

CANBY PLANNING COMMISSION

Regular Meeting

August 12, 1991

7:30 p.m.

APPROVED

I. ROLL CALL

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

Staff Present: Robert Hoffman, Planning Director; Bob Smith, City Councilman; and Joyce Faltus, Secretary.

Others Present: Pat Harmon, Mr. and Mrs. L.A. Graff, Keith Liden, Stephanie Isberg.

II. MINUTES

The minutes of **July 8, 1991** were approved unanimously.

The minutes of **July 15, 1991** were approved unanimously, as amended.

The minutes of **July 22, 1991** were approved unanimously.

III. BUSINESS FROM THE AUDIENCE

None

IV. COMMUNICATIONS

None

V. UNFINISHED BUSINESS

None

VI. FINDINGS

Commissioner Westcott moved for approval of MLP 91-06 (Gregory Yoder) Findings, Conclusions and Order, as amended. Commissioner Fenske seconded the motion and it carried unanimously, with Chairman Schrader abstaining. Commissioner Maher had not yet arrived.

Commissioner Mihata moved for approval of DR 91-04 (Wildflower Properties, Inc.) Findings, Conclusions and Order. Commissioner Wiegand seconded the motion and it carried unanimously, with Chairman Schrader abstaining. Commissioner Maher had not yet arrived.

Commissioner Fenske moved for approval of DR 91-05 (Wildflower Properties, Inc.) Findings, Conclusions and Order. Commissioner Mihata seconded the motion and it carried unanimously, with Chairman Schrader abstaining. Commissioner Maher had not yet arrived.

VI. PUBLIC HEARINGS

SOLAR ACCESS - Mr. Hoffman presented the staff report. He compared the three section proposed Ordinance to the policies of the Comprehensive Plan and other ordinances, explaining that staff believes it is consistent with the policies of the Comprehensive Plan and other government plans. The public facilities and services will be assured when proposals are reviewed.

Keith Liden, McKeever Associates, explained that the exception/adjustment process was utilized when problems arose, such as extremely wooded property (if 50% of trees were to remain after a home is built, especially evergreen or other deciduous trees, to cause the property to be very densely shaded; and homes facing the north slope. With regard to the Solar Balance Point, as regards siting an individual residence, Mr. Liden explained that usually, rather than employ an exception, adjustments would be made to the house plans, usually with regard to where and how the house was situated on the property. Mr. Liden then explained the suggested relief offered from setback requirements, which is very minor and avoids having to go through the variance procedure.

The general goal of the ordinance, with respect to new development, is to have the front property line of at least 80 percent of the lots in a new subdivision oriented within 30 degrees of true east-west and that the north-south lot dimension be at least 90 feet (which can include road rights-of-way to the north, dedicated park lands, easements, etc.). If the development

cannot meet the 80 percent, Mr. Liden explained other standards that can be used, as the developer's option. For smaller developments, location of existing streets and configuration of the property are taken into consideration for exemption purposes. The Balance Point Standard allows for a house 30 feet tall in the middle of the lot, regardless of the situation. Lots can also be exempted due to existing shade, such as abutting an older residential zone or commercial zone to the south which would cast shade over the house.

The Commission discussed keeping the front setback at 20 feet. Mr. Hoffman explained that only 5 feet are actually used in utility easements, and recommended adjusting the front setback to 19 feet and 5 feet for side yards.

Various references in the proposed ordinance to sections of Chapter 16 were then reviewed and amended. Mr. Liden also explained the training that is offered to familiarize anyone who is involved in any way with the Ordinance and help them determine if lots are oriented correctly. He also described the sample template that can be used to determine, very easily, if lot are correctly oriented.

Mr. Hoffman suggested maintaining the reference to the permit ordinance in the findings, as the City will, most likely, enforce it in the future. With regard to protecting easements, Mr. Hoffman explained that builders and developers could anticipate the need and plan for them, especially once the City has received input regarding utilities from the various providers.

As there was no testimony from the public, the public portion of the hearing was closed for Commission deliberation.

Commissioner Fenske moved to recommend adoption of the Solar Access Ordinance No. 866, including the Findings and Resolution, to the City Council, as amended and corrected. Commissioner Westcott seconded the motion and it carried unanimously.

MLP 91-07, a request by Patrick S. Harmon to divide a .45 acre parcel into two lots containing 8,323 and 7,290 square feet, respectively. The property is located to the rear of 610 S. Ivy Street (Tax Lot 600 of Tax Map 4-1E-4AB).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest, other than a site visit. None was expressed

Mr. Hoffman presented the staff report. He explained that the property in question is an existing flag lot behind 610 S. Ivy and is a vacant tax lot. The site is zoned R-1, and the driveway is not included in the lot size, which is in excess of 7,000 square feet. Mr. Hoffman reviewed the applicable criteria. He explained that access is proposed to be via a 20 foot wide access drive off Ivy, which is flared out slightly at Ivy to 25 feet. There is room for the two proposed lots on this site, and the proposal meets the intent of the Comprehensive Plan policies. Services can easily be extended to service the proposed parcels. The sewer in Ivy and Township are of adequate depth, however, easements will be necessary. Staff believes an existing utility pole, which is approximately in the center of the driveway, should be moved. As it stands, there would be approximately 15 feet on one side and 10 on the other, as is shown in the proposal for flaring. Canby Utility Board informed Mr. Hoffman that the cost of moving the utility pole would have to be borne by the applicant, should the Commission condition the relocation of the pole due to safety issues. Storm water would have to be dealt with on-site, not discharged into the City system. The newly created parcels would have access to a public street (Ivy), and a fully paved 20 foot wide driveway would have to be provided. There are no sidewalks along Ivy at this location.

