

**CANBY PLANNING COMMISSION**

**Regular Meeting**

**January 28, 1991**

**7:30 p.m.**

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**I. ROLL CALL**

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

Staff Present: Robert Hoffman, Planning Director and Joyce Faltus, Secretary.

Others present: Wayne Scott, George Wilhelm, and Earl Oliver.

**II. MINUTES**

The **January 14, 1991** minutes were approved unanimously, as amended.

**III. BUSINESS FROM THE AUDIENCE**

None

**IV. COMMUNICATIONS**

None

**V. UNFINISHED BUSINESS**

None

**VI. FINDINGS**

**Commissioner Westcott moved for approval of CUP 90-09 - Canby Union High School - Findings, Conclusions and Order. Commissioner Zieg seconded the motion and it carried unanimously. Commissioner Wiegand abstained.**

## VII. PUBLIC HEARINGS

**ZC 90-02**, a request by Wayne Scott for approval of a Zone Change for the southerly 7.8 acres on Tax Lot 100 of Tax Map 3-1E-27C from M-1 to R-1, contingent upon City Council approval of the Comprehensive Plan Amendment (CPA 90-02). **Postponed from January 14, 1991.**

Chairman Schrader called for any ex-parte contact or conflict of interest. None was indicated

Mr. Hoffman presented the staff report. He explained that the rezoning is contingent on final Council approval of the Comprehensive Plan Amendment. Mr. Hoffman discussed the applicable criteria and explained that the request must be consistent with the policies of the Comprehensive Plan. All required public facilities must be available or be provided concurrent with development and utilities are available up to Redwood and Territorial at the present time, which can easily be extended to service the larger parcel. During discussions with Clackamas County, the County planner recommended that access be provided to the southwest. Mr. Hoffman discussed the concerns expressed in the letter from the DeVries, regarding their access. The two parcels adjacent to this one, will remain zoned light industrial. A nearby tax lot provides direct access to the parcel from Territorial, but it would have to cross the small stream at the northern edge of this parcel at some point. Some mitigating action would have to take place as, although it would have little affect on the stream and/or wetlands, there would be some affect. Staff recommends approval of the application for zone change, without conditions, contingent upon finalization of City Council action regarding the Comprehensive Plan Amendment.

A discussion was held regarding the extension of facilities and services as it affects this project and the Canby Care Center. If the Center did not materialize, Mr. Hoffman explained that there is a mechanism, an L.I.D., that could be formed to cover improvements. A mechanism is also available with regard to sewer extension.

### **Applicant**

**George Wilhelm, 546 S.E. Township Road**, submitted Exhibit 11 with regard to his testimony. He explained how this application meets the criteria.

Mr. Hoffman explained that the only thing the Commission is considering at this point, due to a request from the applicant to separate the Zone Change and the Subdivision applications, is the Zone Change. The other concerns will be addressed during the Subdivision hearing.

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

**Commissioner Fenske moved to recommend approval of ZC 90-02 (Wayne Scott) to the City Council, based on the conclusions and recommendation in the January 4, 1991 staff report, and supplemental information in the Planning Commission memo of January 9, 1991 and based upon City Council approval of CPA 90-02. Commissioner Westcott seconded the motion and it carried unanimously.**

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**SUB 90-06**, a request by Wayne Scott for approval of a single family residential subdivision with a PUD overlay for Teakwood Terrace, Phases I and II (Tax Lot 500 of Tax Map 3-1E-27DB and Tax Lots [easterly portions] 700 and 900 of Tax Map 3-1E-27C and Tax Lots 100 and 700 of Tax Map 3-1E-27C), contingent upon City Council approval of ZC 90-02. Eighty-three single family units and 60 condominium units are proposed with 5.6 acres of greenway. A portion of the site lies in the Hazard Overlay Zone. The site (approximately 32 acres) is located northwest of 99E, south of N.E. Territorial and east of Redwood. **Postponed from January 14, 1991.**

