

CANBY PLANNING COMMISSION MINUTES

Regular Meeting
November 5, 1990
7:30 p.m.

APPROVED

I. ROLL CALL

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

Others present: Rusty Klem, Director of Public Works; Bob Hoffman, Planning Director; John Kelley, City Attorney; Joyce Faltus, Secretary; Ed Sullivan, Lidwien Rahman, Roy Dworschak, Beulah Dworschak, Lyle Read, Willy and Marion Fenerstack, Richard Cary, John and Sande Torgeson, D.E. Smeback, Mr. and Mrs. D. J. Canny, Ben Maxwell, Ron Tatone, Rayma Yeoman, T. Kay Yeoman, Donna Jean McManamon, Mr. and Mrs. Tom Kerr, Suzi Finucane, Wm. Sizer, Jan Kluth, Jean and Walter Meinten, Robert and Belva Clark, Arthur and Lynn Olsen, Marvin and Mary Brigman, John A. Munse, Ernie Reames.

II. MINUTES

The minutes of October 15, 1990 and October 22, 1990 were approved unanimously.

III. COMMUNICATIONS

Staff advised the Commission that an additional meeting should be scheduled during December. The Commission agreed that the planned December 10 date should be adhered to and added December 3, 1990 to the calendar as a second meeting date for the month.

IV. UNFINISHED BUSINESS

None

V. BUSINESS FROM THE AUDIENCE

None

VI. PUBLIC HEARINGS

SUB 90-03, a request by Ronald G. Tatone for approval to develop Harvest Oak Estates, No. 2 and replat Lot 1, Block 3 of Harvest Oak Estates. The site is located south of N. Territorial and north of N.E. 14th, between N. Locust and N. Manzanita (Tax Lot 1200 of Tax Map 3-1E-28DC). **Carried over from October 22, 1990.**

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was indicated.

Robert Hoffman presented the staff report and explained that this application is the second phase of a 1979 subdivision known as Harvest Oak Estates. Additionally, he explained that this property was only recently annexed into the City. The original plans for future development showed 9 lots where it presently shows 10 lots. Each lot will be in excess of 7,000 square feet. All but two lots have the preferred north/south orientation. Lots 1 and 2 are proposed to have an east/west orientation.

Mr. Hoffman reviewed the applicable criteria, surrounding land uses and site characteristics. While discussing the Comprehensive Plan Consistency Analysis, Mr. Hoffman explained that the tenth lot was proposed to gain access from the emergency vehicle turnaround at the end of N.E. 15th Avenue and that neither the police or Fire Marshal were comfortable with that arrangement because the City could not assure adequate access for emergency response vehicles. After discussing this with the applicant, Mr. Tatone submitted a revised preliminary plat, showing access to flag lots 1 and 2 via N.E. 14th. Mr. Hoffman added that all lots meet the minimum lot frontage requirement of 60 feet, except for the two flag lots, which both meet the requirements for flag lots. If the revised preliminary plat is approved, all lots would have a north/south orientation, except for Lot 2. Staff recommends approval of SUB 90-03 with conditions, which Mr. Hoffman reviewed with the Planning Commission. He suggested Condition number 5 be reworded to:

5. **A reciprocal easement totaling at least 20 feet in width shall be provided from N.E. 14th Street to access Lots 1 and 2.**

Applicant

Ron Tatone addressed the conditions of approval that staff recommended that the Commission consider. He stated he agrees with conditions number 1, 2 and 4.

With regard to condition number 3, he explained that the rear lot lines are adjacent to existing easements (Lots 1, 4, 5, 6, 7, 8, 9 and 10), and that 6 feet on each side would provide the required 12 feet. He requested that condition number 3 be reworked.

