

CANBY PLANNING COMMISSION

Regular Meeting

February 10, 1992

7:30 p.m.

APPROVED

I. ROLL CALL

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

Staff Present: Robert Hoffman, Planning Director, Jim Wheeler, Assistant Planner, and Joyce Faltus, Secretary.

Others Present: John Meadows, George Wilhelm, and Dan Anderson.

II. MINUTES

The minutes of **January 27, 1992** were unanimously approved, as amended.

III. CITIZEN INPUT ON NON-AGENDA ITEMS

None

IV. COMMUNICATIONS

None

V. FINDINGS

Commissioner Fenske moved for approval of SUB 91-01 - Pine Street Addition II. Commissioner Maher seconded the motion and it carried unanimously, with Commissioner Gustafson abstaining. Commissioners Schrader and Wiegand had not yet arrived.

VI. OLD BUSINESS

None

VII. PUBLIC HEARINGS

MLP 92-01, an application by George Wilhelm for approval of a minor land partition to partition a 24,219 square foot parcel into two parcels. The partition, as requested, would create a new lot suitable for three units with a net area of 10,195 square feet, leaving the existing residence on a 14,024 square foot lot. The property is located at 546 S.E. Township Road (Tax Lot 2000 of Tax Map 3-1E-33DD).

Vice-Chair Mihata asked if any Commissioner had ex-parte contact or a conflict of interest. None was indicated. She then explained the hearing process and procedures.

Jim Wheeler presented the staff report. He explained that the existing home on this parcel fronts on Township Road, on the proposed 14,000 square foot lot. Mr. Wheeler reviewed the applicable criteria. In reviewing the background of the property, Mr. Wheeler explained that the parcel is zoned R-2. According to the map submitted by the applicant, there is a possibility that the partition line between proposed Parcel #1 and proposed Parcel #2 will be within three feet of the existing pool on proposed Parcel #1. With regard to the sewer capacity issue, Mr. Wheeler explained that, as a result of the workshop held January 22, 1992, and further discussions with the Public Works Director, it has been determined that the plant has the capacity to handle the existing residential unit, and the maximum three residential units allowed on proposed Parcel #2. If the application is approved, Mr. Wheeler explained that a proposed condition of approval will be included to assure the existing house is connected to the City sewer system. Additionally, on-site disposal of storm water will be required. The proposal will have minimal effect on the groundwater quality if the existing septic system is emptied and filled with sand or gravel. With regard to the transportation element, Mr. Wheeler explained that Township Road has been placed fairly high on a priority list of street improvements. It has been widened in portions where new development has occurred and needs to be widened at the subject property with the installation of curbs to match the existing curbs on Township Road, immediately west of the subject property. Sidewalks will also need to be installed on the subject property on both S. Maple Street and Township Road. Mr. Wheeler then referred to a change in proposed Condition #3. His recommendation is that condition #3 read:

3. The developer of Parcel #2 shall widen the north side of Township Road and provide paving and curbing from S. Maple Street to the west property line, matching the existing curb, and provide a sidewalk for the property frontage of

Parcel #2 along S. Maple Street, at the time of development of Parcel #2. The applicant shall provide a Waiver of Remonstrance against any needed sidewalk improvements along Township Road.

He further addressed proposed Condition #4, and stated that the applicant specifically requested that the interior easements between the two parcels be 6 feet in width along each lot line for a distance of 100 feet north, from the south property line. Thus a 12 foot easement would be provided for 100 feet. This request was approved by Canby Utility Board. In response to a question from the Commission regarding the easement, Mr. Wheeler explained that he assumed this request was made because the existing garage and pool are within 6 feet of the property line. He then circulated CUB's response to our Request for Comments. With regard to proposed Condition #7, Mr. Wheeler stated he would like to add a second sentence to assure that the home on Parcel #1 will be connected to the City sewer system. Proposed Condition # 10 allowing access to Parcel #2 only from S. Maple Street, he explained, provides the best possible traffic circulation, away from the intersection.

