

CANBY PLANNING COMMISSION

Regular Meeting  
December 10, 1990

7:30 p.m.

APPROVED

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I. ROLL CALL

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

Others present: Jim McKibbin, Adrian Fisher, John Torgeson, Sande Torgeson, John W. Beck, Bob Kacalek, Gordon Ross, Wayne Scott, Pat Ewert, George Wilhelm, Earl Oliver, Sabina Oliver, R. A. Lovell, Art Ellickson, Kathy Ellickson, Tod Neary, David Nelson, Roger Reif, Bob Hoffman, City Planner; and John Kelley, City Attorney.

II. MINUTES

None

III. BUSINESS FROM THE AUDIENCE

None

IV. COMMUNICATIONS

None

V. UNFINISHED BUSINESS

None

VI. PUBLIC HEARINGS

**CUP 90-06, a request by Dave Nelson for approval to construct a 147-unit mobile home park on property identified as Tax Lot 1780 of Tax Map 4-1E-4C. The property is generally located east of Canby Community Park and south of S. Elm Street. Continued from December 3, 1990.**

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Commissioner Zieg stated he had listened to the tapes from the November 19, 1990, meeting. No other contact was indicated.

Chairman Schrader stated this item had been continued from the November 19, 1990, meeting as new information was submitted by the applicant and by one of the opponents. He stated that the opposition portion of the public testimony was still open. As Ms. Ginny Jones was not in attendance, the Commission called for any other testimony in opposition. None was indicated.

### **Rebuttal**

**Dave Nelson** had no further written information to submit to the Commission. He advised the Commission he planned to comment on each of the opponent's concerns.

With regard to the testimony by Bob Graham and Earl Walker, Mr. Nelson stated that the written report and testimony by the expert sufficiently covered the opponents' wetland concerns. Regarding the contention of blue heron nesting on the property, Mr. Nelson advised that neither the written report, nor the specialist, indicate that blue heron nest on the site. Additionally, Mr. Nelson advised that the specialist called all the state agencies and federal agencies to see if there was any knowledge of blue herons nesting on the site. None of the agencies had such knowledge. Both Mr. Walker and Mr. Graham were also concerned about the riparian buffer zone. Mr. Nelson explained that in his environmental report, his consultants referred to a buffer strip that should be there, although he did not testify about it at the last meeting. The wetlands report recommends a ten-foot buffer strip to be planted in native vegetation. Mr. Nelson also proposed to include a restriction on mowing that area or removing any plant life in the park rules in the CC&Rs.

With regard to Mrs. Wolfe's testimony at the previous hearing, Mr. Nelson said his environmental report concurs with her statement that public access into the wetlands should be discouraged. As for filling in the floodplain, he proposed to fill only those areas not identified as wetlands in accordance with FEMA guidelines, as required by the City Code, to allow for a reasonable use of the property designated as hazardous. He added that it is unnecessary to respond to Mrs. Wolfe's testimony regarding concrete foundations, because no homes will be placed in the flood plain.

Mr. Nelson agreed with Ms. Wilcox's testimony wherein she stated that the subject property not being in a principal river conservation area. The Clackamas County standards and criteria are not applicable in this proceeding. Regarding her contention that Canby's Comprehensive Plan is

not consistent with the statewide goals, specifically Goal 5 -- Mr. Nelson stated he believes that LUBA has rules that where the City has an acknowledged Comprehensive Plan, statewide goals are considered to have been met by that plan. Regarding her concern about the preservation of open space, Mr. Nelson pointed out that there is no zoning prohibiting residential development within the city limits because it is reserved for open space. Substantial acreage has been reserved as open space as the City has required that 100 square feet of land be reserved for each mobile home, and a substantial portion of the 167.200 square feet of additional open space has been dedicated to the City as a public park. Mr. Nelson further stated that the wildlife habitat was also considered by the Planning Commission. Despite the fact that this property is not listed as a significant wildlife habitat on any City inventory, he was required to go to a great deal of expense to have a biologist survey the site. The biologist's recommendations are part of the record, and they call for preserving wetlands along the bluff and a wildlife corridor across the property. Mr. Nelson added that, with regard to the housing goal, the City inventoried its housing needs for the Comprehensive Plan and found it would need about 1860 mobile homes through a fourteen year period. After seven years, only 20 percent of that goal has been reached.