Rusty Klem suggested rewording condition number 3 to read:

3. **Utility easements shall be provided and shall be twelve (12) feet along all streets. Exterior lines of the subdivision adjacent to other platted subdivisions with easements, and easements along all interior lots lines, shall be six (6) feet wide off of each lot, for a total of twelve (12) feet.**

With regard to condition number 5, the access of N.E. 15th Avenue, Mr. Tatone explained that only three homes would be accessed off N.E. 15th -- two existing homes to the north, that face N.E. 15th, and Lot 1 -- if he utilized the hammerhead access. There are no structures to the south. The Church, which faces Manzanita, has a large parking lot adjacent to the easterly border of the site. Mr. Tatone explained that the Fire Marshal was concerned conditions be provided such as posting a "No Parking" sign and, possibly, increasing the radius of the curve. He requested that the Commission consider the N.E. 15th Avenue access. Further, he explained that the parcel is closer to 2 acres than the stated 1.6 acres that was annexed. Lot 1 of Block 3 is also part of the total area, and the site could legally accommodate 17 units under the R-1.5 zoning. The existing street pavement, N.E. 15th Avenue, is wider than required -- 40 feet curb-to-curb, with 10 foot rights-of-way to the property line, totaling 60 feet -- and a bigger radius could be easily constructed without interfering with private property.

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

Issues discussed:

1. The two 10 foot reciprocal easements to access Lots 1 and 2 were discussed. It was agreed these reciprocal easements were provided for under the Subdivision Ordinance.
2. The Commission discussed utility easements and agreed to adopt Mr. Klem's wording as Condition No. 3.
3. The Commission discussed the hammerhead access from N.E. 15th Avenue in relation to the usage of the Church parking lot, with

regard to further congestion in the turnaround, particularly under emergency conditions.

4. A majority of the Commission agreed to accept the revised preliminary plat, with access off N.E. 14th Avenue to Lots 1 and 2.

Commissioner Mihata moved to approve SUB 90-03 based on the findings and recommendation in the October 12, 1990 staff report, testimony and Commission deliberations, with the following conditions:

1. Sidewalks shall be constructed along all street frontages to meet City specifications.
2. Any necessary utilities shall be constructed to the specifications of the provider.
3. Utility easements shall be provided and are to be twelve (12) feet along all streets. Exterior lines of the subdivision adjacent to other platted subdivisions with easements, and easements along all interior lots lines, are to be six (6) feet wide off of each lot, for a total of twelve (12) feet.
4. "As-built" drawings shall be submitted to the City within sixty (60) days of completion.
5. A reciprocal easement totaling at least 20 feet in width shall be provided from N.E. 14th Avenue to access Lots 1 and 2.
6. The final plat shall reference this land use application - City of Canby, File No. SUB 90-03, 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.
7. All recording costs shall be borne by the developer.

Commissioner Bear seconded the motion and it carried unanimously.

SUB 90-04/CUP 90-08, a request by Planned Dollars Concepts for approval of a 75-unit Tentative Subdivision/Planned Unit Development and a Conditional Use Permit for 30 common-wall dwellings. The site (approximately 14.4 acres) is located at the end of S.W. 13th Avenue, west of Elm Street. It is intended as a Special Housing Project for the Elderly, in coordination with the recently constructed Assisted Living Facility on Tax Lot 801 (Tax Lots 800, 891, 900, 1000 and 1001 of Tax Map 4-1E-4C and Tax Lot 1000 of Tax Map 4-1E-4B). **Carried over from October 22, 1990.**

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

Robert Hoffman presented the staff report. He reviewed the applicable criteria with regard Conditional Use approval, Subdivision approval, and Assisted Living Facility approvals from the General Ordinances and Comprehensive Plan. Using the aerial from a transportation study, Mr. Hoffman reviewed the perimeters of the project and surrounding areas. He explained that the geotechnical expert cautioned about any kind of construction on the steep slope, except for the surfacing of it, as a pedestrian walkway. Additional walkways are also proposed in the project and Mr. Hoffman suggested it might be conceivable to extend a pedestrian connection to the shopping center, if the high school will agree to it. Mr. Hoffman discussed the proposed storage area for recreational vehicles in the northeast corner of the project. As part of a previous action, the City has requested that S.W. 13th Avenue be extended as an arterial and make connection to 99E by way of Berg Parkway, which will aid in the service and development of this part of the City. The proposal includes dedicating and building the 13th Avenue extension across the entire width of the parcel, to City standards. There is concern about Lots 45-48 directly accessing 13th Avenue. from this development.