The Commission expressed concern with the revised wording on proposed Condition #3 because it does not require the sidewalk along Township. Mr. Wheeler explained that, since there is no sidewalk provided west of the property, the Waiver of Remonstrance would suffice until the sidewalk project is underway. The Commission then discussed its desire to maintain a policy of requiring the necessary street and sidewalk improvements at time of subdivision or partition, as opposed to a Waiver of Remonstrance. Discussion was held whether to require such improvements at time of partition or at time of development. It was agreed this would be discussed further during deliberations.

Applicant

George Wilhelm, 546 SE Township, stated that he concurs with the staff report's evaluation of the applicable criteria, but that he had concerns regarding the required improvements. Mr. Wilhelm explained that he researched the last 13 minor partition applications and found that requiring improvements on minor partitions, rather than participation in future improvement projects is not a clear and consistent City policy. He said he will further explain why he feels it is better to require equitable participation in future improvement projects, rather than requiring the improvements as part of the development of a partition, and will outline an alternative which may save trees, and improve Township Road. Mr. Wilhelm explained that the property is surrounded by new development, which provides 12 foot easements in all directions. The

Mr. Wilhelm stated that each project is unique and should be evaluated on its own merit since no applications are identical. His research found that precedence was set where the City has accepted a requirement to participate in the cost of future

improvements rather than construct improvements on a piece-meal basis. Of the thirteen applications he reviewed, six involved sidewalk improvements only, and sidewalks were required prior to occupancy of a structure on the new parcel. Four of the 6 involved waivers requiring participation in future projects. He further stated that his research definitely determined that where small partitions are involved, the City has **not** established a policy of requiring full street and sidewalk improvements and, in fact, waivers of remonstrance to participate in future improvements are more the policy than actually requiring the improvements.

With this application, Mr. Wilhelm explained that he is requesting that the improvements along Township Road **not be required** at this time, and suggests that the City accept a Waiver of Remonstrance to participate in future improvement projects because:

- a. No sidewalks are available along the entire length of the north side of Township Road, from Ivy to the City limits. Construction of a sidewalk at this location would conflict with existing mature Cedar trees and terminate at a landscaped area to the west of his subject site.
- b. Township Road is an arterial street and he believes it is unfair to require property that is approximately 150 feet deep to pay the entire cost of improving an arterial street, and then include a condition that the new parcel cannot even access that street.
- c. Because road improvement projects provide a far superior product at a more reasonable cost than piece-meal road improvements.
- d. City staff has indicated that they would require two mature Cedar trees to be removed, which may be appropriate for an arterial improvement project, but is not appropriate for a minor partition.
- e. That page 93 of the Comprehensive Plan lists Township Road as third on a list of street requiring major upgrading and improvements. That recent traffic counts indicate that it should receive a high priority for improvements. Because of this, he stated that a waiver of remonstrance would be more acceptable.

Mr. Wilhelm added that if the waiver is not acceptable for **all** the improvements, that he requests a waiver, at least, be acceptable for the sidewalk improvements and asked the Commission to indicate a preference for saving the Cedar trees, even though it will eliminate a parking lane, and would require a 4-foot jog in the curb. He compared it to jogs in the curb on Locust (7 feet) and Territorial (4 feet). He then submitted photographs of the site, which were added to the record as Exhibit #3.

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

Issues discussed:

1. The requested jog in the road. Mr. Hoffman explained that he spoke with the Director of Public Works, who does not believe the widening could take place, with the street functioning properly, if the curb is jogged a traffic lane would be eliminated, which Township needs. He further explained that the jog on Territorial protected historical trees and, that the entire street improvements have not been completed; that it remains to be seen what will eventually have to happen to handle the full traffic load on Territorial. Mr. Wilhelm referred to the photographs and explained that in dedicating 10 feet of land to the City, the City would acquire approximately 1700 square feet.
2. The reduced easement on the lot line separating proposed Parcel #1 and #2.
3. The fact that the City has been trying very hard to establish a clear and definitive policy of requiring street widening and sidewalks on all partitions and subdivisions that become before the Commission. The Commission agreed that those that were not required to make the improvements had extenuating circumstances.
4. Mr. Hoffman reported on the issue of L.I.D.'s. The most recent information that the City received regarding L.I.D.'s is based on interpretation of Measure #5, by the Attorney General. It appears L.I.D.'s fall under Measure #5, which means that they would be within the limit unless they were voted on and approved by the entire City population. So, L.I.D.'s, as a viable means of accomplishing major improvements, are not likely to be used in the near future. Other measures, such as forming a fund into which the developer would make a contribution for improvements to be made at a later point, might be practical. In the future, staff will be recommending that the developers build the improvements or contribute to a fund. This will produce gaps which will have to be fleshed out at some point.
5. Access to newly created Parcel #2. The Commission was concerned that the driveway(s) should be away from the intersection of Maple and Township. If a triplex is built, it would come before the Commission as a Site and Design Review application. If a duplex or single family residence was built, it wouldn't, but proposed Condition # 10 is clear in its intent that, for best circulation, Parcel #2 would not access Township. Mr. Wilhelm explained that whatever is built would have a double garage, but due to the narrow depth of