As acknowledged by Ms. Wilcox, manufacturing housing parks are viable solutions to affordable housing, and this property was zoned to accommodate them. Ms. Wilcox addressed the City Comprehensive Plan Policy 2H, regarding building sites in hazardous areas. Mr. Nelson stated he has proposed to fill the building sites above the floodplain level to eliminate the hazard. Without the benefit of any PUD bonuses, he has proposed to cluster the residences around the wetlands and the open space, thereby reducing the density from the allowed seven per acre, to 5.3 or less. Ms. Wilcox was also concerned about compliance with the City Comprehensive Plan Policy 2R, protection of groundwater. Mr. Nelson explained that he proposes similar methods to maintain and protect surface groundwater to those used throughout the City. In addition, there is the advantage of having a wetland on the property which has been recognized by Clackamas County as a valuable aid in the control of stormwater drainage. With regard to Ms. Wilcox concern that the proposal does not comply with Policy 7R, enhancing the aesthetic qualities of the City, Mr. Nelson explained that he proposes to reclaim the gravel pit into an attractive residential community. Additionally, he proposes to dedicate wetlands, to be added to the City's park inventory. In regard to concerns about Policy 8R, preservation of open space where compatible with other land uses, the City has elected to fulfill this goal by zoning this property as low density residential and allowing mobile home parks as a use. Comprehensive Plan Policy 9R, wildlife habitat, will be met as he will be adopting the recommendations of the wildlife specialists.

Regarding Ms. Wilcox' concern about the concentration of mobile homes on the south side of town, Mr. Nelson explained that the Comprehensive Plan contemplated 1,860 mobile homes in Canby, suggesting approximately 465 homes in each area (north, south, east, west). Elmwood has about 120. He is proposing 138 for a total 258, still well below that number of 465 in the south part of town. Furthermore, he added, an exact balance in the City can never be achieved due to the absence of properties suitable for the mobile home parks in some other parts of town.

Regarding Mrs. Pat Ewert's testimony, Mr. Nelson stated that many developments have been approved for properties zoned with hazardous overlays, wetlands and similar soil conditions. He added that CUB monitors the City's water supply and are aware of this application. They have expressed no objections. Regarding her concerns about fertilizer on the lawns, he explained that the outright use of the property allows for agricultural which uses more concentrated forms of fertilizer and pesticides than any residential development. The design of the pump station, which is a legitimate and reasonable concern, will adhere to DEQ's very stringent guidelines.

In regard to Ms. Ginny Jones' testimony, he explained that the mobile home parks she referred to are not within the City limits, and are not considered when evaluating whether or not Canby is meeting its Comprehensive Plan projections.

Mr. Nelson stated that, as a member of the West Linn school board, he is well aware of the problems and the needs to service the community with quality educational programs for all students. Children should not be classified by their housing source, much less discriminated by it, he added. He suggested that it is every community's obligation to educate all children that live in that district regardless of race, creed, religious or economic backgrounds.

Chairman Schrader closed the public portion of the hearing for Commission deliberation.

Mr. Hoffman referred to the site plan and noted that Mr. Nelson did propose an area to be dedicated to the public, and further addressed staff's concerns, such as proposing lots to be placed on the last remaining stand of major trees and habitat area. He pointed out that Mr. Nelson changed his original recommendation of pumping from the wetwells into water areas, to one that is self-contained. Mr. Hoffman advised that he and Mr. Nelson have discussed some of the conditions, and some other items, and the plan summarizes some possibilities. Regarding the buffer area, staff recommends that a 25-foot buffer area be included around the wetlands in all directions and adjacent to the stream. He also recommended that the

last remaining stand of trees be protected. The public road, as originally proposed, should end at the top of the embankment in a decent sized turnaround and a landscaped area. The wetwell system as originally discussed -- pumping into the lakes on the site and then using the lakes to allow for sedimentation and ultimate outflow into the stream, then down into the river -- would be a good system. If there is to be such a lake retained, staff recommends that there be a connection so the system could be continued.

Mr. Hoffman referred to the 44 recommended conditions of approval, which had been distributed earlier. These conditions deal with each of the concerns previously expressed. He advised that Mr. Nelson had suggested some relatively minor modifications to the conditions.