As the entire site is approximately 14.4 acres, 75 units of development is consistent with the intent of the R-1 zoning and the Comprehensive Plan regarding the land use of this property. Multiple dwellings have been entirely eliminated from the proposal. The embankment portion of the site is described in the Comprehensive Plan as a flood-prone or steep slope area, deserving special protections. Except for the embankment, the site generally presents no serious development constraints. The Rittenhouse-Zeman study that was submitted, includes recommendations limiting construction on the slope, proposing that buildings not be located closer than 30 feet from the edge of the slope. With regard to natural habitat, Mr. Hoffman explained that preservation and protection is a part of the proposal. Drywells are proposed as a means of providing storm-water service. Staff has recommended a condition requiring a landscape and tree preservation plan.

The transportation study indicates very minor impacts on the nearby intersections. The applicant is willing to submit a waiver of remonstrance, waiving the right to remonstrate against the formation of a Local Improvement District to construct future traffic control improvements. A full range of public services exist to service the project. There is a minimum lot area of 6,000 square feet for detached units and 4,500 square feet for attached units and, therefore, the site would permit 78 units. The developer is only proposing 75 units. The required two spaces per residential unit may be reduced as the use is entirely for elderly housing. Staff agrees to a reduction to one space per unit, except that guest parking must be provided. A condition of approval is suggested for on-street guest parking to be on the private streets and marked for guest use. If provided by separate lots, the lots must also be signed for guests.

The only construction proposed in the Hazard Zone is to surface the existing narrow path and to construct a very small pagoda at the end of the trail, all above the 100-year floodplain. The Geotechnical Consultants have recommended mitigation procedures to minimize any potential problems in this area.

With regard to compatibility with surrounding areas, staff finds that additional buffering will be necessary on the lots that abut the recycling plant.

The required 10% for park and recreation space has been far exceeded. Almost 34 percent of the site is proposed to be park or open space area. Trails will be included, as would viewing areas for the seniors and their visitors, as well as the availability of relaxation and recreation benefits. Additionally, the developer has proposed to dedicate the land necessary for extension of S.W. 13th Avenue. Since the development is being limited to senior citizen development, the smaller than usual lots are appropriate. The few flag lots have been designed to meet City standards. Some reciprocal agreements for adjacent owners will be required for the abutting access strips.

Mr. Hoffman then discussed previous conditions affecting this site. He referred to a letter from the Director of Public Works, to Marv Dack, dated October 9, 1989. He explained that the conditions that still apply, conditions 9-14, are adequately covered by the design features of the present proposal.

Staff concludes that the proposed development is consistent with the Comprehensive Plan and the applicable Canby Codes and policies, with the application of conditions to ensure full compliance. Mr. Hoffman explained that staff has met with the developer to discuss the conditions and an agreed-upon set has been submitted for review. The Geotechnical Study (as amended) shall be part of the conditions of approval. The CC&Rs will be reviewed, evaluated, and approved by the City Attorney. The first sentence of staff's condition number 10, part of the staff report, shall be deleted.

