

CANBY PLANNING COMMISSION
Regular Meeting
December 3, 1990

7:30 p.m.

APPROVED

I. ROLL CALL

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

Others present: John Torgeson, Sande Torgeson, David Nelson, Roger Reif, Bob Hoffman, City Planner; and John Kelley, City Attorney.

II. MINUTES

The November 12, 1990 minutes were approved unanimously.

III. BUSINESS FROM THE AUDIENCE

None

IV. COMMUNICATIONS

None

V. UNFINISHED BUSINESS

None

VI. PUBLIC HEARINGS

SUB 90-05, a request by Ron Tatone for approval to subdivide Parcel VIII (6.8 acres) of Partition Plat No. 1990-17 into 24 single family residential lots (Lillians' Meadow). Development is proposed to be constructed in two phases. The property is located west of N.W. Ash Street, north of Knights Bridge Road, and south of N.W. 12th Avenue (Tax Lot 300 of Tax Map 3-1E-32A). Continued November 19, 1990.

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

Having completed the public portion of the hearing at the last meeting, Mr. Hoffman explained that access would be by way of the Birch Street collector, 9th and 10th. Concern had been expressed about use of aspen Court, and Mr. Hoffman explained that one condition he was recommending included traffic control signs to reduce any potential traffic on Aspen Court.

Rebuttal

Ron Tatone explained his suggestions for resolving the issues staff had described.

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

Issues discussed:

1. Staff briefly discussed with the Commission possible new conditions which could deal with the issues raised.
2. The Commission discussion centered on the second phase and involved concerns about how the approval of such phase could include property that the County had not yet vacated, and how access to adjacent tax lots and utility easements could be assured. The Commission discussed Mr. Hoffman's suggested additional conditions from his December 2, 1991 memo. These possible conditions involved turnarounds, driveway access, building outline limits for Lot #2, and dedication for street extension. The Commission discussed the desirability of resolving the vacation of a portion of Knights Bridge Road right-of-way before approving Phase II. Concern was expressed about the need for so many conditions, especially in light of the unresolved issues.
3. In relation to Phase I, the Commission discussed the need for turnarounds, widening of Ash, the lack of an adequate driveway to Lot 2, relationship of proposed lots to development potentials of adjacent lands, and the need to connect this road system to adjacent lands. They discussed possible conditions for dealing with these issues.

4. There was considerable discussion of the need, in this part of the City, for park development and where there was appropriate land in the proposed subdivision for park development. They also discussed the offer of the developer to provide a \$5,000 gift to the City of Canby for use for any future park dedication.
5. The Commission also discussed that it **may** be appropriate to waive application fees for Phase II when brought back, if the Commission defers action on it at this time.

Commissioner Mihata moved for approval of SUB 90-05, Phase I only, with the following conditions:

1. Temporary turnarounds, meeting the requirements of the Fire Marshall and Director of Public Works, shall be provided at the ends of the streets that will continue at a later time. A full-width barricade shall be placed, at the developer's expense, at the end of the new streets.
2. N.W. Ash Street shall be constructed 50 feet in width throughout the subdivision, with a 36-foot pavement over its entire length, including the northern end.
3. Any necessary utilities shall be constructed to the specifications of the provider.
4. 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 lot lines, are to be six (6) feet wide off of each lot, for a total of twelve (12) feet.

"As built" drawings shall be submitted to the City within sixty (60) days of completion.
5. Street name and traffic control signs shall be provided at the developer's expense. This shall include "dead end" signs for the ends of Ash and the new streets, "No Right Turn" signs at the southwest corner of 10th and Aspen and 9th and Aspen, and a "Private Drive" sign at the end of the street in the southwest corner.

6. The final plat shall reference this land use application - City of Canby, File No. SUB 90-05, 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. For turnarounds at the end of the new streets adjacent to Lot 18, 3 and 4, utilize one of the standard turnarounds submitted to Canby on November 9, 1990, and illustrated on Beaverton drawing M105 or Portland drawing 3-156 or Lake Oswego drawing A-1.04, final selection to be approved by the Director of Public Works.
8. For driveway access to Lot 2, provide a recorded easement across the northwest corner of Lot 3 to provide a minimum driveway width of 20 feet and provide recorded deed restrictions on Lot 2 such that all buildings will be set back a minimum of 20 feet from the diagonal 257 feet property line (in order to provide the driveway).
9. For the allowable building area on Lots 1 and 2, record a deed covenant to specify the limits of any building as illustrated on the tentative plat submitted to Canby on November 9, 1990, and also provide for the driveway described above.
10. For future street construction through Lot 1, provide an offer of dedication of right of way in a westerly direction from the end of Ash Street and provide a waiver of remonstrance for construction of such street; as illustrated on drawing submitted to Canby on November 9, 1990.
11. The City shall accept the offer of the developer to provide a \$5,000 gift to the City of Canby toward any park dedication.
12. The application fees are to be waived for Phase 2, once resubmitted, after the turn around and other outstanding issues are resolved.