Issues discussed:

1. The Commission agreed that the environmental issue is very important and that this development would be more appealing if built in an area where the many rules and regulations would not have to apply.
2. The Commission agreed that the state has lost 10% of its wetlands area within the last year and that wetland areas are important as a filtering system for the water supply.
3. The Commission discussed staff's suggestion to increase the buffer zone from 10 feet to 25 feet.
4. The Commission discussed the pump station and the installation of back flow valves which would assist in preventing any back-up of sewage that might develop.
5. The Commission discussed the intent of the Comprehensive Plan with regard to limiting the UGB to the bluff above the Molalla River. They discussed how the property got into the UGB and how it got zoned R-1. They further discussed whether this was an appropriate development for an H Overlay Zone.

Mr. Hoffman stated he only knew of the history by reading the documents the City has, but reading through the Comprehensive Plan, there are a few places where there is reference to the bank of the Molalla and to the steep slope areas. There are a couple of places where he has talked to the applicant about what the meaning was of the UGB because it appears to be talking about this property. In the opinion of staff, at some point it was added in and the text that talks about the UGB does pick up the Torgeson

property and includes at least the northern part for some reason. A similar area included in the UGB is the Oliver property. The boundary up to the subject site is the bank of the Molalla; then it goes down over to the Molalla River itself and follows that along. Eventually the transition had to be made from the bank to the actual river. Evidently, the Plan wanted to include those low lying areas. In terms of the zoning, one of the principals of zoning is that you cannot take use of the property entirely away; some use that fits the property must be assigned to it. Apparently the original zoners felt an R-1 zoning with a Hazard Overlay protection would be a way to deal with that kind of situation as it is the lowest density permitted.

6. The Commission discussed the fact that the Comprehensive Plan does not make the distinction between flood plains and floodways - that they are simply called flood prone areas. Additionally, the Comprehensive Plan considers all the space in the H Overlay zones to be open space and, consequently, there should be a requirement that any development in an H Overlay zone include open space. The Commission stated that what he felt was really happening was that we are carving down 100% open space to fit this development, not going the other way.
7. The Commission discussed a possible conflict between the Comprehensive Plan and zoning ordinance on this property, with regard to open space and it being zoned R-1. Mr. Kelley explained that the Commission can condition any R-1 property or deny an application because it does not meet certain conditions. He stated it could be denied if the basis for the hazard overlay is protection of a wetland, to prohibit building in a floodway, etc., if there was no way to resolve the problem. Also, the development of the property could be restricted. If it is zoned R-1 and it has a hazard overlay on it, if the concerns can be addressed acceptably and still permit development, it can be approved. Mr. Kelley stated that the Comprehensive Plan is the guide by which the City is to be developed. The Land Development Ordinance is intended to assist in applying the Comprehensive Plan to the particular application. It gives the City the authority to impose certain conditions.
8. The Commission discussed concern about the State Land Use Goal "exceptions" which are required. Mr. Hoffman explained he talked to Clackamas County, and this wording in the proposed Condition #5 would be satisfactory. They will be looking at whether or not goal exceptions will be needed and whether or not this meets their requirements.

9. The Commission discussed the public vs. private street issue. Mr. Hoffman explained the public street would be the same width as Elm Street (enough for two moving lanes, plus a sidewalk). Additionally, Mr. Hoffman explained that the applicant will have to prepare a fully dimensioned plan that must meet City requirements for roadway standards. Although Mr. Nelson's proposal shows the street to be 30 feet, the City Engineer will require 32 feet. Mr. Hoffman further stated that it appears the top of the embankment is really the entrance to the development. He further indicated that there would be only one continuous emergency exit through the park, which was approved by the Fire Marshal. The "private" street, Mr. Hoffman added, meets the requirements of 16.46 as it more like a "system of streets" than merely one private drive. The Commission agreed the entire road should remain public.
10. The Commission discussed the appropriateness of approving this application before final County approval. Mr. Hoffman advised that the County was satisfied their position was covered by proposed Condition #5.
11. The Commission discussed the safety factor with reference to the many residents evacuating the area under the proposed street system with a steep bank.
12. The Commission expressed concern about the number of units proposed in a flood prone area, which will resemble cluster development.
13. The Commission discussed the reclamation plan with DOGAMA and questioned whether the City would benefit from the potential open space tradeoff.
14. Another concern is that this application has been a moving target. It's come a long way, but there are still questions. The Commission doesn't know the size of the road going in there. There are so many changes that it's hard to get a handle on this application.
15. The Commission discussed the low-cost housing issue.
16. The Commission discussed proposed Condition #6 regarding wetwells with regard to maintenance and operation being the applicant's responsibility.
17. The Commission discussed filling in or butressing the slope and its stability. They discussed the geotechnical report from Rittenhaus, which states "from a geological and geotechnical standpoint,

construction of a vehicular access drive on this slope does not appear feasible because of the potential for initiation of slope failure and a subsequent loss of property at the Cedar Creek PUD."

