector street is proposed to meet a previous condition of approval, to provide a connection between local areas and their arterials, without encouraging through-traffic. The collector should be a 50 foot right-of-way with a 40 foot pavement. The proposed revised area master plan provides for this collector via S. Pine-10th and S.E. Oak-13th. The new sewer collector will be provided for in each phase within this new right-of-way.

Rezoning to R-1.5 for an adjacent site of 8.5 acres was approved, but the request for rezoning the remainder of the site, 33.4 acres, was denied. The remainder of the original site remains R-1. A strip of land adjacent to the original parcel was annexed to Canby recently and the northern portion of this parcel is the subject of this application. One of the conditions of annexation was that the property was zoned R-2 throughout the northern 220 feet; R-1.5 throughout the middle 1,210 feet; and R-1 throughout another 1,210 feet. Additionally, adequate and significant allocations for park land and open space were conditioned as part of the revised master plan.

Although the area is suitable for urban residential development, the southeast portion of the City does not have adequate sewer capacity to handle all the area indicated within the Urban Growth Boundary. A major sewer route must be determined and protected to serve this part of the City. Knott Street dead-ends adjacent to Township Village. Staff would like some provision included to extend Knott Street. Additionally, children's pedestrian needs should be better met to encourage safe school access. The pedestrian walkway connections proposed by the Planning Commission previously, have not been indicated on the present master plan. Mr. Hoffman has sketched them in where they were to be located.

Mr. Hoffman said that although the zoning would permit higher density development, the developer has noted in his application that his proposal only includes single family development. The developer has proposed a fee in lieu of park land dedication. John Kelley, City Attorney, directed staff that Canby is not quite ready to do this, in terms of its ordinances and procedures.

Due to clay, and other soil conditions, Mr. Hoffman suggested the Commission condition that the streets be kept clean during the construction phase. Many complaints have been received regarding this issue.

The applicable criteria was explained and discussed, as was the consistency with the Comprehensive Plan and applicable City Codes. Staff concludes that the proposal can be made to comply to all applicable criteria with the inclusion of certain conditions, which Mr. Hoffman reviewed, deleting the proposed condition #2 and adding a condition regarding clean-up during construction.

The Commission discussed the routing of the collector street and whether the main collector had been jogged to Oak during the previous hearing. The jog the Commission remembered was related to the road itself not being a natural straight thoroughfare, which would discourage teenage traffic.

### **Applicant**

**George Wilhelm, 546 S.E. Township** stated that the intention is to build only single family residential homes. He has no objection to the Commission limiting development to only single family residential and to including it in the CC&Rs.

With regard to providing access to lots to the west, he explained that Knott Street does not abut property that is part of Township Village. The

property to the west is adequately provided from Ivy. Mr. Wilhelm requested the developer not be required to provide that access.

Mr. Wilhelm requested clarification of the request for fencing around the southern and eastern borders. With regard to park land or fees for parks in lieu, Mr. Wilhelm stated playground areas for young children are provided on the lots themselves, by providing approximately 2,080 square feet more per lot than is required -- 36% more than is required for **each** lot. The owners do not object to providing park land or fees to the City for public development, but that it should be applied fairly and evenly throughout the City. In addition, he objected to the fact that this application is the only one of the three subdivisions on the agenda that is asked to provide such park land. Mr. Hoffman stated that there was no longer a condition asking for park land. Rather, it was a recommendation directed toward future phases of the development and are strictly advisory, rather than binding on the developer. Mr. Hoffman added that the design review ordinance is now in effect as a land use procedure and, if multi-family housing was proposed, it would have to undergo this procedure.

#### **Proponents**

None

#### **Opponents**

**Eileen Osmer, 718 S.E. Township**, stated that she is not opposed to the development, but would appreciate more trees are needed on the site and more green play area for children. Ms. Osmer is concerned that Pine is the only access road off Township and that multi-family housing would bring more children, who would have very little play area.

**Donna Jean McManamon, 525 S.E. 7th**, spoke of her concern regarding the fact that the zoning would permit higher densities and multi-family structures. She registered a formal objection about the density change from R-1 to a multiple dwelling status. Those who purchased homes during Phase I did so because they were under the assumption that it would be entirely developed of single-family homes. She further stated she is concerned that the body responsible for making decisions regarding her living conditions, show little concern for the overcrowded conditions of the school system. Ms. McManamon stated she requests a moratorium, or a denial, or a cap on multiple family dwellings.