Mr. Hoffman presented the staff report, explaining that the Comprehensive Plan designation is low density residential for the entire parcel, once the Council action is complete. He explained that a portion of the site has a Hazard Overlay. Mr. Hoffman stated that the applicant is requesting approval for constructing a 143 unit tentative subdivision, with a Planned Unit Development overlay approval for the entire site. The applicant proposes 83 single family units and 60 condominium units. The Hazard Overlay and 100-year floodplain areas are about equal. There is a stream that cuts across part of the parcel also. Initially, staff was concerned about the area west of Teakwood. After more thorough discussions with the applicant, staff understands the applicant is now simply requesting that the lots in that area be recognized as condominium lots, and the density determinations done as a part of Design Review, for each of those lots. At that time, staff would be more aware of the actual limits of the floodplain and wetlands are, as they relate to those parcels.

The applicant has proposed building a new road and a good number of utilities, the stream corridor, wetlands and the floodplain area. Six lots are

also proposed to be developed in that vicinity. Staff's conditions set objectives that must be solved to make building in that area a positive step in that direction.

He discussed the approval criteria and how this proposal relates to it. Staff has found the proposal is, or can be made to be (with conditions), consistent with the policies of the Comprehensive Plan. Areas of concern requiring a more detailed analysis and/or conditions, relate to floodplain, wetlands protection, site development of the condo units (including parking), roadway construction near the stream beds, access, tree protection in the hazard area, and more details regarding roadway and utility construction. Since meeting with the applicant and his representative, staff has recommended conditions dealing with the aforementioned concerns. The County requested that stub streets be provided to access the area to the southwest and widening of Territorial. The applicant proposes to design the roadway system in that vicinity such that it can ultimately be continued into the adjacent properties, which will eventually be developed. The owners of that property have expressed positive reaction to that access. This would satisfy the County's request. The County also expressed concern for how Lots 20 and 21 are developed, with regard to the creation of a sight distance problem for motorists at that intersection. Staff has included a condition relative to that concern.

FEMA maps identify 84 feet as the 100-year base flood elevation. This fact would trigger a number of conditions. As proposed, the applicant states construction will be in accordance with FEMA guidelines and requirements. Most of the area in the floodplain is proposed to be part of the greenway. Only a small portion might infringe on the lots proposed to house condominiums. Provided that the living areas are above the flood elevation and the parking is designed appropriately, there are designs that could meet the FEMA requirements.

Most of the utilities will be located outside of the flood-prone areas. Some special construction techniques will probably be necessary near Lots 54-56. A condition to address this has been recommended.

The consultant that was initially hired to review the wetlands, has also been hired to review the Fish and Wildlife and Open Space needs and make sure they have been fully considered. The expert will surely supply the criteria that the Design Review Board should consider. Any grading in that area would entail special approvals. Mr. Hoffman said he was unsure any grading was proposed in that area (N.E. Teakwood and 18th), but that some of it would have to be graded, ultimately, to construct the extension of roadway system. The required one foot strip (in Phase II) would not permit right-of-way access to the Egli property until the details were worked out relative to how the design would fit for that adjacent area.

The uses that are proposed are permitted under a Planned Unit Development, even though it is zoned R-1, as PUDs permit multiple dwellings to be constructed, provided that the design is appropriate and that the total number of units is not exceeded. At 7,000 square feet per unit, this parcel would allow up to 171 units. Only 143 are proposed, which includes the 60 condominium units. A minimum of 10% must be provided for recreation and park space and the applicant is proposing 17.4%. Included within the proposal is a jogging track and tennis court. There are no details regarding landscape treatment at the present point. This will be accomplished after the wetlands and wildlife habitat studies are complete.

The applicant submitted proposed CC&Rs. Mr. Hoffman recommended that the City Attorney be authorized to thoroughly review the submittal to make sure it is consistent with the conditions, if the proposal is approved.

One of the approval criteria states that if a watercourse exists, it be given some protection. For the most part, in this application, the watercourse is contained in the greenway area and, therefore, is protected. There is a condition recommending protection for the very small area that is not within the greenway.