Mr. Nelson referred to his soils engineer's report which said the proper way to do it is to cut right through the bank, perpendicular, not parallel to the bank. Mr. Nelson referred to the old City park road. He said they propose to bore all the way through, like that road, clear to the base to find out what the soils are like to insure they take every precaution necessary. They will check for drainage, and check for water levels in that fill. If there is a need for drainage in that fill, they will design that within the fill, or do whatever they must to accommodate that and that he would submit a full design before any work is undertaken. Additionally, a full soils report would be submitted both to the County, and to the City, as the City has requested final approval.

18. The Commission discussed the need for a wetlands mitigation plan. Mr. Hoffman stated there would be no mitigation plan required unless there is affect on the wetlands and, at this point, the applicant is not proposing anything that has direct effect on the wetlands. The state will have to review the expert's wetland determination. If the State were to conclude something different than his expert, and then mitigation might be required.
19. The Commission discussed the protection issue with regard to the flood plain and the Hazard Overlay Zone. Mr. Nelson stated that FEMA insurance is available for the residents once the development complies with the guidelines.
20. The Commission discussed all of the applicable criteria.
21. The Commission discussed the adjacent Sand and Gravel operation. It was agreed that potential purchasers would be informed of the existence of that operation. The issue of constructing a berm to separate the properties was discussed.
22. The Commission reviewed and discussed staff's 44 conditions of approval. It was agreed that the buffer area setback be increased to 25 feet. The Commission concurred that a condition requiring backflow valves would be added, and a condition requiring public disclosure of the Sand and Gravel operation adjacent to this property would also be added.

**Commissioner Westcott moved for approval of CUP 90-06 with the following conditions:**



1. **A new Elm Street extension as a public street with a full standard sidewalk shall be built by the developer. It shall end in a full turnaround with a minimum of a 50-foot radius. A 32-foot wide (minimum) public street, without parking, shall continue down the embankment as the main entry to the development. Cross-sections and design for the road sections shall be reviewed and approved by the Director of Public Works. Landscape treatment in the center of the turn around and in the margins shall be provided. An eight-foot-wide sidewalk and bikeway and utility easement shall be provided adjacent to the street. An east/west one-half (1/2) street right-of-way shall be provided immediately south of Elmwood Mobile Home Park.**
  
2. **Fill of flood plane fringe shall be limited to areas indicated on a map dated November 19, 1990, as revised December 9, 1990, prepared by the Canby Planning Department, to allow necessary road construction and approximately 130 lots, plus or minus. Defined wetlands and stream corridor(s) shall have buffer open space areas, as indicated, including 25 feet of undisturbed natural area.**
  
3. **A minimum of public areas, as offered for dedication by the applicant on maps submitted on November 19, 1990 and described at the Canby Planning Commission meeting of November 19, 1990, is approved and recommended for acceptance by City Council. Indicated bridges and trail surfacing shall be provided by the applicant.**
  
4. **A geotechnical study by a recognized geotechnical engineering consultant shall be prepared with regard to the extension of Elm Street. Such study shall be reviewed and approved by the Canby City Engineer to insure public safety and security and slope stability during and after roadway construction and considering conditions of heavy rainfall and flood conditions.**
  
5. **The applicant shall apply to Clackamas County for construction of a public roadway extension of Elm Street outside of the UGB to access the mobile home site. The conclusions and decisions of such action shall be reviewed and approved by the Canby Planning Director to insure the mobile home park in Canby is adequately served for access purposes. The applicant shall apply for any needed Goal exceptions.**
  
6. **A complete wetwell drainage system designed for storm water drainage shall be reviewed and approved by the Director of Public Works. Such wetwell design shall include drainage into the private**

lake as shown on the plan dated on November 19, 1990, and overflow from the lake shall flow to the stream at the northern property line. A plan, designed by a registered engineer with a specialty in sanitary engineering, to minimize ground water and surface water contamination shall be reviewed and approved by the Director of Public Works.