Parcel #2, part of the garage would have to be under the building itself. As development of this parcel could be from 1 to 3 units, the Commission amended proposed Condition #10 to read:

10. Access to Parcel #2 shall be from S. Maple Street. The driveway(s) shall be located on S. Maple Street.

6. The sewer issue. Mr. Wheeler explained that there is a feeder main line for S. Maple which has the capacity for up to three units on Parcel #2. A main line which serves a development to the north of Parcel #1, he believes, is fairly close to the surface and does not have enough gravity flow for a proper design connection. Mr. Wilhelm stated that it was so deep (approximately 8 feet) when they looked for it to hook it up a four-plex, that they almost thought it wasn't there and, therefore, a lift station would not be required.

Based on the findings and conclusions in the staff report dated January 31, 1992, on the testimony and deliberations, **Commissioner Fenske moved for approval of MLP 92-01, with the conditions as submitted and amended, as follows:**

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. **Ten (10) feet of land for street widening purposes along Township Road shall be dedicated as part of the final partition. At the time of development of Parcel #2, a sidewalk, curb, and widened, paved street shall be provided along Township Road, and a sidewalk shall be provided along S. Maple Street.**

4. **Permanent utility construction and maintenance easements including, but not limited to, electric and water cables, pipeline conduits and poles shall be provided as follows:**

**12 feet in width along the total length of the south property line on
Parcels #1 and #2;**

12 feet in width along the total length of the east property line of Parcel #2; and,

6 feet in width along each lot line that will divide Parcels #1 and #2 for the distance of 100 feet north, from the south property lines of Parcels #1 and #2. This will provide an easement with a total width of 12 feet.

- 5. A final partition modified to illustrate the conditions of approval shall be submitted to the City Planner for review and approval. The final partition shall reference this land use application -- City of Canby, Planning Department, File No. MLP 92-01.**
- 6. Plans to extend the sewer to both lots shall be approved for construction by the Director of Public Works, prior to the issuance of any building permits on the site.**
- 7. The existing septic system on Parcel #1 shall be drained, inspected by City staff and removed or filled with sand or gravel. The existing house on Parcel #1 shall be connected to the City sewer at the time of partition.**
- 8. All moumentation and recording fees shall be borne by the applicant.**
- 9. All utilities must meet the standards and criteria of the providing utility authority.**
- 10. Access to Parcel #2 shall be from S. Maple Street. The driveway(s) shall be located on S. Maple Street.**
- 11. A minimum distance of three (3) feet shall be provided between the existing pool on Parcel #1 and the property line for Parcel #2.**

Commissioner Maher seconded the motion and it carried 3-2, with Commissioners Maher and Zieg opposed. Commissioners Schrader and Wiegand had not participated in the entire public hearing and both abstained.

CUP 92-01, an application by the Canby Elementary School District #86 for the addition of a new computer room and remodeling of the speech room, storage room, lounge, and parking lot of the Knight Elementary School. The school is located at 501 N. Grant Street (Tax Lot 1400 of Tax Map 3-1E-33CB).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. None was expressed, other than Commissioner Fenske, who stated he was familiar with the site. The hearing process and procedures were then explained.