Applicant

Ed Sullivan, 111 S.W. 5th Avenue, Portland 97204, representing Planned Dollars Concepts, introduced the new proposal and explained that the property has changed ownership since the last proposal. The proposal has changed from one of mixed single and multi-family use to one entirely of single family use. The density has been reduced from 146 units to 75 unit. The applicant is taking advantage of the requirements for elderly housing with regard to parking. Additionally, the curve on S.W. 13th has been radically redesigned. Mr. Sullivan explained that the developer is requesting a conditional use to construct some of the units as attached single family housing units. The basic proposal though, still seeks to accommodate older citizens. The applicant is proposing to provide covenants to meet the Fair Housing Act Amendments of 1988. The right-of-way for S.W. 13th Avenue will be provided by the applicant to the extent that it is on this property. Additionally, the applicant agrees to participate in the formation of a Local Improvement District for the formation of S.W. 13th Avenue beyond the local street standard. Mr. Sullivan presented and reviewed the list of amended conditions proposed for the Commission's consideration. While deleting the first sentence of staff's proposed condition number 10, Mr. Sullivan noted that the following language should be added at the end of this condition: The applicant shall sign a waiver of remonstrance to the formation of a Local Improvement District (LID) to construct such traffic control improvements. He further explained that condition 13 specifically addresses the issue of tree retention in the northeast corner of the project. Mr. Sullivan explained the difficulties involved in developing this property due to the flood plain and possible wetlands in the lower bench. With proper construction techniques, the geological report indicates the development of a trail may be accommodated along the slope and construction in the upper area along the slope can be accommodated with the setbacks. The engineering report has also suggested special techniques for construction activity along the slope, and limited use. He noted that any further access would only be allowed with City approval. As part of the arrangements with the seller, the interests of both the applicant and the City have been secured with regard to the previous conditions of approval. Previous conditions of approval have required both the dedication of the portion of SW 13th, as well as the waiver of remonstrance to an LID to assure construction of SW 13th. The applicant is prepared to work with the City when arrangements are completed, in gaining the remaining portions of SW 13th so a consistent one-shot construction o S.W. 13th can take place. With regard to the existing trees on the property, in the northeast corner, staff has expressed concern over the siting of homes. Therefore, the applicant has agreed to the imposition of a condition under which staff will review any plans for development of individual lots in that area to maximize tree protection. The drywell drainage method resulted from discussions between the applicant's engineers and City staff.

Lidwien Rahman, Planner, David Evans & Associates, 2828 SW Corbett, Portland 97201 stated that the development proposal will fulfill the need for attractive, affordable and practical housing for the elderly. The present proposal responds to concerns noted by the Planning Commission at previous hearing regarding this property and is presently supported by those who had opposed previous proposals. She concurred with much of Mr. Sullivan's testimony regarding trip generation, the elimination of multi-family units, and the waiver of remonstrance agreement regarding an LID for future improvements. Ms. Rahman added that the entrance to the bluff will be enhanced with additional landscaping and a seating area. The pathway system will be connected to the ALF property and will help internal pedestrian circulation by assisting the residents in avoiding the truck route and major streets. Ms. Rahman concurred with Mr. Hoffman's suggestion for additional buffering in the area abutting the recycling facility. Based on the traffic study's trip generation estimate, this project will not increase deterioration in the level of service at any nearby intersection. If any improvements should become necessary, the applicant will participate in a Local Improvement District for these improvements. Standard fencing is planned to enclose the RV parking area which is planned to accommodate approximately 17-20 RVs, with internal parking lot landscaping. In conclusion, Ms. Rahman urged the Commission to support staff's recommendation for approval.

Proponents

Sandra Torgeson, 26940 S. Bolland Road, Canby stated that she and her husband owns property directly south of the proposed project. She added that they are no longer opposed to this application. Ms. Torgeson stated that she is making a formal withdrawal of any and all objections previously stated. In addition, she advised the Commission that they have executed a Stipulated Motion for Dismissal of their LUBA case concerning previous land use actions on this property. She expects LUBA shall dismiss this action upon receipt of the motion. Ms. Torgeson explained that the remand for a hearing would serve no just purpose, as all their concerns have been voluntarily addressed by the applicants, to the Torgeson satisfaction. The new proposal adequately address the needs for an aesthetic, safe community for the elderly. Previously, applications before the City did not contain detailed plans for every phase of a development. Staff now exhibits a willingness to work with the applicants to resolve important problem areas like access, sewer, storm drainage, traffic control, etc. She stated she is now confident that the proposed project will be an asset to the community and she encouraged the Commission to approve the application.

Lyle Read, 580 N. Juniper stated that adequate housing for senior citizens is badly needed in Canby. The proposed site is very appropriate for senior housing. He recommended the Planning Commission approve the application.

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

Mr. Hoffman explained that there are many trees on the site, not only in the northeast portion, and that conditions relating to tree preservation should include the remainder of the site. Mr. Sullivan explained that the current condition number 13 covered all trees on the site.

