

CANBY PLANNING COMMISSION

APPROVED

Regular Meeting

January 13, 1992

7:30 p.m.

I. ROLL CALL

Present: Vice-Chair Mihata, Commissioners Fenske, Wiegand, Maher and Zieg.

Staff Present: Robert Hoffman, Planning Director; John Kelley, City Attorney; and Joyce Faltus, Secretary.

Others Present: Cathe Franz, Don Bear, George Wilhelm, Cyndi Klaetsch, Laurie Gustafson, Ray Franz, David Anderson.

II. MINUTES

The minutes of **November 25, 1991** were unanimously approved.

The minutes of December 9, 1991 were postponed to January 27, 1992.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. FINDINGS

Commissioner Fenske moved for approval of MLP 91-09 (Carl Stuart) Findings, Conclusions and Order. Commissioner Wiegand seconded the motion and it carried unanimously, with Commissioner Maher abstaining.

Commissioner Wiegand moved for approval of CUP 91-08 (Canby Union High School) Findings, Conclusions and Order. Commissioner Zieg seconded the motion and it carried unanimously, with Commissioner Maher abstaining.

VI. OLD BUSINESS

None

VII. PUBLIC HEARINGS

SUB 91-01, a request by David Anderson to develop a 17-lot single family subdivision, North Pine Addition II. The property is located east of N. Pine Street and north of N.E. 14th Avenue (Tax Lot 1500 of Tax Map 3-1E-34B). **(Continued from November 25, 1991)**

Chairperson Mihata asked if any of the Commissioners had ex-parte contact or conflict of interest since the November 25th hearing on this application. None was indicated, other than Commissioner Maher stating she had listened to tapes from the previous meetings. Ms. Mihata indicated, for the benefit of the audience, that the public portion of the hearing was still open for testimony.

Mr. Hoffman referred to the supplemental staff report which was submitted since the last hearing. He reviewed the applicant's request for a 17-lot subdivision on N. Pine, immediately to the north of N.E. 14th Avenue. He referred to the aerial photograph of the site. Essentially, the proposed lots will access off N.E. 15th, which is proposed by the developer to loop up to the north, which road the developer believes will ultimately continue north. With regard to this road, staff recommends a temporary hammerhead type turnaround until such time as the street is continued, to facilitate use by emergency vehicles. He reviewed concerns that were raised at the last meeting with regard to flag lots, trespassing on the adjacent property, and the current proposed ending of 15th Avenue at the adjacent property line. Mr. Hoffman stated that there is a small strip of land connecting 15th to the Logging Road, which provides an opportunity for pedestrians to get from this subdivision out to the Logging Road without crossing private property. He then reviewed his response to the written opposition after which time, the City received additional written testimony from the opponents (January 13, 1992). The Commission agreed with Mr. Hoffman that his supplemental staff report of January 13, 1992 should be made a part of the record.

Chairperson Mihata informed the audience of its right to request a continuance if they believe new information has been submitted by the applicant in support of the application - or that they may request seven additional days in which they may submit written material. Mr. Kelley stated that failure of anyone to raise an issue at the hearing precludes appeal upon that issue to the City Council and to the State Land Use Board of Appeals.

Applicant

Dave Anderson explained that he would reserve his testimony until his rebuttal.

Opposition

Cathe Franz, 980 N.E. 14th, stated that she is requesting the seven additional days to submit written testimony in response to Mr. Hoffman's supplemental staff report.

Ms. Franz requested a continuance of this application. Mr. Kelley stated that the opponents are entitled to a continuance if new evidence has been submitted. In his opinion, the staff report did not contain new evidence, but the opponents would still be entitled to have the record kept open for seven days, to submit additional written testimony, if so requested. The Commission agreed the supplemental staff report did not contain new evidence, that it was just a response to the opponent's statement. The Commission agreed to leave the record open for seven days, but did not grant a continuance.