7. A wetlands and water course road crossing application for any affect on wetlands (for example to construct the Elm Street extension) shall be made by the applicant to the relevant Canby, county, state, federal agency, and the Planning Director shall review the result of such application(s) to insure that the intent of Canby Hazard Area Overlay is met.
8. Any gravel mined during construction on the subject property or adjacent property is to be used on-site and shall not be trucked over city streets.
9. A grading permit shall be secured from the City of Canby for any on-site grading.
10. Tree cutting plans shall be submitted for review and approval prior to the removal of any trees having trunks greater than six inches.
11. A landscape analysis, landscaping plan and landscape maintenance plan shall be prepared by a registered landscape architect including, but not limited to, replanting of open space and wetlands areas with appropriate native plant species.
12. Erosion control during construction shall follow the Erosion Control Plans Technical Guidance Handbook published by Portland and dated November 1989.
13. The applicant shall show proof that he has property control for all property for Elm Street public road extension within Canby's UGB. Such proof shall be reviewed and approved by the Canby City Attorney.
14. For any portions of the site within one-quarter mile of the Molalla River, the applicant shall provide proof that the proposed development meets the standards of Clackamas County regarding principal river conservation areas in regards to maintaining vegetative fringe areas, minimizing erosion and sedimentation,

providing minimum setbacks of not less than 100 feet and not more than 150 feet from mean low water level for all structures. Such proof shall be submitted to the Planning Director for review and approval.

15. The applicant shall submit certification, by a registered surveyor or engineer, that the liveable floor of each structure on the subject site shall be at least one foot above 100 year floodplain at the specific location on the site and that all FEMA guidelines will be followed.
16. Approval by DOGAMA shall be provided to Canby of a revised reclamation plan for the site. The Planning Director shall review and approve such approval for consistency with the conditions of this land use approval.
17. Approval by State Water Resources Department shall be obtained, if needed for the man-made lakes, and the Planning Director shall review and approve such approval for consistency with the conditions of this land use approval.
18. Provide restrictive covenants in perpetuity registered with the Register of Deeds for all buffer zones (25 feet in width) around streams, ponds and wetlands that prevent mowing and removal of desirable wildlife plants. The City Attorney shall review and approve such covenants to insure that the intent of all conditions of this land use approval are accomplished.
19. The applicant shall provide a waiver of remonstrance for any traffic control improvements at 13th and Ivy.
20. To assure public awareness of flood potential, past and potential flood heights shall be prominently displayed in the designated floodplain areas on the site. Also, residents shall be informed of the existence of adjacent property sand and gravel operations.
21. The proposed sewer lift station and system shall be designed to be "fail safe," including potential pump failure, maintenance and operation and back-up system. The specific engineering design shall be reviewed and approved by the Director of Public Works and the City Engineer. Back water valves shall be included as an integral part of the system.
22. Vehicle access to/from the development through Canby Community Park shall be limited to emergency access only.

23. **Utility easement(s) from South Elm Street shall be provided within or adjacent to the public and private roadway system. Specific location and design shall be as required by the respective utility with coordination and final approval to be given by the Director of Public Works.**
24. **A set of mobile home park operating rules and regulations shall be provided and shall be reviewed and approved by the City Attorney for consistency with City regulations and the conditions of this land use approval. These rules shall include, but not be limited to, maintenance and use of open space, recreation areas, lake areas and recreational vehicle storage and other storage areas and landscape treatment of lot areas.**
25. **An operating plan and facility plan for postal service, school bus service and fire service shall be provided with approvals supplied to the City of Canby from the respective service authority.**
26. **Two parking spaces shall be provided on each lot. For streets of less than 32 feet in width, parking shall be permitted on only one side or not at all. However, guest parking shall be provided at the rate of at least one space per five homes.**
27. **The water system design shall provide a full loop system and pressure reducing valves shall be provided.**
28. **A fully dimensioned final plan including phasing shall be provided indicating full compliance with Canby regulations for mobile home parks, particularly, but not limited to Chapter 16.44 and 16.46. This plan shall indicate, but is not limited to, all utility easements, sidewalks, public areas, open space areas, trails and bridges, and mobile home and garage placement "envelops."**
29. **A lighting plan, particularly for the public areas, open space areas, pedestrian and bike trails, sidewalk areas and road areas, shall be prepared by a recognized expert. Such plan shall be approved by the Planning Director with review provided by Canby Utility Board.**
30. **Full-time on-site management staff shall be available.**
31. **Full design review under the new Design Review Ordinance standards and procedures shall be applied for by the applicant.**
32. **The applicant shall dedicate the area for the Elm Street public road extension and the east/west one-half (1/2) street immediately south of Elmwood and build the street extension to City standards. Such**

plan for the public street shall be reviewed and approved by the Director of Public Works.