Commissioner Westcott seconded the motion and it carried 5-2 with Commissioners Mihata, Westcott, Fenske, Zieg and Bear voting yes and Commissioners Schrader and Wiegand voting no.

VII.

NEW BUSINESS

Tree Ordinance - Rusty Klem, Director of Public Works, discussed the draft Tree Ordinance. He explained that what is proposed, broadens the scope of the present ordinance to include partial authority over hazardous and noxious private trees, and to be advisory on private property trees. It does not assume any regulatory authority over private property trees except over hazardous and noxious trees. The City Forester is the primary administrator of this ordinance and the Design Review Board would provide clarification. This ordinance provides more care and planning standards for trees in public places than the existing ordinance does. It includes a provision for the establishment and maintenance of a tree list for planting in public places, by resolution. The list of trees was drawn up so there would be enough variety on it to appeal to the homeowners wishing to plant trees. He explained the many considerations that went into drawing up the list.

Mr. Klem said that the major question is whether or not the City wants to regulate private trees. He explained the permit process that would become necessary if the City did want to regulate private trees over a designated size. The ordinance in question was not prepared with the idea of the City regulating private trees so there is no criteria prepared with that in mind. He discussed the reasons some people want to remove trees, kinds of trees and potential problems they cause.

Ed Shirley stated that regulation of private trees should not lean so much towards the cutting aspect, as to the availability of light they offer or block. The solar issue is of great importance, he pointed out. As far as the definition of noxious trees, he pointed out the problems caused by some birch trees.

Terry Prince discussed the solar access issue with regard to various types of trees. He asked whether the City was going to consider a Solar Access Ordinance.

Mr. Klem explained that Canby participated with METRO in engaging Beckendorf & Associates to put together model Solar Access Ordinance. It has not come before the Commission yet because it should tie in closely with the Zoning Ordinance and Subdivision Ordinance. A revision of those ordinance should include the solar access issue.

1. The Commission requested that the proposed ordinance should not be gender specific.

2. The Commission agreed the definition of trees was acceptable.
3. The Commission agreed the definitions of various types of trees should exclude shrubs, brush and other wooded vegetation. Those should be listed under Other Vegetation.
4. The Commission agreed trees within utility easements, rights-of-way, etc., will be considered street trees.
5. The Commission discussed the need for a Tree Ordinance which would ensure that "unfriendly" trees do not tear up City underground utilities.
6. The Commission agreed the term "Public Places" should be defined more clearly.
7. The Commission discussed the "Preservation and Removal of Trees" Section. It was agreed the same wording as the previous paragraph should be used, to include other plants and grassy areas.
8. The Commission discussed the spraying aspect of the ordinance. It was agreed adequate notice should be given prior to implementation of the spray program, and alternatives discussed.
9. The Commission discussed Section 3(b) and agreed its personal expertise was very limited.
10. The Commission discussed the street trees species list as part of Section 3(b).
11. The Commission discussed that approval by the City Forester should always mean "written approval."
12. The Commission discussed part D(2), reasons a tree might be removed. It was agreed it would include the wording: "dead, dangerous, broken, diseased, or decayed."
13. The Commission discussed part D(3), where the words Public Works Department should be replaced with City.

14. The Commission discussed spacing between trees and considered adding the term "aesthetically acceptable" to such wording. Mr. Klem said he felt the wording "anything special to be approved by the City" was proper wording.
15. The Commission discussed the wording under III. D., where small trees are allowed to be planted no closer than two feet between the curb or curb line and the sidewalk versus the provision in the resolution providing for a three foot wide parking strip.
16. The Commission discussed reversing the first two groups of small trees under the Street Tree List to keep the progression from smallest to largest.
17. Under part E, the Commission suggested keeping the wording uniform; thereby changing the wording from Canby's Zoning Ordinance to Land Development and Planning Ordinance.
18. The Commission suggested that, under section F, the wording "prior to digging to plant any tree, the appropriate utility be notified and the utilities be properly marked" be added, to encourage such notification and locates, to avoid trees being planted directly over utilities.
19. The Commission questioned the inclusion of the grassy area portion of the tree ordinance. They agreed to include bushes and shrubs, but to delete the words 'grass areas.'
20. The Commission discussed the definition of the term arborist.
21. The Commission discussed the wording under Part IV, Section 7 C with reference to plants and decided to include wording to the effect that those trees, bushes and shrubs included on the noxious list shall not be planted on the public portions of the streets.
22. The Commission discussed the 24 hour appeal period under Section 11 on page 7 and agreed a longer time period would be more appropriate.