A major issue arose when staff became aware of the utility pole and a number of trees in the area of the proposed driveway. Although staff recommends approval, staff recommends that an option remain open for the applicant to get approval from the adjacent owners to have reciprocal access over their driveway. One of the adjacent owners expressed absolutely no interest in such an agreement. Mr. Hoffman suggested leaving such wording in the proposed Condition of Approval (No. 8) in case an arrangement could be reached.

The overall design of the parcels are fairly standard and, except for the utility pole, is becoming a pattern in Canby (flag lots). Staff finds the proposal meets the intent of the Comprehensive Plan and Code and recommends approval with a number of conditions, which Mr. Hoffman discussed. He then suggested an added Condition, Number 10, as follows: "The Conditions of approval shall be recorded on the final plat" to insure that even the purchasers of the new lots would be aware of the conditions, and because they would be easier to enforce. Mr. Hoffman also amended Condition No. 4 to read ". . . approval, prior to construction."

Applicant

Pat Harmon, P.O. Box 216, Canby reviewed the history of the area. Mr. Harmon said that he basically concurs with the staff report. He also explained that he has spoken to the neighbors on a very limited basis and there appeared to be no interest in a joint agreement for access. Although he would like to preserve trees to the extent possible, Mr. Harmon explained that there was a hardship involved because of the

access and the utility pole. He proposed various alternatives to moving the pole, the one-way ingress/egress being the most reasonable and suitable for the property, in his estimation, which would conform to City ordinances. Further, Mr. Harmon stated that the City is asking too much of him when it requires a curb and sidewalk on Ivy. He added that this application only involves Tax Lot 600. Tax Lot 700 is another parcel he owns, which front on Ivy Street. He compared his proposal to Township Village where homes are occupied prior to all sidewalks being in. Mr. Harmon also stated he would be willing to pay one-third the cost of a privacy fence, if the neighbors required more privacy.

Opponents

Larry Graff, 580 S. Ivy stated that he and **Stephanie Isberg, 590 S. Ivy**, own Tax Lots 501 and 502. They purchased their lots because of the size, seclusion and privacy it offered within the City limits. It is perfectly situated for a family, children, and pets, as it sits back off the City streets. If this application is approved, their properties will no longer be consistent with the neighborhood. Mr. Graff stated they would prefer the lot not be partitioned as most lots are considerably larger than the partitioned lots would be. The driveway is a big area of concern for all parties. Many problems arose when Knott was developed, the access drive was used for concrete and building material deliveries. After it was developed, the residents on Knott still had deliveries made via this access driveway. Considerable problems constantly occur with the enter in 610 S. Ivy. There is currently no driveway into Tax Lot 600 other than his access drive. The edges of this access drive are completely bordered from approximately the middle of Tax Lot 700 to about halfway back to Tax Lot 600, and are totally deteriorated. It is so settled in the center, that the garbage truck will not even drive down it. When it rains, water runs down the access drive to the garage door on Tax Lot 501, and creates a small lake in front of the garage on Tax Lot 502. The adjacent neighbors are very concerned about the development of Tax Lot 600, with regard to slope and drainage. Another concern is the utilities lines, which currently run along the edge of the drive where it meets Tax Lot 600. Two access drives together would look like a 40 foot City street and the residents are very concerned that people do not think it is, as additional traffic would cause problems for children and pets. The residents also want a 6 foot good neighbor fence, which would reduce down as it approaches Ivy to meet City codes, in order to retain privacy and seclusion. Mr. Graff asked that the Commission, if it approves the request, add a condition which addresses any damage to the driveway being repaired by Mr. Harmon, to their satisfaction. He further stated that the residents are opposed to a reciprocal access agreement with the future residents of Tax Lot 600.

Rebuttal

Pat Harmon explained that the tenants in 610 S. Ivy were given notice and he will be residing at that address. He reiterated that he strongly objects to putting in a sidewalk on Ivy Street.

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

Issues discussed:

1. Mr. Hoffman explained that CUB responded to our 'Request for Comments' with the following: "Access to the land behind 610 S. Ivy is proposed in a manner that would divert traffic to both sides of a CUB power pole. CUB does not have any expertise to comment on whether the proposed access is appropriate for traffic flow or safety. However, if the City or owner wishes the pole to be moved, CUB will move the pole at the owner's expense." The Commission discussed the utility pole and agreed that the way it stands, it is a safety issue. Mr. Harmon explained there would be at least 12 feet on either side of it. Three commissioners felt the pole was a hazard and three did not believe it was an issue.