33. Prior to issuance of any site occupancy permits consistent with the phasing plan, all construction improvements shall be completed, accepted and as-builts submitted to the City of Canby.
34. Tree removal and replacement necessary to provide clear sites for mobile homes and streets and clearance for the perimeter fence shall be approved by the City Forester.
35. All single-wide models shall be a minimum of 800 square feet. All double-wide models shall be a minimum of 1,000 square feet. No units shall have metal exterior sides or roof. All units shall have skirting or perimeter foundations attached at the time of occupancy.
36. All units must meet all HUD requirements, and accessory structures must meet OSSC requirements. Curbs and three (3) foot sidewalks shall be installed along the internal private street, as determined by the Public Works Director.
37. The developer shall post a performance bond for the mobile home park, using the format described in the Canby Municipal Code.
38. Each mobile home lot shall meet the following specifications:
  - a. The area for mobile home, storage areas, garage and driveway shall not exceed 2400 square feet (or 50% of lot area whichever is larger).
  - b. Any deck area or patio area shall total no more than 500 square feet.
  - c. The balance of the mobile home lot (i.e. at least 1600 square feet) shall consist of seventy five (75%) percent (i.e., at least 1200 square feet) green vegetation and the remaining twenty-five (25%) percent may be in bark dust.
  - d. All landscaping for each mobile home lot shall be completed and inspected by the Planning Director within ninety (90) days of occupancy. A landscaping deposit in the amount of \$250 for each mobile home shall be provided to the City by the park management or the developer upon issuance of the Mobile Home Set-up Permit. This deposit shall be returned upon completion of the landscaping. If the Mobile Home Set-up Permit applicant fails to complete their landscaping

within ninety (90) days as specified above, said deposit of \$250 shall be forfeited to the City, and the City shall subsequently proceed to process a notice of infraction as provided by Development Code.

- e. Each mobile home lot shall have a minimum of three (3) inches of organic material tilled into the soil for all areas set aside for green vegetation.
  - f. Each mobile home shall utilize applicable HUD, FHA and VA tie-down and foundation standards.
39. The developer shall provide each tenant with a list of recommended low maintenance plant species that are appropriate for existing soil. Additionally, a list shall be provided which indicates less harmful pesticides and fertilizers for their recommended plant species. These lists shall be prepared by a Licensed Landscape Architect.
40. All mobile home exteriors, individual lots, and common areas shall be kept in good repair and be maintained in a safe, neat, clean and attractive condition.
41. The wetland and wildlife enhancement recommendations of the Wetlands and Wildlife report and the Wildlife Resources report of the proposed Village on the Lochs site, Canby, Oregon, dated November 1990 and received by Canby on November 8, 1990, shall be carried out by the developer and the park operator insofar as they do not conflict with other conditions.
42. All vehicular bridges and stream crossings to be used by fire equipment shall be engineered to sustain 41,800 pounds vehicle minimum.
43. The applicant shall submit his wetlands report and wetlands determination to the Division of State Lands for acceptance of such determination. The action of the Division of State Lands shall be provided to the Planning Director for review and approval for consistency with this conditional use application approval and all conditions.
44. The "10-foot paved foot path up hillside" as shown on map received on November 19, 1990, shown between the stream and Christina is not approved. (Emphasis added.)

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

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Chairman Schrader stated that one of the applicants to be heard has indicated a pressure deadline. He asked the applicant, Wayne Scott, if he would be adverse to putting his hearing off. Chairman Schrader asked Gordon Ross to explain Southern Pacific's predicament.