Bob Hoffman presented the staff report. He referred to the diagram on the wall while he explained where and how the additions and remodeling would take place. Mr. Hoffman explained how the application met the applicable criteria. He further explained that no additional land is being used, that no additional teachers will be involved, and that the 8.75 acre site is surrounded by public land (Eccles School) and residential development. The proposal will provide a minor expansion of the school building and hard surfacing of the parking area which will slightly improve the aesthetic qualities of the general area. The site circulation and parking areas will be improved through the design improvements and hard surfacing of the parking lot, leaving bicycle and pedestrian areas adequately served. Staff considers the addition and modernization as minor changes to the existing school as it is apparent that the changes do not alter the site use and characteristics. The paving of the parking area will improve the muddy and dusty conditions that presently exist. Staff recommends approval without conditions.

Applicant

John Meadows, BOOR/A Architects, 720 S.W. Washington, Suite 800, Portland, OR 97205, stated that he concurs with the staff report. He added that paving the graveled parking area will add 5-6 parking spaces. The new 4,000 square foot computer room will not be seen from the street. The remodeling of the existing speech room is mainly electrical in nature, and includes a new "relite" wall. A wall in the storage room will be replaced and the lounge will have a new window. Therefore, most of the changes are to the interior of the building, and minor in nature. He further explained that none of the existing trees will be affected when the parking area is paved.

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

Based on the findings and conclusions in the staff report dated January 31, 1992, and on the applicant's testimony, **Commissioner Zieg moved for approval of CUP 92-01 without conditions. Commissioner Fenske seconded the motion and it carried unanimously.**

CUP 92-02/NCS 92-01, an application by the Canby Elementary School District #86 for additions and remodeling to the Howard Eccles Elementary School. Specifically, the applicant is requesting approval of an addition to the library, the addition of a new computer room, storage room, and an entry/canopy between the kitchen and storage room. Additionally, the applicant is requesting approval to remodel the administrative and staff support rooms and Expansion of a Nonconforming Structure. The school is located at 562 N.W. 5th Avenue (Tax Lot 1100 of Tax Map 3-1E-32D).

Chairman Schrader asked if any Commissioner had ex-parte contact or conflict of interest. Commissioner Fenske stated he was familiar with the site. Mr. Schrader then explained the hearing process and procedures.

Jim Wheeler presented the staff report. He reviewed the applicable criteria, and explained that the nonconformity in the current building is that it encroaches one and one-half feet into the 20 foot required front yard setback on the eastern portion of the building. Mr. Wheeler explained that the applicant wants to expand the western portion of the building so that it, too, will encroach into the front yard setback by one and one-half feet, in order to increase the size of the library. Furthermore, it was his understanding that the applicant decided not to erect the proposed canopy. The addition to the library, adding a new computer room and new storage room, covers an area of approximately 1,800 additional square feet. He reminded the Commission that the school district received, on June 26, 1991, approval for an addition and remodeling, which included a new covered play area, a new music room, paving of the parking area, and a bus loading area, along with interior improvements. In staff's opinion, the proposed minor expansion and improvement of the school is within the intent of the land use policies. Staff recommends approval of this application with no conditions.

Applicant

John Meadows, BOOR/A Architects, 720 S.W. Washington, Suite 800, Portland, OR 97205, stated that he concurs with the staff report and that the changes will bring the building up to better standards. He further explained the need to enlarge the library and the need for the computer lab. Mr. Meadows further explained that the school district plans to upgrade the building with cosmetic improvements, including the new windows and that it would be painted in a light, neutral color. The face of the new addition would be done in a compatible wood siding of similar color, but different texture, where it meets the old portion, because it could not possibly match the existing siding. The new windows, Mr. Meadows stated, were to improve the views for the children, and enhance the natural lighting. Since lower windows will be part of the addition to the library, similar windows will be added to the cafeteria so they will be compatible. He further explained that the canopy will be placed over the entry, between the cafeteria and library, and not brought out to the street.