Ms. Franz stated her concerns as follows:

1. That Pine Street is the victim of low cost housing projects and was becoming a depressed slum area.
2. That the proposed new subdivision was not compatible with the farming use on the Franz property.
3. That the lots in the proposed subdivision are too small, forcing children to play in the street or on the Franz property.
4. That developments like the proposed subdivision are too profitable for developers.
5. That the proposed subdivision would not improve the scenic or aesthetic quality of Canby.

6. The trees that were removed from the subject property and the trees that stand on the Franz property, directly in the path of the proposed 15th Avenue extension.
7. The lack of a Traffic Analysis report and the need for major improvements where Pine intersects with Territorial and with 99E. That this project presents a serious traffic hazard for Pine Street.
8. The proposed loop design, which would force the Franz property to be developed into such small lots that it could not be developed in an environmentally responsible way, hindering such development. Additionally, sufficient emergency access has not been provided for in this plan.
9. That a moratorium be placed on all building.
10. The change in street design since they developed some of their property.
11. That the City shows favoritism toward developers.
12. That adequate barriers are needed between the lots, the 10 foot connection to the Logging Road, and the Franz property, to prevent dumping of trash, property damage, and trespassing.
13. Adequate barriers are needed between the resulting street and the Franz property.
14. That a policy, as to the maximum percentage of 7,000 square foot lots per parcel, should be established. Forty percent is too great a percentage of the minimum lot size allowed.
15. That a resolution to the perched water table problem needs to be in place prior to approval of the subdivision.
16. That a fence be erected to prevent dumping on the Logging Road and on the Franz property.

Ray Franz, 980 N.E. 14th stated that he concurs with his wife's testimony. He further stated that the trees need to be protected. The accessway to the Logging Road is an extreme concern of his too, as people will be walking very close to electric fencing and barbed wire fencing. The City should provide a more suitable accessway to the Logging Road, he added. Additionally, he stated that 7,000 square foot lots are too small. With a tape measure, Mr. Franz demonstrated that an average 12 foot backyard is too small a play area for children, in his opinion. Mr. Franz stated that

forty percent of the lots in this subdivision are 7,000 square feet and that percentage should be reduced. He further stated that he plans to take further legal action if this subdivision application is approved.

Don Bear, 1630 N. Maple, stated that he believes City staff underplays the sewage part of each application. He further stated that he is monitoring the sewage treatment plant. He referred to the Canby Herald of December 10, 1991, where it stated that DEQ will impose fines for flows beyond its permitted allowance. Mr. Bear stated that the City does not take the WWTP problem seriously, but that the Planning Commission must deny this application due to the severity of the problems at the WWTP, or set aside its decision until after the March bond issue vote. He then discussed various financial methods for funding the expansion of the treatment plant. Mr. Bear then discussed the monthly sewer rates in Canby and compared them with other agencies and cities. Mr. Bear then questioned whether 60 feet of frontage was required for flag lots. Mr. Hoffman read the definition from Section 16.04.380, explaining that "lot width" means the "average width of a lot when measured at the front and rear lines.

Rebuttal

George Wilhelm, 546 S.E. Township, Project Engineer for the Subdivision, stated that he concurs with the staff report and conditions of approval. In response to the opponents' testimonies, stated:

1. With regard to school services, the improvement program which was approved by the voters, provides for reasonable growth within the district.
2. With regard to land use, from 1973 to the present, the City has developed a comprehensive land use plan. In 1984, the City adopted the present Comprehensive Plan which was developed by the Citizens Advisory Committee, as a result of numerous public meetings and hearings, and has continued to evolve through the planning process via open meetings. The applicant's and the opponent's properties are included in the Urban Growth Boundary and have been scheduled for urban development under the R-1 zoning.
3. Constant development does have a significant effect on the size of lots, but in most instances the zoning ordinance has more effect on lot sizes than the developer does. Developers price lots to establish a reasonable profit. These low density residential lots will provide a nice neighborhood that fits in well with the City's planning goals and the existing character of the area.