**Gordon Ross** stated Realty World had been working with Southern Pacific. He has spent two-and-one-half years on a purchase agreement with Mr. Fisher from Fisher Pump and Mr. Lovell from Lovell Trucking. Finally last month, they got an accepted copy of the contract agreement from Southern Pacific. Southern Pacific sent an ultimatum that this is a contract that has to be closed this month or Mr. Fisher and Mr. Lovell will lose their earnest money which amounts to about \$40,000. Chairman Schrader asked why they waited so long to get it before the Commission. **Robert Kacalek, Realty World**, stated that Southern Pacific is the one that required the last minute resolution of this matter. He stated Southern Pacific was supposed to have requested the partition some time ago, and they did not do it in a timely fashion. All he is asking is to be heard tonight. Chairman Schrader asked Wayne Scott if he would be willing to postpone his hearing. **Wayne Scott** stated he had somewhat the same type of restrictions also. **George Wilhelm** stated Mr. Scott's application is relatively straightforward and should not take much time.

**CPA 90-02, a request by Wayne Scott for approval of a proposed Comprehensive Plan Amendment to change the current zoning from Light Industrial (M-1) to Residential (R-1) for Tax Lot 100 of Tax Map 3-1E-27C. The applicant proposes to develop this 7.81 acre lot into 26 single family residential lots. The parcel is located south and west of Territorial Road and north of 99E.**

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

Mr. Hoffman presented the staff report. He explained that although the notice and application referred to the word 'zoning', the applicant is not asking for rezoning at this time. This application requests that the Commission consider a Comprehensive Plan Amendment, amending this property from Light Industrial to Low Density Residential. Mr. Hoffman stated that an adjacent property owner has opposed this application, in letter form.

Mr. Hoffman stated he contacted Jim Sitzman to see if there was any likelihood of problems. Mr. Sitzman said this is a single parcel in an area that is not considered to be prime industrial land, and a parcel of that kind, unless the City has a serious shortage of industrial land, would be considered to be a local matter and for local determination.

The staff report concluded that the plan is consistent with the Comprehensive Plan and with other criteria, and that the proposal to amend the Comprehensive Plan to show this parcel as low density residential rather than industrial is consistent with the intent of the Comprehensive Plan. At the appropriate time, consideration should be given to the adjacent parcels. The area is developed with homes, some recently constructed, under the County zoning rather than City zoning. Staff recommends that the application be approved and the Comprehensive Plan be amended to include Tax Lot 100 of Tax Map 3-1E-27C as Low Density Residential.

### **Applicant**

**Wayne Scott** stated he had an option on the piece of property. He said he would abide by the applicable criteria and would supply the needed services. He requested approval of the application.

### **Proponents**

None

### **Opponents**

Chairman Schrader read the letter which was received from Dale and Linda DeVries, submitted to the Commission as Exhibit "1."

The Commission appeared to feel the writer was opposed only if, at the time development takes place, they have no input. The Commission agreed this letter should be submitted when the development application is submitted. Mr. Hoffman suggested that they may have believed they would not get another chance to express themselves, but that they are clearly concerned with the issue of their access.

### **Rebuttal**

**Wayne Scott** stated that he felt the DeVries' property does have access. Mr. Scott did not believe that the DeVries' access problem had any bearing on his request but the Commission explained that it might have when future development issues are considered. **George Wilhelm** stated that at the present time, Mr. Scott's property does not provide any access to Mr.



DeVries' property and, in fact, the only access to Mr. Scott's property would be from Territorial, by way of Tax Lot 800, a long narrow strip.

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

Issues discussed:

1. The Commission agreed the letter in opposition should become part of the file, to be considered at the time development of the property is considered. The Commission agreed a letter should be sent to the DeVries to that effect.
2. The Commission discussed the State of Oregon's position.
3. The Commission discussed the issue of sewer access and agreed there could be, at some future time, a requirement to participate in the construction of a lift station.

**Commissioner Westcott moved for approval of CPA 90-02 based on the staff report and findings, and requested staff to draw up final Findings which would include reference to the telephone conversation Mr. Hoffman had with Jim Sitzman regarding this application. Commissioner Bear seconded the motion and it carried unanimously.**

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**MLP 90-12, a request by Southern Pacific Transportation Company for approval of a minor land partition to divide a 31.7 acre parcel into three lots containing 4.60 acres, 5.80 acres and 20.49 acres, respectively. The property is located north of Highway 99E, west of S. Elm Street and east of the Willamette River (Tax Lot 400 of Tax Map 4-1E-5).**

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

Mr. Hoffman presented the staff report. He requested that Condition #11 be amended to read: "Before occupancy permits are issued for a lot, an eight-foot wide sidewalk and integral curb shall be provided on that lot." Mr. Hoffman referred to the map and explained where the division of property would be, access to the parcels, and the easement and alignment of the roads. Staff recommended approval of this application, with conditions.