**Richard Cary, 679 S. Lupine**, concurred with Ms. McManamon's testimony. Mr. Cary said he felt the Township Village area is the best in Canby and he does not want it to become like the S. Knott or S. Locust area. Multi-

family housing could turn Canby into another Gresham - "apartment city living."

**Don Smeback, 625 S.E. 7th Place**, asked how the zoning designation came about. Mr. Hoffman explained the chronology of the Comprehensive Plan, zoning designation and the annexation. Mr. Kelley explained that any property that is annexed into the City, comes in under the Comprehensive Plan zoning designation. The Comprehensive Plan was adopted in 1984 and at that time, the zoning for the particular area encompassed all three designations. Chairman Schrader explained the requirements for a zone change application. For the record, Mr. Smeback stated he objects to the multi-family designation.

**Bob Clark, 759 S. Lupine**, asked to what extent would a declaration in the CC&Rs to develop only single family residences bind the developer. Mr. Kelley explained that the deed restriction would be enforceable by people who are parties to the deed restrictions, in the event the developer chose to violate those restrictions. The residents in the development (Phase III) could sue him to prevent his developing anything other than single family residences. Mr. Wilhelm explained there were CC&Rs in Phase I and II and proposes to have CC&Rs in Phase III. Further, the developer would not object to including a declaration limiting development to single family residences in Phase III.

**Jerry Coleman, 685 S.E. 7th**, concurred with all previous testimony. He stated his reasons for moving from Oregon City and said he was assured by the realtor that on the parcel containing Christmas Trees, there would only be single family residences. Mr. Coleman added that the schools would be extremely overcrowded if apartments and duplexes were permitted.

**Don Pierce, 671 S.E. 6th Place**, concurred with Mr. Coleman's testimony regarding assurances from a realtor. A main concern is the traffic conditions on Township. Apartments and duplexes would increase traffic enormously. Children living in apartments would have no place to play either.

**Carol Coleman, 685 S.E. 7th Place**, concurred with Mr. Coleman and Mr. Pierce in that she had assurances from the builder and realtor that the development would remain single family residential. Ms. Coleman added that she fears low income housing built behind her and she would never have purchased the home, had she known.

**Ben Maxwell, 561 S.E. 6th Place**, addressed the issue of overcrowded schools. Mr. Maxwell stated that land should definitely be set aside for parks or at least a fee in lieu of, because park land is very necessary both

for children and senior citizens. He said that monies are set aside in Lake Oswego and West Linn by developers, to be monitored by the City, and can go toward parks or assisting the school district. He agreed with Mr. Wilhelm that it should be applied fairly and evenly, to all developers. Mr. Maxwell said the schools could lose excellent teachers if apartments and duplexes were developed, as their workloads would be increased more than their salaries. He suggested that in 1984, when the Comprehensive Plan was adopted, the current zoning might have been necessary, but it is not necessary now. Mr. Maxwell stated that he would like the following added to the proposal: "No building shall be erected, placed or committed to remain on any lot other than one single-family dwelling and a private garage for not more than two cars." That statement was taken from the current covenants. There is a problem in Phase I with the fence entry on Township that is very dangerous, especially to senior citizens who walk the path, because kids run through there with their BMX bikes. It also invites prowlers, he said, adding that it should be closed off. Aside from all that, Mr. Maxwell explained that Phase I has a bad drainage problem. Storm water, he said, should run to the street and not into the ground. Monies set aside by the developer should help correct this drainage problem. Although he does not object to apartments and multiple-family dwellings, Mr. Maxwell said they should be built at the far end, near the school, to ensure a place for children to play.

**Elizabeth Canny, 592 S.E. 6th Place**, concurred with Mr. Maxwell's testimony, especially regarding the access from Township and the fence that should be removed.

### **Rebuttal**

**George Wilhelm** reiterated he will agree to conditions of approval that will restrict Phase III to single family residential development and agreed, again, to include such wording in the CC&Rs. He synopsised the design process leading up to Phase III and explained that they believed the larger lots would be more desirable for single family residential development.

Mr. Wilhelm explained that Knott Street dead-ends at a lot that abuts Township Village, but is not owned by Township Village. That lot is accessed from Ivy. With regard to tree removal, Mr. Wilhelm explained that the developers had not control over trees removed by homeowners in Phase I, although they had hoped to save them.