Issues the Commission discussed were:

1. The Commission discussed the issue of spongy land approximately 40 feet from the bank. Although the geotechnical report stated a 30 foot setback is appropriate, the Commission addressed the surface water on the rest of the bank area and the feasibility of building a fence because of movement. The Commission questioned whether an engineering report would be necessary whenever excavation took place to prepare for home building and whether the homeowner would be protected.
2. The Commission discussed the drainage pipe coming off Christina to the edge of the bank. Ms. Rahman explained that the plan was amended after discussions with the City's contract engineer. The new plans are acceptable to the developer and the City. New condition #13 covers that drainage problem, noting that the City requires that the applicant provide drywells for disposal of collected storm water runoff on the site and discusses the location and size of the drywell basins. The condition further states that no interconnecting piping nor overflow to daylight shall be required. Mr. Klem explained that they cannot discharge storm water to City streets, but that the streets in this development are private. Roof drains are permitted to drain to the drywells in private streets.
3. The Commission discussed the sewer system and addressed the fact that the record does not note the potential problem in Ivy and 2nd. **The Commission also requested that staff include more in-depth information regarding sewers in future staff reports, especially because the City has gone to a lot of trouble to identify the sewer collection system and capabilities.** Mr. Klem explained that there is a short-term solution to this problem, which will occur with the diversion from Ivy and Township to Knott Street and to the interceptor down through Knott, diverting approximately 300-350 services. Once this is in, a good deal of the flow to the Ivy and 2nd area would be diverted. He further stated that it would be done during the coming winter season, before this project is constructed. The long-term solution would include the Township Village/S. Pine area and a trunk line that is being built from 99E to Township and on to S.E.

13th. The Commission requested notification when the sewer diversion plan is completed.

4. The Commission discussed Lots 45, 46, 47 and 48 on S.W. 13th Avenue, the four lots with driveways accessing onto an arterial street which is potentially a truck route. The Commission agreed access onto S.W. 13th is not desirable from these four lots. The Commission discussed moving the RV parking lot to this area, causing occasional access onto 13th, instead of routine access onto 13th.
5. The Commission discussed the pathway to the pagoda and questioned how much excavation would occur from the cul-de-sac. Ms. Rahman explained that as little excavation would take place as possible, basically following the existing road cut. She further explained that it would not affect the slope stability to build a fence but that it would be prudent to advise the purchaser that the fence could eventually fall.
6. The Commission discussed the square footage of the small common-wall lots. Mr. Hoffman explained that the Code allowed this size under Conditional Uses allowed for senior living projects and assured the Commission that staff would review each home to assure adequate space.
7. The Commission discussed tree preservation and the fact that in trying to preserve this area, which has the highest concentration of large trees, some lots in the northeast corner may possibly be lost. Mr. Hoffman added that with some minor modification of the lot lines, hopefully, most of the trees could be saved.
8. The Commission discussed the issue of adequate lighting on the bluff to offer protection for the senior citizens. Ms. Rahman explained that a lighting plan would be submitted.
9. The Commission discussed the issue of open space and that such space should be of particular benefit to the community at large. Pedestrian connection to the Canby Community Park could be explored from the pathway system in this development, as it is adjacent to the park.
10. The Commission discussed maintenance of the open space area and whether it should be dedicated to the City or if a homeowners association would control it.
11. The Commission discussed conditioning the bluff area development to be included in Phase I.

In response to the Commission's concerns, **Ed Sullivan** addressed the following issues:

1. With regard to the spongy land and the 30 foot setback, Mr. Sullivan referred to page 13 of the Geotechnical report which requires a second step -- overseeing the excavation and construction activity on the site.
2. With regard to the four lots that access onto 13th, Mr. Sullivan agreed the RV parking could be moved to that area and the four lots to the RV area. Or, he added, a curve could be built into those lots, similar to the curve in the northeast section, to assure forward access onto S.W. 13th. The Planning Commission can condition a redesign of those lots or trading that area with the RV area.
3. He concurred with Ms. Rahman's comments regarding fences on the bluff and advising the homeowners of the potential problems.
4. With regard to the size of the common-wall lots, Mr. Sullivan explained that smaller lots were more conducive to the elderly style of living. Further, he explained that under the Comprehensive Plan, the tradeoff for increased density was participation in the construction of S.W. 13th Avenue extension, as part of it is on this parcel and for participation in an LID for future improvements on 13th. Further, he stated that the demand for larger housing units is not as apparent for the elderly.
5. Mr. Sullivan agreed that some lots may be lost in the northeast corner, after the tree survey is reviewed and condition 13 is complied with.
6. He also agreed the PUD open space should benefit the community at large and agreed to dedicate the lower open space area to the City for its park program. He added that the security issue must be worked out if this is to occur. Mr. Sullivan also pointed out that there is a path on the upper bench that is available for older people who cannot or do not want to go down the 70 foot slope.