4. There are approximately 15 fir trees in line with the proposed 15th Avenue extension, to the north.
5. A recent traffic analysis, which was submitted to the City for another project, included the Pine Street and Territorial intersection. It indicated that even with this subdivision, that intersection will remain at an "A" level of service, which is more than that recommended for this collector street by the American Association of State Highway Traffic Officials. Staff is acting responsibly by not requiring a traffic analysis, as the area is nowhere near recommended capacity. The analysis would add approximately \$150 to the cost of each lot.
6. A 6 foot fence along adjacent residentially zoned property is not appropriate. Because the City has a Dog Ordinance, dogs cannot roam freely. Existing laws may need to be more strictly enforced regarding debris thrown onto the Logging Road.
7. This application complies with the text and map of the Comprehensive Plan. The property was annexed recently and is zoned R-1, and complies with R-1 zoning. Further, the proposed development complies with all applicable requirements of the Land Development and Planning Ordinance. Final plans and specifications will be developed and submitted to the City for review after approval of the preliminary plat. Details of the infrastructure that will be constructed by the developer will be in accordance with good engineering practices and the City's improvement standards, which include the City's new Solar Ordinance and Park Plan. The overall arrangement of the lots is designed to provide a functional and serviceable neighborhood. The design has been laid out to provide a reasonable development pattern for adjacent properties.

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

Issues discussed:

1. The Commission agreed, that although it could not come to a decision at this meeting, it would be beneficial to discuss some issues.
2. The Commission agreed that the storm water disposal system issue would be resolved with proposed Condition #17.

3. With regard to the access issue, the Commission agreed access to the Logging Road should be further defined at a later time, and not as part of this subdivision review.
4. Mr. Kelley informed the Commission that a proposal from the City Administrator is going before the City Council to hold a workshop session in conjunction with the Planning Commission to discuss the sewer issues. The Commission agreed the sewer issue should be discussed when all members of the Commission are present, after the workshop session with Council.
5. With regard to a question about traffic patterns, Mr. Hoffman explained that if the applicant owns adjacent property, he must submit traffic pattern options. Mr. Anderson did address this issue, although in this case, it was not a requirement.
6. The Commission agreed the needed hammerhead for emergency vehicle access is addressed in proposed Condition #1. Mr. Hoffman explained that it is considered a **temporary turnaround** because the adjacent property will eventually be developed, and the road extended. Mr. Hoffman further explained, with regard to proposed Condition #6, that a 1 foot plug is often added to the conditions when other property is adjacent, so that the City would retain a piece of land which would not permit access to or from the adjacent property until a plan is approved for the adjacent land.
7. With regard to the Waiver of Remonstrance for road improvements in proposed Condition #18 of the supplemental staff report, the Commission agreed it should be specified that the road improvements are along **Pine Street**, but do include other utilities also.
8. In response to a question from the Commission, Ms. Franz explained that there were no hazardous chemicals used on their property.
9. With regard to the proposed condition regarding a fence along the Logging Road, the Commission agreed it is redundant because it is against the law to throw trash on public property. Requiring a 6 foot fence may not be consistent with the City's intent for the Logging Road to be part of the bike path. The Commission also questioned whether property owners along the Logging Road would want the 6' fence. The Commission agreed to discuss deleting proposed Condition #10 at the next meeting and proposing a fence on the Logging Road accessway instead.

10. The Commission considered suggesting that the developer placing the 10 foot accessway between Lots #7 and #8, instead of adjacent to the property line so people using it would not be exposed to barbed wire or electric fencing - or the possibility of fencing along the walkway to prevent such exposure. Mr. Hoffman explained that the City asked for the accessway at the edge of the property because, ultimately, when the adjacent property is developed, half of that width would be shared by each developer. It is also a sewer easement and the sewer in 15th Avenue must be extended to the property line.
11. In response to a question from the Commission, the developer responded that the homes in this development would run about \$130,000 and up.
12. The Commission discussed the sewer lying in the 5' utility easement and agreed this issue should be discussed further.
13. With regard to the footage between the sidewalk and the face of the garage, the Commission asked Mr. Hoffman why the condition said 19 feet, as opposed to Mr. Klem's suggestion of 20'. Mr. Hoffman explained that if the sidewalk is built at the curb, then there would be 20', but where the sidewalk is set back, 19 feet is sufficient. A recent survey was made and, after measuring vehicles, showed that 19' is sufficient.