With no additional testimony, the public portion of the hearing was closed for Commission deliberation.

Issues discussed:

1. Adding a condition of approval limiting the development to single family residences and adding such wording to the CC&Rs, to be reviewed and approved by the City Attorney, as the applicant has offered to do so.
2. The Commission agreed the master plan does not address major concerns of the Planning Commission during Phase I and II, nor does it address the conditions for annexation of Phase III.
3. The Commission discussed land for parks and agreed back and front yards on the lots are not adequate park land, especially based on testimony received at this hearing.
4. The Commission discussed the development fee. Mr. Kelley explained there is no ordinance in place to offer criteria with which to evaluate how much, how it is allocated, how it is paid, who it is paid to, etc. The law requires an ordinance be in place that allows payment in lieu of dedication of land. He suggested the Planning Commission bring the issue back in the form of a recommended Ordinance to pass on to the City Council. Chairman Schrader explained it is in the works, that the Park Committee is evaluating the questionnaires returned, regarding public parks. He submitted a tentative Master Park Plan, pending review of the questionnaires and explained that the area in question is critical for park development. The Comprehensive Plan states open space is critical and that acquisition of it is extremely important. He referred the Commissioners to various sections in the Comprehensive Plan. In a letter from Milt Dennison, Superintendent of Canby Elementary Schools, dated March 14, 1989, Mr. Dennison specifically mentions park area dedication - "An area of the size of the proposed Township development needs land dedicated for park use. There are no park areas available in that part of town and children living in the subdivision need places to play. While school playgrounds are accessible during weekend periods, they are not during the school time in session." Additionally, the police chief reviewed the proposals and stated that "a playground area in the development, for a given number of residences, would be a benefit to the development and the City as a whole." Chairman Schrader added that, given the wording of the Comprehensive Plan, the Commission should offer direction to the applicant so land can be set aside. No park land is designated on the master plan. Either conditions or areas set aside for the future use of that land must be imposed in order to have adequate park development for the City. He added that he believes it could be conditioned as it is part of the Plan, but

that a fee in lieu of land cannot be accepted. A mechanism to treat all developers equally is imperative.

5. Chairman Schrader explained that once the park plan is finalized, it will be presented to City Council. The park plan will deal with locations, types of parks, allocation of land, options for funding, etc.
6. Chairman Schrader suggested it might be prudent for the Commission to develop a precedent, or some rationale for pursuing this plan, with regard to a mechanism for treating all subdivisions equally, especially since park space will certainly be required in major subdivisions.
7. Walkways and fencing - Both of these are concerns of the school district. Walkways have proven, in some cases, to encourage crime. Bicycle use has discouraged walkers from using walkways. The Commission discussed fences that are not sight-obscuring and low-level lighting on walkways. The Commission considered conditioning the maintenance of the four interior walkways with adequate lighting, as determined by the Director of Public Works with the developer at the preconstruction conference, to enhance the safety of the community.
8. The Commission discussed access connections to Township Village via Knott Street. Mr. Wilhelm explained that the lot where Knott Street ends, goes out to Ivy. Knott does not have to have to come through Township Village, rather it could provide access onto Ivy eventually and the new street would pick up access to Knott at a right angle.
9. The Commission agreed it could not approve future phases without the Master Plan in tact, as desired by the Commission and the citizens of this community and commented on how well the previous suggestions have been incorporated in the present Master Plan.
10. The Commission recommended adding a condition to Phase III that any calculation of a park formula will include Phase I, Phase II and Phase III. Chairman Schrader explained that open space and land dedication were discussed during hearings for Phases I and II and the annexation.

Mr. Wilhelm requested that he would like to have input, at the appropriate time, on the conditions and/or requirements that are not part of the original staff report.