Additional Commission discussion included:

1. Page 3 of the Geotechnical report regarding the preparation of the site for building and the procedures that will be followed. The Commission agreed this was satisfactory.
2. The Commission agreed condition 18, regarding drainage, is satisfactory.

3. The Commission agreed that the individual homeowners would be aware of problems involved in constructing fences or sheds or other improvements on the slope because of potential movement, due to wording in the Geotechnical Report.
4. The Commission wanted the record to show that it approved of the 3,000 square foot lots because it is a senior community and it was not setting a precedent for all PUD applications.
5. The Commission agreed that Mr. Sullivan would word a condition dedicating the open space on the bluff to the City of Canby. It further agreed the condition would address adequate security measures.

Mr. Sullivan worded condition 24 to read:

24. **At the time of final plat approvals, the applicant shall dedicate Tract "A" to the City of Canby for park and open space use if so required by the City Council. Before accepting the dedication, the City shall:**
 - a. **Assure that the dedication does not include the three entrances to the open space area; and**
 - b. **Assure that security concerns of the elderly residents are met.**

It was agreed the City Attorney, John Kelley, would review this condition and revise it, if necessary.

6. The Commission agreed to add wording to the conditions regarding the configuration of the four lots accessing 13th, to indicate no backing movements shall be allowed to access 13th Avenue.
7. The Commission requested a copy of the map denoting the Canby Park Plan. It also requested that staff obtain a copy of the Lake Oswego Ordinances with regard to park and open space.

Commissioner Bear moved for approval of SUB 90-04/CUP 90-08 based on the findings and recommendations in the October 12, 1990 staff report, testimony received, and Commission deliberations, to include the conditions submitted at this hearing which were agreed to by the applicant and City staff, as follows:

1. **Utility easements shall be provided, to the satisfaction of the Canby Utility Board (CUB), North Willamette Telecom, and the Canby Telephone Association.**

2. A water line shall be looped through the development in the manner specified by the Canby Utility Board (CUB). Hydrant locations shall meet Fire Marshal specifications.
3. Regarding covenants, conditions and restrictions, the following shall apply:
 - a. Such covenants, conditions and restrictions and homeowner association by-laws shall be filed with the County Register of Deeds and shall provide for notice to the City Attorney and to the purchaser of any lot at least ten (10) days in advance of any change to be made, if such change is made prior to the sale of 75% of all lots in the development.
 - b. Such covenants, conditions and restrictions shall assure that the development qualifies as housing for the elderly under the Fair Housing Act Amendments of 1988.
 - c. Such covenants, conditions and restrictions shall assure the continued maintenance of water, sanitary and storm sewers, and streets (with the exception of 13th Avenue) by a homeowners association created thereunder.
 - d. All covenants, conditions and restrictions and homeowner association by-laws adopted thereunder shall be reviewed and approved by the City Attorney to assure continued conformity with City code provisions and the conditions of this approval.
4. All recommendations of other agencies shall be regarded as conditions of approval.
5. Curbs and sidewalks along S.W. 13th Avenue shall be constructed to meet City standards.
6. The recommendations of the October 5, 1990 Geotechnical Study of Rittenhouse-Zeman and Associates, Inc., as submitted, shall be evaluated by staff with regard to the area along the bluff. Recommendations of the study shall be followed. The storm drainage system shall be by drywell system, designed to the satisfaction of the Director of Public Works. Drywells shall be located as far from the edge of the slope as possible.
7. The applicant shall provide the City with a dedication of property, as indicated on the tentative subdivision plat dated September, 1990, to allow for the extension of S.W. 13th Avenue. The dedication shall meet the requirements of the City Attorney. Construction costs for that portion of

S.W. 13th Avenue on the applicant's property shall be borne by the applicant.