The Commission agreed unanimously that, except for additional written testimony from the Franz' family and rebuttal from the applicant, the record for SUB 91-01 is closed for continued deliberation on January 27, 1992. The Commission requested that staff submit the proposed conditions on one sheet of paper for the January 27, 1992 meeting. Additionally, the Commission requested that staff bring draft Findings to the January 27, 1992 meeting.

VIII. DIRECTOR'S REPORT

Mr. Hoffman reviewed the status of Village on the Lochs with the Commission. Mr. Nelson has submitted a lot of additional documentation - new engineering drawings, new layouts for how the buildings would site on each lot, a number of additional details for how the intersections would be built, etc. Rusty Klem questioned many details and Mr. Nelson has responded to many of them. Mr. Kelley and Mr. Hoffman met with Mr. Nelson and his attorney, and explained what kind of information they would need to provide in order for them to get a permit to exercise their Conditional Use permit within the allotted time period. Draft materials have been submitted for everything. The owner of Elmwood has, at least, tentatively agreed to sell Mr. Nelson some property and allow vacation of the little side street near Fir, which would provide enough adequate roadway. The County has submitted a letter stating that Mr.

Nelson has met all of their requirements, but Mr. McClain said Mr. Nelson still needed to submit his engineering drawings for the new roadway, to Bill Garrity, the traffic engineer. Although the County does not want to maintain it as a County road, they have another category of public roads and Mr. Nelson would have to work out an agreement with them for maintenance. One of the draft legal documents submitted, proposes dedicating that as a public road. Mr. Nelson is dedicating the public park lands and Mr. Nelson is looking at dedicating more, as an advantage towards his SDCs. To avoid the wetlands, Mr. Nelson has agreed to make the necessary changes, and has submitted drawings showing the reconfiguration of those lots and a roadway that was to be built on buffered land. Mr. Nelson had originally requested an extension of his Conditional Use application with some conditions proposed for amendment, along with his Design Review application. Mr. Hoffman explained that Mr. Nelson withdrew his request for extension and amendment of his Conditional Use and asked for his Design Review application to be rescheduled to January 27, 1992. It appears possible for Mr. Nelson to meet the Conditional Use deadline now. Right now, Mr. Nelson has to submit everything for Mr. Godon's review toward issuing a grading permit before February 2, 1992.

With regard to the sewer issue, the State has given notice that if the City incurs one more violation at the sewer plant, the City will be fined. There had been one additional violation recently.

He further explained that Bob Stuart was applying for a permit to live in a trailer at 1320 N. Holly, while the property is up for sale. He would appear before the City Council on February 5, 1992. The ordinance requires that he not occupy the trailer for more than 7 consecutive days within a 60 day period.

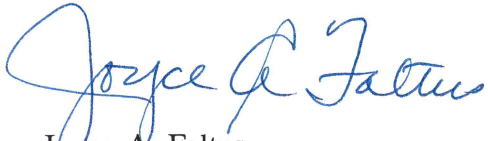
Mr. Hoffman updated the Commission on the status of the elementary school. He explained that the school district is exploring other locations. He further explained that the school district is bringing in two Conditional Use applications for additions/remodeling at the Knight Elementary and Eccles Elementary schools. The school district is expected to bring applications before the Commission for additional portables at the elementary schools too.

The Commission asked Mr. Hoffman to look into a "No Right Turn" sign that was to be placed on Aspen in the Lillian's Meadow subdivision.

IX. ADJOURNMENT

The meeting was adjourned at 10:05 p.m.

Respectfully submitted,



Joyce A. Faltus