Staff recommends approval of the project with the site plan, dated December 19, 1990, as part of the application. The ten conditions outlined in the supplementary memo dated January 9, 1991 are included in the conditions for approval. Condition #23 can be deleted if the supplementary staff report is accepted as the application no longer deals with a phasing approach. There is no final detailed architectural proposal submitted for the condominium lots as, in effect, conceptual approval as multiple residential with condominium ownership is requested. Mr. Hoffman reviewed some of the recommendations for that area which include a one foot reserve strip; that the final design respect the wetlands, floodplain and wildlife habitat; that the necessary sewer, water, storm drainage and other utilities are provided and waterproofed; that the roadway access to the lots is provided; that the construction details deal with the soil conditions; that driveway access is provided; that the necessary wetlands and watercourse crossing permit applications from other agencies would be applied for; and that the final plan that resolves all these conditions, be approved by the Planning Director and Director of Public Works, and the Commission, if it so desires. In terms of Territorial Road, Mr. Hoffman explained that Rusty Klem asked that the recommended width be modified to an 80 foot right-of-way with a street pavement width of 44 feet. That modification would replace the original condition #2. He then discussed the tree protection condition and the need for a sewer lift station.

The applicant is planning to use the PUD for two purposes: 1) to transfer densities which would have been permitted if he'd made smaller lots, into using those units on the condo lots, and 2) and to use an association for maintaining common space, which is permitted under State law.

The Commission questioned the lack of a final Wetland Report and asked why there was no condition compelling the developer to adhere to the recommendations in a Final Wetland Report. Mr. Hoffman explained that the recommendations were relative to the wildlife habitat preservation and enhancement and that he has stated they will be included in any needed mitigation procedures described. He suggested modifying the wording to add that the recommendations in the final report would be implemented.

### **Applicant**

**George Wilhelm** referred again to Exhibit 11, entitled "Meeting 1/28/91 - Teakwood Terrace." Mr. Wilhelm explained that Phase I will consist of 50 single family residential lots and 4 condominium lots. Phase 2 will include another 33 residential lots. The project is proposed as a PUD so as to allow a private greenway area and to provide a mechanism to maintain the greenway, jogging trail, tennis court and common property. Additionally, a PUD will allow increased density for the condominium lots and, at the same time, maintain an R-1 overall density. He added that all utilities and roadways will be constructed to City standards and dedicated to the City. The applicant is not requesting any reduction of City standards and is requesting approval of 143 units, as opposed to the allowable density, with a PUD bonus, of 196 unit. Mr. Wilhelm explained that a portion of the site is included in a Hazard Overlay zone, but that although the property has no steep slopes, a portion of it does lie below the 100 year flood elevation from the Willamette River. The project, he stated, is designed to comply with City, State and Federal requirements and all FEMA regulations. With regard to the wetland area, he explained that his consultant indicated that the wetlands areas will be confined below the 100 year flood elevation, and that jogging paths and roadways through the wetland areas are acceptable construction. He further indicated that the applicant agrees to abide by the determinations and mitigation requirements generated by the study.

Mr. Wilhelm addressed staff's suggested conditions of approval. The applicant agrees with Conditions 3, 6, 7, 8, 9, 12, 13, 19, 20, 22 and 24 and will comply with them. With regard to the staff report condition #4, Mr. Wilhelm requested that, since the applicant is engaging an Environmental Consultant to define and develop measures to both preserve and utilize the wetlands, that they be required to comply with the expert's recommendations. With regard to supplemental condition #4, Mr. Wilhelm stated that they believe a tree survey and proposal to save all