8. The applicant shall sign a nonremonstrance agreement, waiving the right to remonstrate against the formation of a Local Improvement District (LID) for the full improvement of S.W. 13th Avenue. The form of the waiver shall meet the requirements of the City Attorney.
9. The cost of facility and/or utility improvements to the site shall be borne by the developer.
10. The applicant shall provide a proportional contribution to any needed traffic control improvements at 13th and Ivy and Elm and 99E. The proportion shall be related to the development's share of improvement needs at such intersection. The applicant shall sign a waiver of remonstrance to the formation of a Local Improvement District (LID) to construct such traffic control improvements.
11. Prior to permit approval, the applicant, with City of Canby support, shall investigate possible improved pedestrian connections to the Canby Square Shopping Center and the Canby Community Park. If found feasible, they shall be provided by the developer.
12. The applicant shall attend a pre-construction conference with City staff, CUB, the Fire District, etc., to resolve all service needs.
13. A landscape plan, prepared by a registered landscape architect, shall be submitted for final approval by the Planning Director. In addition, a tree survey showing all existing trees larger than six inches in caliper, shall be submitted. Any cutting of such trees shall be justified to the satisfaction of the Planning Director so as to allow development to occur while preserving the maximum number of such trees practical. The Planning Director shall make final determinations on tree cuttings permitted in the development by the time of the submission of the final plat.
14. The lots abutting the Recycling Plant shall be buffered with heavy landscape treatment, to the satisfaction of the Planning Director.
15. Street names and numbering shall meet City requirements, and numbering shall be uniform and conspicuous on all units.
16. The developer shall maintain separation between the sanitary sewer and water system improvements to comply with State health division requirements.

17. Street grades shall use vertical curve when grade breaks exceed 1%, as shown on Christine Street at "A" Street intersection.
18. Due to the limited access to river frontage and potential for drainage problems below the subject property, the City of Canby requires that the applicant provide dry wells for disposal of collected storm water runoff on the site. Dry well basins shall be located and sized to accommodate the anticipated runoff from the site without surcharging. However, no interconnecting piping nor overflow to daylight shall be required.
19. Drainage calculations shall be submitted with the construction plans.
20. Prior to undergoing a plan check for construction, all proposed residential development shall undergo a site plan review to be conducted by staff. The Planning Director shall approve such plans for consistency with the approval under the PUD and Conditional Use Permit applications. The for the driveways of Lots 45, 46, 47 and 48 shall be configured such that no backing maneuvers are required to access S.W. 13th Avenue.
21. The developer shall provide a traffic barrier at the end of 13th Avenue until it is extended. Design of this barrier shall be reviewed and approved by the Director of Public Works.
22. A temporary turnaround shall be installed by the developer at the end of 13th Avenue, the design of which shall be approved by the Director of Public Works.
23. Guest parking shall be designated and shown on the final plat in the amount of 1 space/5 units. If on-street, they shall not be on 13th Avenue, and shall clearly be signed for guests/visitors. If separate lots, they shall be clearly signed for guests/visitors.
24. At the time of final plat approvals, the applicant shall dedicate Tract "A" (which will include the 10 foot strip at the very end so that there's access off 13th to access Tract "A") to the City of Canby for park and open space use if so required by the City Council. Before accepting the dedication, the City shall:
 - a. Assure that the dedication does not include the three entrances to the open space area from the development; and
 - b. Assure that security concerns of the elderly residents are met.

Commissioner Zieg seconded the motion and it carried unanimously.

VII. FINDINGS

Based on staff's communications with the developer, staff submitted two sets of Findings to the Commission. One set included a condition regarding the Commission's concerns about the Master Plan and what should be included in it.