11. The Commission suggested that actual park land dedication be included in the Master Plan prior to Phase IV is actually developed. The Commission advised the applicant that 15-20% is a figure that is being considered presently. Regarding location, the Commission said that input has been provided from the police chief and superintendent of schools, that the area along Oak Street is considered desirable because the community would be able to interface with existing the school playground, either in terms of upgrading it or providing better access to it. Park space for small children was considered, for small children to play on when school is in session.
12. The majority of the Commissioners were in favor of tying Knott Street into this development in the Master Plan, and therefore offered the applicant direction toward incorporating it in the Master Plan.
13. The Commission discussed and directed the applicant to include a fence around the school grounds - on the eastern and southern borders of the school property. This was done in consideration of the request from Milt Dennison in his March 14, 1989 letter, "The Planning Commission should place a requirement on the developer that quality fencing be constructed between the school and subdivision property before lots adjoining the property boundary are developed."
14. The Commission discussed and considered input from Rusty Klem regarding the sewage system in Phase I and II. Mr. Klem explained that the City has talked to the developer about using the collector all the way from Township to 13th as a corridor for an interceptor between 13th and Township and then eventually tying on down to 99E again. This would be done concurrent with any development. The sewage from Phase I and II goes down Locust Street, he added, avoiding Ivy and 2nd. Suggested wording for a condition is as the second sentence in the proposed condition #13 reads. The rest of the collector would follow the collector street down to 13th. It should be considered in the Master Plan also.
15. The Commission discussed adding a condition referencing a plan and procedures to keep streets clean during construction shall be submitted by the developer and approved by the Director of Public Works, prior to the start of construction.
16. The Commission agreed to add the following words to proposed condition #3: "No driveway access shall be allowed on Township."

Mr. Klem explained that the City did not wish the existing wall along Township to be extended over the utility easement. The fenced entryway from Township into the S.E. 6th Place cul-de-sac should be redesigned with appropriate barricades to safeguard pedestrian traffic. Mr. Klem explained that a post could be set in concrete in the middle of the walkway to deter bike traffic, just as was done in the walkway in Maple Park, but the City would have to get permission from the property owners to do so.

17. The Commission discussed the drainage issues brought up during testimony. Mr. Klem explained that an Ordinance is in place which does not allow storm drainage overflow diverted to City streets because there is no storm sewer system. Dave Anderson explained drainage problems have been experienced in Township Village that have not been experienced elsewhere in Canby. He suggested discussing with the City, the possibility of getting permission to drain storm water overflow onto City streets and, at the time of street construction, perhaps adding more drywells to accommodate the overflow. Although they have installed 4 foot deep drywells (the County only requires 2' deep drywells), the problem still exists. Mr. Anderson suggested enlarging the drywells in the City streets.

**Mr. Wilhelm** addressed some of the issues the Commission discussed:

1. Regarding the walkways: Mr. Wilhelm stated that the original Master Plan did not include the 30 acres running from Township to 13th on the east side. The original master plan showed a number of walkways, even more than is presently proposed. Some were eliminated because lots next to walkways are not desirable. He asked the Commission to consider that fact.
2. Regarding low-level lighting: Mr. Wilhelm asked who would be responsible for maintaining such lighting.
3. Regarding park and open space: Mr. Wilhelm said he reviewed the record. Park space was discussed at the preliminary hearing for Phase I. The developer indicated they are not opposed to setting aside park space provided it is set aside equally and totally throughout the community, which they have not seen happening. At the annexation hearing, they were assured that the City's intent was to apply it equally. Unless the City does so, the developer cannot agree to set park land aside.

The Commission asked Mr. Wilhelm if he could investigate some engineering methods for street lighting that would not adversely affect

neighboring homes more than regular street lights. Mr. Wilhelm assured the Commission he would look into it.

To recap, the issues the Commission would like to see addressed in the Master Plan, submitted prior to Phase IV are:

1. Walkways within the subdivision and, perhaps, to the school grounds, including the consideration of low level lighting and some sort of fencing, as determined by the Director of Public Works with the developer.
2. Acreage from Phase I, II and III shall be included in any calculation formula derived by the City in Ordinance form to figure the amount of open space for the development as a whole.
3. That some Knott Street westerly extension be addressed in the Master Plan.
4. That fencing be confined to around the school area only.
5. That the sewer be placed within the collector street indicated in the Master Plan.
6. That park land areas be designated on the Master Plan.

Based on the findings and conclusions in the staff report, testimony, and Commission deliberations, **Commissioner Bear moved for approval of SUB 90-02 based on the Findings and Conclusions presented in the October 12, 1990 staff report, testimony by the applicant, proponents, opponents, and Commission deliberations, with the following conditions:**

1. **The proposed Master Plan shall be modified as follows, prior to submitting the Phase IV application:**
  - a. **To provide a connection of Knott Street to the loop road northwest of the western end of 7th Avenue.**
  - b. **A pedestrian connection to Philander Lee Elementary School shall be provided from Township Village. Such modifications shall be reviewed and approved by the Planning Director.**
  - c. **Walkways shall be provided within the subdivision and, perhaps, to the school grounds, including the consideration of low level lighting**

and some sort of fencing, as determined by the Director of Public Works with the developer.