trees larger than 12 inches in diameter, except in the footprint and immediately adjacent areas of probable building sites and in roadway areas, is unnecessary, expensive and impractical. He explained that clearing and grubbing will be completed long before the footprints are available for the individual lots. If the applicant is forced to forego clearing on the lots, then each purchaser will be required to clear their own lot after the streets and utilities are in place, resulting in additional expense and an uncontrolled logging operation that could cause damage to public improvements. The applicant fully intends to save trees that will enhance the area and work with staff during the development of the plans. With regard to supplemental condition #6, Mr. Wilhelm stated that, rather than follow the Erosion Control Plans Technical Guidance Handbook, he would prefer to develop this project in accordance with the recommendations of the Environmental Consultant, who is a recognized expert on wetlands. Since it is the applicant's belief that it is appropriate to follow the recommendations of the wetlands expert regarding construction mitigation for this project, he requested that the Commission eliminate this condition. Regarding supplemental condition #7, he questioned whether he would get credit for the improvements that are made during construction if the waiver of remonstrance is signed. Supplemental condition #8, regarding utilities design, calls for a 12 inch water main on Territorial to be extended to the east end of this development and connected to the main from the development, to complete the looped system. He requested that both that condition and the condition requiring a minimum of an 8 inch main be installed to supply all hydrants be deleted. Instead, he stated, the applicant would work with the Fire Marshal and CUB to provide a final design for the water system, as the present utilities design is just preliminary at this point. Mr. Wilhelm further stated that the staff's recommended 80 foot right-of-way with a 44 foot paved road on Teakwood, should be reduced to a 60 foot right-of-way with a 44 foot paved road.

Additionally, Mr. Wilhelm stated that the applicant would like to change the name of the subdivision from Teakwood Terrace to Willow Creek Estates.

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

Issues discussed:

1. The Commission discussed the need for more specific information from the applicant, with regard to Section 16.72.030 (form and content for PUD applications).
2. The Commission discussed building in the wetlands. Mr. Hoffman explained that there is room to develop totally outside of the

wetland and floodplain. He did not believe 15 units could fit totally outside of the wetland and floodplain with the height limits and parking requirements met.

3. The Commission discussed the stream corridor which extends beyond the wetlands and across the center of the site and its affect on Lots 45, 54, 55 and 56 and the roadway. The Commission discussed the fill associated with the roadway in the wetlands. The applicant explained that the primary concern was the floodplain and that it was above the 100 year flood elevation at that location. The applicant further explained that the creek would be a feature on the lots, while a culvert would be installed between the roadway and the building site. The stream corridor will be considered wetlands and the environmental consultant will provide mitigation recommendations.
4. The Commission discussed the wetlands as it relates to recreation areas and open space. The Commission further discussed the definition of recreational space, open space and park land. The Commission discussed whether wetlands should be considered more open space than park land when considering park land donations under the ordinance.

With regard to this application, the Commission agreed, for the sake of this application, this appears to be an adequate donation for open space and/or recreation to gain the PUD density bonus, but in future applications that just talked about dedicating open space, if some more active type of park or recreation facilities were not included, the Commission might have trouble offsetting systems development charges.

5. The Commission discussed the tree saving issue. The applicant explained that he believed staff was requesting he provide a tree survey showing where all trees were located and that none should be removed except if they were in the footprint for the building. He further explained that at the time the logging is completed the applicant will have no idea what kind of homes will be built. The developer sells the lots individually, who have their homes designed on their own. The applicant added that he believed there were very few trees over 12" in diameter. Although the developer plans to save as many trees as he can, he would like to clear all the trees that he believes are near the buildable areas on the lots and clean it up so the lots look nicer. **Mr. Oliver** stated that there are 3-4 acres that contain many Fir trees, some of which are tremendous and should be removed. Once the very large ones are removed to build homes, they will no longer create a windbreaker and the others will



become a hazard. Mr. Wilhelm stated that if the City insisted on preserving the trees, it should accept some liability for the hazard created. Mr. Hoffman stated that his intention was to request the survey in order to determine the number of trees over 12" in diameter because he believed there were many, but that hazardous trees could and should be removed. **Mr. Scott** stated that clearcutting was not the intent, but to get the vast majority of trees out before marketing the lots, is the intent, from a neat professional subdivision point of view. He added that he would prefer to have a professional logging company do the removal work rather than each individual lot owner. Chairman Schrader suggested encouraging staff to work closely with the developer to save as many trees as possible.