Given the input, Rusty Klem said he would make the revisions and submit a revised copy to the Planning Commission before being submitted to the City Council.

ORDINANCE TO PERMIT DOUBLE-WIDE MANUFACTURED HOMES ON INDIVIDUAL LOTS PLANNED AND ZONED FOR SINGLE-FAMILY RESIDENTIAL USE TO BE PERMITTED AS A CONDITIONAL USE- ORDINANCE # 853

Mr. Hoffman explained that staff is requesting the Commission to pass on a recommendation to Council for approval of Ordinance No. 853 which would permit manufactured homes on individual lots, as Conditional Uses. He explained that most cities are approving it as a 'permitted use.' We have rejected that concept because staff feels it should be reviewed, at least for a period of time, to understand the consequences. Under the proposed ordinance, the amendments must conform to the Comprehensive Plan, it must serve the public need to preserve and protect the health, safety and welfare, and conform with statewide planning goals. In 1989, the Legislature, in House Bill 2863, enacted the requirement that cities adopt an ordinance such that manufactured homes be permitted on lots outside of manufactured housing subdivisions and that the ordinance become effective January 1, 1991. At that time, they specified placement standards which could be used, or less restrictive standards. This recommended ordinance implements the State law and includes the placement standards allowed by law and recommends that the City look at each individual manufactured home as a conditional use. In this way, the compatibility question can be reviewed. The law permits the City to do an elaborate 'needs analysis,' which is very complicated and time-consuming. Additional design features could be required, but it would have to apply to all housing in the City. Under the Conditional Use process, the Commission can look at each individual situation and determine whether each specific case is compatible with surrounding housing. Mr. Hoffman explained that within the ordinance staff is recommending, only items C, D and F are discretionary, while items A, B, E and G are allowed under the State law.

1. Mr. Hoffman explained that this ordinance applies specifically to lots outside of mobile home subdivisions, within the City.
2. The Commission discussed House Bill 2863 and Senate Bill 100 which encourages this ordinance to be applied in every city on single family lots.
3. The Commission discussed the fact that they have no discretion regarding whether or not a mobile home is set on a permanent foundation. Mr. Hoffman cited from the new State law regarding mobile homes on residential lots, which does not require a permanent foundation.

4. Mr. Hoffman explained that the wording of the ordinance was amended to include similarity/compatibility with adjacent properties within 300 feet.
5. The Commission discussed the HUD requirements.
6. The Commission discussed the timelines involved and meeting requirements of State law. A hearing has already been scheduled for City Council and action by the Planning Commission is necessary.
7. The Commission discussed this ordinance and the conditions placed on the Elmwood Mobile Home Park development and subsequent DeAnza addition. It was agreed, for the most part, they were very similar, except for skirting. Mr. Hoffman suggested the following wording to b): Skirting shall be provided and shall match the exterior siding.
8. The Commission discussed whether they could include wording regarding the age of the unit. Mr. Hoffman explained he did not see anything in the State's list of permissible items that would capture that spirit, except that they must meet the 1976 HUD standards, putting homes at no older than 14 years, at the present time.
9. The Commission expressed concern that the public may be misled since the Commission will not have much discretion to approve or deny an application under the State law, even as a conditional use. Mr. Hoffman pointed out that if the Commission preferred to recommend Manufactured Housing on scattered lots as a use **permitted outright**, then a few minor changes in the proposed ordinance are needed. He described these changes.

Commissioner Bear moved that the proposed ordinance regarding manufactured homes as a permitted outright use, be recommended for approval to City Council, with the changed described by Mr. Hoffman. Commissioner Westcott seconded the motion and it carried 4-3. Commissioners Bear, Zieg, Westcott and Fenske voted yes. Chairman Schrader, Commissioners Mihata and Wiegand voted no.

VII. NEW BUSINESS

Systems Development Ordinance - Chairman Schrader described the progress which has been made in formulating a Recreation Plan and a System Development Charge Ordinance. He said he would be bringing a draft to the Commission for discussion at the next meeting.

VIII. ADJOURNMENT

The meeting was adjourned at 10:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joyce A. Faltus". The signature is written in dark ink and is positioned above the printed name.

Joyce A. Faltus