- d. Acreage from Phase I, II and III shall be included in any calculation formula derived by the City, in Ordinance form, to figure the amount of open space for the development as a whole. Such park land areas to be designated on the Master Plan.
  - e. That some Knott Street westerly extension be addressed in the Master Plan.
  - f. That fencing be confined to around the school area only.
  - g. That the sewer be placed within the collector street indicated in the Master Plan.
2. The existing wall along Township Road shall be extended across the full length of Phase III, except for the Pine Street ingress. The design shall be of compatible or matching color and materials to the existing wall. No driveway shall access Township Road.
  3. Curbs and sidewalks (5'), designed to City standards, shall be constructed along all street frontages. If the sidewalk is set back from the curb, it may be four feet wide. The setback for the garage, in that case, shall be measured from the back of the sidewalk in front of the garage, and to provide twenty (20) feet for parking.
  4. No more than four lots in each block shall have the same house design.
  5. A temporary turnaround, meeting the requirements of the Fire Marshal and Director of Public Works, shall be provided at the ends of S.E. Pine Street.
  6. A full-width barricade shall be placed, at the developer's expense, at the end of 7th Street.
  7. Twelve foot utility easements shall be provided along all street frontages and along the perimeter of the subdivision. Six foot utility easements shall be provided along all side lot lines. Wording of such easements shall be approved by the Director of Public Works.
  8. S.E. Pine Street shall be constructed 50 feet in width throughout the subdivision, with a 40 foot pavement.

9. All requirements of the Canby Utility Board, Fire District #62, North Willamette Telecom and the Canby Telephone Association shall be considered as conditions of approval, with final plans to meet staff approval.
10. Water lines shall be constructed to the standards established by the Canby Utility Board. Hydrants shall meet the requirements of CUB and the Fire Marshal.
11. Electric service and street lights shall meet the requirements of CUB.
12. Street, curb, sidewalk, storm drainage and sanitary sewer construction shall meet the requirements of the Director of Public Works. In particular, the major sewer within Pine Street shall be incorporated as part of the construction of Pine Street.
13. Street name and traffic control signs shall be provided at the developer's expense. This shall include "dead end" signs for the end of S.E. 7th Avenue. "Stop" signs shall be provided at S.E. 7th, S.E. Pine Street and at the intersection of S.E. Pine and Territorial.
14. A one-foot street "plug" shall be dedicated to the City of Canby at the end of Pine Street to prevent access to the remainder of the parent parcel, until a subsequent development application has been approved for that area.
15. A drywell shall be constructed in Phase III, unless drainage can be restricted to 26,000 square feet of surface area. When storm water flows to the end of a dead-end street, the water shall be removed from the immediate location by use of a bar ditch. Drywells must meet with the approval of the Director of Public Works.
16. The final plat shall reference this land use application - City of Canby, File No. SUB 90-02, and shall be registered with the Clackamas County Surveyor's Office and recorded with the Clackamas County Clerk's Office. Evidence of this shall be provided to the City of Canby Planning Department prior to the issuance of building permits requested subsequent to the date of this approval.
17. A plan and procedures to keep streets clean during construction shall be submitted by the developer and approved by the Director of Public Works, prior to the start of construction.

18. Phase III shall be limited to single family residences and such wording shall be added to the CC&Rs. Such wording to be reviewed and approved by the City Attorney.

Commissioner Mihata seconded the motion and it carried unanimously.

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As time did not permit, SUB 90-03, scheduled for hearing tonight, was postponed to November 5, 1990, to be scheduled first on the agenda.  
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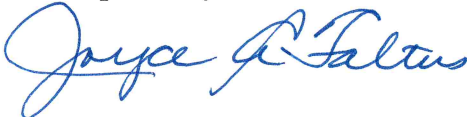
**VII. FINDINGS**

None

**VIII. ADJOURNMENT**

The meeting was adjourned at 11:20 p.m.

Respectfully submitted,



Joyce A. Faltus