John Kelley explained that he spoke with the developer regarding the issue of dedication of park space. He researched this issue and explained that he is concerned about the ability of the Planning Commission to require a dedication at this point, without some ordinance in place that specifically sets for a procedure for requiring such dedication. He is most concerned with the lack of language in the Code that spells out how much can be taken and under what circumstances it can be taken. He cited a case where a County ordinance was voided authorizing the Planning Commission to require, as a condition of approval of a subdivision plat, dedication of land for park purposes or money in lieu of the land. This was voided because the ordinance contained no limitation on the amount of, or the use of the land, or the money, it was found to constitute a tax on the developer. Based on this, Mr. Kelley explained that Canby needs an ordinance that places a specific limitation on dedications. Therefore, he cannot advise that the condition regarding a recommendation to show open space on the Master Plan be approved prior to the enactment of an ordinance. Chairman Schrader said the issue of a requirement for park land and open space was raised at the hearing for annexation and during the hearings for Phases I and II. Additionally, he said the concept of the Master Plan was approved at the annexation hearing. The appeal period for the master plan objections has long passed.

Discussion was held regarding the importance of a Master Plan and how the lack of it affects many important issues. Lack of it assures no traffic diversion from Township, no park land, and a lot of criteria being affected adversely. Chairman Schrader explained that the whole idea of a Master Plan for subdivisions is being questioned as to its applicability. The City has been relying on access to 13th from this development and on open space availability. Without a Master Plan in each minor subdivision would have to be approved in and of itself and the City would be unable to require any open space. Mr. Kelley said that open space could be required, once the ordinance was in effect, in phased developments. Unless adequate assurances were provided, and/or a Master Plan program, the Commission could withhold approval of Phase IV. Chairman Schrader likened this to the Larson application, where the Commission was very concerned with the primary access being off Territorial. Even though Phase II was not before the City, they were required to draw access from there. The road from 13th should be shown in Township during Phase II, to assure it would occur. The issue is bigger than just park land and open space. Other issues must be considered, such as storm drainage, which was touched on lightly at the last hearing. A Master Plan could answer that issue, which is a major problem for the residents in Phase

I and II. The Commission, with additional deliberation may find there are key public facilities issues which must be addressed before final approval.

Subdivision applications also require that open space be shown. There is no open space addressed in this application. Although an ordinance is not in place for a certain amount of space, it must be addressed. Mr. Kelley pointed out that in the case of a PUD, there is language specifying that 10% of land will be dedicated and there is no similar language in the case of a subdivision. The Commission replied that, given the uniqueness of this property, it is concerned with transportation, public facilities and park land issues and, therefore, it should not entertain this application as a subdivision application. To be properly considered by the Commission and protect the City, it should be considered as a PUD. Mr. Hoffman advised the Commission that he could not find deficiencies in Phase III, serious enough for the Commission to deny it. Analyses and findings were made during the hearing process that this phase was adequate. Chairman Schrader compared this situation to the transfer station application. The application was approved at the original hearing. A year later, it was unanimously denied even though there were findings supporting approval. Upon reconsideration, based on all the issues involved, it was unanimously denied.

A discussion was held regarding the purpose of a Master Plan and that it is an element whereby the developer shows what his intentions are and how he is relating to City concerns. The Commission and the Council have clearly indicated, during the annexation hearings, that they want adequate and significant allocations for park land and open space shown as part of the revised Township Village Master Plan. The applicant has chosen to apply for Phase III without it. Mr. Hoffman referred to language under Section 16.64.050 - Public Open Spaces. "Due consideration shall be given by the subdivider to the allocation of suitable areas for schools, roads, parks and playgrounds to be dedicated for public use. . ." and 16.66.010 - Submittal of Tentative Plat. "Tentative plats shall be submitted to the Commission for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of this title. The Commission may require such dedication of land and easements and may specify such conditions or modifications to the tentative plat as are deemed necessary to carry out the intent of the Comprehensive Plan and this title."

Chairman Schrader explained that the City is empowered to accept land from any donor. The Comprehensive Plan allows the City to accept dedication of park land. The applicant has not objected to setting aside park land as part of the annexation, without the City specifying the amount.

After Commission discussion regarding the findings for SUB 90-02, Township Village III, Commissioner Zieg moved to hold a Special Meeting on November 12, 1990 at 7:30 p.m., to reconsider the decision to approve the application, noting that a decision must be made before the 60-day period expired. Commissioner Bear seconded the motion and it carried unanimously.

VIII. ADJOURNMENT

The meeting was adjourned at 11:15 p.m.

Respectfully submitted,

Joyce A. Faltus