Commissioner Wiegand moved to approve the removal of the utility pole. Commissioner Mihata seconded the motion. Due to a tie vote, it did not carry.

Commissioner Fenske moved to change the wording on the proposed Condition #7 to read:

7. **In the absence of 12 feet of access on either side of the pole, the pole would be removed."**

Commissioners Zieg and Westcott, who did not believe it was an issue previously, agreed to the wording. No vote was taken.

2. With regard to sidewalks, Mr. Hoffman read 16.08.090 - Sidewalks required. Paragraph B states that the Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. He added that, to the best of his knowledge, Township Village does not permit occupancy of any individual lots without a sidewalk in place. The Commission discussed requiring a waiver of remonstrance for an L.I.D. along Ivy.

Commissioner Fenske suggested replacing proposed Condition #9 with a waiver of remonstrance for an L.I.D. for curbs and sidewalks for the full width of Tax Lot 700. The Commission was in agreement.

3. The Commission discussed the square footage of the proposed lots and agreed they are well within the Ordinance requirements.

4. The Commission discussed Mr. Harmon paying for part of a good-neighbor fence to be constructed along the accessway. Mr. Harmon suggested it be a 6 foot wood-slatted fence, built within 60 days of approval of the partition, the cost being shared by the applicant and neighbors.
5. The Commission discussed adding a condition of approval that the slope and drainage of the two new lots would be toward the interior, into drywells and handled on-site.
6. The Commission agreed to add a condition that the conditions of approval shall be recorded on the final partition.
7. The Commission discussed adding a condition that appropriate signage shall be provided at the entrance of the driveway, at Ivy, indicating it is a 'private drive.'

Commissioner Zieg moved to approve MLP 91-07 with the conditions, as amended during deliberation. Number 7 shall read that in the absence of 12 feet on either side of the utility pole, then the pole is to be moved." Commissioner Westcott seconded the motion and Commissioners Schrader, Wiegand and Mihata voted No. Commissioners Zieg, Westcott and Fenske voted yes.

Commissioner Wiegand moved to approve MLP 91-07 with the conditions, as amended during deliberation. Number 7 shall require the removal of the utility pole. Commissioner Mihata seconded the motion and Commissioners Schrader, Wiegand and Mihata voted yes. Commissioners Zieg, Westcott and Fenske voted no.

Mr. Hoffman suggested incorporating into Condition #7 that a landscaped planter, surrounding the pole, shall be provided, if it is to remain.

The Commission discussed various alternatives for the drive. Mr. Hoffman explained that the access strip is to be a minimum of 20 feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot, except however, that the width requirement may be reduced to 12 feet where the total length of the access strip does not exceed 100 feet. Access strips not less than 10 feet in width, he added, may be permitted where two such drives abut and are provided with reciprocal easements for use.

As long discussions of the utility pole continued, **Commissioner Fenske moved to continue the hearing to August 26, 1991 to discuss other possibilities which might be worked out in the interim. Commissioner Mihata seconded the motion and it carried unanimously.**

ANN 91-05, a request by Dave Anderson (applicant) and W. L. Guttormsen for approval to annex Tax Lot 300 of Tax Map 3-1E-34C into the City of Canby. The property is located at 1233 S.E. 1st Avenue and contains 7.6 acres. **This parcel is being added to the parcels previously recommended for approval to City Council on July 22, 1991 under the same Annexation File Number, 91-05, which will increase the total acreage to 85.3 acres to be annexed.**

Mr. Hoffman presented the staff report. He discussed the previous action with regard to ANN 91-05 and referred to diagrams on the board. He explained that Mr. Guttormsen owns this parcel, which is the last remaining piece of the large triangular area annexed recently. If the Commission recommends approval of this additional parcel, it would be able to be considered by Council and the Boundary Commission as part of the full annexation. All the issues are the same, except that the Comprehensive Plan designation for this parcel is commercial/manufacturing and if it comes in under annexation it would be zoned similarly. This parcel may be a key piece to obtaining preferable accessways to servicing and developing the entire area. Staff recommends either adding this to the original ANN 91-05 annexation, or approving it as a separate annexation.

As the applicant was not in attendance, the Commission discussed the matter and decided it met all the criteria for approval to the City Council. **Commissioner Westcott moved for recommending approval of this parcel to City Council, as part of the original ANN 91-05 application. Commissioner Zieg seconded the motion and it carried unanimously.**

IX. DIRECTOR'S REPORT

Mr. Hoffman reported that appeals have been filed for the Bob L. Stuart minor land partition and on the H.O.P.E. conditional use. The reason for the H.O.P.E. appeal is that they are opposed to providing public access to the recreation areas. Mr. Hoffman reminded the Commission that H.O.P.E. proposed public areas in their application and never raised that as an issue at the hearings, which is required for an appeal.

X. ADJOURNMENT

The meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Joyce A. Faltus