## Applicant

**Bob Kacalek**, the listing broker involved in this property, concurred with the staff report. The purchasers are in agreement with the staff report also.

## Proponents

**Jim McKibbin, 701 S.W. 1st, Canby**, stated he approved of this application.

## Opponents

None

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

1. The Commission requested information from staff regarding access to the propane station at the bottom of the bank. Staff explained access was to be via an easement, as shown on the drawings. Ultimately, the new road would provide access.
2. The Commission discussed the trail area, which appeared to go down along the river area, not just the top of the embankment. Mr. Hoffman explained the way the railroad access got constructed.
3. The Commission discussed the trail below the bluff area and questioned whether it was tied to the CUB property below the top of the bluff.

**Adrian Fisher** explained there would not be any bicycle access across the top because bikers would then have to cross the tracks. The Commission agreed the access should be on the area between the top of the embankment and the river, running parallel to the river.

4. The Commission discussed rewording Condition #9 to reflect the actual topography and desires of the City.
5. The Commission discussed Condition #11. Mr. Hoffman explained that it meant new construction. **Ray Lovell**, one of the purchasers, explained he was planning to build a new building on part of the parcel. The Commission explained he would have to provide access to the part of the parcel he was developing, but that they could not guarantee what effect condition #11 would have with regard to

sidewalks, at a later date. Staff was requested to word the intent of the sidewalk issue to read that sidewalks would need to be provided on a parcel already developed or on a parcel being newly developed, but not on the entire parcel.

**Commissioner Bear moved for approval of MLP 90-12 subject to the following conditions:**

- 1. The applicant shall prepare a final partition map. The final partition map shall be a surveyed plat map meeting all of the specifications required by the Clackamas County Surveyor. Said partition map shall be recorded with the Clackamas County Surveyor and Clackamas County Clerk, and a copy of the recorded map shall be provided to the Canby Planning Department.**
- 2. A new deed and legal description for the new parcels shall be prepared and recorded with the Clackamas County Clerk. A copy of the new deeds shall be provided to the Canby Planning Department.**
- 3. Easements shall be provided as required by each of the respective utilities. These easements are to be coordinated by the Director of Public Works, but generally are 12 feet along the front of each lot and the perimeter of the subject parcel and six feet along interior lot lines.**
- 4. Plans to extend the sewer shall be approved for construction by the Director of Public Works, prior to the issuance of any building permits on the site.**
- 5. All monumentation and recording fees shall be borne by the applicant.**
- 6. All utilities must meet the standards and criteria of the providing utility authority.**
- 7. A recorded offer of dedication of land for the proposed public collector shall be provided in an alignment approved by the Director of Public Works, but generally 60 feet wide and centerline with Berg Parkway.**
- 8. Waiver of remonstrance for construction of the new street shall be provided.**

9. An easement from the bluff to the river shall be dedicated to the City for a pedestrian path-bike path. The specific alignment shall be approved by the Director of Planning.
10. As built drawings shall be provided to the City.
11. Before occupancy permits are issued for a lot, an eight-foot wide sidewalk and integral curb shall be provided on that lot. Due to the unusual shape of the parcel, as parts of the parcel develop, sidewalks shall be provided for that part.
12. Driveway cuts and curb locations must be coordinated with the State.

**Commissioner Westcott seconded the motion and it carried unanimously. The Commission authorized Chairman Schrader to approve the Findings, Conclusions and Order, without return to the Commission for action.**

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Chairman Schrader continued to January 14, 1991, the hearing on CUP 90-09, a request by Canby Union High School to construct a pole building to be used by the Agricultural Department, on property identified as Tax Lot 701 of Tax Map 4-1E-4B. Said property is located adjacent to the high school building, on the west side of the site.

Chairman Schrader also asked the Commission to review the Systems Development Charge ordinance prior to the January 14, 1991 meeting.

## VII. ADJOURNMENT

The meeting was adjourned at 11:18 p.m.

Respectfully submitted,

  
Joyce A. Faltus