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

Issues discussed:

1. Mr. Hoffman explained that the applicant had not requested approval to redo the front of the building with cosmetic improvements. He further explained that staff had no objections to cosmetic improvements, that they are consistent with a Conditional Use application and with a nonconforming building expansion, and that it will not require a Design Review application because the value of the improvements will not exceed 60% of the value of the building.
2. The Commission discussed whether or not the applicant intended to comply with the Conditional Use application that was approved in June, 1991, with regard to the bus route from Cedar Street. The applicant explained that the school district plans to exercise the site improvements approval in Phase III but, as the approval will have expired, it will probably have to come back before the Commission for an extension. He further explained that it is being delayed due to installation of a portable classroom which is needed until the new school is constructed and to ensure that the school budget will cover the interior improvements and proposed additions, before making site improvements.
3. The Commission discussed the lighting between the two nonconforming wings. The applicant explained that the lighting would have minimal impact, as it would shine downwards.
4. The Commission discussed the new window treatments.

Based on the findings and conclusions in the January 31, 1992 staff report, the applicant's testimony, and Commission deliberations, **Commissioner Maher moved for approval of CUP 92-02/NCS 92-01 without conditions. Commissioner Wiegand seconded the motion and it carried unanimously.**

VIII. DIRECTOR'S REPORT

Mr. Hoffman informed the Commission that Dave Nelson exercised his Conditional Use permit and complied with all requirements. We received a FAX from the County informing the City that the County was not approving the road as a County road, but that if the City was willing to take it, it was okay with the County. The condition stated it must be a public road. Mr. Hoffman conferred with Mr. Klem and Mr. Kelley, and a condition was added that Mr. Nelson had to dedicate land for the public road. Previously, Mr. Nelson was going to make it an easement. Additionally, he had to dedicate the land beneath the construction so it could be properly maintained and

that a maintenance agreement would have to be reached between the City and Mr. Nelson, before construction is initiated. Mr. Nelson expects the landscape drawings to be revised to be consistent with the engineering drawings. Right now, the Site and Design Review hearing is scheduled for February 24th, and unless anything additional is submitted, Mr. Hoffman explained that he will be recommending denial of the application.

Mr. Hoffman also informed the Commission of the upcoming APA Conference which will be held in Salem. He explained that the City will cover registration fees for the Commission.

The Commission requested updates with regard to the sewer capacity. Staff suggested submitting copies of the monthly reports Planning and Public Works submit to the Council. Mr. Hoffman suggested that, based on previous reports, as new sewer permits are issued, we could try to estimate available capacity. He further explained that estimated capacity takes quite a bit of interpretation and it is hard to get everyone to agree to one interpretation.

The new stormwater regulations were discussed, which may no longer permit the drywell concept, and which might cause a problem for Canby, as it is a common practice throughout Canby.

Mr. Hoffman also invited the Commission to attend the Historic Preservation Conference scheduled for February 25th at the Canby Pioneer Chapel. The City and the County will receive the report from the historic expert who surveyed approximately 80 of Canby's structures. Public input is invited.

The present status of the Rinkes case was also discussed. Mr. Hoffman explained he was requested to prepare a memo outlining whether or not the Rinkes property could be used for commercial or apartment use. Mr. Rinkes' appraisal included use of the property as a shopping center. The memo was revised to include its potential as a shopping center and, therefore, its potential for a Comprehensive Plan Amendment and Zone Amendments. The memo was submitted in court this morning. Staff met with the arbitrators today and Mr. Rinkes was not present. Mr. Rinkes did not agree with the settlement or the judge's findings of fact as a constraint to the arbitrators. He evidently wanted them to hear the whole thing over again. An appeal to the Supreme Court was denied but it will probably be appealed again.

Mr. Hoffman advised the Commission that it appears the school district has agreed on a new site for the school and made an offer for it. They will have to submit an annexation application shortly.

Ordinance updates were discussed and the Commission agreed it would help staff accumulate a list of needed updates to be discussed at the March 9, 1992 Planning

Commission meeting. The Commission discussed whether the Comprehensive Plan needed updating and it was agreed that the Ordinance is weaker and should be considered a priority. Mr. Hoffman explained that he felt it was important for the City to gain advantage from the rivers, which are major resources and that better ways to capitalize on these resources should be explored. Additionally, Mr. Hoffman explained that the City's traffic system needs fine tuning. An SDC would help get this accomplished. The master plan for the traffic system was done in 1988 and needs updating in light of the present standards for SDCs.

IX. ADJOURNMENT

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

Respectfully submitted,


Joyce A. Faltus