6. The Commission discussed the request from the Fire Marshal. The applicant explained that the water system has not been designed and that it is not in the Fire Marshal's field of expertise to design the water system. He suggested that the developer work with CUB, who has the means to study the water flow, and with the Fire Marshal, to make sure his concerns are met. It was agreed that the sizes of mains that the Fire Marshal suggested should be deleted from the condition, but wording regarding the intent and the hydrant configuration should remain. Thus, it would read: "An adequate sized water main on Territorial shall be extended to the east end of this development and connected to the main from the development, to complete the looped system. An adequate sized main shall be installed to supply all hydrants." The intent of the Commission is to incorporate conditions #12 and #13 with CUB and the Fire Marshal working together with the applicant.
7. The Commission discussed the waiver of remonstrance. Mr. Hoffman explained that the intent for the waiver was to cover the areas beyond the project, which the traffic will affect. Mr. Wilhelm agreed he was not requesting the waiver be dropped, but that he be given credit for whatever improvements he has already made, with regard to a formula for the L.I.D.
8. With regard to supplemental condition #6, erosion control, the Commission agreed it was relevant, due to the involvement of wetlands and a stream corridor. The Commission also agreed that following these erosion control guidelines would minimize the amount of dirt tracked on to public roadways via heavy equipment during the construction phase.
9. With regard to the storm water system, Mr. Hoffman explained that the details of the lift station, the sewer line, the storm flow lines and

catch basins will require City approval. Additionally, the catch basins will need to be filtered and trapped and maximum distance between manholes would have to be 300 feet. Mr. Wilhelm stated that most other communities dump their water into existing watercourses. He added that Canby is the only community that uses drywells for storm water.

10. With regard to Territorial Road, the Commission discussed the 80 foot width requested by the Public Works Director, with a 44 foot paved roadway, as opposed to the 60 feet requested by the applicant. Mr. Hoffman explained that Territorial is proposed to be an arterial.
11. The Commission discussed the need for a traffic impact analysis. Mr. Hoffman explained that the City felt there was no need for one at this time.
12. The Commission discussed additional access onto Territorial. Mr. Hoffman explained that staff talked to the applicant about the possibility of both right and left turn lanes for peak hour traffic. The applicant may still be considering such a possibility.
13. The Commission discussed the impact of the development on the school district. The applicant explained the time line was approximately 3-5 years and stated that the school district is aware of the impending development in the City.
14. The Commission discussed the City sewer system and its capacity to handle the forthcoming development in Canby. There was discussion as to adequacy of the system and the City's plans for enlarging the system. The inadequacy of the system on the south side of town was discussed. Mr. Hoffman explained that he analyzed the capacity of the sewers in the vicinity and found there was no capacity problem for the sewers in that location. The Commission explained that the plant's overall capacity was certainly a concern, but the biggest concern is the overall collection line (infrastructure). Mr. Hoffman explained that the City was studying the system and the City had every intention of improving the entire plant.

The Commission unanimously agreed to continue the hearing to February 11, 1991.

The Commission discussed the following items:

1. Access (and emergency access) - more input was needed
2. Width of Territorial Road - more input from Public Works Director
3. There seemed to be agreement regarding erosion control
4. There seemed to be consensus regarding an L.I.D. and waiver of remonstrance
5. There seemed to be consensus regarding the water and sewer sizes
6. More discussion needed to resolve the tree issue
7. More discussion needed to resolve the 25 foot stream corridor issue
8. More discussion needed regarding information required of this and other applicants
9. More discussion needed regarding the environmental expert's report and how the Commission will handle the tentative vs. the final report
10. The Commission requested a copy of the CC&Rs.

George Wilhelm stated that he believed this application was complete. He further stated that he has complied with all the requirements for this subdivision. Some requirements for a PUD were not complied with because this is not an average PUD. The applicant is asking for everything in compliance with City standards. Most of the zoning regulations for PUDs are geared toward very small lots. This development has larger lots than in most other subdivisions. The only reason a PUD is being requested is to take care of the open space area and put in four condo lots. The condo lots will go through the design review process and, at that time, the plans for the specific lots will be available with detailed parking, elevation, etc.

#### VIII. ADJOURNMENT

The meeting was adjourned at 10:50 p.m.

Respectfully submitted,



Joyce A. Faltus